

## 1 SENATE BILL NO. 125

2 INTRODUCED BY A. OLSON

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4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THAT THE PUBLIC SERVICE COMMISSION MAY  
5 IMPOSE AN ADMINISTRATIVE PENALTY FOR FAILURE TO COMPLY WITH THE GRADUATED RENEWABLE  
6 ENERGY STANDARD; CLARIFYING THAT A PENALTY MAY NOT BE IMPOSED FOR FAILURE TO COMPLY  
7 WITH THE COMMUNITY RENEWABLE ENERGY PROJECT REQUIREMENT; AMENDING SECTION  
8 69-3-2004, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY  
9 DATE."

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

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13 **Section 1.** Section 69-3-2004, MCA, is amended to read:

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

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

20 (3) (a) In each compliance year beginning January 1, 2010, through December 31, 2014, each public  
21 utility and competitive electricity supplier shall procure a minimum of 10% of its retail sales of electrical energy  
22 in Montana from eligible renewable resources.

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

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

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

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

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

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

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

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

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

16 (7) (a) In order to meet the standards established in subsections (2) through (4), a public utility or  
17 competitive electricity supplier may only use:

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

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

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

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

26 (c) Renewable energy credits sold through a voluntary service such as the one provided for in  
27 69-8-210(2) may not be applied against a public utility's or competitive electricity supplier's obligation to meet the  
28 standards established in subsections (2) through (4).

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

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

5 (10) Except as provided in subsections (11) and (12), if a public utility or competitive electricity supplier  
 6 is unable to meet the standards established in ~~subsections (2) through (4)~~ subsection (2), (3)(a), or (4)(a) in any  
 7 compliance year, that public utility or competitive electricity supplier shall pay an administrative penalty, assessed  
 8 by the commission, of \$10 for each megawatt hour of renewable energy credits that the public utility or  
 9 competitive electricity supplier failed to procure. A public utility may not recover this penalty in electricity rates.  
 10 Money generated from these penalties must be deposited in the universal low-income energy assistance fund  
 11 established in 69-8-412(1)(b).

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

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

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

22 (12) (a) Retail sales made by a competitive electricity supplier according to prices, terms, and conditions  
 23 of a written contract executed prior to April 25, 2007, are exempt from the standards in subsections (2) through  
 24 (4).

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

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28 NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

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30 NEW SECTION. **Section 3. Retroactive applicability.** [This act] applies retroactively, within the

1 meaning of 1-2-109, to the compliance year beginning January 1, 2012.

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