

1 SENATE BILL NO. 74

2 INTRODUCED BY J. PRIEST

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING RENEWABLE ENERGY AND UNIVERSAL SYSTEM
5 BENEFITS PROGRAM REQUIREMENTS; REQUIRING THAT ELIGIBLE RENEWABLE RESOURCES IN THE
6 GRADUATED RENEWABLE ENERGY STANDARD BE CERTIFIED BY THE PUBLIC SERVICE COMMISSION
7 AS CARBON NEUTRAL; REQUIRING THAT UNIVERSAL SYSTEM BENEFITS PROGRAMS FOR ELECTRIC
8 AND NATURAL GAS UTILITIES BE CERTIFIED BY THE PUBLIC SERVICE COMMISSION AS CARBON
9 NEUTRAL; GRANTING THE PUBLIC SERVICE COMMISSION RULEMAKING AUTHORITY TO CERTIFY
10 ELIGIBLE RENEWABLE RESOURCES AND UNIVERSAL SYSTEM BENEFITS PROGRAMS AS CARBON
11 NEUTRAL; GRANTING THE DEPARTMENT OF REVENUE RULEMAKING AUTHORITY TO VERIFY THAT
12 CREDITS AND EXPENDITURES FOR UNIVERSAL SYSTEM BENEFITS PROGRAMS ARE CERTIFIED AS
13 CARBON NEUTRAL; AMENDING SECTIONS 15-72-104, 69-3-1402, 69-3-1408, 69-3-2003, 69-3-2004,
14 69-3-2006, 69-8-103, 69-8-402, 69-8-413, 90-3-1003, AND 90-4-1202, MCA; AND PROVIDING AN IMMEDIATE
15 EFFECTIVE DATE."

16

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

18

19 **Section 1.** Section 15-72-104, MCA, is amended to read:20 **"15-72-104. Wholesale energy transaction tax -- rate of tax -- exemptions -- cost recovery.** (1) (a)

21 Except as provided in subsection (3), a wholesale energy transaction tax is imposed upon electricity transmitted
22 within the state as provided in this section. The tax is imposed at a rate of 0.015 cent per kilowatt hour of
23 electricity transmitted by a transmission services provider in the state.

24 (b) For electricity produced in the state for delivery outside the state, the taxpayer is the person owning
25 or operating the electrical generation facility producing the electricity. The transmission services provider shall
26 collect the tax from the person based upon the kilowatt hours introduced onto transmission lines from the
27 electrical generation facility. The amount of kilowatt hours subject to tax must be reduced by 5% to compensate
28 for transmission line losses.

29 (c) For electricity produced in the state for delivery within the state, the taxpayer is the distribution
30 services provider. The transmission services provider shall collect the tax based upon the amount of kilowatt

1 hours of electricity delivered to the distribution services provider. The taxpayer may apply for a refund for
2 overpayment of taxes pursuant to 15-72-116.

3 (d) For electricity produced outside the state for delivery inside the state, the taxpayer is the distribution
4 services provider. The transmission services provider shall collect the tax based upon the amount of kilowatt
5 hours of electricity delivered to the distribution services provider.

6 (e) For electricity delivered to a distribution services provider that is a rural electric cooperative for
7 delivery to purchasers that have opted for customer choice under the provisions of Title 69, chapter 8, part 3, the
8 taxpayer is the distribution services provider. The transmission services provider shall collect the tax based on
9 the amount of kilowatt hours of electricity delivered to the distribution services provider that is attributable to
10 customers that have opted for customer choice.

11 (f) For electricity delivered to a distribution services provider that prior to May 2, 1999, was owned by
12 a public utility as defined in 69-3-101, the tax is imposed on the successor distribution services provider. The
13 transmission services provider shall collect the tax based upon the amount of kilowatt hours of electricity delivered
14 to the distribution services provider.

15 (2) (a) If more than one transmission services provider transmits electricity, the last transmission services
16 provider transmitting or delivering the electricity shall collect the tax.

17 (b) If the transmission services provider is an agency of the United States government, the distribution
18 services provider receiving the electricity shall self-assess the tax subject to the provisions of this part.

19 (c) If an electrical generation facility located within the state produces electricity for sale inside and
20 outside the state, sales within the state are considered to have come from electricity produced within the state
21 for purposes of the tax imposed by this section.

22 (3) (a) Electricity transmitted through the state that is not produced or delivered in the state is exempt
23 from the tax imposed by this section.

24 (b) Electricity produced in the state by an agency of the United States government or electricity produced
25 from an electric energy generation facility, as defined in 90-5-101(3), constructed after May 1, 2001, that is within
26 the exterior boundaries of a Montana Indian reservation for delivery outside the state is exempt from the tax
27 imposed by this section.

28 (c) Electricity produced by wind turbines erected on state land for which annual lease payments are
29 made to the permanent school trust fund is exempt from the tax imposed by this section.

30 (d) Electricity delivered to a distribution services provider that is a municipal utility described in

1 ~~69-8-103(4)(b)~~ 69-8-103(7)(b) or a rural electric cooperative organized under the provisions of Title 35, chapter
2 18, is exempt from the tax imposed by this section.

3 (e) Electricity delivered to a purchaser that receives its power directly from a transmission or distribution
4 facility owned by an entity of the United States government on or before May 2, 1997, or electricity that is
5 transmitted exclusively on transmission or distribution facilities owned by an entity of the United States
6 government on or before May 2, 1997, is exempt from the tax imposed by this section.

7 (4) A distribution services provider is allowed to recover the tax imposed by this section and the
8 administrative costs to comply with this part in its rates."

9

10 **Section 2.** Section 69-3-1402, MCA, is amended to read:

11 **"69-3-1402. Definitions.** As used in this part, the following definitions apply:

12 (1) "Carbon life cycle" means carbon dioxide emissions associated with universal system benefits
13 programs, including labor, materials, generation and distribution, repair and maintenance, and disposal or
14 recycling of materials associated with the programs.

15 (2) "Carbon neutral" means a carbon life cycle in which the net amount of carbon dioxide emitted into
16 the atmosphere is reduced to zero because it is balanced by carbon reduction activities.

17 (3) (a) "Carbon reduction activities" means activities certified by the commission and undertaken by a
18 natural gas utility to reduce or offset the carbon life cycle of a universal system benefits program.

19 (b) The term does not mean activities by a third-party entity that arranges for projects or actions on behalf
20 of the natural gas utility that reduce or offset the carbon life cycle of a program either by reducing carbon dioxide
21 emissions or by increasing the absorption of carbon dioxide.

22 (c) Activities for programs that include conservation and weatherization must occur at the site where the
23 programs take place.

24 ~~(1)(4)~~ "Customer" means a natural gas customer or consumer of natural gas supply or natural gas
25 transmission facilities, storage facilities, or distribution facilities.

26 ~~(2)(5)~~ "Distribution facilities" means those facilities that are not transmission facilities:

27 (a) by and through which natural gas is received from a transmission services provider and transmitted
28 to the customer; and

29 (b) operated by a distribution services provider.

30 ~~(3)(6)~~ "Distribution services provider" means a person controlling or operating distribution facilities for

1 distribution of natural gas to the public.

2 ~~(4)~~(7) "Natural gas production and gathering assets cost of service" means a return on invested capital
3 and all costs associated with the acquisition, construction, administration, operation, and maintenance of a plant
4 or equipment, minerals, and mineral rights owned or leased by a public utility and used for natural gas production
5 and gathering.

6 ~~(5)~~(8) "Natural gas production and gathering resources" means plants or equipment, minerals, and
7 mineral rights used to extract natural gas from the earth and to collect, purify, measure, regulate, compress, and
8 transport natural gas from its place of production to its connection with a transmission facility.

9 ~~(6)~~(9) "Natural gas supplier" means a person, including aggregators, market aggregators, brokers, and
10 marketers, licensed by the commission that is offering to sell natural gas to retail customers in the state of
11 Montana.

12 ~~(7)~~(10) "Natural gas utility" means a utility regulated by the commission on May 2, 1997, that provides
13 natural gas services to the public.

14 ~~(8)~~(11) "Open access" means that a natural gas utility has made its transmission facilities, storage
15 facilities, or distribution facilities available to all natural gas suppliers, transmission services providers, distribution
16 services providers, and customers on a nondiscriminatory and comparable basis.

17 ~~(9)~~(12) "Performance-based ratemaking" means those forms of regulation that include but are not limited
18 to the use of revenue indexing, price indexing, ranges of authorized return, gas cost indexing, and innovative use
19 of utility-related assets and activities, such as system sales of excess natural gas supplies, release of upstream
20 pipeline capacity, and performance of billing services for other natural gas suppliers. A performance-based
21 regulation may also include a mechanism for automatic annual adjustments of revenue to prices to reflect
22 changes in any index adopted for the implementation of the performance-based form of regulation.

23 ~~(10)~~(13) "Storage facilities" means those facilities that are owned, controlled, or operated by a person
24 offering storage service for natural gas and generally means any underground reservoir suitable for the storage
25 of natural gas and the facilities used to inject and withdraw natural gas into and out of that underground reservoir.

26 ~~(11)~~(14) "Transition costs" means:

27 (a) a natural gas utility's net, verifiable production-related and gathering-related costs, including costs
28 of capital, that become unrecoverable as a result of customer choice and open access. These costs include but
29 are not limited to:

30 (i) regulatory assets and deferred charges that exist as a result of current regulatory practices and that

1 may be accounted for up to the point in time that the commission issues a final order in a docket addressing
 2 transition costs, including all costs, expenses, and fees related to the issuance of transition bonds;

3 (ii) the above-market costs associated with existing gas supply commitments;

4 (iii) other natural gas utility investments rendered uneconomic as a result of implementation of customer
 5 choice and open access;

6 (iv) the costs associated with renegotiation or buyout of existing natural gas purchase contracts; and

7 (v) the costs associated with the issuance of any related transition bonds authorized by the commission
 8 pursuant to 69-3-1403.

9 (b) the costs of refinancing or retiring debt or equity capital of the natural gas utility and associated
 10 federal and state tax liabilities or other utility costs for which the use of transition bonds would benefit customers.

11 ~~(+2)~~(15) "Transmission facilities" means those facilities owned, controlled, and operated by a
 12 transmission services provider that are used to transport natural gas from a gathering line or storage facility to
 13 a distribution facility, storage facility, or end-use customer.

14 ~~(+3)~~(16) "Transmission services provider" means a person controlling or operating transmission facilities.

15 ~~(+4)~~(17) "Universal system benefits charge" means a nonbypassable rate or charge to be imposed on
 16 a customer to pay the customer's share of universal system benefits program costs.

17 ~~(+5)~~(18) "Universal system benefits programs" means public purpose programs, certified by the
 18 commission as carbon neutral, for cost-effective local energy conservation, low-income energy bill discounts,
 19 low-income weatherization, and emergency low-income energy bill assistance."

20

21 **Section 3.** Section 69-3-1408, MCA, is amended to read:

22 **"69-3-1408. Universal system benefits programs -- establishing nonbypassable rate.** (1) A natural
 23 gas utility shall implement, upon commission approval and subject to ongoing commission oversight and direction,
 24 a universal system benefits program.

25 (2) The commission shall establish a universal system benefits charge that all natural gas transmission
 26 services providers or all distribution services providers, or both, in the state of Montana shall charge to all end-use
 27 customers, taking into consideration the current level of expenditure by the natural gas utility, cost-effectiveness,
 28 and similar costs imposed in other states. The charge may be established and revised through a universal
 29 system benefits charge tracking procedure. The method of assessing the charge may not disproportionately
 30 burden a large transmission services provider's customers. Within the universal system benefits charge,

1 beginning January 1, 2007, a natural gas utility's minimum annual funding requirement for low-income
2 weatherization and low-income energy bill assistance is established at 0.42% of a natural gas utility's annual
3 revenue for the previous year. A natural gas utility must receive credit for its internal programs or activities that
4 qualify as universal system benefits programs.

5 (3) A natural gas utility shall file an annual report of its universal system benefits charges, programs, and
6 program funding levels, and carbon reduction activities with the commission in a manner prescribed by the
7 commission.

8 (4) The commission shall adopt rules establishing a system by which a universal system benefits
9 program is certified as carbon neutral and by which carbon reduction activities are certified."

10

11 **Section 4.** Section 69-3-2003, MCA, is amended to read:

12 **"69-3-2003. Definitions.** As used in this part, unless the context requires otherwise, the following
13 definitions apply:

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

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

21 (3) "Carbon life cycle" means carbon dioxide emissions associated with an eligible renewable resource,
22 including labor, materials, generation and distribution of electricity, repair and maintenance of the resource, and
23 disposal or recycling of materials associated with the resource.

24 (4) "Carbon neutral" means a carbon life cycle in which the net amount of carbon dioxide emitted into
25 the atmosphere is reduced to zero because it is balanced by carbon reduction activities.

26 (5) (a) "Carbon reduction activities" means activities certified by the commission and undertaken by the
27 utility or competitive electricity supplier to reduce or offset the carbon life cycle of an eligible renewable resource.
28 The activities must occur at the site where the eligible renewable resource is located.

29 (b) The term does not mean activities by a third-party entity that arranges for projects or actions on behalf
30 of the utility or competitive electricity supplier that reduce or offset the carbon life cycle of a resource either by

1 reducing carbon dioxide emissions or by increasing the absorption of carbon dioxide.

2 ~~(3)~~(6) "Common ownership" means the same or substantially similar persons or entities that maintain
3 a controlling interest in more than one community renewable energy project even if the ownership shares differ
4 between two community renewable energy projects. Two community renewable energy projects may not be
5 considered to be under common ownership simply because the same entity provided debt or equity or both debt
6 and equity to both projects.

7 ~~(4)~~(7) "Community renewable energy project" means an eligible renewable resource that:

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

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

11 ~~(5)~~(8) (a) "Competitive electricity supplier" means any person, corporation, or governmental entity that
12 is selling electricity to small customers at retail rates in the state of Montana and that is not a public utility or
13 cooperative.

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

16 ~~(6)~~(9) "Compliance year" means each calendar year beginning January 1 and ending December 31,
17 starting in 2008, for which compliance with this part must be demonstrated.

18 ~~(7)~~(10) "Cooperative utility" means:

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

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

21 ~~(8)~~(11) "Dispatch ability" means the ability of either a balancing authority or the owner of an electric
22 generating resource to rapidly start, stop, increase, or decrease electricity production from that generating
23 resource in order to respond to the balancing authority's need to match supply resources to loads on the
24 transmission system.

25 ~~(9)~~(12) "Electric generating resource" means any plant or equipment used to generate electricity by any
26 means.

27 ~~(10)~~(13) "Eligible renewable resource" means a facility either located within Montana or delivering
28 electricity from another state into Montana that commences commercial operation after January 1, 2005, and that
29 produces electricity from one or more of the following sources:

30 (a) wind;

- 1 (b) solar;
- 2 (c) geothermal;
- 3 (d) water power, in the case of a hydroelectric project that:
- 4 (i) does not require a new appropriation, diversion, or impoundment of water and that has a nameplate
- 5 rating of 10 megawatts or less; or
- 6 (ii) is installed at an existing reservoir or on an existing irrigation system that does not have hydroelectric
- 7 generation as of April 16, 2009, and has a nameplate capacity of 15 megawatts or less;
- 8 (e) landfill or farm-based methane gas;
- 9 (f) gas produced during the treatment of wastewater;
- 10 (g) low-emission, nontoxic biomass based on dedicated energy crops, animal wastes, or solid organic
- 11 fuels from wood, forest, or field residues, except that the term does not include wood pieces that have been
- 12 treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chroma-arsenic;
- 13 (h) hydrogen derived from any of the sources in this subsection ~~(10)~~ (13) for use in fuel cells;
- 14 (i) the renewable energy fraction from the sources identified in subsections ~~(10)(a) through (10)(j)~~ (13)(a)
- 15 through (13)(j) of electricity production from a multiple-fuel process with fossil fuels; and
- 16 (j) compressed air derived from any of the sources in this subsection ~~(10)~~ (13) that is forced into an
- 17 underground storage reservoir and later released, heated, and passed through a turbine generator.
- 18 ~~(11)~~(14) "Local owners" means:
- 19 (a) Montana residents;
- 20 (b) general partnerships of which all partners are Montana residents;
- 21 (c) business entities organized under the laws of Montana that:
- 22 (i) have less than \$50 million of gross revenue;
- 23 (ii) have less than \$100 million of assets; and
- 24 (iii) have at least 50% of the equity interests, income interests, and voting interests owned by Montana
- 25 residents;
- 26 (d) Montana nonprofit organizations;
- 27 (e) Montana-based tribal councils;
- 28 (f) Montana political subdivisions or local governments;
- 29 (g) Montana-based cooperatives other than cooperative utilities; or
- 30 (h) any combination of the individuals or entities listed in subsections ~~(11)(a) through (11)(g)~~ (14)(a)

1 through (14)(g).

2 ~~(12)~~(15) "Nonspinning reserve" means offline generation that can be ramped up to capacity and
3 synchronized to the grid within 10 minutes and that is needed to maintain system frequency stability during
4 emergency conditions, unforeseen load swings, and generation disruptions.

5 ~~(13)~~(16) "Public utility" means any electric utility regulated by the commission pursuant to Title 69, chapter
6 3, on January 1, 2005, including the public utility's successors or assignees.

7 ~~(14)~~(17) "Renewable energy credit" means a tradable certificate of proof of 1 megawatt hour of electricity
8 generated by an eligible renewable resource that is tracked and verified by the commission and includes all of
9 the environmental attributes associated with that 1 megawatt-hour unit of electricity production.

10 ~~(15)~~(18) "Seasonality" means the degree to which an electric generating resource is capable of producing
11 electricity in each of the seasons of the year.

12 ~~(16)~~(19) "Small customer" means a retail customer that has an individual load with an average monthly
13 demand of less than 5,000 kilowatts.

14 ~~(17)~~(20) "Spinning reserve" means the online reserve capacity that is synchronized to the grid system
15 and immediately responsive to frequency control and that is needed to maintain system frequency stability during
16 emergency conditions, unforeseen load swings, and generation disruptions.

17 ~~(18)~~(21) "Total calculated nameplate capacity" means the calculation of total nameplate capacity of the
18 community renewable energy project and other eligible renewable resources that are:

- 19 (a) located within 5 miles of the project;
20 (b) constructed within the same 12-month period; and
21 (c) under common ownership."
22

23 **Section 5.** Section 69-3-2004, MCA, is amended to read:

24 **"69-3-2004. Renewable resource standard -- administrative penalty -- waiver.** (1) Except as provided
25 in 69-3-2007 and subsections (11) and (12) of this section, a graduated renewable energy standard is established
26 for public utilities and competitive electricity suppliers as provided in subsections (2) through (4) of this section.

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

30 (3) (a) In each compliance year beginning January 1, 2010, through December 31, 2014, each public

1 utility and competitive electricity supplier shall procure a minimum of 10% of its retail sales of electrical energy
2 in Montana from eligible renewable resources.

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

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

8 (d) Beginning January 1, 2014, eligible renewable resources used by a public utility or competitive
9 electricity supplier to comply with subsection (3)(a) must be certified by the commission as carbon neutral.

10 (4) (a) In the compliance year beginning January 1, 2015, and in each succeeding compliance year, each
11 public utility and competitive electricity supplier shall procure a minimum of 15% of its retail sales of electrical
12 energy in Montana from eligible renewable resources.

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

16 (ii) In meeting the standard in subsection (4)(b)(i), a public utility may include purchases made under
17 subsection (3)(b).

18 (c) Public utilities shall proportionately allocate the purchase required under subsection (4)(b) based on
19 each public utility's retail sales of electrical energy in Montana in the calendar year 2014.

20 (d) Beginning January 1, 2015, eligible renewable resources used by a public utility or competitive
21 electricity supplier to comply with subsection (4)(a) must be certified by the commission as carbon neutral.

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

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

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

30 (7) (a) In order to meet the standards established in subsections (2) through (4), a public utility or

1 competitive electricity supplier may only use:

2 (i) electricity from an eligible renewable resource in which the associated renewable energy credits have
3 not been sold separately;

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

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

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

10 (c) Renewable energy credits sold through a voluntary service such as the one provided for in
11 69-8-210(2) may not be applied against a public utility's or competitive electricity supplier's obligation to meet the
12 standards established in subsections (2) through (4).

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

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

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

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

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

1 public utility or competitive electricity supplier; or

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

5 (12) (a) Retail sales made by a competitive electricity supplier according to prices, terms, and conditions
6 of a written contract executed prior to April 25, 2007, are exempt from the standards in subsections (2) through
7 (4).

8 (b) The exemption provided for in subsection (12)(a) is terminated upon modification after April 25, 2007,
9 of the prices, terms, or conditions in a written contract."

10

11 **Section 6.** Section 69-3-2006, MCA, is amended to read:

12 **"69-3-2006. Commission authority -- rulemaking authority.** (1) The commission has the authority to
13 generally implement and enforce the provisions of this part.

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

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

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

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

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

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

21 (f) in accordance with subsection (3), establish a system by which an eligible renewable resource is
22 certified as carbon neutral and by which carbon reduction activities are certified; and

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

24 (3) Rules adopted pursuant to subsection (2)(f) must establish a carbon life cycle for an eligible
25 renewable resource constructed before [the effective date of this act] by a public utility or competitive electricity
26 supplier to comply with the requirements of 69-3-2004(2) through (4). The rules:

27 (a) must allow for the continued use of that eligible renewable resource in meeting the requirements; and

28 (b) may not include carbon dioxide emissions produced before [the effective date of this act]."

29

30 **Section 7.** Section 69-8-103, MCA, is amended to read:

1 **"69-8-103. Definitions.** As used in this chapter, unless the context requires otherwise, the following
2 definitions apply:

3 (1) "Assignee" means any entity, including a corporation, partnership, board, trust, or financing vehicle,
4 to which a utility assigns, sells, or transfers, other than as security, all or a portion of the utility's interest in or right
5 to transition property. The term also includes an entity, corporation, public authority, partnership, trust, or
6 financing vehicle to which an assignee assigns, sells, or transfers, other than as security, the assignee's interest
7 in or right to transition property.

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

9 (3) "Carbon life cycle" means carbon dioxide emissions associated with universal system benefits
10 programs, including labor, materials, generation and distribution of electricity, repair and maintenance, and
11 disposal or recycling of materials associated with the programs.

12 (4) "Carbon neutral" means a carbon life cycle in which the net amount of carbon dioxide emitted into
13 the atmosphere is reduced to zero because it is balanced by carbon reduction activities.

14 (5) (a) "Carbon reduction activities" means activities certified by the commission and undertaken by the
15 utility or large customer to reduce or offset the carbon life cycle of a universal system benefits program.

16 (b) The term does not mean activities by a third-party entity that arranges for projects or actions on behalf
17 of the utility or large customer that reduce or offset the carbon life cycle of a program either by reducing carbon
18 dioxide emissions or by increasing the absorption of carbon dioxide.

19 (c) Activities for programs that include conservation, weatherization, and renewable resource projects
20 must occur at the site where the programs take place.

21 ~~(3)~~(6) "Carbon offset provider" means a qualified third-party entity that arranges for projects or actions
22 that either reduce carbon dioxide emissions or increase the absorption of carbon dioxide.

23 ~~(4)~~(7) "Cooperative utility" means:

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

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

26 ~~(5)~~(8) "Cost-effective carbon offsets" means any combination of certified actions that are taken to reduce
27 carbon dioxide emissions or that increase the absorption of carbon dioxide, which collectively do not increase
28 the cost of electricity produced annually on a per-megawatt-hour basis by more than 2.5%, including:

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

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

2 ~~(6)~~(9) "Customer-generator" means a user of a net metering system.

3 ~~(7)~~(10) "Distribution facilities" means those facilities by and through which electricity is received from
4 transmission facilities and distributed to a retail customer and that are controlled or operated by a utility.

5 ~~(8)~~(11) "Electricity supply costs" means the actual costs incurred in providing electricity supply service
6 through power purchase agreements, demand-side management, and energy efficiency programs, including but
7 not limited to:

8 (a) capacity costs;

9 (b) energy costs;

10 (c) fuel costs;

11 (d) ancillary service costs;

12 (e) transmission costs, including congestion and losses;

13 (f) planning and administrative costs; and

14 (g) any other costs directly related to the purchase of electricity and the management and provision of
15 power purchase agreements.

16 ~~(9)~~(12) "Electricity supply resource" means:

17 (a) contracts for electric capacity and generation;

18 (b) plants owned or leased by a utility or equipment used to generate electricity;

19 (c) customer load management and energy conservation programs; or

20 (d) other means of providing adequate, reliable service to customers, as determined by the commission.

21 ~~(10)~~(13) "Electricity supply service" means the provision of electricity supply and related services through
22 power purchase agreements, the acquisition and operation of electrical generation facilities, demand-side
23 management, and energy efficiency programs.

24 ~~(11)~~(14) "Financing order" means an order of the commission adopted in accordance with 69-8-503 that
25 authorizes the imposition and collection of fixed transition amounts and the issuance of transition bonds.

26 ~~(12)~~(15) (a) "Fixed transition amounts" means those nonbypassable rates or charges, including but not
27 limited to:

28 (i) distribution;

29 (ii) connection;

30 (iii) disconnection; and

1 (iv) termination rates and charges that are authorized by the commission in a financing order to permit
 2 recovery of transition costs and the costs of recovering, reimbursing, financing, or refinancing the transition costs
 3 and of acquiring transition property through a plan approved by the commission in the financing order, including
 4 the costs of issuing, servicing, and retiring transition bonds.

5 (b) If requested by the utility in the utility's application for a financing order, fixed transition amounts must
 6 include nonbypassable rates or charges to recover federal and state taxes in which the transition cost recovery
 7 period is modified by the transactions approved in the financing order.

8 ~~(13)~~(16) "Generation assets cost of service" means a return on invested capital and all costs associated
 9 with the acquisition, construction, administration, operation, and maintenance of a plant or equipment owned or
 10 leased by a public utility and used for the production of electricity.

11 ~~(14)~~(17) "Interested person" means a retail electricity customer, the consumer counsel established in
 12 5-15-201, the commission, or a utility.

13 ~~(15)~~(18) "Large customer" means, for universal system benefits programs purposes, a customer with an
 14 individual load greater than a monthly average of 1,000 kilowatt demand in the previous calendar year for that
 15 individual load.

16 ~~(16)~~(19) "Local governing body" means a local board of trustees of a rural electric cooperative.

17 ~~(17)~~(20) "Low-income customer" means those energy consumer households and families with incomes
 18 at or below industry-recognized levels that qualify those consumers for low-income energy-related assistance.

19 ~~(18)~~(21) "Net metering" means measuring the difference between the electricity distributed to and the
 20 electricity generated by a customer-generator that is fed back to the distribution system during the applicable
 21 billing period.

22 ~~(19)~~(22) "Net metering system" means a facility for the production of electrical energy that:

23 (a) uses as its fuel solar, wind, or hydropower;

24 (b) has a generating capacity of not more than 50 kilowatts;

25 (c) is located on the customer-generator's premises;

26 (d) operates in parallel with the utility's distribution facilities; and

27 (e) is intended primarily to offset part or all of the customer-generator's requirements for electricity.

28 ~~(20)~~(23) "Nonbypassable rates or charges" means rates or charges that are approved by the commission
 29 and imposed on a customer to pay the customer's share of transition costs or universal system benefits programs
 30 costs even if the customer has physically bypassed either the utility's transmission or distribution facilities.

1 ~~(21)~~(24) "Public utility" has the meaning of a public utility regulated by the commission pursuant to Title
2 69, chapter 3, on May 2, 1997, including the public utility's successors or assignees.

3 ~~(22)~~(25) "Qualifying load" means, for payments and credits associated with universal system benefits
4 programs, all nonresidential demand-metered accounts of a large customer within the utility's service territory in
5 which the customer qualifies as a large customer.

6 ~~(23)~~(26) "Retail customer" means a customer that purchases electricity for residential, commercial, or
7 industrial end-use purposes and does not resell electricity to others.

8 ~~(24)~~(27) "Transition bondholder" means a holder of transition bonds, including trustees, collateral agents,
9 and other entities acting for the benefit of that bondholder.

10 ~~(25)~~(28) "Transition bonds" means any bond, debenture, note, interim certificate, collateral, trust
11 certificate, or other evidence of indebtedness or ownership issued by the board or other transition bonds issuer
12 that is secured by or payable from fixed transition amounts or transition property. Proceeds from transition bonds
13 must be used to recover, reimburse, finance, or refinance transition costs and to acquire transition property.

14 ~~(26)~~(29) "Transition charge" means a nonbypassable rate or charge to be imposed on a customer to pay
15 the customer's share of transition costs.

16 ~~(27)~~(30) "Transition cost recovery period" means the period beginning on July 1, 1998, and ending when
17 a utility customer does not have any liability for payment of transition costs.

18 ~~(28)~~(31) "Transition costs" means:

19 (a) a public utility's net verifiable generation-related and electricity supply costs, including costs of capital,
20 that become unrecoverable as a result of the implementation of federal law requiring retail open access or
21 customer choice or of this chapter;

22 (b) those costs that include but are not limited to:

23 (i) regulatory assets and deferred charges that exist because of current regulatory practices and can be
24 accounted for up to the effective date of the commission's final order regarding a public utility's transition plan and
25 conservation investments made prior to universal system benefits charge implementation;

26 (ii) nonutility and utility power purchase contracts executed before May 2, 1997, including qualifying
27 facility contracts;

28 (iii) existing generation investments and supply commitments or other obligations incurred before May
29 2, 1997, and costs arising from these investments and commitments;

30 (iv) the costs associated with renegotiation or buyout of the existing nonutility and utility power purchase

1 contracts, including qualifying facilities and all costs, expenses, and reasonable fees related to issuing transition
 2 bonds; and

3 (v) the costs of refinancing and retiring of debt or equity capital of the public utility and associated federal
 4 and state tax liabilities or other utility costs for which the use of transition bonds would benefit customers.

5 ~~(29)~~(32) "Transition property" means the property right created by a financing order, including without
 6 limitation the right, title, and interest of a utility, assignee, or other issuer of transition bonds to all revenue,
 7 collections, claims, payments, money, or proceeds of or arising from or constituting fixed transition amounts that
 8 are the subject of a financing order, including those nonbypassable rates and other charges and fixed transition
 9 amounts that are authorized by the commission in the financing order to recover transition costs and the costs
 10 of recovering, reimbursing, financing, or refinancing the transition costs and acquiring transition property,
 11 including the costs of issuing, servicing, and retiring transition bonds. Any right that a utility has in the transition
 12 property before the utility's sale or transfer or any other right created under this section or created in the financing
 13 order and assignable under this chapter or assignable pursuant to a financing order is only a contract right.

14 ~~(30)~~(33) "Transmission facilities" means those facilities that are used to provide transmission services
 15 as determined by the federal energy regulatory commission and the commission and that are controlled or
 16 operated by a utility.

17 ~~(31)~~(34) "Universal system benefits charge" means a nonbypassable rate or charge to be imposed on
 18 a customer to pay the customer's share of universal system benefits programs costs.

19 ~~(32)~~(35) "Universal system benefits programs" means public purpose programs, certified by the
 20 commission as carbon neutral, for:

- 21 (a) cost-effective local energy conservation;
- 22 (b) low-income customer weatherization;
- 23 (c) renewable resource projects and applications, including those that capture unique social and energy
 24 system benefits or that provide transmission and distribution system benefits;
- 25 (d) research and development programs related to energy conservation and renewables;
- 26 (e) market transformation designed to encourage competitive markets for public purpose programs; and
- 27 (f) low-income energy assistance.

28 ~~(33)~~(36) "Utility" means any public utility or cooperative utility."
 29

30 **Section 8.** Section 69-8-402, MCA, is amended to read:

1 **"69-8-402. Universal system benefits programs.** (1) Universal system benefits programs are
2 established for the state of Montana to ensure continued funding of and new expenditures for energy
3 conservation, renewable resource projects and applications, and low-income energy assistance.

4 (2) Beginning January 1, 1999, 2.4% of each utility's annual retail sales revenue in Montana for the
5 calendar year ending December 31, 1995, is established as the initial funding level for universal system benefits
6 programs. To collect this amount of funds on an annualized basis in 1999, the commission shall establish rates
7 for utilities subject to its jurisdiction and the governing boards of cooperatives shall establish rates for the
8 cooperatives.

9 (a) The recovery of all universal system benefits programs costs imposed pursuant to this section is
10 authorized through the imposition of a universal system benefits charge assessed at the meter for each local
11 utility system customer as provided in this section.

12 (b) A utility must receive credit toward annual funding requirements for the utility's internal programs or
13 activities that qualify as universal system benefits programs and are certified by the commission as carbon
14 neutral, including those amortized or nonamortized portions of expenditures for the purchase of power that are
15 for the acquisition or support of renewable energy, conservation-related activities, or low-income energy
16 assistance, and for large customers' programs or activities as provided in subsection (7). The department of
17 revenue shall review claimed credits of the utilities and large customers pursuant to 69-8-414.

18 (c) A utility at which the sale of power for final end use occurs is the utility that receives credit for the
19 universal system benefits programs expenditure.

20 (d) A customer's utility shall collect universal system benefits funds less any allowable credits.

21 (e) For a utility to receive credit for low-income-related expenditures, the activity must have taken place
22 in Montana and must be certified by the commission as carbon neutral.

23 (f) If a utility's or a large customer's credit for internal activities does not satisfy the annual funding
24 provisions of subsection (2), then the utility shall make a payment to the universal system benefits fund
25 established in 69-8-412 for any difference.

26 (3) Cooperative utilities may collectively pool their statewide credits to satisfy their annual funding
27 requirements for universal system benefits programs and low-income energy assistance.

28 (4) A utility's transition plan must describe how the utility proposes to provide for universal system
29 benefits programs, including the methodologies, such as cost-effectiveness and need determination, used to
30 measure the utility's level of contribution to each program.

1 (5) A utility's minimum annual funding requirement for low-income energy and weatherization assistance
2 is established at 17% of the utility's annual universal system benefits funding level and is inclusive within the
3 overall universal system benefits funding level.

4 (a) A utility must receive credit toward the utility's low-income energy assistance annual funding
5 requirement for the utility's internal low-income energy assistance programs or activities. Internal low-income
6 energy assistance programs must be certified by the commission as carbon neutral.

7 (b) If a utility's credit for internal activities does not satisfy its annual funding requirement, then the utility
8 shall make a payment for any difference to the universal low-income energy assistance fund established in
9 69-8-412.

10 (6) An individual customer may not bear a disproportionate share of the local utility's funding
11 requirements, and a sliding scale must be implemented to provide a more equitable distribution of program costs.

12 (7) (a) A large customer:

13 (i) shall pay a universal system benefits programs charge with respect to the large customer's qualifying
14 load equal to the lesser of:

15 (A) \$500,000, less the large customer credits provided for in this subsection (7); or

16 (B) the product of 0.9 mills per kilowatt hour multiplied by the large customer's total kilowatt hour
17 purchases, less large customer credits with respect to that qualifying load provided for in this subsection (7);

18 (ii) must receive credit toward that large customer's universal system benefits charge for internal
19 expenditures and activities that qualify as a universal system benefits programs expenditure, and these internal
20 expenditures must include but not be limited to:

21 (A) expenditures, certified by the commission as carbon neutral, that result in a reduction in the
22 consumption of electrical energy in the large customer's facility; and

23 (B) those amortized or nonamortized portions of expenditures, certified by the commission as carbon
24 neutral, for the purchase of power at retail or wholesale that are for the acquisition or support of renewable energy
25 or conservation-related activities.

26 (b) Large customers making these expenditures must receive a credit against the large customer's
27 universal system benefits charge, except that any of those amounts expended in a calendar year that exceed that
28 large customer's universal system benefits charge for the calendar year must be used as a credit against those
29 charges in future years until the total amount of those expenditures has been credited against that large
30 customer's universal system benefits charges.

1 (8) (a) A public utility shall prepare and submit an annual summary report of the public utility's activities
2 relating to all universal system benefits programs to the commission, the department of revenue, and the energy
3 and telecommunications interim committee provided for in 5-5-230. A cooperative utility shall prepare and submit
4 annual summary reports of activities to the cooperative utility's respective local governing body, the statewide
5 cooperative utility office, and the energy and telecommunications interim committee. The statewide cooperative
6 utility office shall prepare and submit an annual summary report of the activities of individual cooperative utilities,
7 including a summary of the pooling of statewide credits, as provided in subsection (3), to the department of
8 revenue and the energy and telecommunications interim committee. The annual report of a public utility or of the
9 statewide cooperative utility office must include but is not limited to:

10 (i) the types of internal utility and customer programs being used to satisfy the provisions of this chapter;

11 (ii) the level of funding for those programs relative to the annual funding requirements prescribed in
12 subsection (2); ~~and~~

13 (iii) any payments made to the statewide funds in the event that internal funding was below the prescribed
14 annual funding requirements; and

15 (iv) verification that universal system benefits programs were certified by the commission as carbon
16 neutral.

17 (b) Before September 15 of the year preceding a legislative session, the energy and telecommunications
18 interim committee shall review the universal system benefits programs and, if necessary, submit
19 recommendations regarding these programs to the legislature.

20 (9) A utility or large customer filing for a credit shall develop and maintain appropriate documentation
21 to support the utility's or the large customer's claim for the credit.

22 (10) (a) A large customer claiming credits for a calendar year shall submit an annual summary report of
23 its universal system benefits programs activities and expenditures to the department of revenue and to the large
24 customer's utility. The annual report of a large customer must identify each qualifying project or expenditure for
25 which it has claimed a credit and the amount of the credit. Prior approval by the department of revenue or the
26 utility is not required, except as provided in subsection (10)(b).

27 (b) If a large customer claims a credit that the department of revenue disallows in whole or in part, the
28 large customer is financially responsible for the disallowance. A large customer and the large customer's utility
29 may mutually agree that credits claimed by the large customer be first approved by the utility. If the utility
30 approves the large customer credit, the utility may be financially responsible for any subsequent disallowance."

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Section 9. Section 69-8-413, MCA, is amended to read:

"69-8-413. Department rulemaking authority. (1) The department of revenue shall adopt rules ~~on or~~
~~before September 1, 1999~~, specifying acceptable universal system benefits programs credits and expenditures
and adopting procedures for challenged credits. The rules must establish that acceptable universal system
benefits programs credits and expenditures for renewable energy projects after January 1, 2014, are certified by
the public service commission as carbon neutral.

(2) Rules adopted pursuant to this part must be adopted in accordance with the Montana Negotiated
Rulemaking Act, Title 2, chapter 5, part 1.

(3) Universal system benefits programs credits claimed or expenditures made prior to the adoption of
the rules under subsection (1) must be allowed and are not subject to the requirements of 69-8-414."

Section 10. Section 90-3-1003, MCA, is amended to read:

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

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

(3) The account may be used only for:

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

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

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

(d) the Montana food and agricultural development program provided for in 80-11-901; or

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

(4) At least \$195,000 of the account funds must be distributed on an annual basis to the department of
agriculture to support and administer the Montana food and agricultural development program provided for in

1 80-11-901.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (9) The board shall refer grant applications to external peer review groups. The board shall compile a
30 list of persons willing to serve on peer review groups for purposes of this section. The peer review group shall

1 review the application and make a recommendation to the board as to whether the application for a grant should
2 be approved. The board shall review the recommendation of the peer review group and either approve or deny
3 a grant application.

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

8 (11) For the purposes of this section:

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

12 (b) "renewable resource research and development" means research and development that would
13 advance:

14 (i) the use of any of the sources of energy listed in ~~69-3-2003(10)~~ 69-3-2003(13) to produce electricity;
15 and

16 (ii) the efficiency, environmental performance, and cost-competitiveness of using renewable resources
17 as an energy source well beyond the current level of technology used in commercial service."
18

19 **Section 11.** Section 90-4-1202, MCA, is amended to read:

20 **"90-4-1202. Definitions.** Unless the context requires otherwise, in this part, the following definitions
21 apply:

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

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

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

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

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

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

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

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

4 (9) "Project" means:

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

7 (b) a community renewable energy project as defined in ~~69-3-2003(4)(a)~~ 69-3-2003(7)(a); or

8 (c) an alternative renewable energy source as defined in 15-6-225."
9

10 **NEW SECTION. Section 12. Saving clause.** [This act] does not affect rights and duties that matured,
11 penalties that were incurred, or proceedings that were begun before [the effective date of this act].
12

13 **NEW SECTION. Section 13. Severability.** If a part of [this act] is invalid, all valid parts that are
14 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
15 the part remains in effect in all valid applications that are severable from the invalid applications.
16

17 **NEW SECTION. Section 14. Effective date.** [This act] is effective on passage and approval.
18

- END -