

SENATE BILL NO. 154

INTRODUCED BY M. LANG, A. REDFIELD

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4 A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING CERTAIN INCENTIVES FOR NET-METERED
5 SYSTEMS; ELIMINATING CERTAIN SMALL GENERATION EQUIPMENT TAX EXEMPTIONS FOR
6 NET-METERED SYSTEMS; ELIMINATING CERTAIN TAX CREDITS FOR NET-METERED SYSTEMS;
7 PROHIBITING USE OF THE STATE BUILDING ENERGY CONSERVATION ACT FOR NET-METERED
8 SYSTEMS; ELIMINATING USE OF THE ENERGY DEVELOPMENT AND DEMONSTRATION GRANT
9 PROGRAM FOR NET-METERED SYSTEMS; AMENDING SECTIONS ~~15-32-102 AND 75-25-101, MCA;~~
10 ~~15-6-224, 15-32-201, 15-32-202, 15-32-402, 15-32-404, 90-4-602, AND 90-4-1005, MCA;~~ REPEALING
11 ~~SECTIONS 15-32-401, 15-32-402, 15-32-404, 15-32-405, 15-32-406, AND 15-32-407, MCA;~~ AND PROVIDING
12 AN IMMEDIATE EFFECTIVE DATE ~~AND A RETROACTIVE APPLICABILITY DATE.~~"

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

(Refer to Introduced Bill)

Strike everything after the enacting clause and insert:

Section 1. Section 15-6-224, MCA, is amended to read:

19 **"15-6-224. Nonfossil energy generation.** ~~(1) The~~ Except as provided in subsection (2), the following
20 portions of the appraised value of a capital investment in a recognized nonfossil form of energy generation or
21 low-emission wood or biomass combustion devices, as defined in 15-32-102, are exempt from taxation for a
22 period of 10 years following installation of the property:

23 ~~(+)(a)~~ \$20,000 in the case of a single-family residential dwelling;

24 ~~(2)(b)~~ \$100,000 in the case of a multifamily residential dwelling or a nonresidential structure.

25 (2) The tax exemption for the portions of the appraised value of a capital investment in a net metering
26 system, as defined in 69-8-103, that interconnects with a utility may not be first claimed for tax years beginning
27 after December 31, 2017. An exemption first claimed for a net metering system before tax years beginning
28 January 1, 2018, may be claimed for the 10 years following installation of the net metering system in accordance
29 with this section."

1 **Section 2.** Section 15-32-201, MCA, is amended to read:

2 **"15-32-201. Amount of credit -- to whom available.** (1) A Except as provided in subsection (3), a
 3 resident individual taxpayer who completes installation of an energy system using a recognized nonfossil form
 4 of energy generation, as defined in 15-32-102, to provide heat for the taxpayer's principal dwelling is allowed to
 5 claim a tax credit in an amount equal to the cost of the system, including installation costs, less grants received,
 6 not to exceed \$500, against the income tax liability imposed against the taxpayer pursuant to chapter 30.

7 (2) A resident individual taxpayer who completes installation of an energy system using a low-emission
 8 wood or biomass combustion device, as defined in 15-32-102, to provide heat for the taxpayer's principal dwelling
 9 is allowed to claim a tax credit in an amount equal to the cost of the system, including the installation costs, not
 10 to exceed \$500, against the income tax liability imposed against the taxpayer pursuant to Title 15, chapter 30.

11 (3) A tax credit for the portions of the installation of a net metering system, as defined in 69-8-103, that
 12 interconnects with a utility may not be first claimed for tax years beginning after December 31, 2017."

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14 **Section 3.** Section 15-32-202, MCA, is amended to read:

15 **"15-32-202. Taxable years in which credit may be claimed -- carryover.** (1) The tax credit is to be
 16 deducted from the taxpayer's income tax liability for the taxable year in which the energy system was acquired
 17 by the taxpayer. ~~It~~ Except as provided in subsections (2) and (3), if the amount of the tax credit exceeds the
 18 taxpayer's income tax liability for the taxable year, the amount ~~which that~~ exceeds the tax liability may be carried
 19 over for deduction from the taxpayer's income tax liability in the next succeeding taxable year or years until the
 20 total amount of the tax credit has been deducted from tax liability.

21 (2) Notwithstanding the foregoing provision, no A tax credit may not be carried over for deduction after
 22 the fourth taxable year succeeding the taxable year in which the energy system was acquired.

23 (3) A credit granted for a net metering system before the tax year beginning January 1, 2018, may be
 24 carried forward for the 4 years following installation of the net metering system in accordance with subsection (2)."

25

26 **Section 4.** Section 15-32-402, MCA, is amended to read:

27 **"15-32-402. Commercial or net metering system investment credit -- alternative energy systems.**

28 (1) ~~An~~ Except as provided in subsection (4), an individual, corporation, partnership, or small business corporation
 29 as defined in 15-30-3301 that makes an investment of \$5,000 or more in property that is depreciable under the
 30 Internal Revenue Code for a commercial system or a net metering system, as defined in 69-8-103, that is located

1 in Montana and that generates energy by means of an alternative renewable energy source, as defined in
2 15-6-225, is entitled to a tax credit against taxes imposed by 15-30-2103 or 15-31-121 in an amount equal to 35%
3 of the eligible costs, to be taken as a credit only against taxes due as a consequence of taxable or net income
4 produced by one of the following:

- 5 (a) manufacturing plants located in Montana that produce alternative energy generating equipment;
- 6 (b) a new business facility or the expanded portion of an existing business facility for which the
7 alternative energy generating equipment supplies, on a direct contract sales basis, the basic energy needed; or
- 8 (c) the alternative energy generating equipment in which the investment for which a credit is being
9 claimed was made.

10 (2) For purposes of determining the amount of the tax credit that may be claimed under subsection (1),
11 eligible costs include only those expenditures that are associated with the purchase, installation, or upgrading
12 of:

- 13 (a) generating equipment;
- 14 (b) safety devices and storage components;
- 15 (c) transmission lines necessary to connect with existing transmission facilities; and
- 16 (d) transmission lines necessary to connect directly to the purchaser of the electricity when no other
17 transmission facilities are available.

18 (3) Eligible costs under subsection (2) must be reduced by the amount of any grants provided by the
19 state or federal government for the system.

20 (4) A tax credit for eligible costs of an investment in a net metering system, as defined in 69-8-103, that
21 interconnects with a utility may not be first claimed for tax years beginning after December 31, 2017."

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23 **Section 5.** Section 15-32-404, MCA, is amended to read:

24 **"15-32-404. Carryover of credit.** (1) The tax credit allowed under 15-32-402 is to be deducted from that
25 portion of the taxpayer's tax liability as set forth in 15-32-402(1) for the tax year in which the equipment invested
26 in by the taxpayer is placed in service. If the amount of the tax credit exceeds the taxpayer's tax liability for the
27 tax year, the amount that exceeds the tax liability may be carried over for credit against the taxpayer's tax liability
28 in the next succeeding tax year or years until the total amount of the tax credit has been deducted from tax
29 liability. However, except as provided in ~~subsection~~ subsections (2) and (3), a credit may not be carried beyond
30 the seventh tax year succeeding the tax year in which the equipment was placed in service.

1 (2) A credit may be extended through the 15th tax year succeeding the tax year in which the equipment
2 was placed in service if an individual, corporation, partnership, or small business corporation, as defined in
3 15-30-3301:

4 (a) invests in a commercial system located within the exterior boundaries of a Montana Indian
5 reservation, which commercial system is 5 megawatts or larger in size; and

6 (b) signs an employment agreement with the tribal government of the reservation where the commercial
7 system would be constructed regarding the training and employment of tribal members in the construction,
8 operation, and maintenance of the commercial system.

9 (3) A credit granted for an investment in a net metering system before the tax year beginning January
10 1, 2018, may be carried forward for 7 years following an investment in the net metering system in accordance
11 with subsection (1) or for 15 years in accordance with subsection (2)."
12

13 **Section 6.** Section 90-4-602, MCA, is amended to read:

14 **"90-4-602. Definitions.** As used in this part, unless the context requires otherwise, the following
15 definitions apply:

16 (1) "Board" means the board of examiners provided for in 2-15-1007.

17 (2) "Cost" includes the expenses related to planning, design, construction, and installation of energy
18 conservation improvements and any administrative expenses of the department incurred in the performance of
19 its duties under the energy conservation program.

20 (3) "Department" means the department of environmental quality provided for in 2-15-3501.

21 (4) (a) "Energy conservation program" means a program for the financing, acquisition, construction, and
22 installation of alternative energy systems, as defined in 15-32-102, or equipment, systems, and improvements
23 in state-owned buildings, structures, and facilities that save energy or water.

24 (b) The term does not include the financing, acquisition, construction, and installation of a net metering
25 system, as defined in 69-8-103, that interconnects with a utility.

26 (5) "Energy conservation program bonds" includes all series of bonds issued to finance any portion of
27 the energy conservation program.

28 (6) "Energy cost savings" means the savings in utility costs to a state agency as a result of an energy
29 conservation program.

30 (7) "Participating state agency" means, for a state-owned building, structure, or facility, the state agency

1 that pays for the utilities for that building.

2 (8) "State agency" means:

3 (a) each executive, legislative, or judicial branch department, office, or agency;

4 (b) the university system; and

5 (c) a community college district."

6

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

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

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

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

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

18 (d) except as provided in subsection (5), advancing the development of alternative energy systems as
19 defined in 15-32-102.

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

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

25 (4) The grant application may include:

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

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

29 and

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

1 (5) The grant program may not be used to fund net metering systems, as defined in 69-8-103, that
2 interconnect with a utility."

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4 NEW SECTION. Section 8. Saving clause. [This act] does not affect rights and duties that matured,
5 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

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7 NEW SECTION. Section 9. Severability. If a part of [this act] is invalid, all valid parts that are severable
8 from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part
9 remains in effect in all valid applications that are severable from the invalid applications.

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11 NEW SECTION. Section 10. Effective date. [This act] is effective on passage and approval.

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