A rebuttal by Russ Doty of:

Montana Initiative I-184:
Good Intentions, But Not Supportable

by Brian Fadie

Initiative I-184 has been filed with the Montana Secretary of State and approved for signature gathering. The initiative seeks to make numerous reforms to Montana energy law and while its intent is appreciated, there are multiple serious policy and strategy flaws that make it ill advised to support. [Do what you wish. However, before you decide, please review our discussion, below, of the false statements and misunderstanding about alleged flaws in I-184. MTCARES comments are bracketed in red with Calibri font. MEIC comments by Mr. Fadie are in black type.]

Overall, it attempts too many complex reforms in a confusing and sometimes counterproductive manner to make it a good or viable initiative for advancing clean energy in Montana. [I-184 is a needed comprehensive "general revision of renewable energy policy and tax law" meant to give voters an opportunity to address multiple issues, several of which have been bottled up in the legislature by utility lobbyists for years.

One supporter, Lynn Stanley, has already collected 43 signatures in the Flathead. Apparently, they do not consider I-184 to be too complex or confusing. Lynn wrote:

> Despite the controversy with some of the conservation groups, I have decided to support this personally:
>
> - It's high time we get a big idea out there.
> - As such, I think it will generate more public discussion than the incremental approach favored by the conservation groups--and that's a good thing.
> - Climate change is an issue millennial voters care about. This initiative is a good vehicle for outreach to the younger generation.]

Many other supporters of I-184 have read Mr. Fadie's objections and reaffirmed their support of I-184. For example, they include Dr. Steve Running, the MTCARES science advisor. A recognized expert in global ecosystem monitoring, Running was invited to serve on the board of the *Intergovernmental Panel on Climate Change* (IPCC). In 2007, the IPCC was awarded the *Nobel Peace Prize* "for their efforts to build up and disseminate greater knowledge about human-made climate change, and to lay the foundations for the measures that are needed to counteract such change".[3][4] Running made the following statement about winning the prize: "We've got to get past all the petty bickering and get to work. This is about a big transition for society over the next 50 years. The path we are on is unsustainable. What the Nobel committee is saying is that we've got to wake up. We've got to change the course of the whole world."[5]

Dr. Vicki Watson, retired University of Montana professor of environmental studies, supported I-180. After reviewing the documents criticizing its successor, I-184. As of May 6, 2018, she also had affirmed her commitment to I-184 by collecting more than 350 signatures to put it on the 2018 ballot.

Dodie Andersen, coordinator for Transition Missoula, became actively engaged in gathering signatures for I-184 after reviewing Mr. Fadie's memo and this rebuttal. She and her team obtained more than 600 signatures on May 5 & 6th.

Analysis and Discussion of Initiative Provisions

Creating a new tax on Montana renewable energy would increase its cost and harm its prospects for out-of-state consumption. [This part of Mr. Fadie's "counterproductive" allegation begins with a false statement implying I-184 created a new tax. The I-184 tax is not a new tax. It is a small increase of an

existing tax rate, namely of the $.0002 per kWh tax already in MCA §15-51-101 (also cited in documents published before 1975 as RCM §15-51-101), the Montana electricity production tax. That tax was enacted in 1933 and therefore a legal challenge to it is unlikely.

The existing electricity production tax of $.0002 per kWh is now levied on every renewable energy or fossil fuel producer of electricity in Montana. Since it is passed through (i.e., paid by) in-state and out-of-state purchasers of electrons generated in Montana, it is a good vehicle to replace lost coal revenue derived from various taxes and royalties on coal. That revenue is going away because less coal is being used to generate electricity.]

Due to Montana's relatively small population, the potential out-of-state energy market overwhelmingly dwarfs the in-state market. For Montana to make a significant contribution to reducing the country's reliance on fossil fuel, our renewable energy must be as cost competitive as possible. The tax created by this initiative does the opposite. [Fadie does no economic analysis of the tax. When that is done below, it reveals that the electricity production tax rate increase will not make Montana renewable electricity non-competitive. The lack of green electrons makes electricity generated in Montana non-competitive, the tax does not.

If Montana is to sell power outside of Montana it must meet the renewable energy standards already enacted in 21 surrounding states. Failure to have a greater than 15% mix of renewably generated electrons on the grid will prevent electricity sales to those states. China installed 34 gigawatts of solar panels in 2016—2.3 times more than the US (14.8 GW). Hardly any solar was installed in Montana. If Montana industry expects to compete with other countries and states (like California, Texas, Minnesota, and Iowa) that are eliminating more and more fossil fuel costs as a component of their energy prices, we will have to keep pace by installing more renewable energy generating capacity. Otherwise Montana products will become uncompetitive. I-184 allows Montana to keep pace while not reducing needed revenue.

In-state and out of state users of coal and electricity produced using coal as a fuel now pay the coal tax and royalties. That happens because coal taxes and royalties are included in the cost of coal or electricity wherever it is shipped or sold.

The MCA §15-51-101 tax is paid by all generators of electricity. It is passed through to consumers of that electricity wherever they reside.

I-184 raises the existing tax on each kilowatt of electricity. Provisions dealing with it occur in I-184 § 14 (3)(b), (4)(b), (5)(b), (6)(b), (7)(b), (8)(b), and (9)(b). As calculated in the footnote,[1] the 2019 tax

[1] A 2.5 MW wind turbine operating at full capacity would produce (2500kW x 24 hours =) 57600 kWh in a day. However, the capacity factor would probably be around 50% on modern turbines. So, the production would be about (57,600 * .50=) 28,800 kWh. At 10c per kWh, that's $2880 worth of electricity a day.

A 184 § 14 (3)(b)(iv) tax of $.00053 kWh would mean $15.26 in taxes a day would be paid on that production after 2050. However, to start with in 2019 and 2020, a 184 § 14 (3)(b)(i) tax of $.000021 kWh would mean $0.6048 in taxes a day.

A 184 § 14 (4)(b) tax of $.0002 kWh would mean $05.76 in taxes a day would be paid on that production from a 2.5 MW turbine for 5 years.

A 184 § 14 (5)(b) tax of $.000005 kWh would mean $0.144 in taxes a day would be paid on that production for each $100,000 diminution in yearly coal proceeds tax revenue.

The same $0.144 in taxes a day would be paid on that production pursuant to 184 § 14 (6)(b) for each $100,000 diminution in yearly coal severance taxes revenue lost by the Crow or other tribes.

The same $0.144 in taxes a day would be paid on that production pursuant to 184 § 14 (7)(b) for each $100,000 diminution yearly in coal royalties lost by the Crow or other tribes.

The same $0.144 in taxes a day would be paid on that production pursuant to 184 § 14 (8)(b) for

will equal less than a half of a percent of the value a 2.5 MW wind turbine produces in a day. It will equal about 3% of the value such a turbine produces in 2050, after when those turbines are paid for and when the energy producers can afford to pay more in taxes.[2] In addition, the combined taxes may not exceed 80% of the savings consumers experience as a result of the switch to renewable energy. See I-184, § 15(3)(b). So, the tax allows consumers to keep at least 20% of the savings while also funding needed services and projects in Montana from the rest of the savings.

The tax is paid by the electricity producer and likely passed through to the consumer. Hence out of state consumers of electricity ultimately pay the Montana electricity production tax now, just like the electricity they receive now includes the taxes and royalties on coal in the price they pay when receiving Montana-generated electricity.

It would be incorrect to imply that because Montana created a Coal Tax Trust Fund there must also be a tax on renewable energy production. [We do not give coal generated electricity a coal tax holiday in order to sell more coal generated electrons to out of state customers. So, there is a strong argument that all producers of electricity, renewable producers, and fossil fuel producers alike, ought not be allowed to avoid the coal related taxes by shifting away from coal use. That fuel now funds vital services in Montana. Generally, Montanans like the fact that out of state consumers benefiting from

---

each $100,000 diminution in yearly Montana coal rental and royalties program revenue lost by the state.

The same $0.144 in taxes a day would be paid on that production pursuant to 184 § 14 (9)(b) for each $100,000 diminution in yearly federal coal royalties and rental revenue lost by the state.

It is hard to estimate how much coal revenue will be lost each year. Assuming to start with it is $1 million for each subsection 5 through 9 tax ($5 million a year total loss in revenue), the combined tax for those subsections on the 2.5 MW turbine would be $7.20. Add that to the $0.6048 plus $5.76 and the total tax for all programs would be $13.56. Divide that $13.56 by $2880 to get 0.0047, or less than 1/2% of the revenue produced each day would be needed to defray the increase in the electricity production tax rate using the above starting assumptions.

[2] At the 80% of the 23% diminution in coal use brought on by compliance with the I-184 RPS standards in 2050, let's assume the yearly loss for the programs is $10 million for each subsection 5 through 9 tax ($50 million a year total lost revenue) in 2050. As one can see from the numbers in I-184 that Mr. Fadie objected to, in the subsection (14)5, (14)7, and (14)9 cases this would mean a loss of approximately 50% of coal revenue; for subsection (14)8 it would mean a loss of more than 100% of the coal revenue. That assumption about diminution in revenue is much more than would be brought about by I-180, but which includes diminution in coal use coming from other factors. That is, Montana will lose coal revenue for reasons other than implementation of the RPS standards in I-180.

The combined tax for those (14)5 through (14)9 subsections on the 2.5 kW turbine would be $72.00. Add that to the $15.26 (the $5.76 will not be levied by that time and may be ignored in this calculation) and the total tax for all programs would be $87.26. Divide that $87.26 by $2880 to get 3% of the revenue produced each day would be needed to defray the increase in the electricity production tax rate using the above assumptions.

In 2050 electricity producers will be able to afford the tax. The ability for a producer to absorb the tax increases as the renewable energy equipment is paid for—generally in 7 to 12 years, sometimes longer. If the tax is impeding the growth of renewable energy, it can be adjusted in the same way that the coal severance tax was cut in half. Or it may be adjusted by giving renewable developers a tax holiday for a couple of years as is now afforded oil production at the time a well first begins producing. I-184 § 1 directs the interim energy & telecommunications legislative committee to evaluate and adjust taxes as necessary.]

power produced in Montana will pay a little bit to benefit Montana as well as renewable energy developers using Montana assets, for our having provided them with that energy.]
Coal is a non-renewable resource. Once it is mined and burned it is never available again. The coal trust fund was established so that future generations of Montanan's could also benefit from the one-time exploitation of the resource. [I-184 proponents are aware of the reasons for the coal tax and the trust it funds. Tom Towe, the author of that law, helped draft I-184 and supports it. He confirms that "the trust is to replace depleted Montana treasure." However, he likes the idea that we continue to bring in needed revenue for Montana even though interest on the trust also contributes substantially.] On the other hand, the development of renewable energy resources does not reduce their availability. [Mr. Fadie's specious analysis fails to acknowledge that the coal tax does much more than fund Mr. Towe's trust. About half of the coal tax goes to education, and building construction, and to Montana's libraries, parks and some other funds, and revenue from trust assets cannot always pick up the entire loss of that revenue.

Likewise, Mr. Fadie's incomplete argument does not concede that development of renewable energy reduces the availability of coal tax revenue as stated in I-184, § 6(5). He immaterially surmises] Renewable energy can benefit Montanan's in perpetuity. [However, unless the renewable energy industry replaces the citizenship and revenue role now occupied by the fossil fuel industry, that lost-coal-revenue reduction also will be "in perpetuity."]

Multiple statements and calculations made within the initiative – including its impact on coal and justification for taxation levels on renewable energy – are inaccurate. [Not true. Note that Mr. Fadie did not name even one specific calculation or show where he thinks an inaccuracy exists.

The calculations Mr. Fadie references are mostly in Section 14. Even though he does not name them, I've quoted them in the footnote, so the reader can see they are correct.[3]

---

[3] For example, subsection 14(3) provides:

(3)(a) For purposes of making calculations regarding this section it is noted that:

(i) the 2015 coal severance tax was $60,891,414; in 2016, it was $60,358,548;

(ii) approximately 21% - 23% of Montana's coal is used to produce electricity in Montana;

(iii) reducing the $60,891,414 amount by 23% and further reducing that amount by 80% produces an estimate that coal tax revenue would be reduced by $11,204,020 per year in 2050 if Montanans transition to 80% renewable electricity by then;

(iv) to produce $11,204,020 in revenue, it would require a tax of $0.00053 per kilowatt hour on Montana's annual 21.4 billion kilowatt hours of electricity production;

(v) since the loss of coal tax severance revenue will be gradual over the years between 2019 and 2050, the electricity production tax to replace it can be phased in; and

(vi) it will require a $0.000021 per kilowatt hour tax on electricity production to replace the $448,161 coal tax revenue estimated to be lost in 2019 as the transition begins; a slightly higher rate will be needed in subsequent years;

(vii) to cover estimated coal severance tax revenue loss related to diminution in coal used to produce electricity for use by Montanans, it is estimated the electric production tax used as a substitute, would cost a consumer using 1000 kilowatt hours of electricity a month, $0.26/year in years 2019 & 2020, $1.01/year in 2021 through 2025, $2.69/year in 2025 through 2050, and $6.36 a year thereafter;

(viii) the coal severance tax gradual replacement tax for consumers using 2000 kilowatt hours of electricity a month, that is twice the amount of electricity considered in subsection (3)(a)(vii), will cost twice the amounts listed in (3)(a)(vii); and

The I-184 fiscal note does not find any of these footnoted, section 14 numbers to be inaccurate. Therefore, Mr. Fadie's sophist assertions cannot be corroborated by reference to that document, or to comments of the following vetting agencies:

Like its predecessor, I-180, I-184 went through a rigorous review by the Secretary of State, Legislative Services (twice), Montana's Chief Deputy Attorney General, the Montana Budget Director, and persons at the Montana Department of Revenue, Montana Department of Labor and Industry, the Montana Department of Natural Resources, Montana Department of Commerce, and the Montana Public Service Commission.] Much of this results from an assumption that NorthWestern Energy and MDU reaching 80% renewable energy levels means an 80% reduction of coal mining and combustion statewide. [I-184 drafters make no such assumption. MTCARES response to a fiscal note proves the I-184 drafters did not make this assumption. That response said:

> "Summary of Effect of Initiative on jobs: Approximately 1,151 coal miners work in Montana. Twenty-three percent of the coal they mine goes to produce electricity in Montana. So gradually, by 2050, 80% of the 23% of mining jobs will be affected by this initiative. Many of the other coal mining jobs will be affected by the transition away from coal generated power in surrounding states and countries.

Thus, Mr. Fadie cannot point to anything to prove his assertion. Falsely asserting that we

---

> (ix) fossil-fuel free electricity exported from Montana will carry an electricity production tax to recover revenue previously collected through coal severance taxes paid on that exported coal-fired electricity.

Subsection 14(4)(a) provides:

> (4)(a) For purposes of this subsection it is noted that to defray all costs of the displaced fossil fuel worker and fossil fuel pensioner programs under this law, a consumer using 1000 kilowatt hours of electricity a month, will pay approximately $0.20/month or $2.40/year for 5 years, and assessments only as needed in subsequent years.

Subsection 14(5)(a)(i) provides:

> (5)(a)(i) For purposes of making calculations under this subsection note that $18,812,015 was derived from the coal gross proceeds tax during FY 2014; $632,320 less than in FY 2013. In 2015 coal gross proceeds revenues were $19,857,482, and were $20,756,877 in FY 2016.

Subsection 14(7)(a)(i) provides:

> (7)(a)(i) For purposes of making calculations regarding this subsection note that annual Crow tribal revenue from coal royalties was approximately $20,400,000 in 2013.

Subsection 14(8)(a)(i) provides:

> (8)(a)(i) For purposes of making calculations regarding this subsection note that $7,916,303 of revenue was derived as gross proceeds in FY 2015 from the Montana coal rentals and royalties program, managed by the department of natural resources and conservation, $263,975 less than in FY 2014. Revenue was $9,174,314 in FY 2016.

Subsection 14(9)(a)(i) provides:

(9)(a)(i) For purposes of making calculations regarding this subsection note that the 2015 projection for federal coal royalty and rental revenue accruing to Montana was $21,245,760, a gain from the $19,351,680 projected for 2014.

assumed what Mr. Fadie claims we assumed, is a straw man, and a red herring meant to lead the reader to believe that I-184 drafters do not realize that] Montana's energy landscape is more complex than this. [In reality, the drafters of I-184 have combined experience with complex energy issues dating back to 1969 when the University of Montana Press published Mr. Doty's 1974 book "Poles Apart" on 1969 Montana electric utility ratemaking with a foreword by US Senator Lee Metcalf. Mr. Doty later wrote the first draft of the Minnesota Energy Agency enabling legislation, became counsel for the Montana Public Service Commission helping to eliminate $21 million in phantom rate base from Montana Power, and consulted for the City of St. Paul by writing a solar access ordinance. He also was a contract administrative law judge making recommendations to the Minnesota Public Service Commission and 11 other Minnesota state agencies and the Minneapolis Schools on energy, taxes and other matters.

Mr. Towe crafted and sponsored the bill to eliminate the unfair reproduction cost new rate base method of valuing utility property and thus did away with law that was allowing utilities to overcharge Montanans. And Senator Towe authored the coal tax and its trust, among other things.] A sizeable portion of Montana gets its energy from electric cooperatives. [The first sentence of the chapter (IV) in Mr. Doty's book begins "Twenty-five rural electric cooperatives (RECs) serve 53,970 Montana families." That sentence indicates I-184 drafters, not needing the condescension, have been aware for decades of the sizable portion of Montana that gets electricity from RECs.] Also, much of the coal mined in Montana, as well as the electricity generated from burning coal, is sent to out-of-state customers. [I-184 demonstrates its authors are aware of this because I-184 acknowledges this at Section 14(3)(a)(ii) which states, "(ii) approximately 21% - 23% of Montana's coal is used to produce electricity in Montana;" This is also acknowledged in the 2-page summary of I-184 (which is online and could have been read by Mr. Fadie). It says:

> "Effect on coal jobs: Approximately 1300 coal miners work in Montana. 23% of the coal they mine produces electricity here. So gradually, by 2050, 80% of the 23% of mining jobs will be affected by this initiative. Approximately 500 workers toil in Montana's coal generating facilities. Between 30 to 100 railroad workers haul coal here. Much of the power they produce, or haul goes out of state. Thus, approximately 23% of 1900 jobs, (i.e., 437 coal jobs) will be lost by the initiative over 33 years."] Voters would be asked to enshrine this inaccurate information into state law. [Inaccurate characterization by Mr. Fadie.] These inaccuracies reflect a misunderstanding of Montana's energy landscape and would seriously undercut the credibility of the initiative. [Fair-minded signature gatherers and signers have determined that the statements and numbers in I-184 enhance its credibility because they establish careful starting parameters for the law by revealing the calculations on which the renewable energy policy and taxation are based.]

The initiative mangles the Community Renewable Energy Project requirement by defining such projects as only those commissioned prior to January 1, 2019, [False. I-184 does not define all such Community Renewable Energy Projects thusly—only those owned by public utilities. The I-184 provision to do this is necessary because utilities amended the original RPS statute to preserve their monopoly hold on renewable energy. Utilities did that by getting themselves defined as community projects. They got away with it by telling the legislature and PSC that they could not get enough community projects to meet the % community RPS requirement in existing law. They did not clarify that the reason for failure to obtain the needed Community projects was that their disingenuous RFP process discouraged reasonable bids.

For example, at one point, community bidders were required to procure wind turbines within a time frame that was not feasible because the utilities had stalled the process so long that available turbines had been bought up. At another time, bidders were frozen out of the process if they did not live in the MDU service area. On another occasion, a bid by the Billings school district was rejected because it offered power at the same rate being paid by NorthWestern for coal-fired electrons. On other occasions,

utility representatives discouraged interested communities from pursuing projects by refusing to guarantee payment for green electrons, or refusing to allow net metering, or meter aggregation.

So, I-184 grandfathers in existing utility-owned Community Projects to, in fairness, allow credit for what utilities have done. I-184 then gives utilities time to come into compliance by constructing their own "community" projects until 2019, and subsequently puts Montana's RPS law back the way it was by requiring IOUs to incentivize non-monopoly community projects and by allowing utilities to purchase renewable energy credits separately from energy—something that will incentivize more residential solar. Rather than trashing this I-184 provision, MEIC ought to be for this provision restoring the original intent of requiring Community Renewable Energy Projects to come from the community rather than the monopolies.

I-184, Section 7, 69-3-2003(5)(b) provides one definition of a Community Renewable Energy Project, which:

b)(i) is a project installed and commissioned prior to January 1, 2019;

(ii) is owned by a public utility; and

(iii) has less than or equal to 25 megawatts in total calculated nameplate capacity; **or**….

Subsections (a), (c), and (d) also define Community Renewable Energy Projects hooked to the grid in front of or behind the meter, or leased projects, as indicted by the word "or," which separates those sections. Those subsections include projects commissioned at any time, as long as they are not owned by a monopoly public utility.] making coming into compliance impossible after that date. [False. I-184 requires compliance via community Renewable Projects rather than small projects owned by monopolies.] Given NorthWestern Energy is not currently in compliance and no new projects are under construction, and the initiative could not be passed until November 2018, it appears likely it would make the requirement unworkable. [False. Requirement will work as intended to facilitate community projects not dominated by monopolies. While projects may not be under construction, dozens are on the drawing boards and could be constructed by 2019.

The provision Mr. Fadie addresses does not prevent NorthWestern from coming into compliance. It restores the original intent of the 15% RPS, namely that compliance must come from projects that are truly community projects and not just small, utility owned projects masquerading as community projects. As previously quoted, 37-68-102(5)(b) gives one, but not all the definitions for a community renewable energy project. Thus, the provision sunsetting in 2019, the current law that allows monopoly projects to masquerade as community projects only applies to projects owned by public utilities.]

- Requiring community solar facilities to be entirely constructed by licensed electricians – including such activities as grading dirt and drilling holes – is unnecessary, illogical, and would greatly increase the cost of these facilities without creating any benefit. [I agree to some extent with this MEIC criticism of I-184 although I disagree with the description presenting it.

As you can see from the discussion below, the subsection this refers to was only intended to apply to electrical work. The 2018 legislature can clarify that subsection with a minor housekeeping amendment. Given that the intent can be made clearer via a minor amendment, this objection to I-184 is not large enough to merit throwing the entire initiative out the window. Indeed, if MEIC had taken advantage of multiple opportunities to comment on the initiative drafts since June of 2017, that minor clarification could have been made. Instead, it seems to have held its criticism back for use as ammo to trash an otherwise fine initiative.

While agreeing with the observation that a subsection of I-184 needs clarification, I also would point out that Mr. Fadie's assertion concerning the problem is mostly false. Mr. Fadie confuses Community Renewable Energy Projects defined in I-184 § 7(5) with Neighborhood renewable energy facilities defined in I-184 § 22(19). Neither definition has a requirement that its projects be constructed entirely by licensed electricians. Utilities and community projects (intending to sell power to a utility) are held to the

requirement in 184 § 9(3)(b) which provides as amended by I-184:

> (b) Contracts signed to construct or operate ~~for~~ projects located in Montana must require all contractors and project operators to pay the standard prevailing rate of wages for the work performed ~~heavy construction~~, as provided in 18-2-414 through 18-2-419.~~, during the construction phase of the project.~~

Neighborhood projects are held to essentially the same requirement by 184 § 22(19)(g), which says a:

> "(19) 'Neighborhood renewable energy facility' means a community renewable energy project that: … (g) pays all workers involved in construction and operation of the facility no less than the prevailing wage established under 18-2-411 through 18-2-419 while giving hiring preference to bona fide Montana residents required by 69-3-2005(3)(a)."

Thus, neighborhood projects are community projects, but community projects may not be neighborhood projects.

Applicable to neighborhood projects, there is a requirement in 184 § 24(1) that neighborhood renewable energy projects must be allowed to hook up to a utility and net meter provided certain conditions are met—one of those conditions is the one objected to by Mr. Fadie.

Currently, neighborhood renewable energy facilities are not allowed in Montana, so until neighborhood projects are allowed, the all-built-by-electricians clause does not apply. The good news is that I-184 § 24(1) allows neighborhood facilities—a necessary major change that must not be discarded just because of my imprecise drafting of one clause.

I-184 requires public utilities (i.e. regulated investor-owned utilities) to allow neighborhood facilities to hook to the grid so those facilities may use the grid to serve their customers. The privilege of being allowed to hook up is accompanied by reasonable requirements that that workers who construct them ought to be trained and paid a living wage to insure safe connection to the grid that does not risk injury to grid workers or injury to electrical equipment hooked to the grid. Absent those requirements, the utility is put at a competitive disadvantage, having to compete with lower cost labor and no guarantee that safety requirements will be met.

In discussing these issues, State Representative Heyman indicated that it would be less difficult to vote for RPS standards and neighborhood renewable energy projects if additional provisions dealt with worker safety and wages. So, I put them into I-184.

If one listens to the testimony on HB 504, it becomes apparent that lack of worker safety and living wage provisions seem to be some of the reasons HB 504 did not pass, so I-184 takes that argument away from those opposing community renewable energy projects by guaranteeing safety and fair wages. It is something HB 504 should have done.

In addition, some utilities around the country have denied hookup depending on whether the connection had battery storage behind or in front of the meter. So, unlike HB 504, I-184 eliminated that monopoly game playing by requiring hookup from either location.

Thus, I-184, section 24(1) improves on HB 504 which Mr. Fadie supported, by creating neighborhood facilities. It says: "

> A public utility shall allow a neighborhood renewable energy facility to be interconnected to its distribution or transmission system, regardless of whether or not the facility has behind the meter or in front of the meter battery storage associated with it, if: (a) the facility complies with all safety standards in 69-8-604 as certified by a licensed professional engineer; (b) the facility was constructed by licensed electricians supervised by a master electrician in compliance with 37-68-102 and 37-68-103(3)(b).

The later clause can be easily amended by the 2018 legislature, adding the underlined wording to read, "(b) the electrical portion of the facility was constructed by licensed electricians supervised by a master electrician in compliance with 37-68-102 and 37-68-103(3)(b)."

69-8-603(3)(c)(iii) requires workers to: "(iii) comply with all safety standards specified in 69-8-604

as certified by a licensed professional engineer, master, journeyman electrician, or state or local code inspector."]

- The initiative also includes reforms to net metering laws and potential requirements for cooperative utilities, which further increase its complexity and potential for misunderstanding of its impacts. [Cooperative provisions: It is not hard to understand that there is no mandatory requirement that rural electric cooperatives and municipal electric systems meet the renewable energy, net metering, or neighborhood energy facility standards. However, the initiative requires them to poll their members every 4 years to see if they want to comply voluntarily. Cooperative utilities must offer members clean power at market prices. The initiative restricts new energy supply contracts, by curtailing dirty-power lock-in clauses. (See I-184 §§ 11 & 12)

  Net metering & other provisions: The initiative revises the definition of "community renewable energy projects" by clarifying that energy and renewable energy credits may be bought and sold separately. It allows aggregate net metering while raising the cap on net metering to 100 kW; (250 kW for governments, churches and non-profits)—a better proposal than the one industry lobbyists killed in the last legislature.

  I-184 allows neighbors to cooperate in creating renewable energy facilities to reduce generation cost component in their bill while still paying their fair share of distribution and other costs associated with electric service. This will benefit residential and commercial energy customers, school districts, and farmers who have more than one meter on their land, and communities by allowing aggregation of meter readings. (See I-184 §§ 8(2)(b), 23 & 24)]

In addition to these policy concerns, there are significant concerns about the ability to achieve the required signatures and votes due to the high volume of issues being addressed and their thick density. As a general rule, increasing the complexity of a ballot initiative decreases its viability of passing. This initiative creates multiple new highly complex programs – like worker, tribal, and retiree retraining and transition accounts – while also reforming multiple existing complex programs. This all combines to make it exceedingly difficult to explain to voters (let alone for them to understand) precisely what the initiative does, why it is good policy, and whether it will accomplish its goals. And as stated above, there are open questions about all of these issues. [Voters like the RPS, comprehensive worker, and revenue replacement programs in I-184 modeled after existing law. In 4 months of signature 2016 gathering on I-180, over 10,300 signed supporting those provisions. Voters get that I-184 is on their side; they understand the need to adequately immediately address all issues relating to the transition to no-fuel-cost electricity; they appreciate the fair approach to addressing warming that, unless we act soon to curb CO2 emissions, will cost Montana 35,000 jobs in its agriculture, tourism, and recreation industries. What many don't entirely fathom are false characterizations and condescending headwind partially created out of fear I-184 will fail; headwind that helps turn that fear into self-fulfilling prophesy.]

Conclusion

Passing an initiative requires significant time and resources. The failure to pass an initiative can also have negative impacts on that issue area at the legislature, state agencies, in judicial proceedings, and for future ballot initiatives. It is critical that any initiative related to clean energy represents good policy while also having a reasonable chance of passage. Unfortunately, while well intentioned, the RES initiative proposed for 2018 achieves neither of these. [See the response to this fear in endnote [1]]

[Bonus comment on how I-184 addressed critique MEIC had of I-180 at endnote.[2]]

[1] Reasons Montana's environmental lobbyists gave in 2015 for pushing back on I-180 included fear that if I-180 failed for any reason, it would set back other efforts. They cited initiative failures in Maine and Michigan. I-180 did not pass in 2016, and it cannot be blamed for the biennial failure to enact

decent environmental legislation that has plagued Montana since 2005.

Michigan: As to the 2012 Michigan proposal referenced as an example of what happens if a measure fails, it had problems from the start because it tried to amend the Constitution. In Michigan, they also got outflanked by a "Clean Affordable Renewable Energy" group opposing the constitutional initiative whose name sounded like it was more reasonable than the folks pushing the initiative. It will be more difficult to outflank I-184 in MT because I registered the name MTCARES (Montana Community Affordable Renewable Energy Saves).

Guess what passed in Michigan in 2016 to increase the RPS from 10%? A 15 percent by 2021 (standard) followed by a 35 percent by 2025 (goal, including energy efficiency and demand reduction) was signed by Michigan's Republican Governor, Rick Snyder. That is far better that the 25% by 2025 standard sought by Michigan's failed constitutional amendment.

In July of 2017, Michigan had 1760 MW of wind power capacity almost double the 988 MW it had at the end of 2012—hardly a slowdown. In addition, Traverse City set a goal of powering all its city operations with renewable energy by 2020. Mayor Jim Carruthers recently vowed, along with 16 other Michigan mayors, to join the "Climate Mayors" (http://climatemayors.org/) in fulfilling the requirements of the Paris Climate Agreement, with or without the cooperation of the federal government. Despite the 2012 loss, renewable energy has moved forward significantly in Michigan.

Maine: The failed Maine RPS proposal tried to jump too fast to 50 percent in 8 years. Also, they started late as we did with I-180 and did not get enough signatures to get on the ballot. We have more time to gather signatures for I-184 during this attempt. Also, Maine has a 17% standard for 2017 and a 30% standard beyond that which had not yet been reached when the Maine RPS proposal went down in 2012. Since then Maine has increased its wind generation capacity from 431 MW at year end 2012 to 901 MW on December 31, 2016. In the first 6 months of 2017, Maine produced 2.2 times the wind generated electrons (1278 GWh) than it did in 2014--not a slowdown. That was due to the 467.1 MW of new Maine wind generating capacity that came online in 2015 and 2016.

Also, a lot of money was spent in Colorado against going to a 30% RPS (including increases for cooperatives), but the measure passed. So, there are experiences with successes despite utilities opposing progressive legislation with guns blazing.

Montana history also belies Mr. Fadie's fears. In 1978, I-80 (similar in name to our I-180) was to require a vote of the statewide electorate before a nuclear plant could be built in Montana. It failed the first time (as I-71), but passed with 65% of the vote after the proponents were way outspent by the nuclear interests and utilities. Contact AERO's Jim Barngrover for details.

Likewise, I-120 (prohibiting corporate funding of ballot initiatives) failed in 1994, but passed (as I-125) in 1996 (only to be declared unconstitutional).

The November 7, 2017, Colorado election proved that with hard work and dedication it is possible to win at the ballot, despite being outspent by the opposition.

- **Denver passed I-300,** the Green Roof Initiative, which mandates buildings over 25,000 feet must have 20% of their rooftop dedicated to green space or solar! **Despite being outspent 12:1.**
- **Boulder passed 2L and 2O** which provide continued funding and allow a future vote to create a local, renewable energy-powered public electric utility. **Despite undisclosed amounts of opposition dark money.**
- **Broomfield passed 301** which requires the protection of health, safety and the environment as preconditions for drilling inside city limits. **Despite industry spending $290,000 against it.**

As far as **good policy**, what is MEIC's plan to get NorthWestern to add 23% more eligible renewable resources (wind and solar, etc., not including pre-2005 hydro) and MDU to add 65% more; all ahead of the EPA clean power plan? If it involves more natural gas, forget it. MTCARES has a better plan. It's called I-184, Montana's well intentioned, understandable, and supportable comprehensive "general revision of renewable energy policy and tax law," saving the planet we'll preserve while promoting the

future kids deserve.

[2] 44% of NWE's generation comes from hydro facilities (which are not "eligible renewable resources" under current law). 13% comes from "eligible renewable resources" (mostly wind turbines). I-184 preserves the requirement that pre-2005 hydro resources, which have been supplying clean electrons for a century, are not included in the definition of "eligible renewable resources" until the combination of pre-2005 hydro resources and "eligible renewable resources" reaches the target of 80%. Thus, NWE must add 23% more "eligible renewable resources" by 2025 to reduce CO2. Then NWE may count pre-2005 hydro resources to demonstrate compliance with the 2050, 80% standard. MEIC opposed I-180 (the i_184 predecessor) saying it left room for utilities to count hydro before renewables if the RPS target rose above 80%. I-184 closes that potential loophole. Future RPS target increases above 80% require new renewables before legacy hydro is counted. Thus, I-184 requires MDU and NWE to reach 80% without risking disparate treatment claims by either utility and preserves the policy of not counting legacy hydro before adding renewable energy. It does it in a way that does not negate the purchase of the dams that MEIC supported. If the dams were not permitted to count at some point, Montana consumers would be on the hook to pay for stranded assets, an unnecessary expense to get green electrons from renewables to replace green electrons from the dams. (See I-184 § 8(4))