AN ACT REPEALING THE EXPIRED PROPERTY TAX EXEMPTION FOR ELECTRICAL GENERATION AND DELIVERY FACILITIES; AMENDING SECTIONS 15-24-3004, 15-24-3005, 15-24-3006, 15-24-3007, 75-20-104, 75-20-201, 75-20-207, 75-20-208, 75-20-211, 75-20-301, 75-20-303, 75-20-304, AND 75-20-1202, MCA; AND REPEALING SECTIONS 15-24-3001 AND 15-24-3002, MCA.

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

**Section 1.** Section 15-24-3004, MCA, is amended to read:

"**15-24-3004. Wind generation facility impact fee for local governmental units and school districts.** (1) An owner or operator of a wind generation facility used for a commercial purpose is subject to an initial local governmental and local school impact fee to be paid for each year of the first 3 years after construction of the wind generation facility begins. The annual impact fee may not exceed 0.5% of the total cost of constructing the wind generation facility.

(2) (a) Subject to subsection (2)(b), the impact fee is assessed and distributed as provided in ~~15-24-3005(2) and (3)~~ 15-24-3005(1) and (2).

(b) Local governmental units may enter into an interlocal agreement as provided in ~~15-24-3005(4)~~ 15-24-3005(3).

(3) (a) For the purposes of this section, "wind generation facility" means any combination of a physically connected wind turbine or turbines, associated prime movers, and other associated property, including appurtenant land and improvements and personal property, that are normally operated together to produce electric power from wind.

(b) The term does not include a wind generation facility used for noncommercial purposes or exclusively for agricultural purposes."

**Section 2.** Section 15-24-3005, MCA, is amended to read:

"**15-24-3005. ~~Electrical~~ Wind generation facility impact fee for local governmental units and school districts ~~-- wind generation facility impact fee~~.** (1) ~~(a) If an owner or operator of an electrical generation facility, as defined in 15-24-3001, is exempt from property taxation pursuant to 15-24-3001, the owner or operator of the facility is subject to an initial local government and local school impact fee. In the first 2 years of construction, the impact fee may not exceed 0.75% of the total cost of constructing the electrical generation facility(b) In the case of a generation facility powered by oil or gas turbines, the impact fee may not exceed 0.1% of the total construction cost in the remaining 3 years of the tax exemption period as provided in15-24-3001.(c) In the case of any other generation facility, the impact fee may not exceed 0.1% of the total construction cost in the subsequent 4 years and may not exceed 0.08% of the total construction cost in the remaining 4 years of the tax exemption period as provided in15-24-3001.~~

~~(2)~~ Except as provided in subsection ~~(4)~~ (3), the jurisdictional area of a local governmental unit in which ~~an electrical generation facility or~~ a wind generation facility is located is the local governmental unit that is authorized to assess the impact fee pursuant to 15-24-3004(1) ~~or subsection (1) of this section~~.

~~(3)~~(2) The impact fee must be distributed to the local governmental unit for local impacts and to the impacted school districts.

~~(4)~~(3) Subject to the conditions of 15-24-3006 and subsection ~~(5)~~ (4) of this section, if the ~~electrical generation facility or~~ wind generation facility is located within the jurisdictional areas of multiple local governmental units of the county or contiguous counties, the local governmental units may enter into an interlocal agreement under Title 7, chapter 11, part 1, to determine how the fee should be distributed among the various local governmental units and impacted school districts pursuant to subsection ~~(3)~~ (2). The county in which the ~~electrical generation facility or~~ wind generation facility is located is authorized to assess the fee under the interlocal agreement.

~~(5)~~(4) For purposes of 15-24-3004 ~~and this section~~, a "local governmental unit" means a county, city, or town. If ~~an exempt electrical generation facility or~~ a wind generation facility is located within a tax increment financing district, the tax increment financing district is considered a local governmental unit and is entitled to the distribution of impact fees under this section. A tax increment financing district may not receive a distribution of impact fees if ~~an exempt electrical generation facility or~~ a wind generation facility is not located within the

district.

~~(6)~~(5) Impact fees imposed under 15-24-3004(2)(b) or under subsection ~~(4)~~ (3) of this section must be deposited in the county electrical energy generation impact fee reserve account established in 15-24-3006 for the county in which the ~~electrical~~ wind generation facility is located. Money in the account may not be expended until the multiple local governmental units have entered into an interlocal agreement."

**Section 3.** Section 15-24-3006, MCA, is amended to read:

"**15-24-3006. Electrical energy generation impact fee reserve account.** (1) The governing body of a county ~~receiving~~ receiving impact fees under 15-24-3004(2)(b) or that received impact fees from an electrical generation facility under former 15-24-3005(4) before the amendments in [this act] shall ~~establish an~~ establish or hold the collections in the electrical energy generation impact fee reserve account ~~to be used to hold the collections~~. Money held in the account may not be considered as cash balance for the purpose of reducing mill levies.

(2) Money may be expended from the account for any purpose of an interlocal agreement provided for in 15-24-3004 or 15-24-3005. The county treasurer shall distribute money in the account to each local governmental unit according to the terms of the interlocal agreement.

(3) Money in the account must be invested as provided by law. Interest and income from the investment of the electrical energy generation impact fee reserve account must be credited to the account."

**Section 4.** Section 15-24-3007, MCA, is amended to read:

"**15-24-3007. Electrical generation impact fund.** (1) A local governmental unit, as defined in 15-24-3005, and a school district that receives impact fees pursuant to 15-24-3004(2)(a), former 15-24-3005(2) before the amendments in [this act], 15-24-3005, or 15-24-3006 shall ~~establish an~~ establish or retain the electrical generation impact fund for the ~~deposit~~ deposit or expenditure of the fees. A local governmental unit or school district may retain the money in the fund for any time period considered appropriate by the governing body of the local governmental unit or school district. Money retained in the fund may not be considered as fund balance for the purpose of reducing mill levies.

(2) Money may be expended from the fund for any purpose allowed by law.

(3) Money in the fund must be invested as provided by law. Interest and income earned on the investment of money in the fund must be credited to the fund.

(4) The fund must be financially administered as a nonbudgeted fund by a city, town, or county under the provisions of Title 7, chapter 6, part 40, or by a school district under the provisions of Title 20, chapter 9, part 5."

**Section 5.** Section 75-20-104, MCA, is amended to read:

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

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

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

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

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

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

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

(6) "Commence to construct" means:

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

(b) the fracturing of underground formations by any means if the activity is related to the possible future development of a gasification facility or a facility employing geothermal resources but does not include

the gathering of geological data by boring of test holes or other underground exploration, investigation, or experimentation;

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

(d) the relocation or upgrading of an existing facility defined by subsection ~~(9)(a)~~ (10)(a) or ~~(9)(b)~~ (10)(b), including upgrading to a design capacity covered by subsection ~~(9)(a)~~ (10)(a), except that the term does not include normal maintenance or repair of an existing facility.

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

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

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

(9) (a) "Electrical generation facility" means any combination of a physically connected generator or generators, associated prime movers, and other associated property, including appurtenant land and improvements and personal property, that are normally operated together to produce 20 average megawatts or more of electric power. The term is limited to generating facilities that produce electricity from coal-fired steam turbines, oil or gas turbines, or turbine generators driven by falling water.

(b) The term does not include:

(i) electrical generation facilities used for noncommercial purposes or exclusively for agricultural purposes; or

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

~~(9)~~(10) "Facility" means, subject to 75-20-1202:

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

(i) does not include an electric transmission line and associated facilities of a design capacity of 230

kilovolts or less and 10 miles or less in length;

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

(iii) does not include electric transmission lines that are collectively less than 150 miles in length and are required under state or federal regulations and laws, with respect to reliability of service, for an electrical generation facility~~, as defined in15-24-3001(4),~~ or a wind generation facility, biomass generation facility, or energy storage facility, as defined in 15-6-157, to interconnect to a regional transmission grid or secure firm transmission service to use the grid for which the person planning to construct the line or lines has obtained right-of-way agreements or options for a right-of-way from more than 75% of the owners who collectively own more than 75% of the property along the centerline or centerlines;

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

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

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

(b) (i) each pipeline, whether partially or wholly within the state, greater than 25 inches in inside diameter and 50 miles in length, and associated facilities, except that the term does not include:

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

(B) a pipeline greater than 25 inches in inside diameter and 50 miles in length for which the person

planning to construct the pipeline has obtained right-of-way agreements or options for a right-of-way from more than 75% of the owners who collectively own more than 75% of the property along the centerline;

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

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

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

~~(10)~~(11) "Person" means any individual, group, firm, partnership, corporation, limited liability company, cooperative, association, government subdivision, government agency, local government, or other organization or entity.

~~(11)~~(12) "Sensitive areas" means government-designated areas that have been recognized for their importance to Montana's wildlife, wilderness, culture, and historic heritage, including but not limited to national wildlife refuges, state wildlife management areas, federal areas of critical environmental concern, state parks and historic sites, designated wilderness areas, wilderness study areas, designated wild and scenic rivers, or national parks, monuments, or historic sites.

(13) "Transmission reliability agencies" means the federal energy regulatory commission, the western electricity coordinating council, the national electric reliability council, and the midwest reliability organization.

~~(12)~~(14) "Transmission substation" means any structure, device, or equipment assemblage, commonly located and designed for voltage regulation, circuit protection, or switching necessary for the construction or operation of a proposed transmission line.

~~(13) "Transmission reliability agencies" means the federal energy regulatory commission, the western electricity coordinating council, the national electric reliability council, and the midwest reliability organization.~~

~~(14)~~(15) "Upgrade" means to increase the electrical carrying capacity of a transmission line by actions including but not limited to:

(a) installing larger conductors;

(b) replacing insulators;

(c) replacing pole or tower structures;

(d) changing structure spacing, design, or guying; or

(e) installing additional circuits.

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

**Section 6.** Section 75-20-201, MCA, is amended to read:

"**75-20-201. Certificate required -- operation in conformance -- certificate for nuclear facility -- applicability to federal facilities.** (1) Except for a facility under diligent onsite physical construction or in operation on January 1, 1973, a person may not commence to construct a facility in the state without first applying for and obtaining a certificate of compliance issued with respect to the facility by the department.

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

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

(4) If the department decides to issue a certificate for a nuclear facility, it shall report the recommendation to the applicant and may not issue the certificate until the recommendation is approved by a majority of the voters in a statewide election called by initiative or referendum according to the laws of this state.

(5) A person that proposes to construct an energy-related project that is not defined as a facility pursuant to ~~75-20-104(9)~~ 75-20-104(10) may petition the department to review the energy-related project under the provisions of this chapter. The construction or installation of an energy storage facility, as defined in 15-6-157, is not considered an energy-related project under the provisions of this chapter. A certificate for the construction or installation of an energy storage facility is not required under this chapter.

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

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

**Section 7.** Section 75-20-207, MCA, is amended to read:

"**75-20-207. Notice requirement for certain electric transmission lines.** Whenever a person plans to construct an electric transmission line or associated facilities under the provisions of ~~75-20-104(9)(a)(ii)~~ 75-20-104(10)(a)(ii), it must provide public notice to persons residing in the area in which any portion of the electric transmission facility may be located and to the department. This notice must be made no less than 60 days prior to the commencement of acquisition of right-of-way as defined in 75-20-104 by publication of a summary describing the transmission facility and the proposed location of the facility in those newspapers that will substantially inform those persons of the construction and by mailing a summary to the department. The notice must inform the property owners of their rights under this chapter concerning the location of the facility and that more information concerning their rights may be obtained from the department."

**Section 8.** Section 75-20-208, MCA, is amended to read:

"**75-20-208. Certain electric transmission lines -- verification of requirements.** (1) Prior to constructing a transmission line under ~~75-20-104(9)(a)(ii)~~ 75-20-104(10)(a)(ii), the person planning to construct the line shall provide to the department within 36 months of the date of the public notice provided under 75-20-207, unless extended by the department for good cause:

(a) copies of the right-of-way agreements or options for a right-of-way containing sufficient information to establish landowner consent to construct the line; and

(b) sufficient information for the department to verify that the requirements of ~~75-20-104(9)(a)(ii)~~ 75-20-104(10)(a)(ii) are satisfied.

(2) The provisions of ~~75-20-104(9)(a)(ii)~~ 75-20-104(10)(a)(ii) do not apply to any facility for which public notice under 75-20-207 has been given but for which the requirements of subsection (1) of this section

have not been complied with."

**Section 9.** Section 75-20-211, MCA, is amended to read:

"**75-20-211. Application -- filing and contents -- proof of service and notice.** (1) (a) An applicant shall file with the department an application for a certificate under this chapter and for the permits required under the laws administered by the department in the form that is required under applicable rules, containing the following information:

(i) a description of the proposed location and of the facility to be built;

(ii) a summary of any preexisting studies that have been made of the impact of the facility;

(iii) for facilities defined in ~~75-20-104(9)(a) and (9)(b)~~ 75-20-104(10)(a) and (10)(b), a statement explaining the need for the facility, a description of reasonable alternate locations for the facility, a general description of the comparative merits and detriments of each location submitted, and a statement of the reasons why the proposed location is best suited for the facility;

(iv) (A) for facilities as defined in ~~75-20-104(9)(a) and (9)(b)~~ 75-20-104(10)(a) and (10)(b), baseline data for the primary and reasonable alternate locations; or

(B) for facilities as defined in ~~75-20-104(9)(c)~~ 75-20-104(10)(c), baseline data for the proposed location and, at the applicant's option, any alternative locations acceptable to the applicant for siting the facility;

(v) at the applicant's option, an environmental study plan to satisfy the requirements of this chapter; and

(vi) other information that the applicant considers relevant or that the department by order or rule may require.

(b) If a copy or copies of the studies referred to in subsection (1)(a)(ii) are filed with the department, the copy or copies must be available for public inspection.

(2) An application may consist of an application for two or more facilities in combination that are physically and directly attached to each other and are operationally a single operating entity.

(3) The copy of the application must be accompanied by a notice specifying the date on or about which the application is to be filed.

(4) An application must also be accompanied by proof that public notice of the application was given

to persons residing in the county in which any portion of the proposed facility is proposed or is alternatively proposed to be located, by publication of a summary of the application in those newspapers that will substantially inform those persons of the application."

**Section 10.** Section 75-20-301, MCA, is amended to read:

"**75-20-301. Decision of department -- findings necessary for certification.** (1) Within 30 days after issuance of the report pursuant to 75-20-216 for facilities defined in ~~75-20-104(9)(a) and (9)(b)~~ 75-20-104(10)(a) and (10)(b), the department shall approve a facility as proposed or as modified or an alternative to a proposed facility if the department finds and determines:

(a) the basis of the need for the facility;

(b) the nature of the probable environmental impact;

(c) that the facility minimizes adverse environmental impact, considering the state of available technology and the nature and economics of the various alternatives;

(d) in the case of an electric, gas, or liquid transmission line or aqueduct:

(i) what part, if any, of the line or aqueduct will be located underground;

(ii) that the facility is consistent with regional plans for expansion of the appropriate grid of the utility systems serving the state and interconnected utility systems; and

(iii) that the facility will serve the interests of utility system economy and reliability;

(e) that the location of the facility as proposed conforms to applicable state and local laws and regulations, except that the department may refuse to apply any local law or regulation if it finds that, as applied to the proposed facility, the law or regulation is unreasonably restrictive in view of the existing technology, of factors of cost or economics, or of the needs of consumers, whether located inside or outside the directly affected government subdivisions;

(f) that the facility will serve the public interest, convenience, and necessity;

(g) that the department or board has issued any necessary air or water quality decision, opinion, order, certification, or permit as required by 75-20-216(3); and

(h) that the use of public lands or federally designated energy corridors for location of a facility defined in ~~75-20-104(9)(a) or (9)(b)~~ 75-20-104(10)(a) or (10)(b) was evaluated and public lands or federally designated

energy corridors for that facility were selected whenever their use was compatible with:

(i) the requirements of subsections (1)(a) through (1)(g); and

(ii) transmission line reliability criteria established by transmission reliability agencies for a facility defined in ~~75-20-104(9)(a)~~ 75-20-104(10)(a).

(2) In determining that the facility will serve the public interest, convenience, and necessity under subsection (1)(f), the department shall consider:

(a) the items listed in subsections (1)(a) and (1)(b);

(b) the benefits to the applicant and the state resulting from the proposed facility;

(c) the effects of the economic activity resulting from the proposed facility;

(d) the effects of the proposed facility on the public health, welfare, and safety;

(e) any other factors that it considers relevant.

(3) Within 30 days after issuance of the report pursuant to 75-20-216 for a facility defined in ~~75-20-104(9)(c)~~ 75-20-104(10)(c), the department shall approve a facility as proposed or as modified or an alternative to a proposed facility if the department finds and determines:

(a) that the facility or alternative incorporates all reasonable, cost-effective mitigation of significant environmental impacts; and

(b) that unmitigated impacts, including those that cannot be reasonably quantified or valued in monetary terms, will not result in:

(i) a violation of a law or standard that protects the environment; or

(ii) a violation of a law or standard that protects the public health and safety.

(4) For facilities defined in 75-20-104, if the department cannot make the findings required in this section, it shall deny the certificate."

**Section 11.** Section 75-20-303, MCA, is amended to read:

"**75-20-303. Opinion issued with decision -- contents.** (1) In rendering a decision on an application for a certificate, the department shall issue an opinion stating its reasons for the action taken.

(2) If the department has found that any regional or local law or regulation that would be otherwise applicable is unreasonably restrictive, it shall state in its opinion the reasons that it is unreasonably restrictive.

(3) A certificate issued by the department must include the following:

(a) an environmental evaluation statement related to the facility being certified. The statement must include but is not limited to analysis of the following information:

(i) the environmental impact of the proposed facility; and

(ii) any adverse environmental effects that cannot be avoided by issuance of the certificate;

(b) a plan for monitoring environmental effects of the proposed facility;

(c) a plan for monitoring the certified facility site between the time of certification and completion of construction;

(d) a time limit as provided in subsection (4);

(e) a statement confirming that notice was provided pursuant to subsection (5); and

(f) a statement signed by the applicant showing agreement to comply with the requirements of this chapter and the conditions of the certificate.

(4) (a) The department shall issue as part of the certificate the following time limits:

(i) For a facility as defined in ~~75-20-104(9)(a)~~ 75-20-104(10)(a) that is more than 30 miles in length and for a facility defined in ~~75-20-104(9)(b)~~ 75-20-104(10)(b), construction must be completed within 10 years.

(ii) For a facility as defined in ~~75-20-104(9)(a)~~ 75-20-104(10)(a) that is 30 miles or less in length, construction must be completed within 5 years.

(iii) For a facility as defined in ~~75-20-104(9)(c)~~ 75-20-104(10)(c), construction must begin within 6 years and continue with due diligence in accordance with preliminary construction plans established in the certificate.

(b) Unless extended, a certificate lapses and is void if the facility is not constructed or if construction of the facility is not commenced within the time limits provided in this section.

(c) The time limit may be extended for a reasonable period upon a showing by the applicant to the department that a good faith effort is being undertaken to complete construction under subsections (4)(a)(i) and (4)(a)(ii). Under this subsection, a good faith effort includes the process of acquiring any necessary state or federal permit or certificate for the facility and the process of judicial review of a permit or certificate.

(d) Construction may begin immediately upon issuance of a certificate unless the department finds that there is substantial and convincing evidence that a delay in the commencement of construction is necessary and should be established for a particular facility.

(5) (a) (i) Except as provided in subsection (5)(a)(ii), for a facility defined in ~~75-20-104(9)(a) and (9)(b)~~ 75-20-104(10)(a) and (10)(b), the environmental review conducted pursuant to Title 75, chapter 1, parts 1 through 3, prepared by the department must designate a 500-foot-wide facility siting corridor along the facility route.

(ii) Prior to preparation of the environmental review or the draft environmental impact statement, the department shall consult the applicant and, in a manner determined by rule, landowners and identify areas in which a corridor considered in the environmental review document should be more or less than 500 feet wide. The corridor width may not be narrower than the applicant's right-of-way. For each area in which the corridor is more or less than 500 feet in width, the department shall provide a written justification. The department may not modify a corridor after issuance of the final environmental review document.

(b) The department shall provide written notice of the availability of each environmental review document to each owner of property within a corridor. No more than 60 days prior to the availability of each environmental review document, the names and addresses of the property owners must be obtained from the property tax rolls of the county where the property is located. Except as provided in subsection (5)(c), the notice must:

(i) be delivered personally or by first-class mail. If delivered personally, the property owner shall sign a receipt verifying that the property owner received the statement.

(ii) inform the property owner that the property owner's property is located within a corridor;

(iii) inform the property owner about how a copy of the environmental review document may be obtained; and

(iv) inform the property owner of the property owner's rights under this chapter concerning the location of the facility and that more information concerning those rights may be obtained from the department.

(c) If there is more than one name listed on the property tax rolls for a single property, the notice must be mailed to the first listed property owner at the address on the property tax rolls.

(d) By mailing the notice as provided in subsection (5)(c), the notice requirements in subsection (5)(b) are satisfied.

(6) (a) A certificate holder may submit an adjustment of the location of a facility outside the approved facility siting corridor to the department. The adjustment must be accompanied by the written agreement of the

affected property owner and all contiguous property owners that would be affected. The submission must include a map showing the approved facility siting corridor and the proposed adjustment. At the time of submission to the department, the adjustment must be accompanied by a copy of a legal notice published in a newspaper of general circulation in the area of the adjustment. The legal notice must specify that public comments on the adjustment may be submitted to the department within 10 days of the publication date of the notice.

(b) The certificate holder may construct the facility as described in the submission unless the department notifies the certificate holder within 15 days of the submission that the department has determined that:

(i) the adjustment would change the basis of any finding required under 75-20-301 to the extent that the department would have selected a different siting corridor for the facility; or

(ii) the adjustment would materially increase unmitigated adverse impacts.

(c) An adjustment pursuant to subsection (6)(a) is not subject to:

(i) Title 75, chapter 1, part 2;

(ii) a certificate amendment under 75-20-219; or

(iii) a board review under 75-20-223.

(d) (i) For each facility, the department shall maintain a list of persons who requested to receive electronic notice of any adjustment submitted pursuant to this subsection (6).

(ii) Upon receipt of a submitted adjustment, the department shall:

(A) post information about the adjustment on the department's website; and

(B) electronically notify each person identified in subsection (6)(d)(i) of the adjustment and where information about the adjustment may be viewed."

**Section 12.** Section 75-20-304, MCA, is amended to read:

"**75-20-304. Waiver of provisions of certification proceedings.** (1) The department may waive compliance with any of the provisions of 75-20-216 and this part if the applicant makes a clear and convincing showing to the department at a public hearing that an immediate, urgent need for a facility exists and that the applicant did not have knowledge that the need for the facility existed sufficiently in advance to fully comply with

the provisions of 75-20-216 and this part.

(2) The department may waive compliance with any of the provisions of this chapter upon receipt of notice by a person subject to this chapter that a facility or associated facility has been damaged or destroyed as a result of fire, flood, or other natural disaster or as the result of insurrection, war, or other civil disorder and there exists an immediate need for construction of a new facility or associated facility or the relocation of a previously existing facility or associated facility in order to promote the public welfare.

(3) The department shall waive compliance with the requirements of 75-20-301(1)(c), (2)(b), and (2)(c) and the requirements of 75-20-211(1)(a)(iii) and (1)(a)(iv) and 75-20-216(3) relating to consideration of alternative sites if the applicant makes a clear and convincing showing to the department at a public hearing that:

(a) a proposed facility will be constructed in a county where a single employer within the county has permanently curtailed or ceased operations, causing a loss of 250 or more permanent jobs within 2 years at the employer's operations within the preceding 10-year period;

(b) the county and municipal governing bodies in whose jurisdiction the facility is proposed to be located support by resolution the waiver;

(c) the proposed facility will be constructed within a 15-mile radius of the operations that have ceased or been curtailed; and

(d) the proposed facility will have a beneficial effect on the economy of the county in which the facility is proposed to be located.

(4) The waiver provided for in subsection (3) applies only to permanent job losses by a single employer. The waiver provided for in subsection (3) does not apply to jobs of a temporary or seasonal nature, including but not limited to construction jobs or job losses during labor disputes.

(5) The waiver provided for in subsection (3) does not apply to consideration of alternatives or minimum adverse environmental impact for a facility defined in ~~75-20-104(9)(a) or (9)(b)~~ 75-20-104(10)(a) or (10)(b) or for an associated facility defined in 75-20-104(3).

(6) The applicant shall pay all expenses required to process and conduct a hearing on a waiver request under subsection (3). However, any payments made under this subsection must be credited toward the fee paid under 75-20-215 to the extent that the data or evidence presented at the hearing or the decision of the

department under subsection (3) can be used in making a certification decision under this chapter.

(7) The department may grant only one waiver under subsections (3) and (4) for each permanent loss of jobs as defined in subsection (3)(a)."

**Section 13.** Section 75-20-1202, MCA, is amended to read:

"**75-20-1202. Definitions.** As used in 75-20-201, 75-20-203, and this part, the following definitions apply:

(1) "Facility", as defined in ~~75-20-104(9)~~ 75-20-104(10), is further defined to include any nuclear facility as defined in subsection (2)(a).

(2) (a) "Nuclear facility" means each plant, unit, or other facility designed for or capable of:

(i) generating 50 megawatts of electricity or more by means of nuclear fission;

(ii) converting, enriching, fabricating, or reprocessing uranium minerals or nuclear fuels; or

(iii) storing or disposing of radioactive wastes or materials from a nuclear facility.

(b) Nuclear facility does not include any small-scale facility used solely for educational, research, or medical purposes not connected with the commercial generation of energy."

NEW SECTION. **Section 14. Repealer.** The following sections of the Montana Code Annotated are repealed:

15-24-3001. Electrical generation and transmission facility exemption -- definitions.

15-24-3002. Rollback tax -- computation.

- END -

SENATE BILL NO. 35

INTRODUCED BY B. HOVEN

BY REQUEST OF THE REVENUE INTERIM COMMITTEE

AN ACT REPEALING THE EXPIRED PROPERTY TAX EXEMPTION FOR ELECTRICAL GENERATION AND DELIVERY FACILITIES; AMENDING SECTIONS 15-24-3006, 15-24-3007, 75-20-104, 75-20-201, 75-20-207, 75-20-208, 75-20-211, 75-20-301, 75-20-303, 75-20-304, AND 75-20-1202, MCA; AND REPEALING SECTIONS 15-24-3001 AND 15-24-3002, MCA.

I hereby certify that the within bill,

SB 35, originated in the Senate.

_____

Secretary of the Senate

_____

President of the Senate

Signed this _____day

of_____, 2021.

_____

Speaker of the House

Signed this _____day

of_____, 2021.