

SENATE BILL NO. 402

INTRODUCED BY D. ANKNEY, J. KEANE

1
2
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING ENERGY AND UTILITY LAWS;
5 ESTABLISHING THE "MONTANA ENERGY ACCOUNTABILITY ACT"; PROVIDING A PURPOSE STATEMENT;
6 REQUIRING ENTITIES TO NOTIFY THE PUBLIC SERVICE COMMISSION, THE DEPARTMENT OF REVENUE,
7 AND THE GOVERNOR WHEN INTENDING TO RETIRE A COAL-FIRED GENERATING UNIT OR UNITS; WHEN
8 ACQUIRING AN ADDITIONAL OR INCREASED INTEREST IN A COAL-FIRED GENERATING FACILITY OR
9 UNIT WITH PLANS TO RETIRE THE FACILITY OR UNIT; REQUIRING NOTIFICATION BY ENTITIES WHEN
10 RETIRING A FACILITY OR UNIT; REQUIRING ENTITIES TO PAY AN IMPACT FEE WHEN ACQUIRING AN
11 ADDITIONAL OR INCREASED INTEREST IN A COAL-FIRED GENERATING FACILITY WITH PLANS TO
12 RETIRE THE FACILITY OR WHEN RETIRING A FACILITY OR UNIT BEFORE NOVEMBER 30, 2025;
13 REQUIRING THE DEPARTMENT OF REVENUE TO USE TAXABLE VALUE TO DETERMINE THE IMPACT
14 FEE; REQUIRING THE FEE TO BE VERIFIED AND ESTABLISHING AN IMPACT FEE AND REQUIRING THE
15 FEE BE COLLECTED BY THE DEPARTMENT OF REVENUE; ALLOCATING A PORTION OF THE FEE TO THE
16 GENERAL FUND AND, A PORTION OF THE FEE TO CERTAIN COUNTIES, A PORTION TO SCHOOL
17 DISTRICTS, AND A PORTION TO A SPECIAL REVENUE ACCOUNT WITHIN THE DEPARTMENT OF
18 COMMERCE; REQUIRING COUNTIES ENTITIES THAT RECEIVE AN IMPACT FEE TO ESTABLISH AN
19 IMPACT TRUST ACCOUNT ACCOUNTS; PROVIDING FOR THE USE OF THE TRUST ACCOUNT
20 ACCOUNTS; GRANTING THE PUBLIC SERVICE COMMISSION RULEMAKING AUTHORITY; REQUIRING
21 A FEE FOR A WAIVER REQUEST; ALLOWING FOR IMPACT FEE WAIVERS UNDER CERTAIN
22 CIRCUMSTANCES; REQUIRING REMEDIATION AND LIABILITY REQUIREMENTS FOR CERTAIN PONDS
23 AT A COAL-FIRED GENERATING FACILITY WHEN FACILITIES OR UNITS ARE RETIRED UNDER CERTAIN
24 CIRCUMSTANCES; REVISING THE RENEWABLE RESOURCE STANDARD; CLARIFYING THE DEFINITION
25 OF "PUBLIC UTILITY" FOR THE PURPOSES OF THE RENEWABLE RESOURCE STANDARD; CLARIFYING
26 THE RENEWABLE RESOURCE STANDARD REQUIREMENTS FOR CERTAIN PUBLIC UTILITIES;
27 PROVIDING EXCEPTIONS; GRANTING PRIORITY STATUS TO TREASURE STATE ENDOWMENT
28 PROJECTS REQUESTED AS A RESULT OF THE RETIREMENT OF A COAL-FIRED GENERATING FACILITY;
29 ESTABLISHING A COAL-FIRED GENERATION COUNCIL ATTACHED TO THE GOVERNOR'S OFFICE;
30 ESTABLISHING A WORKFORCE REDEVELOPMENT AND TRAINING GRANT PROGRAM; PROVIDING FOR

1 ADMINISTRATION OF THE GRANT PROGRAM BY THE DEPARTMENT OF COMMERCE AND THE USE OF
 2 THE GRANT MONEY; ESTABLISHING REPORTING REQUIREMENTS; PROVIDING AN APPROPRIATION;
 3 REQUIRING THE PUBLIC SERVICE COMMISSION TO CONDUCT OR PARTICIPATE IN A STUDY OF
 4 TRANSMISSION LINE ACCESS AND USE RELATED TO A COAL-FIRED GENERATING FACILITIES UNIT OR
 5 UNITS; ~~REQUIRING A PORTION OF THE WHOLESALE ENERGY TRANSACTION TAX TO BE USED TO~~
 6 ~~FUND THE TRANSMISSION STUDY; AMENDING SECTIONS 15-72-106, 69-3-2003, 69-3-2004, 69-8-426, AND~~
 7 ~~90-6-710; SECTION 15-10-420, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND, AN~~
 8 ~~APPLICABILITY DATE, AND A TERMINATION DATE."~~

9

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

11

12 (Refer to Third Reading -- Blue Bill)

13

Strike everything after the enacting clause and insert:

14

15 NEW SECTION. Section 1. Short title. [Sections 1 through 11] may be cited as the "Montana Energy
 16 Accountability Act".

17

18 NEW SECTION. Section 2. Purpose and intent. (1) The purpose of [sections 1 through 11] is to
 19 provide an orderly process to mitigate the effects of the early retirement of a coal-fired generating unit or units
 20 on the employees of the unit or units, local governments, schools, and affected tribal governments if an electrical
 21 company retires a coal-fired generating unit or units prior to or on November 30, 2025.

22 (2) This process is founded on trust and is committed to protecting the financial interests of Montana's
 23 cities, towns, counties, schools, special districts, state government, and those who work directly in an affected
 24 coal-fired generating unit or units.

25 (3) The retirement of a coal-fired generating unit or units prior to November 30, 2025, would have a
 26 negative and unwarranted impact on state and local governments, as well as on the citizens of Montana.
 27 [Sections 1 through 11] are intended to provide policy to discourage the retirement of a coal-fired generating unit
 28 or units prior to or on November 30, 2025, and to provide mitigation of near-term impacts if a coal-fired generating
 29 unit or units are retired prior to or on November 30, 2025.

30

1 **NEW SECTION. Section 3. Definitions.** As used in [sections 1 through 11], the following definitions
2 apply:

3 (1) "Coal-fired generating unit" or "units" means an individual unit or units of a coal-fired generating
4 facility located in Montana, where the unit or units have a generating capacity that is greater than or equal to 200
5 megawatts but not more than 400 megawatts and were placed in service prior to 1980.

6 (2) "Electrical company" means a company owned by investors that:

7 (a) wholly or partially owns or operates a coal-fired generating unit or units in Montana, directly or
8 through a subsidiary or an affiliate;

9 (b) furnishes or has furnished electricity from the coal-fired generating unit or units to retail customers
10 in another state prior to [the effective date of this act]; and

11 (c) would be a public utility as defined in subsection (5) if those retail electricity customers were in
12 Montana.

13 (3) "Electricity supplier" means an entity that wholly or partially owns or operates a coal-fired generating
14 unit or units in Montana that is not a public utility or an electrical company.

15 (4) "Local government" means an incorporated city or town, a county, a consolidated local government,
16 a tribal government, or a county or multicounty water, sewer, or solid waste district.

17 (5) "Public utility" means an electric utility regulated by the public service commission pursuant to Title
18 69, including the public utility's successors or assignees.

19 (6) "Retire", "retired", or "retirement" means the time at which a coal-fired generating unit or units:

20 (a) ceases to generate electricity and is removed from service; or

21 (b) is mothballed or kept in working order but operation is suspended and the unit or units have not yet
22 been removed from service.

23 (7) "Tribal government" means a federally recognized Indian tribe within the state of Montana.

24
25 **NEW SECTION. Section 4. Early retirement of coal-fired generating unit or units -- notice.** (1) If
26 an electrical company, electricity supplier, or public utility intends to retire a coal-fired generating unit or units prior
27 to or on November 30, 2025, the company, supplier, or utility shall file a notice with the public service commission,
28 the governor, and the department of revenue no later than 24 months prior to the intended date of the retirement.

29 (2) Within 30 days of receiving the notice required pursuant to subsection (1), the department of revenue
30 shall notify the local governing body of the county where the coal-fired generating unit or units are located of the

1 filing of the notice.

2 (3) Nothing in [sections 1 through 11] may be construed to:

3 (a) alter or modify the authority of the public service commission to regulate the rates and services of
4 a public utility that is subject to the provisions of this chapter; or

5 (b) expand the authority of the public service commission to regulate an electrical company or an
6 electricity supplier that is not subject to the provisions of [sections 1 through 11].

7
8 **NEW SECTION. Section 5. Early retirement -- coal county impact fee.** (1) (a) If an electrical
9 company, electricity supplier, or public utility files a notice pursuant to [section 4] indicating its intent to retire a
10 coal-fired generating unit or units on or before November 30, 2025, the electrical company, electricity supplier,
11 or public utility shall pay a coal county impact fee in accordance with this section when the coal-fired generating
12 unit or units are retired.

13 (b) If an electrical company, electricity supplier, or public utility retires a coal-fired generating unit or units
14 after November 30, 2025, the electrical company, electricity supplier, or public utility is not subject to a coal county
15 impact fee.

16 (2) (a) If the retirement occurs on or before November 30, 2025, in the first 5 tax years annually following
17 the retirement of the coal-fired generating unit or units, an electrical company, electricity supplier, or public utility
18 shall, except as provided in subsection (2)(b), pay an amount that includes the following:

19 (i) \$3 million;

20 (ii) 100% of the centrally assessed property taxes paid in accordance with 15-6-156 on the retired
21 coal-fired generating unit or units during the 2014 tax year; and

22 (iii) 100% of the electrical energy producers license tax paid in accordance with 15-51-101.

23 (b) The amount required in accordance with subsection (2)(a) and subsections (3) through (7) does not
24 include:

25 (i) transmission or distribution facilities taxes paid in accordance with 15-6-141;

26 (ii) pollution control equipment taxes paid in accordance with 15-6-135; or

27 (iii) wholesale energy transaction taxes paid in accordance with 15-72-104.

28 (3) If the retirement occurs on or before November 30, 2025, in the sixth tax year following the retirement
29 of the coal-fired generating unit or units, an electrical company, electricity supplier, or public utility shall, except
30 as provided in subsection (2)(b), pay an amount that includes the following:

- 1 (a) 100% of the centrally assessed property taxes paid in accordance with 15-6-156 on the retired
2 coal-fired generating unit or units during the 2014 tax year; and
- 3 (b) 100% of the electrical energy producers license tax paid in accordance with 15-51-101.
- 4 (4) If the retirement occurs on or before November 30, 2025, in the seventh tax year following the
5 retirement of the coal-fired generating unit or units, an electrical company, electricity supplier, or public utility shall,
6 except as provided in subsection (2)(b), pay an amount that includes the following:
- 7 (a) 80% of the centrally assessed property taxes paid in accordance with 15-6-156 on the retired
8 coal-fired generating unit or units during the 2014 tax year; and
- 9 (b) 80% of the electrical energy producers license tax paid in accordance with 15-51-101.
- 10 (5) If the retirement occurs on or before November 30, 2025, in the eighth tax year following the
11 retirement of the coal-fired generating unit or units, an electrical company, electricity supplier, or public utility shall,
12 except as provided in subsection (2)(b), pay an amount that includes the following:
- 13 (a) 60% of the centrally assessed property taxes paid in accordance with 15-6-156 on the retired
14 coal-fired generating unit or units during the 2014 tax year; and
- 15 (b) 60% of the electrical energy producers license tax paid in accordance with 15-51-101.
- 16 (6) If the retirement occurs on or before November 30, 2025, in the ninth tax year following the retirement
17 of the coal-fired generating unit or units, an electrical company, electricity supplier, or public utility shall, except
18 as provided in subsection (2)(b), pay an amount that includes the following:
- 19 (a) 40% of the centrally assessed property taxes paid in accordance with 15-6-156 on the retired
20 coal-fired generating unit or units during the 2014 tax year; and
- 21 (b) 40% of the electrical energy producers license tax paid in accordance with 15-51-101.
- 22 (7) If the retirement occurs on or before November 30, 2025, in the 10th tax year following the retirement
23 of the coal-fired generating unit or units, an electrical company, electricity supplier, or public utility shall, except
24 as provided in subsection (2)(b), pay an amount that includes the following:
- 25 (a) 20% of the centrally assessed property taxes paid in accordance with 15-6-156 on the retired
26 coal-fired generating unit or units during the 2014 tax year; and
- 27 (b) 20% of the electrical energy producers license tax paid in accordance with 15-51-101.
- 28 (8) (a) The impact fee required in accordance with subsection (2)(a) is due the first tax year following
29 the last tax year that the electrical company, electricity supplier, or public utility paid its centrally assessed
30 property taxes.

1 (b) If an electrical company, electricity supplier, or public utility retires a coal-fired generating unit or units
2 prior to or on November 30, 2025, and demonstrates to the department of revenue that the electrical company,
3 electricity supplier, or public utility is paying an impact fee in accordance with this section, then the electrical
4 company, electricity supplier, or public utility is not required to pay centrally assessed property taxes due in
5 connection with the coal-fired generating unit or units that are retired.

6 (9) Nothing in this section changes how centrally assessed property taxes related to a coal-fired
7 generating unit or units are levied if the unit or units are retired after November 30, 2025, or after the 10-year
8 payment of the impact fee required in accordance with subsections (2) through (7).

9

10 **NEW SECTION. Section 6. Early retirement coal county impact fee -- distribution of fees.** (1) On
11 or before March 1 of each year, an electrical company, electricity supplier, or public utility shall submit the impact
12 fee required in accordance with [section 5] to the department of revenue. The penalty and interest provisions
13 contained in 15-1-216 apply to late payments of the fee.

14 (2) The money paid in accordance with [section 5] must be distributed as follows:

15 (a) 25% of all money received pursuant to subsection (1) must be deposited in the coal county impact
16 account established in [section 7] in the county where the coal-fired generating unit or units that were retired are
17 located;

18 (b) 25% of all money received pursuant to subsection (1) must be deposited in the coal county school
19 district account established in [section 8] in the county where the coal-fired generating unit or units are located;

20 (c) 25% of all money received pursuant to subsection (1) must be deposited in the workforce
21 redevelopment and training special revenue account established in [section 9]; and

22 (d) 25% of all money received pursuant to subsection (1) must be deposited in the general fund.

23 (3) On August 15 following the close of the fiscal year, the state treasurer shall distribute the revenue
24 dedicated in subsection (2) for deposit into the appropriate accounts.

25

26 **NEW SECTION. Section 7. Early retirement coal county impact account -- expenditures and**
27 **restrictions.** (1) The governing body of a county eligible to receive a coal county impact fee shall establish a coal
28 county impact account.

29 (2) The governing body of a county may in accordance with subsection (5) use the funds in the coal
30 county account to:

1 (a) mitigate property losses and provide housing security for those who are unemployed due to the
2 retirement of a coal-fired generating unit or units;

3 (b) pay for outstanding capital project bonds or other expenses incurred prior to retirement of the
4 coal-fired generating unit or units;

5 (c) decrease property tax mill levies that are caused by the cessation, reduction, or elimination of activity
6 at the coal-fired generating unit or units;

7 (d) promote diversification and development of the economic base within the jurisdiction of a local
8 government through assistance to existing business, retention and expansion of existing business, unemployment
9 assistance in addition to a formerly employed individual's unemployment compensation and unemployment
10 benefits, or assistance to new business;

11 (e) attract new industry to the impact area;

12 (f) provide cash incentives for expanding the employment base of the area impacted by the changes at
13 the coal-fired generating unit or units; and

14 (g) provide grants or loans to other local governments to assist with impacts.

15 (3) Except as provided in subsection (2)(b) and subject to 15-10-420(7)(b), money held in the coal county
16 account may not be considered as cash balance for the purpose of reducing mill levies.

17 (4) Money in the coal county impact account must be invested as provided by law. Interest and income
18 from the investment of funds in the account must be credited to the account.

19 (5) (a) The governing body of the county shall establish a coal county impact committee. The committee
20 shall include two members of the county's governing body and one representative of:

21 (i) a tribal government impacted by the retirement of a coal-fired generating unit or units;

22 (ii) each incorporated city or town where the coal-fired generating unit or units is located;

23 (iii) each water, sewer, or solid waste district where the coal-fired generating unit or units are located; and

24 (iv) a regional economic development organization that represents a local government where the
25 coal-fired generating unit or units are located.

26 (b) The coal county impact committee shall determine the distribution and use of the impact fee in
27 accordance with subsection (2).

28 (c) The committee shall elect a presiding officer from among its members.

29

30 **NEW SECTION. Section 8. Early retirement coal county school district account -- expenditures**

1 **and restrictions.** (1) The county treasurer shall:

2 (a) keep the impact fee received in accordance with [section 6(2)(b)] in a separate coal county school
3 district account and keep a separate account of its disbursement to the several school districts that are entitled
4 to receive it; and

5 (b) notify the county superintendent of the amount of the impact fee in the county treasury for
6 disbursement to the districts.

7 (2) The impact fee must be shared equally among the school districts in the county where the coal-fired
8 generating unit or units are located that is eligible to receive an impact fee in accordance with [section 6(2)(b)].

9 (3) Money held in the coal county school district account may not be considered as cash balance for the
10 purpose of reducing mill levies.

11 (4) The districts may use the funds in the accounts proportionally for educational purposes in accordance
12 with the provisions of law. Interest and income from the investment of funds in the account must be credited to
13 the account.

14 (5) The funds must be financially administered as nonbudgeted funds under the provisions of Title 20.
15

16 **NEW SECTION. Section 9. Coal county workforce redevelopment and training -- special revenue**
17 **account.** (1) There is an account in the state special revenue fund established by 17-2-102 to be known as the
18 coal county workforce redevelopment and training fund.

19 (2) There must be deposited in the account:

20 (a) money received from legislative allocations;

21 (b) money transferred in accordance with [section 6(2)(c)];

22 (c) a gift, donation, grant, legacy, bequest, or devise made for the purposes of [section 12]; and

23 (d) interest or other income earned on the money in the account.

24 (3) The fund may be used by the department of commerce:

25 (a) to provide grants to mitigate the impacts of the retirement of a coal-fired generating unit or units in
26 accordance with [section 12]; and

27 (b) for the department's costs of administering [section 12].
28

29 **NEW SECTION. Section 10. Appropriate retirement -- coal county impact fee waiver.** (1) (a) An
30 electrical company, electricity supplier, public utility, or combination of those entities is not subject to the impact

1 fee provided for in [section 5] if the electrical company, electricity supplier, public utility, or combination of entities
2 retires a coal-fired generating unit or units on or before November 30, 2025, because:

3 (i) the electrical company, electricity supplier, public utility, or combination of entities demonstrates in
4 accordance with rules adopted by the commission pursuant to subsection (2) that the electrical company,
5 electricity supplier, public utility, or combination of entities is not able to meet mandated federal or state standards,
6 standards mandated by a government agency or a court of law, or other coal-fired generating unit or units
7 regulations without unreasonable investment or capital improvement. An investment or capital improvement is
8 considered unreasonable if it is:

9 (A) economically or technologically unfeasible; or

10 (B) outside the scope of an improvement or investment that would be made in a similar circumstance
11 by a prudent owner of a coal-fired generating unit or units.

12 (ii) the electrical company, electricity supplier, public utility, or combination of entities demonstrates in
13 accordance with rules adopted by the commission pursuant to subsection (2) that the coal-fired generating unit
14 or units have reached the end of their useful life.

15 (b) The commission shall provide an impact fee waiver to an electrical company, electricity supplier,
16 public utility, or combination of entities in accordance with subsection (1)(a) and in accordance with rules adopted
17 by the commission pursuant to subsection (2).

18 (c) Within 30 days of issuing the waiver, the commission shall provide a copy of the waiver to the
19 department of revenue and to the local governing body where the coal-fired generating unit or units are located.

20 (2) By January 1, 2017, the commission, using existing resources, shall adopt rules that guide the
21 processes used by an electrical company, electricity supplier, public utility, or combination of entities to facilitate
22 a determination in accordance with subsection (1). The rules must establish:

23 (a) standards for the evaluation by the commission of the reasonableness of the retirement proposed;

24 (b) minimum filing requirements for an application for approval of a fee waiver in accordance with
25 subsection (1)(b); and

26 (c) a fee, no greater than \$500, to accompany an application filed with the commission.

27
28 **NEW SECTION. Section 11. Transmission study.** (1) Before July 1, 2018, the commission, using
29 existing resources, shall conduct a study or participate in a study being facilitated by a regional transmission
30 planning authority to determine transmission impacts associated with retiring a coal-fired generating unit or units

1 and replacing the respective amounts of capacity with proportional amounts of renewable energy in Montana.

2 (2) (a) On or before September 1, 2016, the commission shall update the energy and
3 telecommunications interim committee provided for in 5-5-230 on its work in progress in accordance with this
4 section.

5 (b) On or before September 1, 2018, results of the study must be submitted to the energy and
6 telecommunications interim committee provided for in 5-5-230.

7
8 **NEW SECTION. Section 12. Coal county workforce redevelopment and training grants.** (1) (a) The
9 department may award workforce redevelopment and training grants using money in the coal county workforce
10 redevelopment and training special revenue account established in [section 9].

11 (b) The department may award workforce redevelopment and training grants to primary sector
12 businesses that provide education or skills-based training, through eligible training providers, for employees
13 seeking a new job.

14 (2) To be eligible for a grant, an applicant shall demonstrate that the applicant is a primary sector
15 business.

16 (3) A grant may be provided only to an employer offering a new job that has an average weekly wage
17 that meets or exceeds the current average weekly wage of the county in which the employees were principally
18 employed prior to the retirement of a coal-fired generating unit or units.

19 (4) The grant application, at a minimum, must contain:

20 (a) a plan containing information that is sufficient for the department to obtain an adequate understanding
21 of how an employee will be assisted through training; and

22 (b) a training plan, which must include:

23 (i) a timetable for providing training;

24 (ii) procedures for outreach, recruitment, screening, training, and placement of employees;

25 (iii) a description of the training curriculum and resources; and

26 (iv) a description of the type and method of training to be provided to employees.

27 (5) If the department determines that an applicant meets the criteria established in this section and has
28 complied with the applicable procedures and review processes established by the department, the department
29 may award a workforce redevelopment and training grant to the employer and authorize the disbursement of
30 funds under contract to the primary sector business.

1 (6) (a) A contract with a grant recipient must contain provisions providing the department with annual
2 reports on training and placement of employees and a final closeout report that documents the wages to be paid
3 to an employee placed in a new job upon completion of the training.

4 (b) The contract must be signed by the person in the primary sector business who is assigned the duties
5 and responsibilities for training and the overall success of the program and by the primary sector business's chief
6 executive.

7 (7) The department may adopt rules to implement this section.

8 (8) For the purposes of this section the following definitions apply:

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

10 (b) "Eligible training provider" means:

11 (i) a unit of the university system, as defined in 20-25-201;

12 (ii) a community college district, as defined in 20-15-101;

13 (iii) an accredited, tribally controlled community college located in the state of Montana;

14 (iv) an apprenticeship program that is in compliance with Title 39, chapter 6; or

15 (v) an entity approved to provide workforce training that is approved by representatives of the BEAR
16 program as defined in 53-2-1216, the small business development centers, or the Montana manufacturing
17 extension center at Montana state university-Bozeman.

18 (c) "Employee" means an individual seeking a new job because of the retirement of a coal-fired
19 generating unit or units as defined in [section 3]. The term may include an individual who did not work directly in
20 a coal-fired generating unit or units but is unemployed due to the retirement of a coal-fired generating unit or units.

21 (d) "Employer" means the individual, corporation, partnership, or association providing new jobs and
22 entering into a grant contract.

23 (e) "New job" means a job in a primary sector business.

24 (f) "Primary sector business" means an employer engaged in operations within Montana.

25 (g) "Workforce redevelopment and training grants" means grants provided to employers for the purpose
26 of working with eligible training providers to provide employees with education and training required for new jobs
27 in primary sector businesses in the state.

28
29 **NEW SECTION. Section 13. Regional collaboration -- coal-fired generation council.** (1) There is
30 a Montana coal-fired generation council.

- 1 (2) The council includes:
- 2 (a) the governor or the governor's designee;
- 3 (b) the attorney general or the attorney general's designee; and
- 4 (c) up to 12 members appointed as follows:
- 5 (i) one public service commissioner appointed by the public service commission;
- 6 (ii) one member from a Montana tribal government who represents a tribal government affected by
- 7 coal-fired generation, appointed by the affected tribal government;
- 8 (iii) two members of the house of representatives, including one from each party, appointed by the
- 9 speaker of the house;
- 10 (iv) two senators, including one from each party, appointed by the committee on committees; and
- 11 (v) representatives of each of the owners of a coal-fired generating unit or units, appointed by the
- 12 governor.
- 13 (3) In making legislative appointments, preference shall be given to legislative members with experience
- 14 in labor policy, coal-fired generation units, or both.
- 15 (4) Members of the council, other than legislative members, are not entitled to compensation for their
- 16 services except for reimbursement of expenses as provided in 2-18-501 through 2-18-503. Legislative members
- 17 of the council are entitled to compensation pursuant to 5-2-302, which must be paid by the legislative services
- 18 division.
- 19 (5) The council shall:
- 20 (a) examine current and future trends and conditions, including:
- 21 (i) proposed federal and state regulations and how those regulations may affect coal-fired generation
- 22 in Montana; and
- 23 (ii) the potential impacts to employees of a coal-fired generating unit or units, local governments, schools,
- 24 and affected tribal governments if a coal-fired generating unit or units are retired; and
- 25 (b) encourage states that receive electricity from a coal-fired generating unit or units to cooperate and
- 26 share information with the coal-fired generation council and establish similar bodies.
- 27 (6) The council shall:
- 28 (a) meet and organize before September 1, 2015;
- 29 (b) meet at least quarterly and may meet more frequently as needed;
- 30 (c) keep a record of its proceedings and accept public testimony at each meeting; and

- 1 (d) select a presiding officer and a vice presiding officer from its appointed members.
- 2 (7) The council may adopt rules for the conduct of its business.
- 3 (8) The legislative services division shall provide staff assistance to the council.
- 4 (9) Prior to July 1 of each even-numbered year, the council shall issue findings to the energy and
5 telecommunications interim committee provided for in 5-5-230 and the environmental quality council established
6 by 5-16-101.

7

8 **Section 14.** Section 15-10-420, MCA, is amended to read:

9 **"15-10-420. Procedure for calculating levy.** (1) (a) Subject to the provisions of this section, a
10 governmental entity that is authorized to impose mills may impose a mill levy sufficient to generate the amount
11 of property taxes actually assessed in the prior year plus one-half of the average rate of inflation for the prior 3
12 years. The maximum number of mills that a governmental entity may impose is established by calculating the
13 number of mills required to generate the amount of property tax actually assessed in the governmental unit in the
14 prior year based on the current year taxable value, less the current year's value of newly taxable property, plus
15 one-half of the average rate of inflation for the prior 3 years.

16 (b) A governmental entity that does not impose the maximum number of mills authorized under
17 subsection (1)(a) may carry forward the authority to impose the number of mills equal to the difference between
18 the actual number of mills imposed and the maximum number of mills authorized to be imposed. The mill authority
19 carried forward may be imposed in a subsequent tax year.

20 (c) For the purposes of subsection (1)(a), the department shall calculate one-half of the average rate of
21 inflation for the prior 3 years by using the consumer price index, U.S. city average, all urban consumers, using
22 the 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of labor.

23 (2) A governmental entity may apply the levy calculated pursuant to subsection (1)(a) plus any additional
24 levies authorized by the voters, as provided in 15-10-425, to all property in the governmental unit, including newly
25 taxable property.

26 (3) (a) For purposes of this section, newly taxable property includes:

- 27 (i) annexation of real property and improvements into a taxing unit;
- 28 (ii) construction, expansion, or remodeling of improvements;
- 29 (iii) transfer of property into a taxing unit;
- 30 (iv) subdivision of real property; and

- 1 (v) transfer of property from tax-exempt to taxable status.
- 2 (b) Newly taxable property does not include an increase in value that arises because of an increase in
3 the incremental value within a tax increment financing district.
- 4 (4) (a) For the purposes of subsection (1), the taxable value of newly taxable property includes the
5 release of taxable value from the incremental taxable value of a tax increment financing district because of:
- 6 (i) a change in the boundary of a tax increment financing district;
- 7 (ii) an increase in the base value of the tax increment financing district pursuant to 7-15-4287; or
- 8 (iii) the termination of a tax increment financing district.
- 9 (b) If a tax increment financing district terminates prior to the certification of taxable values as required
10 in 15-10-202, the increment value is reported as newly taxable property in the year in which the tax increment
11 financing district terminates. If a tax increment financing district terminates after the certification of taxable values
12 as required in 15-10-202, the increment value is reported as newly taxable property in the following tax year.
- 13 (c) For the purpose of subsection (3)(a)(ii), the value of newly taxable class four property that was
14 constructed, expanded, or remodeled property since the completion of the last reappraisal cycle is the current
15 year market value of that property less the previous year market value of that property.
- 16 (d) For the purpose of subsection (3)(a)(iv), the subdivision of real property includes the first sale of real
17 property that results in the property being taxable as class four property under 15-6-134 or as nonqualified
18 agricultural land as described in 15-6-133(1)(c).
- 19 (5) Subject to subsection (8), subsection (1)(a) does not apply to:
- 20 (a) school district levies established in Title 20; or
- 21 (b) a mill levy imposed for a newly created regional resource authority.
- 22 (6) For purposes of subsection (1)(a), taxes imposed do not include net or gross proceeds taxes received
23 under 15-6-131 and 15-6-132.
- 24 (7) In determining the maximum number of mills in subsection (1)(a), the governmental entity:
- 25 (a) may increase the number of mills to account for a decrease in reimbursements; and
- 26 (b) may not increase the number of mills to account for a loss of tax base;
- 27 (i) because of legislative action that is reimbursed under the provisions of 15-1-121(7);
- 28 (ii) due to the retirement of a coal-fired generating unit or units, if the governmental entity is collecting an
29 impact fee or receiving distributions from the county impact fund in accordance with [section 5] that account for
30 the loss of tax base; or

1 (iii) because of the cessation of the payment of a coal county impact fee in accordance with [section 5]
 2 that has accounted for the loss of tax base.

3 (8) The department shall calculate, on a statewide basis, the number of mills to be imposed for purposes
 4 of 15-10-108, 20-9-331, 20-9-333, 20-9-360, and 20-25-439. However, the number of mills calculated by the
 5 department may not exceed the mill levy limits established in those sections. The mill calculation must be
 6 established in tenths of mills. If the mill levy calculation does not result in an even tenth of a mill, then the
 7 calculation must be rounded up to the nearest tenth of a mill.

8 (9) (a) The provisions of subsection (1) do not prevent or restrict:

9 (i) a judgment levy under 2-9-316, 7-6-4015, or 7-7-2202;

10 (ii) a levy to repay taxes paid under protest as provided in 15-1-402;

11 (iii) an emergency levy authorized under 10-3-405, 20-9-168, or 20-15-326;

12 (iv) a levy for the support of a study commission under 7-3-184;

13 (v) a levy for the support of a newly established regional resource authority;

14 (vi) the portion that is the amount in excess of the base contribution of a governmental entity's property
 15 tax levy for contributions for group benefits excluded under 2-9-212 or 2-18-703; or

16 (vii) a levy for reimbursing a county for costs incurred in transferring property records to an adjoining
 17 county under 7-2-2807 upon relocation of a county boundary.

18 (b) A levy authorized under subsection (9)(a) may not be included in the amount of property taxes
 19 actually assessed in a subsequent year.

20 (10) A governmental entity may levy mills for the support of airports as authorized in 67-10-402,
 21 67-11-301, or 67-11-302 even though the governmental entity has not imposed a levy for the airport or the airport
 22 authority in either of the previous 2 years and the airport or airport authority has not been appropriated operating
 23 funds by a county or municipality during that time.

24 (11) The department may adopt rules to implement this section. The rules may include a method for
 25 calculating the percentage of change in valuation for purposes of determining the elimination of property, new
 26 improvements, or newly taxable property in a governmental unit."

27

28 NEW SECTION. Section 15. Appropriation. There is appropriated \$6,000 from the general fund to the
 29 legislative services division for the biennium beginning July 1, 2015, to support the activities of the coal-fired
 30 generation council established in [section 13].

