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**** BILL NO. ****
INTRODUCED BY ****
BY REQUEST OF THE ****

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE INTERSTATE COMPETITIVE TRANSMISSION DEVELOPMENT COMPACT; ESTABLISHING PURPOSE, POLICY, AND DEFINITIONS FOR THE COMPACT; PROVIDING FOR ACTIVATION UPON CERTIFICATION BY THE GOVERNOR; PROVIDING RULEMAKING; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, The North American Electricity Reliability Corporation's 2024 Long Term Reliability Assessment identifies mounting resource-adequacy challenges across North America and recommends streamlining siting and permitting processes to remove barriers to resource and transmission development, noting delays from these processes are among the most common cause of transmission project days; and

WHEREAS, In the Western Electricity Coordinating Council Northwest assessment area, which includes Montana, the Western Electricity Coordinating Council projects resource shortfall risks accelerating from 2030 through 2034, emphasizing the importance of timely transmission additions and upgrades; and

WHEREAS, The United States Department of Energy National Transmission Needs Study finds nearly all regions would gain reliability and resilience from more transmission, with the largest benefits coming from increased interregional capacity; and

WHEREAS, The Department of Energy National Transmission Planning Study concludes that when transmission is built across interconnection seams and resource adequacy is coordinated between regions, system costs through 2050 fall by \$1.7 to \$3.8 billion, while maintaining reliability; and

WHEREAS, Montana exports surplus generation over high-voltage lines, most notably the double circuit Colstrip 500-kilovolt system, and maintains connections to both the western and eastern interconnections, making cross-border transmission upgrades and streamline permitting impactful; and

WHEREAS, Montana's past energy policy has emphasized competitive procurement and least-cost resource acquisition, making competitive transmission development a logical extension of existing principals.

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

2

3 NEW SECTION. Section 1. Short title. [Sections 2 through 6] may be cited as the "Interstate
4 Competitive Transmission Development Compact Act".

5

6 NEW SECTION. Section 2. Interstate Competitive Transmission Development Compact. This
7 state enacts into law and enters into the Interstate Competitive Transmission Development Compact with all
8 states that enact the compact in the form substantially contained in [section 3].

9

10 NEW SECTION. Section 3. Text of Interstate Competitive Transmission Development Compact.

11 The Interstate Competitive Transmission Development Compact referred to in [section 2] reads as follows:

12

Article 1. Purposes

13 (1) The purposes of this compact are to reduce barriers to competitively built high-voltage
14 transmission facilities and transmission facility upgrades by adopting a mutual legislative framework that:

15 (a) preserves state siting authority;

16 (b) complies with federal law at the minimum necessary level; and

17 (d) improves reliability, affordability, and market competition without requiring participation in a
18 regional transmission organization.

19

Article II. Definitions

20 As used in this compact, the term:

21 (1) "Competitive bidding" means a procurement process open to any qualified private developer or
22 utility without preference for incumbents.

23 (2) "Grid-enhancing technologies" means hardware or software technology that dynamically
24 increases the capacity, efficiency, reliability or safety of existing transmission facilities.

25 (3) "Incremental impacts" means any new material and measurable environmental or land-use
26 impacts that were not evaluated in an original siting or permitting process that cannot be mitigated through best
27 available industry practices.

28 (4) "Interstate transmission provider" means any entity that owns, operates or controls interstate

1 electric transmission facilities.

2 (5) "Member state" means any state that has enacted substantially similar legislation.

3 (6) "Relevant state entities" means state utility regulators, transmission siting authorities, and other
4 state entities with delegated authority over these matters.

5 (7) "State agreement process" means a voluntary process through which one or more relevant
6 state entities may agree on a cost-allocation method or formula for certain transmission facilities selected in a
7 regional long-term transmission plan.

8 (8) "Transmission facility" means a facility as defined by the Federal Energy Regulatory
9 Commission as alternating current transmission lines greater than or equal to 345 kilovolts and direct current
10 transmission lines greater than or equal to 100 kilovolts.

11 Article III. Policy Provisions

12 (1) (a) All transmission facility projects shall be awarded through a competitive bidding process.

13 The open process shall consider benefits to ratepayers, including but not limited to:

14 (b) ensuring reliability;

15 (c) ratepayer cost savings;

16 (d) maximizing grid efficiency;

17 (e) reducing grid congestion; and

18 (f) mitigating the impact of grid-stressing events.

19 (2) (a) Except where federal oversight is explicitly required, state review shall be the controlling
20 authority on, routing, siting and permitting.

21 (b) Local governments may impose additional conditions only to address demonstrably unique
22 public health or safety needs, such as emergency access, road use and repair, or fire and hazard mitigation,
23 provided such conditions do not duplicate or conflict with state review.

24 (3) Routing and siting of a proposed transmission facility project shall be streamlined by issuing
25 decisions within 90 days of a complete application received by the relevant state entity.

26 (4) Environment reviews shall be run concurrently with all other necessary permitting steps to the
27 maximum extent permitted by law.

28 (5) Where a transmission facility has already been permitted by a state prior to activation of this

1 compact, future upgrades, maintenance, or renovations to the facility shall not require a new permitting
2 process, except for review of incremental impacts.

3 (6) (a) States shall explicitly allow and streamline permitting and review of grid-enhancing
4 technologies that improve the capacity, efficiency or reliability of existing transmission facilities.

5 (b) Grid enhancing technologies shall receive a fair-market monetary valuation for the ratepayer
6 benefits and system value they provide and must be considered in the transmission competitive bidding
7 process, if deployment is determined to achieve the same results more cost-effectively and timely.

8 (7) All transmission facilities must provide non-discriminatory open access consistent with Federal
9 Energy Regulatory Commission rules.

10 (8) (a) Transmission facility costs shall be allocated proportionally to all entities that cause and
11 directly benefit from such facilities.

12 (b) If a predefined tariff based cost allocation methodology does not currently exist, cost allocation
13 for new proposed regional transmission facilities may be determined by a state agreement process in
14 accordance with Federal Energy Regulatory Commission Order. 1920.

15 (c) Applicable interstate transmission providers must provide a forum for a state agreement
16 process to negotiate a cost allocation method.

17 (d) Any cost allocation methodology resulting from a state agreement process shall allocate costs
18 to those who benefit, in a manner roughly commensurate with and proportional to the estimated benefits
19 received.

20 (9) (a) When an entity upgrades an existing transmission facility to add transfer capacity, the
21 upgrading entity retains ownership of, and the right to collect revenues from, the proportion of the facility's total
22 capacity, attributable to its investment.

23 (b) Such rights must be commensurate with the incremental capacity added, subject to applicable
24 Federal Energy Regulatory Commission open access requirements and contractual cost allocation agreements.

25 (10) Nothing in this section may be construed to require transmission facility owners, independent
26 generators or load serving entities located in a member state to join a regional transmission organization or
27 independent system operator or that the member state shall cede siting authority, except as expressly required
28 by federal law.

1 bond or bonds is determined by the commission.

2 (5) Irrespective of the civil service, personnel, or other merit system laws of any of the party states,
3 the executive director, with the approval of the commission, shall appoint, remove, or discharge personnel as
4 may be necessary for the performance of the commission's functions, and shall fix the duties and compensation
5 of personnel.

6 (6) The commission may establish and maintain independently or in conjunction with a party state,
7 a suitable retirement system for its employees. Employees of the commission are eligible for social security
8 coverage in respect of old age and survivor's insurance provided that the commission takes steps necessary
9 pursuant to the laws of the United States to participate in a program of insurance as a governmental agency or
10 unit. The commission may establish and maintain or participate in additional programs of employee benefits as
11 it deems appropriate.

12 (7) The commission may borrow, accept, or contract for the services of personnel from any state,
13 the United States, or any other governmental agency, or from any person, firm, association, or corporation.

14 (8) The commission's administration and operational activities may be supported by an equal
15 assessment to each party state represented on the commission.

16 (9) The commission may accept for any of its purposes and functions under this compact any and
17 all donations, and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from
18 any state, the United States, or any other governmental agency, or from any person, firm, association, or
19 corporation, and may receive, utilize, and dispose of the same. Any donation or grant accepted by the
20 commission pursuant to this paragraph or services borrowed pursuant to paragraph (7) of the article shall be
21 reported in the annual report of the commission. The report shall include the nature, amount, and conditions, if
22 any, of the donation, grant, or services borrowed and the identity of the donor or lender.

23 (10) The commission shall adopt bylaws for the conduct of its business and has the power to amend
24 and rescind these bylaws. The commission shall publish its bylaws in convenient form and file a copy of its
25 bylaws and a copy of any amendment to the bylaws with the appropriate agency or officer in each of the party
26 states.

27 (11) The commission annually shall make to the governor, legislature, and advisory body required
28 by article V(1) of each party state a report covering the activities of the commission for the preceding year, and

1 embodying the recommendations made by the commission. The commission may make additional reports as it
2 deems desirable.

3 Article IV. Powers

4 In addition to any other powers conferred upon the Interstate Competitive Transmission Development
5 Commission, established by article IV of this compact, the Commission shall have power to:

6 (1) Study transmission routing, siting and permitting processes for the purpose of gaining
7 knowledge concerning the effects of the processes on regional development of transmission facilities.

8 (2) Study the conservation, adaption, improvement, and restoration of land and related resources
9 affect by transmission facility projects.

10 (3) Make recommendations concerning any aspect or aspects of law or practice and governmental
11 administration dealing with matters within the purview of this compact.

12 (4) Gather and disseminate information relating to any of the matters within the purview of this
13 compact.

14 (5) Cooperate with the federal government and any public or private entities having interests in any
15 subject coming within the purview of this compact.

16 (6) Consult, upon the request of a party state and within available resources, with the officials of
17 the state in respect to any problem within the purview of this compact.

18 (7) Study and make recommendations with respect to any practice, process, technique, or course
19 of action that may improve the efficiency of transmission facility project routing, siting and permitting and the
20 ratepayer yield from more transmission capacity.

21 Article VI. Advisory, Technical, and Regional Committees

22 The commission shall establish advisory, technical, and regional committees as it deems necessary,
23 membership of which includes private persons and public officials and shall cooperate with the use and
24 services of any committees and the organizations which the members represent in furthering any of its
25 activities. The committees may be formed to consider problems of special interest to any party states, problems
26 dealing with transmission facility routing, siting and permitting or problems related to reclamation, development,
27 or use of land, or any other matters of concern to the commission.

28 Article VII. Finance

1 commission shall not be construed to displace the regulatory responsibilities of the existing relevant state
2 entities.

3 Article X. Construction and Severability

4 This compact shall be liberally construed so as to effectuate the purposes of the compact. The
5 provisions of this compact are severable and if any phrase, clause, sentence, or provision of this compact is
6 declared to be contrary to the constitution of any state or of the United States, or the applicability of the
7 compact to any government, agency, person, or circumstance is held invalid, the validity of the remainder of
8 this compact and the applicability of the compact to any government, agency, person, or circumstance is not
9 affected. If this compact is held contrary to the constitution of any state participating in the compact, the
10 compact remains in full force and effect as to the remaining party states and in full force and effect as to the
11 state affected as to all severable matters.

12
13 **NEW SECTION. Section 4. Activation--membership and applicability.** (1) The provisions of [section
14 3] become effective only upon the enactment of legislation by at least one other state that is substantially
15 similar in form and effect to [section 3], as determined by the governor.

16 (2) (a) Upon determination, the governor shall issue a proclamation certifying the state of Montana
17 as a member of the Interstate Competitive Transmission Development Compact.

18 (b) The governor shall transmit a copy of the proclamation under this section to the secretary of
19 state, the presiding officers of each house of the legislature, and the public service commission.

20 (3) Bylaws of the Interstate Competitive Transmission Development Compact may not be
21 construed to limit, repeal, or supersede any law of the state of Montana.

22 (4) The governor may appoint a designee to serve as the governor's official representative to the
23 commission and to perform all functions in connection with the business of the compact.

24 (5) (a) The governor and the legislature, or agents of either, may inspect the books and accounts of
25 the Interstate Competitive Transmission Development Compact Commission at any reasonable time while the
26 state is a member

27 (b) A copy of the bylaws of the Interstate Competitive Transmission Development Compact
28 Commission must be placed on file with the department of environmental quality, department of natural

1 resources and conversation, and the public service commission, and be available for inspection at any
2 reasonable time by the legislature or any interested citizen.

3 (6) The state of Montana is not liable for the obligations or solvency of:

4 (a) the retirement system described in article V(6) of the compact; or

5 (b) a program of employee benefits described in article V(6) of the compact.

6 (7) For the purposes of this section, "substantially similar" means legislation in a state that contains
7 one or more of the policy provisions set forth in [section 3], whether or not organized or worded identically.

8 Reciprocity shall apply only to the extent of overlap between Montana's policy provisions and an Interstate
9 Competitive Transmission Development Compact member state's enacted legislation.

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11 NEW SECTION. Section 5. Implementation--rulemaking. (1) Within 12 months of activation
12 pursuant to [section 3], the public service commission, department of environmental quality and the department
13 of natural resources and conservation shall promulgate rules to implement the provisions of [section 3].

14 (2) For any transmission facility crossing the state of Montana's border into a state that has
15 adopted the Interstate Competitive Transmission Development Compact, the public service commission,
16 department of environmental quality, department of natural resources and conservation and any other
17 appropriate state agency shall collaborate with the corresponding regulatory of that state to establish uniform
18 timelines, application requirements, and review procedures to the greatest extent practicable.

19

20 NEW SECTION. Section 6. Codification instruction. [Sections 1 through 6] are intended to be
21 codified as a new part in Title 90, chapter 4, and the provisions of Title 90, chapter 4, apply to [sections 1
22 through 6].

23

24 NEW SECTION. Section 7. Saving clause. [This act] does not affect rights and duties that matured,
25 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

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

1 the part remains in effect in all valid applications that are severable from the invalid applications.

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3 NEW SECTION. Section 9. Effective date. Except as provided for in [section 4], [This act] is

4 effective on passage and approval.

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- END -

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