**** 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.

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 Competitive Transmission Development Compact Act".

NEW SECTION. **Section 2. Interstate Competitive Transmission Development Compact.** This state enacts into law and enters into the Interstate Competitive 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 Competitive Transmission Development Compact.** The Interstate Competitive Transmission Development Compact referred to in [section 2] reads as follows:

Article 1. Purposes

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

(a) preserves state siting authority;

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

(c) activates upon adoption by at least one other state; 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 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 as defined by the Federal Energy Regulatory Commission as alternating current transmission lines greater than or equal to 345 kilovolts and direct current transmission lines greater than or equal to 100 kilovolts.

Article III. Policy Provisions

(1) (a)All transmission facility projects shall be awarded through competitive bidding with no preference to incumbent transmission facility owners. The open process shall 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) Routing and siting of a proposed transmission facility project shall be streamlined by issuing decisions within 90 days of a complete application received by the relevant state entity.

(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 a 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) 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 as monetary and deployment time factors in the transmission competitive bidding process.

(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 projects 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. 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 V. 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 VI. 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 clause--membership.** (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) Upon determination, the governor shall issue a proclamation certifying the state of Montana as a member of the Interstate Competitive Transmission Development Compact.

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

(3) 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 Competitive Transmission Development Compact member state's enacted legislation.

NEW SECTION. **Section 5. Implementation--rulemaking.** (1) Within 12 months of activation pursuant to [section 4], the public service commission, department of environmental quality and the department of natural resources and conservation shall promulgate rules to implement the provisions of [section 3].

(2) For any transmission facility crossing the state of Montana's border into a compact member state, 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 of that state to establish uniform timelines, application requirements, and review procedures to the greatest extent practicable.

NEW SECTION. **Section 6. Codification instruction.** [Sections 1 through 5] 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].

NEW SECTION. **Section 7. 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. 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. Effective date.** Except as provided for in [section 4], [This act] is effective on passage and approval.

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