

HOUSE BILL NO. 7

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 15-30-2618, 15-31-511, 15-32-104, 15-32-105, 15-32-106,
6 15-32-107, 15-32-502, 15-32-510, 15-32-610, 17-6-316, 75-2-103, 75-5-103, 76-17-102, 76-17-104, AND
7 87-1-294, MCA; REPEALING SECTIONS 7-21-3710, 15-1-230, 15-30-2301, 15-30-2318, 15-30-2319,
8 15-30-2320, 15-30-2326, 15-30-2327, 15-30-2328, 15-30-2329, 15-30-2342, 15-30-2356, 15-30-2357,
9 15-30-2358, 15-30-2364, 15-30-2365, 15-30-2367, 15-30-2380, 15-30-2381, 15-31-124, 15-31-125, 15-31-126,
10 15-31-127, 15-31-132, 15-31-133, 15-31-134, 15-31-135, 15-31-136, 15-31-137, 15-31-150, 15-31-151,
11 15-31-161, 15-31-162, 15-31-171, 15-31-173, 15-32-109, 15-32-115, 15-32-201, 15-32-202, 15-32-203,
12 15-32-401, 15-32-402, 15-32-404, 15-32-405, 15-32-406, 15-32-407, 15-32-503, 15-32-504, 15-32-505,
13 15-32-506, 15-32-507, 15-32-508, 15-32-509, 15-32-601, 15-32-602, 15-32-603, 15-32-604, 15-32-701,
14 15-32-702, 15-32-703, 15-50-207, 33-2-724, 39-6-109, 50-51-114, AND 50-51-115, MCA; AND PROVIDING AN
15 EFFECTIVE DATE AND AN APPLICABILITY DATE."

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18
19 **Section 1.** Section 15-30-2618, MCA, is amended to read:

20 **"15-30-2618. Confidentiality of tax records.** (1) Except as provided in 5-12-303, 15-1-106, 17-7-111,
21 and subsections (8) and (9) of this section, in accordance with a proper judicial order, or as otherwise provided
22 by law, it is unlawful to divulge or make known in any manner:

23 (a) the amount of income or any particulars set forth or disclosed in any individual report or individual
24 return required under this chapter or any other information secured in the administration of this chapter; or

25 (b) any federal return or federal return information disclosed on any return or report required by rule of
26 the department or under this chapter.

27 (2) (a) The officers charged with the custody of the reports and returns may not be required to produce
28 them or evidence of anything contained in them in an action or proceeding in a court, except in an action or
29 proceeding:

30 (i) to which the department is a party under the provisions of this chapter or any other taxing act; or

1 (ii) on behalf of a party to any action or proceedings under the provisions of this chapter or other taxes
2 when the reports or facts shown by the reports are directly involved in the action or proceedings.

3 (b) The court may require the production of and may admit in evidence only as much of the reports or
4 of the facts shown by the reports as are pertinent to the action or proceedings.

5 (3) This section does not prohibit:

6 (a) the delivery to a taxpayer or the taxpayer's authorized representative of a certified copy of any return
7 or report filed in connection with the taxpayer's tax;

8 (b) the publication of statistics classified to prevent the identification of particular reports or returns and
9 the items of particular reports or returns; or

10 (c) the inspection by the attorney general or other legal representative of the state of the report or return
11 of any taxpayer who brings an action to set aside or review the tax based on the report or return or against whom
12 an action or proceeding has been instituted in accordance with the provisions of 15-30-2630.

13 (4) The department may deliver to a taxpayer's spouse the taxpayer's return or information related to
14 the return for a tax year if the spouse and the taxpayer filed the return with the filing status of married filing
15 separately on the same return. The information being provided to the spouse or reported on the return, including
16 subsequent adjustments or amendments to the return, must be treated in the same manner as if the spouse and
17 the taxpayer filed the return using a joint filing status for that tax year.

18 (5) Reports and returns must be preserved for at least 3 years and may be preserved until the
19 department orders them to be destroyed.

20 (6) Any offense against subsections (1) through (5) is punishable by a fine not exceeding \$500. If the
21 offender is an officer or employee of the state, the offender must be dismissed from office or employment and
22 may not hold any public office or public employment in this state for a period of 1 year after dismissal or, in the
23 case of a former officer or employee, for 1 year after conviction.

24 (7) This section may not be construed to prohibit the department from providing taxpayer return
25 information and information from employers' payroll withholding reports to:

26 (a) the department of labor and industry to be used for the purpose of investigation and prevention of
27 noncompliance, tax evasion, fraud, and abuse under the unemployment insurance laws; or

28 (b) the state fund to be used for the purpose of investigation and prevention of noncompliance, fraud,
29 and abuse under the workers' compensation program.

30 (8) The department may permit the commissioner of internal revenue of the United States or the proper

1 officer of any state imposing a tax on the incomes of individuals or the authorized representative of either officer
 2 to inspect the return of income of any individual or may furnish to the officer or an authorized representative an
 3 abstract of the return of income of any individual or supply the officer with information concerning an item of
 4 income contained in a return or disclosed by the report of an investigation of the income or return of income of
 5 an individual, but the permission may be granted or information furnished only if the statutes of the United States
 6 or of the other state grant substantially similar privileges to the proper officer of this state charged with the
 7 administration of this chapter.

8 (9) On written request to the director or a designee of the director, the department shall furnish:

9 (a) to the department of justice all information necessary to identify those persons qualifying for the
 10 additional exemption for blindness pursuant to 15-30-2114(4), for the purpose of enabling the department of
 11 justice to administer the provisions of 61-5-105;

12 (b) to the department of public health and human services information acquired under 15-30-2616,
 13 pertaining to an applicant for public assistance, reasonably necessary for the prevention and detection of public
 14 assistance fraud and abuse, provided notice to the applicant has been given;

15 (c) to the department of labor and industry:

16 ~~——(i) for the purpose of prevention and detection of fraud and abuse in and eligibility for benefits under the~~
 17 ~~unemployment compensation and workers' compensation programs, information on whether a taxpayer who is~~
 18 ~~the subject of an ongoing investigation by the department of labor and industry is an employee, an independent~~
 19 ~~contractor, or self-employed; and~~

20 ~~——(ii) for the purpose of administering the apprenticeship tax credit provided for in 39-6-109, employer and~~
 21 ~~apprentice information necessary to implement 15-30-2357, 15-31-173, and 39-6-109;~~

22 (d) to the department of fish, wildlife, and parks specific information that is available from income tax
 23 returns and required under 87-2-102 to establish the residency requirements of an applicant for hunting and
 24 fishing licenses;

25 (e) to the board of regents information required under 20-26-1111;

26 (f) to the legislative fiscal analyst and the office of budget and program planning individual income tax
 27 information as provided in 5-12-303, 15-1-106, and 17-7-111. The information provided to the office of budget
 28 and program planning must be the same as the information provided to the legislative fiscal analyst.

29 (g) to the department of transportation farm income information based on the most recent income tax
 30 return filed by an applicant applying for a refund under 15-70-430, provided that notice to the applicant has been

1 given as provided in 15-70-430. The information obtained by the department of transportation is subject to the
2 same restrictions on disclosure as are individual income tax returns.

3 (h) to the department of commerce tax information about a taxpayer whose debt is assigned to the
4 department of revenue for offset or collection pursuant to the terms of Title 17, chapter 4, part 1. The information
5 provided to the department of commerce must be used for the purposes of preventing and detecting fraud or
6 abuse and determining eligibility for grants or loans.

7 (i) to the superintendent of public instruction information required under 20-9-905. (Subsection (9)(i)
8 terminates December 31, 2023--sec. 33, Ch. 457, L. 2015.)"

9

10 **Section 2.** Section 15-31-511, MCA, is amended to read:

11 **"15-31-511. Confidentiality of tax records.** (1) Except as provided in this section, in accordance with
12 a proper judicial order, or as otherwise provided by law, it is unlawful to divulge or make known in any manner:

13 (a) the amount of income or any particulars set forth or disclosed in any return or report required under
14 this chapter or any other information relating to taxation secured in the administration of this chapter; or

15 (b) any federal return or information in or disclosed on a federal return or report required by law or rule
16 of the department under this chapter.

17 (2) (a) An officer or employee charged with custody of returns and reports required by this chapter may
18 not be ordered to produce any of them or evidence of anything contained in them in any administrative
19 proceeding or action or proceeding in any court, except:

20 (i) in an action or proceeding in which the department is a party under the provisions of this chapter; or

21 (ii) in any other tax proceeding or on behalf of a party to an action or proceeding under the provisions of
22 this chapter when the returns or reports or facts shown in them are directly pertinent to the action or proceeding.

23 (b) If the production of a return, report, or information contained in them is ordered, the court shall limit
24 production of and the admission of returns, reports, or facts shown in them to the matters directly pertinent to the
25 action or proceeding.

26 (3) This section does not prohibit:

27 (a) the delivery of a certified copy of any return or report filed in connection with a return to the taxpayer
28 who filed the return or report or to the taxpayer's authorized representative;

29 (b) the publication of statistics prepared in a manner that prevents the identification of particular returns,
30 reports, or items from returns or reports;

1 (c) the inspection of returns and reports by the attorney general or other legal representative of the state
2 in the course of an administrative proceeding or litigation under this chapter;

3 (d) access to information under subsection (4);

4 (e) the director of revenue from permitting a representative of the commissioner of internal revenue of
5 the United States or a representative of a proper officer of any state imposing a tax on the income of a taxpayer
6 to inspect the returns or reports of a corporation. The department may also furnish those persons abstracts of
7 income, returns, and reports; information concerning any item in a return or report; and any item disclosed by an
8 investigation of the income or return of a corporation. The director of revenue may not furnish that information
9 to a person representing the United States or another state unless the United States or the other state grants
10 substantially similar privileges to an officer of this state charged with the administration of this chapter.

11 (4) On written request to the director or a designee of the director, the department shall:

12 (a) allow the inspection of returns and reports by the legislative auditor, but the information furnished to
13 the legislative auditor is subject to the same restrictions on disclosure outside that office as provided in subsection
14 (1);

15 (b) provide corporate income tax and alternative corporate income tax information, including any
16 information that may be required under Title 15, chapter 30, part 33, to the legislative fiscal analyst, as provided
17 in 5-12-303 or 15-1-106, and the office of budget and program planning, as provided in 15-1-106 or 17-7-111.
18 The information furnished to the legislative fiscal analyst and the office of budget and program planning is subject
19 to the same restrictions on disclosure outside those offices as provided in subsection (1).

20 (c) provide to the department of commerce tax information about a taxpayer whose debt is assigned to
21 the department of revenue for offset or collection pursuant to the terms of Title 17, chapter 4, part 1. The
22 information provided to the department of commerce must be used for the purposes of preventing and detecting
23 fraud or abuse and determining eligibility for grants or loans.

24 (d) furnish to the superintendent of public instruction information required under 20-9-905;

25 ~~—(e) exchange with the department of labor and industry taxpayer and apprentice information necessary~~
26 ~~to implement 15-30-2357, 15-31-173, and 39-6-109.~~

27 (5) A person convicted of violating this section shall be fined not to exceed \$500. If a public officer or
28 public employee is convicted of violating this section, the person is dismissed from office or employment and may
29 not hold any public office or public employment in the state for a period of 1 year after dismissal or, in the case
30 of a former officer or employee, for 1 year after conviction. (Subsection (4)(d) terminates December 31,

1 2023--sec. 33, Ch. 457, L. 2015.)"

2

3 **Section 3.** Section 15-32-104, MCA, is amended to read:

4 **"15-32-104. Limitations on deduction ~~and credit~~.** Tax treatment under 15-32-103 ~~and 15-32-109~~ is
5 limited to persons and firms not primarily engaged in the provision of gas or electricity derived from fossil fuel
6 extraction or conventional hydroelectric development."

7

8 **Section 4.** Section 15-32-105, MCA, is amended to read:

9 **"15-32-105. Application to new construction -- rules.** (1) It is the intent of the legislature that no
10 deduction ~~or credit~~ under this part be allowed for capital investment for an energy conservation practice in the
11 new construction of a building if that capital investment would have been made under established standards of
12 new construction. The department of revenue shall adopt rules to implement this legislative intent. ~~Such~~ The rules
13 ~~shall~~ must be based on the best currently available methods of analysis, including those of the national bureau
14 of standards, the department of housing and urban development, and other federal agencies and professional
15 societies and materials developed by the department. Provisions ~~shall~~ must be made for an annual updating of
16 rules and standards as required.

17 (2) The department may adopt rules to define standard components of conventional buildings and to
18 establish other necessary elements of the definition of passive solar system consistent with the intent of
19 15-32-102."

20

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

22 **"15-32-106. Procedure for obtaining benefit of deduction ~~or credit~~.** ~~The department of revenue shall~~
23 ~~provide forms on which a taxpayer may apply for a tax credit under 15-32-109.~~ The department of revenue shall
24 approve a deduction ~~or credit~~ under 15-32-103 ~~or 15-32-109~~ that demonstrably promotes energy conservation
25 or uses a recognized nonfossil form of energy generation. The department of revenue may refer a deduction ~~or~~
26 ~~credit~~ involving energy generation to the department of environmental quality for its advice, and the department
27 of environmental quality shall respond within 60 days. The department of revenue may refer a deduction ~~or credit~~
28 involving energy conservation to the department of labor and industry for its advice, and the department of labor
29 and industry shall respond within 60 days. The department of revenue may deny a deduction ~~or credit~~ that it finds
30 to be impractical or ineffective."

1

2 **Section 6.** Section 15-32-107, MCA, is amended to read:

3 **"15-32-107. Loans by utilities and financial institutions -- tax credit for interest differential for**
 4 **loans made prior to July 1, 1995.** (1) Except as provided in subsection (4), a public utility or a financial institution
 5 that lent money or made qualifying installations under this section as it read prior to July 1, 1995, may compute
 6 the difference between interest it actually receives on the transactions and the interest that would have been
 7 received at the prevailing average interest rate for home improvement loans, as prescribed in rules made by the
 8 public service commission. The utility may apply the difference so computed as a credit against its tax liability for
 9 the electrical energy producer's license tax under 15-51-101 ~~or for the corporate income tax under chapter 31,~~
 10 ~~part 4.~~ The public service commission shall regulate rates in such a manner that a utility making loans under this
 11 section may not make a profit as the result of this section. ~~The financial institution may apply the difference so~~
 12 ~~computed as a credit against its tax liability for the corporate income tax under chapter 31, part 4.~~

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

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

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

19

20 **Section 7.** Section 15-32-502, MCA, is amended to read:

21 **"15-32-502. Definitions.** For purposes of this part, the following definitions apply:

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

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

28 (A) surveying by geophysical or geochemical methods;

29 (B) drilling exploration holes;

30 (C) conducting underground exploration;

- 1 (D) surface trenching and bulk sampling; or
- 2 (E) performing other exploratory work, including aerial photographs, geological and geophysical logging,
- 3 sample analysis, and metallurgical testing.
- 4 (ii) direct labor costs and the cost of benefits for employees directly associated with ~~work described in~~
- 5 ~~15-32-503~~ exploration activities;
- 6 (iii) the cost of renting or leasing equipment from parties not affiliated with the person requesting and
- 7 taking the ~~credit~~ deduction;
- 8 (iv) the reasonable costs of owning, maintaining, and operating equipment;
- 9 (v) insurance and bond premiums associated with the activities set out in subsections (1)(a)(i) through
- 10 (1)(a)(vii);
- 11 (vi) payments to consultants and independent contractors; or
- 12 (vii) the general expense of operating the person's business, including the costs of materials and
- 13 supplies, if those expenses and costs are directly attributable to the ~~work described in 15-32-503~~ exploration
- 14 activities.
- 15 (b) The term does not include return on investment, insurance or bond premiums not covered under
- 16 subsection (1)(a)(v), or any other expense that the person has not incurred to complete ~~work described in~~
- 17 ~~15-32-503~~ exploration activities.
- 18 ~~(2) "Credit" means the exploration incentive credit for activities involving mineral and coal deposits~~
- 19 ~~authorized by this part.~~
- 20 ~~(3) "Exploration activity data list" means, as applicable, a summary of work completed during the year~~
- 21 ~~that includes but is not limited to:~~
- 22 ~~—— (a) the number of core or rotary drilling holes completed;~~
- 23 ~~—— (b) chemical analytical data available; or~~
- 24 ~~—— (c) aerial photographs or a topographic or geologic map showing the location of the drill holes, sample~~
- 25 ~~locations, or the other exploration activities undertaken.~~
- 26 ~~(4)~~(2) "Geochemical methods" means geochemical data gathering methods, including the collection of
- 27 soil, rock, water, air, vegetation, and similar samples and their chemical analyses.
- 28 ~~(5)~~(3) "Geophysical methods" means all geophysical data gathering methods used in mineral or coal
- 29 exploration, including seismic, gravity, magnetic, radiometric, radar, and electromagnetic and other remote
- 30 sensing measurements.

1 ~~(6)~~(4) "Mineral" means those substances defined as minerals by 82-4-303 and coal as defined by
2 82-1-111.

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

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

10 ~~(8)~~(5) "Person" means a sole proprietorship, corporation, partnership, small business corporation as
11 defined in 15-30-3301, or limited liability company as defined in 35-8-102.

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

13

14 **Section 8.** Section 15-32-510, MCA, is amended to read:

15 **"15-32-510. Deduction for donation of exploration information.** (1) In addition to all other deductions
16 from adjusted gross individual income allowed in computing taxable income under Title 15, chapter 30, or from
17 gross corporate income allowed in computing net income under Title 15, chapter 31, part 1, a taxpayer may
18 deduct documented expenses for the donation of mineral exploration information generated as part of the certified
19 expenditures. The information must be donated to the Montana tech foundation to reside as part of the Montana
20 tech research library, and the documented expenses must be based on the cost of recreating the donated
21 information.

22 (2) The Montana tech foundation has the right to limit information accepted and deductions granted to
23 that exploration activity data that is needed as part of the Montana tech research library.

24 ~~(3) A deduction under this section may not exceed 20% of the actual value of the data if a tax credit for
25 the same exploration activity data is taken under this part."~~

26

27 **Section 9.** Section 15-32-610, MCA, is amended to read:

28 **"15-32-610. Deduction for purchase of recycled material -- definition.** (1) In addition to all other
29 deductions from adjusted gross individual income allowed in computing taxable income under Title 15, chapter
30 30, or from gross corporate income allowed in computing net income under Title 15, chapter 31, part 1, a taxpayer

1 may deduct an additional amount equal to 10% of the taxpayer's expenditures for the purchase of recycled
2 material that was otherwise deductible by the taxpayer as business-related expense in Montana.

3 (2) For the purposes of this part, "recycled material" means a substance that is produced from reclaimed
4 material as provided in 15-32-609."

5

6 **Section 10.** Section 17-6-316, MCA, is amended to read:

7 **"17-6-316. Economic development loan ~~—infrastructure tax credit.~~** (1) A loan made pursuant to
8 17-6-309(2) must be used to build infrastructure, as provided for in 7-15-4288(4), such as water systems, sewer
9 systems, water treatment facilities, sewage treatment facilities, and roads, that allows the location or creation of
10 a business in Montana. The loan must be made to a local government that will create the necessary
11 infrastructure. The infrastructure may serve as collateral for the loan. The local government receiving the loan
12 may charge fees to the users of the infrastructure. A loan repayment agreement must provide for repayment of
13 the loan from the entity authorized to charge fees for the use of the services of the infrastructure. Loans made
14 pursuant to 17-6-309(2) qualify for the job credit interest rate reductions under 17-6-318 if the interest rate
15 reduction passes through to the business creating the jobs.

16 (2) A loan pursuant to 17-6-309(2) and this section may not be made until the board is satisfied that the
17 condition in 17-6-309(2) will be met. If the condition contained in 17-6-309(2) is not met, any credits received
18 pursuant to subsection (3) of this section must be returned to the state.

19 ~~———— (3) A business that is created or expanded as the result of a loan made pursuant to 17-6-309(2) and~~
20 ~~subsection (1) of this section is entitled to a credit against taxes due under Title 15, chapter 30 or 31, for the~~
21 ~~portion of the fees attributable to the use of the infrastructure. The total amount of tax credit claimed may not~~
22 ~~exceed the amount of the loan. The credit may be carried forward for 7 tax years or carried back for 3 tax years."~~

23

24 **Section 11.** Section 75-2-103, MCA, is amended to read:

25 **"75-2-103. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions
26 apply:

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

29 (2) "Air pollutants" means one or more air contaminants that are present in the outdoor atmosphere,
30 including those pollutants regulated pursuant to section 7412 and Subchapter V of the federal Clean Air Act, 42

1 U.S.C. 7401, et seq.

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

5 (4) "Associated supporting infrastructure" means:

6 (a) electric transmission and distribution facilities;

7 (b) pipeline facilities;

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

9 (d) rail transportation;

10 (e) aqueducts and diversion dams;

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

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

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

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

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

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

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

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

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

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

26 (i) generating electricity;

27 (ii) producing gas derived from coal;

28 (iii) producing liquid hydrocarbon products;

29 (iv) refining crude oil or natural gas;

30 (v) producing alcohol to be blended for ethanol-blended gasoline and that are eligible for a tax incentive

1 pursuant to Title 15, chapter 70, part 5; or

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

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

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

7 (10) "Environmental protection law" means a law contained in or an administrative rule adopted pursuant
8 to Title 75, chapter 2, 5, 10, or 11.

9 (11) "Hazardous waste" means:

10 (a) a substance defined as hazardous under 75-10-403 or defined as hazardous in department
11 administrative rules adopted pursuant to Title 75, chapter 10, part 4; or

12 (b) a waste containing 2 parts or more per million of polychlorinated biphenyl (PCB).

13 (12) (a) "Incinerator" means any single- or multiple-chambered combustion device that burns combustible
14 material, alone or with a supplemental fuel or with catalytic combustion assistance, primarily for the purpose of
15 removal, destruction, disposal, or volume reduction of any portion of the input material.

16 (b) Incinerator does not include:

17 (i) safety flares used to combust or dispose of hazardous or toxic gases at industrial facilities, such as
18 refineries, gas sweetening plants, oil and gas wells, sulfur recovery plants, or elemental phosphorus plants;

19 (ii) space heaters that burn used oil;

20 (iii) wood-fired boilers; or

21 (iv) wood waste burners, such as tepee, wigwam, truncated cone, or silo burners.

22 (13) "Medical waste" means any waste that is generated in the diagnosis, treatment, or immunization of
23 human beings or animals, in medical research on humans or animals, or in the production or testing of biologicals.

24 The term includes:

25 (a) cultures and stocks of infectious agents;

26 (b) human pathological wastes;

27 (c) waste human blood or products of human blood;

28 (d) sharps;

29 (e) contaminated animal carcasses, body parts, and bedding that were known to have been exposed
30 to infectious agents during research;

1 (f) laboratory wastes and wastes from autopsy or surgery that were in contact with infectious agents; and
2 (g) biological waste and discarded material contaminated with blood, excretion, exudates, or secretions
3 from humans or animals.

4 (14) (a) "Oil or gas well facility" means a well that produces oil or natural gas. The term includes:

5 (i) equipment associated with the well and used for the purpose of producing, treating, separating, or
6 storing oil, natural gas, or other liquids produced by the well; and

7 (ii) a group of wells under common ownership or control that produce oil or natural gas and that share
8 common equipment used for the purpose of producing, treating, separating, or storing oil, natural gas, or other
9 liquids produced by the wells.

10 (b) The equipment referred to in subsection (15)(a) includes but is not limited to wellhead assemblies,
11 amine units, prime mover engines, phase separators, heater treater units, dehydrator units, tanks, and connecting
12 tubing.

13 (c) The term does not include equipment such as compressor engines used for transmission of oil or
14 natural gas.

15 (15) "Person" means an individual, a partnership, a firm, an association, a municipality, a public or private
16 corporation, the state or a subdivision or agency of the state, a trust, an estate, an interstate body, the federal
17 government or an agency of the federal government, or any other legal entity and includes persons resident in
18 Canada.

19 (16) "Principal" means a principal of a corporation, including but not limited to a partner, associate, officer,
20 parent corporation, or subsidiary corporation.

21 (17) "Small business stationary source" means a stationary source that:

22 (a) is owned or operated by a person who employs 100 or fewer individuals;

23 (b) is a small business concern as defined in the Small Business Act, 15 U.S.C. 631, et seq.;

24 (c) is not a major stationary source as defined in Subchapter V of the federal Clean Air Act, 42 U.S.C.
25 7661, et seq.;

26 (d) emits less than 50 tons per year of an air pollutant;

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

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

29 (18) (a) "Solid waste" means all putrescible and nonputrescible solid, semisolid, liquid, or gaseous
30 wastes, including but not limited to garbage; rubbish; refuse; ashes; swill; food wastes; commercial or industrial

1 wastes; medical waste; sludge from sewage treatment plants, water supply treatment plants, or air pollution
2 control facilities; construction, demolition, or salvage wastes; dead animals, dead animal parts, offal, animal
3 droppings, or litter; discarded home and industrial appliances; automobile bodies, tires, interiors, or parts thereof;
4 wood products or wood byproducts and inert materials; styrofoam and other plastics; rubber materials; asphalt
5 shingles; tarpaper; electrical equipment, transformers, or insulated wire; oil or petroleum products or oil or
6 petroleum products and inert materials; treated lumber and timbers; and pathogenic or infectious waste.

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

12 **Section 12.** Section 75-5-103, MCA, is amended to read:

13 **"75-5-103. (Temporary) Definitions.** Unless the context requires otherwise, in this chapter, the following
14 definitions apply:

15 (1) "Associated supporting infrastructure" means:

16 (a) electric transmission and distribution facilities;

17 (b) pipeline facilities;

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

19 (d) rail transportation;

20 (e) aqueducts and diversion dams;

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

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

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

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

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

30 (4) "Contamination" means impairment of the quality of state waters by sewage, industrial wastes, or

1 other wastes, creating a hazard to human health.

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

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

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

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

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

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

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

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

17 (i) generating electricity;

18 (ii) producing gas derived from coal;

19 (iii) producing liquid hydrocarbon products;

20 (iv) refining crude oil or natural gas;

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

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

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

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

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

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

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

3 (b) surface waters that:

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

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

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

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

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

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

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

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

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

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

28 (22) "Nutrient standards variance" means numeric water quality criteria for nutrients based on a
29 determination that base numeric nutrient standards cannot be achieved because of economic impacts or because
30 of the limits of technology. The term includes individual, general, and alternative nutrient standards variances in

1 accordance with 75-5-313.

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

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

10 (25) "Outstanding resource waters" means:

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

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

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

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

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

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

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

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

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

1 (b) The term does not include:

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

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

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

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

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

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

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

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

20 (b) The term does not apply to:

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

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

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

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

30 (a) proposed sources that are not subject to pollution prevention or control actions required by a

1 discharge permit, the nondegradation provisions, or reasonable land, soil, and water conservation practices; or

2 (b) documented adverse pollution trends.

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

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

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

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

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

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

21 **75-5-103. (Effective on occurrence of contingency) Definitions.** Unless the context requires
22 otherwise, in this chapter, the following definitions apply:

23 (1) "Associated supporting infrastructure" means:

24 (a) electric transmission and distribution facilities;

25 (b) pipeline facilities;

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

27 (d) rail transportation;

28 (e) aqueducts and diversion dams;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (i) generating electricity;

26 (ii) producing gas derived from coal;

27 (iii) producing liquid hydrocarbon products;

28 (iv) refining crude oil or natural gas;

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

1 ~~(vi) producing biodiesel and that are eligible for a tax incentive for the production of biodiesel pursuant~~
2 ~~to 15-32-704; or~~

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

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

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

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

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

11 (b) surface waters that:

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

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

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

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

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

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

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

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

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

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

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

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

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

18 (25) "Outstanding resource waters" means:

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

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

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

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

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

29 (29) "Point source" means a discernible, confined, and discrete conveyance, including but not limited to
30 any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, or vessel or other floating

1 craft, from which pollutants are or may be discharged.

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

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

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

9 (b) The term does not include:

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

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

14 (iii) contamination of ground water within the boundaries of a geologic storage reservoir, as defined in
15 82-11-101, by a carbon dioxide injection well in accordance with a permit issued pursuant to Title 82, chapter 11,
16 part 1;

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

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

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

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

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

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

- 1 (b) The term does not apply to:
- 2 (i) ponds or lagoons used solely for treating, transporting, or impounding pollutants; or
- 3 (ii) irrigation waters or land application disposal waters when the waters are used up within the irrigation
- 4 or land application disposal system and the waters are not returned to state waters.
- 5 (35) "Sufficient credible data" means chemical, physical, or biological monitoring data, alone or in
- 6 combination with narrative information, that supports a finding as to whether a water body is achieving compliance
- 7 with applicable water quality standards.
- 8 (36) "Threatened water body" means a water body or stream segment for which sufficient credible data
- 9 and calculated increases in loads show that the water body or stream segment is fully supporting its designated
- 10 uses but threatened for a particular designated use because of:
- 11 (a) proposed sources that are not subject to pollution prevention or control actions required by a
- 12 discharge permit, the nondegradation provisions, or reasonable land, soil, and water conservation practices; or
- 13 (b) documented adverse pollution trends.
- 14 (37) "Total maximum daily load" or "TMDL" means the sum of the individual waste load allocations for
- 15 point sources and load allocations for both nonpoint sources and natural background sources established at a
- 16 level necessary to achieve compliance with applicable surface water quality standards.
- 17 (38) "Treatment works" means works, including sewage lagoons, installed for treating or holding sewage,
- 18 industrial wastes, or other wastes.
- 19 (39) "Waste load allocation" means the portion of a receiving water's loading capacity that is allocated
- 20 to one of its existing or future point sources.
- 21 (40) "Water quality protection practices" means those activities, prohibitions, maintenance procedures,
- 22 or other management practices applied to point and nonpoint sources designed to protect, maintain, and improve
- 23 the quality of state waters. Water quality protection practices include but are not limited to treatment requirements,
- 24 standards of performance, effluent standards, and operating procedures and practices to control site runoff,
- 25 spillage or leaks, sludge or water disposal, or drainage from material storage.
- 26 (41) "Water well" means an excavation that is drilled, cored, bored, washed, driven, dug, jetted, or
- 27 otherwise constructed and intended for the location, diversion, artificial recharge, or acquisition of ground water.
- 28 (42) "Watershed advisory group" means a group of individuals who wish to participate in an advisory
- 29 capacity in revising and reprioritizing the list of water bodies developed under 75-5-702 and in the development
- 30 of TMDLs under 75-5-703, including those groups or individuals requested by the department to participate in

1 an advisory capacity as provided in 75-5-704."

2

3 **Section 13.** Section 76-17-102, MCA, is amended to read:

4 **"76-17-102. (Temporary) Montana public land access network grant program -- donations --**
 5 **rulemaking -- definition.** (1) There is a Montana public land access network grant program. An individual or
 6 organization may seek a grant from the program to secure public access through private land to public land, as
 7 defined in ~~45-30-2380~~ this section, for which there is no other legal public access or to enhance existing access
 8 to public land.

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

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

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

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

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

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

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

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

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

29

30 **Section 14.** Section 76-17-104, MCA, is amended to read:

1 **"76-17-104. (Temporary) Grants -- eligibility.** (1) An individual or organization may apply to the
 2 department for a grant to pay for costs associated with an access project that secures public access through
 3 private land to public land, as defined in ~~45-30-2380~~ 76-17-102, for which there is no other legal public access
 4 or to enhance existing access to public land. The costs must include payments to the owner of private land who
 5 allows public access. Grants may not be made to pay costs associated with litigation related to public access.

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

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

8 and

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

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

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

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

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

19 (5) The department shall report the details of approved access project grants to the legislative auditor.

20 (Terminates June 30, 2027--sec. 10, Ch. 374, L. 2017.)"

21

22 **Section 15.** Section 87-1-294, MCA, is amended to read:

23 **"87-1-294. (Temporary) Unlocking public lands program -- purpose -- commission rulemaking**

24 **authority.** (1) The legislature finds that increasing access to public lands will provide additional opportunities for
 25 activities such as hunting, fishing, wildlife viewing, and other recreational activities as determined by the
 26 commission.

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

30 (3) Private land is not eligible for the unlocking public lands program if outfitting or commercial hunting

1 restricts public hunting opportunities on that land.

2 (4) (a) If the parcel not previously deemed legally accessible is leased state land under Title 77, chapter
3 1, only the lessee with a qualified access to that state land ~~under 15-30-2380~~ as provided in subsection (4)(b)
4 is eligible for the unlocking public lands program.

5 (b) Qualified access to public land:

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

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

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

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

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

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

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

27 (a) duration of access;

28 (b) types of qualified access; and

29 (c) reasonable landowner-imposed limitations.

30 (7) The department shall provide public notice of any available qualified access to public land established

1 through the unlocking public lands program.

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

4 (9) For purposes of this section:

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

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

7 (ii) public waters;

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

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

10 (b) "public land" means:

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

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

14

15 **NEW SECTION. Section 16. Repealer.** The following sections of the Montana Code Annotated are
16 repealed:

17 7-21-3710. Tax credits for employers in empowerment zone.

18 15-1-230. Report on income tax credit to committee.

19 15-30-2301. Capital gains credit.

20 15-30-2318. Earned income tax credit.

21 15-30-2319. Credit for energy-conserving investments.

22 15-30-2320. Credit for alternative fuel motor vehicle conversion.

23 15-30-2326. Credit for contributions to university or college foundations and endowment funds.

24 15-30-2327. Qualified endowments credit -- definitions -- rules.

25 15-30-2328. Credit for contributions to qualified endowment -- recapture of credit -- deduction included as
26 income.

27 15-30-2329. Beneficiaries of estates -- credit for contribution to qualified endowment.

28 15-30-2342. Credit for preservation of historic buildings.

29 15-30-2356. Empowerment zone new employees -- tax credit.

30 15-30-2357. Tax credit for hiring registered apprentice or veteran apprentice.

- 1 15-30-2358. Qualified research tax credit.
- 2 15-30-2364. Adoption tax credit -- limitations.
- 3 15-30-2365. Credit for day-care facilities.
- 4 15-30-2367. Tax credit for providing disability insurance for employees.
- 5 15-30-2380. Credit for unlocking public lands program -- definitions.
- 6 15-30-2381. Tax credit for providing emergency lodging.
- 7 15-31-124. New or expanded industry credit -- definitions.
- 8 15-31-125. Determination of tax credit.
- 9 15-31-126. Limitation.
- 10 15-31-127. Department duties.
- 11 15-31-132. Tax credit for providing disability insurance for employees.
- 12 15-31-133. Credit for day-care facilities.
- 13 15-31-134. Empowerment zone new employees -- tax credit.
- 14 15-31-135. Contribution by small business corporation.
- 15 15-31-136. Contribution by partnership.
- 16 15-31-137. Small business corporation and partnership credit for alternative fuel conversion.
- 17 15-31-150. Credit for research expenses and research payments.
- 18 15-31-151. Credit for preservation of historic buildings.
- 19 15-31-161. Credit for contribution by corporations to qualified endowment -- recapture of credit -- deduction
20 included as income.
- 21 15-31-162. Small business corporation, partnership, and limited liability company credit for contribution to
22 qualified endowment -- recapture of credit -- deduction included as income.
- 23 15-31-171. Tax credit for providing emergency lodging.
- 24 15-31-173. Tax credit for hiring registered apprentices or veteran apprentices.
- 25 15-32-109. Credit for energy-conserving expenditures.
- 26 15-32-115. Credit for geothermal system -- to whom available -- eligible costs -- limitations.
- 27 15-32-201. Amount of credit -- to whom available.
- 28 15-32-202. Taxable years in which credit may be claimed -- carryover.
- 29 15-32-203. Department to make rules.
- 30 15-32-401. Purpose and statement of policy.

- 1 15-32-402. Commercial or net metering system investment credit -- alternative energy systems.
2 15-32-404. Carryover of credit.
3 15-32-405. Exclusion from other tax incentives.
4 15-32-406. Separation of credit portion.
5 15-32-407. Rules authorized.
6 15-32-503. Exploration incentive credit.
7 15-32-504. Procedure for requesting and certifying credit.
8 15-32-505. Application of credit.
9 15-32-506. Credit carryover.
10 15-32-507. Credit limitation.
11 15-32-508. Credit assignment.
12 15-32-509. Record of credit use.
13 15-32-601. Definitions.
14 15-32-602. Amount and duration of credit -- how claimed.
15 15-32-603. Credit for investment in property used to collect or process reclaimable material or to
16 manufacture a product from reclaimed material.
17 15-32-604. Limitation of credit.
18 15-32-701. Oilseed crush facility -- tax credit.
19 15-32-702. Biodiesel or biolubricant production facility tax credit.
20 15-32-703. Biodiesel blending and storage tax credit -- recapture -- report to interim committee.
21 15-50-207. Credit against other taxes -- credit for personal property taxes and certain fees.
22 33-2-724. Empowerment zone new employees -- tax credit.
23 39-6-109. Employer apprenticeship tax credit -- increased credit for employing veteran apprentice.
24 50-51-114. Emergency lodging program -- definitions.
25 50-51-115. Emergency lodging -- liability for damages.

26

27 NEW SECTION. **Section 17. Effective date.** [This act] is effective January 1, 2018.

28

29 NEW SECTION. **Section 18. Applicability.** [This act] applies to tax years beginning after December
30 31, 2017.

31

- END -