

HOUSE BILL NO. 568

INTRODUCED BY C. POPE

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A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE MONTANA ENERGY EFFICIENCY STANDARD; PROVIDING EFFICIENCY REQUIREMENTS; PROVIDING A PENALTY; PROVIDING REPORTING STANDARDS; PROVIDING PUBLIC SERVICE COMMISSION RULEMAKING AUTHORITY; AND PROVIDING A TERMINATION DATE."

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

NEW SECTION. **Section 1. Energy efficiency standard -- penalties -- waiver.** (1) A graduated energy efficiency standard is established for public utilities and competitive electricity suppliers as provided in subsections (2) through (4).

(2) In each compliance year beginning January 1, 2022, through December 31, 2025, the retail electrical energy consumption on each public utility's grid system must be a minimum of 4% less than the total 2019 retail electrical energy consumption on the utility's grid system in Montana.

(3) In each compliance year beginning January 1, 2026, through December 31, 2029, the retail electrical energy consumption on each public utility's grid system must be a minimum of 12% less than the total 2019 retail electrical energy consumption on the utility's grid system in Montana.

(4) In each compliance year beginning January 1, 2030, through December 31, 2030, the retail electrical energy consumption on each public utility's grid system must be a minimum of 20% less than the total 2019 retail electrical energy consumption on the utility's grid system in Montana.

(5) (a) In complying with the standards required under subsections (2) through (4), a public utility or competitive electricity supplier shall, for any given compliance year, calculate its efficiency requirement based on the public utility's or competitive electricity supplier's 2019 sales of electrical energy to retail customers in Montana.

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

(6) In order to meet the standards established in subsections (2) through (4), a public utility or competitive electricity supplier may use technologies, including but not limited to the following:

- 1 (a) demand response technology;  
2 (b) smart grid technologies;  
3 (c) energy efficient infrastructure or infrastructure improvements; and  
4 (d) software enhancements.

5 (7) Nothing in [sections 1 through 4] limits a public utility or competitive electricity supplier from exceeding  
6 the standards established in subsections (2) through (4).

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

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

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

20 (a) public utility or competitive electricity supplier has undertaken all reasonable steps to promote energy  
21 efficiency measures under long-term contract, but full compliance cannot be achieved for legitimate reasons that  
22 are outside the control of the public utility or competitive electricity supplier; or

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

26 (11) A public utility that served 50 or fewer retail customers in Montana on December 31, 2012, is exempt  
27 from the requirements of [sections 1 through 4].

28 (12) (a) A competitive electricity supplier with four or fewer small customers in Montana is exempt from  
29 the requirements of [sections 1 through 4].

30 (b) For the purposes of determining the number of small customers served by a competitive electricity

1 supplier, an entity that purchases electricity for commercial or industrial use and does not resell electricity to  
2 others is one small customer regardless of the number of its metered locations.

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4 **NEW SECTION. Section 2. Procurement -- cost recovery -- reporting.** (1) In meeting the  
5 requirements of [sections 1 through 4], a public utility shall:

6 (a) conduct energy efficiency technology solicitations under which the public utility offers to purchase and  
7 implement energy efficiency technologies; and

8 (b) consider the importance of dispatch ability, energy savings, and other attributes of the energy  
9 efficiency resource.

10 (2) All contracts signed by a public utility to meet the requirements of [sections 1 through 4] are eligible  
11 for advanced approval under procedures established by the commission. Upon advanced approval by the  
12 commission, these contracts are eligible for cost recovery from ratepayers, except that nothing in [sections 1  
13 through 4] limits the commission's ability to subsequently, in any future cost-recovery proceeding, inquire into the  
14 manner in which the public utility has managed the contract and to disallow cost recovery if the contract was not  
15 reasonably administered.

16 (3) A public utility or competitive electricity supplier shall submit energy efficiency procurement plans to  
17 the commission in accordance with rules adopted by the commission. The plans must be submitted to the  
18 commission on or before:

19 (a) June 1, 2021, for the standard required in [section 1(2)]; and

20 (b) any additional future dates as required by the commission.

21 (4) A public utility or competitive electricity supplier shall submit annual reports, in a format to be  
22 determined by the commission, demonstrating compliance with [sections 1 through 4] for each compliance year.  
23 The reports must be filed by March 1 of the year following the compliance year.

24 (5) For the purpose of implementing [sections 1 through 4], the commission has regulatory authority over  
25 competitive electricity suppliers.

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27 **NEW SECTION. Section 3. Commission authority -- rulemaking authority.** (1) The commission has  
28 the authority to generally implement and enforce the provisions of [sections 1 through 4].

29 (2) The commission shall adopt rules before June 1, 2020, to:

30 (a) implement an energy efficiency tracking system to verify compliance with [sections 1 through 4];

- 1 (b) establish a system by which energy efficiency resources become certified;
- 2 (c) define the process by which waivers from full compliance with [sections 1 through 4] may be granted;
- 3 (d) establish procedures under which contracts for energy efficiency resources may receive advanced
- 4 approval;
- 5 (e) define the requirements governing energy efficiency procurement plans and annual reports; and
- 6 (f) generally implement and enforce the provisions of [sections 1 through 4].

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8 **NEW SECTION. Section 4. Cooperative utility -- exemption -- standard.** (1) A cooperative utility is

9 exempt from the graduated renewable energy standard established in [section 1].

10 (2) Each governing body of a cooperative utility that has 5,000 or more customers is responsible for

11 implementing and enforcing a energy efficiency standard for that cooperative utility that recognizes the intent of

12 the legislature to encourage new renewable energy production and rural economic development, while taking into

13 consideration the effect of the standard on rates, reliability, and financial resources.

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15 **NEW SECTION. Section 5. Codification instruction.** [Sections 1 through 4] are intended to be codified

16 as an integral part of Title 69, chapter 3, and the provisions of Title 69, chapter 3, apply to [sections 1 through 4].

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18 **NEW SECTION. Section 6. Termination.** [This act] terminates December 31, 2031.

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