

1 SENATE BILL NO. 176

2 INTRODUCED BY B. MOLNAR, J. SMALL

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO COAL-FIRED
5 GENERATION; ESTABLISHING REMEDIATION AND BONDING REQUIREMENTS FOR COAL-FIRED
6 GENERATING UNITS; REQUIRING THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO DETERMINE
7 BONDS; PROHIBITING THE TRANSFER OF CERTAIN PROPERTY UNTIL BONDING REQUIREMENTS
8 ARE SATISFIED; REQUIRING THE ENERGY AND TELECOMMUNICATIONS INTERIM COMMITTEE TO
9 CONDUCT AN ANALYSIS OF COAL TRUST FUNDING OPTIONS FOR REMEDIATION; ESTABLISHING
10 RESPONSIBILITY AND FUNDING REQUIREMENTS FOR MAINTENANCE AND REPAIRS AT A COAL-
11 FIRED GENERATING UNIT; PROVIDING FOR THE RATE BASING OF CERTAIN MAINTENANCE COSTS
12 AND TRANSMISSION CAPACITY IN THE CASE OF ABANDONMENT AND UNDER SPECIFIC
13 CIRCUMSTANCES; PROHIBITING CERTAIN RETIREMENT AND REMEDIATION COSTS FROM BEING
14 PASSED ON TO RATEPAYERS; REQUIRING ENTITIES THAT RECEIVE COAL SEVERANCE TAX MONEY
15 TO SIGN A STATEMENT SUPPORTING COAL; AMENDING SECTIONS 15-35-108, 17-5-703, 75-8-103, 75-
16 8-104, 75-8-105, AND 75-8-107, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

17

18 WHEREAS, the coal trust fund was created to mitigate the impacts of coal development; and

19 WHEREAS, the coal trust fund was never intended to fund programs difficult to appropriate in the
20 Montana Legislature; and

21 WHEREAS, various entities have seen fit to attack the lives of Montanans involved in low-cost and
22 reliable energy production; and

23 WHEREAS, the cost of environmental remediation at Colstrip is estimated to be between \$400 million
24 and \$700 million and could take decades to accomplish; and

25 WHEREAS, the tax loss alone from the closing of Colstrip Units 1 and 2 is over \$17 million per year;
26 and

27 WHEREAS, the tax loss for the premature closing of Colstrip Units 3 and 4 will be over \$1.1 billion; and

28 WHEREAS, the premature closing of Colstrip Units 3 and 4 will reduce household income by \$5.2

1 billion; and

2 WHEREAS, decreases in business and other economic input would be \$12.5 billion from 2027 to 2043
3 from premature shutdown; and

4 WHEREAS, 7,000 people would migrate out of the region or the state from premature shutdown; and

5 WHEREAS, the remaining jobs would pay an average of \$79,000 less than preshutdown wages; and

6 WHEREAS, Montana's coal miners funded the coal trust fund; and

7 WHEREAS, no one else funded the coal trust fund; and

8 WHEREAS, some people who oppose coal production and generation benefit from the coal trust fund;

9 and

10 WHEREAS, the production of coal and energy from coal are of vital interest to Montana, the Western
11 grid, and the United States.

12

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

14

15 **Section 1.** Section 15-35-108, MCA, is amended to read:

16 **"15-35-108. (Temporary) Disposal of severance taxes.** Severance taxes collected under this
17 chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:

18 (1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article
19 IX, section 5, of the Montana constitution. The trust fund money must be deposited in the fund established
20 under 17-6-203(6) and invested by the board of investments as provided by law.

21 (2) The amount of 12% of coal severance tax collections is allocated to the major repair long-range
22 building program account established in 17-7-221.

23 (3) The amount of 0.90% in fiscal year 2020 and 0.93% in fiscal year 2021 and in each fiscal year
24 thereafter must be allocated for provision of basic library services for the residents of all counties through library
25 federations and for payment of the costs of participating in regional and national networking and must be
26 deposited in the basic library services account established in 22-1-202.

27 (4) The amount of 3.77% in fiscal year 2020 and 3.71% in fiscal year 2021 and in each fiscal year
28 thereafter must be allocated to the department of natural resources and conservation for conservation districts

1 and deposited in the conservation district account established in 76-15-106.

2 (5) The amount of 0.79% in fiscal year 2020 and 0.82% in fiscal year 2021 and in each fiscal year
3 thereafter must be allocated to the Montana Growth Through Agriculture Act and deposited in the growth
4 through agriculture account established in 90-9-104.

5 (6) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks
6 acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses,
7 must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas
8 described in 23-1-102.

9 (7) The amount of 0.95% must be allocated to the debt service fund type to the credit of the
10 renewable resource loan debt service fund.

11 (8) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art
12 in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding
13 unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other
14 cultural and aesthetic projects.

15 (9) The amount of 5.8% through June 30, 2023, and beginning July 1, 2023, the amount of 2.9% must
16 be credited to the coal natural resource account established in 90-6-1001(2).

17 (10) After the allocations are made under subsections (2) through (9), \$250,000 for the fiscal year must
18 be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.

19 (11) (a) Subject to subsection (11)(b), all other revenue from severance taxes collected under the
20 provisions of this chapter must be credited to the general fund of the state.

21 (b) The interest income of the coal severance tax permanent fund that is deposited in the general
22 fund is statutorily appropriated, as provided in 17-7-502, on July 1 each year as follows:

23 (i) to the department of agriculture:

24 (A) \$65,000 for the cooperative development center;

25 (B) \$900,000 for the growth through agriculture program provided for in Title 90, chapter 9;

26 (C) \$600,000 for the Montana food and agricultural development program provided for in Title 80,
27 chapter 11;

28 (ii) to the department of commerce:

- 1 (A) \$325,000 for a small business development center;
- 2 (B) \$50,000 for a small business innovative research program;
- 3 (C) \$625,000 for certified regional development corporations;
- 4 (D) \$500,000 for the Montana manufacturing extension center at Montana state university-Bozeman;
- 5 and
- 6 (E) \$300,000 for export trade enhancement.

7 (12) (a) An entity that receives money in accordance with subsections (1) through (10) and (11)(b)
 8 shall sign a statement in support of coal.

9 (b) The statement required in subsection (12)(a) must state: "I/We support the Montana coal industry
 10 and the energy generated by coal-fired generating units. Further, we support Montana's families that dig, burn,
 11 and transport our coal reserves. We appreciate those families that provide maintenance services. Our actions
 12 show fidelity to this statement."

13 (c) The statement must be signed, include a position description of the signee, provide for the name
 14 of the entity represented, and include the date.

15 (D) STATE AGENCIES AND EMPLOYEES NEED NOT SIGN STATEMENTS. (Terminates June 30, 2027--secs. 13,
 16 15, 18, Ch. 343, L. 2019.)

17 **15-35-108. (Effective July 1, 2027) Disposal of severance taxes.** Severance taxes collected under
 18 this chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:

19 (1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article
 20 IX, section 5, of the Montana constitution. The trust fund money must be deposited in the fund established
 21 under 17-6-203(6) and invested by the board of investments as provided by law.

22 (2) The amount of 12% of coal severance tax collections is allocated to the major repair long-range
 23 building program account established in 17-7-221.

24 (3) The amount of 0.90% in fiscal year 2020 and 0.93% in fiscal year 2021 and in each fiscal year
 25 thereafter must be allocated for provision of basic library services for the residents of all counties through library
 26 federations and for payment of the costs of participating in regional and national networking and must be
 27 deposited in the basic library services account established in 22-1-202.

28 (4) The amount of 3.77% in fiscal year 2020 and 3.71% in fiscal year 2021 and in each fiscal year

1 thereafter must be allocated to the department of natural resources and conservation for conservation districts
2 and deposited in the conservation district account established in 76-15-106.

3 (5) The amount of 0.79% in fiscal year 2020 and 0.82% in fiscal year 2021 and in each fiscal year
4 thereafter must be allocated to the Montana Growth Through Agriculture Act and deposited in the growth
5 through agriculture account established in 90-9-104.

6 (6) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks
7 acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses,
8 must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas
9 described in 23-1-102.

10 (7) The amount of 0.95% must be allocated to the debt service fund type to the credit of the
11 renewable resource loan debt service fund.

12 (8) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art
13 in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding
14 unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other
15 cultural and aesthetic projects.

16 (9) The amount of 2.9% must be credited to the coal natural resource account established in 90-6-
17 1001(2).

18 (10) After the allocations are made under subsections (2) through (9), \$250,000 for the fiscal year must
19 be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.

20 (11) All other revenue from severance taxes collected under the provisions of this chapter must be
21 credited to the general fund of the state.

22 (12) (a) An entity that receives money in accordance with subsection (1) through (10) shall sign a
23 statement in support of coal.

24 (b) The statement required in subsection (12)(a) must state: "I/We support the Montana coal industry
25 and the energy generated by coal-fired generating units. Further, we support Montana's families that dig, burn,
26 and transport our coal reserves. We appreciate those families that provide maintenance services. Our actions
27 show fidelity to this statement."

28 (c) The statement must be signed, include a position description of the signee, provide for the name

1 of the entity represented, and include the date.

2 (D) STATE AGENCIES AND EMPLOYEES NEED NOT SIGN STATEMENTS."

3

4 **Section 2.** Section 17-5-703, MCA, is amended to read:

5 **"17-5-703. (Temporary) Coal severance tax trust funds.** (1) The trust established under Article IX,
6 section 5, of the Montana constitution is composed of the following funds:

7 (a) a coal severance tax bond fund into which the constitutionally dedicated receipts from the coal
8 severance tax must be deposited;

9 (b) a treasure state endowment fund;

10 (c) a treasure state endowment regional water system fund;

11 (d) a coal severance tax permanent fund;

12 (e) a coal severance tax income fund;

13 (f) a big sky economic development fund; and

14 (g) a school facilities fund.

15 (2) (a) The state treasurer shall determine, on July 1 of each year, the amount necessary to meet all
16 principal and interest payments on bonds payable from the coal severance tax bond fund during the next 12
17 months and retain that amount in the coal severance tax bond fund.

18 (b) The amount in the coal severance tax bond fund in excess of the amount required in subsection
19 (2)(a) must be transferred from that fund as provided in subsections (4) and (5).

20 (3) (a) The state treasurer shall monthly transfer from the treasure state endowment fund to the
21 treasure state endowment special revenue account the amount of earnings, excluding unrealized gains and
22 losses, required to meet the obligations of the state that are payable from the account in accordance with 90-6-
23 710. Earnings not transferred to the treasure state endowment special revenue account must be retained in the
24 treasure state endowment fund.

25 (b) The state treasurer shall monthly transfer from the treasure state endowment regional water
26 system fund to the treasure state endowment regional water system special revenue account the amount of
27 earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable
28 from the account for regional water systems authorized under 90-6-715. Earnings not transferred to the

1 treasure state endowment regional water system special revenue account must be retained in the treasure
2 state endowment regional water system fund.

3 (4) (a) Starting July 1, 2017, the state treasurer shall quarterly transfer to the school facilities fund
4 provided for in 20-9-380(1) 75% of the amount in the coal severance tax bond fund in excess of the amount that
5 is specified in subsection (2) to be retained in the fund. The budget director shall certify to the state treasurer
6 when the balance of the school facilities fund is \$200 million. Beginning with the quarter following this
7 certification, the state treasurer shall instead transfer to the coal severance tax permanent fund 75% of the
8 amount in the coal severance tax bond fund that exceeds the amount that is specified in subsection (2) to be
9 retained in the fund.

10 (b) The state treasurer shall monthly transfer from the school facilities fund to the account established
11 in 20-9-525 the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of
12 the state that are payable from the account. Earnings not transferred to the account established in 20-9-525
13 must be retained in the school facilities fund.

14 (5) (a) From July 1, 2005, through June 30, 2025, the state treasurer shall quarterly transfer to the
15 big sky economic development fund 25% of the amount in the coal severance tax bond fund in excess of the
16 amount that is specified in subsection (2) to be retained in the fund.

17 (b) The state treasurer shall monthly transfer from the big sky economic development fund to the
18 economic development special revenue account, provided for in 90-1-205, the amount of earnings, excluding
19 unrealized gains and losses, required to meet the obligations of the state that are payable from the account in
20 accordance with 90-1-204. Earnings not transferred to the economic development special revenue account
21 must be retained in the big sky economic development fund.

22 (6) Any amount in the coal severance tax bond fund in excess of the amount that is specified in
23 subsection (2)(a) to be retained in the fund and that is not otherwise allocated under this section must be
24 deposited in the coal severance tax permanent fund.

25 (7) (a) An entity that receives money in accordance with subsections (1) through (6) shall sign a
26 statement in support of coal.

27 (b) The statement required in subsection (7)(a) must state: "I/We support the Montana coal industry
28 and the energy generated by coal-fired generating units. Further, we support Montana's families that dig, burn,

1 and transport our coal reserves. We appreciate those families that provide maintenance services. Our actions
 2 show fidelity to this statement."

3 (c) The statement must be signed, include a position description of the signee, provide for the name
 4 of the entity represented, and include the date.

5 (D) STATE AGENCIES AND EMPLOYEES NEED NOT SIGN STATEMENTS. (Terminates June 30, 2031--secs. 1
 6 through 3, Ch. 305, L. 2015.)

7 **17-5-703. (Effective July 1, 2031) Coal severance tax trust funds.** (1) The trust established under
 8 Article IX, section 5, of the Montana constitution is composed of the following funds:

9 (a) a coal severance tax bond fund into which the constitutionally dedicated receipts from the coal
 10 severance tax must be deposited;

11 (b) a treasure state endowment fund;

12 (c) a coal severance tax permanent fund;

13 (d) a coal severance tax income fund;

14 (e) a big sky economic development fund; and

15 (f) a school facilities fund.

16 (2) (a) The state treasurer shall determine, on July 1 of each year, the amount necessary to meet all
 17 principal and interest payments on bonds payable from the coal severance tax bond fund during the next 12
 18 months and retain that amount in the coal severance tax bond fund.

19 (b) The amount in the coal severance tax bond fund in excess of the amount required in subsection
 20 (2)(a) must be transferred from that fund as provided in subsections (4) and (5).

21 (3) The state treasurer shall monthly transfer from the treasure state endowment fund to the treasure
 22 state endowment special revenue account the amount of earnings, excluding unrealized gains and losses,
 23 required to meet the obligations of the state that are payable from the account in accordance with 90-6-710.
 24 Earnings not transferred to the treasure state endowment special revenue account must be retained in the
 25 treasure state endowment fund.

26 (4) (a) Starting July 1, 2017, the state treasurer shall quarterly transfer to the school facilities fund
 27 provided for in 20-9-380(1) 75% of the amount in the coal severance tax bond fund in excess of the amount that
 28 is specified in subsection (2) to be retained in the fund. The budget director shall certify to the state treasurer

1 when the balance of the school facilities fund is \$200 million. Beginning with the quarter following this
2 certification, the state treasurer shall instead transfer to the coal severance tax permanent fund 75% of the
3 amount in the coal severance tax bond fund that exceeds the amount that is specified in subsection (2) to be
4 retained in the fund.

5 (b) The state treasurer shall monthly transfer from the school facilities fund to the account established
6 in 20-9-525 the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of
7 the state that are payable from the account. Earnings not transferred to the account established in 20-9-525
8 must be retained in the school facilities fund.

9 (5) (a) From July 1, 2005, through June 30, 2025, the state treasurer shall quarterly transfer to the
10 big sky economic development fund 25% of the amount in the coal severance tax bond fund in excess of the
11 amount that is specified in subsection (2) to be retained in the fund.

12 (b) The state treasurer shall monthly transfer from the big sky economic development fund to the
13 economic development special revenue account, provided for in 90-1-205, the amount of earnings, excluding
14 unrealized gains and losses, required to meet the obligations of the state that are payable from the account in
15 accordance with 90-1-204. Earnings not transferred to the economic development special revenue account
16 must be retained in the big sky economic development fund.

17 (6) Any amount in the coal severance tax bond fund in excess of the amount that is specified in
18 subsection (2)(a) to be retained in the fund and that is not otherwise allocated under this section must be
19 deposited in the coal severance tax permanent fund.

20 (7) (a) An entity that receives money in accordance with subsections (1) through (6) shall sign a
21 statement in support of coal.

22 (b) The statement required in subsection (7)(a) must state: "I/We support the Montana coal industry
23 and the energy generated by coal-fired generating units. Further, we support Montana's families that dig, burn,
24 and transport our coal reserves. We appreciate those families that provide maintenance services. Our actions
25 show fidelity to this statement."

26 (c) The statement must be signed, include a position description of the signee, provide for the name
27 of the entity represented, and include the date.

28 (D) STATE AGENCIES AND EMPLOYEES NEED NOT SIGN STATEMENTS."

1

2 **Section 3.** Section 75-8-103, MCA, is amended to read:

3 **"75-8-103. Definitions.** As used in this part, the following definitions apply:

4 (1) (a) "Affected property" means the property owned by or under the control of an owner that is
5 affected by a coal-fired generating unit, including:

6 (i) land, surface water, or ground water directly affected by the coal-fired generating unit, associated
7 impoundments, disposal and waste operations, buildings, structures, or other improvements or operations
8 infrastructure; and

9 (ii) areas affected by activities necessary to the closure and dismantling of the coal-fired generating
10 unit.

11 (b) The term does not include:

12 (i) land, water, or air affected or potentially affected by emissions from the operation of a coal-fired
13 generating unit; or

14 (ii) the mining of coal at an underground or strip mine and used at the coal-fired generating unit.

15 (2) "Applicable legal obligations" means any applicable state or federal environmental laws, including
16 but not limited to the Montana Water Quality Act, rules regarding disposal of coal combustion residuals from
17 electric utilities, the Montana Major Facility Siting Act, and other applicable laws administered by the
18 department in accordance with Title 75. The term includes any consent order or settlement entered into by the
19 department and an operator or owner imposing obligations to undertake remediation actions at the coal-fired
20 generating unit or affected property.

21 (3) "Coal-fired generating unit" means an individual unit of a coal-fired electrical generating facility
22 located in Montana, where the unit has a generating capacity that is greater than or equal to 200 megawatts.

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

24 (5) "Operator" means the person engaged in operating or undertaking remediation actions at a coal-
25 fired generating unit. An operator may or may not be an owner.

26 (6) "Owner" means a person who has a legal or equitable interest in property subject to this part or
27 the person's legal representative.

28 (7) "Person" means an individual, partnership, corporation, association, or other legal entity or any

1 political subdivision of the state or federal government.

2 (8) "Reasonably anticipated future uses" means likely future land or resource uses that take into
3 consideration:

4 (a) local land and resource use regulations, ordinances, restrictions, or covenants;

5 (b) historical and anticipated uses of a site where a coal-fired generating unit is located;

6 (c) patterns of development in the immediate area; and

7 (d) relevant indications of anticipated land use from an operator or owner, or both, of a coal-fired
8 generating unit, affected property owners, and local planning officials.

9 (9) "Remediation" means all actions required by an applicable legal obligation and in accordance with
10 [sections 6 and 7] directed exclusively toward achieving a degree of cleanup required in accordance with 75-8-
11 107.

12 (10) "Retired" or "retire" means the complete and permanent closure of a coal-fired generating unit.
13 Retirement occurs on the date that the coal-fired generating unit ceases combustion of fuel and permanently
14 ceases to generate electricity."

15

16 **Section 4.** Section 75-8-104, MCA, is amended to read:

17 "**75-8-104. Integration -- construction in event of conflict.** ~~(1)~~ To avoid unnecessary duplication,
18 the department shall integrate the provisions of this part with applicable legal obligations.

19 ~~(2) If this part or any action taken by the department in accordance with this part conflicts with~~
20 ~~applicable legal obligations, the applicable legal obligations supersede the provisions of this part."~~

21

22 **Section 5.** Section 75-8-105, MCA, is amended to read:

23 "**75-8-105. Remediation plan.** (1) No later than 3 months after a coal-fired generating unit is retired
24 and no earlier than 5 years prior to a coal-fired generating unit's planned retirement, an owner shall submit a
25 proposed remediation plan that contains:

26 (a) the name of the operator of the coal-fired generating unit and the names and addresses of all
27 owners of the coal-fired generating unit;

28 (b) a general overview of the site where the unit is located, the unit itself, and affected property;

- 1 (c) plans to meet the requirements of [sections 6 and 7], if applicable;
 2 ~~(e)(d)~~ the current and reasonably anticipated future uses of affected property; and
 3 ~~(d)(e)~~ remediation information, including:
 4 (i) a list of reports, studies, or other evaluations related to remediation and specific remediation
 5 measures already completed or under way pursuant to any applicable legal obligation; and
 6 (ii) the manner in which the remediation measures satisfy the requirements of 75-8-107 and a
 7 description of how the owner will comply.
- 8 (2) (a) If a coal-fired generating unit has more than one owner, the owners may jointly submit a
 9 remediation plan in accordance with this part.
- 10 (b) If the owners are unable to submit a joint plan, then each owner of the coal-fired generating unit
 11 that is being retired or is retired is responsible for meeting the requirements of this part. If separate plans are
 12 filed, the department shall ensure that the plans detail legal obligations. If there is a conflict in the plans, the
 13 department shall reconcile the conflict to ensure that the plans are consistent with existing law and legal
 14 obligations.
- 15 (3) A plan required pursuant to subsection (1) may consist of a plan for more than one unit that is
 16 retired at the same time and planned for simultaneous remediation.
- 17 (4) The filing of a plan is not a commitment to retire a coal-fired generating unit on any particular date
 18 that is not otherwise required by an applicable legal obligation."

19

20 **Section 6.** Section 75-8-107, MCA, is amended to read:

21 "**75-8-107. Degree of cleanup required -- responsible parties -- labor requirements.** (1) A
 22 remediation plan must demonstrate that it will meet the requirements of ~~subsection (2)~~ subsections (2) and (3)
 23 and attain a degree of cleanup of the affected property consistent with, ~~but not more stringent than,~~ applicable
 24 legal obligations, giving consideration to reasonably anticipated future uses of affected property.

25 (2) (a) Each owner of a coal-fired generating unit shall pay its share of remediation costs as
 26 remediation progresses. An owner may direct the department to reduce bond requirements for real-time
 27 expenditures during remediation.

28 (b) In determining bond requirements, the department shall estimate the total cost over the time of

1 remediation, including anticipated depreciation. Estimates must be updated and collected by the department
 2 biannually BIENNIALY. Bond amounts may not include a discount rate and must account for the total cost of the
 3 estimated remediation.

4 (c) Subject to an owner's agreement, until the bonding obligations of this section are satisfied by the
 5 department, property rights, including transmission rights, may not be transferred to an entity other than another
 6 owner of the coal-fired generating unit. This subsection (2)(c) does not restrict an existing lease agreement or a
 7 lease agreement entered into after [the effective date of this act].

8 ~~(2)(3)~~ When contracting for the performance of construction, alteration, demolition, installation, repair,
 9 or maintenance work to implement a remediation plan, an owner shall require that its contractors and any
 10 subcontractors use a skilled and trained workforce to perform all remediation. Contracts signed must require
 11 contractors and subcontractors to:

12 (a) pay the standard prevailing rate of wages as defined in 18-2-401 for remediation; and

13 (b) pay apprentice wage rates, as applicable, in accordance with 39-6-108 for remediation completed
 14 by an apprentice employed by a contractor or subcontractor."
 15

16 NEW SECTION. Section 7. Remediation -- other purposes -- bonding requirements. (1) Except
 17 as provided in subsection (2), if a coal-fired generating unit closed or is closed on or after January 1, 2020, and
 18 is not sold to another owner, the units must be demolished and removed, including the foundations. Bonding for
 19 the demolition and removal must be provided in accordance with 75-8-107(2).

20 (2) (a) If a coal-fired generating unit is legitimately sold for generation or experimental purposes,
 21 including but not limited to carbon sequestration, the bonding requirement is waived until the plant is closed.

22 (b) Remediation costs do not include removal of the generating units.

23 (3) (a) The energy and telecommunications interim committee shall provide recommendations, in the
 24 form of legislation, to the 2023 legislature concerning use of the coal trust fund dollars or other funding
 25 mechanisms to cover remediation costs when amortization dates are realized.

26 (b) Recommendations developed in accordance with subsection (3)(a) must account for and consider
 27 remediation costs and liabilities for an owner of a coal-fired generating unit generating baseload electricity for
 28 Montana ratepayers or merchant electricity at name-plate capacity on the date of the owner's original end

1 amortization date.

2

3 NEW SECTION. Section 8. Maintenance costs. (1) (a) ~~IF EXCEPT AS PROVIDED IN SUBSECTIONS (1)(C)~~
4 ~~THROUGH (1)(E),~~ IF an owner ceases to utilize power generated by a coal-fired generating unit and ceases to
5 fund maintenance and repair costs for its share of a coal-fired generating unit, that owner remains liable on a
6 pro rata basis established by the additional owners for future maintenance and repairs caused by the use of the
7 plant during the remaining owner's tenure.

8 (b) Subject to subsections (2) and (3), costs must be determined through a negotiation with remaining
9 owners and deposited in an account held by the unit's operator.

10 (C) SUBJECT TO SUBSECTION (1)(E), IF AN OWNER CEASES TO MAINTAIN ITS OWNERSHIP INTEREST IN A COAL-
11 FIRE GENERATING UNIT AND ABANDONS ITS OWNERSHIP INTEREST OR CEASES TO MAINTAIN ITS OWNERSHIP INTEREST
12 AND CEASES TO OPERATE THE COAL-FIRED GENERATING UNIT WHILE OTHER OWNERS HAVE A CONTINUED NEED TO
13 UTILIZE POWER GENERATED BY THE COAL-FIRED GENERATING UNIT, A UTILITY REGULATED BY THE PUBLIC SERVICE
14 COMMISSION IN ACCORDANCE WITH TITLE 69, CHAPTER 3, MAY FUND MAINTENANCE AND REPAIR COSTS FOR A SINGLE
15 MAINTENANCE CYCLE IN ACCORDANCE WITH SUBSECTION (1)(D) TO CONTINUE OPERATION OF THE UNIT.

16 (D) COSTS INCURRED TO PROVIDE MAINTENANCE AND REPAIR COSTS AND FOR THE PROCUREMENT OF
17 TRANSMISSION CAPACITY AND SERVICES FOR A SINGLE MAINTENANCE CYCLE IN THE EVENT OF AN OWNER CEASING TO
18 MAINTAIN ITS OWNERSHIP INTEREST IN ACCORDANCE WITH SUBSECTION (1)(C) AND TRANSMISSION CAPACITY REQUIRED
19 IN SUBSECTION (1)(E), MAY BE INCLUDED IN THE REGULATED UTILITY'S RATE BASE IN ACCORDANCE WITH A PUBLIC
20 SERVICE COMMISSION ORDER PROVIDING FOR THE INCLUSION.

21 (E) A TRANSFER OF MAINTENANCE AND REPAIR COSTS IN ACCORDANCE WITH SUBSECTION (1)(D) ALSO MUST
22 INCLUDE AN AGREEMENT TO MAINTAIN SUFFICIENT OPERATIONAL TRANSMISSION CAPACITY TO SERVE THE NEW
23 ACQUISITION OF GENERATION. THE VALUE OF THE CAPACITY MUST BE DETERMINED BASED ON TRANSMISSION
24 AGREEMENTS AS ORIGINALLY SIGNED BY THE OWNERS.

25 (2) ~~Montana~~ EXCEPT AS PROVIDED IN SUBSECTIONS (1)(C) THROUGH (1)(E), electricity ratepayers are not
26 liable for maintenance and repair costs incurred as a result of owners, who do not serve Montana ratepayers,
27 ceasing to utilize power generated by the units.

28 (3) THE COMMISSION MAY NOT ALLOW A FACILITY ACQUIRED IN ACCORDANCE WITH THIS SECTION TO BE RATE-

1 BASED AT A VALUE HIGHER THAN THAT OF NEWLY CONSTRUCTED NATURAL GAS GENERATION LOCATED WITHIN A
 2 UTILITY'S MONTANA SERVICE TERRITORY.

3 ~~(3)~~(4) If an owner's agreement established on or before [the effective date of this act] conflicts with the
 4 requirements of this section, the owners shall revise the agreement in order to fulfill the requirements of
 5 subsections (1) and (2).

6

7 NEW SECTION. Section 9. Stranded costs and remediation costs -- prohibition against

8 ratepayer increases. (1) (a) If a utility regulated in accordance with this chapter ceases to maintain its
 9 ownership interest in a coal-fired generating unit as defined in 75-8-103, the utility may not seek stranded cost
 10 reimbursement from the commission. Shareholders shall cover any stranded costs.

11 (b) For the purposes of this section, "stranded costs" means an investment in a coal-fired generating
 12 unit that is defined as the historic financial obligations of the utility incurred that become unrecoverable.

13 (2) Remediation costs incurred by a utility regulated in accordance with this chapter and determined
 14 in accordance with Title 75, chapter 8, part 1, and established by other applicable legal obligations as defined in
 15 75-8-103, may not be recovered in costs passed on to ratepayers.

16

17 NEW SECTION. Section 10. Codification instruction. (1) [Sections 7 and 8] are intended to be
 18 codified as an integral part of Title 75, chapter 8, part 1, and the provisions of Title 75, chapter 8, part 1, apply
 19 to [sections 7 and 8].

20 (2) [Section 9] is intended to be codified as an integral part of Title 69, chapter 8, and the provisions of
 21 Title 69, chapter 8, apply to [section 9].

22

23 NEW SECTION. Section 11. Severability. If a part of [this act] is invalid, all valid parts that are
 24 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
 25 the part remains in effect in all valid applications that are severable from the invalid applications.

26

27 NEW SECTION. Section 12. Effective date. [This act] is effective on passage and approval.

28

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