

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE MONTANA RENEWABLE POWER
5 PRODUCTION AND RURAL ECONOMIC DEVELOPMENT ACT; ELIMINATING THE COMMUNITY
6 RENEWABLE ENERGY PROJECT REQUIREMENT FROM MONTANA'S RENEWABLE RESOURCE
7 STANDARD; REVISING THE DEFINITION OF "ELIGIBLE RENEWABLE RESOURCE" TO INCLUDE EXISTING
8 HYDROELECTRIC RESOURCES; REQUIRING A PUBLIC UTILITY TO REFUND TO CUSTOMERS THE
9 VALUE OF CERTAIN RENEWABLE ENERGY CREDITS ASSOCIATED WITH HYDROELECTRIC
10 RESOURCES; AMENDING SECTIONS 69-3-2003, 69-3-2004, 69-3-2005, 69-3-2006, 69-3-2009, 90-3-1003,
11 90-4-1005, AND 90-4-1202, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE
12 APPLICABILITY DATE."

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15
16 **Section 1.** Section 69-3-2003, MCA, is amended to read:

17 **"69-3-2003. Definitions.** As used in this part, unless the context requires otherwise, the following
18 definitions apply:

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

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

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

- 1 ~~_____~~ (4) "Community renewable energy project" means an eligible renewable resource that:
- 2 ~~_____~~ (a) is interconnected on the utility side of the meter in which local owners have a controlling interest and
- 3 that is less than or equal to 25 megawatts in total calculated nameplate capacity; or
- 4 (b) is owned by a public utility and has less than or equal to 25 megawatts in total nameplate capacity.
- 5 ~~(5)~~(3) (a) "Competitive electricity supplier" means any person, corporation, or governmental entity that
- 6 is selling electricity to small customers at retail rates in the state of Montana and that is not a public utility or
- 7 cooperative.
- 8 (b) The term does not include governmental entities selling electricity produced only by facilities
- 9 generating less than 250 kilowatts that were in operation prior to 1990.
- 10 ~~(6)~~(4) "Compliance year" means each calendar year beginning January 1 and ending December 31,
- 11 starting in 2008, for which compliance with this part must be demonstrated.
- 12 ~~(7)~~(5) "Cooperative utility" means:
- 13 (a) a utility qualifying as an electric cooperative pursuant to Title 35, chapter 18; or
- 14 (b) an existing municipal electric utility as of May 2, 1997.
- 15 ~~(8)~~(6) "Dispatch ability" means the ability of either a balancing authority or the owner of an electric
- 16 generating resource to rapidly start, stop, increase, or decrease electricity production from that generating
- 17 resource in order to respond to the balancing authority's need to match supply resources to loads on the
- 18 transmission system.
- 19 ~~(9)~~(7) "Electric generating resource" means any plant or equipment used to generate electricity by any
- 20 means.
- 21 ~~(10)~~(8) (a) "Eligible renewable resource" means a facility either located within Montana or delivering
- 22 electricity from another state into Montana that, except as provided in subsection (8)(b), commences commercial
- 23 operation after January 1, 2005; ~~or a hydroelectric project expansion referred to in subsection (10)(d)(iii)~~, any of
- 24 ~~which and that~~ produces electricity from one or more of the following sources:
- 25 ~~(a)~~(i) wind;
- 26 ~~(b)~~(ii) solar;
- 27 ~~(c)~~(iii) geothermal;
- 28 ~~(d)~~(iv) water; ~~power, in the case of a hydroelectric project that:~~
- 29 ~~_____~~ (i) does not require a new appropriation, diversion, or impoundment of water and that has a nameplate
- 30 rating of 10 megawatts or less;

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

3 (iii) is an expansion of an existing hydroelectric project that commences construction and increases
4 existing generation capacity on or after October 1, 2013. Engineering estimates of the average incremental
5 generation from the increase in existing generation capacity must be submitted to the commission for review. The
6 commission shall determine an average annual incremental generation that will constitute the eligible renewable
7 resource from the capacity expansion, subject to further revision by the commission in the event of significant
8 changes in stream flow or dam operation.

9 (e)(v) landfill or farm-based methane gas;

10 (f)(vi) gas produced during the treatment of wastewater;

11 (g)(vii) low-emission, nontoxic biomass based on dedicated energy crops, animal wastes, or solid organic
12 fuels from wood, forest, or field residues, including wood pieces that have been treated with chemical
13 preservatives, such as creosote, pentachlorophenol, or copper-chrome arsenic, and that are used at a facility that
14 has a nameplate capacity of 5 megawatts or less;

15 (h)(viii) hydrogen derived from any of the sources in this subsection (40) (8) for use in fuel cells; and

16 (i)(ix) the renewable energy fraction from:

17 (i)(A) the sources identified in this subsection (40) (8) of electricity production from a multiple-fuel
18 process with fossil fuels;

19 (ii)(B) flywheel storage as defined in 15-6-157(4)(d);

20 (iii)(C) hydroelectric pumped storage as defined in 15-6-157(4)(e);

21 (iv)(D) batteries; and

22 (v)(E) compressed air derived from any of the sources in this subsection (40) (8) that is forced into an
23 underground storage reservoir and later released, heated, and passed through a turbine generator.

24 (b) The term also includes an existing hydroelectric facility that commenced commercial operation in
25 Montana before January 1, 2005.

26 (11) "Local owners" means:

27 — (a) Montana residents;

28 — (b) general partnerships of which all partners are Montana residents;

29 — (c) business entities organized under the laws of Montana that:

30 — (i) have less than \$50 million of gross revenue;

- 1 ~~_____ (ii) have less than \$100 million of assets; and~~
 2 ~~_____ (iii) have at least 50% of the equity interests, income interests, and voting interests owned by Montana~~
 3 ~~residents;~~
 4 ~~_____ (d) Montana nonprofit organizations;~~
 5 ~~_____ (e) Montana-based tribal councils;~~
 6 ~~_____ (f) Montana political subdivisions or local governments;~~
 7 ~~_____ (g) Montana-based cooperatives other than cooperative utilities; or~~
 8 ~~_____ (h) any combination of the individuals or entities listed in subsections (11)(a) through (11)(g).~~

9 ~~(12)(9)~~ "Nonspinning reserve" means offline generation that can be ramped up to capacity and
 10 synchronized to the grid within 10 minutes and that is needed to maintain system frequency stability during
 11 emergency conditions, unforeseen load swings, and generation disruptions.

12 ~~(13)(10)~~ "Public utility" means any electric utility regulated by the commission pursuant to Title 69, chapter
 13 3, on January 1, 2005, including the public utility's successors or assignees.

14 ~~(14)(11)~~ "Renewable energy credit" means a tradable certificate of proof of 1 megawatt hour of electricity
 15 generated by an eligible renewable resource that is tracked and verified by the commission and includes all of
 16 the environmental attributes associated with that 1 megawatt-hour unit of electricity production.

17 ~~(15)(12)~~ "Renewable energy fraction" means the proportion of electricity output directly attributable to
 18 electricity and associated renewable energy credits produced by one of the sources identified in subsection ~~(10)~~
 19 ~~(8)~~.

20 ~~(16)(13)~~ "Seasonality" means the degree to which an electric generating resource is capable of producing
 21 electricity in each of the seasons of the year.

22 ~~(17)(14)~~ "Small customer" means a retail customer that has an individual load with an average monthly
 23 demand of less than 5,000 kilowatts.

24 ~~(18)(15)~~ "Spinning reserve" means the online reserve capacity that is synchronized to the grid system
 25 and immediately responsive to frequency control and that is needed to maintain system frequency stability during
 26 emergency conditions, unforeseen load swings, and generation disruptions.

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

- 29 ~~_____ (a) located within 5 miles of the project;~~
 30 ~~_____ (b) constructed within the same 12-month period; and~~

1 ~~————(c) under common ownership."~~

2

3 **Section 2.** Section 69-3-2004, MCA, is amended to read:

4 **"69-3-2004. Renewable resource standard -- administrative penalty -- waiver.** (1) Except as provided
5 in 69-3-2007 and subsections ~~(11) through (14)~~ (9) through (12) of this section, a graduated renewable energy
6 standard is established for public utilities and competitive electricity suppliers as provided in ~~subsections (2)~~
7 ~~through (4)~~ subsection (2) of this section.

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

11 ~~(3) (a) In each compliance year beginning January 1, 2010, through December 31, 2014, each public~~
12 ~~utility and competitive electricity supplier, except as provided in subsections (13) and (14), shall procure a~~
13 ~~minimum of 10% of its retail sales of electrical energy in Montana from eligible renewable resources.~~

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

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

19 ~~(4)(2) (a) In the compliance year beginning January 1, 2015, and in each succeeding compliance year,~~
20 ~~each public utility and competitive electricity supplier, except as provided in subsections (13) and (14) (11) and~~
21 ~~(12), shall procure a minimum of 15% of its retail sales of electrical energy in Montana from eligible renewable~~
22 ~~resources.~~

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

26 ~~————(ii) In meeting the standard in subsection (4)(b)(i), a public utility may include purchases made under~~
27 ~~subsection (3)(b).~~

28 ~~————(c) Public utilities shall proportionately allocate the purchase required under subsection (4)(b) based on~~
29 ~~each public utility's proportion of the total retail sales of electrical energy by public utilities in Montana in the~~
30 ~~calendar year 2014.~~

1 ~~(5)(3)~~ (a) In complying with the ~~standards standard~~ required under ~~subsections (2) through (4)~~ subsection
 2 (2), a public utility or competitive electricity supplier shall, for any given compliance year, calculate its procurement
 3 requirement based on the public utility's or competitive electricity supplier's previous year's sales of electrical
 4 energy to retail customers in Montana.

5 (b) The ~~standards standard~~ in ~~subsections (2) through (4)~~ subsection (2) must be calculated on a
 6 delivered-energy basis after accounting for any line losses.

7 ~~(6)(4)~~ A public utility or competitive electricity supplier has until 3 months following the end of each
 8 compliance year to purchase renewable energy credits for that compliance year.

9 ~~(7)(5)~~ (a) In order to meet the ~~standards standard~~ established in ~~subsections (2) through (4)~~ subsection
 10 (2), a public utility or competitive electricity supplier may only use:

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

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

15 (iii) any combination of subsections ~~(7)(a)(i) and (7)(a)(ii)~~ (5)(a)(i) and (5)(a)(ii).

16 (b) A public utility or competitive electricity supplier may not resell renewable energy credits and count
 17 those sold credits against the public utility's or the competitive electricity supplier's obligation to meet the
 18 ~~standards standard~~ established in ~~subsections (2) through (4)~~ subsection (2).

19 (c) Renewable energy credits sold through a voluntary service such as the one provided for in
 20 69-8-210(2) may not be applied against a public utility's or competitive electricity supplier's obligation to meet the
 21 ~~standards standard~~ established in ~~subsections (2) through (4)~~ subsection (2).

22 (d) Unless a public utility is exempt from the requirements of subsection (2) in accordance with subsection
 23 (11), beginning January 1, 2015, a public utility shall credit customers with the proceeds from the sale of all
 24 renewable energy credits that are attributable to a hydroelectric project and are not:

25 (i) used in order to meet the standards established in subsection (2); or

26 (ii) carried forward in accordance with subsection (7).

27 (e) Beginning January 1, 2015, if a public utility uses hydroelectric projects and the associated renewable
 28 energy credits in order to meet the standard established in subsection (2) and sells renewable energy credits that
 29 are attributable to a renewable energy project certified by the commission as an eligible renewable resource, the
 30 public utility shall credit customers with the proceeds from the sale of those renewable energy credits that are

1 attributable to the renewable energy project and are not:

2 (i) used in order to meet the standards established in subsection (2); or

3 (ii) carried forward in accordance with subsection (7).

4 ~~(6)~~ Nothing in this part limits a public utility or competitive electricity supplier from exceeding the
5 ~~standards~~ standard established in ~~subsections (2) through (4)~~ subsection (2).

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

10 ~~(8)~~ Except as provided in subsections ~~(11) and (12)~~ (9) and (10), if a public utility or competitive
11 electricity supplier is unable to meet the ~~standards~~ standard established in ~~subsections (2) through (4)~~ subsection
12 (2) in any compliance year, that public utility or competitive electricity supplier shall pay an administrative penalty,
13 assessed by the commission, of \$10 for each megawatt hour of renewable energy credits that the public utility
14 or competitive electricity supplier failed to procure. A public utility may not recover this penalty in electricity rates.
15 Money generated from these penalties must be deposited in the universal low-income energy assistance fund
16 established in 69-8-412(1)(b).

17 ~~(9)~~ A public utility or competitive electricity supplier may petition the commission for a short-term
18 waiver from full compliance with the ~~standards~~ standard in ~~subsections (2) through (4)~~ subsection (2) and the
19 penalties levied under subsection ~~(10)~~ (8). The petition must demonstrate that the:

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

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

27 ~~(10)~~ (a) Retail sales made by a competitive electricity supplier according to prices, terms, and
28 conditions of a written contract executed prior to April 25, 2007, are exempt from the ~~standards~~ standard in
29 ~~subsections (2) through (4)~~ subsection (2).

30 (b) The exemption provided for in subsection ~~(12)(a)~~ (10)(a) is terminated upon modification after April

1 25, 2007, of the prices, terms, or conditions in a written contract.

2 ~~(13)(11)~~ A public utility that served 50 or fewer retail customers in Montana on December 31, 2012, is
3 exempt from the requirements of ~~subsections (2) through (4)~~ subsection (2).

4 ~~(14)(12)~~ (a) A competitive electricity supplier with four or fewer small customers in Montana is exempt
5 from the requirements of ~~subsections (2) through (4)~~ subsection (2).

6 (b) For the purposes of determining the number of small customers served by a competitive electricity
7 supplier, an entity that purchases electricity for commercial or industrial use and does not resell electricity to
8 others is one small customer regardless of the number of its metered locations."

9

10 **Section 3.** Section 69-3-2005, MCA, is amended to read:

11 **"69-3-2005. Procurement -- cost recovery -- reporting.** (1) In meeting the requirements of this part,
12 a public utility shall:

13 (a) conduct renewable energy solicitations under which the public utility offers to purchase renewable
14 energy credits, either with or without the associated electricity, under contracts of at least 10 years in duration;

15 (b) consider the importance of geographically diverse rural economic development when procuring
16 renewable energy credits; and

17 (c) consider the importance of dispatch ability, seasonality, and other attributes of the eligible renewable
18 resource contained in the commission's supply procurement rules when considering the procurement of
19 renewable energy or renewable energy credits.

20 (2) A public utility that intends to enter into contracts of less than 10 years in duration shall demonstrate
21 to the commission that these contracts will provide a lower long-term cost of meeting the standard established
22 in 69-3-2004.

23 (3) (a) Contracts signed for projects located in Montana must require all contractors to give preference
24 to the employment of bona fide Montana residents, as defined in 18-2-401, in the performance of the work on the
25 projects if the Montana residents have substantially equal qualifications to those of nonresidents.

26 (b) Contracts signed for projects located in Montana must require all contractors to pay the standard
27 prevailing rate of wages for heavy construction, as provided in 18-2-414, during the construction phase of the
28 project.

29 (4) All contracts signed by a public utility to meet the requirements of this part are eligible for advanced
30 approval under procedures established by the commission. Upon advanced approval by the commission, these

1 contracts are eligible for cost recovery from ratepayers, except that nothing in this part limits the commission's
 2 ability to subsequently, in any future cost-recovery proceeding, inquire into the manner in which the public utility
 3 has managed the contract and to disallow cost recovery if the contract was not reasonably administered.

4 (5) A public utility or competitive electricity supplier shall submit renewable energy procurement plans
 5 to the commission in accordance with rules adopted by the commission. The plans must be submitted to the
 6 commission on or before:

7 ~~—— (a) June 1, 2013, for the standard required in 69-3-2004(4); and~~

8 ~~—— (b) any additional future dates as required by the commission.~~

9 (6) A public utility or competitive electricity supplier shall submit annual reports, in a format to be
 10 determined by the commission, demonstrating compliance with this part for each compliance year. The reports
 11 must be filed by March 1 of the year following the compliance year.

12 (7) For the purpose of implementing this part, the commission has regulatory authority over competitive
 13 electricity suppliers."

14

15 **Section 4.** Section 69-3-2006, MCA, is amended to read:

16 **"69-3-2006. Commission authority -- rulemaking authority.** (1) The commission has the authority to
 17 generally implement and enforce the provisions of this part.

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

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

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

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

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

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

25 (f) generally implement and enforce the provisions of this part.

26 ~~(3) The commission may adopt rules to ensure that the calculation of energy generation and the
 27 renewable energy credits for eligible renewable resources under 69-3-2003(10)(d)(iii) reflects the actual electrical
 28 production from the expansion as typically reduced by seasonal water conditions."~~

29

30 **Section 5.** Section 69-3-2009, MCA, is amended to read:

1 **"69-3-2009. Electrical generation facilities renewable energy credit reporting.** (1) (a) Except as
2 provided in 69-3-2010, the following entities shall annually file a renewable energy credit report in accordance
3 with this section:

4 (i) a public utility that buys or sells renewable energy credits for the purposes of complying with
5 69-3-2004;

6 (ii) a competitive electricity supplier that buys or sells renewable energy credits for the purposes of
7 complying with 69-3-2004;

8 (iii) a cooperative utility that buys or sells renewable energy credits for the purposes of complying with
9 69-3-2008; and

10 (iv) any owner of a renewable electrical generation facility that sells renewable energy credits produced
11 by the renewable electrical generation facility.

12 (b) The report must be filed by March 1 of the year following the purchase or sale of the renewable
13 energy credit.

14 (2) Except as provided in 69-3-2010, the report must include:

15 (a) the price of any renewable energy credit bought or sold; and

16 (b) whether electrical energy and renewable energy credits were bought or sold together or separately,
17 as a bundled or unbundled product.

18 (3) Except as provided in subsection (4), the reports are not subject to the regulatory powers of the
19 department of revenue. The department of revenue shall make the report available for public inspection.

20 (4) A public utility, a competitive electricity supplier, a cooperative utility, or an owner of a renewable
21 electrical generation facility that fails to file the report required pursuant to this section shall pay an administrative
22 penalty, assessed by the department of revenue, of \$1,500. A utility may not recover this penalty through an
23 increase in electricity rates. Money generated from these penalties must be deposited in the universal low-income
24 energy assistance fund established in 69-8-412(1)(b).

25 (5) For the purposes of implementing this section, "renewable electrical generation facility" means any
26 combination of a physically connected generator or generators, associated prime movers, and other associated
27 property, including appurtenant land and improvements and personal property, that are normally operated
28 together to produce electric power that is located in Montana and uses any of the sources of energy listed in
29 ~~69-3-2003(10)~~ 69-3-2003(8).

30 (6) (a) The report required in subsection (1) must be filed with the department of revenue in a format

1 determined by the department.

2 (b) A public utility, a competitive electricity supplier, a cooperative utility, or an owner of a renewable
3 electrical generation facility that is required to file a report pursuant to subsection (1) shall provide a copy of the
4 report to the energy and telecommunications interim committee provided for in 5-5-230. Before September 15
5 of the year preceding a legislative session, the energy and telecommunications interim committee shall review
6 the reports and, if necessary, submit recommendations regarding the use of renewable energy credits in Montana
7 to the legislature."
8

9 **Section 6.** Section 90-3-1003, MCA, is amended to read:

10 **"90-3-1003. Research and commercialization account -- use.** (1) The research and commercialization
11 account provided for in 90-3-1002 is statutorily appropriated, as provided in 17-7-502, to the board of research
12 and commercialization technology, provided for in 2-15-1819, for the purposes provided in this section.

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

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

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

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

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

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

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

25 (4) At least \$195,000 of the account funds must be distributed on an annual basis to the department of
26 agriculture to support and administer the Montana food and agricultural development program provided for in
27 80-11-901.

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

- 1 (b) If the board is not in receipt of a qualified application for a project to enhance clean coal research and
2 development or renewable resource research and development, subsection (5)(a) does not apply.
- 3 (6) An applicant for a grant shall provide matching funds from nonstate sources equal to 25% of total
4 project costs. The requirement to provide matching funds is a qualifier, but not a criterion, for approval of a grant.
- 5 (7) The board shall establish policies, procedures, and criteria that achieve the objectives in its research
6 and commercialization strategic plan for the awarding of grants and loans. The criteria must include:
- 7 (a) the project's potential to diversify or add value to a traditional basic industry of the state's economy;
8 (b) whether the project shows promise for enhancing technology-based sectors of Montana's economy
9 or promise for commercial development of discoveries;
- 10 (c) whether the project employs or otherwise takes advantage of existing research and commercialization
11 strengths within the state's public university and private research establishment;
- 12 (d) whether the project involves a realistic and achievable research project design;
- 13 (e) whether the project develops or employs an innovative technology;
- 14 (f) verification that the project activity is located within the state;
- 15 (g) whether the project's research team possesses sufficient expertise in the appropriate technology area
16 to complete the research objective of the project;
- 17 (h) verification that the project was awarded based on its scientific merits, following review by a
18 recognized federal agency, philanthropic foundation, or other private funding source; and
- 19 (i) whether the project includes research opportunities for students.
- 20 (8) The board shall direct the state treasurer to distribute funds for approved projects. Unallocated
21 interest and earnings from the account must be retained in the account. Repayments of loans and any
22 agreements authorizing the board to take a financial right to licensing or royalty fees paid in connection with the
23 transfer of technology from a research and commercialization center to another nonstate organization or
24 ownership of corporate stock in a private sector organization must be deposited in the account.
- 25 (9) The board shall refer grant applications to external peer review groups. The board shall compile a
26 list of persons willing to serve on peer review groups for purposes of this section. The peer review group shall
27 review the application and make a recommendation to the board as to whether the application for a grant should
28 be approved. The board shall review the recommendation of the peer review group and either approve or deny
29 a grant application.
- 30 (10) The board shall identify whether a grant or loan is to be used for basic research, applied research,

1 or some combination of both. For the purposes of this section, "applied research" means research that is
 2 conducted to attain a specific benefit or solve a practical problem and "basic research" means research that is
 3 conducted to uncover the basic function or mechanism of a scientific question.

4 (11) For the purposes of this section:

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

8 (b) "renewable resource research and development" means research and development that would
 9 advance:

10 (i) the use of any of the sources of energy listed in ~~69-3-2003(10)~~ 69-3-2003(8)(a) to produce electricity;
 11 and

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

14

15 **Section 7.** Section 90-4-1005, MCA, is amended to read:

16 **"90-4-1005. Energy development and demonstration grant program.** (1) There is an energy
 17 development and demonstration grant program within the department of environmental quality to fund technology
 18 development and demonstration:

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

22 (b) developing storage systems specifically designed to store energy generated from eligible renewable
 23 resources ~~as defined~~ listed in ~~69-3-2003~~ 69-3-2003(8)(a), including but not limited to compressed air energy
 24 storage systems;

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

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

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

30 (3) Money appropriated to the department of environmental quality for the purpose of the energy

1 development and demonstration grant program may be used by the department for providing individual grants
2 in amounts up to \$500,000 and for administrative costs of 1% of the grant award.

3 (4) The grant application may include:

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

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

7 and

8 (c) a reporting process to ensure progress toward project goals."
9

10 **Section 8.** Section 90-4-1202, MCA, is amended to read:

11 **"90-4-1202. Definitions.** Unless the context requires otherwise, in this part, the following definitions
12 apply:

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

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

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

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

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

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

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

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

25 (9) "Project" means:

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

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

29 ~~(c)~~(b) an alternative renewable energy source as defined in 15-6-225."
30

