

REVISED Energy Policy Development

During the November 2009 and January 2010 meetings, Energy and Telecommunications Interim Committee members narrowed the focus of their energy policy work by selecting policy statements or energy policy "findings" for further committee consideration. ETIC members decided that at their May 13 meeting, members would discuss potential energy policy "recommendations" or bill drafts. Over the last several months staff has provided members with lists of potential policy changes that were suggested by the public, stakeholders, and the appropriate state agencies. (The most recent list concerning efficiency and building codes is in your packet.) **Prior to the May meeting, ETIC members need to determine what, if any, policy changes they feel follow with the draft energy policy statements. During the May 13 meeting, members will need to propose the policy changes (potential bill drafts) they would like to see the committee consider.** To facilitate development of a potential revised energy policy for Montana, staff has created the following matrix for members to fill out.

Directions:

In filling out the matrix below, members are encouraged to consult the attached list of existing energy policy and to consider the following:

1. Should the ETIC's proposed energy policy be codified in 90-4-1001, MCA, or should the ETIC's proposed energy policy statement be a free standing document? Do 90-4-1001 and 90-4-1003, MCA, need to be revised?
2. Should existing energy policy statements (Pages 4-5), which are currently found throughout the MCA, be modified in light of a revised energy policy in 90-4-1001?
3. What potential bill drafts or policy changes fall under the draft policy statements approved to date by the ETIC?
4. If a potential bill draft is pursued, what should it include? If it requires funding, what funding source should be used?

Draft Energy Policy Statements approved to-date by ETIC	Does this duplicate existing energy policy? Yes or No?	Does this conflict with existing policy? Yes or No?	Do you feel this requires legislative change to implement? Yes or No?	If yes, what kind of change? (Circle those you feel apply or add specific policy changes.)
1. Montana is committed to supplementing energy needs with renewable energy sources, while recognizing the value for existing coal-fired generation and its place in Montana's energy portfolio.				<ul style="list-style-type: none"> • Tax incentives • Regulatory changes • RPS changes • Changes in tax structure
2. Continued research and pilot projects to convert coal into synthetic petroleum products, hydrogen, methane, and natural gas also may extend Montana's competitive advantage with coal well into the future.				<ul style="list-style-type: none"> • Tax incentives • Funding for research • Regulatory changes
3. The state supports an increase in oil and gas exploration and development to reduce the recent decline in Montana's production levels and, most importantly, to wean the nation off foreign oil.				<ul style="list-style-type: none"> • Changes in tax structure • Regulatory changes
4. Montana encourages the development of educational programs that prepare the workforce for creating and obtaining jobs in an emerging renewable energy economy.				<ul style="list-style-type: none"> • State program • Report to the Legislature
5. Montana supports the advancement of new alternative energy technologies to improve vehicle mileage and reduce exhaust emissions.				<ul style="list-style-type: none"> • Regulatory changes • Tax incentives
6. Montana supports incentives and loan programs to promote the development of biomass plants to generate heat for industrial use or electricity				<ul style="list-style-type: none"> • Tax incentives • Changes to RPS • Regulatory changes
7. Montana supports promotion of the long-term growth of large utility scale wind and small-scale distributed generation.				<ul style="list-style-type: none"> • Feed-in tariff • Tax incentives • Changes to RPS • Direction to PSC

8. Montana should promote additional hydroelectric power expansions by classifying them as renewable under the "Montana Renewable Power Production and Rural Economic Development Act."			YES	<ul style="list-style-type: none"> • Revise RPS to include ALL hydroelectric • Revise RPS to include expansions to hydroelectric
9. Montana recognizes the need for new transmission lines in the state, while noting that the need for new transmission lines may be mitigated by focusing on energy efficiency, distributed energy, demand response, and smart grid technologies.				<ul style="list-style-type: none"> • Funding for new technologies • Regulatory changes to mitigate
10. Montana urges developers and utilities to increase the capacity of existing lines in existing corridors and maximize the potential of existing lines.				<ul style="list-style-type: none"> • Regulatory changes • Direction for state transmission program
11. When new transmission lines are developed in Montana, developers should work closely with affected local governments in the preliminary stages of development.				<ul style="list-style-type: none"> • Requirement for landowner notification
12. If companies build transmission lines that allow for the export of Montana-generated electricity, the costs of those lines should be borne entirely by the transmission customers who will benefit from the lines not by Montana customers who will not benefit.				<ul style="list-style-type: none"> • Regulatory change • Direction to PSC • Fiscal Impact analysis revisions
13. Montana should strengthen its level of participation in regional transmission efforts and organizations, recognizing that endeavors to improve the management of the transmission grid often require a broad, regional approach.				<ul style="list-style-type: none"> • Funding for participation • Report to Legislature
14. The State of Montana encourages the testing and application of new and innovative technologies, such as compressed air energy storage, batteries, flywheels, hydrogen production, smart grid, smart garage, and intra-hour balancing services, to address wind integration.				<ul style="list-style-type: none"> • Funding for technology program • Changes to existing technology and grant program
15. Geographic diversity and regional planning in the siting of future wind development can mitigate firming needs and ensure that the economic benefits of wind are shared across the state.				<ul style="list-style-type: none"> • Direction to PSC • Revision of QF laws • Feed-in tariff
16. Montana recognizes that there are areas of the state where large-scale, commercial-industrial wind development may not be appropriate. Montana encourages developers and regulators to closely review potential impacts to landscapes, wildlife, and existing land uses, including recreation and agriculture, while advancing development.				<ul style="list-style-type: none"> • Wind working group • Standards for wind development

17. Montana recognizes that contracts between small-scale qualifying facilities and utilities require qualifying facilities to pay the cost of integrating its power, and the state is committed to providing the lowest-cost firming resources available to encourage renewable development.				<ul style="list-style-type: none"> • Revise QF laws • Direction to PSC on QF's
18. In pursuing energy development on state lands, the state must continue to weigh its overall management responsibilities (fiduciary and multiple-use), as mandated by the Montana Constitution and state law.			NO	<ul style="list-style-type: none"> • This is current state law.
19. Energy efficiency and conservation form the cornerstone of Montana's energy policy and have the potential to meet the majority of Montana's growing energy needs and save consumers money on their energy bills.				<ul style="list-style-type: none"> • Review memo concerning energy generation tax credits.
20. Recognizing that Montana cooperatives have a long-history of local control, utilities in Montana, including both rural electric cooperatives and investor-owned utilities, should demonstrate that they are prioritizing and pursuing the acquisition of all cost-effective energy efficiency on their system. This should include the offering of energy audits to their customers.				<ul style="list-style-type: none"> • Reporting requirements • Energy audit program.
21. In addition, the Public Service Commission, using its existing authority, should implement and encourage efficiency-related initiatives for regulated public utilities, including smart grid deployment, demand response, decoupling, and energy efficiency resource standards.				<ul style="list-style-type: none"> • Specific programs • Direction to PSC
22. Expanding energy incentives is necessary to promote and encourage consumer investment in energy efficiency. It is also useful to monitor existing incentives to determine if they are cost effective.				<ul style="list-style-type: none"> • Revise incentives • Require monitoring • Report to next Legislature
23. A strong energy code ensures that all homeowners and business owners experience the economic benefits of energy efficiency and conservation.				<ul style="list-style-type: none"> • Direction on energy code
24. An energy code must work in tandem with an enforcement system that is unique to Montana, recognizes tribal sovereignty, local government authority, and existing self-certification programs.				<ul style="list-style-type: none"> • Direction on enforcement.
25. The appropriate state agencies, local government entities, and stakeholders are encouraged to work together and review the existing enforcement system in Montana and recommend changes to the Legislature, if necessary.				<ul style="list-style-type: none"> • Direction on report to Legislature.

Existing Energy Policy Statements

While the "energy policy" for Montana is currently stated in 90-4-1001, Montana Code Annotated, energy policy statements are throughout the code. Staff attempted to locate and summarize Montana Code that may be considered existing energy policy. Existing energy policy statements include:

- **15-24-3101, MCA, Property Related to Renewable Energy, New Energy Technology, and Clean Coal**

The provisions of 15-6-158, 15-6-159, and this part and amendments made by Chapter 2, Special Laws of May 2007, in 15-6-141 and 15-6-157 do not apply to any previously existing properties or to any new investments or property that does not qualify under 15-6-158, 15-6-159, and this part and amendments made by Chapter 2, Special Laws of May 2007, in 15-6-141 and 15-6-157. It is also the policy of the state of Montana that the classifications, rates, abatements, and exemptions in 15-6-158, 15-6-159, and this part and amendments made by Chapter 2, Special Laws of May 2007, in 15-6-141 and 15-6-157 are to encourage investment in energy development that is consistent with maintaining a clean and healthful environment and that may not otherwise occur without 15-6-158, 15-6-159, and this part and amendments made by Chapter 2, Special Laws of May 2007, in 15-6-141 and 15-6-157.
- **15-32-101, MCA, Investment in Energy Conservation or Alternative Energy**

The purpose of this part is to encourage the use of alternative energy sources and the conservation of energy through incentive programs. The incentives are to be made available to the energy user on a basis that requires the energy user to take the initiative in obtaining a particular incentive. This part allows but does not require a public utility to extend credit for energy conservation investments.
- **15-32-401, MCA, Alternative Energy Generation**

The purpose of this part is to encourage the development of the alternative energy industry in Montana without adversely affecting tax revenue received from existing economic activity in the state. Because of the alternative energy potential within the state, it is desirable to encourage alternative energy generation for the purpose of attracting alternative energy manufacturing industries to the state. It is also desirable for new or expanded industry to secure alternatively generated electricity on a direct contract sales basis without adversely affecting rates charged to other electricity users. Sound fiscal policy requires that encouragement be given to an alternative energy industry without subtracting from existing sources of revenue to the state.
- **15-72-102, MCA, Electrical Generation Tax Reform Act**

The legislature finds that the restructuring of the electric utility industry in Montana implemented by Chapter 505, Laws of 1997, including the unbundling of services and the provision that allows Montana customers to choose their supplier of electricity and related services in a competitive market, renders the existing method of property taxation of the electric utility industry an impediment to competition. The legislature further finds that the restructuring of the electric utility industry necessitates changes to the existing system of property taxation that include reducing the tax rate applied to electrical generation facilities and imposing a replacement tax.
- **50-60-801, MCA, Residential Energy Efficiency**

The legislature finds that the people of Montana have an interest in energy efficiency in certain residential buildings for the purpose of protecting and improving their economic and environmental well-being and energy security, while recognizing the basic need for safe and affordable shelter. It is the policy of the state of Montana to encourage energy efficiency in residential buildings through strategies that ensure that:

 - (1) the housing consumer has access to the information required to make informed choices about structures and energy efficiency measures;
 - (2) energy efficiency measures are safe, reliable, and readily available for use in Montana;
 - (3) investments in energy efficiency measures are cost-effective;
 - (4) the cost of energy efficiency measures on the combination of down payments, monthly mortgage payments, and monthly utility bills does not adversely affect the affordability of housing to prospective home buyers and renters; and
 - (5) energy efficiency measures do not place an undue or inequitable burden on residential building owners or renters, the residential construction industry, financial institutions, real estate salespersons and appraisers, energy providers, or state and local governments.
- **69-3-1202, MCA, Resource Planning**
 - (1) It is the policy of the state of Montana to supervise, regulate, and control public utilities. To the extent that it is consistent with the policy and in order to benefit society, the state encourages efficient utility operations, efficient use of utility services, and efficient rates. It is further the policy of the state to encourage utilities to acquire resources in a manner that will help ensure a clean, healthful, safe, and economically productive environment.
 - (2) The legislature finds that the commission may include in rates the costs that are associated with acquiring the resources referred to in subsection (1) and that are consistent with this policy if the resources are actually used and useful for the convenience of the public. To advance this policy, the commission may require periodic long-range plans from utilities that provide electric and natural gas service in a form and manner determined by the commission. The commission may receive comments on the plans.
- **69-3-2002, MCA, Montana Renewable Power Production and Rural Economic Development Act**

The legislature finds that:

 - (1) Montana is blessed with an abundance of diverse renewable energy resources;
 - (2) renewable energy production promotes sustainable rural economic development by creating new jobs and stimulating business and economic activity in local communities across Montana;
 - (3) increased use of renewable energy will enhance Montana's energy self-sufficiency and independence; and
 - (4) fuel diversity, economic, and environmental benefits from renewable energy production accrue to the public at large, and therefore all consumers and utilities should support expanded development of these resources to meet the state's electricity demand and stabilize electricity prices.
- **69-8-601, MCA, Net Metering**

The legislature finds that it is in the public interest to promote net metering because it:

 - (1) encourages private investment in renewable energy resources;
 - (2) stimulates Montana's economic growth; and
 - (3) enhances the continued diversification of the energy resources used in Montana.

- **75-20-102, MCA, Major Facility Siting**

(1) The legislature, mindful of its constitutional obligations under Article II, section 3, and Article IX of the Montana constitution, has enacted the Montana Major Facility Siting Act. It is the legislature's intent that the requirements of this chapter provide adequate remedies for the protection of the environmental life support system from degradation and provide adequate remedies to prevent unreasonable depletion and degradation of natural resources.

(2) It is the constitutionally declared policy of this state to maintain and improve a clean and healthful environment for present and future generations, to protect the environmental life-support system from degradation and prevent unreasonable depletion and degradation of natural resources, and to provide for administration and enforcement to attain these objectives.

(3) It is also constitutionally declared in the state of Montana that the inalienable rights of the citizens of this state include the right to pursue life's basic necessities, to enjoy and defend life and liberty, to acquire, possess, and protect property, and to seek safety, health, and happiness in all lawful ways. The balancing of these constitutional rights is necessary in order to maintain a sustainable quality of life for all Montanans.

(4) The legislature finds that the construction of additional electric transmission facilities, pipeline facilities, or geothermal facilities may be necessary to meet the increasing need for electricity, energy, and other products. Therefore, it is necessary to ensure that the location, construction, and operation of electric transmission facilities, pipeline facilities, or geothermal facilities are in compliance with state law and that an electric transmission facility, pipeline facility, or geothermal facility may not be constructed or operated within this state without a certificate of compliance acquired pursuant to this chapter.

- **76-15-902, MCA, Coal Bed Methane Protection Act**

The legislature finds that the need for an economical supply of clean-burning energy is a national and state priority. The legislature further finds that Montana possesses plentiful reserves of clean-burning natural gas contained in coal beds. The legislature further finds that the extraction of natural gas from coal beds may result in unanticipated adverse impacts to land and to water quality and availability . . .

- **90-4-301, MCA, Energy Supply Emergency Powers**

The legislature finds that energy in various forms is increasingly subject to possible shortages and supply disruptions, to the point that there may be foreseen an emergency situation, and that without the ability to gather information, regularly monitor energy supplies and demand, formulate plans, and institute appropriate emergency measures to reduce or allocate the usage of energy through a program of mandatory usage curtailment or allocation, a severe impact on the health, safety, and general welfare of our state's citizens may occur. The prevention or mitigation of the effects of such energy shortages or disruptions is necessary for preservation of the public health and welfare of the citizens of this state.

- **90-4-1001, MCA, State Energy Policy Goal**

It is the policy of the state of Montana to promote energy efficiency, conservation, production, and consumption of a reliable and efficient mix of energy sources that represent the least social, environmental, and economic costs and the greatest long-term benefits to Montana citizens. In pursuing this goal, it is the policy of the state of Montana to:

(a) recognize that the state's energy system operates within the larger context of and is influenced by regional, national, and international energy markets;

(b) review this energy policy statement and any future changes pursuant to 90-4-1003 so that Montana's energy strategy will provide for a balance between a sustainable environment and a viable economy; and

(c) adopt a state transportation energy policy as provided in 90-4-1010 and an alternative fuels policy and implementing guidelines as provided in 90-4-1011.

- **90-4-1003. Energy Policy Development**

(a) Except as provided for in subsection (1)(b), each interim, the energy and telecommunications interim committee established in 5-5-230 shall review the state energy policy and recommend potential changes to the state energy policy, pursuant to subsection (2).

(b) S.B. 290 list of nine topics

(2) Except as provided in subsection (1)(b), the committee shall consult with a broad representation of stakeholders, including appropriate state agencies and the public, in developing the issues to be included within the proposed, revised state energy policy each interim.

(3) Each biennium, the committee shall forward its recommendations to the legislature and to the appropriate state agencies for adoption.

(4) In carrying out its responsibilities under this section, the committee shall use its interim budget, as allocated by the legislative council, and rely on the input of locally available experts and staff research to accomplish its responsibilities.

- **90-4-1010. Transportation Energy Policy**

It is the transportation energy policy of the state of Montana to promote actions that encourage the conservation of energy through the environmentally responsible management and planning of efficient transportation systems. This policy further recognizes that energy conservation must be balanced with the state's interest in establishing, preserving, and maintaining a safe, efficient transportation system that equitably meets the mobility needs of Montana's citizens and connects them to the nation's economy.

- **90-4-1011. Alternative Fuels Policy**

(1) The state of Montana encourages the use of alternative fuels and fuel blends to the extent that doing so produces environmental and economic benefits to the citizens of Montana.

(2) To implement the policy stated in subsection (1), the legislature recommends the following guidelines:

(a) All policies and programs should have in-state benefits.

(b) Policies and programs should be coordinated among the affected agencies.

(c) The state recognizes incentives as a temporary tool to implement the alternative fuels policy. Recipients of those incentives should develop a plan, including an educational component, to phase out the incentive. In determining incentives, the state should:

(i) consider incentives for the producer, retail, and consumer levels;

(ii) establish a logical link between revenue sources and incentives; and

(iii) encourage the use of self-sufficient markets.

(d) Any state alternative fuels program should have measurable benefits that are communicated to the public.

(e) State and local governments should be encouraged to set an example with their vehicle fleets in the use of alternative fuels and fuel blends.

(f) Consistent with the guidelines in subsections (2)(a) through (2)(e), the state encourages production of alternative fuels and fuel

blends.

- **90-4-1101. Energy Performance Contracts**

The legislature finds that:

- (a) conserving energy in local government and state agency buildings and vehicles will have a beneficial effect on the overall supply of energy and can result in cost savings for taxpayers;
- (b) conserving water can result in cost savings for taxpayers; and
- (c) energy performance contracts are a means by which local government units and state agencies can achieve energy and water conservation without an initial capital outlay.

It is the policy of the state of Montana to promote efficient use of energy and water resources in local government and state agency buildings and energy conservation in vehicles by authorizing local government units and state agencies to enter into energy performance contracts.

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