

1 HOUSE BILL NO. 444

2 INTRODUCED BY JACOBSON, B. BENNETT, BLASDEL, CONNELL, DOANE, FLYNN, HUNTER, KARY,
 3 LIESER, MCNALLY, MEHLHOFF, MILLER, O'HARA, PIERSON, POMNICHOWSKI, PRICE, VAN DYK,
 4 VANCE, WASHBURN, WELBORN, WILMER

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 6 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING STATE LAND LAWS RELATED TO
 7 ACCESS; PROVIDING A TAX CREDIT FOR QUALIFIED ACCESS TO STATE LANDS; CREATING THE
 8 UNLOCKING STATE LANDS PROGRAM; DEFINING PARCELS NOT PREVIOUSLY DEEMED LEGALLY
 9 ACCESSIBLE; PROVIDING CRITERIA FOR PROGRAM PARTICIPATION; ~~AND~~ PROVIDING RULEMAKING
 10 AUTHORITY; AND PROVIDING A DELAYED EFFECTIVE DATE, AND AN APPLICABILITY DATE, AND A
 11 TERMINATION DATE."

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 13 WHEREAS, the Legislature wishes to increase access by the public to publicly owned, state lands; and
 14 WHEREAS, increasing access to public lands will provide additional opportunities for activities such as
 15 hunting, fishing, wildlife viewing, and other recreational opportunities as determined by the commission; and
 16 WHEREAS, the unlocking state lands program will provide incentives for participating landowners to
 17 increase public access to state lands.

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

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 21 NEW SECTION. Section 1. Credit for unlocking state lands program. (1) A taxpayer is allowed a
 22 ~~tax credit imposed by this chapter~~ CREDIT AGAINST THE TAXES IMPOSED BY TITLE 15, CHAPTER 30 OR 31, in the
 23 amount of \$500 for each qualified access to state land, as defined in 77-1-101, THAT IS PROVIDED.

24 ~~—(2)~~ The maximum credit that a taxpayer may claim in a year under this section is \$2,000.

25 (2) IF THE AMOUNT OF THE CREDIT EXCEEDS THE TAXPAYER'S LIABILITY UNDER TITLE 15, CHAPTER 30 OR 31,
 26 THE AMOUNT OF THE EXCESS MUST BE REFUNDED TO THE TAXPAYER. THE CREDIT MAY BE CLAIMED EVEN IF THE CLAIMANT
 27 HAS NO TAXABLE INCOME.

28 (3) For purposes of this section, "qualified access to state land" means an access established through
 29 a taxpayer's property to a parcel of state land for recreational use and certified by the department of fish, wildlife,
 30 and parks pursuant to [section 2].

1 (4) IF THE PROPERTY THROUGH WHICH ACCESS IS PROVIDED IS OWNED BY MULTIPLE TAXPAYERS, THE
 2 TAXPAYERS MAY CLAIM A PROPORTIONATE SHARE OF THE \$500 CREDIT BASED ON THEIR RESPECTIVE OWNERSHIP
 3 INTERESTS IN THAT PROPERTY.

4 (5) IF QUALIFIED ACCESS TO THE SAME PARCEL OF STATE LAND IS PROVIDED THROUGH SEPARATE PROPERTIES
 5 OWNED BY DIFFERENT TAXPAYERS, THE TAXPAYER FOR EACH PROPERTY MAY CLAIM A \$500 CREDIT.

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7 **NEW SECTION. Section 2. Unlocking state lands program -- purpose -- commission rulemaking**
 8 **authority.** (1) The legislature finds that increasing access to public lands will provide additional opportunities for
 9 activities such as hunting, fishing, wildlife viewing, and other recreational activities as determined by the
 10 commission.

11 (2) The department may establish and administer a voluntary program to encourage access through
 12 private land to parcels not previously deemed legally accessible to be known as the unlocking state lands
 13 program. ~~The department shall certify qualified access to state lands by participating private landowners for a tax~~
 14 ~~credit pursuant to [section 1].~~

15 (3) ~~A tax credit is not allowed in~~ PRIVATE LAND IS NOT ELIGIBLE FOR the unlocking state lands program if
 16 outfitting or commercial hunting restricts public hunting opportunities ON THAT LAND.

17 (4) IF THE PARCEL NOT PREVIOUSLY DEEMED LEGALLY ACCESSIBLE IS LEASED STATE LAND UNDER TITLE 77,
 18 CHAPTER 1, ONLY THE LESSEE WITH A QUALIFIED ACCESS TO THAT STATE LAND UNDER [SECTION 1] IS ELIGIBLE FOR THE
 19 UNLOCKING STATE LANDS PROGRAM.

20 ~~(4)(5)~~ (A) A contract for participation in the unlocking state lands program is established through a
 21 cooperative agreement between the landowner and the department that guarantees reasonable access to state
 22 land. This contract serves as certification for the tax credit identified in [section 1]. THROUGH THE LANDOWNER'S
 23 PRIVATE LAND. THIS CONTRACT SERVES AS CERTIFICATION THAT THE LANDOWNER IS PROVIDING QUALIFIED ACCESS TO
 24 STATE LAND AND IS ELIGIBLE FOR THE TAX CREDIT IDENTIFIED IN [SECTION 1]. THE CONTRACT MUST INCLUDE A
 25 CERTIFICATION NUMBER FOR IDENTIFICATION PURPOSES. THE DEPARTMENT SHALL PROVIDE A COPY OF THE CONTRACT
 26 TO THE LANDOWNER AND NOTIFY THE DEPARTMENT OF REVENUE OF THE CERTIFICATION NUMBER.

27 (B) CONTRACTS MAY BE ESTABLISHED WITH LANDOWNERS WHO, PRIOR TO [THE EFFECTIVE DATE OF THIS ACT],
 28 PROVIDED ACCESS TO STATE LAND THAT WAS OTHERWISE NOT LEGALLY ACCESSIBLE UNDER SUBSECTION ~~(8)~~ (9).
 29 LANDOWNERS WHO ESTABLISH CONTRACTS UNDER THIS SUBSECTION ~~(4)(B)~~ (5)(B) ARE ELIGIBLE TO RECEIVE THE TAX
 30 CREDIT IDENTIFIED IN [SECTION 1].

1 ~~(5)~~(6) The commission shall develop rules FOR ESTABLISHING CONTRACTS under this section for
2 REGARDING:

3 ~~(a)~~ administering the tax credit;

4 ~~(b)~~(A) duration of access;

5 ~~(c)~~(B) types of qualified access; and

6 ~~(d)~~(C) reasonable landowner-imposed limitations.

7 ~~(6)~~(7) The department shall provide public notice of any available qualified access to state land
8 established through the unlocking state lands program.

9 ~~(7)~~(8) Recreational users of access established by the unlocking state lands program shall remain in the
10 prescribed access route as defined by the contract in subsection ~~(4)~~ (5).

11 ~~(8)~~(9) For purposes of this section, "parcels not previously deemed legally accessible" means state land
12 that cannot be accessed by:

13 (a) public road, right-of-way, or easement;

14 (b) public waters;

15 (c) adjacent federal, state, county, or municipal land that is ~~not~~ open to public use; or

16 (d) adjacent private land ~~where the~~ BECAUSE THAT landowner has not granted permission to cross.

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18 NEW SECTION. SECTION 3. CODIFICATION INSTRUCTION. (1) [Section 1] is intended to be codified as an
19 integral part of Title 15, chapter 30, part 23, and the provisions of Title 15, chapter 30, part 23, apply to [section
20 1].

21 (2) [Section 2] is intended to be codified as an integral part of Title 87, chapter 1, part 2, and the
22 provisions of Title 87, chapter 1, part 2, apply to [section 2].

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24 NEW SECTION. SECTION 4. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE JANUARY 1, 2014.

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26 NEW SECTION. SECTION 5. APPLICABILITY. [THIS ACT] APPLIES TO TAX YEARS BEGINNING AFTER DECEMBER
27 31, 2013.

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29 NEW SECTION. SECTION 6. TERMINATION. [THIS ACT] TERMINATES DECEMBER 31, 2018.

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