AN ACT GENERALLY REVISING ENVIRONMENTAL LAWS RELATED TO THE POLICY, PURPOSE, INTENT, VENUE, PROCEDURES, AND CONSTITUTIONAL CONSIDERATIONS OF THE MONTANA ENVIRONMENTAL POLICY ACT; ELIMINATING CERTAIN LAWS ON POLICIES, GOALS, CONSTITUTIONAL DETERMINATIONS, AND VENUES OF THE MONTANA ENVIRONMENTAL POLICY ACT; ESTABLISHING THE REVISED POLICY, PURPOSE, AND INTENT OF THE ACT AND THE PURPOSE OF ENVIRONMENTAL ANALYSIS; REAFFIRMING EXISTING LAW THAT THE MONTANA ENVIRONMENTAL POLICY ACT IS PROCEDURAL; PROVIDING THAT A PLAINTIFF HAS THE BURDEN OF ESTABLISHING THE UNCONSTITUTIONALITY OF THE UNDERLYING STATUTE FOR LICENSING OR PERMITTING DECISIONS OR ACTIVITIES UNDER TITLES 75 OR 82; PROVIDING THAT VENUE IN DISTRICT COURT MUST BE IN THE COUNTY WHERE THE ACTIVITY SUBJECT TO THE PROCEEDING IS PROPOSED TO OCCUR OR WILL OCCUR; AMENDING SECTIONS 5-16-102, 75-1-102, 75-1-104, 75-1-106, 75-1-201, 75-1-208, AND 75-1-324, MCA; REPEALING SECTIONS 75-1-103, 75-1-105, 75-1-107, AND 75-1-108, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, the Department of Environmental Quality convened a multidisciplinary work group to review and recommend updates to the Montana Environmental Policy Act (MEPA) during the summer of 2024. That work group recommended that the Legislature confirm the importance of MEPA as a valuable data gathering and analytical tool intended to provide sound and objective information to the public, agency decisionmakers, and lawmakers as each strives to make fully informed decisions; and

WHEREAS, Article II, section 3, of the Montana Constitution enumerates inalienable rights, including the right to a clean and healthful environment, rights to pursue life's basic necessities, rights to enjoy and defend their lives and liberties, rights to acquire, possess, and protect property, and rights to seek safety, health, and happiness in all lawful ways, and neither the Constitution nor the Legislature through the passage of MEPA has identified a prioritization of one right over any other. As such, MEPA requires a balanced view of

competing social, economic, and environmental goals and potential impacts in order to promote the overall health, safety, and welfare of Montanans; and

WHEREAS, the Legislature and the Supreme Court are in agreement that MEPA is purely procedural in nature and intended to foster more informed decisionmaking on state actions, and that the process is intended to provide a transparent public forum in which to analyze and disclose potential significant impacts to Montana's environment and to provide a clearer understanding of the rationale behind state permitting decisions; and

WHEREAS, the Legislature has made the act's intent clear in "A Guide to the Montana Environmental Policy Act," which states that "MEPA is not an act that controls or sets regulations for any specific land or resource use. It is not a preservation, wilderness, or antidevelopment act. It is not a device for preventing industrial or agricultural development. If implemented correctly and efficiently, MEPA should encourage and foster economic development that is environmentally and socially sound. By taking the time to identify the environmental impacts of a state decision before the decision is made and including the public in the process, MEPA is intended to foster better decisionmaking for people and the environment"; and

WHEREAS, the permissibility of environmental impacts is not determined by MEPA, but through compliance with standards and criteria adopted under the authority granted by the Legislature in substantive environmental statutes. As such, MEPA is not intended to force, hinder, or preclude particular outcomes or decisions, and the statute has no independent regulatory authority, and no means to withhold, deny, or modify permits independently administered under Montana's substantive environmental regulations; and

WHEREAS, Article IX, section 1, of the Montana Constitution clearly assigns the Legislature with the responsibility to administer and enforce a system of laws to protect the environment against unreasonable degradation, and the Legislature has duly enacted substantive statutes to provide these environmental protections. The following statutes and attending rules establish requirements for predictive analysis to satisfy the "anticipatory and preventative" test established by the Supreme Court:

Montana Clean Indoor Air Act of 1979, Title 50, chapter 40, part 1;

Clean Air Act of Montana, Title 75, chapter 2, parts 1 through 4;

Water Quality, Title 75, chapter 5;

The Natural Streambed and Land Preservation Act of 1975, Title 75, chapter 7, part 1;

The Montana Solid Waste Management Act, Title 75, chapter 10, part 2;

Montana Hazardous Waste Act, Title 75, chapter 10, part 4;

Comprehensive Environmental Cleanup and Responsibility Act, Title 75, chapter 10, part 7;

Montana Underground Storage Tank Installer and Inspector Licensing and Permitting Act, Title 75, chapter 11, part 2;

Montana Underground Storage Tank Act, Title 75, chapter 11, part 5;

Montana Major Facility Siting Act, Title 75, chapter 20;

Open-Space Land and Voluntary Conservation Easement Act, Title 76, chapter 6;

Environmental Control Easement Act, Title 76, chapter 7;

The Strip and Underground Mine Siting Act, Title 82, chapter 4, part 1;

The Montana Strip and Underground Mine Reclamation Act, Title 82, chapter 4, part 2;

The Opencut Mining Act, Title 82, chapter 4, part 4;

The Nongame and Endangered Species Conservation Act, Title 87, chapter 5, part 1;

Each of these independent statutes relies on scientific analysis and informed permitting decisions to anticipate, avoid, minimize, or mitigate significant impacts to Montana's environment.

WHEREAS, in Bitterrooters for Planning, Inc. v. Montana Department of Environmental Quality, 2017 MT 222, 388 Mont. 453, 401 P.3d 712, the Supreme Court stated, "an agency action is a legal cause of an environmental effect only if the agency can prevent the effect through the lawful exercise of its independent authority"; therefore, a challenge brought under MEPA must be limited to deficiencies in analysis or disclosure in areas where legislative direction has been provided to agencies through substantive environmental statutes; and

WHEREAS, the 69th Legislature affirms the intent of the 42nd Legislature, which expressed the following statements and positions while passing MEPA into law in 1971: "A major conservation challenge today is to achieve needed development and use of our natural resources while concurrently protecting and enhancing the quality of our environment. MEPA seeks that often elusive middle ground between purely preservationist philosophy and purely exploitive philosophy, and indeed we must soon find that middle ground. As we guide Montana's development, we must use scientific, technological, and sociological expertise."

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

Section 1. Policy -- intent -- purpose of environmental analysis. (1) (a) The purpose of requiring an environmental assessment or an environmental impact statement under part 2 of this chapter is to assist the legislature in determining whether environmental regulations are adequate to address impacts to Montana's environment and to inform the public and public officials of potential impacts resulting from a proposed action made by a state agency.

(b) It is not the purpose of parts 1 through 3 of this chapter to provide additional regulatory authority to a state agency.

(2) (a) The policies and goals set forth in parts 1 through 3 of this chapter are intended to provide a public forum in which to analyze and disclose potential significant impacts on Montana's environment from proposed actions.

(b) Parts 1 through 3 of this chapter require a balanced view of competing social, economic, and environmental goals and potential impacts in order to promote the overall health, safety, and welfare of Montanans.

(3) (a) An agency may not withhold, deny, or impose conditions on any permit or other authority to act based on parts 1 through 3 of this chapter.

(b) Nothing in this subsection (3) may prevent a project sponsor and an agency from mutually developing measures that may, at the request of a project sponsor, be incorporated into a permit or other authority to act.

(c) Parts 1 through 3 of this chapter do not confer authority to an agency that is a project sponsor to modify a proposed project or action.

Section 2. Constitutionality -- venue. (1) In an action filed in district court invoking the court's original jurisdiction to challenge the constitutionality of a licensing or permitting decision made pursuant to Titles 75 or 82 or activities taken pursuant to a license or permit issued under Titles 75 or 82, the plaintiff shall first establish the unconstitutionality of the underlying statute.

(2) A proceeding in district court to challenge an action taken pursuant to parts 1 through 3, 10,

and 11 of this chapter must be held in the county where the activity subject to the proceeding is proposed to occur or will occur.

Section 3. Section 5-16-102, MCA, is amended to read:

"**5-16-102. Qualifications.** (1) In considering the appointments under 5-16-101(2) and (3), consideration must be given to the appointees' qualifications to:

(a) analyze and interpret environmental trends and information of all kinds;

(b) appraise programs and activities of the state government in the light of the ~~policy set forth in 75-1-103~~ policies set forth in Title 75, chapter 1, parts 1 through 3;

(c) be conscious of and responsive to the scientific, economic, social, aesthetic, and cultural needs and interests of the state; and

(d) formulate and recommend state policies to promote the improvement of the quality of the environment.

(2) At least 50% of the members appointed pursuant to 5-16-101(2) must be selected from the standing committees that consider issues within the jurisdiction of the environmental quality council."

Section 4. Section 75-1-102, MCA, is amended to read:

"**75-1-102. Intent -- purpose or procedural policy.** (1) ~~The legislature, mindful of its constitutional obligations under Article II, section 3, and Article IX of the Montana constitution, has enacted the Montana Environmental Policy Act.~~ The Montana Environmental Policy Act is procedural, and it is the legislature's intent that the requirements of parts 1 through 3 of this chapter provide for the adequate review of ~~state~~ proposed actions in order to ensure that:

(a) an assessment of environmental attributes ~~are fully considered by the legislature in enacting laws to fulfill constitutional obligations~~ is conducted and made available for the legislature to fully review in order to determine the appropriateness of potential and existing regulations; and

(b) the public is informed of the anticipated impacts in Montana of ~~potential state~~ proposed actions.

(2) The purpose of parts 1 through 3 of this chapter is to declare a state policy that ~~will encourage productive and enjoyable harmony between~~ provides for an adequate assessment of the relationship between

humans and their environment, ~~to protect~~ protects the right to use and enjoy private property free of undue government regulation, ~~to promote efforts that will prevent, mitigate, or eliminate damage to the environment and biosphere and stimulate~~ discloses proposed actions to avoid, minimize, or mitigate environmental impacts in accordance with existing regulations, stimulates the health and welfare of humans, ~~to enrich~~ enriches the understanding of the ecological systems and natural resources important to the state, and ~~to establish~~ establishes an environmental quality council.

~~(3) (a) The purpose of requiring an environmental assessment and an environmental impact statement under part 2 of this chapter is to assist the legislature in determining whether laws are adequate to address impacts to Montana's environment and to inform the public and public officials of potential impacts resulting from decisions made by state agencies.~~

~~(b) Except to the extent that an applicant agrees to the incorporation of measures in a permit pursuant to 75-1-201(4)(b), it is not the purpose of parts 1 through 3 of this chapter to provide for regulatory authority, beyond authority explicitly provided for in existing statute, to a state agency.~~"

Section 5. Section 75-1-104, MCA, is amended to read:

"**75-1-104. Specific statutory obligations unimpaired.** ~~Sections 75-1-103 and 75-1-201 do~~ Section 75-1-201 does not affect the specific statutory obligations of any agency of the state to:

(1) comply with criteria or standards of environmental quality established in Montana law; or

(2) coordinate or consult with any local government, other state agency, or federal agency~~; or~~

~~(3) act or refrain from acting contingent upon the recommendations or certification of any other state or federal agency~~."

Section 6. Section 75-1-106, MCA, is amended to read:

"**75-1-106. Private property protection -- ongoing programs of state government.** Nothing in ~~75-1-102, 75-1-103, or 75-1-201~~ this chapter expands or diminishes private property protection afforded in the U.S. or Montana constitutions. ~~Nothing in 75-1-102, 75-1-103, or 75-1-201 may be construed to preclude ongoing programs of state government pending the completion of any statements that may be required by 75-1-102, 75-1-103, or 75-1-201.~~"

Section 7. Section 75-1-201, MCA, is amended to read:

"**75-1-201. General directions -- environmental impact statements.** (1) The legislature authorizes and directs that, to the fullest extent possible:

(a) ~~the policies, regulations, and laws of the state must be interpreted and administered in accordance with the policies set forth in parts 1 through 3;~~

~~(b)~~ under this part, all agencies of the state, except the legislature and except as provided in subsections (2) and (3), shall:

(i) use a systematic, interdisciplinary approach that ~~will~~ must ensure:

(A) the integrated use of the natural and social sciences and the environmental design arts in planning and ~~in decisionmaking for~~ assessing a state-sponsored project that may have an impact on ~~the Montana human~~ Montana's environment by projects in Montana; and

(B) that in any environmental review that is not subject to subsection ~~(1)(b)(iv)~~ (1)(a)(iv), when an agency considers alternatives, the alternative analysis ~~will~~ must be in compliance with the provisions of subsections ~~(1)(b)(iv)(C)(I) and (1)(b)(iv)(C)(II)~~ (1)(a)(iv)(C)(I) and (1)(a)(iv)(C)(II) and, if requested by the project sponsor or if determined by the agency to be necessary, subsection ~~(1)(b)(iv)(C)(III)~~ (1)(a)(iv)(C)(III);

(ii) identify and develop methods and procedures that ~~will~~ ensure that presently unquantified environmental amenities ~~and values~~ may be given appropriate consideration ~~in decisionmaking~~ and assessment for state-sponsored projects~~, along with economic and technical considerations~~;

(iii) identify and develop methods and procedures that ~~will~~ ensure that state government actions that may impact ~~the human~~ Montana's environment ~~in Montana~~ are evaluated for regulatory restrictions on private property, as provided in subsection ~~(1)(b)(iv)(D)~~ (1)(a)(iv)(D);

(iv) include in each recommendation or report on proposals for projects, programs, and other major actions of state government significantly affecting the quality of ~~the human environment in Montana~~ Montana's environment a detailed statement on:

(A) the environmental impact of the proposed action;

(B) any adverse effects on Montana's environment that cannot be avoided if the proposal is implemented;

(C) alternatives to the proposed action. An analysis of any alternative included in the environmental review must comply with the following criteria:

(I) any alternative proposed must be reasonable, in that the alternative must be achievable under current technology and the alternative must be economically feasible as determined solely by the economic viability for similar projects having similar conditions and physical locations and determined without regard to the economic strength of the specific project sponsor;

(II) the agency proposing the alternative shall consult with the project sponsor regarding any proposed alternative, and the agency shall give due weight and consideration to the project sponsor's comments regarding the proposed alternative;

(III) the agency shall complete a meaningful no-action alternative analysis. The no-action alternative analysis must include the projected beneficial and adverse environmental, social, and economic impact of the project's noncompletion.

(D) any regulatory impacts on private property rights, including whether alternatives that reduce, minimize, or eliminate the regulation of private property rights have been analyzed. The analysis in this subsection ~~(1)(b)(iv)(D)~~ (1)(a)(iv)(D) need not be prepared if the proposed action does not involve the regulation of private property.

~~(E) the relationship between local short-term uses of the Montana human environment and the maintenance and enhancement of long-term productivity;~~

~~(F)~~(E) any irreversible and irretrievable commitments of resources that would be involved in the proposed action if it is implemented;

~~(G)~~(F) the customer fiscal impact analysis, if required by 69-2-216; and

~~(H)~~(G) the details of the beneficial aspects of the proposed project, both short-term and long-term, and the economic advantages and disadvantages of the proposal;

(v) in accordance with the criteria set forth in subsection ~~(1)(b)(iv)(C)~~ (1)(a)(iv)(C), study, develop, and describe appropriate alternatives to recommend courses of action in any proposal that involves unresolved conflicts concerning alternative uses of available resources. If the alternatives analysis is conducted for a project that is not a state-sponsored project and alternatives are recommended, the project sponsor may volunteer to implement the alternative. ~~Neither the~~ The alternatives analysis ~~nor~~ or the resulting

recommendations may not bind the project sponsor to take a recommended course of action~~, but the project sponsor may agree pursuant to subsection (4)(b) to a specific course of action.~~

~~(vi) recognize the potential long-range character of environmental impacts in Montana and, when consistent with the policies of the state, lend appropriate support to initiatives, resolutions, and programs designed to maximize cooperation in anticipating and preventing a decline in the quality of Montana's environment;~~

~~(vii)~~(vi) make available to counties, municipalities, institutions, and individuals advice and information useful in restoring, maintaining, and enhancing the quality of Montana's environment;

~~(viii)~~(vii) initiate and use ecological information in the planning and development of resource-oriented projects; and

~~(ix)~~(viii) assist the legislature and the environmental quality council established by 5-16-101;

~~(c)~~(b) prior to making any detailed statement as provided in subsection ~~(1)(b)(iv)~~ (1)(a)(iv), the responsible state official shall consult with and ~~obtain~~ request the comments of any state agency that has jurisdiction by law or special expertise with respect to any environmental impact involved in Montana and with any Montana local government, as defined in 7-12-1103, that may be directly impacted by the project. The responsible state official shall also consult with and ~~obtain~~ request comments from any state agency in Montana with respect to any regulation of private property involved. Copies of the statement and the comments ~~and views~~ of the appropriate state, federal, and local agencies that are authorized to develop and enforce environmental standards must be made available to the governor, the environmental quality council, and the public and must accompany the proposal through the existing agency review processes.

~~(d)~~(c) a transfer of an ownership interest in a lease, permit, license, certificate, or other entitlement for use or permission to act by an agency, either singly or in combination with other state agencies, does not trigger review under subsection ~~(1)(b)(iv)~~ (1)(a)(iv) if there is not a material change in terms or conditions of the entitlement or unless otherwise provided by law.

~~(2) (a) Except as provided in subsection (2)(b), an environmental review conducted pursuant to subsection (1) may not include an evaluation of greenhouse gas emissions and corresponding impacts to the climate in the state or beyond the state's borders.~~

~~(b) An environmental review conducted pursuant to subsection (1) may include an evaluation if:~~

~~(i) conducted jointly by a state agency and a federal agency to the extent the review is required by the federal agency; or~~

~~(ii) the United States congress amends the federal Clean Air Act to include carbon dioxide emissions as a regulated pollutant.~~

~~(3)~~(2) The department of public service regulation, in the exercise of its regulatory authority over rates and charges of railroads, motor carriers, and public utilities, is exempt from the provisions of parts 1 through 3.

~~(4) (a) The agency may not withhold, deny, or impose conditions on any permit or other authority to act based on parts 1 through 3 of this chapter.~~

~~(b) Nothing in this subsection (4) prevents a project sponsor and an agency from mutually developing measures that may, at the request of a project sponsor, be incorporated into a permit or other authority to act.~~

~~(c) Parts 1 through 3 of this chapter do not confer authority to an agency that is a project sponsor to modify a proposed project or action.~~

~~(5)~~(3) (a) (i) A challenge to an agency's environmental review under this part may only be brought against a ~~final agency action~~ state action approved in a final decision document and may only be brought in district court or in federal court, whichever is appropriate. A challenge may only be brought by a person who submits formal comments on the agency's environmental review prior to the issuance of the agency's final decision document, and the challenge must be limited to those issues ~~addressed~~ raised in those comments.

(ii) Any action or proceeding challenging a ~~final agency action~~ state action approved in a final decision document alleging failure to comply with or inadequate compliance with a requirement under this part must be brought within 60 days of the action that is the subject of the challenge.

(iii) For an action taken by the board of land commissioners or the department of natural resources and conservation under Title 77, "final agency action" means the date that the board of land commissioners or the department of natural resources and conservation issues a final environmental review document under this part or the date that the board approves the action that is subject to this part, whichever is later.

(b) Any action or proceeding under subsection ~~(5)(a)(ii)~~ (3)(a)(ii) must take precedence over other cases or matters in the district court unless otherwise provided by law.

(c) Any judicial action or proceeding brought in district court under subsection ~~(5)(a)~~ (3)(a)

involving an equine slaughter or processing facility must comply with 81-9-240 and 81-9-241.

~~(6)~~(4) (a) (i) In an action alleging noncompliance or inadequate compliance with a requirement of parts 1 through 3, including a challenge to an agency's decision that an environmental review is not required or a claim that the environmental review is inadequate, the agency shall compile and submit to the court the certified record of its decision at issue. The agency, prior to submitting the certified record to the court, shall assess and collect from the person challenging the decision a fee to pay for actual costs to compile and submit the certified record. Except as provided in subsection ~~(6)(b)~~ (4)(b), the person challenging the decision has the burden of proving the claim by clear and convincing evidence contained in the record.

~~(ii) An action alleging noncompliance or inadequate compliance with a requirement of parts 1 through 3, including a challenge to an agency's decision that an environmental review is not required or a claim that the environmental review is inadequate based in whole or in part upon greenhouse gas emissions and impacts to the climate in Montana or beyond Montana's borders, cannot vacate, void, or delay a lease, permit, license, certificate, authorization, or other entitlement or authority unless the review is required by a federal agency or the United States congress amends the federal Clean Air Act to include carbon dioxide as a regulated pollutant.~~

~~(iii)~~(ii) Except as provided in subsection ~~(6)(b)~~ (4)(b), in a challenge to the agency's decision or the adequacy of an environmental review, a court may not consider any information, including but not limited to an issue, comment, argument, proposed alternative, analysis, or evidence, that was not first presented to the agency for the agency's consideration prior to the agency's decision or within the time allowed for comments to be submitted.

~~(iv)~~(iii) Except as provided in subsection ~~(6)(b)~~ (4)(b), the court shall confine its review to the record certified by the agency. The court shall affirm the agency's decision or the environmental review unless the court specifically finds that the agency's decision was arbitrary and capricious.

~~(v)~~(iv) A customer fiscal impact analysis pursuant to 69-2-216 or an allegation that the customer fiscal impact analysis is inadequate may not be used as the basis of an action challenging or seeking review of the agency's decision.

(b) (i) When a party challenging the decision or the adequacy of the environmental review or decision presents information not in the record certified by the agency, the challenging party shall certify under

oath in an affidavit that the information is new, material, and significant evidence that was not publicly available before the agency's decision and that is relevant to the decision or the adequacy of the agency's environmental review.

(ii) If ~~upon~~ on reviewing the affidavit the court finds that the proffered information is new, material, and significant evidence that was not publicly available before the agency's decision and that is relevant to the decision or to the adequacy of the agency's environmental review, the court shall remand the new evidence to the agency for the agency's consideration and an opportunity to modify its decision or environmental review before the court considers the evidence as a part of the administrative record under review.

(iii) If the court finds that the information in the affidavit does not meet the requirements of subsection ~~(6)(b)(i)~~ (4)(b)(i), the court may not remand the matter to the agency or consider the proffered information in making its decision.

(c) (i) The remedies provided in this section for successful challenges to a decision of the agency or the adequacy of the statement are exclusive.

(ii) Notwithstanding the provisions of 27-19-201 and 27-19-314, a court having considered the pleadings of parties and intervenors opposing a request for a temporary restraining order, preliminary injunction, permanent injunction, or other equitable relief may not enjoin the issuance or effectiveness of a license or permit or a part of a license or permit issued pursuant to Title 75 or Title 82 unless the court specifically finds that the party requesting the relief is more likely than not to prevail on the merits of its complaint given the uncontroverted facts in the record and applicable law and, in the absence of a temporary restraining order, a preliminary injunction, a permanent injunction, or other equitable relief, that the:

(A) party requesting the relief will suffer irreparable harm in the absence of the relief;

(B) issuance of the relief is in the public interest. In determining whether the grant of the relief is in the public interest, a court:

(I) may not consider the legal nature or character of any party; and

(II) shall consider the implications of the relief on the local and state economy and make written findings with respect to both.

(C) relief is as narrowly tailored as the facts allow to address both the alleged noncompliance and the irreparable harm the party asking for the relief will suffer. In tailoring the relief, the court shall ensure, to the

extent possible, that the project or as much of the project as possible can go forward while also providing the relief to which the applicant has been determined to be entitled.

(d) The court may issue a temporary restraining order, preliminary injunction, permanent injunction, or other injunctive relief only if the party seeking the relief provides a written undertaking to the court in an amount reasonably calculated by the court as adequate to pay the costs and damages sustained by any party that may be found to have been wrongfully enjoined or restrained by a court through a subsequent judicial decision in the case, including but not limited to lost wages of employees and lost project revenues for 1 year. If the party seeking an injunction or a temporary restraining order objects to the amount of the written undertaking for any reason, including but not limited to its asserted inability to pay, that party shall file an affidavit with the court that states the party's income, assets, and liabilities in order to facilitate the court's consideration of the amount of the written undertaking that is required. The affidavit must be served on the party enjoined. If a challenge for noncompliance or inadequate compliance with a requirement of parts 1 through 3 seeks to vacate, void, or delay a lease, permit, license, certificate, or other entitlement or authority, the party shall, as an initial matter, seek an injunction related to a lease, permit, license, certificate, or other entitlement or authority, and an injunction may only be issued if the challenger:

(i) proves there is a likelihood of succeeding on the merits;

(ii) proves there is a violation of an established law or regulation on which the lease, permit, license, certificate, or other entitlement or authority is based; and

(iii) subject to the demonstration of the inability to pay, posts the appropriate written undertaking.

(e) An individual or entity seeking a lease, permit, license, certificate, or other entitlement or authority to act may intervene in a lawsuit in court challenging a decision or statement by a department or agency of the state as a matter of right if the individual or entity has not been named as a defendant.

(f) Attorney fees or costs may not be awarded to the prevailing party in an action alleging noncompliance or inadequate compliance with a requirement of parts 1 through 3.

~~(7)~~(5) For the purposes of judicial review, to the extent that the requirements of this section are inconsistent with the provisions of the National Environmental Policy Act, the requirements of this section apply to an environmental review or any severable portion of an environmental review within the state's jurisdiction that is being prepared by a state agency pursuant to this part in conjunction with a federal agency proceeding

pursuant to the National Environmental Policy Act.

~~(8)~~(6) The director of the agency responsible for the determination or recommendation shall endorse in writing any determination of significance made under subsection ~~(1)(b)(iv)~~ (1)(a)(iv) or any recommendation that a determination of significance be made.

~~(9)~~(7) A project sponsor may request a review of the significance determination or recommendation made under subsection ~~(8)~~ (6) by the appropriate board, if any. The appropriate board may, at its discretion, submit an advisory recommendation to the agency regarding the issue. The period of time between the request for a review and completion of a review under this subsection may not be included for the purposes of determining compliance with the time limits established for environmental review in 75-1-208."

Section 8. Section 75-1-208, MCA, is amended to read:

"**75-1-208. Environmental review procedure.** (1) (a) Except as provided in 75-1-205(4) and subsection (1)(b) of this section, an agency shall comply with this section when completing any environmental review required under this part.

(b) To the extent that the requirements of this section are inconsistent with federal requirements, the requirements of this section do not apply to an environmental review that is being prepared jointly by a state agency pursuant to this part and a federal agency pursuant to the National Environmental Policy Act or to an environmental review that must comply with the requirements of the National Environmental Policy Act.

(2) (a) Except as provided in subsection (2)(b), a project sponsor may, after providing a 30-day notice, appear before the environmental quality council at any regularly scheduled meeting to discuss issues regarding the agency's environmental review of the project. The environmental quality council shall ensure that the appropriate agency personnel are available to answer questions.

(b) If the primary concern of the agency's environmental review of a project is the quality or quantity of water, a project sponsor may, after providing a 30-day notice, appear before the water policy committee established in 5-5-231 at any regularly scheduled meeting to discuss issues regarding the agency's environmental review of the project. The water policy committee shall ensure that the appropriate agency personnel are available to answer questions.

(3) If a project sponsor experiences problems in dealing with the agency or any consultant hired by

the agency regarding an environmental review, the project sponsor may submit a written request to the agency director requesting a meeting to discuss the issues. The written request must sufficiently state the issues to allow the agency to prepare for the meeting. If the issues remain unresolved after the meeting with the agency director, the project sponsor may submit a written request to appear before the appropriate board, if any, to discuss the remaining issues. A written request to the appropriate board must sufficiently state the issues to allow the agency and the board to prepare for the meeting.

(4) (a) Subject to the requirements of subsection (5), to ensure a timely completion of the environmental review process, an agency is subject to the time limits listed in this subsection (4) unless other time limits are provided by law. All time limits are measured from the date the agency receives a complete application. An agency has:

(i) 60 days to complete a public scoping process, if any;

(ii) 90 days to complete an environmental review unless a detailed statement pursuant to ~~75-1-201(1)(b)(iv)~~ 75-1-201(1)(a)(iv) or 75-1-205(4) is required; and

(iii) 180 days to complete a detailed statement pursuant to ~~75-1-201(1)(b)(iv)~~ 75-1-201(1)(a)(iv).

(b) The period of time between the request for a review by a board and the completion of a review by a board under ~~75-1-201(9)~~ 75-1-201(7) or subsection (10) of this section may not be included for the purposes of determining compliance with the time limits established for conducting an environmental review under this subsection or the time limits established for permitting in 75-2-211, 75-2-218, 75-20-216, 75-20-231, 76-4-114, 82-4-122, 82-4-231, 82-4-337, and 82-4-432.

(5) An agency may extend the time limits in subsection (4) by notifying the project sponsor in writing that an extension is necessary and stating the basis for the extension. The agency may extend the time limit one time, and the extension may not exceed 50% of the original time period as listed in subsection (4). After one extension, the agency may not extend the time limit unless the agency and the project sponsor mutually agree to the extension.

(6) If the project sponsor disagrees with the need for the extension, the project sponsor may request that the appropriate board, if any, conduct a review of the agency's decision to extend the time period. The appropriate board may, at its discretion, submit an advisory recommendation to the agency regarding the issue.

(7) (a) Except as provided in subsection (7)(b), if an agency has not completed the environmental review by the expiration of the original or extended time period, the agency may not withhold a permit or other authority to act unless the agency makes a written finding that there is a likelihood that permit issuance or other approval to act would result in the violation of a statutory or regulatory requirement.

(b) Subsection (7)(a) does not apply to a permit granted under Title 75, chapter 2, or under Title 82, chapter 4, parts 1 and 2.

(8) Under this part, an agency may only request information from the project sponsor that is relevant to the environmental review required under this part.

(9) An agency shall ensure that the notification for any public scoping process associated with an environmental review conducted by the agency is presented in an objective and neutral manner and that the notification does not speculate on the potential impacts of the project.

(10) An agency may not require the project sponsor to provide engineering designs in greater detail than that necessary to fairly evaluate the proposed project. The project sponsor may request that the appropriate board, if any, review an agency's request regarding the level of design detail information that the agency believes is necessary to conduct the environmental review. The appropriate board may, at its discretion, submit an advisory recommendation to the agency regarding the issue.

(11) An agency shall, when appropriate, evaluate the cumulative impacts of a proposed project. However, related future actions may only be considered when these actions are under concurrent consideration by any agency through preimpact statement studies, separate impact statement evaluations, or permit processing procedures."

Section 9. Section 75-1-324, MCA, is amended to read:

"**75-1-324. Duties of environmental quality council.** The environmental quality council shall:

(1) gather timely and authoritative information concerning the conditions and trends in the quality of the environment, both current and prospective, analyze and interpret the information for the purpose of determining whether the conditions and trends are interfering or are likely to interfere with the achievement of the policy set forth in ~~75-1-103~~ this chapter, and compile and submit to the governor and the legislature studies relating to the conditions and trends;

(2) review and appraise the various programs and activities of the state agencies, in the light of the policy set forth in ~~75-1-103~~ this chapter, for the purpose of determining the extent to which the programs and activities are contributing to the achievement of the policy and make recommendations to the governor and the legislature with respect to the policy;

(3) develop and recommend to the governor and the legislature state policies to foster and promote the improvement of environmental quality to meet the conservation, social, economic, health, and other requirements and goals of the state;

(4) conduct investigations, studies, surveys, research, and analyses relating to ecological systems and environmental quality;

(5) document and define changes in the natural environment, including the plant and animal systems, and accumulate necessary data and other information for a continuing analysis of these changes or trends and an interpretation of their underlying causes;

(6) make and furnish studies, reports on studies, and recommendations with respect to matters of policy and legislation as the legislature requests;

(7) analyze legislative proposals in clearly environmental areas and in other fields in which legislation might have environmental consequences and assist in preparation of reports for use by legislative committees, administrative agencies, and the public;

(8) consult with and assist legislators who are preparing environmental legislation to clarify any deficiencies or potential conflicts with an overall ecologic plan;

(9) review and evaluate operating programs in the environmental field in the several agencies to identify actual or potential conflicts, both among the activities and with a general ecologic perspective, and suggest legislation to remedy the situations; and

(10) except as provided in 5-5-231, perform the administrative rule review, draft legislation review, program evaluation, and monitoring functions of an interim committee for the following executive branch agencies and the entities attached to the agencies for administrative purposes:

(a) department of environmental quality;

(b) department of fish, wildlife, and parks; and

(c) department of natural resources and conservation."

Section 10. Repealer. The following sections of the Montana Code Annotated are repealed:

75-1-103. Policy.

75-1-105. Policies and goals supplementary.

75-1-107. Determination of constitutionality.

75-1-108. Venue.

Section 11. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 75, chapter 1, part 1, and the provisions of Title 75, chapter 1, part 1, apply to [sections 1 and 2].

Section 12. Coordination instruction. If both Senate Bill No. 221 and [this act] are passed and approved and if both contain a section that amends 75-1-201, then the sections amending 75-1-201 are void and 75-1-201 must be amended as follows:

"**75-1-201. General directions -- environmental impact statements.** (1) The legislature authorizes and directs that, to the fullest extent possible:

(a) ~~the policies, regulations, and laws of the state must be interpreted and administered in accordance with the policies set forth in parts 1 through 3;~~

~~(b)~~ under this part, all agencies of the state, except the legislature and except as provided in ~~subsections (2) and~~ subsection (3), shall:

(i) use a systematic, interdisciplinary approach that ~~will~~ must ensure:

(A) the integrated use of the natural and social sciences and the environmental design arts in planning and ~~in decisionmaking for~~ assessing a state-sponsored project that may have an impact on ~~the Montana human~~ Montana's environment by projects in Montana; and

(B) that in any environmental review that is not subject to subsection ~~(1)(b)(iv)~~ (1)(a)(iv), when an agency considers alternatives, the alternative analysis ~~will~~ must be in compliance with the provisions of subsections ~~(1)(b)(iv)(C)(I) and (1)(b)(iv)(C)(II)~~ (1)(a)(iv)(C)(I) and (1)(a)(iv)(C)(II) and, if requested by the project sponsor or if determined by the agency to be necessary, subsection ~~(1)(b)(iv)(C)(III)~~ (1)(a)(iv)(C)(III);

(ii) identify and develop methods and procedures that ~~will~~ ensure that presently unquantified

environmental amenities ~~and values~~ may be given appropriate consideration ~~in decisionmaking~~ and assessment for state-sponsored projects~~, along with economic and technical considerations~~;

(iii) identify and develop methods and procedures that ~~will~~ ensure that state government actions that may impact ~~the human~~ Montana's environment ~~in Montana~~ are evaluated for regulatory restrictions on private property, as provided in subsection ~~(1)(b)(iv)(D)~~ (1)(a)(iv)(D);

(iv) include in each recommendation or report on proposals for projects, programs, and other major actions of state government significantly affecting the quality of ~~the human environment in Montana~~ Montana's environment a detailed statement on:

(A) the proximate environmental ~~impact~~ impacts of the proposed action;

(B) any proximate adverse effects on Montana's environment that cannot be avoided if the ~~proposal~~ proposed action is implemented;

(C) alternatives to the proposed action. An analysis of any alternative included in the environmental review must comply with the following criteria:

(I) any alternative proposed must be reasonable, in that the alternative must be achievable under current technology and the alternative must be economically feasible as determined solely by the economic viability for similar projects having similar conditions and physical locations and determined without regard to the economic strength of the specific project sponsor;

(II) the agency proposing the alternative shall consult with the project sponsor regarding any proposed alternative, and the agency shall give due weight and consideration to the project sponsor's comments regarding the proposed alternative;

(III) the agency shall complete a meaningful no-action alternative analysis. The no-action alternative analysis must include the projected beneficial and adverse environmental, social, and economic impact of the project's noncompletion.

(D) any regulatory impacts on private property rights, including whether alternatives that reduce, minimize, or eliminate the regulation of private property rights have been analyzed. The analysis in this subsection ~~(1)(b)(iv)(D)~~ (1)(a)(iv)(D) need not be prepared if the proposed action does not involve the regulation of private property.

~~(E) the relationship between local short-term uses of the Montana human environment and the~~

~~maintenance and enhancement of long-term productivity;~~

~~(F)~~(E) any irreversible and irretrievable commitments of resources that would be involved in the proposed action if it is implemented;

~~(G)~~(F) the customer fiscal impact analysis, if required by 69-2-216; and

~~(H)~~(G) the details of the beneficial aspects of the proposed project, both short-term and long-term, and the economic advantages and disadvantages of the proposal;

(v) in accordance with the criteria set forth in subsection ~~(1)(b)(iv)(C)~~ (1)(a)(iv)(C), study, develop, and describe appropriate alternatives to recommend courses of action in any proposal that involves unresolved conflicts concerning alternative uses of available resources. If the alternatives analysis is conducted for a project that is not a state-sponsored project and alternatives are recommended, the project sponsor may volunteer to implement the alternative. ~~Neither the~~ The alternatives analysis ~~nor~~ or the resulting recommendations may not bind the project sponsor to take a recommended course of action~~, but the project sponsor may agree pursuant to subsection (4)(b) to a specific course of action.~~

~~(vi) recognize the potential long-range character of environmental impacts in Montana and, when consistent with the policies of the state, lend appropriate support to initiatives, resolutions, and programs designed to maximize cooperation in anticipating and preventing a decline in the quality of Montana's environment;~~

~~(vii)~~(vi) make available to counties, municipalities, institutions, and individuals advice and information useful in restoring, maintaining, and enhancing the quality of Montana's environment;

~~(viii)~~(vii) initiate and use ecological information in the planning and development of resource-oriented projects; and

~~(ix)~~(viii) assist the legislature and the environmental quality council established by 5-16-101;

~~(c)~~(b) prior to making any detailed statement as provided in subsection ~~(1)(b)(iv)~~ (1)(a)(v), the responsible state official shall consult with and ~~obtain~~ request the comments of any state agency that has jurisdiction by law or special expertise with respect to any environmental impact involved in Montana and with any Montana local government, as defined in 7-12-1103, that may be directly impacted by the project. The responsible state official shall also consult with and ~~obtain~~ request comments from any state agency in Montana with respect to any regulation of private property involved. Copies of the statement and the comments

~~and views~~ of the appropriate state, federal, and local agencies that are authorized to develop and enforce environmental standards must be made available to the governor, the environmental quality council, and the public and must accompany the proposal through the existing agency review processes.

~~(d)~~(c) a transfer of an ownership interest in a lease, permit, license, certificate, or other entitlement for use or permission to act by an agency, either singly or in combination with other state agencies, does not trigger review under subsection ~~(1)(b)(iv)~~ (1)(a)(iv) if there is not a material change in terms or conditions of the entitlement or unless otherwise provided by law.

(2) (a) ~~Except as provided in subsection (2)(b), an~~ An environmental review conducted pursuant to subsection (1) may ~~not~~ include ~~an evaluation of greenhouse gas emissions and corresponding impacts to the climate in the state or beyond the state's borders~~ a greenhouse gas assessment subject to [section 1 of Senate Bill No. 221]. The department of environmental quality shall develop a guidance document for use by state agencies to determine when a greenhouse gas assessment may be necessary. The guidance must include direction on methodologies for completing a greenhouse gas assessment. Prior to finalizing this guidance, the department shall provide public notice of the draft guidance and allow for public comment.

(b) An environmental review conducted pursuant to subsection (1) may include an evaluation of the reasonably foreseeable environmental impacts of a proposed action if~~:~~

~~(i) conducted jointly by a state agency and a federal agency to the extent the review~~ of the expanded assessment is required by the federal agency~~; or~~

~~(ii) the United States congress amends the federal Clean Air Act to include carbon dioxide emissions as a regulated pollutant~~.

(3) The department of public service regulation, in the exercise of its regulatory authority over rates and charges of railroads, motor carriers, and public utilities, is exempt from the provisions of parts 1 through 3.

~~(4) (a) The agency may not withhold, deny, or impose conditions on any permit or other authority to act based on parts 1 through 3 of this chapter.~~

~~(b) Nothing in this subsection (4) prevents a project sponsor and an agency from mutually developing measures that may, at the request of a project sponsor, be incorporated into a permit or other authority to act.~~

~~(c) Parts 1 through 3 of this chapter do not confer authority to an agency that is a project sponsor~~

~~to modify a proposed project or action.~~

~~(5)~~(4) (a) (i) A challenge to an agency's environmental review under this part may only be brought against a ~~final agency action~~ state action approved in a final decision document and may only be brought in district court or in federal court, whichever is appropriate. A challenge may only be brought by a person who submits formal comments on the agency's environmental review prior to the issuance of the agency's final decision document, and the challenge must be limited to those issues ~~addressed~~ raised in those comments.

(ii) Any action or proceeding challenging a ~~final agency action~~ state action approved in a final decision document alleging failure to comply with or inadequate compliance with a requirement under this part must be brought within 60 days of the action that is the subject of the challenge.

(iii) For an action taken by the board of land commissioners or the department of natural resources and conservation under Title 77, "final agency action" means the date that the board of land commissioners or the department of natural resources and conservation issues a final environmental review document under this part or the date that the board approves the action that is subject to this part, whichever is later.

(b) Any action or proceeding under subsection ~~(5)(a)(ii)~~ (4)(a)(ii) must take precedence over other cases or matters in the district court unless otherwise provided by law.

(c) Any judicial action or proceeding brought in district court under subsection ~~(5)(a)~~ (4)(a) involving an equine slaughter or processing facility must comply with 81-9-240 and 81-9-241.

~~(6)~~(5) (a) (i) In an action alleging noncompliance or inadequate compliance with a requirement of parts 1 through 3, including a challenge to an agency's decision that an environmental review is not required or a claim that the environmental review is inadequate, the agency shall compile and submit to the court the certified record of its decision at issue. The agency, prior to submitting the certified record to the court, shall assess and collect from the person challenging the decision a fee to pay for actual costs to compile and submit the certified record. Except as provided in subsection ~~(6)(b)~~ (5)(b), the person challenging the decision has the burden of proving the claim by clear and convincing evidence contained in the record.

~~(ii) An action alleging noncompliance or inadequate compliance with a requirement of parts 1 through 3, including a challenge to an agency's decision that an environmental review is not required or a claim that the environmental review is inadequate based in whole or in part upon greenhouse gas emissions and impacts to the climate in Montana or beyond Montana's borders, cannot vacate, void, or delay a lease, permit,~~

~~license, certificate, authorization, or other entitlement or authority unless the review is required by a federal agency or the United States congress amends the federal Clean Air Act to include carbon dioxide as a regulated pollutant.~~

~~(iii)~~(ii) Except as provided in subsection ~~(6)(b)~~ (5)(b), in a challenge to the agency's decision or the adequacy of an environmental review, a court may not consider any information, including but not limited to an issue, comment, argument, proposed alternative, analysis, or evidence, that was not first presented to the agency for the agency's consideration prior to the agency's decision or within the time allowed for comments to be submitted.

~~(iv)~~(iii) Except as provided in subsection ~~(6)(b)~~ (5)(b), the court shall confine its review to the record certified by the agency. The court shall affirm the agency's decision or the environmental review unless the court specifically finds that the agency's decision was arbitrary and capricious.

~~(v)~~(iv) A customer fiscal impact analysis pursuant to 69-2-216 or an allegation that the customer fiscal impact analysis is inadequate may not be used as the basis of an action challenging or seeking review of the agency's decision.

(b) (i) When a party challenging the decision or the adequacy of the environmental review or decision presents information not in the record certified by the agency, the challenging party shall certify under oath in an affidavit that the information is new, material, and significant evidence that was not publicly available before the agency's decision and that is relevant to the decision or the adequacy of the agency's environmental review.

(ii) If ~~upon~~ on reviewing the affidavit the court finds that the proffered information is new, material, and significant evidence that was not publicly available before the agency's decision and that is relevant to the decision or to the adequacy of the agency's environmental review, the court shall remand the new evidence to the agency for the agency's consideration and an opportunity to modify its decision or environmental review before the court considers the evidence as a part of the administrative record under review.

(iii) If the court finds that the information in the affidavit does not meet the requirements of subsection ~~(6)(b)(i)~~ (5)(b)(i), the court may not remand the matter to the agency or consider the proffered information in making its decision.

(c) (i) The remedies provided in this section for successful challenges to a decision of the agency

or the adequacy of the statement are exclusive.

(ii) Notwithstanding the provisions of 27-19-201 and 27-19-314, a court having considered the pleadings of parties and intervenors opposing a request for a temporary restraining order, preliminary injunction, permanent injunction, or other equitable relief may not enjoin the issuance or effectiveness of a license or permit or a part of a license or permit issued pursuant to Title 75 or Title 82 unless the court specifically finds that the party requesting the relief is more likely than not to prevail on the merits of its complaint given the uncontroverted facts in the record and applicable law and, in the absence of a temporary restraining order, a preliminary injunction, a permanent injunction, or other equitable relief, that the:

(A) party requesting the relief will suffer irreparable harm in the absence of the relief;

(B) issuance of the relief is in the public interest. In determining whether the grant of the relief is in the public interest, a court:

(I) may not consider the legal nature or character of any party; and

(II) shall consider the implications of the relief on the local and state economy and make written findings with respect to both.

(C) relief is as narrowly tailored as the facts allow to address both the alleged noncompliance and the irreparable harm the party asking for the relief will suffer. In tailoring the relief, the court shall ensure, to the extent possible, that the project or as much of the project as possible can go forward while also providing the relief to which the applicant has been determined to be entitled.

(d) The court may issue a temporary restraining order, preliminary injunction, permanent injunction, or other injunctive relief only if the party seeking the relief provides a written undertaking to the court in an amount reasonably calculated by the court as adequate to pay the costs and damages sustained by any party that may be found to have been wrongfully enjoined or restrained by a court through a subsequent judicial decision in the case, including but not limited to lost wages of employees and lost project revenues for 1 year. If the party seeking an injunction or a temporary restraining order objects to the amount of the written undertaking for any reason, including but not limited to its asserted inability to pay, that party shall file an affidavit with the court that states the party's income, assets, and liabilities in order to facilitate the court's consideration of the amount of the written undertaking that is required. The affidavit must be served on the party enjoined. If a challenge for noncompliance or inadequate compliance with a requirement of parts 1 through 3 seeks to

vacate, void, or delay a lease, permit, license, certificate, or other entitlement or authority, the party shall, as an initial matter, seek an injunction related to a lease, permit, license, certificate, or other entitlement or authority, and an injunction may only be issued if the challenger:

(i) proves there is a likelihood of succeeding on the merits;

(ii) proves there is a violation of an established law or regulation on which the lease, permit, license, certificate, or other entitlement or authority is based; and

(iii) subject to the demonstration of the inability to pay, posts the appropriate written undertaking.

(e) An individual or entity seeking a lease, permit, license, certificate, or other entitlement or authority to act may intervene in a lawsuit in court challenging a decision or statement by a department or agency of the state as a matter of right if the individual or entity has not been named as a defendant.

(f) Attorney fees or costs may not be awarded to the prevailing party in an action alleging noncompliance or inadequate compliance with a requirement of parts 1 through 3.

~~(7)~~(6) For the purposes of judicial review, to the extent that the requirements of this section are inconsistent with the provisions of the National Environmental Policy Act, the requirements of this section apply to an environmental review or any severable portion of an environmental review within the state's jurisdiction that is being prepared by a state agency pursuant to this part in conjunction with a federal agency proceeding pursuant to the National Environmental Policy Act.

~~(8)~~(7) The director of the agency responsible for the determination or recommendation shall endorse in writing any determination of significance made under subsection ~~(1)(b)(iv)~~ (1)(a)(iv) or any recommendation that a determination of significance be made.

~~(9)~~(8) A project sponsor may request a review of the significance determination or recommendation made under subsection ~~(8)~~ (7) by the appropriate board, if any. The appropriate board may, at its discretion, submit an advisory recommendation to the agency regarding the issue. The period of time between the request for a review and completion of a review under this subsection may not be included for the purposes of determining compliance with the time limits established for environmental review in 75-1-208."

Section 13. Effective date. [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,

HB 285, originated in the House.

_____

Chief Clerk of the House

_____

Speaker of the House

Signed this _____day

of_____, 2025.

_____

President of the Senate

Signed this _____day
of_____, 2025.

HOUSE BILL NO. 285

INTRODUCED BY B. LER, W. GALT, C. SCHOMER, D. LOGE, S. FITZPATRICK, G. OBLANDER, K. ZOLNIKOV, G. KMETZ, B. MITCHELL, K. BOGNER, J. HINKLE

AN ACT GENERALLY REVISING ENVIRONMENTAL LAWS RELATED TO THE POLICY, PURPOSE, INTENT, VENUE, PROCEDURES, AND CONSTITUTIONAL CONSIDERATIONS OF THE MONTANA ENVIRONMENTAL POLICY ACT; ELIMINATING CERTAIN LAWS ON POLICIES, GOALS, CONSTITUTIONAL DETERMINATIONS, AND VENUES OF THE MONTANA ENVIRONMENTAL POLICY ACT; ESTABLISHING THE REVISED POLICY, PURPOSE, AND INTENT OF THE ACT AND THE PURPOSE OF ENVIRONMENTAL ANALYSIS; REAFFIRMING EXISTING LAW THAT THE MONTANA ENVIRONMENTAL POLICY ACT IS PROCEDURAL; PROVIDING THAT A PLAINTIFF HAS THE BURDEN OF ESTABLISHING THE UNCONSTITUTIONALITY OF THE UNDERLYING STATUTE FOR LICENSING OR PERMITTING DECISIONS OR ACTIVITIES UNDER TITLES 75 OR 82; PROVIDING THAT VENUE IN DISTRICT COURT MUST BE IN THE COUNTY WHERE THE ACTIVITY SUBJECT TO THE PROCEEDING IS PROPOSED TO OCCUR OR WILL OCCUR; AMENDING SECTIONS 5-16-102, 75-1-102, 75-1-104, 75-1-106, 75-1-201, 75-1-208, AND 75-1-324, MCA; REPEALING SECTIONS 75-1-103, 75-1-105, 75-1-107, AND 75-1-108, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.”