

## HOUSE BILL NO. 144

INTRODUCED BY A. REDFIELD

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REPEALING CERTAIN INDIVIDUAL INCOME AND CORPORATE  
5 INCOME TAX CREDITS; AMENDING SECTIONS 15-32-104, 15-32-105, 15-32-106, 15-32-107, 15-32-502,  
6 75-2-103, 75-5-103, 76-17-102, 76-17-104, AND 87-1-294, MCA; REPEALING SECTIONS 7-21-3710,  
7 15-30-2318, 15-30-2319, 15-30-2320, 15-30-2326, 15-30-2342, 15-30-2356, 15-30-2358, 15-30-2365,  
8 15-30-2367, 15-30-2380, 15-30-2381, 15-31-124, 15-31-125, 15-31-126, 15-31-127, 15-31-132, 15-31-133,  
9 15-31-134, 15-31-135, 15-31-136, 15-31-137, 15-31-150, 15-31-151, 15-31-171, 15-32-109, 15-32-115,  
10 15-32-201, 15-32-202, 15-32-203, 15-32-401, 15-32-402, 15-32-404, 15-32-405, 15-32-406, 15-32-407,  
11 15-32-503, 15-32-504, 15-32-505, 15-32-506, 15-32-507, 15-32-508, 15-32-509, 15-32-701, 15-32-702,  
12 15-32-703, 33-2-724, 50-51-114, AND 50-51-115, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND  
13 AN APPLICABILITY DATE."

14

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

16

17 **Section 1.** Section 15-32-104, MCA, is amended to read:

18 **"15-32-104. Limitations on deduction and credit.** Tax treatment under 15-32-103 and ~~15-32-109~~ is  
19 limited to persons and firms not primarily engaged in the provision of gas or electricity derived from fossil fuel  
20 extraction or conventional hydroelectric development."

21

22 **Section 2.** Section 15-32-105, MCA, is amended to read:

23 **"15-32-105. Application to new construction -- rules.** (1) It is the intent of the legislature that no  
24 deduction or credit under this part be allowed for capital investment for an energy conservation practice in the  
25 new construction of a building if that capital investment would have been made under established standards of  
26 new construction. The department of revenue shall adopt rules to implement this legislative intent. ~~Such~~ The rules  
27 ~~shall~~ must be based on the best currently available methods of analysis, including those of the national bureau  
28 of standards, the department of housing and urban development, and other federal agencies and professional  
29 societies and materials developed by the department. Provisions ~~shall~~ must be made for an annual updating of  
30 rules and standards as required.

1 (2) The department may adopt rules to define standard components of conventional buildings and to  
 2 establish other necessary elements of the definition of passive solar system consistent with the intent of  
 3 15-32-102."  
 4

5 **Section 3.** Section 15-32-106, MCA, is amended to read:

6 **"15-32-106. Procedure for obtaining benefit of deduction or credit.** ~~The department of revenue shall~~  
 7 ~~provide forms on which a taxpayer may apply for a tax credit under 15-32-109.~~ The department of revenue shall  
 8 approve a deduction ~~or credit~~ under 15-32-103 ~~or 15-32-109~~ that demonstrably promotes energy conservation  
 9 or uses a recognized nonfossil form of energy generation. The department of revenue may refer a deduction ~~or~~  
 10 ~~credit~~ involving energy generation to the department of environmental quality for its advice, and the department  
 11 of environmental quality shall respond within 60 days. The department of revenue may refer a deduction ~~or credit~~  
 12 involving energy conservation to the department of labor and industry for its advice, and the department of labor  
 13 and industry shall respond within 60 days. The department of revenue may deny a deduction ~~or credit~~ that it finds  
 14 to be impractical or ineffective."  
 15

16 **Section 4.** Section 15-32-107, MCA, is amended to read:

17 **"15-32-107. Loans by utilities and financial institutions -- tax credit for interest differential for**  
 18 **loans made prior to July 1, 1995.** (1) Except as provided in subsection (4), a public utility or a financial institution  
 19 that lent money or made qualifying installations under this section as it read prior to July 1, 1995, may compute  
 20 the difference between interest it actually receives on the transactions and the interest that would have been  
 21 received at the prevailing average interest rate for home improvement loans, as prescribed in rules made by the  
 22 public service commission. The utility may apply the difference so computed as a credit against its tax liability for  
 23 the electrical energy producer's license tax under 15-51-101 ~~or for the corporate income tax under chapter 31,~~  
 24 ~~part 4.~~ The public service commission shall regulate rates in such a manner that a utility making loans under this  
 25 section may not make a profit as the result of this section. ~~The financial institution may apply the difference so~~  
 26 ~~computed as a credit against its tax liability for the corporate income tax under chapter 31, part 4.~~

27 (2) A utility may not claim a tax credit under this section exceeding \$750,000 in any tax year. A financial  
 28 institution may not claim a tax credit under this section exceeding \$2,000 in any tax year.

29 (3) The public service commission may make rules to implement this section as it applies to public  
 30 utilities only.

1 (4) A public utility whose purchases of or investments in conservation are placed in the rate base as  
 2 provided in Title 69, chapter 3, part 7, may not receive a tax credit under subsection (1)."

3

4 **Section 5.** Section 15-32-502, MCA, is amended to read:

5 **"15-32-502. Definitions.** For purposes of this part, the following definitions apply:

6 (1) (a) "Certified expenditures" means those costs incurred for activities in direct support of exploration  
 7 activity conducted at a specific exploration site for the purpose of determining the existence, location, extent, or  
 8 quality of a mineral or coal deposit. The term includes:

9 (i) the costs of obtaining the approvals, permits, licenses, and certificates for ~~an~~ the following exploration  
 10 ~~activity referred to in 15-32-503~~ activities performed on land in the state for the purpose of determining the  
 11 existence, location, extent, or quality of a mineral or coal deposit, regardless of ownership:

12 (A) surveying by geophysical methods or geochemical methods;

13 (B) drilling exploration holes;

14 (C) conducting underground exploration;

15 (D) surface trenching and bulk sampling; or

16 (E) performing other exploratory work, including aerial photographs, geological and geophysical logging,  
 17 sample analysis, and metallurgical testing;

18 (ii) direct labor costs and the cost of benefits for employees directly associated with ~~work described in~~  
 19 ~~15-32-503~~ exploration activities;

20 (iii) the cost of renting or leasing equipment from parties not affiliated with the person requesting and  
 21 taking the ~~credit~~ deduction;

22 (iv) the reasonable costs of owning, maintaining, and operating equipment;

23 (v) insurance and bond premiums associated with the activities set out in subsections (1)(a)(i) through  
 24 (1)(a)(vii);

25 (vi) payments to consultants and independent contractors; or

26 (vii) the general expense of operating the person's business, including the costs of materials and  
 27 supplies, if those expenses and costs are directly attributable to ~~the work described in 15-32-503~~ exploration  
 28 activities.

29 (b) The term does not include return on investment, insurance or bond premiums not covered under  
 30 subsection (1)(a)(v), or any other expense that the person has not incurred to complete ~~work described in~~

1 ~~15-32-503~~ exploration activities.

2 ~~(2) "Credit" means the exploration incentive credit for activities involving mineral and coal deposits~~  
3 ~~authorized by this part.~~

4 ~~———(3) "Exploration activity data list" means, as applicable, a summary of work completed during the year~~  
5 ~~that includes but is not limited to:~~

6 ~~———(a) the number of core or rotary drilling holes completed;~~

7 ~~———(b) chemical analytical data available; or~~

8 ~~———(c) aerial photographs or a topographic or geologic map showing the location of the drill holes, sample~~  
9 ~~locations, or the other exploration activities undertaken.~~

10 ~~(4)~~(2) "Geochemical methods" means geochemical data gathering methods, including the collection of  
11 soil, rock, water, air, vegetation, and similar samples and their chemical analyses.

12 ~~(5)~~(3) "Geophysical methods" means all geophysical data gathering methods used in mineral or coal  
13 exploration, including seismic, gravity, magnetic, radiometric, radar, and electromagnetic and other remote  
14 sensing measurements.

15 ~~(6)~~(4) "Mineral" means those substances defined as minerals by 82-4-303 and coal as defined by  
16 82-1-111.

17 ~~(7) (a) "Mining operation" includes all operating and nonoperating activities related to a mineral deposit~~  
18 ~~interest and may be composed of one or more mining properties.~~

19 ~~———(b) In determining whether mining properties are part of the same mining operation, the department may~~  
20 ~~consider whether the operation, in conducting mining activities on several mining properties, uses common~~  
21 ~~personnel, supply and maintenance facilities, mining-related treatment processes, storage facilities, roads,~~  
22 ~~pipelines, transportation equipment, and mining techniques and technology and may also consider the extent to~~  
23 ~~which the mineral deposit interest comprises a common mining property.~~

24 ~~(8)~~(5) "Person" means a sole proprietorship, corporation, partnership, small business corporation as  
25 defined in 15-30-3301, or limited liability company as defined in 35-8-102.

26 ~~(9) "Tax year" means the calendar year."~~

27

28 **Section 6.** Section 75-2-103, MCA, is amended to read:

29 **"75-2-103. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions  
30 apply:

1 (1) "Air contaminant" means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous  
2 substances, or any combination of those air contaminants.

3 (2) "Air pollutants" means one or more air contaminants that are present in the outdoor atmosphere,  
4 including those pollutants regulated pursuant to section 7412 and Subchapter V of the federal Clean Air Act, 42  
5 U.S.C. 7401, et seq.

6 (3) "Air pollution" means the presence of air pollutants in a quantity and for a duration that are or tend  
7 to be injurious to human health or welfare, animal or plant life, or property or that would unreasonably interfere  
8 with the enjoyment of life, property, or the conduct of business.

9 (4) "Associated supporting infrastructure" means:

10 (a) electric transmission and distribution facilities;

11 (b) pipeline facilities;

12 (c) aboveground ponds and reservoirs and underground storage reservoirs;

13 (d) rail transportation;

14 (e) aqueducts and diversion dams;

15 (f) devices or equipment associated with the delivery of an energy form or product produced at an energy  
16 development project; or

17 (g) other supporting infrastructure, as defined by board rule, that is necessary for an energy development  
18 project.

19 (5) "Board" means the board of environmental review provided for in 2-15-3502.

20 (6) (a) "Commercial hazardous waste incinerator" means:

21 (i) an incinerator that burns hazardous waste; or

22 (ii) a boiler or industrial furnace subject to the provisions of 75-10-406.

23 (b) Commercial hazardous waste incinerator does not include a research and development facility that  
24 receives federal or state research funds and that burns hazardous waste primarily to test and evaluate waste  
25 treatment remediation technologies.

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

27 (8) "Emission" means a release into the outdoor atmosphere of air contaminants.

28 (9) (a) "Energy development project" means each plant, unit, or other development and associated  
29 developments, including any associated supporting infrastructure, designed for or capable of:

30 (i) generating electricity;

- 1 (ii) producing gas derived from coal;
- 2 (iii) producing liquid hydrocarbon products;
- 3 (iv) refining crude oil or natural gas;
- 4 (v) producing alcohol to be blended for ethanol-blended gasoline and that are eligible for a tax incentive
- 5 pursuant to Title 15, chapter 70, part 5; or
- 6 ~~(vi) producing biodiesel and that are eligible for a tax incentive for the production of biodiesel pursuant~~
- 7 ~~to 15-32-701; or~~
- 8 ~~——(vii)(vi) transmitting electricity through an electric transmission line with a design capacity of equal to or~~
- 9 greater than 50 kilovolts.
- 10 (b) The term does not include a nuclear facility as defined in 75-20-1202.
- 11 (10) "Environmental protection law" means a law contained in or an administrative rule adopted pursuant
- 12 to Title 75, chapter 2, 5, 10, or 11.
- 13 (11) "Hazardous waste" means:
- 14 (a) a substance defined as hazardous under 75-10-403 or defined as hazardous in department
- 15 administrative rules adopted pursuant to Title 75, chapter 10, part 4; or
- 16 (b) a waste containing 2 parts or more per million of polychlorinated biphenyl (PCB).
- 17 (12)(a) "Incinerator" means any single- or multiple-chambered combustion device that burns combustible
- 18 material, alone or with a supplemental fuel or with catalytic combustion assistance, primarily for the purpose of
- 19 removal, destruction, disposal, or volume reduction of any portion of the input material.
- 20 (b) Incinerator does not include:
- 21 (i) safety flares used to combust or dispose of hazardous or toxic gases at industrial facilities, such as
- 22 refineries, gas sweetening plants, oil and gas wells, sulfur recovery plants, or elemental phosphorus plants;
- 23 (ii) space heaters that burn used oil;
- 24 (iii) wood-fired boilers; or
- 25 (iv) wood waste burners, such as tepee, wigwam, truncated cone, or silo burners.
- 26 (13) "Medical waste" means any waste that is generated in the diagnosis, treatment, or immunization of
- 27 human beings or animals, in medical research on humans or animals, or in the production or testing of biologicals.
- 28 The term includes:
- 29 (a) cultures and stocks of infectious agents;
- 30 (b) human pathological wastes;

- 1 (c) waste human blood or products of human blood;
- 2 (d) sharps;
- 3 (e) contaminated animal carcasses, body parts, and bedding that were known to have been exposed
- 4 to infectious agents during research;
- 5 (f) laboratory wastes and wastes from autopsy or surgery that were in contact with infectious agents; and
- 6 (g) biological waste and discarded material contaminated with blood, excretion, exudates, or secretions
- 7 from humans or animals.
- 8 (14) (a) "Oil or gas well facility" means a well that produces oil or natural gas. The term includes:
- 9 (i) equipment associated with the well and used for the purpose of producing, treating, separating, or
- 10 storing oil, natural gas, or other liquids produced by the well; and
- 11 (ii) a group of wells under common ownership or control that produce oil or natural gas and that share
- 12 common equipment used for the purpose of producing, treating, separating, or storing oil, natural gas, or other
- 13 liquids produced by the wells.
- 14 (b) The equipment referred to in subsection (15)(a) includes but is not limited to wellhead assemblies,
- 15 amine units, prime mover engines, phase separators, heater treater units, dehydrator units, tanks, and connecting
- 16 tubing.
- 17 (c) The term does not include equipment such as compressor engines used for transmission of oil or
- 18 natural gas.
- 19 (15) "Person" means an individual, a partnership, a firm, an association, a municipality, a public or private
- 20 corporation, the state or a subdivision or agency of the state, a trust, an estate, an interstate body, the federal
- 21 government or an agency of the federal government, or any other legal entity and includes persons resident in
- 22 Canada.
- 23 (16) "Principal" means a principal of a corporation, including but not limited to a partner, associate, officer,
- 24 parent corporation, or subsidiary corporation.
- 25 (17) "Small business stationary source" means a stationary source that:
- 26 (a) is owned or operated by a person who employs 100 or fewer individuals;
- 27 (b) is a small business concern as defined in the Small Business Act, 15 U.S.C. 631, et seq.;
- 28 (c) is not a major stationary source as defined in Subchapter V of the federal Clean Air Act, 42 U.S.C.
- 29 7661, et seq.;
- 30 (d) emits less than 50 tons per year of an air pollutant;

1 (e) emits less than a total of 75 tons per year of all air pollutants combined; and

2 (f) is not excluded from this definition under 75-2-108(3).

3 (18) (a) "Solid waste" means all putrescible and nonputrescible solid, semisolid, liquid, or gaseous  
4 wastes, including but not limited to garbage; rubbish; refuse; ashes; swill; food wastes; commercial or industrial  
5 wastes; medical waste; sludge from sewage treatment plants, water supply treatment plants, or air pollution  
6 control facilities; construction, demolition, or salvage wastes; dead animals, dead animal parts, offal, animal  
7 droppings, or litter; discarded home and industrial appliances; automobile bodies, tires, interiors, or parts thereof;  
8 wood products or wood byproducts and inert materials; styrofoam and other plastics; rubber materials; asphalt  
9 shingles; tarpaper; electrical equipment, transformers, or insulated wire; oil or petroleum products or oil or  
10 petroleum products and inert materials; treated lumber and timbers; and pathogenic or infectious waste.

11 (b) Solid waste does not include municipal sewage, industrial wastewater effluents, mining wastes  
12 regulated under the mining and reclamation laws administered by the department of environmental quality, or  
13 slash and forest debris regulated under laws administered by the department of natural resources and  
14 conservation."

15

16 **Section 7.** Section 75-5-103, MCA, is amended to read:

17 **"75-5-103. (Temporary) Definitions.** Unless the context requires otherwise, in this chapter, the following  
18 definitions apply:

19 (1) "Associated supporting infrastructure" means:

20 (a) electric transmission and distribution facilities;

21 (b) pipeline facilities;

22 (c) aboveground ponds and reservoirs and underground storage reservoirs;

23 (d) rail transportation;

24 (e) aqueducts and diversion dams;

25 (f) devices or equipment associated with the delivery of an energy form or product produced at an energy  
26 development project; or

27 (g) other supporting infrastructure, as defined by board rule, that is necessary for an energy development  
28 project.

29 (2) (a) "Base numeric nutrient standards" means numeric water quality criteria for nutrients in surface  
30 water that are adopted to protect the designated uses of a surface water body.



1 (b) The term does not include numeric water quality standards for nitrate, nitrate plus nitrite, or nitrite that  
2 are adopted to protect human health.

3 (3) "Board" means the board of environmental review provided for in 2-15-3502.

4 (4) "Contamination" means impairment of the quality of state waters by sewage, industrial wastes, or  
5 other wastes, creating a hazard to human health.

6 (5) "Council" means the water pollution control advisory council provided for in 2-15-2107.

7 (6) (a) "Currently available data" means data that is readily available to the department at the time a  
8 decision is made, including information supporting its previous lists of water bodies that are threatened or  
9 impaired.

10 (b) The term does not mean new data to be obtained as a result of department efforts.

11 (7) "Degradation" means a change in water quality that lowers the quality of high-quality waters for a  
12 parameter. The term does not include those changes in water quality determined to be nonsignificant pursuant  
13 to 75-5-301(5)(c).

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

15 (9) "Disposal system" means a system for disposing of sewage, industrial, or other wastes and includes  
16 sewage systems and treatment works.

17 (10) "Effluent standard" means a restriction or prohibition on quantities, rates, and concentrations of  
18 chemical, physical, biological, and other constituents that are discharged into state waters.

19 (11) (a) "Energy development project" means each plant, unit, or other development and associated  
20 developments, including any associated supporting infrastructure, designed for or capable of:

21 (i) generating electricity;

22 (ii) producing gas derived from coal;

23 (iii) producing liquid hydrocarbon products;

24 (iv) refining crude oil or natural gas;

25 (v) producing alcohol to be blended for ethanol-blended gasoline and that are eligible for a tax incentive  
26 pursuant to Title 15, chapter 70, part 5; or

27 ~~(vi) producing biodiesel and that are eligible for a tax incentive for the production of biodiesel pursuant~~  
28 ~~to 15-32-701; or~~

29 ~~—(vii)(vi) transmitting electricity through an electric transmission line with a design capacity of equal to or~~  
30 greater than 50 kilovolts.

1 (b) The term does not include a nuclear facility as defined in 75-20-1202.

2 (12) "Existing uses" means those uses actually attained in state waters on or after July 1, 1971, whether  
3 or not those uses are included in the water quality standards.

4 (13) "High-quality waters" means all state waters, except:

5 (a) ground water classified as of January 1, 1995, within the "III" or "IV" classifications established by  
6 the board's classification rules; and

7 (b) surface waters that:

8 (i) are not capable of supporting any one of the designated uses for their classification; or

9 (ii) have zero flow or surface expression for more than 270 days during most years.

10 (14) "Impaired water body" means a water body or stream segment for which sufficient credible data  
11 shows that the water body or stream segment is failing to achieve compliance with applicable water quality  
12 standards.

13 (15) "Industrial waste" means a waste substance from the process of business or industry or from the  
14 development of any natural resource, together with any sewage that may be present.

15 (16) "Interested person" means a person who has a real property interest, a water right, or an economic  
16 interest that is or may be directly and adversely affected by the department's preliminary decision regarding  
17 degradation of state waters, pursuant to 75-5-303. The term includes a person who has requested authorization  
18 to degrade high-quality waters.

19 (17) "Load allocation" means the portion of a receiving water's loading capacity that is allocated to one  
20 of its existing or future nonpoint sources or to natural background sources.

21 (18) "Loading capacity" means the mass of a pollutant that a water body can assimilate without a violation  
22 of water quality standards. For pollutants that cannot be measured in terms of mass, it means the maximum  
23 change that can occur from the best practicable condition in a surface water without causing a violation of the  
24 surface water quality standards.

25 (19) "Local department of health" means the staff, including health officers, employed by a county, city,  
26 city-county, or district board of health.

27 (20) "Metal parameters" includes but is not limited to aluminum, antimony, arsenic, beryllium, barium,  
28 cadmium, chromium, copper, fluoride, iron, lead, manganese, mercury, nickel, selenium, silver, thallium, and zinc.

29 (21) "Mixing zone" means an area established in a permit or final decision on nondegradation issued by  
30 the department where water quality standards may be exceeded, subject to conditions that are imposed by the

1 department and that are consistent with the rules adopted by the board.

2 (22) "Nutrient standards variance" means numeric water quality criteria for nutrients based on a  
3 determination that base numeric nutrient standards cannot be achieved because of economic impacts or because  
4 of the limits of technology. The term includes individual, general, and alternative nutrient standards variances in  
5 accordance with 75-5-313.

6 (23) "Nutrient work group" means an advisory work group, convened by the department, representing  
7 publicly owned and privately owned point sources of pollution, nonpoint sources of pollution, and other interested  
8 parties that will advise the department on the base numeric nutrient standards, the development of nutrient  
9 standards variances, and the implementation of those standards and variances together with associated  
10 economic impacts.

11 (24) "Other wastes" means garbage, municipal refuse, decayed wood, sawdust, shavings, bark, lime,  
12 sand, ashes, offal, night soil, oil, grease, tar, heat, chemicals, dead animals, sediment, wrecked or discarded  
13 equipment, radioactive materials, solid waste, and all other substances that may pollute state waters.

14 (25) "Outstanding resource waters" means:

15 (a) state surface waters located wholly within the boundaries of areas designated as national parks or  
16 national wilderness areas as of October 1, 1995; or

17 (b) other surface waters or ground waters classified by the board under the provisions of 75-5-316 and  
18 approved by the legislature.

19 (26) "Owner or operator" means a person who owns, leases, operates, controls, or supervises a point  
20 source.

21 (27) "Parameter" means a physical, biological, or chemical property of state water when a value of that  
22 property affects the quality of the state water.

23 (28) "Person" means the state, a political subdivision of the state, institution, firm, corporation,  
24 partnership, individual, or other entity and includes persons resident in Canada.

25 (29) "Point source" means a discernible, confined, and discrete conveyance, including but not limited to  
26 any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, or vessel or other floating  
27 craft, from which pollutants are or may be discharged.

28 (30) (a) "Pollution" means:

29 (i) contamination or other alteration of the physical, chemical, or biological properties of state waters that  
30 exceeds that permitted by Montana water quality standards, including but not limited to standards relating to

1 change in temperature, taste, color, turbidity, or odor; or

2 (ii) the discharge, seepage, drainage, infiltration, or flow of liquid, gaseous, solid, radioactive, or other  
3 substance into state water that will or is likely to create a nuisance or render the waters harmful, detrimental, or  
4 injurious to public health, recreation, safety, or welfare, to livestock, or to wild animals, birds, fish, or other wildlife.

5 (b) The term does not include:

6 (i) a discharge, seepage, drainage, infiltration, or flow that is authorized under the pollution discharge  
7 permit rules adopted by the board under this chapter;

8 (ii) activities conducted under this chapter that comply with the conditions imposed by the department  
9 in short-term authorizations pursuant to 75-5-308;

10 (iii) contamination of ground water within the boundaries of an underground mine using in situ coal  
11 gasification and operating in accordance with a permit issued under 82-4-221.

12 (c) Contamination referred to in subsection (30)(b)(iii) does not require a mixing zone.

13 (31) "Sewage" means water-carried waste products from residences, public buildings, institutions, or  
14 other buildings, including discharge from human beings or animals, together with ground water infiltration and  
15 surface water present.

16 (32) "Sewage system" means a device for collecting or conducting sewage, industrial wastes, or other  
17 wastes to an ultimate disposal point.

18 (33) "Standard of performance" means a standard adopted by the board for the control of the discharge  
19 of pollutants that reflects the greatest degree of effluent reduction achievable through application of the best  
20 available demonstrated control technology, processes, operating methods, or other alternatives, including, when  
21 practicable, a standard permitting no discharge of pollutants.

22 (34) (a) "State waters" means a body of water, irrigation system, or drainage system, either surface or  
23 underground.

24 (b) The term does not apply to:

25 (i) ponds or lagoons used solely for treating, transporting, or impounding pollutants; or

26 (ii) irrigation waters or land application disposal waters when the waters are used up within the irrigation  
27 or land application disposal system and the waters are not returned to state waters.

28 (35) "Sufficient credible data" means chemical, physical, or biological monitoring data, alone or in  
29 combination with narrative information, that supports a finding as to whether a water body is achieving compliance  
30 with applicable water quality standards.

1 (36) "Threatened water body" means a water body or stream segment for which sufficient credible data  
2 and calculated increases in loads show that the water body or stream segment is fully supporting its designated  
3 uses but threatened for a particular designated use because of:

4 (a) proposed sources that are not subject to pollution prevention or control actions required by a  
5 discharge permit, the nondegradation provisions, or reasonable land, soil, and water conservation practices; or  
6 (b) documented adverse pollution trends.

7 (37) "Total maximum daily load" or "TMDL" means the sum of the individual waste load allocations for  
8 point sources and load allocations for both nonpoint sources and natural background sources established at a  
9 level necessary to achieve compliance with applicable surface water quality standards.

10 (38) "Treatment works" means works, including sewage lagoons, installed for treating or holding sewage,  
11 industrial wastes, or other wastes.

12 (39) "Waste load allocation" means the portion of a receiving water's loading capacity that is allocated  
13 to one of its existing or future point sources.

14 (40) "Water quality protection practices" means those activities, prohibitions, maintenance procedures,  
15 or other management practices applied to point and nonpoint sources designed to protect, maintain, and improve  
16 the quality of state waters. Water quality protection practices include but are not limited to treatment requirements,  
17 standards of performance, effluent standards, and operating procedures and practices to control site runoff,  
18 spillage or leaks, sludge or water disposal, or drainage from material storage.

19 (41) "Water well" means an excavation that is drilled, cored, bored, washed, driven, dug, jetted, or  
20 otherwise constructed and intended for the location, diversion, artificial recharge, or acquisition of ground water.

21 (42) "Watershed advisory group" means a group of individuals who wish to participate in an advisory  
22 capacity in revising and reprioritizing the list of water bodies developed under 75-5-702 and in the development  
23 of TMDLs under 75-5-703, including those groups or individuals requested by the department to participate in  
24 an advisory capacity as provided in 75-5-704.

25 **75-5-103. (Effective on occurrence of contingency) Definitions.** Unless the context requires  
26 otherwise, in this chapter, the following definitions apply:

27 (1) "Associated supporting infrastructure" means:

28 (a) electric transmission and distribution facilities;

29 (b) pipeline facilities;

30 (c) aboveground ponds and reservoirs and underground storage reservoirs;

- 1 (d) rail transportation;
- 2 (e) aqueducts and diversion dams;
- 3 (f) devices or equipment associated with the delivery of an energy form or product produced at an energy  
4 development project; or
- 5 (g) other supporting infrastructure, as defined by board rule, that is necessary for an energy development  
6 project.
- 7 (2) (a) "Base numeric nutrient standards" means numeric water quality criteria for nutrients in surface  
8 water that are adopted to protect the designated uses of a surface water body.
- 9 (b) The term does not include numeric water quality standards for nitrate, nitrate plus nitrite, or nitrite that  
10 are adopted to protect human health.
- 11 (3) "Board" means the board of environmental review provided for in 2-15-3502.
- 12 (4) "Contamination" means impairment of the quality of state waters by sewage, industrial wastes, or  
13 other wastes, creating a hazard to human health.
- 14 (5) "Council" means the water pollution control advisory council provided for in 2-15-2107.
- 15 (6) (a) "Currently available data" means data that is readily available to the department at the time a  
16 decision is made, including information supporting its previous lists of water bodies that are threatened or  
17 impaired.
- 18 (b) The term does not mean new data to be obtained as a result of department efforts.
- 19 (7) "Degradation" means a change in water quality that lowers the quality of high-quality waters for a  
20 parameter. The term does not include those changes in water quality determined to be nonsignificant pursuant  
21 to 75-5-301(5)(c).
- 22 (8) "Department" means the department of environmental quality provided for in 2-15-3501.
- 23 (9) "Disposal system" means a system for disposing of sewage, industrial, or other wastes and includes  
24 sewage systems and treatment works.
- 25 (10) "Effluent standard" means a restriction or prohibition on quantities, rates, and concentrations of  
26 chemical, physical, biological, and other constituents that are discharged into state waters.
- 27 (11) (a) "Energy development project" means each plant, unit, or other development and associated  
28 developments, including any associated supporting infrastructure, designed for or capable of:
- 29 (i) generating electricity;
- 30 (ii) producing gas derived from coal;

- 1 (iii) producing liquid hydrocarbon products;
- 2 (iv) refining crude oil or natural gas;
- 3 (v) producing alcohol to be blended for ethanol-blended gasoline and that are eligible for a tax incentive
- 4 pursuant to Title 15, chapter 70, part 5; or
- 5 (vi) producing biodiesel and that are eligible for a tax incentive for the production of biodiesel pursuant
- 6 to 15-32-704; or
- 7 ~~——(vii)~~(vi) transmitting electricity through an electric transmission line with a design capacity of equal to or
- 8 greater than 50 kilovolts.
- 9 (b) The term does not include a nuclear facility as defined in 75-20-1202.
- 10 (12) "Existing uses" means those uses actually attained in state waters on or after July 1, 1971, whether
- 11 or not those uses are included in the water quality standards.
- 12 (13) "High-quality waters" means all state waters, except:
- 13 (a) ground water classified as of January 1, 1995, within the "III" or "IV" classifications established by
- 14 the board's classification rules; and
- 15 (b) surface waters that:
- 16 (i) are not capable of supporting any one of the designated uses for their classification; or
- 17 (ii) have zero flow or surface expression for more than 270 days during most years.
- 18 (14) "Impaired water body" means a water body or stream segment for which sufficient credible data
- 19 shows that the water body or stream segment is failing to achieve compliance with applicable water quality
- 20 standards.
- 21 (15) "Industrial waste" means a waste substance from the process of business or industry or from the
- 22 development of any natural resource, together with any sewage that may be present.
- 23 (16) "Interested person" means a person who has a real property interest, a water right, or an economic
- 24 interest that is or may be directly and adversely affected by the department's preliminary decision regarding
- 25 degradation of state waters, pursuant to 75-5-303. The term includes a person who has requested authorization
- 26 to degrade high-quality waters.
- 27 (17) "Load allocation" means the portion of a receiving water's loading capacity that is allocated to one
- 28 of its existing or future nonpoint sources or to natural background sources.
- 29 (18) "Loading capacity" means the mass of a pollutant that a water body can assimilate without a violation
- 30 of water quality standards. For pollutants that cannot be measured in terms of mass, it means the maximum

1 change that can occur from the best practicable condition in a surface water without causing a violation of the  
2 surface water quality standards.

3 (19) "Local department of health" means the staff, including health officers, employed by a county, city,  
4 city-county, or district board of health.

5 (20) "Metal parameters" includes but is not limited to aluminum, antimony, arsenic, beryllium, barium,  
6 cadmium, chromium, copper, fluoride, iron, lead, manganese, mercury, nickel, selenium, silver, thallium, and zinc.

7 (21) "Mixing zone" means an area established in a permit or final decision on nondegradation issued by  
8 the department where water quality standards may be exceeded, subject to conditions that are imposed by the  
9 department and that are consistent with the rules adopted by the board.

10 (22) "Nutrient standards variance" means numeric water quality criteria for nutrients based on a  
11 determination that base numeric nutrient standards cannot be achieved because of economic impacts or because  
12 of the limits of technology. The term includes individual, general, and alternative nutrient standards variances in  
13 accordance with 75-5-313.

14 (23) "Nutrient work group" means an advisory work group, convened by the department, representing  
15 publicly owned and privately owned point sources of pollution, nonpoint sources of pollution, and other interested  
16 parties that will advise the department on the base numeric nutrient standards, the development of nutrient  
17 standards variances, and the implementation of those standards and variances together with associated  
18 economic impacts.

19 (24) "Other wastes" means garbage, municipal refuse, decayed wood, sawdust, shavings, bark, lime,  
20 sand, ashes, offal, night soil, oil, grease, tar, heat, chemicals, dead animals, sediment, wrecked or discarded  
21 equipment, radioactive materials, solid waste, and all other substances that may pollute state waters.

22 (25) "Outstanding resource waters" means:

23 (a) state surface waters located wholly within the boundaries of areas designated as national parks or  
24 national wilderness areas as of October 1, 1995; or

25 (b) other surface waters or ground waters classified by the board under the provisions of 75-5-316 and  
26 approved by the legislature.

27 (26) "Owner or operator" means a person who owns, leases, operates, controls, or supervises a point  
28 source.

29 (27) "Parameter" means a physical, biological, or chemical property of state water when a value of that  
30 property affects the quality of the state water.



1 (28) "Person" means the state, a political subdivision of the state, institution, firm, corporation,  
2 partnership, individual, or other entity and includes persons resident in Canada.

3 (29) "Point source" means a discernible, confined, and discrete conveyance, including but not limited to  
4 any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, or vessel or other floating  
5 craft, from which pollutants are or may be discharged.

6 (30) (a) "Pollution" means:

7 (i) contamination or other alteration of the physical, chemical, or biological properties of state waters that  
8 exceeds that permitted by Montana water quality standards, including but not limited to standards relating to  
9 change in temperature, taste, color, turbidity, or odor; or

10 (ii) the discharge, seepage, drainage, infiltration, or flow of liquid, gaseous, solid, radioactive, or other  
11 substance into state water that will or is likely to create a nuisance or render the waters harmful, detrimental, or  
12 injurious to public health, recreation, safety, or welfare, to livestock, or to wild animals, birds, fish, or other wildlife.

13 (b) The term does not include:

14 (i) a discharge, seepage, drainage, infiltration, or flow that is authorized under the pollution discharge  
15 permit rules adopted by the board under this chapter;

16 (ii) activities conducted under this chapter that comply with the conditions imposed by the department  
17 in short-term authorizations pursuant to 75-5-308;

18 (iii) contamination of ground water within the boundaries of a geologic storage reservoir, as defined in  
19 82-11-101, by a carbon dioxide injection well in accordance with a permit issued pursuant to Title 82, chapter 11,  
20 part 1;

21 (iv) contamination of ground water within the boundaries of an underground mine using in situ coal  
22 gasification and operating in accordance with a permit issued under 82-4-221;

23 (c) Contamination referred to in subsections (30)(b)(iii) and (30)(b)(iv) does not require a mixing zone.

24 (31) "Sewage" means water-carried waste products from residences, public buildings, institutions, or  
25 other buildings, including discharge from human beings or animals, together with ground water infiltration and  
26 surface water present.

27 (32) "Sewage system" means a device for collecting or conducting sewage, industrial wastes, or other  
28 wastes to an ultimate disposal point.

29 (33) "Standard of performance" means a standard adopted by the board for the control of the discharge  
30 of pollutants that reflects the greatest degree of effluent reduction achievable through application of the best

1 available demonstrated control technology, processes, operating methods, or other alternatives, including, when  
2 practicable, a standard permitting no discharge of pollutants.

3 (34) (a) "State waters" means a body of water, irrigation system, or drainage system, either surface or  
4 underground.

5 (b) The term does not apply to:

6 (i) ponds or lagoons used solely for treating, transporting, or impounding pollutants; or

7 (ii) irrigation waters or land application disposal waters when the waters are used up within the irrigation  
8 or land application disposal system and the waters are not returned to state waters.

9 (35) "Sufficient credible data" means chemical, physical, or biological monitoring data, alone or in  
10 combination with narrative information, that supports a finding as to whether a water body is achieving compliance  
11 with applicable water quality standards.

12 (36) "Threatened water body" means a water body or stream segment for which sufficient credible data  
13 and calculated increases in loads show that the water body or stream segment is fully supporting its designated  
14 uses but threatened for a particular designated use because of:

15 (a) proposed sources that are not subject to pollution prevention or control actions required by a  
16 discharge permit, the nondegradation provisions, or reasonable land, soil, and water conservation practices; or

17 (b) documented adverse pollution trends.

18 (37) "Total maximum daily load" or "TMDL" means the sum of the individual waste load allocations for  
19 point sources and load allocations for both nonpoint sources and natural background sources established at a  
20 level necessary to achieve compliance with applicable surface water quality standards.

21 (38) "Treatment works" means works, including sewage lagoons, installed for treating or holding sewage,  
22 industrial wastes, or other wastes.

23 (39) "Waste load allocation" means the portion of a receiving water's loading capacity that is allocated  
24 to one of its existing or future point sources.

25 (40) "Water quality protection practices" means those activities, prohibitions, maintenance procedures,  
26 or other management practices applied to point and nonpoint sources designed to protect, maintain, and improve  
27 the quality of state waters. Water quality protection practices include but are not limited to treatment requirements,  
28 standards of performance, effluent standards, and operating procedures and practices to control site runoff,  
29 spillage or leaks, sludge or water disposal, or drainage from material storage.

30 (41) "Water well" means an excavation that is drilled, cored, bored, washed, driven, dug, jetted, or

1 otherwise constructed and intended for the location, diversion, artificial recharge, or acquisition of ground water.

2 (42) "Watershed advisory group" means a group of individuals who wish to participate in an advisory  
3 capacity in revising and reprioritizing the list of water bodies developed under 75-5-702 and in the development  
4 of TMDLs under 75-5-703, including those groups or individuals requested by the department to participate in  
5 an advisory capacity as provided in 75-5-704."

6

7 **Section 8.** Section 76-17-102, MCA, is amended to read:

8 **"76-17-102. (Temporary) Montana public land access network grant program -- donations --**

9 **rulemaking.** (1) There is a Montana public land access network grant program. An individual or organization may  
10 seek a grant from the program to secure public access through private land to public land, as defined in  
11 ~~15-30-2380~~ this section, for which there is no other legal public access or to enhance existing access to public  
12 land.

13 (2) The grant program is funded by private donations. State agencies shall, as appropriate, facilitate  
14 private donations to the Montana public land access network account established in 76-17-103, including but not  
15 limited to the following methods:

16 (a) a donation by a person of \$1 or more above the price of a wildlife conservation license purchased  
17 pursuant to 87-2-202 or the price of a combination license that includes a conservation license; and

18 (b) a donation by a person, as defined in 2-4-102, through the websites of the department of natural  
19 resources and conservation, the department of fish, wildlife, and parks, and the state of Montana.

20 (3) (a) The department of natural resources and conservation shall adopt a logo for the Montana public  
21 land access network grant program, using the acronym "MT-PLAN". The department of natural resources and  
22 conservation and the department of fish, wildlife, and parks shall use the logo on signs and maps indicating the  
23 locations and access points of public lands made accessible through the grant program.

24 (b) Subject to the limitations provided in 76-17-103(4), either department may be reimbursed from the  
25 Montana public land access network account established in 76-17-103 for reasonable costs, as determined by  
26 the board, that are associated with subsection (3)(a).

27 (4) The department of natural resources and conservation may adopt rules to implement the provisions  
28 of this part.

29 (5) As used in this section, "public land" means:

30 (a) state land, as defined in 77-1-101; or

1           (b) federal land managed by the U.S. forest service or the bureau of land management. (Terminates  
2 June 30, 2027--sec. 10, Ch. 374, L. 2017.)"

3

4           **Section 9.** Section 76-17-104, MCA, is amended to read:

5           **"76-17-104. (Temporary) Grants -- eligibility.** (1) An individual or organization may apply to the  
6 department for a grant to pay for costs associated with an access project that secures public access through  
7 private land to public land, as defined in ~~15-30-2380~~ 76-17-102, for which there is no other legal public access  
8 or to enhance existing access to public land. The costs must include payments to the owner of private land who  
9 allows public access. Grants may not be made to pay costs associated with litigation related to public access.

10           (2) An access project that is eligible to receive a grant:

11           (a) (i) except as provided in subsection (2)(a)(ii), must provide public access for recreational purposes;

12           and

13           (ii) if the access project would provide access to state trust land, as defined in 77-1-101, must provide  
14 access for all lawful purposes to the state trust land;

15           (b) may have a term that ranges from 3 years to in perpetuity. A termed easement that is awarded a  
16 grant pursuant to this section creates no expectation of access after the term expires.

17           (c) may not provide access to a previously inaccessible parcel of land if that parcel is leased state land  
18 under Title 77, chapter 1, and the lessee is not the landowner granting access to the parcel.

19           (3) The department shall make recommendations to the board regarding grant applications received  
20 pursuant to this section. A grant must be approved by the board before it is disbursed pursuant to 76-17-103.

21           (4) An access easement that is awarded a grant pursuant to this part must be held and enforced by the  
22 department.

23           (5) The department shall report the details of approved access project grants to the legislative auditor.  
24 (Terminates June 30, 2027--sec. 10, Ch. 374, L. 2017.)"

25

26           **Section 10.** Section 87-1-294, MCA, is amended to read:

27           **"87-1-294. (Temporary) Unlocking public lands program -- purpose -- commission rulemaking**  
28 **authority.** (1) The legislature finds that increasing access to public lands will provide additional opportunities for  
29 activities such as hunting, fishing, wildlife viewing, and other recreational activities as determined by the  
30 commission.

1 (2) The department may establish and administer a voluntary program to encourage access through  
 2 private land to parcels not previously deemed legally accessible to be known as the unlocking public lands  
 3 program.

4 (3) Private land is not eligible for the unlocking public lands program if outfitting or commercial hunting  
 5 restricts public hunting opportunities on that land.

6 (4) (a) If the parcel not previously deemed legally accessible is leased state land under Title 77, chapter  
 7 1, only the lessee with a qualified access to that state land ~~under 15-30-2380~~ as provided in subsection (4)(b)  
 8 is eligible for the unlocking public lands program.

9 (b) Qualified access to public land:

10 (i) includes an access or corridor established through a taxpayer's property to a parcel of public land for  
 11 recreational use and certified by the department of fish, wildlife, and parks pursuant to this section;

12 (ii) does not include a corridor established between two or more parcels of public land when the public  
 13 land parcels are surrounded by private land that the landowner or landowners have not granted permission to  
 14 cross and there is no other legal access.

15 (5) (a) A contract for participation in the unlocking public lands program is established through a  
 16 cooperative agreement between the landowner and the department that guarantees reasonable access to public  
 17 land through the landowner's private land. This contract serves as certification that the landowner is providing  
 18 qualified access to public land ~~and is eligible for the tax credit identified in 15-30-2380~~. The contract must include  
 19 a certification number for identification purposes. The department shall provide a copy of the contract to the  
 20 landowner and notify the department of revenue of the certification number. Contracts may be established with  
 21 landowners:

22 (i) to provide direct access across a landowner's land to a public parcel; or

23 (ii) who own land adjacent to the point where the corners of two parcels of public land meet. A landowner  
 24 with a contract pursuant to this subsection (5)(a)(ii) shall grant access through the landowner's land to establish  
 25 a corridor between the two parcels of public land. At least one of the parcels of public land must be accessible  
 26 by a public road, waterway, or access granted by a landowner.

27 (b) Contracts under this subsection (5) may be established with landowners who, prior to January 1,  
 28 2016, provided access to public land that was otherwise not legally accessible under subsection (9). ~~Landowners~~  
 29 ~~who establish contracts under this subsection (5)(b) are eligible to receive the tax credit identified in 15-30-2380.~~

30 (6) The commission shall develop rules for establishing contracts under this section regarding:

1 (a) duration of access;

2 (b) types of qualified access; and

3 (c) reasonable landowner-imposed limitations.

4 (7) The department shall provide public notice of any available qualified access to public land established  
5 through the unlocking public lands program.

6 (8) Recreational users of access established by the unlocking public lands program shall remain in the  
7 prescribed access route or corridor as defined by the contract in subsection (5).

8 (9) For purposes of this section:

9 (a) "parcels not previously deemed legally accessible" means public land that cannot be accessed by:

10 (i) public road, right-of-way, or easement;

11 (ii) public waters;

12 (iii) adjacent federal, state, county, or municipal land that is open to public use; or

13 (iv) adjacent private land because that landowner has not granted permission to cross; and

14 (b) "public land" means:

15 (i) state land, as defined in 77-1-101; or

16 (ii) federal land managed by the U.S. forest service or the bureau of land management. (Terminates  
17 December 31, 2027--secs. 1, 2, Ch. 139, L. 2017.)"

18

19 **NEW SECTION. Section 11. Repealer.** The following sections of the Montana Code Annotated are  
20 repealed:

21 7-21-3710. Tax credits for employers in empowerment zone.

22 15-30-2318. Earned income tax credit.

23 15-30-2319. Credit for energy-conserving investments.

24 15-30-2320. Credit for alternative fuel motor vehicle conversion.

25 15-30-2326. Credit for contributions to university or college foundations and endowment funds.

26 15-30-2342. Credit for preservation of historic buildings.

27 15-30-2356. Empowerment zone new employees -- tax credit.

28 15-30-2358. Qualified research tax credit.

29 15-30-2365. Credit for day-care facilities.

30 15-30-2367. Tax credit for providing disability insurance for employees.

- 1 15-30-2380. Credit for unlocking public lands program -- definitions.
- 2 15-30-2381. Tax credit for providing emergency lodging.
- 3 15-31-124. New or expanded industry credit -- definitions.
- 4 15-31-125. Determination of tax credit.
- 5 15-31-126. Limitation.
- 6 15-31-127. Department duties.
- 7 15-31-132. Tax credit for providing disability insurance for employees.
- 8 15-31-133. Credit for day-care facilities.
- 9 15-31-134. Empowerment zone new employees -- tax credit.
- 10 15-31-135. Contribution by small business corporation.
- 11 15-31-136. Contribution by partnership.
- 12 15-31-137. Small business corporation and partnership credit for alternative fuel conversion.
- 13 15-31-150. Credit for research expenses and research payments.
- 14 15-31-151. Credit for preservation of historic buildings.
- 15 15-31-171. Tax credit for providing emergency lodging.
- 16 15-32-109. Credit for energy-conserving expenditures.
- 17 15-32-115. Credit for geothermal system -- to whom available -- eligible costs -- limitations.
- 18 15-32-201. Amount of credit -- to whom available.
- 19 15-32-202. Taxable years in which credit may be claimed -- carryover.
- 20 15-32-203. Department to make rules.
- 21 15-32-401. Purpose and statement of policy.
- 22 15-32-402. Commercial or net metering system investment credit -- alternative energy systems.
- 23 15-32-404. Carryover of credit.
- 24 15-32-405. Exclusion from other tax incentives.
- 25 15-32-406. Separation of credit portion.
- 26 15-32-407. Rules authorized.
- 27 15-32-503. Exploration incentive credit.
- 28 15-32-504. Procedure for requesting and certifying credit.
- 29 15-32-505. Application of credit.
- 30 15-32-506. Credit carryover.

- 1 15-32-507. Credit limitation.  
2 15-32-508. Credit assignment.  
3 15-32-509. Record of credit use.  
4 15-32-701. Oilseed crush facility -- tax credit.  
5 15-32-702. Biodiesel or biolubricant production facility tax credit.  
6 15-32-703. Biodiesel blending and storage tax credit -- recapture -- report to interim committee.  
7 33-2-724. Empowerment zone new employees -- tax credit.  
8 50-51-114. Emergency lodging program -- definitions.  
9 50-51-115. Emergency lodging -- liability for damages.

10

11 NEW SECTION. **Section 12. Effective date.** [This act] is effective January 1, 2020.

12

13 NEW SECTION. **Section 13. Applicability.** [This act] applies to tax years beginning after December  
14 31, 2019.

15

- END -