**** BILL NO. ****

INTRODUCED BY ****

BY REQUEST OF THE ****

A BILL FOR AN ACT ENTITLED: “AN ACT CREATING THE INTERSTATE 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 transmission development a logical extension of existing principals.

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

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

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

NEW SECTION. **Section 3. Text of Interstate Transmission Development Compact.** The Interstate Transmission Development Compact referred to in [section 2] reads as follows:

Article I. Purposes

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

(a) preserves state siting authority;

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

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

Article II. Definitions

As used in this compact, the term:

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

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

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

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

electric transmission facilities.

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

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

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

(8) "Transmission facility" means a facility of alternating current transmission lines greater than or equal to 345 kilovolts or direct current transmission lines greater than or equal to 100 kilovolts and is subject to competitive bidding under applicable Federal Energy Regulatory Commission transmission planning orders or subject to applicable interstate transmission provider tariffs filed at the Federal Energy Regulatory Commission.

Article III. Policy Provisions

(1)(a) All transmission facility projects shall be awarded through a transparent, competitive bidding process. Bids shall be evaluated using best value criteria and not awarded solely on lowest cost. The open bid process should also consider benefits to ratepayers, including but not limited to:

(b) ensuring reliability;

(c) ratepayer cost savings;

(d) maximizing grid efficiency;

(e) reducing grid congestion; and

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

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

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

(3) The state of Montana and states enacting substantially similar legislation ~~States~~ shall coordinate and conduct biennial reviews of the processes governing member states' routing, siting and permitting of a proposed transmission facility project with the goal of identifying statutory and regulatory

modifications that result in a more streamlined and condensed application review period.

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

(5) Where a transmission facility has already been permitted by the state of Montana or a member state prior to activation of this compact, future upgrades, maintenance, or renovations to the facility shall not require a new permitting process, except for review of incremental impacts.

(6) (a) The state of Montana and members ~~S~~states shall explicitly allow and streamline permitting and review of grid-enhancing technologies that improve the capacity, efficiency or reliability of existing transmission facilities.

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

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

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

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

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

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

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

(b) Such rights must be commensurate with the incremental capacity added, subject to applicable

Federal Energy Regulatory Commission open access requirements and contractual cost allocation agreements.

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

(11) A member state shall not mandate any specific fuel type, generation source, or technology that connects or intends to connect to a transmission facility.

Article IV. The Commission

(1) There is an agency of the party states to be known as the "Interstate Transmission Development Commission", or the "Commission". The commission is composed of one commissioner from each party state who is the governor of that state. Pursuant to the laws of the party state, each governor shall have the assistance of an advisory body (including membership from interstate transmission providers, and other public and private interests as may be appropriate) in considering matters relating to interstate competitive transmission development and in discharging the responsibilities as a commissioner on the commission. In any instance where a governor is unable to attend a meeting of the commission or perform any function in connection with the business of the commission, the governor shall designate an alternate, from among the members of the advisory body required by this paragraph, who shall represent the governor and act in the governor's place and stead. The designation of an alternate shall be communicated by the governor to the commission as provided in its bylaws.

(2) Each~~The~~ commissioner is entitled to one vote per matter on the commission. No action of the commission making a recommendation pursuant to article ~~I~~V~~-~~ (3) and ~~I~~V (~~-~~7) or requesting, accepting, or disposing of funds, services, or other property pursuant to this paragraph, article IV (7), IV (8), or VII shall be valid unless taken at a meeting at which a majority of the total number of votes on the commission is cast in favor of the action. All other action shall be by a majority of those present and voting~~:~~ provided that action of the commission is only at a meeting at which a majority of the commissioners, or their alternates, is present. The commission may establish and maintain facilities as may be necessary for the transaction of its business. The commission may acquire, hold, and convey real and personal property and any interest in that property.

(3) The commission shall have a seal.

(4) The commission shall elect annually, from among its members, a presiding officer, a vice presiding officer, and a treasurer. The commission shall appoint an executive director and fix the executive director's duties and compensation. The executive director shall serve at the pleasure of the commission. The executive director, the treasurer, and other personnel as the commission designates shall be bonded. The amount or amounts of the bond or bonds is determined by the commission.

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

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

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

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

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

(10) The commission shall adopt bylaws for the conduct of its business and has the power to amend and rescind these bylaws. The commission shall publish its bylaws in convenient form and file a copy of its

bylaws and a copy of any amendment to the bylaws with the appropriate agency or officer in each of the party states.

(11) The commission annually shall make to the governor, legislature, and advisory body required by article IV(1) of each party state a report covering the activities of the commission for the preceding year, and embodying the recommendations made by the commission. The commission may make additional reports as it deems desirable.

Article IV. Powers

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

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

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

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

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

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

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

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

Article VI. Advisory, Technical, and Regional Committees

The commission shall establish advisory, technical, and regional committees as it deems necessary, membership of which includes private persons and public officials and shall cooperate with the use and services of any committees and the organizations which the members represent in furthering any of its

activities. The committees may be formed to consider problems of special interest to any party states, problems dealing with transmission facility routing, siting and permitting or problems related to reclamation, development, or use of land, or any other matters of concern to the commission.

Article VII. Finance

(1) The commission shall submit to the governor or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that party state for presentation to the legislature.

(2) The commission shall not pledge the credit of any party state. The commission may meet any of its obligations in whole or in part with funds available to it under article V(8) of this compact; provided that the commission takes specific action setting aside the funds prior to incurring any obligation to be met in whole or in part in such manner. Except where the commission makes use of funds available to it under article V(8), the commission shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same.

(3) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission are subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the commission shall be audited yearly by a qualified public accountant and the report of the audit shall be included in and become part of the annual report of the commission.

(5) The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any persons authorized by the commission.

(6) This compact may not be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the commission.

Article VIII. Entry Into Force and Withdrawal

(1) This compact shall enter into force when enacted into law by any two or more states. After that enactment, this compact becomes effective as to any other state upon its enactment of the compact.

(2) Any party state may withdraw from this compact by enacting a statute repealing the compact, but withdrawal does not take effect until one year after the governor of the withdrawing state has given notice in

writing of the withdrawal to the governors of all other party states. A withdrawal does not affect any liability already incurred by or chargeable to a party state prior to the time of withdrawal.

Article IX. Effect On Other Laws

This compact does not limit, repeal, or supersede any other law of any party state. The commission shall not be construed to displace the regulatory responsibilities of the existing relevant state entities.

Article X. Construction and Severability

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

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

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

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

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

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

(5) (a)The governor and the legislature, or agents of either, may inspect the books and accounts of

the Interstate Transmission Development Compact Commission at any reasonable time while the state is a member

(b) A copy of the bylaws of the Interstate Transmission Development Compact Commission must be placed on file with the department of environmental quality, department of natural resources and conversation, and the public service commission, and be available for inspection at any reasonable time by the legislature or any interested citizen.

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

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

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

(7) For the purposes of this section, "substantially similar" means legislation in a state that contains one or more of the policy provisions set forth in [section 3], whether or not organized or worded identically. Reciprocity shall apply only to the extent of overlap between Montana's policy provisions and an Interstate Transmission Development Compact member state's enacted legislation.

NEW SECTION. **Section 56. Implementation--rulemaking.** (1) Within 180 days of the effective date of this act, ~~12 months of activation pursuant to [section 3],~~ the public service commission, department of environmental quality and the department of natural resources and conservation shall promulgate rules to implement the applicable policy provisions of [section 3, article III].

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

NEW SECTION. **Section 6~~7~~. Codification instruction.** [Sections 1 through 5~~6~~] are intended to be codified as a new part in Title 90, chapter 4, and the provisions of Title 90, chapter 4, apply to [sections 1 through 5~~6~~].

NEW SECTION. **Section 7~~8~~. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. **Section 8~~9~~. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. **Section 9~~10~~. Effective date.** Except as provided for in [section 4], [This act] is effective on passage and approval.

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