

HOUSE BILL NO. 314

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A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO THE GENERATION OF ENERGY AND TRANSMISSION OF ELECTRICITY; ESTABLISHING A STATE ENERGY AUTHORITY; PROVIDING THE AUTHORITY WITH CERTAIN POWERS; REQUIRING THAT STATE AGENCIES COOPERATE WITH THE AUTHORITY; CREATING A SPECIAL REVENUE ACCOUNT; STATUTORILY APPROPRIATING MONEY FROM THE WHOLESALE ENERGY TRANSACTION TAX TO THE AUTHORITY TO SUPPORT ITS ACTIVITIES; PROVIDING DEFINITIONS; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTIONS 15-72-106 AND 17-7-502, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Short title.** [Sections 1 through 10] may be cited as the "Montana Energy Authority Act".

NEW SECTION. **Section 2. Purpose.** The legislature finds and declares that:

- (1) Montana is endowed with significant and diverse energy resources. The development of Montana's energy resources is essential to a healthy state economy.
- (2) Montana's energy resources provide a tremendous opportunity to diversify the state's economy and to stabilize and increase revenue to the state;
- (3) energy generation and electric transmission constraints impede the development of the state's energy resources;
- (4) an essential function of government and its public purpose is to assist with the removal of energy generation and electric transmission impediments to facilitate the development of Montana's energy resources;
- (5) development of Montana's energy resources promotes the public interest by increasing

1 employment, stimulating economic activity, augmenting sources of tax revenue, fostering economic stability,
2 and improving the state's economy; and

3 (6) it is in the public interest that the energy authority has the ability to facilitate the planning,
4 development, economic analysis, and coordination of energy generation and electric transmission.

5
6 **NEW SECTION. Section 3. Definitions.** As used in [sections 1 through 10], unless the context
7 clearly indicates otherwise, the following definitions apply:

8 (1) "Authority" means the energy authority established in [section 4].

9 (2) "Department" means the department of commerce provided for in 2-15-1801.

10

11 **NEW SECTION. Section 4. Energy authority -- composition -- allocation.** (1) There is an energy
12 authority created to diversify and expand the state's economy by developing and advising in this state the
13 energy production facilities and the electric transmission facilities necessary to produce and transport energy to
14 markets within the state and regionally.

15 (2) The authority is allocated to the department of commerce for administrative purposes only as
16 prescribed in 2-15-121. However, the authority may hire its own executive director, and 2-15-121(2)(d) does not
17 apply.

18 (3) (a) The authority is composed of 14 members appointed by the governor in the same manner
19 as provided in 2-15-124, except as otherwise provided in this section and except that the requirement that at
20 least one member be an attorney does not apply. The authority must be representative of state and local
21 utilities, cooperatives, developers, and stakeholders engaged in the sustainment and development of the state's
22 energy future.

23 (4) (a) Except as provided in subsection (4)(b), appointed members serve staggered terms of 3
24 years.

25 (b) The initial appointments are as follows:

26 (i) four members appointed to 1-year terms;

27 (ii) four members appointed to 2-year terms; and

28 (iii) six members appointed to 3-year terms.

- 1 (5) In selecting the members, the governor shall:
- 2 (a) consider each prospective member's knowledge and understanding of the structural and
- 3 financial dimensions of the energy generation and electric transmission components of the state's economy;
- 4 (b) ensure that six members broadly represent, as evidenced by their background, experience,
- 5 and livelihood, the following categories of energy consumption:
- 6 (i) residential;
- 7 (ii) agricultural; and
- 8 (iii) commercial and industrial enterprise;
- 9 (c) choose two members with experience in electric transmission, distribution, and energy
- 10 generation issues; and
- 11 (d) choose two members with experience in renewable energy.
- 12 (6) The membership of the authority must include the following four members appointed by the
- 13 governor:
- 14 (a) a representative of the department of commerce;
- 15 (b) a representative of the department of environmental quality;
- 16 (c) a representative of the public service commission; and
- 17 (d) a representative of the governor's office.

18

19 **NEW SECTION. Section 5. Compensation -- per diem.** Members of the authority may not receive a

20 salary but are entitled to compensation as provided in 2-15-122 for each day they are engaged in the

21 transaction of official business. Members must be reimbursed for travel expenses, as provided in 2-18-501

22 through 2-18-503, incurred while on official business.

23

24 **NEW SECTION. Section 6. Election of officers -- frequency of meetings -- quorum.** (1) The

25 members of the authority shall annually elect a presiding officer and a vice presiding officer from among the

26 authority membership. The presiding officer and vice presiding officer shall each serve a 1-year term.

27 (2) The authority shall meet at least every 90 days and at other times as called by the presiding

28 officer or by any six members of the authority.

1 (3) Eight members of the authority constitute a quorum for the transaction of all business, including
2 the election of officers.

3

4 NEW SECTION. Section 7. Authority powers. The state energy authority may:

5 (1) facilitate the planning, development, economic analysis, and coordination of facilities within and
6 outside of the state;

7 (2) employ officers, agents, and employees that the authority considers necessary in carrying out
8 the provisions of [sections 1 through 10];

9 (3) contract for legal, financial, engineering, and other professional services necessary in carrying
10 out the provisions of [sections 1 through 10];

11 (4) receive by gift, grant, donation, or otherwise money, aid, or assistance from the federal
12 government, the state, any political subdivision, or any other public or private entity;

13 (5) assist in investigating, planning, establishing, and coordinating corridors for electric
14 transmission through all energy generating resource types;

15 (6) participate in regional energy transmission organizations established in response to or in
16 compliance with an order of the federal energy regulatory commission or any regional electric transmission
17 initiatives;

18 (7) participate in a regional organization established for the purpose of planning, analyzing, and
19 coordinating energy generation projects, electric transmission projects and transmission infrastructure;

20 (8) report any findings and recommendations as requested by the governor or the legislature; and

21 (9) perform other functions necessary to carry out the provisions of [sections 1 through 10].

22

23 NEW SECTION. Section 8. Interagency cooperation. (1) State agencies shall cooperate with the
24 authority in planning, permitting, and constructing facilities.

25 (2) Within the limits of available resources, state agencies shall provide scientific, economic, and
26 other relevant data requested by the authority.

27

28 NEW SECTION. Section 9. Administrative costs. (1) (a) The authority may be assessed costs by

1 the department, on request or pursuant to 2-15-121, for the services the department provides, including but not
2 limited to:

- 3 (i) personal services costs;
- 4 (ii) operating costs;
- 5 (iii) office and office equipment costs; and
- 6 (iv) other administrative costs.

7 (b) The costs charged must have a substantial relationship to the costs of services provided.

8 (2) The department shall provide an annual accounting to the authority of the incurred and indirect
9 costs that are attributable to the program.

10

11 **NEW SECTION. Section 10. Special revenue account -- statutory appropriation.** (1) There is a
12 Montana energy generation and electric transmission special revenue account within the state special revenue
13 fund established in 17-2-102.

14 (2) (a) Money received from the wholesale energy transaction tax, as provided in 15-72-106, must
15 be deposited in the account.

16 (b) Money deposited in the account is statutorily appropriated, as provided in 17-7-502, to the
17 energy authority to meet the administrative costs of the authority.

18

19 **Section 11.** Section 15-72-106, MCA, is amended to read:

20 **"15-72-106. Collection of wholesale energy transaction tax -- disposition of revenue.** (1) A
21 transmission services provider shall collect the tax imposed under 15-72-104 from the taxpayer and pay the tax
22 collected to the department. If the transmission services provider collects a tax in excess of the tax imposed by
23 15-72-104, both the tax and the excess must be remitted to the department.

24 (2) A self-assessing distribution services provider is subject to the provisions of this part.

25 (3) The Except as provided in subsection (4), the wholesale energy transaction tax collected under
26 this part must, in accordance with the provisions of 17-2-124, be deposited in the general fund.

27 (4) Beginning on July 1, 2025, an amount sufficient to fund the activities of the energy authority
28 established in [section 4], as determined by the authority, but not to exceed \$700,000 of the wholesale energy

1 transaction tax collected under this part, must be deposited annually in the state special revenue account
2 provided for in [section 10]."

3

4 **Section 12.** Section 17-7-502, MCA, is amended to read:

5 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
6 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without
7 the need for a biennial legislative appropriation or budget amendment.

8 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with
9 both of the following provisions:

10 (a) The law containing the statutory authority must be listed in subsection (3).

11 (b) The law or portion of the law making a statutory appropriation must specifically state that a
12 statutory appropriation is made as provided in this section.

13 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-
14 11-407; 5-13-403; 5-13-404; 7-4-2502; 7-4-2924; 7-32-236; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-2-
15 807; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-3-316; 10-3-802; 10-3-1304; 10-4-304; 10-4-310; 15-1-121;
16 15-1-142; 15-1-143; 15-1-218; 15-1-2302; 15-31-165; 15-31-1004; 15-31-1005; 15-35-108; 15-36-332; 15-37-
17 117; 15-39-110; 15-65-121; 15-70-128; 15-70-131; 15-70-132; 15-70-433; 16-11-119; 16-11-509; 17-3-106; 17-
18 3-212; 17-3-222; 17-3-241; 17-6-101; 17-6-214; 17-7-133; 17-7-215; 18-11-112; 19-3-319; 19-3-320; 19-6-410;
19 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-3-
20 369; 20-7-1709; 20-8-107; 20-9-250; 20-9-534; 20-9-622; [20-15-328]; 20-26-617; 20-26-1503; 22-1-327; 22-3-
21 116; 22-3-117; [22-3-1004]; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-
22 204; 37-50-209; 37-54-113; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-4-1506; 44-12-213; 44-13-102; 50-
23 1-115; 53-1-109; 53-6-148; 53-9-113; 53-24-108; 53-24-206; 60-5-530; 60-11-115; 61-3-321; 61-3-415; 67-1-
24 309; 69-3-870; 69-4-527; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 75-26-308; 76-13-150; 76-13-151; 76-
25 13-417; 76-17-103; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 80-11-1006; 81-1-112; 81-1-113; 81-2-
26 203; 81-7-106; 81-7-123; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; [85-25-102]; 87-1-603; 87-5-909;
27 90-1-115; 90-1-205; 90-1-504; 90-6-331; ~~and 90-9-306;~~ and [section 10].

28 (4) There is a statutory appropriation to pay the principal, interest, premiums, and any costs or fees

1 associated with issuing, paying, securing, redeeming, or defeasing all bonds, notes, or other obligations, as due
2 in the ordinary course or when earlier called for redemption or defeased, that have been authorized and issued
3 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of
4 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined
5 by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have
6 statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the
7 inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement
8 system's unfunded liability is 10 years or less; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410
9 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental
10 benefit provided by 19-6-709; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on
11 occurrence of contingency; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117
12 terminates June 30, 2025; pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304 terminates
13 September 30, 2025; pursuant to sec. 1, Ch. 213, L. 2017, the inclusion of 90-6-331 terminates June 30, 2027;
14 pursuant to sec. 10, Ch. 374, L. 2017, the inclusion of 76-17-103 terminates June 30, 2027; pursuant to secs.
15 11, 12, and 14, Ch. 343, L. 2019, the inclusion of 15-35-108 terminates June 30, 2027; pursuant to sec. 1, Ch.
16 408, L. 2019, the inclusion of 17-7-215 terminates June 30, 2029; pursuant to secs. 1, 2, 3, Ch. 139, L. 2021,
17 the inclusion of 53-9-113 terminates June 30, 2027; pursuant to sec. 8, Ch. 200, L. 2021, the inclusion of 10-4-
18 310 terminates July 1, 2031; pursuant to secs. 3, 4, Ch. 404, L. 2021, the inclusion of 30-10-1004 terminates
19 June 30, 2027; pursuant to sec. 5, Ch. 548, L. 2021, the inclusion of 50-1-115 terminates June 30, 2025;
20 pursuant to secs. 5 and 12, Ch. 563, L. 2021, the inclusion of 22-3-1004 is effective July 1, 2027; pursuant to
21 sec. 1, Ch. 20, L. 2023, sec. 2, Ch. 20, L. 2023, and sec. 3, Ch. 20, L. 2023, the inclusion of 81-1-112, 81-1-
22 113, and 81-7-106 terminates June 30, 2029; pursuant to sec. 9, Ch. 44, L. 2023, the inclusion of 15-1-142
23 terminates December 31, 2025; pursuant to sec. 10, Ch. 47, L. 2023, the inclusion of 15-1-2302 terminates
24 June 30, 2025; pursuant to sec. 2, Ch. 374, L. 2023, the inclusion of 10-3-802 terminates June 30, 2031;
25 pursuant to sec. 12, Ch. 558, L. 2023, the inclusion of 20-9-250 terminates December 31, 2029; pursuant to
26 sec. 4, Ch. 621, L. 2023, the inclusion of 22-1-327 terminates July 1, 2029; pursuant to sec. 24, Ch. 722, L.
27 2023, the inclusion of 17-7-133 terminates June 30, 2027; pursuant to sec. 10, Ch. 758, L. 2023, the inclusion
28 of 44-4-1506 terminates June 30, 2027; and pursuant to sec. 10, Ch. 764, L. 2023, the inclusion of 15-1-143

1 terminates December 31, 2025.)"

2

3 NEW SECTION. Section 13. Codification instruction. [Sections 1 through 10] are intended to be
4 codified as a new chapter of Title 90, and the provisions of Title 90 apply to [sections 1 through 10].

5

6 NEW SECTION. Section 14. Severability. If a part of [this act] is invalid, all valid parts that are
7 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
8 the part remains in effect in all valid applications that are severable from the invalid applications.

9

10 NEW SECTION. Section 15. Effective date. [This act] is effective July 1, 2025.

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