

1 HOUSE BILL NO. 736

2 INTRODUCED BY S. FITZPATRICK

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4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR NUTRIENT POLLUTANT LOADING OFFSETS
5 FOR WATER QUALITY DISCHARGE PERMITS; PROVIDING RULEMAKING AUTHORITY; AND PROVIDING
6 AN IMMEDIATE EFFECTIVE DATE."

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

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10 NEW SECTION. **Section 1. Nutrient pollutant loading offsets.** (1) A point source discharger
11 permitted pursuant to this part may receive a nutrient pollutant loading offset to achieve waste load allocations
12 set by:

13 (a) a total maximum daily load requirement established pursuant to 75-5-703; or

14 (b) a numeric nutrient effluent limitation established pursuant to this part.

15 (2) If the actions in subsections (1)(a) and (1)(b) decrease the nutrient loading in a watershed, the
16 department may:

17 (a) issue or modify a discharge permit authorized pursuant to this part to allow discharges of
18 nutrients to a receiving water body; or

19 (b) authorize a reduction in nutrient loading from point and nonpoint pollution sources within the
20 same 12-digit hydrologic unit code subbasin as designated by the United States geological survey.

21 (3) A point source discharger permitted pursuant to this part may receive a nutrient pollutant
22 loading offset due to a reduction in nutrient loading from a point or nonpoint source pollution discharger either
23 up gradient or down gradient of the permitted point source discharger. The offset must be measured as not less
24 than:

25 (a) 100% of a reduction from point source pollution discharges;

26 (b) 80% of a reduction from an up-gradient, nonpoint source pollution discharge; or

27 (c) 50% of a reduction from a down-gradient, nonpoint source pollution discharge.

28 (4) The department shall establish statewide nutrient pollutant loading offset amounts for nonpoint

1 pollution sources, including offset amounts for:

2 (a) riparian fencing programs based on the number of acres fenced;

3 (b) riparian vegetation programs based on the number of acres vegetated;

4 (c) development of wetlands in areas of irrigation water return flows based on the number of acres
5 associated with the return flows;

6 (d) removal of septic systems based on the number and size of septic systems removed; or

7 (e) other projects submitted by an applicant that are supported by science and data modeling,

8 unless the amounts are contrary to existing empirical data.

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10 NEW SECTION. Section 2. Directions to department. To implement the provisions of [section 1],
11 the department shall amend:

12 (1) department circular DEQ-13, Montana's policy for nutrient trading, as adopted in December
13 2012; and

14 (2) ARM 17.30.1701.

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16 NEW SECTION. Section 3. Codification instruction. [Section 1] is intended to be codified as an
17 integral part of Title 75, chapter 5, part 4, and the provisions of Title 75, chapter 5, part 4, apply to [section 1].

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19 NEW SECTION. Section 4. Severability. If a part of [this act] is invalid, all valid parts that are
20 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
21 the part remains in effect in all valid applications that are severable from the invalid applications.

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23 NEW SECTION. Section 5. Effective date. [This act] is effective on passage and approval.

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