

## 1 HOUSE BILL NO. 170

2 INTRODUCED BY T. WELCH

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO AND INCLUDING  
5 GREEN HYDROGEN; DEFINING TERMS; CREATING A NEW TAX CLASSIFICATION FOR GREEN  
6 HYDROGEN AND PROVIDING TAX INCENTIVES; EXEMPTING GREEN HYDROGEN FROM THE MAJOR  
7 FACILITY SITING ACT; REVISING THE STATE ENERGY POLICY TO INCLUDE GREEN HYDROGEN;  
8 REVISING THE USE OF ENERGY DEVELOPMENT AND DEMONSTRATION GRANTS FOR GREEN  
9 HYDROGEN; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 15-6-137, 15-6-141, 15-6-  
10 156, 15-6-157, 15-24-1401, 75-20-104, 75-20-201, 90-4-1001, AND 90-4-1005, MCA; AND PROVIDING AN  
11 IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

12  
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14  
15 **NEW SECTION. Section 1. Class eighteen property -- description -- taxable percentage.** (1) (a)

16 Except as provided in subsection (1)(b), class eighteen property includes the land, improvements, furniture,  
17 fixtures, equipment, tools that are not exempt under 15-6-219, and supplies, except those included in class five  
18 property under 15-6-135 of a green hydrogen facility, pipeline, or storage system.

19 (b) Power generation primary fuel sources must be at least 25% by volume derived from green  
20 hydrogen to qualify under this section.

21 (2) (a) "Green hydrogen" means hydrogen that is produced from nonfossil fuel feedstock sources and  
22 does not produce incremental greenhouse gas emissions during its production. The term does not include  
23 hydrogen produced using steam reforming or any other conversion technology that produces hydrogen from  
24 fossil fuel feedstock.

25 (b) "Green hydrogen facility" means the land, improvements, and personal property of a facility  
26 designed or modified:

27 (i) to produce green hydrogen through electrolysis technology;

28 (ii) to store or transport green hydrogen; or

1 (iii) to convert green hydrogen back to electricity through a hydrogen-capable power generation source  
2 with construction commencing after July 1, 2021.

3 (c) "Green hydrogen pipeline" means a pipeline used for the transport or storage of green hydrogen,  
4 with construction commencing after July 1, 2021.

5 (d) "Green hydrogen storage system" means:

6 (i) an energy storage system that converts electricity from nonfossil energy sources or renewable  
7 energy sources into hydrogen through electrolysis technology;

8 (ii) the temporary storage of hydrogen in a vessel, pipeline, or geologic formation; and

9 (iii) the conversion of hydrogen back to electricity through a hydrogen-capable power generation  
10 source, with construction commencing after July 1, 2021.

11 (3) During construction, property not meeting the requirements of subsection (2) must be classified as  
12 class eighteen property if, prior to March 1 of the first tax year for which the classification will be applied, the  
13 taxpayer certifies to the department that the facility under construction will meet the requirements of subsection  
14 (2) within 2 years of the date of the certification.

15 (4) The taxable property of a green hydrogen facility, a green hydrogen pipeline, and a green  
16 hydrogen storage system must be locally assessed.

17 (5) Class eighteen property does not include a green hydrogen facility, pipeline, or storage system for  
18 which, during construction, the standard prevailing wages for heavy construction, as provided in 18-2-  
19 401(13)(a), were not paid during the construction phase.

20 (6) Class eighteen property is taxed at 1.5% of its market value.

21

22 **NEW SECTION. Section 2. Rules.** (1) The department of revenue shall adopt rules for the  
23 implementation of [sections 1 and 2], including:

24 (a) the valuation of property and administration of property classified under [section 1]; and

25 (b) rules necessary for certification and compliance with [section 1].

26 (2) The rules may include specifying procedures, including timeframes for application, and definitions  
27 necessary to identify property for compliance.

28

1           **Section 3.** Section 15-6-137, MCA, is amended to read:

2           **"15-6-137. Class seven property -- description -- taxable percentage.** (1) Except as provided in  
3 subsection (2), class seven property includes:

4           (a) all property owned by cooperative rural electrical associations that serve less than 95% of the  
5 electricity consumers within the incorporated limits of a city or town, except rural electric cooperative properties  
6 described in 15-6-141(1)(c);

7           (b) electric transformers and meters; electric light and power substation machinery; natural gas  
8 measuring and regulating station equipment, meters, and compressor station machinery owned by noncentrally  
9 assessed public utilities; and tools used in the repair and maintenance of this property.

10           (2) Class seven property does not include wind generation facilities, biomass generation facilities, ~~and~~  
11 energy storage facilities classified under 15-6-157, and property classified under [section 1].

12           (3) Class seven property is taxed at 8% of its market value."  
13

14           **Section 4.** Section 15-6-141, MCA, is amended to read:

15           **"15-6-141. Class nine property -- description -- taxable percentage.** (1) Class nine property  
16 includes:

17           (a) centrally assessed allocations of an electric power company or centrally assessed allocations of  
18 an electric power company that owns or operates transmission or distribution facilities or both;

19           (b) if congress passes legislation that allows the state to tax property owned by an agency created by  
20 congress to transmit or distribute electrical energy, allocations of properties constructed, owned, or operated by  
21 a public agency created by congress to transmit or distribute electrical energy produced at privately owned  
22 generating facilities, not including rural electric cooperatives;

23           (c) rural electric cooperatives' property, except wind generation facilities, biomass generation facilities,  
24 and energy storage facilities classified under 15-6-157 and property used for headquarters, office, shop, or  
25 other similar facilities, used for the sole purpose of serving customers representing less than 95% of the electric  
26 consumers located within the incorporated limits of a city or town of more than 3,500 persons in which a  
27 centrally assessed electric power company also owns property or serving an incorporated municipality with a  
28 population that is greater than 3,500 persons formerly served by a public utility that after January 1, 1998,

1 received service from the facilities of an electric cooperative;

2 (d) allocations for centrally assessed natural gas distribution utilities, rate-regulated natural gas  
3 transmission or oil transmission pipelines regulated by either the public service commission or the federal  
4 energy regulatory commission, a common carrier pipeline as defined in 69-13-101, a pipeline carrier as defined  
5 in 49 U.S.C. 15102(2), or the gas gathering facilities specified in 15-6-138(5); and

6 (e) centrally assessed companies' allocations except:

7 (i) electrical generation facilities classified under 15-6-156;

8 (ii) all property classified under 15-6-157;

9 (iii) all property classified under 15-6-158 and 15-6-159;

10 (iv) property owned by cooperative rural electric and cooperative rural telephone associations and  
11 classified under 15-6-135;

12 (v) property owned by organizations providing telephone communications to rural areas and classified  
13 under 15-6-135;

14 (vi) railroad transportation property included in 15-6-145;

15 (vii) airline transportation property included in 15-6-145; ~~and~~

16 (viii) telecommunications property included in 15-6-156; and

17 (ix) all property classified under [section 1].

18 (2) Class nine property is taxed at 12% of market value."

19

20 **Section 5.** Section 15-6-156, MCA, is amended to read:

21 **"15-6-156. Class thirteen property -- description -- taxable percentage.** (1) Except as provided in  
22 subsections (2)(a) through (2)(~~h~~)(i), class thirteen property includes:

23 (a) electrical generation facilities, except wind generation facilities, biomass generation facilities, and  
24 energy storage facilities classified under 15-6-157, of a centrally assessed electric power company;

25 (b) electrical generation facilities, except wind generation facilities, biomass generation facilities, and  
26 energy storage facilities classified under 15-6-157, owned or operated by an exempt wholesale generator or an  
27 entity certified as an exempt wholesale generator pursuant to 42 U.S.C. 16451;

28 (c) noncentrally assessed electrical generation facilities, except wind generation facilities, biomass

1 generation facilities, and energy storage facilities classified under 15-6-157, owned or operated by any  
2 electrical energy producer;

3 (d) allocations of centrally assessed telecommunications services companies; and

4 (e) dedicated communications infrastructure described in 15-6-162(5) for which construction  
5 commenced after June 30, 2027, or for which the 15-year period provided for in 15-6-162(5)(c) has expired.

6 (2) Class thirteen property does not include:

7 (a) property owned by cooperative rural electric cooperative associations classified under 15-6-135;

8 (b) property owned by cooperative rural electric cooperative associations classified under 15-6-137 or  
9 15-6-157;

10 (c) allocations of electric power company property under 15-6-141;

11 (d) electrical generation facilities included in another class of property;

12 (e) property owned by cooperative rural telephone associations and classified under 15-6-135;

13 (f) property owned by organizations providing telecommunications services and classified under 15-6-  
14 135;

15 (g) generation facilities that are exempt under 15-6-225; ~~and~~

16 (h) qualified data centers classified under 15-6-162; and

17 (i) property classified under [section 1].

18 (3) (a) For the purposes of this section, "electrical generation facilities" means any combination of a  
19 physically connected generator or generators, associated prime movers, and other associated property,  
20 including appurtenant land and improvements and personal property, that are normally operated together to  
21 produce electric power. The term includes but is not limited to generating facilities that produce electricity from  
22 coal-fired steam turbines, oil or gas turbines, or turbine generators that are driven by falling water.

23 (b) The term does not include electrical generation facilities used for noncommercial purposes or  
24 exclusively for agricultural purposes.

25 (c) The term also does not include a qualifying small power production facility, as that term is defined  
26 in 16 U.S.C. 796(17), that is owned and operated by a person not primarily engaged in the generation or sale of  
27 electricity other than electric power from a small power production facility and classified under 15-6-134 and 15-  
28 6-138.

1 (4) Class thirteen property is taxed at 6% of its market value."  
2

3 **Section 6.** Section 15-6-157, MCA, is amended to read:

4 **"15-6-157. Class fourteen property -- description -- taxable percentage.** (1) Class fourteen  
5 property includes:

6 (a) wind generation facilities of a centrally assessed electric power company;

7 (b) wind generation facilities owned or operated by an exempt wholesale generator or an entity  
8 certified as an exempt wholesale generator pursuant to 42 U.S.C. 16451;

9 (c) noncentrally assessed wind generation facilities owned or operated by any electrical energy  
10 producer;

11 (d) wind generation facilities owned or operated by cooperative rural electric associations described  
12 under 15-6-137;

13 (e) biomass generation facilities up to 25 megawatts in nameplate capacity of a centrally assessed  
14 electric power company;

15 (f) biomass generation facilities up to 25 megawatts in nameplate capacity owned or operated by an  
16 exempt wholesale generator or an entity certified as an exempt wholesale generator pursuant to 42 U.S.C.  
17 16451;

18 (g) noncentrally assessed biomass generation facilities up to 25 megawatts in nameplate capacity  
19 owned or operated by any electrical energy producer;

20 (h) biomass generation facilities up to 25 megawatts in nameplate capacity owned or operated by  
21 cooperative rural electric associations described under 15-6-137;

22 (i) energy storage facilities of a centrally assessed electric power company;

23 (j) energy storage facilities owned or operated by an exempt wholesale generator or an entity certified  
24 as an exempt wholesale generator pursuant to 42 U.S.C. 16451;

25 (k) noncentrally assessed energy storage facilities owned or operated by any electrical energy  
26 producer;

27 (l) energy storage facilities owned or operated by cooperative rural electrical associations described  
28 under 15-6-137;

1 (m) battery energy storage systems that comply with federal standards on the manufacture and  
2 installation of the systems that are owned and operated by an electrical energy storage producer, electrical  
3 energy producer, or energy trading entity or by the owner or operator of an electrical vehicle charging site;

4 (n) all property of a biodiesel production facility, as defined in 15-24-3102, that has commenced  
5 construction after June 1, 2007;

6 (o) all property of a biogas production facility, as defined in 15-24-3102, that has commenced  
7 construction after June 1, 2007;

8 (p) all property of a biomass gasification facility, as defined in 15-24-3102;

9 (q) all property of a coal gasification facility, as defined in 15-24-3102, except for property in  
10 subsection (1)(t) of this section, that sequesters carbon dioxide;

11 (r) all property of an ethanol production facility, as defined in 15-24-3102, that has commenced  
12 construction after June 1, 2007;

13 (s) all property of a geothermal facility, as defined in 15-24-3102;

14 (t) all property of an integrated gasification combined cycle facility, as defined in 15-24-3102, that  
15 sequesters carbon dioxide, as required by 15-24-3111(4)(c);

16 (u) all property or a portion of the property of a renewable energy manufacturing facility, as defined in  
17 15-24-3102, that has commenced construction after June 1, 2007;

18 (v) all property of a natural gas combined cycle facility;

19 (w) equipment that is used to capture and to prepare for transport carbon dioxide that will be  
20 sequestered or injected for the purpose of enhancing the recovery of oil and gas, other than that equipment at  
21 coal combustion plants of the types that are generally in commercial use as of December 31, 2007, that  
22 commence construction after December 31, 2007;

23 (x) high-voltage direct-current transmission lines and associated equipment and structures, including  
24 converter stations and interconnections, other than property classified under 15-6-159, that:

25 (i) originate in Montana with a converter station located in Montana east of the continental divide and  
26 that are constructed after July 1, 2007;

27 (ii) are certified under the Montana Major Facility Siting Act; and

28 (iii) provide access to energy markets for Montana electrical generation facilities listed in this section

1 that commenced construction after June 1, 2007;

2 (y) all property of electric transmission lines, including substations, that originate at facilities specified  
3 in this subsection (1), with at least 90% of electricity carried by the line originating at facilities specified in this  
4 subsection (1) and terminating at an existing transmission line or substation that has commenced construction  
5 after June 1, 2007;

6 (z) the qualified portion of an alternating current transmission line and its associated equipment and  
7 structures, including interconnections, that has commenced construction after June 1, 2007.

8 (2) (a) The qualified portion of an alternating current transmission line in subsection (1)(z) is that  
9 percentage, as determined by the department of environmental quality, of rated transmission capacity of the  
10 line contracted for on a firm basis by buyers or sellers of electricity generated by facilities specified in  
11 subsection (1) that are located in Montana.

12 (b) The department of revenue shall classify the total value of an alternating current transmission line  
13 in accordance with the determination made by the department of environmental quality pursuant to subsection  
14 (2)(a).

15 (c) The owner of property described under this subsection (2) shall disclose the location of the  
16 generation facilities specified in subsection (1) and information sufficient to demonstrate that there is a firm  
17 contract for transmission capacity available throughout the year. For purposes of the initial qualification, the  
18 owner is not required to disclose financial terms and conditions of contracts beyond that needed for  
19 classification.

20 (3) Class fourteen property does not include facilities:

21 (a) at which the standard prevailing rate of wages for heavy construction, as provided in 18-2-414,  
22 was not paid during the construction phase; or

23 (b) that are exempt under 15-6-225.

24 (4) For the purposes of this section, the following definitions apply:

25 (a) "Biomass generation facilities" means any combination of boilers, generators, associated prime  
26 movers, and other associated property, including appurtenant land and improvements and personal property,  
27 that are normally operated together to produce electric power from the burning of organic material other than  
28 coal, petroleum, natural gas, or any products derived from coal, petroleum, or natural gas, with the use of



1 natural gas or other fuels allowed for ignition and to stabilize boiler operations.

2 (b) (i) "Compressed air energy storage" means the conversion of electrical energy to compressed air  
3 by using an electrically powered turbocompressor for storage in vessels designed for that purpose and in the  
4 earth, including but not limited to deep saline formations, basalt formations, aquifers, depleted oil or gas  
5 reservoirs, abandoned mines, and mined rock cavities.

6 (ii) The term includes the conversion of compressed air into electrical energy by using turboexpander  
7 equipment and electrical generation equipment.

8 (c) (i) "Energy storage facilities" means hydroelectric pumped storage property, compressed air  
9 energy storage property, regenerative fuel cells, batteries, flywheel storage property, or any combination of  
10 energy storage facilities directly connected to the electrical power grid and associated property, appurtenant  
11 land and improvements, and personal property that are designed to:

12 (A) receive and store electrical energy as potential energy; and

13 (B) convert the stored energy into electrical energy for sale as an energy commodity or as electricity  
14 services to balance energy flow on the electrical power grid in order to maintain a stable transmission grid,  
15 including but not limited to frequency regulation ancillary services and frequency control.

16 (ii) The term includes only property that in the aggregate can store at least 0.25 megawatt hour and  
17 has a power rating of at least 1 megawatt for a period of at least 0.25 hour.

18 (iii) The term does not include property, including associated property and appurtenant land and  
19 improvements, that is used to hold water in ponds, reservoirs, or impoundments related to hydroelectric  
20 pumped storage as defined in subsection (4)(e).

21 (d) "Flywheel storage" means a process that stores energy kinetically in the form of a rotating  
22 flywheel. Energy stored by the rotating flywheel can be converted to electrical energy through the flywheel's  
23 integrated electric generator.

24 (e) "Hydroelectric pumped storage" means a process that converts electrical energy to potential  
25 energy by pumping water to a higher elevation, where it can be stored indefinitely and then released to pass  
26 through hydraulic turbines and generate electrical energy.

27 (f) (i) "Regenerative fuel cell" means a device that produces hydrogen and oxygen from electricity  
28 and water and alternately produces electrical energy and water from stored hydrogen and oxygen.

1           (ii) The term does not include a green hydrogen facility, green hydrogen pipeline, or green hydrogen  
2 storage system as defined in [section 1].

3           (g) "Wind generation facilities" means any combination of a physically connected wind turbine or  
4 turbines, associated prime movers, and other associated property, including appurtenant land and  
5 improvements and personal property, that are normally operated together to produce electric power from wind.

6           (5) (a) The department of environmental quality shall determine whether to certify that a transmission  
7 line meets the criteria of subsection (1)(x), (1)(y), or (1)(z), as applicable, based on an application provided for  
8 in 15-24-3112. The department of environmental quality shall review the certification 10 years after the line is  
9 operational, and if the property no longer meets the requirements of subsection (1)(x), (1)(y), or (1)(z), the  
10 certification must be revoked.

11           (b) If the department of revenue finds that a certification previously granted was based on an  
12 application that the applicant knew was false or fraudulent, the property must be placed in class nine under 15-  
13 6-141. If the application was fraudulent, the applicant may be liable for additional taxes, penalty, and interest  
14 from the time that the certification was in effect.

15           (6) Class fourteen property is taxed at 3% of its market value."  
16

17           **Section 7.** Section 15-24-1401, MCA, is amended to read:

18           "**15-24-1401. Definitions.** The following definitions apply to 15-24-1402 unless the context requires  
19 otherwise:

20           (1) "Expansion" means that the industry has added or will add at least \$50,000 worth of qualifying  
21 improvements or modernized processes to its property within the same jurisdiction either in the first tax year in  
22 which the benefits provided for in 15-24-1402 are to be received or in the preceding tax year.

23           (2) "Industry" includes but is not limited to a firm that:

24           (a) engages in the mechanical or chemical transformation of materials or substances into products in  
25 the manner defined as manufacturing in the North American Industry Classification System Manual prepared by  
26 the United States office of management and budget;

27           (b) engages in the extraction or harvesting of minerals, ore, or forestry products;

28           (c) engages in the processing of Montana raw materials such as minerals, ore, agricultural products,

1 and forestry products;

2 (d) engages in the transportation, warehousing, or distribution of commercial products or materials if  
3 50% or more of the industry's gross sales or receipts are earned from outside the state;

4 (e) earns 50% or more of its annual gross income from out-of-state sales;

5 (f) engages in the production of electrical energy in an amount of 1 megawatt or more by means of an  
6 alternative renewable energy source as defined in 15-6-225; ~~or~~

7 (g) operates a qualified data center or dedicated communications infrastructure classified under 15-6-  
8 162; or

9 (h) operates a green hydrogen facility, green hydrogen pipeline, or green hydrogen storage system as  
10 defined in [section 1].

11 (3) "New" means that the firm is new to the jurisdiction approving the resolution provided for in 15-24-  
12 1402(2) and has invested or will invest at least \$125,000 worth of qualifying improvements or modernized  
13 processes in the jurisdiction either in the first tax year in which the benefits provided for in 15-24-1402 are to be  
14 received or in the preceding tax year. New industry does not include property treated as new industrial property  
15 under 15-6-135.

16 (4) "Qualifying" means meeting all the terms, conditions, and requirements for a reduction in taxable  
17 value under 15-24-1402 and this section."  
18

19 **Section 8.** Section 75-20-104, MCA, is amended to read:

20 **"75-20-104. Definitions.** In this chapter, unless the context requires otherwise, the following  
21 definitions apply:

22 (1) "Addition thereto" means the installation of new machinery and equipment that would significantly  
23 change the conditions under which the facility is operated.

24 (2) "Application" means an application for a certificate submitted in accordance with this chapter and  
25 the rules adopted under this chapter.

26 (3) (a) "Associated facilities" includes but is not limited to transportation links of any kind, aqueducts,  
27 diversion dams, pipelines, storage ponds, reservoirs, and any other device or equipment associated with the  
28 delivery of the energy form or product produced by a facility.

1 (b) The term does not include a transmission substation, a switchyard, voltage support, or other  
2 control equipment or a facility or a natural gas or crude oil gathering line 25 inches or less in inside diameter.

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

4 (5) "Certificate" means the certificate of compliance issued by the department under this chapter that  
5 is required for the construction or operation of a facility.

6 (6) "Commence to construct" means:

7 (a) any clearing of land, excavation, construction, or other action that would affect the environment of  
8 the site or route of a facility but does not mean changes needed for temporary use of sites or routes for  
9 nonutility purposes or uses in securing geological data, including necessary borings to ascertain foundation  
10 conditions;

11 (b) the fracturing of underground formations by any means if the activity is related to the possible  
12 future development of a gasification facility or a facility employing geothermal resources but does not include  
13 the gathering of geological data by boring of test holes or other underground exploration, investigation, or  
14 experimentation;

15 (c) the commencement of eminent domain proceedings under Title 70, chapter 30, for land or rights-  
16 of-way upon or over which a facility may be constructed;

17 (d) the relocation or upgrading of an existing facility defined by subsection (9)(a) or (9)(b), including  
18 upgrading to a design capacity covered by subsection (9)(a), except that the term does not include normal  
19 maintenance or repair of an existing facility.

20 (7) (a) "Commencement of acquisition of right-of-way" means the actual, defined legal transfer of  
21 property.

22 (b) The term does not mean preliminary discussions, option agreements that are not within 60 days of  
23 commencement of acquisition, letters of intent, or other documents that do not conclusively result in the legal  
24 transfer of property.

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

26 (9) "Facility" means, subject to 75-20-1202:

27 (a) each electric transmission line and associated facilities of a design capacity of more than 69  
28 kilovolts, except that the term:

1 (i) does not include an electric transmission line and associated facilities of a design capacity of 230  
2 kilovolts or less and 10 miles or less in length;

3 (ii) does not include an electric transmission line with a design capacity of more than 69 kilovolts for  
4 which the person planning to construct the line has obtained right-of-way agreements or options for a right-of-  
5 way from more than 75% of the owners who collectively own more than 75% of the property along the  
6 centerline;

7 (iii) does not include electric transmission lines that are collectively less than 150 miles in length and  
8 are required under state or federal regulations and laws, with respect to reliability of service, for an electrical  
9 generation facility, as defined in 15-24-3001(4), ~~or for a wind generation facility, biomass generation facility, or~~  
10 energy storage facility, as defined in 15-6-157, or for a green hydrogen facility or green hydrogen storage  
11 system, as defined in [section 1], to interconnect to a regional transmission grid or secure firm transmission  
12 service to use the grid for which the person planning to construct the line or lines has obtained right-of-way  
13 agreements or options for a right-of-way from more than 75% of the owners who collectively own more than  
14 75% of the property along the centerline or centerlines;

15 (iv) does not include an upgrade to an existing transmission line of a design capacity of 50 kilovolts or  
16 more to increase that line's capacity, including construction outside the existing easement or right-of-way.  
17 Except for a newly acquired easement or right-of-way necessary to comply with electromagnetic field  
18 standards, a newly acquired easement or right-of-way outside the existing easement or right-of-way as  
19 described in this subsection (9)(a)(iv) may not exceed a total of 10 miles in length or be more than 10% of the  
20 existing transmission right-of-way, whichever is greater, and the purpose of the easement must be to avoid  
21 sensitive areas or inhabited areas or conform to state or federal safety, reliability, and operational standards  
22 designed to safeguard the transmission network and protect electrical workers and the public.

23 (v) does not include a transmission substation, a switchyard, voltage support, or other control  
24 equipment;

25 (vi) does not include an energy storage facility, as defined in 15-6-157;

26 (vii) does not include a green hydrogen facility or green hydrogen storage system, as defined in  
27 [section 1];

28 (b) (i) each pipeline, whether partially or wholly within the state, greater than 25 inches in inside

1 diameter and 50 miles in length, and associated facilities, except that the term does not include:

2 (A) a pipeline within the boundaries of the state that is used exclusively for the irrigation of agricultural  
3 crops or for drinking water; ~~or~~

4 (B) a pipeline greater than 25 inches in inside diameter and 50 miles in length for which the person  
5 planning to construct the pipeline has obtained right-of-way agreements or options for a right-of-way from more  
6 than 75% of the owners who collectively own more than 75% of the property along the centerline; or

7 (C) a green hydrogen pipeline, as defined in [section 1];

8 (ii) each pipeline, whether partially or wholly within the state, greater than 17 inches in inside diameter  
9 and 30 miles in length, and associated facilities used to transport coal suspended in water;

10 (c) any use of geothermal resources, including the use of underground space in existence or to be  
11 created, for the creation, use, or conversion of energy, designed for or capable of producing geothermally  
12 derived power equivalent to 50 megawatts or more or any addition thereto, except pollution control facilities  
13 approved by the department and added to an existing plant, except that the term does not include a  
14 compressed air energy storage facility, as defined in 15-6-157, or a green hydrogen facility or green hydrogen  
15 storage system, as defined in [section 1]; or

16 (d) for the purposes of 75-20-204 only, a plant, unit, or other facility capable of generating 50  
17 megawatts of hydroelectric power or more or any addition thereto.

18 (10) "Person" means any individual, group, firm, partnership, corporation, limited liability company,  
19 cooperative, association, government subdivision, government agency, local government, or other organization  
20 or entity.

21 (11) "Sensitive areas" means government-designated areas that have been recognized for their  
22 importance to Montana's wildlife, wilderness, culture, and historic heritage, including but not limited to national  
23 wildlife refuges, state wildlife management areas, federal areas of critical environmental concern, state parks  
24 and historic sites, designated wilderness areas, wilderness study areas, designated wild and scenic rivers, or  
25 national parks, monuments, or historic sites.

26 (12) ~~"Transmission substation" means any structure, device, or equipment assemblage, commonly~~  
27 ~~located and designed for voltage regulation, circuit protection, or switching necessary for the construction or~~  
28 ~~operation of a proposed transmission line.~~ "Transmission reliability agencies" means the federal energy

1 regulatory commission, the western electricity coordinating council, the national electric reliability council, and  
 2 the midwest reliability organization.

3 ~~(13) "Transmission reliability agencies" means the federal energy regulatory commission, the western~~  
 4 ~~electricity coordinating council, the national electric reliability council, and the midwest reliability organization.~~  
 5 "Transmission substation" means any structure, device, or equipment assemblage, commonly located and  
 6 designed for voltage regulation, circuit protection, or switching necessary for the construction or operation of a  
 7 proposed transmission line.

8 (14) "Upgrade" means to increase the electrical carrying capacity of a transmission line by actions  
 9 including but not limited to:

- 10 (a) installing larger conductors;  
 11 (b) replacing insulators;  
 12 (c) replacing pole or tower structures;  
 13 (d) changing structure spacing, design, or guying; or  
 14 (e) installing additional circuits.

15 (15) "Utility" means any person engaged in any aspect of the production, storage, sale, delivery, or  
 16 furnishing of heat, electricity, gas, hydrocarbon products, or energy in any form for ultimate public use."  
 17

18 **Section 9.** Section 75-20-201, MCA, is amended to read:

19 **"75-20-201. Certificate required -- operation in conformance -- certificate for nuclear facility --**

20 **applicability to federal facilities.** (1) Except for a facility under diligent onsite physical construction or in  
 21 operation on January 1, 1973, a person may not commence to construct a facility in the state without first  
 22 applying for and obtaining a certificate of compliance issued with respect to the facility by the department.

23 (2) A facility with respect to which a certificate is issued may not be constructed, operated, or  
 24 maintained except in conformity with the certificate and any terms, conditions, and modifications contained  
 25 within the certification.

26 (3) A certificate may only be issued pursuant to this chapter.

27 (4) If the department decides to issue a certificate for a nuclear facility, it shall report the  
 28 recommendation to the applicant and may not issue the certificate until the recommendation is approved by a

1 majority of the voters in a statewide election called by initiative or referendum according to the laws of this  
2 state.

3 (5) A person that proposes to construct an energy-related project that is not defined as a facility  
4 pursuant to 75-20-104(9) may petition the department to review the energy-related project under the provisions  
5 of this chapter. The construction or installation of an energy storage facility, as defined in 15-6-157, or a green  
6 hydrogen facility, a green hydrogen pipeline, or a green hydrogen storage system, as defined in [section 1], is  
7 not considered an energy-related project under the provisions of this chapter. A certificate for the construction  
8 or installation of an energy storage facility, or a green hydrogen facility, a green hydrogen pipeline, or a green  
9 hydrogen storage system, as defined in [section 1], is not required under this chapter.

10 (6) This chapter applies, to the fullest extent allowed by federal law, to all federal facilities and to all  
11 facilities over which an agency of the federal government has jurisdiction.

12 (7) All judicial challenges of certificates for projects with a project cost, as determined by the court, of  
13 more than \$1 million must have precedence over any civil cause of a different nature pending in that court. If  
14 the court determines that the challenge was without merit or was for an improper purpose, such as to harass, to  
15 cause unnecessary delay, or to impose needless or increased cost in litigation, the court may award attorney  
16 fees and costs incurred in defending the action."

17

18 **Section 10.** Section 90-4-1001, MCA, is amended to read:

19 **"90-4-1001. State energy policy goal statements.** (1) It is the policy of the state of Montana to:

20 (a) promote energy efficiency, conservation, production, and consumption of a reliable and efficient  
21 mix of energy sources that represent the least social, environmental, and economic costs and the greatest long-  
22 term benefits to Montana citizens;

23 (b) enhance existing energy development and create new diversified energy development from all of  
24 Montana's abundant energy resources;

25 (c) promote development of projects using advanced technologies that convert coal into electricity,  
26 synthetic petroleum products, hydrogen, methane, natural gas, and chemical feedstocks;

27 (d) increase utilization of Montana's vast coal reserves in an environmentally sound manner that  
28 includes the mitigation of greenhouse gas and other emissions;



- 1 (e) increase local oil and gas exploration and development to provide high-paying jobs and to  
2 strengthen Montana's economy;
- 3 (f) expand exploration and technological innovation, including using carbon dioxide for enhanced oil  
4 recovery in declining oil fields to increase output;
- 5 (g) expand Montana's petroleum refining industry as a significant contributor to Montana's  
6 manufacturing sector in supplying the transportation energy needs of Montana and the region;
- 7 (h) develop biomass plants to generate heat for industrial use, electricity, or both, and as a means to  
8 manage Montana's forests;
- 9 (i) promote the generation of low-cost electricity with large-scale utility wind generation and small-  
10 scale distributed generation;
- 11 (j) build new transmission lines in the state, while noting that the need for new transmission lines may  
12 be mitigated by focusing on energy efficiency, distributed energy, demand response, and smart grid  
13 technologies;
- 14 (k) increase the capacity of existing transmission lines in existing corridors and maximize the potential  
15 of existing transmission lines;
- 16 (l) develop new transmission lines, pipelines, and other energy infrastructure in Montana by working  
17 closely with all affected stakeholders, including local governments, in the preliminary stages of development;
- 18 (m) address the interests of property owners and property rights as soon as practicable when  
19 developing a project to provide time to consider a variety of options as easements are secured;
- 20 (n) ensure that the costs of transmission lines that allow for the export of Montana-generated  
21 electricity are borne by those who will benefit from the lines in order to protect Montana's ratepayers from the  
22 costs of serving others;
- 23 (o) strengthen Montana's level of participation in regional transmission efforts and organizations,  
24 recognizing that endeavors to improve the management of the transmission grid often require a broad, regional  
25 approach;
- 26 (p) use new and innovative technologies, such as compressed air energy storage, batteries,  
27 flywheels, hydrogen production, green hydrogen facilities and green hydrogen storage systems as defined in  
28 [section 1], smart grid, smart garage, and intrahour balancing services to address ~~wind~~ wind integration of wind and

1 other forms of renewable energy;

2 (q) utilize modeling and high-capacity computer technology to quantify the benefits of geographic  
3 diversity and for regional planning in the siting of future wind development facilities in order to optimize usable  
4 power generation and mitigate firming needs;

5 (r) review potential impacts to landscapes, wildlife, and existing land uses, including recreation and  
6 agriculture when developing wind generation;

7 (s) develop contracts between qualifying small power production facilities, as defined in 69-3-601, and  
8 utilities, which facilitate the development of small power production facilities by identifying fair and reasonable  
9 costs for integration of their power;

10 (t) monitor existing energy incentives to determine if they are cost-effective, noting that incentives are  
11 a temporary tool to implement and promote:

12 (i) new technologies;

13 (ii) new fuel sources;

14 (iii) efficiency and conservation; and

15 (iv) energy diversity;

16 (u) enhance Montana's overall management responsibilities, both fiduciary and multiple-use, pursuant  
17 to The Enabling Act of the state of Montana, Article X of the Montana constitution, and Title 7, chapter 1, in  
18 pursuing energy development on state lands;

19 (v) develop and use best management practices for energy development on state lands;

20 (w) develop and emphasize building performance standards for efficiency as an alternative to  
21 prescriptive standards in order to encourage innovations that may result in more comfort for the property owner  
22 and less energy use at a lower cost; and

23 (x) ensure that adequate amounts of the electrical energy produced at the lowest cost in this state are  
24 reserved for Montana's families, businesses, and industries.

25 (2) In pursuing these goal statements, it is the policy of the state of Montana to:

26 (a) consider that the state's energy system operates within the larger context of and is influenced by  
27 regional, national, and international energy markets;

28 (b) develop Montana's existing and new, diversified energy resources to provide low-cost electricity,

1 gas, and liquid fuels needed to drive economic growth and self sufficiency;

2 (c) reduce the nation's reliance on foreign oil that often comes from unfriendly countries around the  
3 world;

4 (d) consider reviewing these energy policy statements and any future changes pursuant to 90-4-1003  
5 so that Montana's energy strategy will provide for a balance between a sustainable environment and a viable  
6 economy;

7 (e) adopt a state transportation energy policy as provided in 90-4-1010 and an alternative fuels policy  
8 and implementing guidelines as provided in 90-4-1011; and

9 (f) consider revisions to the state transportation energy policy and the alternative fuels policy and  
10 implementing guidelines, if necessary."

11

12 **Section 11.** Section 90-4-1005, MCA, is amended to read:

13 **"90-4-1005. Energy development and demonstration grant program.** (1) There is an energy  
14 development and demonstration grant program within the department of environmental quality to fund  
15 technology development and demonstration:

16 (a) advancing the development and utilization of energy storage systems, including but not limited to  
17 mediums, such as accumulators, fuel cells, ~~and~~ batteries, and green hydrogen storage systems as defined in  
18 [section 1] that store energy that may be drawn upon at a later date for use;

19 (b) developing storage systems specifically designed to store energy generated from eligible  
20 renewable resources as defined in 69-3-2003, including but not limited to compressed air energy and green  
21 hydrogen storage systems;

22 (c) promoting the efficiency, environmental performance, and cost-competitiveness of energy storage  
23 systems beyond the current level of technology; and

24 (d) advancing the development of alternative energy systems as defined in 15-32-102 and green  
25 hydrogen facilities as defined in [section 1].

26 (2) Entities that may be eligible for grants include but are not limited to units of the Montana university  
27 system, agricultural research centers, or private entities or research centers.

28 (3) Money appropriated to the department of environmental quality for the purpose of the energy

1 development and demonstration grant program may be used by the department for providing individual grants  
2 in amounts up to \$500,000 and for administrative costs of 1% of the grant award.

3 (4) The grant application may include:

4 (a) a project plan sufficient to allow a reasonable determination regarding the potential feasibility of  
5 advancing energy storage or alternative energy systems;

6 (b) a business plan to allow a reasonable determination regarding the financial feasibility of the  
7 project; and

8 (c) a reporting process to ensure progress toward project goals."  
9

10 **NEW SECTION. Section 12. Notification to tribal governments.** The secretary of state shall send a  
11 copy of [this act] to each federally recognized tribal government in Montana.  
12

13 **NEW SECTION. Section 13. Codification instruction.** [Sections 1 and 2] are intended to be codified  
14 as an integral part of Title 15, chapter 6, and the provisions of Title 15, chapter 6, apply to [sections 1 and 2].  
15

16 **NEW SECTION. Section 14. Severability.** If a part of [this act] is invalid, all valid parts that are  
17 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,  
18 the part remains in effect in all valid applications that are severable from the invalid applications.  
19

20 **NEW SECTION. Section 15. Effective date.** [This act] is effective on passage and approval.  
21

22 **NEW SECTION. Section 16. Applicability.** [This act] applies to tax years beginning after December  
23 31, 2021.  
24

- END -