

1 SENATE BILL NO. 176

2 INTRODUCED BY B. MOLNAR

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO COAL-FIRED
5 GENERATION; ESTABLISHING REMEDIATION AND BONDING REQUIREMENTS FOR COAL-FIRED
6 GENERATING UNITS; REQUIRING THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO DETERMINE
7 BONDS; PROHIBITING THE TRANSFER OF CERTAIN PROPERTY UNTIL BONDING REQUIREMENTS
8 ARE SATISFIED; REQUIRING THE ENERGY AND TELECOMMUNICATIONS INTERIM COMMITTEE TO
9 CONDUCT AN ANALYSIS OF COAL TRUST FUNDING OPTIONS FOR REMEDIATION; ESTABLISHING
10 RESPONSIBILITY AND FUNDING REQUIREMENTS FOR MAINTENANCE AND REPAIRS AT A COAL-
11 FIRED GENERATING UNIT; PROHIBITING CERTAIN RETIREMENT AND REMEDIATION COSTS FROM
12 BEING PASSED ON TO RATEPAYERS; REQUIRING ENTITIES THAT RECEIVE COAL SEVERANCE TAX
13 MONEY TO SIGN A STATEMENT SUPPORTING COAL; AMENDING SECTIONS 15-35-108, 17-5-703, 75-8-
14 103, 75-8-104, 75-8-105, AND 75-8-107, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

15
16 WHEREAS, the coal trust fund was created to mitigate the impacts of coal development; and

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

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

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

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

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

26 WHEREAS, the premature closing of Colstrip Units 3 and 4 will reduce household income by \$5.2
27 billion; and

28 WHEREAS, decreases in business and other economic input would be \$12.5 billion from 2027 to 2043

1 from premature shutdown; and

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

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

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

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

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

7 and

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

10

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

12

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

14 **"15-35-108. (Temporary) Disposal of severance taxes.** Severance taxes collected under this
15 chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:

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

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

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

25 (4) The amount of 3.77% in fiscal year 2020 and 3.71% in fiscal year 2021 and in each fiscal year
26 thereafter must be allocated to the department of natural resources and conservation for conservation districts
27 and deposited in the conservation district account established in 76-15-106.

28 (5) The amount of 0.79% in fiscal year 2020 and 0.82% in fiscal year 2021 and in each fiscal year

1 thereafter must be allocated to the Montana Growth Through Agriculture Act and deposited in the growth
2 through agriculture account established in 90-9-104.

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

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

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

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

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

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

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

21 (i) to the department of agriculture:

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

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

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

26 (ii) to the department of commerce:

27 (A) \$325,000 for a small business development center;

28 (B) \$50,000 for a small business innovative research program;

- 1 (C) \$625,000 for certified regional development corporations;
 2 (D) \$500,000 for the Montana manufacturing extension center at Montana state university-Bozeman;
 3 and
 4 (E) \$300,000 for export trade enhancement.

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

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

11 (c) The statement must be signed, include a position description of the signee, provide for the name
 12 of the entity represented, and include the date. (Terminates June 30, 2027--secs. 13, 15, 18, Ch. 343, L. 2019.)

13 **15-35-108. (Effective July 1, 2027) Disposal of severance taxes.** Severance taxes collected under
 14 this chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:

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

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

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

24 (4) The amount of 3.77% in fiscal year 2020 and 3.71% in fiscal year 2021 and in each fiscal year
 25 thereafter must be allocated to the department of natural resources and conservation for conservation districts
 26 and deposited in the conservation district account established in 76-15-106.

27 (5) The amount of 0.79% in fiscal year 2020 and 0.82% in fiscal year 2021 and in each fiscal year
 28 thereafter must be allocated to the Montana Growth Through Agriculture Act and deposited in the growth

1 through agriculture account established in 90-9-104.

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

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

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

12 (9) The amount of 2.9% must be credited to the coal natural resource account established in 90-6-
13 1001(2).

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

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

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

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

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

26

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

28 **"17-5-703. (Temporary) Coal severance tax trust funds.** (1) The trust established under Article IX,

1 section 5, of the Montana constitution is composed of the following funds:

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

4 (b) a treasure state endowment fund;

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

6 (d) a coal severance tax permanent fund;

7 (e) a coal severance tax income fund;

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

9 (g) a school facilities fund.

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

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

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

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

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

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

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

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

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

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

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

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

26 (c) The statement must be signed, include a position description of the signee, provide for the name
27 of the entity represented, and include the date. (Terminates June 30, 2031--secs. 1 through 3, Ch. 305, L.
28 2015.)

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

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

5 (b) a treasure state endowment fund;

6 (c) a coal severance tax permanent fund;

7 (d) a coal severance tax income fund;

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

9 (f) a school facilities fund.

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

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

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

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

27 (b) The state treasurer shall monthly transfer from the school facilities fund to the account established
28 in 20-9-525 the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of

1 the state that are payable from the account. Earnings not transferred to the account established in 20-9-525
2 must be retained in the school facilities fund.

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

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

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

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

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

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

22

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

24 **"75-8-103. Definitions.** As used in this part, the following definitions apply:

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

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

1 infrastructure; and

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

4 (b) The term does not include:

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

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

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

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

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

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

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

21 (7) "Person" means an individual, partnership, corporation, association, or other legal entity or any
22 political subdivision of the state or federal government.

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

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

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

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

28 (d) relevant indications of anticipated land use from an operator or owner, or both, of a coal-fired

1 generating unit, affected property owners, and local planning officials.

2 (9) "Remediation" means all actions required by an applicable legal obligation and in accordance with
 3 [sections 6 and 7] directed exclusively toward achieving a degree of cleanup required in accordance with 75-8-
 4 107.

5 (10) "Retired" or "retire" means the complete and permanent closure of a coal-fired generating unit.
 6 Retirement occurs on the date that the coal-fired generating unit ceases combustion of fuel and permanently
 7 ceases to generate electricity."
 8

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

10 **"75-8-104. Integration --~~construction in event of conflict.~~** ~~(4)~~ To avoid unnecessary duplication,
 11 the department shall integrate the provisions of this part with applicable legal obligations.

12 ~~(2) If this part or any action taken by the department in accordance with this part conflicts with~~
 13 ~~applicable legal obligations, the applicable legal obligations supersede the provisions of this part."~~
 14

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

16 **"75-8-105. Remediation plan.** (1) No later than 3 months after a coal-fired generating unit is retired
 17 and no earlier than 5 years prior to a coal-fired generating unit's planned retirement, an owner shall submit a
 18 proposed remediation plan that contains:

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

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

22 (c) plans to meet the requirements of [sections 6 and 7], if applicable;

23 ~~(e)(d)~~ the current and reasonably anticipated future uses of affected property; and

24 ~~(d)(e)~~ remediation information, including:

25 (i) a list of reports, studies, or other evaluations related to remediation and specific remediation
 26 measures already completed or under way pursuant to any applicable legal obligation; and

27 (ii) the manner in which the remediation measures satisfy the requirements of 75-8-107 and a
 28 description of how the owner will comply.

1 (2) (a) If a coal-fired generating unit has more than one owner, the owners may jointly submit a
2 remediation plan in accordance with this part.

3 (b) If the owners are unable to submit a joint plan, then each owner of the coal-fired generating unit
4 that is being retired or is retired is responsible for meeting the requirements of this part. If separate plans are
5 filed, the department shall ensure that the plans detail legal obligations. If there is a conflict in the plans, the
6 department shall reconcile the conflict to ensure that the plans are consistent with existing law and legal
7 obligations.

8 (3) A plan required pursuant to subsection (1) may consist of a plan for more than one unit that is
9 retired at the same time and planned for simultaneous remediation.

10 (4) The filing of a plan is not a commitment to retire a coal-fired generating unit on any particular date
11 that is not otherwise required by an applicable legal obligation."
12

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

14 **"75-8-107. Degree of cleanup required -- responsible parties -- labor requirements.** (1) A
15 remediation plan must demonstrate that it will meet the requirements of ~~subsection (2)~~ subsections (2) and (3)
16 and attain a degree of cleanup of the affected property consistent with, ~~but not more stringent than,~~ applicable
17 legal obligations, giving consideration to reasonably anticipated future uses of affected property.

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

21 (b) In determining bond requirements, the department shall estimate the total cost over the time of
22 remediation, including anticipated depreciation. Estimates must be updated and collected by the department
23 biannually. Bond amounts may not include a discount rate and must account for the total cost of the estimated
24 remediation.

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

1 ~~(2)~~(3) When contracting for the performance of construction, alteration, demolition, installation, repair,
 2 or maintenance work to implement a remediation plan, an owner shall require that its contractors and any
 3 subcontractors use a skilled and trained workforce to perform all remediation. Contracts signed must require
 4 contractors and subcontractors to:

- 5 (a) pay the standard prevailing rate of wages as defined in 18-2-401 for remediation; and
 6 (b) pay apprentice wage rates, as applicable, in accordance with 39-6-108 for remediation completed
 7 by an apprentice employed by a contractor or subcontractor."

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

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

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

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

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

23
 24 NEW SECTION. Section 8. Maintenance costs. (1) (a) If an owner ceases to utilize power
 25 generated by a coal-fired generating unit and ceases to fund maintenance and repair costs for its share of a
 26 coal-fired generating unit, that owner remains liable on a pro rata basis established by the additional owners for
 27 future maintenance and repairs caused by the use of the plant during the remaining owner's tenure.

28 (b) Subject to subsections (2) and (3), costs must be determined through a negotiation with remaining

1 owners and deposited in an account held by the unit's operator.

2 (2) Montana electricity ratepayers are not liable for maintenance and repair costs incurred as a result
3 of owners, who do not serve Montana ratepayers, ceasing to utilize power generated by the units.

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

7

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

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

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

14 (2) Remediation costs incurred by a utility regulated in accordance with this chapter and determined
15 in accordance with Title 75, chapter 8, part 1, and established by other applicable legal obligations as defined in
16 75-8-103, may not be recovered in costs passed on to ratepayers.

17

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

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

23

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

27

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

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