

**LAWS AND RESOLUTIONS
OF THE STATE OF MONTANA**

**Enacted or Passed by the
SIXTY-FIRST LEGISLATURE
IN REGULAR SESSION**

**Held at Helena, the Seat of Government
January 5, 2009, through April 28, 2009**

and the

**SIXTIETH LEGISLATURE
IN SPECIAL SESSION**

**Held at Helena, the Seat of Government
September 5, 2007**

**Published and distributed by
Montana Legislative Services Division
Capitol Bldg Rm 110
1301 E 6th Ave
PO Box 201706
Helena MT 59620-1706
<http://leg.mt.gov>**

**Susan Byorth Fox
Executive Director**

**Indexing Services provided by
LexisNexis
Matthew Bender & Company, Inc.
701 East Water Street
Charlottesville VA 22902-5389**

**Printed and bound by
West, a Thomson Reuters business
610 Opperman Dr
Eagan MN 55123**

Table of Contents

Volume I

Officers and Members of the Montana Senate
Officers and Members of the Montana House of Representatives
Title Contents of Bills and Resolutions
Chapters 1-56

Volume II

Chapters 57-357

Volume III

Chapters 358-489
House Joint Resolutions
House Resolutions
Senate Joint Resolutions
Senate Resolutions
2008 Ballot Issues
Tables
 Code Sections Affected
 Session Laws Affected
 Senate Bill to Chapter Number
 House Bill to Chapter Number
 Chapter Number to Bill Number
 Effective Dates By Chapter Number
 Effective Dates By Date
 Session Law to Code
 2008 Ballot Issues
September 2007 Special Session Material
Index to Appropriations
General Index

Volume I

Officers and Members of the Montana Senate	
Officers and Members of the Montana House of Representatives	
Title Contents of Bills and Resolutions	
House and Senate Bills	i
House Joint Resolutions	lxxv
House Resolutions	lxxvii
Senate Joint Resolutions	lxxvii
Senate Resolutions	lxxix
2008 Ballot Issues	lxxxix
Chapters 1-56	1

LAWS AND RESOLUTIONS
Enacted or Passed by the
SIXTY-FIRST LEGISLATURE
IN REGULAR SESSION

Held at Helena, the Seat of Government
January 5, 2009, through April 28, 2009

**Explanatory Note: Section 5-11-205, MCA, provides that
new parts of existing statutes be printed in italics and
that deleted provisions be shown as stricken.**

**COMPILED BY MONTANA
LEGISLATIVE SERVICES DIVISION**

**OFFICERS AND MEMBERS
OF THE MONTANA SENATE**

2009

50 Members

27 Republicans

23 Democrats

OFFICERS

President.....Robert Story Jr.
 President Pro Tempore.....Dan McGee
 Majority Leader.....Jim Peterson
 Majority Whips.....Greg Barkus, Roy Brown
 Minority Leader.....Carol Williams
 Assistant Minority Leader.....Jesse Laslovich
 Minority Whips.....Kim Gillan, Trudi Schmidt
 Secretary of the Senate.....Marilyn Miller
 Sergeant at Arms.....Nancy Clark

MEMBERS

Name	Party	District	Preferred Mailing Address
Bales, Keith	(R)	20	7 Quietus Rd, Otter MT 59062-9409
Balyeat, Joe	(R)	34	6909 Rising Eagle Rd, Bozeman MT 59715-8621
Barkus, Gregory	(R)	4	PO Box 2647, Kalispell MT 59903-2647
Barrett, Debby	(R)	36	18580 MT Highway 324, Dillon MT 59725-8031
Black, Jerry	(R)	14	445 O'Haire Blvd, Shelby MT 59474-1950
Branae, Gary	(D)	27	415 Yellowstone Ave, Billings MT 59101-1730
Brenden, John	(R)	18	PO Box 970, Scobey MT 59263-0970
Brown, Roy	(R)	25	PO Box 22273, Billings MT 59104-2273
Brown, Taylor	(R)	22	775 Squaw Creek Rd, Huntley MT 59037-9219
Brueggeman, John	(R)	6	39341 Lakeview Dr, Polson MT 59860-8123
Cooney, Mike	(D)	40	713 Pyrite Court, Helena MT 59601-5877
Curtiss, Aubyn	(R)	1	PO Box 216, Fortine MT 59918-0216
Erickson, Ron	(D)	47	3250 Pattee Canyon Rd, Missoula MT 59803-1703
Esp, John	(R)	31	PO Box 1024, Big Timber MT 59011-1024
Essmann, Jeff	(R)	28	PO Box 80945, Billings MT 59108-0945
Gallus, Steve	(D)	37	2319 Harvard Ave, Butte MT 59701-3854
Gebhardt, Kelly	(R)	23	PO Box 724, Roundup MT 59072-0724
Gillan, Kim	(D)	24	750 Judicial Ave, Billings MT 59105-2130
Hamlett, Bradley Maxon	(D)	10	PO Box 49, Cascade MT 59421-0049
Hansen, Ken (Kim)	(D)	17	PO Box 686, Harlem MT 59526-0686
Hawks, Bob	(D)	33	703 W Koch St, Bozeman MT 59715-4477
Hinkle, Greg	(R)	7	5 Gable Rd, Thompson Falls MT 59873-8512
Jackson, Verdell	(R)	5	555 Wagner Ln, Kalispell MT 59901-8079
Jent, Larry	(D)	32	1201 S 3rd St, Bozeman MT 59715-5503
Juneau, Carol	(D)	8	PO Box 55, Browning MT 59417-0055
Kaufmann, Christine	(D)	41	825 Breckenridge St, Helena MT 59601-4433
Keane, Jim	(D)	38	2131 Wall St, Butte MT 59701-5527
Laible, Rick	(R)	44	PO Box 370, Darby MT 59829-0370
Larsen, Cliff	(D)	50	8925 Lavalley Creek Rd, Missoula MT 59808-9324
Laslovich, Jesse	(D)	43	112 Mountain View St, Anaconda MT 59711-1616
Lewis, Dave	(R)	42	5871 Collins Rd, Helena MT 59602-9584
McGee, Dan	(R)	29	1925 Pinyon Dr, Laurel MT 59044-9381
Moss, Lynda	(D)	26	552 Highland Park Dr, Billings MT 59102-1046
Murphy, Terry	(R)	39	893 Boulder Cutoff Rd, Cardwell MT 59721-9605
Perry, Gary	(R)	35	3325 W Cedar Meadow Ln, Manhattan MT 59741-8240
Peterson, Jim	(R)	15	RR 1 Box 2, Buffalo MT 59418-9501
Ripley, Rick	(R)	9	8920 MT Highway 200, Wolf Creek MT 59648-8639

Schmidt, Trudi	(D)	11	4029 6th Ave S, Great Falls MT 59405-3746
Shockley, Jim	(R)	45	PO Box 608, Victor MT 59875-0608
Squires, Carolyn	(D)	48	2111 S 10th St W, Missoula MT 59801-3412
Steinbeisser, Donald	(R)	19	11918 County Rd 348, Sidney MT 59270-9620
Stewart-Peregoy, Sharon	(D)	21	PO Box 211, Crow Agency MT 59022-0211
Story, Robert	(R)	30	133 Valley Creek Rd, Park City MT 59063-8040
Tropila, Joe	(D)	13	209 2nd St NW, Great Falls MT 59404-1301
Tropila, Mitch	(D)	12	PO Box 929, Great Falls MT 59403-0929
Tutvedt, Bruce	(R)	3	2335 W Valley Dr, Kalispell MT 59901-6958
Wanzenried, David	(D)	49	903 Sky Dr, Missoula MT 59804-3121
Williams, Carol	(D)	46	3533 Lincoln Hills Pt, Missoula MT 59802-3381
Windy Boy, Jonathan	(D)	16	PO Box 269, Box Elder MT 59521-0269
Zinke, Ryan	(R)	2	409 W 2nd St, Whitefish MT 59937-3010

**OFFICERS AND MEMBERS
OF THE MONTANA HOUSE OF REPRESENTATIVES**

2009

100 Members

50 Democrats

50 Republicans

OFFICERS

Speaker.....Bob Bergren
 Speaker Pro TemporeFranke Wilmer
 Majority LeaderMargarett Campbell
 Majority Caucus LeaderMike Phillips
 Majority WhipsShannon Augare, Julie French
 Minority LeaderScott Sales
 Assistant Minority Leader.....Tom McGillvray
 Minority Floor LeaderScott Mendenhall
 Minority Whips.....Dee Brown, Llew Jones, Krayton Kerns, Chas Vincent
 Chief Clerk of the House.....Dave Hunter
 Sergeant at Arms.....Ed Tinsley

MEMBERS

Name	Party	District	Preferred Mailing Address
Ankney, Duane	(R)	43	PO Box 2138, Colstrip MT 59323-2138
Arntzen, Elsie	(R)	53	850 Senora Ave, Billings MT 59105-2051
Augare, Shannon	(D)	16	PO Box 2031, Browning MT 59417-2031
Barrett, Dick	(D)	93	219 Agnes Ave, Missoula MT 59801-8730
Bean, Russell	(R)	17	PO Box 480, Augusta MT 59410-0480
Beck, Bill	(R)	6	PO Box 2049, Whitefish MT 59937-2049
Beck, Paul	(D)	59	PO Box 1315, Red Lodge MT 59068-1315
Becker, Arlene	(D)	52	1440 Lewis Ave, Billings MT 59101-4240
Belcourt, Tony	(D)	32	PO Box 192, Box Elder MT 59521-0192
Bennett, Gerald	(R)	1	784 Taylor Rd, Libby MT 59923-8458
Bergren, Bob	(D)	33	1132 26th Ave W, Havre MT 59501-8609
Berry, Tom	(R)	45	PO Box 157, Roundup MT 59072-0157
Blasdel, Mark	(R)	10	PO Box 291, Somers MT 59932-0291
Blewett, Anders	(D)	21	PO Box 2807, Great Falls MT 59403-2807
Boland, Cydnie (Carlie)	(D)	23	1215 6th Ave N, Great Falls MT 59401-1601
Boniek, Joel	(R)	61	41 Blackhawk Dr, Livingston MT 59047-2634
Boss Ribs, Frosty	(D)	15	PO Box 20, Heart Butte MT 59448-0020
Brown, Dee	(R)	3	PO Box 444, Hungry Horse MT 59919-0444
Butcher, Edward	(R)	29	PO Box 89, Winifred MT 59489-0089
Caferro, Mary	(D)	80	PO Box 1036, Helena MT 59624-1036
Campbell, Margarett	(D)	31	PO Box 228, Poplar MT 592550228
Cohenour, Jill	(D)	78	2610 Colt Dr, East Helena MT 59635-3442
Dickenson, Sue	(D)	25	620 Riverview Dr E, Great Falls MT 59404-1637
Driscoll, Robyn	(D)	51	404 Houle Dr, Billings MT 59102-4861
Ebinger, Bob	(D)	62	128 S Yellowstone St, Livingston MT 59047-2634
Fleming, John	(D)	12	55533 McKeever Rd, Saint Ignatius MT 59865-9331
French, Julie	(D)	36	PO Box 356, Scobey MT 59263-0356
Furey, Timothy	(D)	91	PO Box 56, Milltown MT 59851-0056
Getz, Dennis	(D)	38	1105 N River Ave, Glendive MT 59330-1932
Glaser, William	(R)	44	1402 Indian Creek Rd, Huntley MT 59037-9338
Grinde, Wanda	(D)	48	1910 Bannack Dr, Billings MT 59105-4236
Hamilton, Robin	(D)	92	330 Daly Ave, Missoula MT 59801-4338
Hands, Betsy	(D)	99	1337 Sherwood St, Missoula MT 59802-2301
Hawk, Ray	(R)	90	NW 4878 Hoblitt Ln, Florence MT 59833-6832

Hendrick, Gordon	(R)	14	PO Box 262, Superior MT 59872-0262
Henry, Teresa	(D)	96	204 Chestnut St, Missoula MT 59801-1809
Himmelberger, Dennis	(R)	47	PO Box 22272, Billings MT 59104-2272
Hiner, Cynthia	(D)	85	1027 Kentucky St, Deer Lodge MT 59722-2041
Hollandsworth, Roy	(R)	28	1463 Prairie Dr, Brady MT 59416-8928
Hollenbaugh, Galen	(D)	81	907 N Ewing St, Helena MT 59601-3405
Hoven, Brian	(R)	24	1501 Meadowlark Dr, Great Falls MT 59404-3325
Howard, David	(R)	60	PO Box 129, Park City MT 59063-0129
Hunter, Chuck	(D)	79	717 Dearborn Ave, Helena MT 59601-2712
Ingraham, Pat	(R)	13	PO Box 1151, Thompson Falls MT 59873-1151
Jones, Llew	(R)	27	1102 4th Ave SW, Conrad MT 59425-1919
Jopek, Mike	(D)	4	PO Box 4272, Whitefish MT 59937-4272
Kasten, Dave	(R)	30	113 Bob Fudge Rd, Brockway MT 59214-8706
Kerns, Krayton	(R)	58	1408 Golf Course Rd, Laurel MT 59044-3600
Klock, Harry	(R)	83	PO Box 308, Harlowton MT 59036-0308
Kottel, Deborah	(D)	20	6470 Heavens View Ln, Great Falls MT 59404-5203
Lake, Bob	(R)	88	PO Box 2096, Hamilton MT 59840-2096
MacDonald, Margaret	(D)	54	PO Box 245, Billings MT 59103-0245
MacLaren, Gary	(R)	89	429 Curlew Orchard Rd, Victor MT 59875-9519
Malek, Sue	(D)	98	1400 Prairie Way, Missoula MT 59802-3420
McAlpin, Dave	(D)	94	800 Woodworth Ave, Missoula MT 59801-7046
McChesney, Bill	(D)	40	316 Missouri Ave, Miles City MT 59301-4140
McClafferty, Edith (Edie)	(D)	75	1311 Stuart Ave, Butte MT 59701-5014
McGillvray, Tom	(R)	50	3642 Donna Dr, Billings MT 59102-1119
McNutt, Walter	(R)	37	110 12th Ave SW, Sidney MT 59270-3614
Mehlhoff, Robert	(D)	26	407 9th St NW, Great Falls MT 59404-2333
Menahan, Mike	(D)	82	40 Olive St, Helena MT 59601-6285
Mendenhall, Scott	(R)	77	214 Solomon Mountain Rd, Clancy MT 59634-9213
Milburn, Mike	(R)	19	276 Chestnut Valley Rd, Cascade MT 59421-8204
Miller, Mike	(R)	84	20906 MT Highway 141, Helmsville MT 59843-9025
More, Michael	(R)	70	450 N Low Bench Rd, Gallatin Gateway MT 59730-8546
Morgan, Penny	(R)	57	3303 Central Ave, Billings MT 59102-6609
Noonan, Art	(D)	74	1621 Whitman Ave, Butte MT 59701-5380
Noonan, Pat	(D)	73	PO Box 29, Ramsay MT 59748-0029
Nooney, Bill	(R)	100	PO Box 4892, Missoula MT 59806-4892
O'Hara, Jesse	(R)	18	2221 Holly Ct, Great Falls MT 59404-3562
Pease-Lopez, Carolyn	(D)	42	5723 US Highway 87 E, Billings MT 59101-9074
Peterson, Ken	(R)	46	424 48th St W, Billings MT 59106-2306
Phillips, Mike	(D)	66	9 W Arnold St, Bozeman MT 59715-6127
Pomnichowski, JP	(D)	63	222 Westridge Dr, Bozeman MT 59715-6025
Randall, Lee	(R)	39	101 Randall Ln, Broadus MT 59317-9519
Regier, Keith	(R)	5	1078 Stillwater Rd, Kalispell MT 59901-6902
Reichner, Scott	(R)	9	78 Redtail Rdg, Bigfork MT 59911-6283
Reinhart, Michele	(D)	97	PO Box 5945, Missoula MT 59806-5945
Roberts, Don	(R)	56	5414 Walter Hagen Dr, Billings MT 59106-1007
Roundstone, J. David	(D)	41	PO Box 223, Busby MT 59016-0223
Sales, Scott	(R)	68	5200 Bostwick Rd, Bozeman MT 59715-7721
Sands, Diane	(D)	95	4487 Nicole Ct, Missoula MT 59803-2791
Sesso, Jon	(D)	76	811 W Galena St, Butte MT 59701-1540
Smith, Cary	(R)	55	5522 Billy Casper Dr, Billings MT 59106-1029
Sonju, Jon	(R)	7	PO Box 2954, Kalispell MT 59903-2954
Stahl, Wayne	(R)	35	PO Box 345, Saco MT 59261-0345
Stenson, Cheryl	(D)	8	PO Box 3145, Kalispell MT 59903-3145
Stoker, Ron	(R)	87	PO Box 1059, Darby MT 59829-1059
Taylor, Janna	(R)	11	PO Box 233, Dayton MT 59914-0233
Van Dyk, Kendall	(D)	49	PO Box 441, Billings MT 59103-0441
Vance, Gordon	(R)	67	305 Stillwater Ave, Bozeman MT 59718-1917
Villa, Dan	(D)	86	417 Main St, Anaconda MT 59711-2932
Vincent, Chas	(R)	2	5957 Champion Rd, Libby MT 59923
Wagner, Bob	(R)	71	PO Box 191, Harrison MT 59735-0191
Warburton, Wendy	(R)	34	709 9th St, Havre MT 59501-4141
Washburn, Ted	(R)	69	612 Candlelight Dr, Bozeman MT 59718-7255
Welborn, Jeffrey	(R)	72	245 Clarks Lookout Rd, Dillon MT 59725-8234
Wilmer, Franke	(D)	64	541 E Mendenhall St, Bozeman MT 59715-3728
Wilson, Bill	(D)	22	208 35th Ave NE, Great Falls MT 59404-4251
Wiseman, Brady	(D)	65	3247 Gardenbrook Ln, Bozeman MT 59715-0686

TITLE CONTENTS

HOUSE AND SENATE BILLS

<u>Chapter</u>		<u>Page</u>
1	<i>(House Bill No. 1; Sesso)</i> APPROPRIATING MONEY FOR THE OPERATION OF THE CURRENT AND SUBSEQUENT LEGISLATURE; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	1
2	<i>(Senate Bill No. 7; Gebhardt)</i> GENERALLY REVISING AND CLARIFYING THE MONTANA CODE ANNOTATED; DIRECTING THE CODE COMMISSIONER TO CORRECT ERRONEOUS REFERENCES CONTAINED IN MATERIAL ENACTED BY THE 61ST LEGISLATURE; AMENDING SECTIONS 2-4-102, 2-5-103, 2-15-1781, 2-15-3113, 7-2-2723, 7-2-2743, 7-3-121, 7-3-122, 7-3-124, 7-3-154, 7-4-2505, 7-13-2527, 7-32-303, 10-3-1304, 10-4-101, 13-15-105, 13-15-107, 13-27-316, 15-1-121, 15-6-138, 15-6-192, 15-6-221, 15-7-111, 15-8-205, 15-8-301, 15-10-420, 15-16-402, 15-17-323, 15-17-911, 15-18-411, 15-18-413, 15-24-301, 15-24-2403, 15-30-140, 15-31-121, 16-1-306, 17-7-111, 17-7-138, 18-2-401, 18-5-605, 19-3-2121, 19-21-203, 20-7-328, 20-7-329, 20-7-330, 20-9-501, 20-9-707, 22-2-107, 23-5-119, 27-20-102, 30-10-324, 31-2-106, 33-1-111, 37-17-102, 39-51-403, 39-51-503, 39-71-2352, 39-73-104, 41-2-103, 41-3-205, 41-5-103, 41-5-322, 41-5-331, 41-5-1201, 41-5-1202, 41-5-1203, 41-5-1204, 41-5-1205, 41-5-1301, 41-5-1302, 41-5-1304, 41-5-1401, 41-5-1432, 41-5-1501, 41-5-1511, 41-5-1512, 41-5-1701, 41-5-1703, 41-5-1706, 44-1-303, 45-6-312, 46-23-508, 50-5-101, 50-6-503, 50-19-101, 52-3-813, 53-6-1201, 53-19-309, 53-20-125, 53-20-128, 53-20-133, 61-4-128, 69-8-419, 69-8-421, 70-32-106, 71-1-212, 72-3-606, 75-1-110, 75-1-220, 75-2-111, 75-2-211, 75-10-101, 75-10-102, 75-10-103, 75-10-112, 75-10-1007, 76-3-511, 76-7-204, 76-13-123, 76-13-211, 76-13-402, 76-13-405, 76-13-406, 76-15-408, 77-2-362, 85-1-619, 85-2-344, 87-1-272, 87-1-504, 87-1-505, 87-2-201, AND 87-2-514, MCA; AND REPEALING SECTIONS 15-7-134, 16-1-405, AND 20-9-631, MCA	1
3	<i>(Senate Bill No. 10; Perry)</i> REMOVING FROM DRUG COURT STATUTES LANGUAGE CONCERNING FEDERAL FUNDING FOR RESEARCH; AND AMENDING SECTION 46-1-1112, MCA	111
4	<i>(Senate Bill No. 11; Peterson)</i> CLARIFYING THE AMOUNT OF THE GROSS VALUE OF PRODUCT THAT IS NONTAXABLE UNDER THE METALLIFEROUS MINES LICENSE TAX; AMENDING SECTION 15-37-103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE	112
5	<i>(Senate Bill No. 39; Juneau)</i> EXTENDING THE PERIOD FOR SUSPENSION OF ADJUDICATION PROCEEDINGS DURING NEGOTIATIONS OF FEDERAL INDIAN AND NON-INDIAN RESERVED WATER RIGHTS; EXTENDING THE TIME FOR A TRIBE OR FEDERAL AGENCY TO FILE ALL OF ITS CLAIMS FOR RESERVED RIGHTS AFTER TERMINATION OF NEGOTIATIONS; AMENDING SECTIONS 85-2-217, 85-2-702, AND 85-2-704, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	113
6	<i>(Senate Bill No. 115; Kaufmann)</i> TO SIMPLIFY INCOME-BASED PROPERTY TAX REDUCTION ENTITLEMENT DETERMINATIONS, INCLUDING THE PROPERTY TAX ASSISTANCE PROGRAM AND THE DISABLED VETERAN EXEMPTION; HARMONIZING INCOME THRESHOLDS AND APPLICATION FILING DATE DEADLINES; CLARIFYING THAT FOR THE PROPERTY TAX ASSISTANCE	

PROGRAM, THE THRESHOLD AMOUNTS FOR MARRIED COUPLE AND HEAD OF HOUSEHOLD ARE USED WHEN THE INCOME OF TWO OR MORE OWNERS IS CONSIDERED IN DETERMINING QUALIFICATION; HARMONIZING THE DISABLED VETERAN EXEMPTION TO PROVIDE THAT SINGLE VETERANS WHO ARE HEADS OF HOUSEHOLD HAVE THE SAME FILING THRESHOLD AS A MARRIED COUPLE; AMENDING SECTIONS 15-6-134, 15-6-211, AND 15-16-102, MCA; REPEALING SECTION 15-6-191, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE. 114

7 (House Bill No. 13; Hunter) GENERALLY REVISING LAWS GOVERNING STATE EMPLOYEE CLASSIFICATION AND COMPENSATION; INCREASING THE EMPLOYER CONTRIBUTION FOR GROUP BENEFITS; APPROPRIATING FUNDS TO IMPLEMENT PAY AND BENEFIT REVISIONS, FOR PERSONAL SERVICE CONTINGENCIES, AND FOR A LABOR-MANAGEMENT TRAINING INITIATIVE; AMENDING SECTIONS 2-18-101, 2-18-202, 2-18-301, 2-18-303, 2-18-703, 2-18-1204, 13-37-106, 15-2-102, AND 44-1-504, MCA; REPEALING SECTIONS 2-18-110 AND 2-18-207, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 119

8 (Senate Bill No. 2; Cooney) REVISING THE DEADLINE FOR THE SUBMISSION OF THE BUDGET FOR THE CONSOLIDATED LEGISLATIVE BRANCH TO THE OFFICE OF BUDGET AND PROGRAM PLANNING; AMENDING SECTIONS 17-7-111 AND 17-7-112, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 127

9 (Senate Bill No. 24; Williams) ELIMINATING THE MONTANA CONSENSUS COUNCIL; REPEALING SECTION 2-15-1027, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 131

10 (Senate Bill No. 29; Wanzenried) GENERALLY REVISING AND CLARIFYING LAWS RELATED TO APPROPRIATIONS; REPEALING THE LAWS RELATED TO RETIRED HIGHWAY GENERAL OBLIGATION BONDS; AMENDING SECTIONS 16-11-124, 17-5-911, 17-5-912, 17-7-113, 17-7-122, 17-7-123, 20-9-603, 39-51-406, 50-19-322, 53-7-204, 53-22-104, 67-2-403, 75-10-625, 75-10-626, 80-7-908, 80-11-224, 87-1-201, AND 90-4-201, MCA; AND REPEALING SECTIONS 17-5-501, 17-5-502, 17-5-503, 17-5-504, 17-5-505, 17-5-506, AND 17-5-507, MCA. 131

11 (Senate Bill No. 43; Kaufmann) REVISING THE LIST OF COUNTRIES THAT ARE CONSIDERED TAX HAVENS FOR THE APPORTIONMENT OF TAXABLE INCOME FOR THE PURPOSES OF A WATER'S-EDGE ELECTION UNDER THE CORPORATION LICENSE TAX; AMENDING SECTION 15-31-322, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE 140

12 (Senate Bill No. 125; Shockley) INCLUDING THE 22ND JUDICIAL DISTRICT IN THE JUDICIAL DISTRICTS REPRESENTED IN THE COMPOSITION OF THE JUDICIAL NOMINATION COMMISSION; AMENDING SECTION 3-1-1001, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 141

13 (House Bill No. 74; Van Dyk) GRANTING THE FISH, WILDLIFE, AND PARKS COMMISSION THE DISCRETION TO INCLUDE MOUNTAIN LION, BEAR, AND WOLF AMONG THE SPECIES FOR WHICH THE COMMISSION MAY DESIGNATE ARCHERY AND ARCHERY-ONLY SEASONS; AMENDING SECTION 87-1-304, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 141

14 (House Bill No. 90; Hawk) TO INCLUDE LLAMAS AS ANIMALS FOR WHICH MONTANA LIVESTOCK PRODUCERS ARE ELIGIBLE FOR

	COVERAGE FOR LOSSES CAUSED BY WOLVES; AMENDING SECTION 2-15-3112, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	143
15	<i>(House Bill No. 100; Steenson)</i> REVISING THE COMPOSITION OF THE MONTANA MINT COMMITTEE; REDUCING THE NUMBER OF REQUIRED MEMBERS; CHANGING THE TERMS OF OFFICE; CHANGING THE REQUIREMENTS OF HOW THE COMMITTEE IS CONVENED; AMENDING SECTIONS 2-15-3006 AND 80-11-405, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	144
16	<i>(House Bill No. 125; Mehlhoff)</i> CLARIFYING CERTAIN RULEMAKING AUTHORITY OF THE DEPARTMENT OF TRANSPORTATION; REMOVING THE REFERENCE TO THE OBSOLETE SINGLE-STATE REGISTRATION SYSTEM; CLARIFYING THAT THE DEPARTMENT OF TRANSPORTATION MAY ADOPT RULES RELATED TO COOPERATIVE OR RECIPROCAL AGREEMENTS WITH OTHER STATES; AMENDING SECTION 61-3-710, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	145
17	<i>(House Bill No. 126; Augare)</i> AUTHORIZING THE DEPARTMENT OF ADMINISTRATION TO MANAGE WORKERS' COMPENSATION COVERAGE WITH THE STATE FUND FOR ALL STATE AGENCIES; ALLOWING EXCEPTIONS FOR THE JUDICIAL AND LEGISLATIVE BRANCHES; PROVIDING RULEMAKING AUTHORITY FOR THE DEPARTMENT OF ADMINISTRATION; AMENDING SECTION 39-71-403, MCA; AND PROVIDING AN EFFECTIVE DATE	146
18	<i>(House Bill No. 168; Roundstone)</i> EXPANDING ELIGIBILITY FOR LOANS UNDER THE AGRICULTURAL LOAN AUTHORITY ACT BY INCREASING THE ALLOWABLE MAXIMUM NET WORTH OF LOAN APPLICANTS; AMENDING SECTION 80-12-203, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	148
19	<i>(House Bill No. 368; Fleming)</i> PROVIDING THAT THE DEPARTMENT OF AGRICULTURE MAY STATE A PARTIAL LIST OF FEES FOR INSPECTION, TESTING, AND WEIGHING OF AGRICULTURAL COMMODITIES ON THE PLACARD POSTED BY WAREHOUSE OPERATORS AND COMMODITY DEALERS; AMENDING SECTION 80-4-711, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	148
20	<i>(Senate Bill No. 42; Laslovich)</i> PROVIDING A PROCESS FOR THE SUBSTITUTION OF THE WORKERS' COMPENSATION JUDGE IN THE EVENT OF A RECUSAL BY THE WORKERS' COMPENSATION JUDGE; AMENDING SECTION 39-71-2901, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	150
21	<i>(Senate Bill No. 90; Jackson)</i> CLARIFYING THE REQUIREMENTS FOR NOTIFICATION OF THE PRIMARY SPONSOR OF LEGISLATION IN THE ADMINISTRATIVE RULEMAKING PROCESS; REQUIRING A WRITTEN STATEMENT WHEN A PRIMARY SPONSOR'S COMMENTS ARE NOT INCORPORATED INTO AN ADMINISTRATIVE RULE; AMENDING SECTIONS 2-4-110, 2-4-302, 2-4-305, AND 2-4-312, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	150
22	<i>(Senate Bill No. 116; Keane)</i> CLARIFYING THE DISTRIBUTION OF THE AVIATION FUEL TAX; AMENDING SECTIONS 15-70-221 AND 67-1-301, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE	156
23	<i>(Senate Bill No. 130; Hamlett)</i> REPEALING THE REQUIREMENT FOR A TRANSPORTATION PERMIT FOR THE ENTRY OF LIVESTOCK INTO	

	MONTANA; REPEALING SECTION 81-3-214, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	158
24	(<i>Senate Bill No. 181; Esp</i>) REQUIRING INFORMATION AGENTS TO REPORT PROCEEDS FROM CERTAIN REAL ESTATE TRANSACTIONS; AMENDING SECTION 15-30-301, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	158
25	(<i>House Bill No. 76; Beck</i>) REVISING UNEMPLOYMENT INSURANCE BENEFIT LAWS; CLARIFYING THE DEFINITION OF “BENEFIT YEAR”; UPDATING LAWS ON TRANSFER OF DUTIES FROM THE DEPARTMENT OF REVENUE TO THE DEPARTMENT OF LABOR AND INDUSTRY; CLARIFYING THE USE AND PROCEDURES FOR MONEY CREDITED TO THE UNEMPLOYMENT TRUST FUND BY THE SECRETARY OF THE TREASURY OF THE UNITED STATES; AUTHORIZING THE DEPARTMENT TO CHARGE FOR PROVIDING INFORMATION TO THE RAILROAD RETIREMENT BOARD; REVISING THE PROVISIONS RELATING TO RECIPROCAL BENEFIT ARRANGEMENTS WITH OTHER STATES AND THE FEDERAL GOVERNMENT; DISTINGUISHING BETWEEN THE DEFINITIONS OF “FEDERAL FISCAL YEAR” AND “STATE FISCAL YEAR”; REVISING THE COMPUTATION OF PAYMENTS IN LIEU OF CONTRIBUTIONS; MODIFYING THE CALCULATION TO DETERMINE THE MINIMUM WEEKLY BENEFIT AMOUNT; REVISING CRITERIA FOR DISQUALIFICATION FOR BENEFITS BASED UPON FAILURE TO APPLY FOR OR ACCEPT SUITABLE WORK; REVISING CRITERIA FOR PROMPT PAYMENT OF CLAIMS; REVISING PROVISIONS RELATING TO FALSE STATEMENTS AND MISREPRESENTATIONS; AMENDING SECTIONS 39-51-201, 39-51-301, 39-51-310, 39-51-404, 39-51-406, 39-51-407, 39-51-408, 39-51-503, 39-51-504, 39-51-602, 39-51-1105, 39-51-1121, 39-51-1125, 39-51-1212, 39-51-1213, 39-51-1302, 39-51-2201, 39-51-2304, 39-51-2306, 39-51-2401, 39-51-2405, 39-51-2408, AND 39-51-3204, MCA; AND PROVIDING AN EFFECTIVE DATE	159
26	(<i>House Bill No. 101; Welborn</i>) REVISING THE TIME PERIODS WITHIN WHICH AN EMPLOYER MAY WITHHOLD MONEY FROM AN EMPLOYEE’S FINAL PAYCHECK IN CASES OF THEFT OF PROPERTY OR THEFT OF FUNDS; AMENDING SECTIONS 39-3-204 AND 39-3-205, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	177
27	(<i>House Bill No. 138; Hunter</i>) REVISING OCCUPATIONAL HEALTH AND SAFETY REGULATIONS; REPEALING THE OCCUPATIONAL HEALTH ACT OF MONTANA AND PARTS OF THE MONTANA SAFETY ACT AND REPLACING THEM WITH THE MONTANA OCCUPATIONAL SAFETY AND HEALTH ACT; LIMITING APPLICABILITY AND ENFORCEMENT OF CERTAIN PROVISIONS TO PUBLIC SECTOR EMPLOYERS AND EMPLOYEES; PROVIDING DUTIES FOR PUBLIC SECTOR EMPLOYERS AND EMPLOYEES; PROVIDING FOR STOP-WORK ORDERS, INJUNCTIONS, AND PENALTIES; PROVIDING FOR SAFETY CONSULTATIONS; PROHIBITING RETALIATION; REVISING COAL MINE INSPECTION STATUTES; PROVIDING PENALTIES; AMENDING SECTIONS 20-15-403, 39-71-201, 39-71-1503, 50-71-102, 50-73-102, 50-73-402, 50-73-406, AND 50-73-409, MCA; REPEALING SECTIONS 50-70-101, 50-70-102, 50-70-103, 50-70-104, 50-70-105, 50-70-107, 50-70-108, 50-70-109, 50-70-111, 50-70-112, 50-70-113, 50-70-114, 50-70-115, 50-70-116, 50-70-117, 50-70-118, 50-71-101, 50-71-103, 50-71-104, 50-71-105, 50-71-106, 50-71-107, 50-71-108, 50-71-109, 50-71-110, 50-71-301, 50-71-302, 50-71-303, 50-71-311, 50-71-312, 50-71-313, 50-71-314, 50-71-315, 50-71-316, 50-71-321, 50-71-322, 50-71-323, 50-71-324, 50-71-325, 50-71-326,	

TITLE CONTENTS

	50-71-327, 50-71-331, 50-71-332, 50-71-333, AND 50-71-334, MCA; AND PROVIDING AN EFFECTIVE DATE.	179
28	<i>(House Bill No. 160; Furey)</i> REVISING CAPTIVE INSURANCE LAWS; AUTHORIZING THE COMMISSIONER OF INSURANCE TO WAIVE THE RBC REPORT FOR CAPTIVE RISK RETENTION GROUPS; CLARIFYING COLLECTION OF THE PREMIUM TAX; CHANGING THE CALCULATION OF THE TAX ON DIRECT PREMIUMS; REVISING INVESTMENT REQUIREMENTS FOR CAPTIVE INSURERS; EXPANDING THE SCOPE OF LAWS APPLICABLE TO CAPTIVE INSURANCE COMPANIES; AMENDING SECTIONS 33-2-1903, 33-28-102, 33-28-105, 33-28-107, 33-28-201, 33-28-202, AND 33-28-207, MCA; AND PROVIDING AN EFFECTIVE DATE	191
29	<i>(House Bill No. 181; Peterson)</i> AUTHORIZING COUNTY WATER OR SEWER DISTRICTS TO USE ALTERNATIVE PROJECT DELIVERY CONTRACTS; AMENDING SECTION 18-2-501, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	201
30	<i>(House Bill No. 207; Klock)</i> AMENDING THE DEFINITION OF "COMMUNITY RENEWABLE ENERGY PROJECT" UNDER THE MONTANA RENEWABLE POWER PRODUCTION AND RURAL ECONOMIC DEVELOPMENT ACT TO INCLUDE AN ELIGIBLE RENEWABLE RESOURCE THAT IS LESS THAN OR EQUAL TO 25 MEGAWATTS; AMENDING SECTIONS 69-3-2003 AND 90-3-1003, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	202
31	<i>(House Bill No. 208; O'Hara)</i> EXTENDING A DEADLINE FOR PUBLIC UTILITIES TO COMPLY WITH THE COMMUNITY RENEWABLE ENERGY REQUIREMENTS OF THE RENEWABLE PORTFOLIO STANDARD; AND AMENDING SECTION 69-3-2004, MCA	205
32	<i>(House Bill No. 296; Menahan)</i> INCLUDING TRIBAL FISH AND GAME WARDENS AS EX OFFICIO WARDENS WHEN A COOPERATIVE AGREEMENT EXISTS; AMENDING SECTION 87-1-503, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	208
33	<i>(Senate Bill No. 23; Wanzenried)</i> CLARIFYING AND SEPARATING REVENUE STREAMS TO THE OIL, GAS, AND COAL NATURAL RESOURCE ACCOUNT; SPECIFICALLY EARMARKING THE COAL TAX DISTRIBUTION FOR THE COAL BOARD TO BE USED FOR LOCAL IMPACT GRANTS; AMENDING SECTIONS 15-35-108, 15-36-304, 15-36-331, 15-36-332, AND 90-6-1001, MCA; AND PROVIDING AN EFFECTIVE DATE	208
34	<i>(Senate Bill No. 53; Lewis)</i> EXTENDING THE TRIAL PERIOD FOR HEARING AIDS AND RELATED DEVICES PURCHASED FROM TRAVELING VENDORS; AND AMENDING SECTIONS 37-16-102, 37-16-303, AND 37-16-304, MCA	218
35	<i>(Senate Bill No. 72; Laslovich)</i> REVISING LAWS RELATED TO PUBLIC SERVICE COMMISSION PERSONNEL; AMENDING SECTIONS 69-1-111, 69-1-112, AND 69-3-327, MCA; AND REPEALING SECTIONS 69-1-108 AND 69-1-109, MCA	220
36	<i>(Senate Bill No. 78; Brenden)</i> CLARIFYING THE MILL LEVY LIMIT FOR SOIL CONSERVATION DISTRICTS; AMENDING SECTION 76-15-515, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	222
37	<i>(Senate Bill No. 91; Juneau)</i> REVISING THE YOUTH COURT ACT BY REQUIRING A YOUTH TO BE REPRESENTED BY AN ATTORNEY AT A DETENTION HEARING UNLESS THE RIGHT TO AN ATTORNEY IS WAIVED AFTER CONSULTING WITH AN ATTORNEY; AND AMENDING SECTIONS 41-5-331 AND 41-5-333, MCA.	222

38	<i>(Senate Bill No. 98; Keane)</i>	ADDING CERTAIN FOREST OR GRASSLAND HAZARDOUS FUELS REDUCTION PROJECTS AS AN ALLOWED PURPOSE FOR IMPOSING A PROPERTY TAX LEVY; AMENDING SECTION 7-6-2527, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	223
39	<i>(Senate Bill No. 103; Moss)</i>	REQUIRING ALL PERSONS WHO ARE CONVICTED OF A SEXUAL OFFENSE AND WHO RECEIVE A SUSPENDED SENTENCE TO COMPLY WITH CERTAIN TERMS AND CONDITIONS DURING THE SUSPENDED PORTION OF THE SENTENCE; AMENDING SECTION 46-18-207, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE	224
40	<i>(Senate Bill No. 140; Perry)</i>	REPEALING THE TERMINATION DATE OF THE DOMESTIC VIOLENCE FATALITY REVIEW COMMISSION; REPEALING SECTION 4, CHAPTER 81, LAWS OF 2003, CHAPTER 23, LAWS OF 2005, AND CHAPTER 185, LAWS OF 2007; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	226
41	<i>(Senate Bill No. 152; Brueggeman)</i>	GENERALLY REVISING MOTOR VEHICLE REGISTRATION PROCEDURES AND PROVISIONS GOVERNING ELECTRONIC INDIVIDUAL DRIVING RECORDS; REVISING FILING OF SECURITY INTERESTS OR LIENS ON VEHICLES; REVISING DISPOSITION OF REVENUE COLLECTED FOR INSPECTION OF SALVAGE VEHICLES; ALLOWING THE DEPARTMENT OF JUSTICE TO ADOPT RULES GOVERNING ISSUANCE OF TEMPORARY REGISTRATION PERMITS; PROVIDING THAT REVENUE FROM CERTAIN VOLUNTARY DONATIONS MADE DURING MOTOR VEHICLE REGISTRATION BE FORWARDED BY THE COUNTY TREASURER TO THE DEPARTMENT OF JUSTICE; REVISING PROVISIONS GOVERNING REVOCATION OF GENERIC SPECIALTY LICENSE PLATE SPONSORSHIP; PROVIDING FOR TREATMENT OF DISHONORED INSTRUMENTS FOR PURPOSES OF COLLECTION AND REMITTANCE OF MOTOR VEHICLE FEES TO THE DEPARTMENT OF JUSTICE; REVISING CERTIFICATION AUTHORITY FOR ELECTRONIC INDIVIDUAL DRIVING RECORDS; AMENDING SECTIONS 61-3-103, 61-3-223, 61-3-224, 61-3-303, 61-3-474, 61-3-509, 61-5-208, AND 61-11-102, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE	226
42	<i>(Senate Bill No. 157; Shockley)</i>	RESTRICTING TO MENTAL HEALTH PROFESSIONALS THOSE PERSONS WHO MAY OBJECT TO AND PREVENT THE USE OF TWO-WAY ELECTRONIC AUDIO-VIDEO COMMUNICATIONS IN INITIAL HEARINGS FOR CIVIL COMMITMENT; AND AMENDING SECTION 53-21-140, MCA	237
43	<i>(Senate Bill No. 161; Barrett)</i>	PROVIDING FOR A NOTICE ABOUT THE PRESENCE OF A CARBON MONOXIDE DETECTOR UPON THE SALE OF A RESIDENCE; REQUIRING A CARBON MONOXIDE DETECTOR IN DWELLING UNITS RENTED BY A LANDLORD; LIMITING LANDLORD LIABILITY FOR FAILURE OF A CARBON MONOXIDE DETECTOR; AND AMENDING SECTIONS 70-20-113 AND 70-24-303, MCA.	239
44	<i>(Senate Bill No. 201; Laslovich)</i>	REVISING THE WATER COMPACT BETWEEN MONTANA AND THE CROW TRIBE TO PROVIDE FOR AN AMENDMENT TO THE ESCROW AGREEMENT TO ALLOW INTEREST INCOME TO BE DISPERSED TO THE CROW TRIBE FOR ECONOMIC DEVELOPMENT AND WATER AND SEWER INFRASTRUCTURE WITHIN THE CROW RESERVATION; AMENDING SECTIONS 85-20-901 AND 85-20-904, MCA; AND PROVIDING EFFECTIVE DATES AND A RETROACTIVE APPLICABILITY DATE	241

45	<i>(Senate Bill No. 215; Steinbeisser)</i> REMOVING FROM THE ENUMERATION OF COUNTY CHARGES THE REFERENCE TO THE COUNTY'S RESPONSIBILITY FOR ONE-HALF OF A COUNTY ATTORNEY'S SALARY; AND AMENDING SECTION 7-6-2426, MCA.	276
46	<i>(Senate Bill No. 252; Cooney)</i> REVISING THE CAPITOL COMPLEX MASTER PLAN ACT SO THAT THE STATE BUILDING NAMING PROVISIONS AND OTHER RESTRICTIONS DO NOT APPLY TO THE CLASSROOM BUILDING ON THE MONTANA LAW ENFORCEMENT ACADEMY CAMPUS IN HELENA; AMENDING SECTIONS 2-17-807 AND 2-17-808, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	277
47	<i>(House Bill No. 61; Sesso)</i> REVISING CERTAIN PROVISIONS OF THE INFORMATION ACCESS MONTANA ACT; REPLACING THE INTERLIBRARY LOAN REIMBURSEMENT PROGRAM WITH A STATEWIDE INTERLIBRARY RESOURCE-SHARING PROGRAM; REPLACING THE STATE MULTILIBRARY CARD WITH A STATEWIDE LIBRARY ACCESS PROGRAM; AMENDING SECTIONS 22-1-301, 22-1-328, 22-1-329, AND 22-1-330, MCA; AND PROVIDING AN EFFECTIVE DATE	280
48	<i>(House Bill No. 120; McChesney)</i> ALLOWING THE MONTANA TRANSPORTATION COMMISSION TO ACCEPT ELECTRONIC BID BONDS AS SECURITY FOR BIDS ON HIGHWAY CONSTRUCTION PROJECTS; AMENDING SECTIONS 18-2-303 AND 60-2-113, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	281
49	<i>(House Bill No. 121; Cohenour)</i> ADOPTING THE MOST RECENT APPLICABLE FEDERAL MILITARY LAWS AND REGULATIONS, FORMS, PRECEDENTS, AND USAGES, INCLUDING THE UNIFORM CODE OF MILITARY JUSTICE, FOR USE IN THE MONTANA NATIONAL GUARD; AMENDING SECTION 10-1-104, MCA; AND PROVIDING AN APPLICABILITY DATE	282
50	<i>(House Bill No. 159; Augare)</i> CREATING THE PROPERTY AND CASUALTY ACTUARIAL OPINION ACT; REQUIRING CASUALTY AND PROPERTY INSURERS TO ANNUALLY SUBMIT AN ACTUARIAL OPINION SUMMARY; PROVIDING THAT THE STATEMENT OF ACTUARIAL OPINION IS A PUBLIC DOCUMENT; PROVIDING THAT ACTUARIAL REPORTS, WORK PAPERS, AND ACTUARIAL OPINION SUMMARIES RETAINED BY THE COMMISSIONER ARE TRADE SECRETS AND ARE PRIVILEGED AND MUST BE GIVEN CONFIDENTIAL TREATMENT; AND PROVIDING A DELAYED EFFECTIVE DATE	283
51	<i>(House Bill No. 205; Ebinger)</i> RELATING TO PETITIONS FOR POSTCONVICTION RELIEF; PROVIDING THAT NOTICE OF A PETITION MAY BE SENT TO THE ATTORNEY GENERAL AND COUNTY ATTORNEY RATHER THAN SERVED UPON THEM; SPECIFYING THAT THE ATTORNEY GENERAL DETERMINES THE RESPONSE TO A PETITION; AMENDING SECTION 46-21-201, MCA; AND PROVIDING AN APPLICABILITY DATE.	285
52	<i>(House Bill No. 242; McAlpin)</i> REVISING LAWS RELATING TO JURORS AND JUROR FEES; REMOVING THE DUTY OF THE CLERK OF THE DISTRICT COURT TO KEEP A BOOK OF JURORS' WARRANTS; PROVIDING THAT JURORS ARE PAID BY COUNTY WARRANT; PROVIDING FOR THE PAYMENT OF JUROR MILEAGE FROM THE PLACE OF RESIDENCE TO THE COURT IN COURTS OF RECORD; AMENDING SECTIONS 3-5-510, 3-15-201, AND 3-15-204, MCA; AND PROVIDING AN EFFECTIVE DATE.	287

53	(<i>Senate Bill No. 35; Jent</i>) REQUIRING THAT A SHERIFF DELIVERING A DEFENDANT TO A PLACE OF CONFINEMENT, COMMITMENT, OR EXECUTION SHALL ALSO DELIVER ALL INFORMATION IN THE SHERIFF'S POSSESSION REGARDING THE MENTAL AND PHYSICAL HEALTH OF THE DEFENDANT, INCLUDING HEALTH INFORMATION CONTAINED IN A PRESENTENCE INVESTIGATION REPORT; AND AMENDING SECTIONS 46-18-112 AND 46-19-101, MCA	288
54	(<i>Senate Bill No. 256; Shockley</i>) PERMITTING ACCESS TO YOUTH COURT RECORDS FOR PURPOSES OF CONDUCTING EVALUATIONS OF OUT-OF-HOME PLACEMENTS, PROGRAMS, AND SERVICES; AMENDING SECTIONS 41-5-215 AND 41-5-216, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	289
55	(<i>House Bill No. 27; Wiseman</i>) ELIMINATING THE TERMINATION DATE FOR THE UNIVERSAL SYSTEM BENEFITS CHARGE RATES; CLARIFYING THE ENERGY AND TELECOMMUNICATIONS INTERIM COMMITTEE'S OVERSIGHT AUTHORITY OVER UNIVERSAL SYSTEM BENEFITS PROGRAMS; AMENDING SECTION 69-8-402, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	292
56	(<i>House Bill No. 37; Campbell</i>) GENDER NEUTRALIZING AND CONFORMING TITLES 10 THROUGH 90 OF THE MONTANA CODE ANNOTATED TO CURRENT BILL DRAFTING STANDARDS; AND AMENDING SECTIONS 10-1-201, 10-1-202, 10-1-206, 10-1-302, 10-1-405, 10-1-503, 10-1-601, 10-1-611, 10-1-804, 10-1-805, 10-1-806, 10-2-103, 10-2-105, 10-2-107, 10-3-101, 10-3-102, 10-3-112, 10-3-204, 10-3-302, 10-3-303, 10-3-313, 10-3-314, 10-3-501, 10-3-503, 10-3-505, 10-3-605, 10-3-607, 10-3-702, 10-3-1106, 13-1-114, 13-1-201, 13-2-112, 13-2-206, 13-2-221, 13-3-102, 13-3-103, 13-3-201, 13-3-211, 13-10-203, 13-10-305, 13-10-325, 13-10-501, 13-10-507, 13-10-602, 13-12-210, 13-13-118, 13-13-120, 13-13-225, 13-13-227, 13-13-602, 13-14-111, 13-14-211, 13-14-212, 13-15-201, 13-15-204, 13-15-205, 13-15-403, 13-15-404, 13-15-502, 13-15-504, 13-15-505, 13-15-506, 13-16-101, 13-16-201, 13-16-203, 13-16-204, 13-16-211, 13-16-301, 13-16-302, 13-16-307, 13-16-415, 13-16-416, 13-16-417, 13-16-418, 13-16-419, 13-19-101, 13-19-203, 13-19-301, 13-19-302, 13-19-304, 13-19-305, 13-19-306, 13-19-307, 13-19-308, 13-19-310, 13-27-305, 13-27-306, 13-27-308, 13-27-404, 13-27-405, 13-27-503, 13-35-106, 13-35-201, 13-35-204, 13-35-209, 13-35-214, 13-35-215, 13-35-217, 13-35-218, 13-35-221, 13-35-301, 13-36-101, 13-36-102, 13-36-103, 13-36-104, 13-36-201, 13-36-202, 13-36-204, 13-36-205, 13-36-206, 13-36-207, 13-36-208, 13-36-209, 13-36-210, 13-36-211, 13-37-104, 13-37-105, 13-37-116, 13-37-119, 13-37-122, 13-37-125, 13-37-201, 13-37-202, 13-37-203, 13-37-204, 13-37-205, 13-37-206, 13-37-207, 13-37-208, 13-37-215, 13-37-217, 13-37-225, 13-37-228, 13-37-231, 13-38-101, 13-38-201, 13-38-202, 13-38-203, 13-38-205, 15-1-104, 15-1-204, 15-1-601, 15-1-603, 15-1-702, 15-1-705, 15-1-707, 15-2-101, 15-2-103, 15-2-104, 15-2-304, 15-6-225, 15-8-501, 15-8-502, 15-16-503, 15-17-318, 15-24-1101, 15-24-1201, 15-24-1206, 15-24-2403, 15-30-113, 15-30-129, 15-30-132, 15-30-134, 15-30-135, 15-30-143, 15-30-156, 15-30-173, 15-30-205, 15-30-206, 15-30-302, 15-30-307, 15-30-314, 15-30-331, 15-31-521, 15-31-523, 15-31-524, 15-31-551, 15-32-101, 15-32-103, 15-33-104, 15-35-104, 15-44-102, 15-59-105, 15-60-207, 15-70-232, 16-1-203, 16-1-204, 16-3-105, 16-3-212, 16-3-223, 16-3-231, 16-3-232, 16-3-233, 16-3-242, 16-3-302, 16-3-306, 16-3-406, 16-4-104, 16-4-108, 16-4-110, 16-4-201, 16-4-209, 16-6-105, 16-6-205, 16-6-207, 16-6-209, 16-6-309, 16-6-313, 16-10-203, 16-11-134, 17-1-103, 17-1-112, 17-1-131, 17-5-715, 17-5-927, 17-5-1516, 17-6-204, 17-6-213, 17-7-113, 17-8-104, 17-8-308, 18-1-402, 18-1-403, 18-2-204, 18-2-424, 18-5-204, 18-5-411, 18-11-105, 19-1-301,	

19-1-702, 19-1-705, 19-2-904, 19-3-202, 19-9-302, 19-17-406, 19-18-106,
19-18-202, 19-18-502, 19-18-511, 19-18-514, 19-18-603, 19-18-604,
19-18-605, 19-18-607, 19-19-302, 19-19-303, 19-19-401, 19-19-402,
19-19-403, 19-19-404, 19-19-405, 19-19-406, 19-19-501, 19-19-502,
19-19-503, 19-19-505, 19-20-103, 19-20-301, 19-20-303, 19-20-304,
19-20-406, 19-21-211, 20-1-201, 20-1-202, 20-1-203, 20-1-211, 20-2-111,
20-2-112, 20-2-131, 20-3-101, 20-3-102, 20-3-105, 20-3-202, 20-3-203,
20-3-206, 20-3-208, 20-3-211, 20-3-308, 20-3-309, 20-3-310, 20-3-311,
20-3-344, 20-3-353, 20-3-354, 20-3-361, 20-4-101, 20-4-104, 20-4-106,
20-4-121, 20-4-132, 20-4-202, 20-4-304, 20-5-102, 20-5-103, 20-5-105,
20-5-106, 20-5-107, 20-5-111, 20-5-405, 20-5-406, 20-6-103, 20-6-605,
20-7-113, 20-7-116, 20-7-462, 20-7-463, 20-7-606, 20-7-607, 20-7-608,
20-8-108, 20-8-120, 20-9-207, 20-9-424, 20-9-436, 20-9-441, 20-9-442,
20-10-112, 20-10-121, 20-10-122, 20-10-123, 20-15-209, 20-15-219,
20-15-222, 20-15-224, 20-15-227, 20-15-228, 20-20-201, 20-20-301,
20-20-411, 20-20-417, 20-25-101, 20-25-226, 20-25-242, 20-25-306,
20-25-322, 20-25-323, 20-25-504, 20-25-511, 20-25-512, 20-25-513,
20-25-516, 20-25-603, 20-25-703, 20-25-801, 20-25-806, 20-31-301,
22-1-101, 22-1-308, 22-1-317, 22-1-506, 22-1-601, 22-2-103, 22-2-403,
22-2-406, 22-3-431, 22-3-432, 22-3-701, 22-3-805, 22-3-806, 23-2-301,
23-2-311, 23-2-321, 23-2-402, 23-2-503, 23-2-505, 23-2-527, 23-2-535,
23-5-131, 23-5-135, 23-5-155, 23-5-221, 23-5-409, 23-5-622, 23-7-212,
23-7-302, 23-7-307, 23-7-401, 25-1-401, 25-1-402, 25-1-1102, 25-2-125,
25-2-206, 25-3-206, 25-3-401, 25-3-402, 25-3-501, 25-3-602, 25-3-603,
25-4-101, 25-4-102, 25-4-203, 25-4-302, 25-4-401, 25-4-402, 25-4-403,
25-4-404, 25-4-502, 25-4-601, 25-4-602, 25-5-103, 25-5-202, 25-5-203,
25-5-301, 25-7-206, 25-7-209, 25-7-223, 25-7-301, 25-7-304, 25-7-403,
25-7-501, 25-7-503, 25-7-701, 25-7-702, 25-8-101, 25-8-103, 25-8-104,
25-9-103, 25-9-104, 25-9-204, 25-9-311, 25-9-404, 25-9-504, 25-9-507,
25-10-101, 25-10-102, 25-10-104, 25-10-107, 25-10-108, 25-10-201,
25-10-303, 25-10-402, 25-10-501, 25-10-503, 25-10-504, 25-10-711,
25-11-102, 25-13-103, 25-13-104, 25-13-105, 25-13-201, 25-13-205,
25-13-302, 25-13-304, 25-13-308, 25-13-405, 25-13-502, 25-13-506,
25-13-610, 25-13-614, 25-13-702, 25-13-704, 25-13-705, 25-13-706,
25-13-713, 25-13-801, 25-13-802, 25-13-803, 25-13-804, 25-13-806,
25-13-807, 25-13-808, 25-13-809, 25-13-810, 25-13-811, 25-13-821,
25-13-822, 25-13-823, 25-13-825, 25-14-102, 25-14-103, 25-14-104,
25-14-106, 25-14-108, 25-14-201, 25-14-204, 25-14-205, 25-14-302,
25-14-303, 25-14-304, 25-14-306, 25-14-307, 25-14-308, 25-14-309,
25-14-310, 25-14-311, 25-14-312, 25-15-102, 25-15-103, 25-15-104,
25-15-105, 25-15-106, 25-15-201, 25-15-202, 25-31-102, 25-31-405,
25-31-406, 25-31-512, 25-31-523, 25-31-705, 25-31-706, 25-31-707,
25-31-1002, 25-31-1111, 25-33-103, 25-33-104, 25-33-201, 25-33-202,
25-33-204, 25-33-305, 25-35-601, 25-35-603, 25-35-604, 25-35-605,
25-35-608, 25-35-702, 25-35-801, 25-35-802, 25-35-803, 25-35-804,
25-35-806, 26-1-106, 26-1-302, 26-1-303, 26-1-401, 26-1-402, 26-1-502,
26-1-601, 26-1-605, 26-1-623, 26-1-701, 26-1-803, 26-1-804, 26-1-805,
26-1-806, 26-1-807, 26-1-809, 26-1-810, 26-1-902, 26-1-903, 26-1-1011,
26-2-101, 26-2-102, 26-2-103, 26-2-104, 26-2-105, 26-2-106, 26-2-107,
26-2-201, 26-2-203, 26-2-301, 26-2-302, 26-2-303, 26-2-403, 26-2-404,
26-2-507, 26-2-509, 26-3-104, 26-3-203, 27-1-204, 27-1-210, 27-1-211,
27-1-223, 27-1-303, 27-1-308, 27-1-313, 27-1-315, 27-1-316, 27-1-320,
27-1-321, 27-1-402, 27-1-415, 27-1-416, 27-1-417, 27-1-421, 27-1-432,
27-1-433, 27-1-501, 27-1-511, 27-1-512, 27-1-513, 27-1-514, 27-1-515,
27-1-701, 27-1-711, 27-1-712, 27-1-713, 27-1-714, 27-1-715, 27-1-719,
27-1-731, 27-1-733, 27-1-802, 27-1-803, 27-1-813, 27-1-820, 27-1-1102,
27-1-1103, 27-2-210, 27-2-213, 27-2-402, 27-2-405, 27-2-407, 27-2-408,
27-5-211, 27-5-216, 27-5-217, 27-5-323, 27-6-202, 27-6-203, 27-6-301,
27-6-305, 27-6-404, 27-6-502, 27-6-503, 27-6-601, 27-6-604, 27-6-702,

27-9-102, 27-9-104, 27-12-103, 27-12-202, 27-12-203, 27-12-301, 27-12-305,
27-12-404, 27-12-503, 27-12-601, 27-12-604, 27-12-701, 27-15-101,
27-15-102, 27-16-102, 27-16-204, 27-16-205, 27-16-206, 27-16-207,
27-16-208, 27-16-209, 27-16-210, 27-16-402, 27-16-403, 27-16-404,
27-16-405, 27-16-406, 27-16-407, 27-16-501, 27-16-502, 27-16-503,
27-16-505, 27-16-601, 27-16-602, 27-16-604, 27-16-1002, 27-16-1003,
27-16-1004, 27-16-1005, 27-16-1006, 27-17-101, 27-17-102, 27-17-201,
27-17-203, 27-17-204, 27-17-205, 27-17-206, 27-17-301, 27-17-302,
27-17-303, 27-17-304, 27-17-306, 27-17-309, 27-17-310, 27-17-402,
27-18-102, 27-18-112, 27-18-202, 27-18-203, 27-18-204, 27-18-205,
27-18-207, 27-18-301, 27-18-303, 27-18-306, 27-18-401, 27-18-403,
27-18-405, 27-18-406, 27-18-407, 27-18-410, 27-18-412, 27-18-414,
27-18-501, 27-18-502, 27-18-503, 27-18-601, 27-18-602, 27-18-603,
27-18-604, 27-18-702, 27-18-713, 27-18-715, 27-18-721, 27-18-725,
27-18-726, 27-18-803, 27-18-902, 27-18-903, 27-18-904, 27-18-905,
27-18-906, 27-18-1502, 27-18-1503, 27-18-1504, 27-19-203, 27-19-315,
27-19-318, 27-20-102, 27-20-201, 27-20-203, 27-20-301, 27-20-302,
27-26-203, 27-26-303, 27-26-402, 27-27-103, 27-28-101, 27-28-103,
27-28-104, 27-28-205, 27-28-301, 27-28-302, 27-28-306, 27-28-307,
27-28-308, 27-28-401, 27-28-506, 27-30-203, 27-30-204, 27-30-302,
27-31-101, 27-32-101, 27-32-102, 27-32-301, 28-1-104, 28-1-201, 28-1-202,
28-1-303, 28-1-405, 28-1-406, 28-1-407, 28-1-502, 28-1-1101, 28-1-1104,
28-1-1105, 28-1-1106, 28-1-1112, 28-1-1113, 28-1-1204, 28-1-1206,
28-1-1211, 28-1-1212, 28-1-1221, 28-1-1224, 28-1-1302, 28-1-1303,
28-1-1304, 28-1-1504, 28-1-1602, 28-1-1603, 28-2-202, 28-2-203, 28-2-204,
28-2-205, 28-2-206, 28-2-405, 28-2-406, 28-2-407, 28-2-501, 28-2-502,
28-2-512, 28-2-702, 28-2-704, 28-2-708, 28-2-709, 28-2-801, 28-2-902,
28-2-903, 28-2-906, 28-2-1703, 28-2-1711, 28-2-1713, 28-3-306, 28-3-704,
28-10-105, 28-10-301, 28-10-302, 28-10-401, 28-10-402, 28-10-404,
28-10-405, 28-10-407, 28-10-408, 28-10-409, 28-10-501, 28-10-502,
28-10-601, 28-10-602, 28-10-603, 28-10-605, 28-10-606, 28-10-608,
28-10-609, 28-10-701, 28-10-702, 28-10-703, 28-10-801, 28-10-802,
28-11-103, 28-11-105, 28-11-108, 28-11-202, 28-11-203, 28-11-206,
28-11-211, 28-11-214, 28-11-304, 28-11-312, 28-11-316, 28-11-317,
28-11-401, 28-11-402, 28-11-411, 28-11-412, 28-11-414, 28-11-415,
28-11-416, 28-11-417, 28-11-418, 30-2-201, 30-2-304, 30-2-305, 30-2-308,
30-2-311, 30-2-312, 30-2-313, 30-2-316, 30-2-318, 30-2-319, 30-2-320,
30-2-324, 30-2-325, 30-2-401, 30-2-402, 30-2-403, 30-2-501, 30-2-504,
30-2-505, 30-2-507, 30-2-508, 30-2-509, 30-2-510, 30-2-602, 30-2-603,
30-2-604, 30-2-606, 30-2-607, 30-2-608, 30-2-609, 30-2-610, 30-2-611,
30-2-612, 30-2-613, 30-2-615, 30-2-616, 30-2-702, 30-2-704, 30-2-706,
30-2-707, 30-2-709, 30-2-711, 30-2-712, 30-2-714, 30-2-717, 30-2-718,
30-2-722, 30-2-723, 30-2A-103, 30-2A-108, 30-2A-109, 30-2A-220,
30-2A-221, 30-2A-310, 30-2A-401, 30-2A-405, 30-2A-504, 30-2A-507,
30-2A-511, 30-2A-513, 30-2A-531, 30-7-302, 30-10-204, 30-10-205,
30-10-208, 30-10-306, 30-10-307, 30-11-106, 30-11-109, 30-11-110,
30-11-111, 30-11-113, 30-11-114, 30-11-201, 30-11-202, 30-11-203,
30-11-205, 30-11-206, 30-11-207, 30-11-211, 30-11-213, 30-11-215,
30-11-220, 30-11-221, 30-11-223, 30-11-302, 30-11-502, 30-11-503,
30-11-504, 30-11-508, 30-11-510, 30-11-511, 30-11-512, 30-11-513,
30-11-514, 30-11-601, 30-11-602, 30-11-603, 30-11-604, 30-11-605,
30-11-606, 30-11-607, 30-11-703, 30-11-713, 30-11-806, 30-11-807,
30-12-202, 30-12-205, 30-12-211, 30-12-406, 30-12-504, 30-13-131,
30-13-133, 30-13-135, 30-13-216, 30-13-218, 30-14-112, 30-14-113,
30-14-114, 30-14-132, 30-14-203, 30-14-204, 30-14-213, 30-14-221,
30-14-303, 30-14-402, 30-14-504, 30-14-505, 30-14-507, 30-14-1112,
31-1-101, 31-1-108, 31-1-212, 31-1-222, 31-1-231, 31-1-232, 31-1-234,
31-1-236, 31-1-243, 31-1-304, 31-1-305, 31-1-402, 31-1-502, 31-2-102,
31-2-103, 31-2-104, 31-2-105, 31-2-201, 31-2-202, 31-2-203, 31-2-204,

31-2-205, 31-2-209, 31-2-210, 31-2-212, 31-2-214, 31-2-215, 31-2-220,
 31-2-221, 31-2-224, 31-2-225, 31-2-229, 31-2-329, 31-2-333, 31-3-102,
 31-3-113, 31-3-114, 31-3-121, 31-3-123, 31-3-131, 32-1-206, 32-1-403,
 32-1-421, 32-1-451, 32-1-463, 32-1-466, 32-1-471, 32-1-474, 32-1-506,
 32-1-510, 32-1-535, 32-1-807, 32-1-808, 32-1-903, 32-1-905, 32-1-906,
 32-1-907, 32-1-908, 32-1-910, 32-2-108, 32-2-109, 32-2-209, 32-2-210,
 32-2-212, 32-2-232, 32-2-233, 32-2-241, 32-2-245, 32-2-254, 32-2-255,
 32-2-307, 32-2-401, 32-2-403, 32-2-404, 32-2-408, 32-2-409, 32-3-406,
 32-3-407, 32-3-416, 32-3-418, 32-3-507, 32-3-605, 32-4-203, 32-4-205,
 32-4-301, 32-5-304, 32-6-106, 32-6-302, 32-6-303, 32-7-103, 32-7-108,
 33-1-211, 33-1-228, 33-1-302, 33-1-304, 33-1-312, 33-1-402, 33-1-502,
 33-1-602, 33-1-603, 33-1-612, 33-1-613, 33-2-111, 33-2-112, 33-2-116,
 33-2-120, 33-2-121, 33-2-127, 33-2-205, 33-2-208, 33-2-211, 33-2-214,
 33-2-306, 33-2-308, 33-2-309, 33-2-310, 33-2-311, 33-2-503, 33-2-605,
 33-2-606, 33-2-607, 33-2-612, 33-2-1104, 33-2-1105, 33-2-1106, 33-2-1120,
 33-2-1122, 33-2-1206, 33-2-1211, 33-2-1212, 33-2-1310, 33-2-1321,
 33-2-1323, 33-2-1333, 33-2-1334, 33-2-1341, 33-2-1344, 33-2-1345,
 33-2-1347, 33-2-1348, 33-2-1352, 33-2-1353, 33-2-1355, 33-2-1357,
 33-2-1358, 33-2-1360, 33-2-1362, 33-2-1364, 33-2-1365, 33-2-1366,
 33-2-1367, 33-2-1368, 33-2-1369, 33-2-1370, 33-2-1372, 33-2-1374,
 33-2-1377, 33-2-1379, 33-2-1380, 33-2-1381, 33-2-1382, 33-2-1383,
 33-2-1385, 33-2-1387, 33-3-216, 33-3-217, 33-3-218, 33-3-301, 33-3-308,
 33-3-309, 33-3-411, 33-3-412, 33-3-433, 33-3-436, 33-3-442, 33-3-443,
 33-3-444, 33-3-447, 33-3-502, 33-3-602, 33-3-604, 33-4-302, 33-4-316,
 33-4-402, 33-4-411, 33-4-506, 33-4-507, 33-4-508, 33-4-509, 33-5-202,
 33-5-303, 33-5-403, 33-5-404, 33-5-405, 33-5-406, 33-5-407, 33-5-409,
 33-5-412, 33-6-102, 33-6-401, 33-7-119, 33-7-120, 33-7-121, 33-7-208,
 33-7-209, 33-7-216, 33-7-307, 33-7-411, 33-9-102, 33-10-108, 33-10-109,
 33-10-115, 33-14-203, 33-14-204, 33-14-301, 33-14-302, 33-15-103,
 33-15-201, 33-15-206, 33-15-327, 33-15-329, 33-15-402, 33-15-511,
 33-15-512, 33-15-513, 33-15-514, 33-16-111, 33-16-112, 33-16-113,
 33-16-114, 33-16-204, 33-16-206, 33-16-211, 33-16-223, 33-16-224,
 33-16-305, 33-17-411, 33-17-513, 33-18-201, 33-18-203, 33-18-1003,
 33-18-1004, 33-19-205, 33-20-117, 33-20-1002, 33-20-1103, 33-20-1105,
 33-20-1208, 33-21-104, 33-21-111, 33-21-113, 33-21-204, 33-22-112,
 33-22-125, 33-22-206, 33-22-208, 33-22-222, 33-22-224, 33-22-227,
 33-22-502, 33-22-507, 33-22-510, 33-22-604, 33-22-1001, 33-22-1602,
 33-23-201, 33-23-213, 33-23-216, 33-24-102, 33-25-216, 33-25-302,
 33-25-401, 33-26-101, 33-26-107, 33-30-105, 33-30-303, 33-30-1002,
 33-30-1005, 33-30-1006, 33-30-1009, 33-30-1102, 33-31-201, 33-31-221,
 33-31-312, 33-31-402, 33-31-403, 33-31-404, 33-31-405, 35-1-418, 35-1-421,
 35-1-423, 35-1-424, 35-1-428, 35-1-435, 35-1-443, 35-1-451, 35-1-452,
 35-1-453, 35-1-458, 35-1-461, 35-1-464, 35-1-535, 35-1-828, 35-1-830,
 35-1-831, 35-1-832, 35-1-836, 35-1-837, 35-1-941, 35-1-943, 35-1-1310,
 35-2-416, 35-2-441, 35-2-447, 35-2-448, 35-2-449, 35-2-453, 35-2-510,
 35-2-722, 35-2-727, 35-2-732, 35-2-831, 35-3-205, 35-3-206, 35-3-207,
 35-4-403, 35-4-404, 35-9-201, 35-9-202, 35-9-203, 35-9-204, 35-9-205,
 35-9-302, 35-9-503, 35-10-506, 35-11-201, 35-11-202, 35-12-504, 35-12-506,
 35-12-804, 35-12-1002, 35-12-1006, 35-12-1102, 35-12-1103, 35-12-1105,
 35-12-1203, 35-12-1404, 35-13-204, 35-13-205, 35-13-206, 35-13-207,
 35-15-303, 35-15-403, 35-15-404, 35-15-505, 35-16-210, 35-16-211,
 35-16-212, 35-16-302, 35-16-303, 35-16-304, 35-16-311, 35-16-314,
 35-17-206, 35-17-303, 35-17-311, 35-17-313, 35-17-401, 35-17-505,
 35-18-312, 35-18-314, 35-18-405, 35-18-501, 35-20-101, 35-20-102,
 35-20-103, 35-20-208, 35-20-209, 35-20-216, 35-20-302, 35-20-304,
 37-1-205, 37-2-102, 37-2-103, 37-2-106, 37-2-201, 37-2-303, 37-2-311,
 37-2-312, 37-3-310, 37-3-321, 37-3-325, 37-3-326, 37-3-328, 37-4-322,
 37-4-325, 37-4-501, 37-4-511, 37-6-103, 37-6-301, 37-7-506, 37-7-509,
 37-9-201, 37-9-301, 37-9-312, 37-11-311, 37-12-324, 37-13-315, 37-14-307,

37-15-301, 37-16-103, 37-16-402, 37-17-301, 37-17-313, 37-18-102, 37-18-313, 37-18-501, 37-18-502, 37-19-201, 37-21-301, 37-22-401, 37-22-411, 37-23-301, 37-24-301, 37-25-302, 37-25-304, 37-26-401, 37-26-402, 37-29-405, 37-40-102, 37-40-301, 37-40-312, 37-42-201, 37-42-305, 37-43-102, 37-43-201, 37-43-302, 37-43-305, 37-43-306, 37-43-308, 37-50-403, 37-51-201, 37-51-323, 37-51-503, 37-51-504, 37-51-511, 37-53-102, 37-53-301, 37-53-305, 37-53-403, 37-54-412, 37-54-415, 37-54-416, 37-60-104, 37-60-401, 37-60-404, 37-61-201, 37-61-203, 37-61-207, 37-61-210, 37-61-214, 37-61-301, 37-61-309, 37-61-401, 37-61-402, 37-61-404, 37-61-405, 37-61-406, 37-61-407, 37-61-408, 37-61-412, 37-61-416, 37-61-417, 37-61-418, 37-61-420, 37-65-103, 37-65-301, 37-66-104, 37-66-105, 37-66-302, 37-66-303, 37-66-308, 37-68-103, 37-68-303, 37-68-314, 37-69-103, 37-69-303, 37-69-324, 37-72-203, 37-72-301, 39-1-103, 39-2-102, 39-2-303, 39-2-401, 39-2-402, 39-2-403, 39-2-404, 39-2-405, 39-2-406, 39-2-407, 39-2-408, 39-2-409, 39-2-410, 39-2-411, 39-2-501, 39-2-502, 39-2-601, 39-2-605, 39-2-606, 39-2-701, 39-2-702, 39-2-703, 39-2-704, 39-2-802, 39-2-803, 39-3-102, 39-3-103, 39-3-209, 39-3-210, 39-3-211, 39-3-214, 39-3-215, 39-3-404, 39-3-503, 39-3-506, 39-3-507, 39-3-508, 39-3-509, 39-3-511, 39-3-512, 39-3-513, 39-3-516, 39-3-517, 39-3-519, 39-4-101, 39-4-102, 39-4-103, 39-4-107, 39-4-110, 39-4-112, 39-29-111, 39-30-206, 39-30-207, 39-31-204, 39-31-305, 39-31-311, 39-31-401, 39-31-402, 39-31-404, 39-31-406, 39-32-102, 39-32-109, 39-33-101, 39-33-102, 39-33-103, 39-33-202, 39-34-103, 39-51-102, 39-51-206, 39-51-305, 39-51-309, 39-51-601, 39-51-1215, 39-51-1216, 39-51-1302, 39-51-1306, 39-51-2107, 39-51-2305, 39-51-2401, 39-51-2509, 39-51-3101, 39-51-3102, 39-51-3103, 39-51-3104, 39-51-3203, 39-71-411, 39-71-412, 39-71-509, 39-71-515, 39-71-518, 39-71-726, 39-71-2102, 39-71-2401, 39-71-2910, 39-71-2914, 39-73-102, 39-73-105, 39-73-108, 39-73-111, 40-1-201, 40-1-207, 40-1-312, 40-1-404, 40-2-103, 40-2-104, 40-2-107, 40-2-108, 40-2-109, 40-2-202, 40-2-203, 40-2-205, 40-2-206, 40-2-207, 40-2-210, 40-2-302, 40-3-113, 40-3-116, 40-3-124, 40-3-125, 40-4-131, 40-4-203, 40-4-207, 40-5-214, 40-6-104, 40-6-114, 40-6-202, 40-6-214, 40-6-217, 40-6-235, 40-6-236, 41-1-201, 41-1-202, 41-1-302, 41-1-303, 41-1-305, 41-1-306, 41-1-406, 41-1-407, 41-4-101, 41-5-105, 41-5-1404, 41-5-1411, 41-5-1901, 41-6-106, 42-2-216, 44-1-104, 44-1-201, 44-1-303, 44-1-503, 44-1-512, 44-1-513, 44-1-516, 44-1-611, 44-1-801, 44-1-803, 44-1-805, 44-1-808, 44-1-903, 44-1-910, 44-1-1103, 44-2-301, 44-2-313, 44-2-402, 44-3-213, 44-3-404, 44-4-111, 44-4-206, 44-4-903, 44-4-904, 44-5-215, 44-11-102, 44-11-201, 44-11-304, 44-12-102, 44-12-103, 44-12-204, 44-12-205, 45-2-202, 45-2-203, 45-2-212, 45-2-213, 45-2-301, 45-2-302, 45-2-303, 45-2-312, 45-3-102, 45-3-103, 45-3-104, 45-3-105, 45-3-106, 45-3-107, 45-3-108, 45-3-109, 45-4-101, 45-4-102, 45-4-103, 45-5-203, 45-5-204, 45-5-221, 45-5-301, 45-5-511, 45-5-604, 45-5-611, 45-5-612, 45-6-102, 45-6-201, 45-6-202, 45-6-204, 45-6-205, 45-6-302, 45-6-305, 45-6-308, 45-6-314, 45-6-315, 45-6-318, 45-6-319, 45-6-326, 45-6-327, 45-7-101, 45-7-103, 45-7-104, 45-7-201, 45-7-203, 45-7-204, 45-7-205, 45-7-206, 45-7-207, 45-7-301, 45-7-303, 45-7-304, 45-7-305, 45-7-308, 45-7-309, 45-7-401, 45-7-501, 45-8-101, 45-8-103, 45-8-104, 45-8-106, 45-8-111, 45-8-112, 45-8-113, 45-8-114, 45-8-115, 45-8-201, 45-8-203, 45-8-207, 45-8-210, 45-8-214, 45-8-215, 45-8-316, 45-8-325, 45-8-327, 45-8-331, 45-8-333, 45-8-334, 45-8-335, 45-8-336, 45-8-339, 45-8-340, 45-8-405, 45-9-104, 45-9-105, 45-9-106, 45-9-114, 45-9-115, 45-9-121, 45-9-127, 45-10-102, 45-10-105, 46-2-101, 46-4-101, 46-4-110, 46-4-111, 46-4-113, 46-4-202, 46-4-205, 46-4-207, 46-6-412, 46-7-101, 46-9-111, 46-9-203, 46-9-206, 46-9-301, 46-9-502, 46-11-301, 46-11-303, 46-11-313, 46-11-331, 46-11-332, 46-11-401, 46-12-104, 46-12-203, 46-16-603, 46-16-606, 46-17-302, 46-18-232, 46-18-233, 46-18-702, 46-18-703, 46-18-705, 46-19-203, 46-19-204, 46-19-301, 46-19-401, 46-20-204, 46-20-707, 46-22-103,

46-23-207, 46-23-316, 46-23-1022, 46-24-204, 46-30-101, 46-30-202,
46-30-211, 46-30-212, 46-30-213, 46-30-214, 46-30-215, 46-30-217,
46-30-218, 46-30-225, 46-30-226, 46-30-227, 46-30-228, 46-30-229,
46-30-301, 46-30-302, 46-30-303, 46-30-304, 46-30-305, 46-30-402,
46-30-403, 46-30-404, 46-30-405, 46-30-412, 46-31-101, 46-31-204,
49-1-101, 49-1-202, 49-2-202, 49-2-301, 49-2-310, 49-2-311, 49-3-209,
49-4-102, 49-4-502, 49-4-503, 49-4-504, 49-4-505, 49-4-508, 49-4-509,
50-2-120, 50-2-121, 50-2-122, 50-2-124, 50-5-212, 50-5-1105, 50-5-1106,
50-6-313, 50-6-317, 50-9-103, 50-15-108, 50-15-114, 50-15-302, 50-15-402,
50-16-522, 50-16-543, 50-16-544, 50-16-553, 50-17-112, 50-18-106,
50-20-106, 50-20-108, 50-21-104, 50-21-106, 50-23-102, 50-30-107,
50-30-204, 50-30-205, 50-30-301, 50-30-302, 50-30-305, 50-30-307,
50-31-108, 50-31-504, 50-31-507, 50-31-509, 50-32-302, 50-32-311,
50-32-401, 50-41-105, 50-42-105, 50-43-106, 50-50-215, 50-50-304,
50-50-402, 50-50-403, 50-51-107, 50-51-204, 50-51-215, 50-52-202,
50-52-209, 50-60-502, 50-60-515, 50-61-116, 50-62-104, 50-62-110,
50-63-403, 50-70-107, 50-70-115, 50-71-201, 50-71-203, 50-71-303,
50-71-325, 50-71-334, 50-72-204, 50-72-205, 50-73-102, 50-73-205,
50-73-207, 50-73-305, 50-73-307, 50-73-401, 50-73-404, 50-73-410,
50-73-411, 50-73-412, 50-73-413, 50-74-203, 50-74-214, 50-74-215,
50-74-217, 50-74-311, 50-76-101, 50-76-108, 50-77-102, 50-78-204,
50-78-305, 50-78-402, 50-79-501, 52-2-723, 52-3-602, 52-5-105, 52-5-114,
53-2-107, 53-5-901, 53-19-106, 53-19-110, 53-20-131, 53-20-145, 53-20-164,
53-20-209, 53-21-105, 53-21-114, 53-21-117, 53-21-118, 53-21-119,
53-21-125, 53-21-133, 53-21-141, 53-21-142, 53-21-146, 53-21-148,
53-21-163, 53-21-167, 53-21-168, 53-21-183, 53-21-187, 53-22-101,
53-22-105, 53-30-104, 53-30-142, 60-4-205, 60-5-111, 60-7-204, 60-11-201,
61-2-105, 61-2-106, 61-2-201, 61-2-204, 61-2-207, 61-4-106, 61-4-132,
61-4-209, 61-4-406, 61-5-116, 61-5-304, 61-5-401, 61-5-403, 61-6-103,
61-6-121, 61-6-131, 61-6-132, 61-6-136, 61-6-137, 61-6-138, 61-6-142,
61-6-201, 61-6-303, 61-7-104, 61-7-105, 61-7-107, 61-7-112, 61-8-107,
61-8-408, 61-8-604, 61-8-703, 61-8-723, 61-12-202, 61-12-301, 61-12-306,
61-12-307, 61-12-308, 61-12-314, 61-12-407, 67-1-211, 67-2-503, 67-3-102,
67-3-201, 67-11-104, 69-1-106, 69-1-107, 69-1-108, 69-1-111, 69-1-113,
69-1-222, 69-2-102, 69-2-203, 69-2-204, 69-3-106, 69-3-208, 69-3-326,
69-3-329, 69-3-703, 69-4-203, 69-4-353, 69-4-355, 69-4-1103, 69-11-101,
69-11-103, 69-11-104, 69-11-105, 69-11-106, 69-11-107, 69-11-108,
69-11-109, 69-11-121, 69-11-201, 69-11-203, 69-11-204, 69-11-206,
69-11-208, 69-11-209, 69-11-301, 69-11-302, 69-11-303, 69-11-304,
69-11-402, 69-11-403, 69-11-404, 69-11-405, 69-11-406, 69-11-408,
69-11-409, 69-11-411, 69-11-421, 69-11-424, 69-11-428, 69-11-429,
69-12-203, 69-12-401, 69-14-113, 69-14-131, 69-14-132, 69-14-134,
69-14-207, 69-14-208, 69-14-210, 69-14-211, 69-14-215, 69-14-238,
69-14-502, 69-14-505, 69-14-709, 69-14-710, 69-14-711, 69-14-901,
69-14-924, 69-14-932, 69-14-1002, 69-14-1003, 69-14-1005, 69-14-1006,
70-1-109, 70-1-303, 70-1-310, 70-1-510, 70-1-512, 70-1-518, 70-1-704,
70-2-102, 70-3-104, 70-3-202, 70-3-203, 70-4-102, 70-4-103, 70-4-202,
70-4-203, 70-4-204, 70-4-205, 70-4-206, 70-5-102, 70-5-103, 70-5-105,
70-5-106, 70-5-107, 70-6-102, 70-6-108, 70-6-201, 70-6-202, 70-6-203,
70-6-204, 70-6-205, 70-6-207, 70-6-208, 70-6-209, 70-6-210, 70-6-211,
70-6-213, 70-6-214, 70-6-303, 70-6-412, 70-6-420, 70-6-501, 70-6-502,
70-6-504, 70-6-505, 70-7-101, 70-7-102, 70-7-106, 70-7-107, 70-7-110,
70-7-111, 70-7-112, 70-7-203, 70-7-204, 70-8-201, 70-9-402, 70-9-403,
70-9-404, 70-9-405, 70-9-406, 70-9-502, 70-15-205, 70-15-210, 70-15-301,
70-15-303, 70-16-102, 70-16-104, 70-16-105, 70-16-106, 70-16-204,
70-16-205, 70-16-207, 70-16-208, 70-16-209, 70-16-210,
70-17-205, 70-18-101, 70-18-102, 70-19-102, 70-19-202, 70-19-204,
70-19-301, 70-19-303, 70-19-304, 70-19-305, 70-19-401, 70-19-407,
70-19-412, 70-20-101, 70-20-102, 70-20-105, 70-20-108, 70-20-109,

MONTANA SESSION LAWS 2009

xiv

70-20-113, 70-20-302, 70-20-303, 70-20-304, 70-20-311, 70-20-313,
70-20-314, 70-20-316, 70-20-402, 70-20-403, 70-21-210, 70-21-307,
70-22-104, 70-22-108, 70-22-110, 70-23-402, 70-23-502, 70-23-505,
70-23-506, 70-23-604, 70-23-605, 70-23-610, 70-23-611, 70-23-612,
70-23-613, 70-23-902, 70-24-204, 70-24-301, 70-24-304, 70-24-312,
70-24-322, 70-24-403, 70-24-405, 70-24-408, 70-24-409, 70-24-421,
70-25-101, 70-26-101, 70-26-102, 70-26-104, 70-26-105, 70-26-106,
70-26-108, 70-26-203, 70-26-204, 70-26-205, 70-26-206, 70-27-108,
70-27-110, 70-27-111, 70-27-203, 70-27-205, 70-27-207, 70-27-208,
70-27-210, 70-28-104, 70-28-106, 70-28-108, 70-28-110, 70-28-111,
70-28-112, 70-28-113, 70-28-201, 70-28-206, 70-28-209, 70-28-212,
70-28-213, 70-28-215, 70-28-303, 70-29-102, 70-29-105, 70-29-108,
70-29-201, 70-29-208, 70-29-209, 70-29-212, 70-29-216, 70-29-217,
70-29-219, 70-29-221, 70-29-304, 70-29-306, 70-29-307, 70-29-326,
70-29-327, 70-29-330, 70-31-302, 70-31-303, 70-31-304, 70-31-305,
70-32-103, 70-32-209, 70-32-210, 71-1-113, 71-1-204, 71-1-207, 71-1-209,
71-1-210, 71-1-211, 71-1-213, 71-1-229, 71-1-230, 71-1-231, 71-1-232,
71-1-234, 71-1-312, 71-1-315, 71-1-317, 71-1-318, 71-2-101, 71-2-106,
71-2-107, 71-2-108, 71-2-109, 71-2-110, 71-3-101, 71-3-107, 71-3-112,
71-3-115, 71-3-117, 71-3-118, 71-3-203, 71-3-301, 71-3-303, 71-3-304,
71-3-305, 71-3-401, 71-3-404, 71-3-523, 71-3-524, 71-3-525, 71-3-526,
71-3-533, 71-3-537, 71-3-541, 71-3-542, 71-3-601, 71-3-605, 71-3-608,
71-3-611, 71-3-612, 71-3-614, 71-3-616, 71-3-701, 71-3-703, 71-3-712,
71-3-801, 71-3-802, 71-3-1004, 71-3-1009, 71-3-1011, 71-3-1203, 71-3-1301,
71-3-1302, 71-3-1401, 71-3-1402, 71-3-1403, 71-3-1501, 71-3-1502,
71-3-1503, 71-3-1505, 72-1-111, 72-1-301, 72-1-302, 72-1-303, 72-2-903,
72-2-904, 72-2-905, 72-2-909, 72-3-101, 72-3-106, 72-3-112, 72-3-123,
72-3-201, 72-3-202, 72-3-204, 72-3-211, 72-3-214, 72-3-221, 72-3-223,
72-3-224, 72-3-225, 72-3-302, 72-3-304, 72-3-306, 72-3-308, 72-3-312,
72-3-313, 72-3-403, 72-3-404, 72-3-504, 72-3-511, 72-3-513, 72-3-514,
72-3-515, 72-3-516, 72-3-521, 72-3-522, 72-3-523, 72-3-525, 72-3-526,
72-3-527, 72-3-601, 72-3-602, 72-3-603, 72-3-604, 72-3-605, 72-3-606,
72-3-610, 72-3-611, 72-3-612, 72-3-614, 72-3-615, 72-3-616, 72-3-617,
72-3-621, 72-3-623, 72-3-632, 72-3-634, 72-3-703, 72-3-801, 72-3-803,
72-3-804, 72-3-805, 72-3-808, 72-3-811, 72-3-812, 72-3-814, 72-3-821,
72-3-902, 72-3-903, 72-3-906, 72-3-907, 72-3-911, 72-3-912, 72-3-915,
72-3-916, 72-3-918, 72-3-1003, 72-3-1005, 72-3-1012, 72-3-1014, 72-3-1015,
72-3-1102, 72-4-201, 72-4-202, 72-4-203, 72-4-306, 72-4-309, 72-4-311,
72-4-402, 72-5-101, 72-5-104, 72-5-202, 72-5-211, 72-5-213, 72-5-301,
72-5-312, 72-5-314, 72-5-316, 72-5-317, 72-5-318, 72-5-319, 72-5-320,
72-5-401, 72-5-402, 72-5-403, 72-5-404, 72-5-405, 72-5-406, 72-5-407,
72-5-409, 72-5-410, 72-5-411, 72-5-412, 72-5-413, 72-5-414, 72-5-415,
72-5-422, 72-5-423, 72-5-424, 72-5-425, 72-5-426, 72-5-427, 72-5-428,
72-5-429, 72-5-430, 72-5-431, 72-5-433, 72-5-434, 72-5-435, 72-5-436,
72-5-437, 72-5-439, 72-5-501, 72-5-502, 72-9-110, 72-12-401, 72-12-403,
72-12-404, 72-12-405, 72-12-407, 72-14-201, 72-14-202, 72-14-401,
72-14-402, 72-15-101, 72-15-102, 72-15-103, 72-15-105, 72-15-107,
72-15-109, 72-15-110, 72-15-201, 72-15-202, 72-15-203, 72-15-204,
72-15-205, 72-15-206, 72-15-207, 72-15-208, 72-15-210, 72-15-211,
72-15-213, 72-15-302, 72-15-303, 72-15-304, 72-16-501, 72-16-608,
72-16-609, 72-31-101, 72-31-102, 72-33-216, 72-33-217, 72-33-219,
72-33-306, 72-33-503, 72-34-130, 72-34-514, 72-34-515, 72-34-516,
72-35-313, 72-36-206, 75-1-312, 75-2-122, 75-2-123, 75-2-212, 75-2-411,
75-5-105, 75-5-306, 75-5-603, 75-5-641, 75-5-801, 75-7-205, 75-10-212,
75-10-214, 75-10-223, 75-10-233, 75-10-501, 75-10-940, 75-10-941,
75-16-104, 75-20-404, 75-20-405, 75-20-409, 75-20-411, 76-1-222, 76-2-221,
76-2-226, 76-2-227, 76-2-321, 76-2-326, 76-2-327, 76-3-303, 76-3-405,
76-4-110, 76-13-108, 76-13-413, 76-13-423, 76-14-105, 76-15-101,
76-15-312, 76-15-313, 76-15-315, 76-15-526, 76-15-604, 76-15-606,

TITLE CONTENTS

76-15-710, 76-15-722, 76-15-723, 77-1-104, 77-1-111, 77-1-112, 77-1-114,
77-1-115, 77-1-201, 77-1-702, 77-1-801, 77-1-805, 77-1-806, 77-2-105,
77-2-315, 77-2-324, 77-2-329, 77-2-332, 77-2-333, 77-2-334, 77-2-335,
77-2-336, 77-3-102, 77-3-104, 77-3-115, 77-3-307, 77-3-409, 77-3-426,
77-4-108, 77-4-121, 77-4-128, 77-4-129, 77-6-108, 77-6-112, 77-6-115,
77-6-201, 77-6-209, 77-6-212, 77-6-401, 80-2-104, 80-2-202, 80-2-241,
80-2-243, 80-4-406, 80-4-424, 80-4-428, 80-4-430, 80-4-504, 80-4-506,
80-4-521, 80-4-522, 80-4-523, 80-4-524, 80-4-529, 80-4-530, 80-4-537,
80-4-539, 80-4-605, 80-6-102, 80-6-103, 80-6-104, 80-6-111, 80-6-1105,
80-7-505, 80-7-1104, 80-8-102, 80-8-103, 80-8-108, 80-8-202, 80-8-206,
80-8-208, 80-8-301, 80-8-303, 80-10-101, 80-10-201, 80-10-204, 80-10-211,
80-10-303, 80-10-503, 80-11-204, 80-11-305, 80-11-308, 80-11-311,
80-11-404, 80-11-405, 80-11-416, 80-12-202, 80-12-203, 80-12-211,
80-12-310, 80-15-218, 81-1-202, 81-1-301, 81-1-302, 81-2-101, 81-2-109,
81-2-112, 81-2-201, 81-2-204, 81-2-206, 81-2-208, 81-2-209, 81-2-303,
81-2-502, 81-2-602, 81-2-703, 81-3-106, 81-3-203, 81-3-204, 81-3-205,
81-3-214, 81-3-223, 81-3-231, 81-3-233, 81-4-104, 81-4-108, 81-4-207,
81-4-208, 81-4-212, 81-4-220, 81-4-308, 81-4-322, 81-4-326, 81-4-327,
81-4-405, 81-4-406, 81-4-410, 81-4-505, 81-4-506, 81-4-507, 81-4-508,
81-4-509, 81-4-512, 81-4-513, 81-4-603, 81-5-103, 81-6-102, 81-7-102,
81-7-115, 81-7-203, 81-7-204, 81-7-403, 81-7-501, 81-8-215, 81-8-232,
81-8-235, 81-8-251, 81-8-261, 81-8-263, 81-8-274, 81-8-278, 81-8-312,
81-8-315, 81-8-702, 81-8-704, 81-9-111, 81-9-112, 81-9-114, 81-9-218,
81-9-220, 81-9-230, 81-9-235, 81-9-313, 81-9-314, 81-9-315, 81-9-316,
81-9-402, 81-9-403, 81-20-204, 81-20-209, 81-21-102, 81-22-203, 81-22-205,
81-22-207, 81-22-402, 81-22-415, 81-23-201, 81-23-305, 81-23-403,
82-1-105, 82-1-108, 82-1-202, 82-1-203, 82-2-101, 82-2-102, 82-2-103,
82-2-105, 82-2-106, 82-2-107, 82-2-108, 82-2-109, 82-2-112, 82-2-114,
82-2-115, 82-2-203, 82-2-205, 82-2-401, 82-2-402, 82-2-405, 82-2-421,
82-4-142, 82-4-238, 82-4-355, 82-10-103, 82-10-401, 82-10-402, 82-10-506,
82-10-507, 82-11-103, 82-11-117, 82-11-141, 82-11-142, 82-11-151,
82-11-206, 82-11-209, 82-11-212, 82-11-303, 82-11-304, 82-11-305,
82-11-306, 82-15-204, 82-15-205, 85-1-622, 85-2-132, 85-2-134, 85-2-214,
85-2-218, 85-2-224, 85-2-234, 85-2-405, 85-2-412, 85-2-413, 85-2-416,
85-2-418, 85-2-804, 85-3-301, 85-3-411, 85-3-421, 85-5-102, 85-5-103,
85-5-104, 85-5-105, 85-5-108, 85-5-109, 85-5-110, 85-5-202, 85-5-302,
85-5-401, 85-5-402, 85-5-405, 85-5-406, 85-7-1504, 85-7-1506, 85-7-1507,
85-7-1508, 85-7-1615, 85-7-1618, 85-7-1703, 85-7-1811, 85-7-1901,
85-7-1912, 85-7-1924, 85-7-2017, 85-7-2027, 85-7-2114, 85-7-2115,
85-7-2116, 85-7-2133, 85-7-2153, 85-7-2166, 85-8-111, 85-8-115, 85-8-119,
85-8-121, 85-8-307, 85-8-308, 85-8-312, 85-8-314, 85-8-321, 85-8-345,
85-8-362, 85-8-364, 85-8-402, 85-8-403, 85-8-404, 85-8-612, 85-9-103,
85-9-304, 85-9-401, 85-9-402, 85-9-421, 85-9-502, 85-9-504, 85-9-628,
85-20-104, 85-20-105, 85-20-106, 87-1-204, 87-1-205, 87-1-206, 87-1-207,
87-1-208, 87-1-210, 87-1-225, 87-1-302, 87-1-402, 87-1-501, 87-1-511,
87-1-701, 87-1-704, 87-2-112, 87-2-203, 87-2-204, 87-2-602, 87-2-604,
87-2-1002, 87-3-123, 87-3-206, 87-3-221, 87-3-405, 87-3-506, 87-3-507,
87-4-301, 87-4-303, 87-4-602, 87-4-702, 87-4-703, 87-4-704, 87-4-705,
87-4-903, 87-4-904, 87-4-915, 87-4-1002, 87-4-1003, 87-5-108, 90-2-1111,
90-4-305, 90-4-309, 90-4-314, 90-4-317, 90-5-202, 90-6-120, 90-6-204,
90-6-303, AND 90-7-319, MCA. 295

57 (House Bill No. 38; Campbell) REVISING LAWS TO REFLECT THE
ENACTMENT OF THE 6-MILL LEVY FOR UNIVERSITY SYSTEM
PURPOSES; AMENDING SECTIONS 7-1-2111, 15-1-402, 15-10-420,
15-24-1703, 15-36-331, 15-39-110, AND 90-6-309, MCA; REPEALING
SECTION 20-25-423, MCA; AND PROVIDING AN IMMEDIATE
EFFECTIVE DATE 1263

58	<i>(House Bill No. 44; Vincent)</i>	REVISING THE REQUIREMENTS FOR THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION'S PARTICIPATION IN FEDERAL FOREST MANAGEMENT PLANNING; AMENDING SECTION 76-13-702, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	1273
59	<i>(House Bill No. 46; Fleming)</i>	CHANGING THE REPORTING PERIOD FOR ESTABLISHING EMPLOYMENT ELIGIBILITY FOR THE QUALITY EDUCATOR LOAN ASSISTANCE PROGRAM FROM THE PREVIOUS SCHOOL YEAR TO THE CURRENT SCHOOL YEAR; AMENDING SECTION 20-4-502, MCA; AND PROVIDING AN EFFECTIVE DATE.	1274
60	<i>(House Bill No. 57; Bean)</i>	CLARIFYING SCHOOL DISTRICT CONSOLIDATIONS AND ANNEXATIONS; AMENDING SECTIONS 20-3-312, 20-6-411, 20-6-414, 20-6-422, AND 20-6-704, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.	1275
61	<i>(House Bill No. 70; Sands)</i>	CLARIFYING EXCLUSIONS FROM DRUG SCHEDULES; AMENDING SECTION 50-32-205, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	1278
62	<i>(House Bill No. 94; McNutt)</i>	REVISING THE LAW GOVERNING SECURITY INTERESTS IN LIQUOR LICENSES; CLARIFYING THAT THE USE OF LOAN AND SECURITY DOCUMENTATION CONSISTENT WITH THAT USED BY THE REGULATED LENDER GENERALLY DOES NOT CONSTITUTE CONTROL OF THE OPERATION OF THE BUSINESS OR THE LICENSEE; AMENDING SECTION 16-4-801, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	1279
63	<i>(House Bill No. 114; Henry)</i>	PROVIDING FOR RECOGNITION OF LICENSURE AND FOR REGISTRATION OF OUT-OF-STATE VOLUNTEER PROFESSIONALS WHEN A DISASTER OR EMERGENCY IS IN EFFECT; ESTABLISHING ADMINISTRATIVE DISCIPLINARY SANCTIONS FOR VOLUNTEER PROFESSIONALS; PROVIDING RULEMAKING AUTHORITY; DEFINING "VOLUNTEER PROFESSIONAL"; PROVIDING IMMUNITY FOR THE ACTIONS OF VOLUNTEER PROFESSIONALS; AND AMENDING SECTIONS 10-3-103 AND 10-3-111, MCA.	1280
64	<i>(House Bill No. 122; Menahan)</i>	REVISING THE MONTANA FALSE CLAIMS ACT; LIMITING THE GOVERNMENT ATTORNEYS WHO MAY BRING AN ACTION UNDER THE FALSE CLAIMS ACT; EXTENDING THE TIME PERIOD FOR FILING A FALSE CLAIMS ACTION; REVISING DAMAGE AWARDS TO PRIVATE PLAINTIFFS; AMENDING SECTIONS 17-8-402, 17-8-403, 17-8-404, 17-8-405, 17-8-406, 17-8-407, 17-8-410, 17-8-411, AND 17-8-412, MCA; REPEALING SECTION 17-8-408, MCA; AND PROVIDING AN EFFECTIVE DATE.	1283
65	<i>(House Bill No. 136; Boland)</i>	AUTHORIZING THE GOVERNOR TO APPOINT SUBSTITUTE MEMBERS TO THE BOARD OF PERSONNEL APPEALS WHEN A BOARD MEMBER IS UNABLE TO PARTICIPATE IN A PROCEEDING; AMENDING SECTION 2-15-1705, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	1290
66	<i>(House Bill No. 149; Menahan)</i>	REVISING THE COLLECTION OF RESTITUTION AND SUPERVISORY FEES BY THE DEPARTMENT OF CORRECTIONS FROM AN INDIVIDUAL CONVICTED OF A CRIMINAL OFFENSE; AMENDING SECTIONS 46-18-241, 46-18-246, AND 46-23-1031, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	1291
67	<i>(House Bill No. 151; Becker)</i>	CLARIFYING INSURANCE COVERAGE FOR RECONSTRUCTIVE BREAST SURGERY AFTER A MASTECTOMY;	

	AMENDING SECTION 33-22-135, MCA; AND PROVIDING AN EFFECTIVE DATE	1293
68	<i>(House Bill No. 172; Arntzen)</i> CREATING A PROVISIONAL HUNTER SAFETY AND EDUCATION CERTIFICATE FOR PERSONS WITH CERTAIN DEVELOPMENTAL DISABILITIES; ESTABLISHING CONDITIONS OF LICENSURE FOR PERSONS WHO USE A PROVISIONAL CERTIFICATE WHEN OBTAINING A HUNTING LICENSE; AMENDING SECTION 87-2-105, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE	1294
69	<i>(House Bill No. 245; Ankney)</i> AUTHORIZING A BOARD OF COUNTY COMMISSIONERS TO ESTABLISH A COMPENSATED ABSENCE LIABILITY FUND TO PAY ACCUMULATED SICK AND VACATION LEAVE WHEN AN EMPLOYEE TERMINATES EMPLOYMENT; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	1296
70	<i>(House Bill No. 247; Bergren)</i> CLARIFYING THAT TO QUALIFY AS MONTANA-CERTIFIED NATURAL BEEF CATTLE, THE BEEF CATTLE MUST BE RAISED WITHOUT ANY ANTIBIOTICS; AMENDING SECTION 80-11-801, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	1297
71	<i>(House Bill No. 273; O'Hara)</i> GENERALLY REVISING SEARCH AND RESCUE FUNDING; INCREASING THE MAXIMUM AMOUNT THAT SEARCH AND RESCUE UNITS OF A COUNTY SHERIFF'S OFFICE ARE ABLE TO BE REIMBURSED; AND AMENDING SECTION 10-3-801, MCA	1298
72	<i>(House Bill No. 278; McChesney)</i> PROVIDING THAT LIMITED VEGETATIVE COVER OF WATER MANAGEMENT FACILITIES AND OTHER SUPPORT FACILITIES IN A STRIP MINE OPERATION IS ELIGIBLE FOR EARLY BOND RELEASE IF THE VEGETATIVE COVER MEETS RECLAMATION STANDARDS; AND AMENDING SECTION 82-4-235, MCA	1299
73	<i>(House Bill No. 285; Reinhart)</i> AUTHORIZING GRAY WATER REUSE FOR SYSTEMS OTHER THAN PRIVATE, SINGLE-FAMILY RESIDENCES; CLARIFYING THE BOARD OF ENVIRONMENTAL REVIEW'S RULEMAKING AUTHORITY; REVISING THE DEFINITION OF "GRAY WATER REUSE SYSTEM"; AND AMENDING SECTIONS 75-5-305, 75-5-317, AND 75-5-325, MCA	1301
74	<i>(House Bill No. 287; Driscoll)</i> AUTHORIZING A UTILITY TO REMOVE OR ALTER VEGETATION OR OTHER MATERIAL WITHIN A UTILITY RIGHT-OF-WAY; PROVIDING THAT THE UTILITY PROVIDE NOTICE UNDER CERTAIN CIRCUMSTANCES; PROHIBITING A PERSON FROM DENYING ACCESS OR INTERFERING WITH A UTILITY'S REMOVAL OR ALTERATION ACTIVITIES; AND PROVIDING AN EFFECTIVE DATE	1304
75	<i>(House Bill No. 293; Hiner)</i> REVISING TRAINING STANDARDS FOR PEACE OFFICERS; PROVIDING FOR RECOGNITION OF COURSES TAUGHT BY THE FEDERAL GOVERNMENT, OTHER STATES, AND THE UNITED STATES MILITARY; PROVIDING FOR THE EMPLOYMENT OF MILITARY LAW ENFORCEMENT WHO SERVED IN THAT CAPACITY IN THE PRIOR 5 YEARS; AND AMENDING SECTION 7-32-303, MCA	1305
76	<i>(House Bill No. 298; Blewett)</i> CLARIFYING THAT JUDGES HAVE THE AUTHORITY TO DEFER TRAFFIC VIOLATIONS EXCEPT FOR HOLDERS OF COMMERCIAL DRIVER'S LICENSES; AMENDING SECTION 61-11-101, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE	1307

77	<i>(House Bill No. 426; Milburn)</i>	CLARIFYING THE APPOINTMENT OF COMMISSIONERS OF REGIONAL AIRPORT AUTHORITIES AND SUBJECTING THE COMMISSIONERS TO ETHICS LAWS FOR LOCAL GOVERNMENT OFFICIALS; AND AMENDING SECTIONS 2-2-102 AND 67-11-104, MCA	1308
78	<i>(Senate Bill No. 5; Erickson)</i>	REQUIRING APPROVAL BY THE BOARD OF LAND COMMISSIONERS FOR THE GIFT OR PURCHASE OF LAND FOR THE PURPOSE OF RECLAMATION OF MINES; AMENDING SECTIONS 82-4-239 AND 82-4-371, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	1310
79	<i>(Senate Bill No. 25; Wanzenried)</i>	ELIMINATING CERTAIN CONTINGENCIES RELATED TO VIOLATIONS, PENALTIES, AND WAIVERS UNDER THE COAL AND URANIUM MINE AND RECLAMATION LAWS; AND REPEALING SECTION 6, CHAPTER 486, LAWS OF 2005, AND SECTION 30, CHAPTER 487, LAWS OF 2005	1313
80	<i>(Senate Bill No. 40; Juneau)</i>	CLARIFYING THE DEFINITION OF “FRIEND OF RESPONDENT” IN INVOLUNTARY COMMITMENT PROCEDURES; REQUIRING A FINDING THAT THERE IS A PERSON WILLING AND ABLE TO SERVE AS A FRIEND OF RESPONDENT AND CONSENT OF THE RESPONDENT PRIOR TO APPOINTMENT OF A FRIEND OF RESPONDENT; REQUIRING THE APPOINTMENT OF AN ALTERNATE FRIEND OF RESPONDENT AT THE REQUEST OF THE RESPONDENT OR IF A CONFLICT OF INTEREST IS DETERMINED TO EXIST; AMENDING SECTIONS 53-21-102 AND 53-21-122, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	1314
81	<i>(Senate Bill No. 54; Steinbeisser)</i>	REVISING THE MONTANA DEFERRED DEPOSIT LOAN ACT TO REQUIRE THE DEPARTMENT OF ADMINISTRATION TO REFUSE TO ISSUE OR RENEW A DEFERRED DEPOSIT LENDER’S LICENSE ON VARIOUS GROUNDS INCLUDING AN APPLICANT’S MAKING MATERIAL MISSTATEMENTS OF FACT; PROVIDING THAT A PERSON MAY NOT APPLY FOR A LICENSE FOR 1 YEAR FOLLOWING A DENIAL OR REFUSAL BY THE DEPARTMENT TO ISSUE OR RENEW A LICENSE; PROVIDING THAT THE VIOLATION OF CERTAIN SPECIFIED FEDERAL ACTS, INCLUDING THE TRUTH IN LENDING ACT AND THE FAIR CREDIT REPORTING ACT, IS ALSO A VIOLATION OF THE MONTANA DEFERRED DEPOSIT LOAN ACT; GRANTING THE DEPARTMENT RULEMAKING AUTHORITY; ELIMINATING THE EXEMPTION FROM THE PROVISIONS OF THE MONTANA DEFERRED DEPOSIT LOAN ACT FOR A COLLECTION AGENCY THAT HAS ENTERED INTO AN AGREEMENT WITH A DEFERRED DEPOSIT LENDER FOR THE COLLECTION OF CLAIMS; REVISING LICENSE APPLICATION REQUIREMENTS; REVISING THE DEPARTMENT’S FEES FOR EXAMINING LICENSEES; PROVIDING THAT A COLLECTION AGENCY ACTING ON BEHALF OF A LICENSEE MAY NOT COLLECT CERTAIN DAMAGES; AND AMENDING SECTIONS 31-1-704, 31-1-705, 31-1-711, AND 31-1-722, MCA.	1317
82	<i>(Senate Bill No. 77; Juneau)</i>	DEFINING VOLUNTEER EMERGENCY MEDICAL TECHNICIAN; ADDING A VOLUNTEER EMERGENCY MEDICAL TECHNICIAN TO THE BOARD OF MEDICAL EXAMINERS; REQUIRING ONE PHYSICIAN MEMBER OF THE BOARD TO HAVE EXPERIENCE IN EMERGENCY MEDICINE; AMENDING SECTION 2-15-1731, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	1320
83	<i>(Senate Bill No. 88; Tropila)</i>	REVISING ALTERED SPEED LIMIT PROVISIONS FOR SCHOOL ZONES; DEFINING “SCHOOL ZONE”;	

TITLE CONTENTS

	CLARIFYING SIGNING REQUIREMENTS FOR SCHOOL ZONES; AND AMENDING SECTIONS 61-1-101, 61-8-310, AND 61-8-726, MCA	1322
84	<i>(Senate Bill No. 89; Tropila)</i> MAKING PERMANENT THE PRIMARY SECTOR BUSINESS WORKFORCE TRAINING ACT; REPEALING SECTION 10, CHAPTER 567, LAWS OF 2003, AND SECTION 4, CHAPTER 169, LAWS OF 2005; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	1334
85	<i>(Senate Bill No. 102; Brueggeman)</i> AUTHORIZING THE ADOPTION OF RULES FOR CORRECTIVE ACTION BY PUBLIC WATER SUPPLY SYSTEMS OR PUBLIC SEWAGE SYSTEMS TO PREVENT OR CORRECT CONTAMINATION OF DRINKING WATER; AND AMENDING SECTION 75-6-103, MCA.	1334
86	<i>(Senate Bill No. 120; Zinke)</i> GENERALLY REVISING CONTROLLED GROUND WATER LAWS; GRANTING RULEMAKING AUTHORITY; ALLOWING PETITIONS FROM LOCAL ENTITIES AND WATER RIGHT HOLDERS; ALLOWING CONSIDERATION OF FUNDING AND STUDIES; REVISING CRITERIA FOR DESIGNATING OR MODIFYING A CONTROLLED GROUND WATER AREA; EXPANDING CONTROL PROVISIONS; REMOVING PREFERENCES FOR DOMESTIC AND LIVESTOCK WITHDRAWALS; ELIMINATING GROUND WATER SUPERVISORS; REMOVING PENALTIES ASSOCIATED WITH NONCOMPLIANCE WITH GROUND WATER STATUTES; AMENDING SECTIONS 85-2-306, 85-2-402, 85-2-501, 85-2-506, AND 85-2-508, MCA; REPEALING SECTIONS 85-2-507, 85-2-509, 85-2-511, 85-2-513, 85-2-518, AND 85-2-520, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	1336
87	<i>(Senate Bill No. 135; Larsen)</i> REVISING THE SMALL BUSINESS HEALTH INSURANCE PROGRAM; ALLOWING THE INSURANCE COMMISSIONER TO EXEMPT THE SMALL BUSINESS HEALTH INSURANCE PURCHASING POOL FROM REPORTING AS REQUIRED FOR VOLUNTARY PURCHASING POOLS; CLARIFYING TERMS FOR PREMIUM INCENTIVE PAYMENT SCHEDULES; CLARIFYING THE DESCRIPTION OF HEALTH PLANS AS THOSE PROVIDING CREDITABLE COVERAGE; PROVIDING REVISED ELIGIBILITY TERMS FOR OWNERS, PARTNERS, OR SHAREHOLDERS EARNING MORE THAN \$75,000 AND FOR CERTAIN EMPLOYEES OR DEPENDENTS; REVISING FUNDING TERMS FOR PREMIUM ASSISTANCE AND PREMIUM INCENTIVE PAYMENTS; AMENDING SECTIONS 33-22-1816, 33-22-2004, 33-22-2006, 33-22-2007, 33-22-2008, AND 53-4-1004, MCA; AND PROVIDING EFFECTIVE DATES	1348
88	<i>(Senate Bill No. 150; Brueggeman)</i> GENERALLY REVISING UNEMPLOYMENT INSURANCE LAWS; AUTHORIZING THE GOVERNOR TO APPOINT A SUBSTITUTE MEMBER TO THE BOARD OF LABOR APPEALS; PROVIDING FOR INELIGIBILITY FOR UNEMPLOYMENT BENEFITS DURING A LEAVE OF ABSENCE; ESTABLISHING THE INELIGIBILITY PERIOD FOR UNEMPLOYMENT BENEFITS FOR A PERSON SUSPENDED FROM EMPLOYMENT; CLARIFYING THE REQUISITIONING OF MONEY FROM THE UNEMPLOYMENT TRUST FUND; ALLOWING THE DEPARTMENT OF LABOR AND INDUSTRY TO CHARGE FEES FOR PROVIDING INFORMATION; REVISING CONFIDENTIALITY REQUIREMENTS; GRANTING RULEMAKING AUTHORITY; REVISING GENERAL BENEFIT ELIGIBILITY REQUIREMENTS; REVISING AGENCY REQUIREMENTS FOR PERSONS ACTING ON BEHALF OF A CLAIMANT; REVISING COLLECTION PROCEDURES FOR OVERPAYMENTS; AMENDING SECTIONS 2-15-1704, 35-8-304,	

MONTANA SESSION LAWS 2009

xx

	39-51-403, 39-51-501, 39-51-603, 39-51-1105, 39-51-1216, 39-51-1301, 39-51-2101, 39-51-2104, 39-51-2307, 39-51-2402, 39-51-2403, 39-51-2405, 39-51-3201, 39-51-3202, 39-51-3206, AND 39-51-3207, MCA; REPEALING SECTION 39-51-3104, MCA; AND PROVIDING EFFECTIVE DATES. . .	1356
89	(Senate Bill No. 155; Cooney) REQUIRING A RANDOM-SAMPLE AUDIT OF VOTE-COUNTING MACHINES AFTER A FEDERAL ELECTION; ESTABLISHING AUDIT PROCEDURES; AUTHORIZING COUNTY AUDIT COMMITTEES; PROVIDING DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTIONS 13-1-101, 13-1-303, 13-15-401, AND 13-15-502, MCA.	1367
90	(Senate Bill No. 160; Jent) CLARIFYING DISCIPLINARY PROCEDURES FOR HIGHWAY PATROL OFFICERS, INCLUDING THOSE COVERED BY A COLLECTIVE BARGAINING AGREEMENT; CLARIFYING THAT DISCIPLINARY PROCEDURES FALL WITHIN THE EXEMPTION PROVISIONS OF THE WRONGFUL DISCHARGE FROM EMPLOYMENT ACT; AMENDING SECTIONS 44-1-806 AND 44-1-902, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	1375
91	(Senate Bill No. 170; Gebhardt) CLARIFYING REIMBURSEMENT RATES FOR MEALS AND LODGING FOR FOREIGN TRAVEL; AUTHORIZING THE DEPARTMENT OF ADMINISTRATION TO DESIGNATE THE LOCATIONS AND CIRCUMSTANCES FOR REIMBURSING FOREIGN TRAVEL EXPENSES AT RATES HIGHER THAN THE MAXIMUM RATE; AMENDING SECTION 2-18-501, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	1376
92	(Senate Bill No. 182; Esp) CLARIFYING THE STANDARD TO BE USED BY A COURT TO DETERMINE PARENTAL FITNESS IN GRANDPARENT-GRANDCHILD CONTACT CASES; AMENDING SECTION 40-9-102, MCA; AND PROVIDING AN APPLICABILITY DATE	1377
93	(Senate Bill No. 196; Windy Boy) DESIGNATING THE LAST FRIDAY OF SEPTEMBER AS A DAY TO CELEBRATE AMERICAN INDIAN HERITAGE.	1378
94	(Senate Bill No. 219; Squires) CHANGING THE MONTH USED IN CALCULATING THE INFLATION ADJUSTMENT APPLIED TO LIMITS ON AGGREGATE CAMPAIGN CONTRIBUTIONS BY POLITICAL COMMITTEES OR INDIVIDUALS; AND AMENDING SECTION 13-37-216, MCA	1379
95	(Senate Bill No. 255; Tutvedt) REVISING RESPONSIBILITY FOR DEBT LIABILITY WHEN RURAL FIRE DISTRICT PROPERTY IS ANNEXED BY A MUNICIPALITY; AND AMENDING SECTION 7-33-2129, MCA	1380
96	(Senate Bill No. 262; Wanzenried) ALLOWING COUNTY WATER AND SEWER DISTRICTS TO ASSESS THE COST OF SERVICES AND IMPROVEMENTS BY DWELLING UNIT; AMENDING SECTION 7-13-2303, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	1381
97	(Senate Bill No. 296; Essmann) REVISING THE REQUIREMENTS FOR THE NEWSPAPERS IN WHICH MUNICIPALITIES PROVIDE PUBLIC NOTICE WHEN PUBLICATION OF NOTICE IS REQUIRED; REQUIRING THE NEWSPAPERS TO SUBMIT CERTAIN INFORMATION TO THE CITY CLERK; AMENDING SECTION 7-1-4127, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	1381
98	(Senate Bill No. 331; Balyeat) REVISING THE LAW RELATING TO CRIMINAL USE OF OFFICIAL POSITION; AND AMENDING SECTION 45-7-103, MCA	1383

99	<i>(Senate Bill No. 376; Black)</i> EXEMPTING UTILITIES' AFFILIATES FROM A CUSTOMER FISCAL IMPACT ANALYSIS; AND AMENDING SECTION 69-2-217, MCA	1383
100	<i>(Senate Bill No. 390; McGee)</i> AUTHORIZING CITIES AND TOWNS TO ENTER INTO LOAN AGREEMENTS WITH THE STATE OF MONTANA TO FUND IMPROVEMENTS WITHIN STREET MAINTENANCE DISTRICTS AND USE THE DISTRICT ASSESSMENTS TO SERVICE THE LOAN; AND AMENDING SECTION 7-12-4429, MCA.	1383
101	<i>(Senate Bill No. 438; Juneau)</i> REVISING THE DEFINITION OF "LIQUOR" TO INCLUDE CAFFEINATED OR STIMULANT-ENHANCED MALT BEVERAGES; DEFINING "CAFFEINATED OR STIMULANT-ENHANCED MALT BEVERAGE"; AND AMENDING SECTION 16-1-106, MCA	1384
102	<i>(House Bill No. 192; Taylor)</i> REVISING THE METHOD OF VOTING ON WHETHER TO OVERRIDE THE GOVERNOR'S VETO OF A BILL APPROVED BY TWO-THIRDS OF THE MEMBERS VOTING ON THE FINAL VOTE ON THE BILL WHEN THE LEGISLATURE IS NOT IN SESSION; AMENDING SECTION 5-4-306, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	1387
103	<i>(House Bill No. 39; Cohenour)</i> GENERALLY REVISING WATER RIGHT ENFORCEMENT LAWS; ALLOWING FOR THE LIMITED APPOINTMENT OF WATER MASTERS AS SPECIAL MASTERS IN DISTRICT COURT PROCEEDINGS; REQUIRING THAT PROTECTION OF PRIOR APPROPRIATORS BE GIVEN PRIORITY IN JUDICIAL ENFORCEMENT CONSIDERATIONS; MAKING THE PURSUIT OF VOLUNTARY COMPLIANCE OPTIONAL; ELIMINATING CERTAIN CRIMINAL PENALTIES; ESTABLISHING A WATER RIGHT ENFORCEMENT PROGRAM AND A WATER RIGHT ENFORCEMENT ACCOUNT; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTIONS 3-7-311, 17-7-502, 85-2-114, AND 85-2-122, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	1388
104	<i>(House Bill No. 41; Cohenour)</i> REQUIRING THAT A DISCHARGE PERMIT MUST BE OBTAINED, IF NECESSARY, FOR AN AQUIFER RECHARGE PLAN OR A MITIGATION PLAN IN A CLOSED BASIN; AMENDING SECTIONS 75-5-410, 85-2-362, AND 85-2-364, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE	1391
105	<i>(House Bill No. 45; Ingraham)</i> REVISING THE LAWS GOVERNING THE DISTRIBUTION OF FEDERAL FOREST RESERVE FUNDS TO COMPLY WITH FEDERAL LAW; AMENDING SECTIONS 17-3-211, 17-3-212, AND 17-3-213, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	1395
106	<i>(House Bill No. 48; Beck)</i> REVISING LAWS RELATING TO THE GROWTH THROUGH AGRICULTURE ACT; REVISING ELIGIBILITY AND DISBURSEMENT GUIDELINES; ALLOWING THE USE OF GRANTS; GRANTING RULEMAKING AUTHORITY; AMENDING SECTIONS 90-9-102, 90-9-103, 90-9-202, 90-9-203, 90-9-301, 90-9-306, 90-9-307, 90-9-311, 90-9-401, AND 90-9-402, MCA; REPEALING SECTIONS 90-9-303, 90-9-312, 90-9-313, 90-9-314, 90-9-315, 90-9-316, AND 90-9-317, MCA; AND PROVIDING AN EFFECTIVE DATE	1397
107	<i>(House Bill No. 75; Van Dyk)</i> REVISING THE PROVISIONS OF THE ENVIRONMENTAL REHABILITATION AND RESPONSE ACCOUNT; AUTHORIZING THE EXPENDITURE OF FUNDS FROM THE ENVIRONMENTAL REHABILITATION AND RESPONSE ACCOUNT FOR THE CLEANUP OF SOLID WASTE SITES; AMENDING SECTION 75-1-110, MCA; AND PROVIDING AN EFFECTIVE DATE.	1402

- 108 *(House Bill No. 78; Hendrick)* INCREASING THE BOARD FEET OF SALVAGE TIMBER THAT MAY BE SOLD WITHOUT ADVERTISEMENT; AMENDING SECTION 77-5-212, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE

1403
- 109 *(House Bill No. 80; Kottel)* REVISING PROFESSIONAL AND OCCUPATIONAL LICENSING LAWS; REVISING AND CLARIFYING CERTAIN BOARD MEMBER REQUIREMENTS, BOARD TERMS, AND BOARD COMPOSITION; REQUIRING SENATE CONFIRMATION OF APPOINTMENTS TO THE BOARD OF RESPIRATORY CARE PRACTITIONERS AND THE BOARD OF SOCIAL WORK EXAMINERS AND PROFESSIONAL COUNSELORS; REVISING CERTAIN REGULATORY AND LICENSURE REQUIREMENTS; REVISING CERTAIN BOARD DUTIES; REVISING PROVISIONS RELATING TO UNPROFESSIONAL CONDUCT; REVISING HEARING AID DISPENSER TRAINEE AND BOARD DUTIES; CREATING A TEMPORARY PRACTICE PERMIT IN ADDICTION COUNSELING; REVISING CERTAIN LICENSING REQUIREMENTS FOR PUBLIC ACCOUNTANTS AND FIRMS; REMOVING AUTHORIZATION FOR LAETRILE MANUFACTURE, SALE, POSSESSION, AND DISTRIBUTION; AMENDING SECTIONS 2-15-1738, 2-15-1740, 2-15-1741, 2-15-1744, 2-15-1748, 2-15-1750, 2-15-1753, 2-15-1756, 23-3-501, 30-11-515, 37-1-316, 37-1-410, 37-3-102, 37-3-305, 37-3-306, 37-3-308, 37-3-311, 37-3-323, 37-3-342, 37-4-501, 37-8-202, 37-9-203, 37-9-301, 37-9-302, 37-9-305, 37-9-312, 37-10-302, 37-16-202, 37-16-405, 37-16-411, 37-16-413, 37-18-302, 37-25-303, 37-29-201, 37-35-201, 37-35-202, 37-36-202, 37-47-302, 37-47-404, 37-50-101, 37-50-102, 37-50-203, 37-50-301, 37-50-314, 37-50-330, 37-50-335, 37-50-341, 37-50-401, AND 37-50-402, MCA; AND REPEALING SECTIONS 37-21-101, 37-21-201, 37-21-301, 37-21-302, 37-21-405, 37-21-406, 37-50-323, 37-50-324, 50-41-101, 50-41-102, 50-41-103, 50-41-104, 50-41-105, 50-41-106, AND 50-41-107, MCA

1404
- 110 *(House Bill No. 82; Driscoll)* REVISING THE ALLOCATION OF FUNDS FOR 9-1-1 PURPOSES; REDUCING THE ALLOCATION OF FUNDS FOR ADMINISTRATION OF 9-1-1 LAWS; AMENDING SECTION 10-4-301, MCA; AND PROVIDING AN EFFECTIVE DATE

1435
- 111 *(House Bill No. 118; Klock)* REVISING THE DISTRIBUTION OF WIRELESS 9-1-1 FUNDS AMONG COUNTIES; REQUIRING LOCAL 9-1-1 JURISDICTIONS TO PROVIDE PROGRAM INFORMATION TO THE DEPARTMENT OF ADMINISTRATION; AMENDING SECTIONS 10-4-102, 10-4-302, AND 10-4-313, MCA; AND PROVIDING AN EFFECTIVE DATE

1436
- 112 *(House Bill No. 119; Hunter)* REVISING LAWS RELATED TO EMPLOYMENT; AUTHORIZING NEGOTIATION OF AGREEMENTS WITH TRIBAL GOVERNMENTS TO RECOGNIZE AND GIVE EFFECT TO CERTAIN TRIBAL WORKERS' COMPENSATION PLANS; AUTHORIZING PLAN NO. 1 EMPLOYERS TO TRANSFER CLAIM LIABILITIES TO THIRD PARTIES; REQUIRING CONTROLLING PERSONS OF PROFESSIONAL EMPLOYER ORGANIZATIONS TO SUBMIT FINGERPRINTS; INCLUDING RELIGIOUS ORGANIZATIONS AS EMPLOYERS FOR WORKERS' COMPENSATION PURPOSES UNDER CERTAIN CONDITIONS; PROVIDING A RANGE OF UP TO 3 PERCENT ON CERTAIN ASSESSMENTS ON PAID LOSSES; CLARIFYING CERTAIN PROCEDURES USED BY THE UNINSURED EMPLOYERS' FUND; CLARIFYING THAT THE TIME TO APPEAL TO MEDIATION IS FROM THE DATE OF DETERMINATION BY THE DEPARTMENT; PROVIDING FOR CERTAIN VOLUNTARY NONBINDING MEDIATION; SPECIFYING TYPES OF MEDICAL FEE

	SCHEDULES THAT MAY BE USED FOR WORKERS' COMPENSATION CLAIMS; PROVIDING TIMELINES FOR PAYMENTS AND INTEREST PENALTIES; REMOVING THE 26-WEEK LIMIT ON TEMPORARY PARTIAL DISABILITY BENEFITS; ALLOWING FOR INCREASED PRESCRIPTION SUPPLIES; REVISING APPLICATION TIMELINES UNDER THE SUBSEQUENT INJURY FUND; INCREASING THE TRIGGERING AMOUNT NECESSARY FOR ASSESSMENTS UNDER THE SUBSEQUENT INJURY FUND; CLARIFYING THE JURISDICTION OF THE WORKERS' COMPENSATION COURT; AMENDING SECTIONS 39-8-202, 39-71-107, 39-71-117, 39-71-118, 39-71-123, 39-71-201, 39-71-307, 39-71-501, 39-71-506, 39-71-520, 39-71-601, 39-71-613, 39-71-704, 39-71-711, 39-71-712, 39-71-727, 39-71-743, 39-71-905, 39-71-915, 39-71-2339, 39-71-2905, AND 39-73-104, MCA; AND PROVIDING EFFECTIVE DATES AND A RETROACTIVE APPLICABILITY DATE	1439
113	<i>(House Bill No. 129; Getz)</i> CLARIFYING THAT POLITICAL SUBDIVISIONS MAY ADOPT FEDERAL FLOOD PLAIN MAPS TO COMPLY WITH THE NATIONAL FLOOD INSURANCE PROGRAM; AMENDING SECTIONS 76-5-103 AND 76-5-201, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	1468
114	<i>(House Bill No. 137; McNutt)</i> REVISING LICENSE BENEFITS FOR LANDOWNERS ENROLLED IN THE HUNTER MANAGEMENT PROGRAM; ALLOWING EMPLOYEES OF LANDOWNERS TO RECEIVE THE FREE BIG GAME COMBINATION LICENSE ALLOTTED TO THE LANDOWNER; DEFINING "EMPLOYEE"; DELETING THE REQUIREMENT THAT THE COST OF A FREE LICENSE RECEIVED BY A LANDOWNER BE DEDUCTED FROM COMPENSATION PAID; AMENDING SECTION 87-1-266, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	1470
115	<i>(House Bill No. 139; Vincent)</i> ALLOWING THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION TO INTERVENE IN LITIGATION OR APPEALS ON FEDERAL FOREST MANAGEMENT PROJECTS IF THE DEPARTMENT DETERMINES THERE IS A SIGNIFICANT THREAT TO PUBLIC HEALTH AND SAFETY; AMENDING SECTION 76-13-702, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	1471
116	<i>(House Bill No. 140; Vincent)</i> INCREASING THE AMOUNT BY WHICH THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION MAY EXCEED THE ANNUAL SUSTAINED HARVEST LEVEL USING CONTRACT HARVESTING IF THE DEPARTMENT IS ADDRESSING FOREST HEALTH CONCERNS; AMENDING SECTION 77-5-216, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	1472
117	<i>(House Bill No. 153; Hands)</i> REVISING THE VOLUNTARY CLEANUP AND REDEVELOPMENT ACT; REVISING PROCEDURES GOVERNING APPLICATION FOR AND REVIEW OF VOLUNTARY CLEANUP PLANS; REVISING REIMBURSEMENT AND DISCLOSURE PROVISIONS; AND AMENDING SECTIONS 75-10-733, 75-10-735, AND 75-10-736, MCA	1473
118	<i>(House Bill No. 179; Villa)</i> REVISING THE DEFINITION OF COMPETITIVE ELECTRICITY SUPPLIER; AMENDING SECTIONS 69-3-2003 AND 90-3-1003, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE	1476
119	<i>(House Bill No. 203; Miller)</i> REQUIRING THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO NOTIFY THE PUBLIC WHEN INTRODUCING OR TRANSPLANTING WOLVES, BEARS, AND	

	MOUNTAIN LIONS ON PRIVATE OR PUBLIC PROPERTY; PROHIBITING THE TRANSPLANTATION OF ANY ANIMAL ONTO PRIVATE PROPERTY WITHOUT PRIOR PERMISSION FROM THE LANDOWNER; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	1480
120	<i>(House Bill No. 204; Ebinger)</i> REVISING WORKERS' COMPENSATION LAW TO PROVIDE THAT AN APPLICANT WHO HAS BEEN CERTIFIED AS AN INDEPENDENT CONTRACTOR IS NOT REQUIRED TO SUBMIT DOCUMENTS PREVIOUSLY SUBMITTED IF THE APPLICANT VERIFIES THAT THE PREVIOUSLY SUBMITTED DOCUMENTS ARE STILL CURRENT AND VALID OR THE DEPARTMENT DECIDES THE DOCUMENTS ARE STILL CURRENT AND VALID; AND AMENDING SECTION 39-71-417, MCA	1480
121	<i>(House Bill No. 223; Cohenour)</i> REVISING LAWS GOVERNING THE REVOCATION OF HUNTING, FISHING, AND TRAPPING PRIVILEGES; AUTHORIZING THE REVOCATION OF THE PRIVILEGE TO HUNT, FISH, OR TRAP IF A PERSON COMMITS CRIMINAL MISCHIEF OR TRESPASS ON PROPERTY OWNED OR ADMINISTERED BY THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS OR COMMITS CRIMINAL TRESPASS WHILE HUNTING, FISHING, OR TRAPPING; AND AMENDING SECTIONS 23-1-106, 45-6-101, 45-6-203, AND 87-1-102, MCA	1483
122	<i>(House Bill No. 230; McClafferty)</i> REVISING LAWS GOVERNING LOCAL GOVERNMENT EMPLOYEE INCENTIVE PROGRAMS TO ALLOW FOR LIMITED INCENTIVE AWARDS FOR PARTICIPATION IN PROGRAMS DESIGNED TO IMPROVE EMPLOYEE HEALTH AND SAFETY; AMENDING SECTIONS 7-4-501, 7-4-505, AND 7-4-506, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	1487
123	<i>(House Bill No. 244; Ankney)</i> REVISING THE CIRCUMSTANCES UNDER WHICH A COUNTY OFFICER MAY BE ABSENT FROM THE STATE WITHOUT FORFEITING THE OFFICER'S OFFICE; AMENDING SECTION 7-4-2208, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	1489
124	<i>(House Bill No. 270; Reinhart)</i> REVISING FLOOD PLAIN LAWS; CLARIFYING THE DEFINITION OF "FLOOD PLAIN"; ELIMINATING THE REQUIREMENT FOR CONSTRUCTING STRUCTURES ON FILL WITHIN THE FLOOD PLAIN; AND AMENDING SECTIONS 76-5-103 AND 76-5-402, MCA	1489
125	<i>(House Bill No. 283; Himmelberger)</i> REVISING WORKERS' COMPENSATION LAWS; PROVIDING FOR VOLUNTARY CERTIFICATION OF WORKERS' COMPENSATION CLAIMS EXAMINERS; REQUIRING A LETTER OF INTENT TO CREATE A NEW EXEMPTION UNDER THE WORKERS' COMPENSATION ACT; ESTABLISHING CRITERIA FOR CERTIFYING CLAIMS EXAMINERS; AMENDING SECTION 2-6-109, MCA; AND PROVIDING AN EFFECTIVE DATE	1491
126	<i>(House Bill No. 288; Kerns)</i> BANNING REPRODUCTIVE HUMAN CLONING; AND ESTABLISHING PENALTIES	1494
127	<i>(House Bill No. 294; MacLaren)</i> ALLOWING A NATURAL GAS UTILITY THAT HAS RESTRUCTURED TO ACQUIRE NATURAL GAS PRODUCTION AND GATHERING RESOURCES AND INCLUDE THEM IN THE RATE BASE; ESTABLISHING PROCEDURES FOR THE ACQUISITION AND INCLUSION OF THE RESOURCES IN THE RATE BASE; AMENDING SECTIONS 69-3-1402 AND 69-3-1404, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE	1495

TITLE CONTENTS

- 128 (*House Bill No. 308; Augare*) ALLOWING A SENTENCING COURT TO ORDER THAT AN OFFENDER MAKE A DONATION OF FOOD TO A FOOD BANK PROGRAM TO FULFILL ALL OR PART OF A SENTENCE; AMENDING SECTION 46-18-201, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 1499
- 129 (*House Bill No. 363; Jones*) REVISING THE TEACHERS' RETIREMENT SYSTEM TO ALLOW RETIRED TEACHERS, SPECIALISTS, AND ADMINISTRATORS TO RETURN TO WORK FOR A LIMITED PERIOD OF TIME UNDER CERTAIN CIRCUMSTANCES WITHOUT A REDUCTION IN THEIR RETIREMENT BENEFITS; AMENDING SECTION 19-20-731, MCA; AND PROVIDING AN EFFECTIVE DATE, AN APPLICABILITY DATE, AND A TERMINATION DATE 1502
- 130 (*House Bill No. 366; McGillvray*) ALLOWING THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO ENTER INTO AGREEMENTS WITH ADJOINING STATES REGARDING RECIPROCAL FISHING PRIVILEGES IN MONTANA RIVERS AND STREAMS IF THE BORDERING STATE GRANTS THE SAME OR SIMILAR PRIVILEGES; AMENDING SECTIONS 87-2-1001 AND 87-2-1003, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 1505
- 131 (*House Bill No. 383; Arntzen*) PROVIDING FOR THE ISSUANCE OF A CERTAIN NUMBER OF FREE HUNTING LICENSES TO CERTAIN YOUTHS WITH LIFE-THREATENING ILLNESSES; DEFINING "LIFE-THREATENING ILLNESS"; AMENDING SECTION 87-2-805, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 1505
- 132 (*House Bill No. 432; Mehlhoff*) CLARIFYING SCHOOL TRUSTEE ELECTIONS; AUTHORIZING ELECTION BY ACCLAMATION IF THE NUMBER OF CANDIDATES FOR VACANT SCHOOL TRUSTEE POSITIONS IS LESS THAN THE NUMBER OF POSITIONS TO BE ELECTED; AMENDING SECTION 20-3-313, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 1509
- 133 (*House Bill No. 545; Vincent*) REVISING THE MEMBERSHIP OF THE COUNTY COMPENSATION BOARD; AND AMENDING SECTION 7-4-2503, MCA 1509
- 134 (*Senate Bill No. 47; Steinbeisser*) REVISING THE MONTANA TITLE LOAN ACT TO REQUIRE THE DEPARTMENT OF ADMINISTRATION TO REFUSE TO ISSUE OR RENEW A TITLE LENDER'S LICENSE ON VARIOUS GROUNDS INCLUDING AN APPLICANT'S MAKING MATERIAL MISSTATEMENTS OF FACT; PROVIDING THAT A PERSON MAY NOT APPLY FOR A LICENSE FOR 1 YEAR FOLLOWING A DENIAL OR REFUSAL BY THE DEPARTMENT TO ISSUE OR RENEW A LICENSE; PROVIDING THAT THE VIOLATION OF CERTAIN SPECIFIED FEDERAL ACTS, INCLUDING THE TRUTH IN LENDING ACT AND THE FAIR CREDIT REPORTING ACT, IS ALSO A VIOLATION OF THE MONTANA TITLE LOAN ACT; GRANTING THE DEPARTMENT RULEMAKING AUTHORITY; REVISING THE DEPARTMENT'S FEES FOR EXAMINING LICENSEES; AND AMENDING SECTIONS 31-1-805 AND 31-1-810, MCA. 1511
- 135 (*Senate Bill No. 49; Wanzenried*) REQUIRING THE DEPARTMENT OF ADMINISTRATION TO ESTABLISH HIGH-PERFORMANCE BUILDING STANDARDS FOR STATE-OWNED BUILDINGS AND NEW STATE-LEASED BUILDINGS; AMENDING SECTION 17-7-201, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE 1513
- 136 (*Senate Bill No. 184; Balyeat*) REVISING LICENSE APPLICATION RESTRICTIONS ON LICENSES FOR BEAR, MOUNTAIN LION, AND

	WILD BUFFALO OR BISON; AMENDING SECTION 87-2-702, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	1515
137	<i>(Senate Bill No. 216; Laslovich)</i> ALLOWING SCHOOL DISTRICT TRUSTEES TO ENTER INTO AN INTERLOCAL AGREEMENT WITH THE MONTANA YOUTH CHALLENGE PROGRAM TO PROVIDE EDUCATIONAL OR VOCATIONAL SERVICES TO A STUDENT WHO IS A RESIDENT OF THE DISTRICT; ALLOWING A SCHOOL DISTRICT TO INCLUDE A RESIDENT STUDENT WHO IS RECEIVING EDUCATIONAL OR VOCATIONAL SERVICES FROM THE MONTANA YOUTH CHALLENGE PROGRAM UNDER AN INTERLOCAL AGREEMENT IN THE ENROLLMENT COUNT OF THE DISTRICT FOR THE PURPOSE OF CALCULATING AVERAGE NUMBER BELONGING; AMENDING SECTIONS 20-7-420, 20-9-311, AND 20-9-707, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.	1516
138	<i>(Senate Bill No. 323; Erickson)</i> PROVIDING THAT PRIOR TO SIGNING A WRITTEN RENTAL AGREEMENT THE LANDLORD AND TENANT SHALL AGREE TO ACCEPT THE DEFAULT EXTENSION PERIOD FOR THE LEASE CHOSEN BY THE TENANT THAT IS TO BE GIVEN EFFECT IF THE LEASE IS NOT REVISED OR NEITHER PARTY GIVES NOTICE OF TERMINATION TO THE OTHER PRIOR TO THE RENTAL AGREEMENT'S ORIGINAL TERMINATION DATE	1521
139	<i>(House Bill No. 106; French)</i> CHANGING "ALTERED" BIRTH CERTIFICATES TO "AMENDED" BIRTH CERTIFICATES; AND AMENDING SECTIONS 50-15-202 AND 50-15-204, MCA	1522
140	<i>(House Bill No. 304; Sonju)</i> NAMING A PORTION OF U.S. HIGHWAY 2 AFTER HIGHWAY PATROL OFFICER DAVID GRAHAM; REQUIRING THE DEPARTMENT OF TRANSPORTATION TO PROVIDE MARKERS TO RECOGNIZE THE DESIGNATION WHEN EXISTING SIGNS NEED REPLACING; REQUIRING NEW ROADWAY MAPS TO INCLUDE THE DESIGNATION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	1523
141	<i>(House Bill No. 311; Blasdel)</i> NAMING A PORTION OF U.S. HIGHWAY 2 AFTER HIGHWAY PATROL OFFICER EVAN F. SCHNEIDER; REQUIRING THE DEPARTMENT OF TRANSPORTATION TO PROVIDE MARKERS TO RECOGNIZE THE DESIGNATION WHEN EXISTING SIGNS NEED REPLACING; REQUIRING NEW ROADWAY MAPS TO INCLUDE THE DESIGNATION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	1523
142	<i>(House Bill No. 324; Arntzen)</i> ALLOWING A RETIRING LAW ENFORCEMENT OFFICER TO PURCHASE CERTAIN FIREARMS ISSUED TO THE OFFICER; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	1524
143	<i>(Senate Bill No. 141; Tropila)</i> REPEALING FRANCHISE DISABILITY INSURANCE; REPEALING SECTION 33-22-401, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	1525
144	<i>(Senate Bill No. 173; Murphy)</i> CLARIFYING THE ABILITY OF SCHOOL DISTRICTS TO SHARE SUPERINTENDENTS AND PRINCIPALS; AND AMENDING SECTION 20-4-401, MCA.	1525
145	<i>(Senate Bill No. 208; Lewis)</i> AUTHORIZING THE GOVERNING BODY OF A COUNTY, CITY, OR TOWN TO CONSIDER THE EMPLOYEES OF PRIVATE, NONPROFIT HOSPITALS, HEALTH CENTERS, OR NURSING HOMES TO BE EMPLOYEES OF THE COUNTY, CITY, OR TOWN SOLELY FOR THE PURPOSE OF PARTICIPATION IN GROUP HOSPITALIZATION, MEDICAL, HEALTH, INCLUDING LONG-TERM DISABILITY, ACCIDENT, OR GROUP LIFE INSURANCE CONTRACTS	

	OR PLANS; AMENDING SECTION 2-18-702, MCA; AND PROVIDING AN EFFECTIVE DATE	1526
146	<i>(Senate Bill No. 409; Brueggeman)</i> PROVIDING FOR THE ENFORCEMENT OF THE USE OF A MUFFLER FOR AN ENGINE COMPRESSION BRAKE DEVICE; PROVIDING FOR A NOTICE OF DEFICIENCY; PROVIDING A PENALTY; AND AMENDING SECTIONS 61-9-321, 61-9-501, AND 61-9-503, MCA	1527
147	<i>(House Bill No. 24; Morgan)</i> INSTRUCTING THE MONTANA CODE COMMISSIONER TO RENUMBER AND RECODIFY TITLE 15, CHAPTER 30, MONTANA CODE ANNOTATED, SPECIFICALLY RELATING TO THE RATE AND RETURN OF THE INDIVIDUAL INCOME TAX AND CERTAIN PORTIONS OF THE ADMINISTRATION AND COLLECTION OF THE INDIVIDUAL INCOME TAX; COMBINING CERTAIN INDIVIDUAL INCOME TAX PROVISIONS TO IMPROVE USABILITY AND IMPROVE THE RECODIFICATION; AMENDING SECTIONS 15-30-111, 15-30-114, 15-30-171, 15-30-172, 15-30-174, 15-30-176, AND 15-30-177, MCA; AND REPEALING SECTIONS 15-30-110, 15-30-115, 15-30-173, 15-30-175, 15-30-178, AND 15-30-179, MCA.	1529
148	<i>(House Bill No. 67; Belcourt)</i> CLARIFYING THAT THE SCHEDULE OF PRICES FOR COUNTY LEGAL PRINTING ARE ADOPTED BY ADMINISTRATIVE RULE; DIRECTING THE CODE COMMISSIONER TO RENUMBER STATUTES RELATED TO COUNTY PRINTING AS PART OF THE STATUTES RELATED TO STATE PRINTING; AMENDING SECTION 7-5-2404, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	1538
149	<i>(House Bill No. 72; Sands)</i> CLARIFYING THE DURATION OF THE CARETAKER RELATIVE EDUCATIONAL AUTHORIZATION AFFIDAVIT; AMENDING SECTION 20-5-503, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE	1538
150	<i>(House Bill No. 93; Sands)</i> CLARIFYING MEDICAL DIRECTION FOR EMERGENCY MEDICAL SERVICES; CLARIFYING THE PROCEDURES FOR HANDLING COMPLAINTS RELATED TO PREHOSPITAL AND INTERFACILITY EMERGENCY CARE; AMENDING SECTIONS 50-6-104, 50-6-201, 50-6-203, 50-6-302, 50-6-317, AND 50-6-323, MCA	1541
151	<i>(House Bill No. 367; McGillvray)</i> PROVIDING FOR A SEPARATE POSTADOPTIVE COUNSELING AND SUPPORT PROGRAM WITHIN A CHILD-PLACING AGENCY; SPECIFYING THAT THE COSTS OF THE PROGRAM MAY NOT BE INCLUDED IN PLACEMENT FEES; AND AMENDING SECTIONS 42-2-409 AND 42-7-105, MCA.	1546
152	<i>(Senate Bill No. 20; Jent)</i> CLARIFYING THE MEANING OF THE TERM "SUBSTANTIAL COMPLIANCE"; PROVIDING A STATEMENT OF LEGISLATIVE PURPOSE FOR THE MONTANA ADMINISTRATIVE PROCEDURE ACT; AMENDING SECTIONS 2-4-101 AND 2-4-305, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	1548
153	<i>(Senate Bill No. 82; Steinbeisser)</i> GENERALLY REVISING LAWS RELATING TO RECOVERY OF MEDICAID BENEFITS FOR SERVICES PAID ON BEHALF OF MEDICAID RECIPIENTS; REMOVING THE COUNTY FROM THE RECOVERY OF MEDICAID BENEFITS PROCESS; PROVIDING DEFINITIONS; AMENDING SECTIONS 53-2-612, 53-6-165, 53-6-167, 53-6-168, AND 53-6-178, MCA; AND PROVIDING AN EFFECTIVE DATE.	1551

- 154 (*Senate Bill No. 197; Laslovich*) DEFINING COURT TRANSCRIPTS; ESTABLISHING TRANSCRIPT COSTS AND PROVIDING FOR COST-OF-LIVING ADJUSTMENTS IN TRANSCRIPT COSTS; AMENDING SECTIONS 3-5-604 AND 40-6-119, MCA; AND PROVIDING AN EFFECTIVE DATE 1558
- 155 (*Senate Bill No. 319; Keane*) ELIMINATING VIOLATIONS OF SIZE, WEIGHT, AND LOAD RESTRICTIONS AS VIOLATIONS THAT RESULT IN AN OFFENDER ACCUMULATING POINTS TOWARDS A HABITUAL OFFENDER DESIGNATION; AND AMENDING SECTION 61-11-203, MCA. 1560
- 156 (*Senate Bill No. 325; Perry*) CLARIFYING THAT A PERSON WHO IS A DESIGNATED CAREGIVER UNDER THE MEDICAL MARIJUANA ACT MAY NOT USE MARIJUANA AND MAY USE DRUG PARAPHERNALIA ONLY IN LIMITED CIRCUMSTANCES; AND AMENDING SECTIONS 45-10-103, 50-46-102, 50-46-103, 50-46-201, 50-46-205, AND 50-46-206, MCA. 1561
- 157 (*Senate Bill No. 368; Erickson*) EXTENDING THE LIABILITY LIMITS ON MEDICAL PRACTITIONERS AND DENTAL HYGIENISTS WHO PROVIDE SERVICES WITHOUT COMPENSATION TO COMMUNITY-BASED PROGRAMS; AMENDING SECTION 27-1-736, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 1566
- 158 (*Senate Bill No. 432; Brown*) CLARIFYING THAT FAILURE OF AN OSTENSIBLE AGENT TO COMPLY WITH A HEALTH CARE PROVIDER'S POLICY OR PRACTICE REQUIRING THE AGENT TO SECURE PROFESSIONAL LIABILITY INSURANCE CONSTITUTES PROFESSIONAL MISCONDUCT; AMENDING SECTIONS 28-10-103 AND 37-1-316, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 1567
- 159 (*House Bill No. 21; Dickenson*) REPEALING THE TERMINATION DATE FOR CREDIT AGAINST AIR QUALITY PERMITTING FEES FOR CERTAIN USES OF POSTCONSUMER GLASS IN RECYCLED MATERIAL; REPEALING THE TERMINATION DATE FOR THE TAX CREDIT FOR INVESTMENT IN PROPERTY USED TO COLLECT OR PROCESS RECLAIMABLE MATERIALS; REPEALING THE TERMINATION DATE FOR THE TAX DEDUCTION FOR THE PURCHASE OF RECYCLED MATERIALS; AMENDING SECTIONS 75-2-225 AND 75-2-226, MCA; REPEALING SECTION 9, CHAPTER 712, LAWS OF 1991, SECTIONS 4 AND 5, CHAPTER 542, LAWS OF 1995, SECTION 1, CHAPTER 411, LAWS OF 1997, SECTIONS 4, 5, 6, AND 7, CHAPTER 398, LAWS OF 2001, SECTION 8, CHAPTER 516, LAWS OF 2001, SECTIONS 3 AND 5, CHAPTER 129, LAWS OF 2005, AND SECTIONS 1, 2, 3, 4, 5, 6, 7, AND 8, CHAPTER 569, LAWS OF 2005; AND PROVIDING AN EFFECTIVE DATE. 1569
- 160 (*House Bill No. 54; Ingraham*) REQUIRING THE PREPARATION AND PUBLICATION OF A SEPARATE INDEX FOR THE MONTANA CONSTITUTION AS PART OF THE MONTANA CODE ANNOTATED; AMENDING SECTION 1-11-204, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 1571
- 161 (*House Bill No. 58; Ingraham*) ELIMINATING THE SOCIAL SECURITY CONTRIBUTION ACCOUNT AND RELATED PROVISIONS FROM STATE LAW; AMENDING SECTIONS 19-1-402, 19-1-503, 19-1-813, AND 19-1-825, MCA; REPEALING SECTIONS 19-1-601, 19-1-602, 19-1-603, 19-1-604, 19-1-701, 19-1-703, 19-1-706, 19-1-801, AND 19-1-814, MCA. 1573
- 162 (*House Bill No. 146; MacLaren*) REQUIRING THE ITEMIZATION OF EXPENDITURES MADE TO CONSULTANTS, ADVERTISING

	AGENCIES, POLLING FIRMS, OR OTHER PERSONS; AND AMENDING SECTION 13-37-230, MCA	1575
163	<i>(House Bill No. 155; Pomnichowski)</i> REQUIRING STATE AGENCIES TO PROTECT CERTAIN PERSONAL INFORMATION; REQUIRING STATE AGENCIES TO DEVELOP PROCEDURES TO PROTECT SOCIAL SECURITY NUMBERS; AND PROVIDING A NOTIFICATION PROCEDURE FOR STATE AGENCIES OR THIRD PARTIES REGARDING A BREACH SUSPECTED OF COMPROMISING CERTAIN PERSONAL INFORMATION	1576
164	<i>(House Bill No. 193; Augare)</i> CHANGING THE NAME OF THE STATE COORDINATOR OF INDIAN AFFAIRS TO STATE DIRECTOR OF INDIAN AFFAIRS; AMENDING SECTIONS 2-15-102, 2-15-149, 2-15-217, 2-15-225, 2-15-1205, 22-2-602, 90-1-104, 90-1-131, 90-1-132, 90-1-133, 90-11-101, AND 90-11-102, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	1578
165	<i>(House Bill No. 214; MacDonald)</i> REVISING MEDICAID ELIGIBILITY REQUIREMENTS FOR PREGNANT WOMEN, INFANTS AND CHILDREN, AND CARETAKERS; AMENDING SECTION 53-6-131, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	1588
166	<i>(House Bill No. 307; Roberts)</i> ALLOWING A MEDICAL PRACTITIONER TO DISPENSE DRUGS THAT ARE NOT AVAILABLE FROM A COMMUNITY PHARMACY; AND AMENDING SECTION 37-2-104, MCA	1590
167	<i>(House Bill No. 372; Wilmer)</i> REVISING EXEMPTIONS FROM JURY DUTY; PROVIDING THAT THE UNDUE HARDSHIP EXEMPTION APPLIES TO BREASTFEEDING MOTHERS AND OTHER PROSPECTIVE JURORS WHO ARE PRIMARY CAREGIVERS TO DEPENDENT PERSONS; AND AMENDING SECTION 3-15-313, MCA.	1591
168	<i>(House Bill No. 387; Reichner)</i> REVISING THE DEFINITION OF "INVENTORY" WITH RESPECT TO CANCELED DEALERSHIP CONTRACT REPURCHASE REQUIREMENTS; AMENDING SECTION 30-11-701, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.	1593
169	<i>(House Bill No. 621; Wilson)</i> PROVIDING THAT AN EXISTING RETAIL BEER OR BEER AND WINE LICENSE FOR A FAIRGROUNDS COMPLEX MAY BE TRANSFERRED TO A POLITICAL SUBDIVISION OF THE STATE UNDER CERTAIN CIRCUMSTANCES; GRANTING RULEMAKING AUTHORITY TO THE DEPARTMENT OF REVENUE; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	1594
170	<i>(House Bill No. 623; Milburn)</i> CLARIFYING THE AUTHORITY OF A COUNTY, CITY, OR TOWN TO DONATE REAL PROPERTY OR SELL REAL PROPERTY AT A REDUCED PRICE TO A CORPORATION FOR LOW-INCOME HOUSING; AMENDING SECTIONS 7-8-2219, 7-8-2301, 7-8-2308, 7-8-2402, 7-8-2502, 7-8-2504, 7-8-4201, AND 7-15-4262, MCA; AND PROVIDING AN EFFECTIVE DATE.	1595
171	<i>(Senate Bill No. 74; Laible)</i> REVISING THE DUTIES OF A GOVERNMENTAL FIRE AGENCY; REVISING REQUIREMENTS FOR PROVISION AND MANAGEMENT OF EMERGENCY SERVICES BY A FIRE CHIEF; REVISING THE ENTITY UNDER WHICH A FIRE CHIEF SERVES; AND AMENDING SECTION 7-33-2001, MCA	1601
172	<i>(Senate Bill No. 111; Ripley)</i> CLARIFYING THAT THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION MAY ENGAGE IN WILDFIRE INITIAL ATTACK; AMENDING SECTION 76-13-104, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	1602

MONTANA SESSION LAWS 2009

xxx

- 173 *(Senate Bill No. 143; Laible)* ESTABLISHING A MINIMUM AMOUNT OF ASSESSMENT FEES FOR FIRE PROTECTION FOR PEOPLE WHO OWN A SHARE OF PROPERTY AND AN INDIVIDUAL UNIT ON THE PROPERTY; AMENDING SECTION 76-13-213, MCA; AND PROVIDING AN EFFECTIVE DATE 1603
- 174 *(Senate Bill No. 185; Balyeat)* CREATING A NONRESIDENT COLLEGE STUDENT BIG GAME COMBINATION LICENSE; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 1604
- 175 *(Senate Bill No. 188; Balyeat)* PROVIDING THAT IN A HUNTING DISTRICT OR PORTION OF A DISTRICT WHERE THE HOLDER OF A GENERAL ELK LICENSE IS ALLOWED TO HUNT ANTLERLESS ELK DURING CERTAIN TIMES, THE HOLDER OF A SPECIAL ELK PERMIT TO HUNT ANTLERLESS ELK IN THAT DISTRICT OR PORTION OF A DISTRICT MAY ALSO HUNT ANY ELK AUTHORIZED UNDER THE REGULATIONS FOR A GENERAL ELK LICENSE DURING THOSE SAME TIMES; AMENDING SECTION 87-2-704, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 1605
- 176 *(Senate Bill No. 209; Laslovich)* REPLACING THE UNIFORM FOREIGN MONEY-JUDGMENTS RECOGNITION ACT WITH THE UNIFORM FOREIGN-COUNTRY MONEY JUDGMENTS RECOGNITION ACT; AMENDING SECTIONS 25-9-601, 25-9-602, 25-9-603, 25-9-605, 25-9-606, AND 25-9-607, MCA; REPEALING SECTION 25-9-604, MCA; AND PROVIDING AN APPLICABILITY DATE 1606
- 177 *(Senate Bill No. 250; Wanzenried)* ESTABLISHING THE OFFENSE OF TRADEMARK COUNTERFEITING; PROVIDING CRIMINAL PENALTIES FOR TRADEMARK COUNTERFEITING; PROVIDING FOR RESTITUTION FOR PERSONS HARMED BY TRADEMARK COUNTERFEITING; PROVIDING FOR SEIZURE OF GOODS USED IN TRADEMARK COUNTERFEITING; AMENDING SECTIONS 30-13-301 AND 30-13-333, MCA; AND PROVIDING AN EFFECTIVE DATE 1609
- 178 *(Senate Bill No. 273; Laslovich)* REVISING THE CONFLICTS OF INTERESTS LAWS RELATIVE TO SCHOOL TRUSTEES; AND AMENDING SECTION 20-9-204, MCA. 1613
- 179 *(Senate Bill No. 340; Laslovich)* GENERALLY REVISING THE LAWS RELATING TO THE LIMITED EMANCIPATION OF MINORS; PROVIDING FOR NOTICE; MAKING TECHNICAL REVISIONS; AND AMENDING SECTIONS 41-1-306, 41-1-501, 41-3-102, AND 41-3-438, MCA. 1614
- 180 *(Senate Bill No. 341; Laslovich)* REVISING THE LAW RELATING TO THE RECOVERY FROM DEFENDANTS OF PROSECUTION COSTS; AMENDING SECTION 46-18-232, MCA; AND PROVIDING AN EFFECTIVE DATE 1623
- 181 *(Senate Bill No. 395; Gebhardt)* CLARIFYING AMBIGUITIES IN THE BEER FRANCHISE LAW; REAFFIRMING THE CORE PURPOSES OF THE ALCOHOLIC BEVERAGE CODE IN RELATION TO THE TWENTY-FIRST AMENDMENT TO THE UNITED STATES CONSTITUTION; CLARIFYING THE NONWAIVER NATURE OF THE PROVISIONS OF THE BEER FRANCHISE LAW; CLARIFYING THAT JUST CAUSE REQUIRES THAT THE WHOLESALER FAILED TO COMPLY WITH THE REASONABLE CONTRACTUAL REQUIREMENTS OF THE BREWER; CLARIFYING THAT THE APPOINTMENT OF A WHOLESALER TO A BRAND IN AN EXCLUSIVE TERRITORY IS NOT AFFECTED BY A TRANSFER OF OWNERSHIP OF THE MANUFACTURER OF THAT BRAND; PROVIDING THAT THE BEER FRANCHISE LAW MUST BE LIBERALLY CONSTRUED;

TITLE CONTENTS

	AMENDING SECTIONS 16-1-101, 16-3-221, AND 16-3-222, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	1624
182	<i>(House Bill No. 326; Mendenhall)</i> PROVIDING THAT A NOTICE OF THE RIGHT TO CLAIM A LIEN AND A RELEASE OF A NOTICE OF THE RIGHT TO CLAIM A LIEN MUST BE FILED WITH THE CLERK AND RECORDER AND MUST BE SIGNED BY THE PERSON OR THE PERSON'S AGENT WHO FILED THE NOTICE OF THE RIGHT TO CLAIM A LIEN OR THE RELEASE OF A NOTICE OF THE RIGHT TO CLAIM A LIEN; AND AMENDING SECTION 71-3-531, MCA	1627
183	<i>(Senate Bill No. 21; Story)</i> CLARIFYING THE DISTRIBUTION OF CERTAIN MOTOR VEHICLE REVENUE; CORRECTING THE BASE DISTRIBUTION AMOUNTS FOR THE ADOPTION SERVICES ACCOUNT AND THE DEPARTMENT OF TRANSPORTATION STATE SPECIAL REVENUE NONRESTRICTED ACCOUNT TO PROVIDE FOR FUNDING AS ORIGINALLY ENACTED FOR MOTOR VEHICLE FUND DISTRIBUTIONS; PROVIDING FOR A DISTRIBUTION TO THE ADOPTION SERVICES ACCOUNT FOR AN AMOUNT EQUAL TO THAT NOT PAID DUE TO THE USE OF THE ERRONEOUS BASE AMOUNT FOR COMPUTING THE DISTRIBUTION; AMENDING SECTION 15-1-122, MCA; AND PROVIDING EFFECTIVE DATES	1630
184	<i>(House Bill No. 133; Stoker)</i> REVISING LAWS RELATING TO THE ADMINISTRATION OF CHILD SUPPORT ENFORCEMENT; ALLOWING ALTERNATIVE METHODS OF PAYMENT IN LIEU OF INCOME WITHHOLDING; CONFORMING CHILD SUPPORT ASSIGNMENT PROVISIONS TO THE FEDERAL DEFICIT REDUCTION ACT OF 2005; AMENDING SECTIONS 17-4-105, 40-5-225, 40-5-403, 40-5-601, 40-5-907, 53-2-110, AND 53-2-613, MCA; AND PROVIDING EFFECTIVE DATES	1631
185	<i>(House Bill No. 144; McAlpin)</i> CLARIFYING AND RECODIFYING THE MANDATORY LEAVE OF ABSENCE FOR EMPLOYEES HOLDING PUBLIC OFFICE; AMENDING SECTION 2-18-601, MCA; REPEALING SECTION 2-18-620, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	1642
186	<i>(House Bill No. 163; Cohenour)</i> EXTENDING THE AVAILABILITY AND USE OF TAX CREDITS UNDER THE BIG SKY ON THE BIG SCREEN ACT; AMENDING SECTION 17, CHAPTER 593, LAWS OF 2005, AND SECTION 9, CHAPTER 367, LAWS OF 2007; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	1644
187	<i>(House Bill No. 195; Hamilton)</i> REVISING THE LAWS RELATED TO THE QUALIFICATIONS AND CONDITIONS FOR OBTAINING A RESTAURANT BEER AND WINE LICENSE; CLARIFYING THE DEFINITION OF A FULL-SERVICE RESTAURANT; ELIMINATING THE REQUIREMENT THAT AN UNSUCCESSFUL LOTTERY APPLICANT BE GIVEN A PREFERENCE IN FUTURE LOTTERIES; AMENDING SECTION 16-4-420, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE	1645
188	<i>(House Bill No. 197; Ebinger)</i> REVISING SIGNATURE REQUIREMENTS FOR RECALL PETITIONS; AND AMENDING SECTIONS 2-16-612 AND 2-16-614, MCA	1650
189	<i>(House Bill No. 221; Cohenour)</i> REVISING THE TIME AT WHICH YOUTH REACHING 12 YEARS OF AGE DURING A LICENSE YEAR ARE ELIGIBLE TO HUNT; AMENDING SECTION 87-2-805, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE	1651

190	(<i>House Bill No. 243; Hunter</i>) DIRECTING THE CHILDREN'S SYSTEM OF CARE PLANNING COMMITTEE TO STUDY THE SYSTEM OF CARE FOR HIGH-RISK CHILDREN WITH MULTIAGENCY SERVICE NEEDS; REQUIRING A REPORT TO THE LEGISLATURE; AND PROVIDING AN EFFECTIVE DATE	1654
191	(<i>House Bill No. 290; Grinde</i>) INCREASING THE LIMIT ON THE AMOUNT OF GROSS ANNUAL SALES THAT REQUIRES A PERSON WHO GROWS AND RETAILS MONTANA-GROWN PRODUCE TO PAY PRODUCE ASSESSMENT FEES AND OBTAIN A PRODUCE DEALER LICENSE; AMENDING SECTIONS 80-3-314 AND 80-3-321, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	1656
192	(<i>House Bill No. 291; Sonju</i>) REDEFINING THE MARKET PRICE THAT MUST BE USED WITH RESPECT TO AUTOMOBILE GLASS REPAIR AND WITH RESPECT TO AUTOMOBILE BODY REPAIR BUSINESSES; AMENDING SECTIONS 33-18-221, 33-18-222, 33-18-223, AND 33-18-224, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	1657
193	(<i>House Bill No. 317; Furey</i>) GUARANTEEING A MEMBER OF THE ARMED FORCES WHO FORFEITED A SPECIAL HUNTING LICENSE OR PERMIT ISSUED BY DRAWING AS A RESULT OF DEPLOYMENT OUTSIDE OF THE CONTINENTAL UNITED STATES IN SUPPORT OF A CONTINGENCY OPERATION THE SAME SPECIAL LICENSE OR PERMIT, WITHOUT ADDITIONAL FEE, UPON APPLICATION IN THE YEAR OF THE MEMBER'S RETURN FROM MILITARY SERVICE OR IN THE FIRST YEAR THAT THE LICENSE OR PERMIT IS MADE AVAILABLE AFTER THE MEMBER'S RETURN; AND AMENDING SECTION 87-2-803, MCA	1660
194	(<i>House Bill No. 354; Glaser</i>) REVISING LAWS GOVERNING LICENSURE OF PRIVATE INVESTIGATORS; ELIMINATING THE DEFINITION OF AND REFERENCES TO FIRE INVESTIGATORS IN LAWS GOVERNING PRIVATE INVESTIGATORS AND PRIVATE SECURITY AND ELIMINATING THE NEED FOR A SEPARATE FIRE INVESTIGATION LICENSE; INCLUDING INVESTIGATION OF FIRES AMONG A LICENSED PRIVATE INVESTIGATOR'S ACTIVITIES; PROVIDING CERTAIN EXEMPTIONS FROM LICENSE REQUIREMENTS; AND AMENDING SECTIONS 37-60-101, 37-60-103, 37-60-105, 37-60-301, AND 37-60-304, MCA	1663
195	(<i>House Bill No. 365; Roberts</i>) PROVIDING FOR PROGRAMS OF ALL-INCLUSIVE CARE FOR THE ELDERLY; ALLOWING A WAIVER OF HEALTH MAINTENANCE ORGANIZATION REQUIREMENTS; CLARIFYING THAT PROGRAMS OF ALL-INCLUSIVE CARE FOR THE ELDERLY ARE NOT MEDICAID MANAGED CARE NETWORKS; AMENDING SECTIONS 33-31-102, 33-31-201, AND 53-6-702, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	1669
196	(<i>House Bill No. 397; Kottel</i>) CREATING A REGISTRY FOR VOLUNTARY REGISTRATION BY CLOSE RELATIVES FOR PURPOSES OF NOTIFYING THOSE RELATIVES WHEN A CHILD THAT IS RELATED HAS BEEN REMOVED FROM THE CHILD'S HOME BY THE STATE; AND AMENDING SECTION 41-3-101, MCA.	1675
197	(<i>House Bill No. 400; Kottel</i>) REVISING THE ALCOHOL CONTENT OF BEER; AND AMENDING SECTIONS 16-1-102, 16-1-106, AND 16-3-244, MCA.	1676
198	(<i>House Bill No. 407; MacDonald</i>) REVISING THE LAW RELATING TO SEXUAL ABUSE OF CHILDREN; PROVIDING A REPORTING REQUIREMENT FOR PEACE OFFICERS; AND AMENDING SECTION 45-5-625, MCA	1679

199	<i>(House Bill No. 530; Arntzen)</i> REVISING THE DEFINITION OF “SOCIAL WORK” TO CLARIFY THAT THE TERM INCLUDES THE USE OF DIAGNOSES AND ADMINISTERING, EVALUATING, AND ASSESSING TESTS; AND AMENDING SECTION 37-22-102, MCA	1682
200	<i>(House Bill No. 593; Villa)</i> PROVIDING REQUIREMENTS FOR MINE AND SMELTER WASTE REMEDIATION PROJECTS; PROVIDING PENALTIES FOR FAILURE TO COMPLY WITH THE REQUIREMENTS; AMENDING SECTION 75-1-110, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	1683
201	<i>(House Bill No. 190; Van Dyk)</i> REVISING LAWS RELATED TO ACCESS TO STATE WATERS FROM COUNTY ROADS AND BRIDGES; PROVIDING THAT A FENCE ATTACHED TO OR ABUTTING A COUNTY ROAD BRIDGE IS NOT CONSIDERED AN ENCROACHMENT UNDER CERTAIN CIRCUMSTANCES; PROVIDING FOR PUBLIC ACCESS TO SURFACE WATERS FOR RECREATIONAL USE FROM A COUNTY ROAD RIGHT-OF-WAY AND FROM A COUNTY BRIDGE, ITS RIGHT-OF-WAY, AND ITS ABUTMENTS; PROVIDING FOR PUBLIC PASSAGE TO SURFACE WATERS THROUGH COUNTY ROAD AND BRIDGE RIGHTS-OF-WAY WHILE MAINTAINING LIVESTOCK CONTROL OR PROPERTY MANAGEMENT; REQUIRING THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO NEGOTIATE WITH AFFECTED LANDOWNERS TO PROVIDE METHODS TO ENSURE PUBLIC PASSAGE TO SURFACE WATERS FOR RECREATIONAL PURPOSES WHILE MAINTAINING LIVESTOCK CONTROL OR PROPERTY MANAGEMENT; PROVIDING FOR PAYMENT OF THE COSTS OF ANY FENCE MODIFICATION NECESSARY TO PROVIDE FOR PUBLIC PASSAGE; AMENDING SECTION 7-14-2134, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	1685
202	<i>(House Bill No. 104; French)</i> CLARIFYING THAT STATE ACTIVE DUTY PAY AND EXPENSES MUST BE DRAWN ON APPROPRIATED FUNDS; AMENDING SECTION 10-1-501, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	1688
203	<i>(House Bill No. 116; McNutt)</i> CLARIFYING THE PROOF OF INSURANCE REQUIREMENT FOR AN OWNER OR OPERATOR OF A MOTOR VEHICLE; AMENDING SECTION 61-6-302, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	1688
204	<i>(House Bill No. 161; Augare)</i> RATIFYING THE WATER RIGHTS COMPACT ENTERED INTO BY THE BLACKFEET TRIBE OF THE BLACKFEET INDIAN RESERVATION, THE STATE OF MONTANA, AND THE UNITED STATES OF AMERICA; TRANSFERRING \$4 MILLION FROM THE GENERAL FUND TO THE BLACKFEET TRIBE WATER RIGHTS COMPACT INFRASTRUCTURE ACCOUNT; APPROPRIATING FUNDS FOR WATER-RELATED INFRASTRUCTURE PROJECTS WITHIN THE EXTERIOR BOUNDARIES OF THE BLACKFEET INDIAN RESERVATION; AMENDING SECTION 85-20-1505, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	1689
205	<i>(House Bill No. 246; Boniek)</i> EXEMPTING FROM FEDERAL REGULATION UNDER THE COMMERCE CLAUSE OF THE CONSTITUTION OF THE UNITED STATES A FIREARM, A FIREARM ACCESSORY, OR AMMUNITION MANUFACTURED AND RETAINED IN MONTANA; AND PROVIDING AN APPLICABILITY DATE	1716

206	(<i>House Bill No. 263; Smith</i>) REQUIRING CERTAIN HEALTH CARE PROVIDERS AND FACILITIES TO DISCLOSE ESTIMATED COSTS OF TREATMENT.	1718
207	(<i>House Bill No. 264; Smith</i>) REQUIRING HEALTH INSURERS TO DISCLOSE PREAUTHORIZATION OR PREAPPROVAL REQUIREMENTS AND ESTIMATED COVERED AND OUT-OF-POCKET COSTS FOR CERTAIN HEALTH CARE SERVICES; AMENDING SECTIONS 33-22-244 AND 33-22-521, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE	1719
208	(<i>House Bill No. 386; O'Hara</i>) CREATING THE MONTANA RIGHT OF DISPOSITION ACT PERTAINING TO FUNERAL OR OTHER DISPOSITION ARRANGEMENTS; ESTABLISHING A PRIORITY OF PERSONS WHO MAY ARRANGE FOR THE FUNERAL OR DISPOSITION OF OTHERS; PROVIDING FOR THE LOSS OF THE RIGHT OF DISPOSITION; PROVIDING FOR THE RESOLUTION OF DISPUTES AS TO THE RIGHT OF DISPOSITION; ESTABLISHING RIGHTS AND IMMUNITY FOR A MORTICIAN WHO RELIES ON INSTRUCTIONS OF A PERSON WHO THE MORTICIAN REASONABLY BELIEVES HAS THE RIGHT OF DISPOSITION; CLARIFYING THE RIGHT TO CONTROL THE DISPOSITION OF HUMAN REMAINS WITH RESPECT TO MAUSOLEUM AND COLUMBARIUM AUTHORITIES; REVISING THE DEFINITION OF "AUTHORIZING AGENT"; AND AMENDING SECTIONS 35-21-810 AND 37-19-101, MCA	1721
209	(<i>House Bill No. 402; French</i>) REVISING LAWS RELATED TO STATE LAND BANKING; REMOVING THE SUNSET OF THE LAND BANKING PROGRAM; INCREASING THE NUMBER OF ACRES OF STATE LAND THAT MAY BE SOLD OR DISPOSED OF; AMENDING SECTIONS 77-2-363 AND 77-2-366, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	1729
210	(<i>House Bill No. 403; Kottel</i>) REQUIRING THAT COURTS CONSIDER A CHILD'S NEED FOR CONTINUITY OF CARE IN DETERMINING WHETHER THE CHILD SHOULD BE PLACED WITH A PERSON OTHER THAN A PARENT; AND AMENDING SECTIONS 40-4-211, 40-6-601, 40-6-602, 41-3-437, 41-3-438, 41-3-439, 72-5-223, AND 72-5-225, MCA.	1731
211	(<i>House Bill No. 495; Arntzen</i>) CLARIFYING THE RIGHTS OF RESIDENT ASSOCIATIONS IN A MOBILE HOME PARK; PROHIBITING LANDLORD INTERFERENCE WITH AN INVITEE TO RESIDENT ASSOCIATION MEETINGS; CLARIFYING THAT A RESIDENT ASSOCIATION'S MEETING MAY BE HELD RELATING TO THE FUTURE OF THE MOBILE HOME PARK; AMENDING SECTION 70-33-314, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	1741
212	(<i>House Bill No. 509; Ingraham</i>) REVISING REQUIREMENTS FOR COUNTING VOTES FOR WRITE-IN CANDIDATES; AND AMENDING SECTION 13-15-206, MCA	1741
213	(<i>House Bill No. 513; Cohenour</i>) REVISING SCHOOL FINANCE LAWS BY ALLOWING BONDING CAPACITIES TO BE COMBINED IN HIGH SCHOOL DISTRICTS WITH AN ATTACHED ELEMENTARY DISTRICT; ELIMINATING TRANSITION COSTS FROM THE CALCULATION OF THE TOTAL AMOUNT OF THE DISTRICT BUILDING RESERVE FUND; AND AMENDING SECTIONS 20-9-406 AND 20-9-502, MCA.	1743
214	(<i>House Bill No. 534; Campbell</i>) REQUIRING THE ELECTRONIC RECORDING OF CUSTODIAL INTERROGATIONS IN FELONY CASES AND IN YOUTH COURT CASES INVOLVING AN OFFENSE THAT WOULD BE A FELONY IF COMMITTED BY AN ADULT	1746

215	<i>(House Bill No. 572; Pomnichowski)</i> ESTABLISHING A PROGRAM AND CRITERIA TO PROVIDE STATE MATCHING GRANTS FOR FEDERAL SMALL BUSINESS INNOVATIVE RESEARCH GRANTS OR FEDERAL SMALL BUSINESS TECHNOLOGY TRANSFER GRANTS; AMENDING SECTION 90-1-147, MCA; AND PROVIDING AN EFFECTIVE DATE	1748
216	<i>(House Bill No. 626; Welborn)</i> REVISING PROVISIONS RELATED TO THE TRANSFER OF LOCAL POLICE RETIREMENT FUNDS AND MEMBERS TO THE STATEWIDE MUNICIPAL POLICE OFFICERS' RETIREMENT SYSTEM; EXTENDING THE TIME ALLOWED FOR THE LOCAL FUND TO PAY LIABILITIES; AMENDING SECTION 19-9-207, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	1750
217	<i>(Senate Bill No. 124; Squires)</i> CLARIFYING THAT THE DEATH OF A CANDIDATE CREATES AN ERROR OR OMISSION ON A PRINTED ABSENTEE BALLOT; REQUIRING THAT ABSENTEE BALLOTS CAST FOR A DECEASED CANDIDATE BE COUNTED FOR THE DECEASED CANDIDATE; AMENDING SECTIONS 13-13-204 AND 13-15-106, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	1751
218	<i>(Senate Bill No. 192; Zinke)</i> PROVIDING SMALL BUSINESSES WITH AN OPPORTUNITY FOR WORKERS' COMPENSATION RELIEF BY ALLOWING POOLED RISK SAFETY GROUPS IN WORKERS' COMPENSATION PLAN NO. 3; PROVIDING AN OPPORTUNITY FOR A RETURN ON PREMIUM BASED ON REDUCED LOSSES TO EMPLOYERS THAT IMPLEMENT CERTAIN SAFETY AND RETURN-TO-WORK PROVISIONS; AMENDING SECTION 39-71-2311, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE	1752
219	<i>(Senate Bill No. 276; Squires)</i> REQUIRING ELECTION ADMINISTRATORS TO MAIL AN ADDRESS CONFIRMATION FORM TO EACH ELECTOR WHO HAS REQUESTED AN ABSENTEE BALLOT FOR SUBSEQUENT ELECTIONS; REVISING THE DURATION FOR WHICH A PROPERLY SUBMITTED ADDRESS CONFIRMATION FORM FOR ABSENTEE VOTERS IS VALID; AMENDING SECTION 13-13-212, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	1754
220	<i>(Senate Bill No. 405; Moss)</i> EXTENDING GRANDPARENT-GRANDCHILD CONTACT RIGHTS TO GREAT-GRANDPARENTS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	1755
221	<i>(Senate Bill No. 447; Moss)</i> CLARIFYING PRACTICES RELATED TO THE PRESERVATION AND DISPOSAL OF BIOLOGICAL EVIDENCE IN FELONY CRIMINAL CASES; AND AMENDING SECTION 46-21-111, MCA.	1755
222	<i>(House Bill No. 71; Sands)</i> REPEALING THE SUNSET PROVISION FOR THE UTILIZATION FEE FOR HOSPITAL INPATIENT BED DAYS; REPEALING SECTION 20, CHAPTER 390, LAWS OF 2003, SECTIONS 4 AND 7, CHAPTER 606, LAWS OF 2005, AND SECTIONS 4, 5, 6, AND 8, CHAPTER 517, LAWS OF 2007; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	1756
223	<i>(House Bill No. 95; Hawk)</i> EXPANDING THE ENFORCEMENT AUTHORITY FOR COLLECTING PARENTAL COST-OF-CARE CONTRIBUTIONS THAT ARE ORDERED BY A YOUTH COURT; AMENDING SECTIONS 40-5-303, 40-5-601, 40-5-701, AND 41-5-1525, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.	1757

224	(<i>House Bill No. 103; Wilson</i>) REQUIRING THAT COMMERCIAL TOW TRUCK OPERATORS FILE PROOF OF INSURANCE WITH THE DEPARTMENT OF JUSTICE RATHER THAN THE PUBLIC SERVICE COMMISSION; AND AMENDING SECTIONS 61-8-906 AND 69-12-102, MCA.	1764
225	(<i>House Bill No. 107; Hiner</i>) CLARIFYING THE DEFINITION OF ENTERPRISE FUNDS SUBJECT TO APPROPRIATION; AMENDING SECTIONS 17-7-111, 17-7-123, AND 17-8-101, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	1766
226	(<i>House Bill No. 112; Sesso</i>) INCREASING THE THRESHOLD AMOUNT CONSTITUTING A SIGNIFICANT CHANGE IN AN AGENCY OR PROGRAM'S OPERATING BUDGET SUBJECT TO REVIEW BY THE LEGISLATIVE FISCAL ANALYST; INCREASING THE THRESHOLD AMOUNT CONSTITUTING A SIGNIFICANT CHANGE IN AN AGENCY OR PROGRAM'S BUDGET TRANSFERS SUBJECT TO REVIEW BY THE LEGISLATIVE FISCAL ANALYST; AMENDING SECTIONS 17-7-138 AND 17-7-139, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	1770
227	(<i>House Bill No. 127; Sesso</i>) CREATING A STATE SPECIAL REVENUE ACCOUNT FOR THE PURCHASE OF LAND FOR THE MONTANA NATIONAL GUARD FROM FUNDS DERIVED FROM THE STATE'S SALE OF ARMORIES; AMENDING SECTIONS 10-1-108 AND 17-7-502, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	1773
228	(<i>House Bill No. 177; Kottel</i>) DEFINING A "CONDITIONAL DISCHARGE" FOR PROBATION AND PAROLE PURPOSES; AND ESTABLISHING GROUNDS FOR REVOKING A CONDITIONAL DISCHARGE.	1774
229	(<i>House Bill No. 218; Menahan</i>) GENERALLY REVISING FISH AND GAME LAWS; CLARIFYING PROHIBITIONS ON THE USE OF PROJECTED ARTIFICIAL LIGHT TO HUNT AND ON THE WASTE OF FUR-BEARING ANIMALS; DEFINING "PELT"; AMENDING SECTIONS 87-1-102, 87-3-101 AND 87-3-506, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	1775
230	(<i>House Bill No. 328; MacLaren</i>) ELIMINATING THE REQUIREMENT FOR SIGNATURES ON A PETITION FOR NOMINATION TO AN ELECTIVE PUBLIC OFFICE FOR WHICH NO SALARY OR FEES ARE PAID TO THE PERSON ELECTED; AND AMENDING SECTION 13-14-113, MCA	1778
231	(<i>House Bill No. 338; Ankney</i>) PROVIDING COMMON CARRIER STATUS TO PIPELINES MOVING CARBON DIOXIDE PRODUCED IN THE COMBUSTION OR GASIFICATION OF FOSSIL FUELS; AND AMENDING SECTIONS 69-13-101, 69-13-102, 69-13-201, 69-13-301, 69-13-302, AND 69-13-303, MCA	1779
232	(<i>House Bill No. 343; Noonan</i>) REVISING DEFINITIONS FOR THE ADMINISTRATION OF THE RENEWABLE RESOURCE STANDARD FOR PUBLIC UTILITIES AND ELECTRICITY SUPPLIERS; ALLOWING ELIGIBLE RENEWABLE RESOURCES OWNED BY A PUBLIC UTILITY TO BE USED TO COMPLY WITH THE COMMUNITY RENEWABLE ENERGY PROJECT REQUIREMENTS IN THE RENEWABLE RESOURCE STANDARD; REQUIRING A UTILITY TO CONSIDER DISPATCH ABILITY AND SEASONALITY IN MEETING THE RENEWABLE RESOURCE STANDARD; AMENDING SECTIONS 69-3-2003, 69-3-2005, 90-3-1003, AND 90-4-1202, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE	1783

233	<i>(House Bill No. 373; Wilmer)</i> CREATING GOLD STAR FAMILY SPECIAL LICENSE PLATES; AMENDING SECTIONS 49-4-302, 49-4-304, 61-3-407, 61-3-426, 61-3-458, AND 61-3-459, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE	1789
234	<i>(House Bill No. 378; Blasdel)</i> EXEMPTING FROM THE WORKERS' COMPENSATION ACT THE EMPLOYMENT OF PERSONS PERFORMING THE SERVICES OF AN INTRASTATE OR INTERSTATE COMMON OR CONTRACT MOTOR CARRIER IF HIRED BY A FREIGHT FORWARDER; AMENDING SECTION 39-71-401, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	1793
235	<i>(House Bill No. 380; Stahl)</i> ALLOWING THE PURCHASER OF A MOTOR VEHICLE SOLD WITHOUT A MANUFACTURER'S CERTIFICATE OF ORIGIN TO TITLE THE VEHICLE UPON PURCHASING A SURETY BOND, EQUIPPING THE MOTOR VEHICLE WITH CERTAIN REQUIRED EQUIPMENT, AND OBTAINING A LAW ENFORCEMENT INSPECTION; AMENDING SECTION 61-3-208, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	1797
236	<i>(House Bill No. 477; Menahan)</i> ADOPTING THE UNIFORM ADULT GUARDIANSHIP AND PROTECTIVE PROCEEDINGS JURISDICTIONS ACT; AMENDING SECTIONS 72-5-102 AND 72-5-304, MCA; AND REPEALING SECTIONS 72-5-232 AND 72-5-323, MCA	1798
237	<i>(House Bill No. 504; Reinhart)</i> PROVIDING THAT A COURT MAY NOT GRANT A FULL GUARDIAN AUTHORITY TO CONSENT TO THE WITHHOLDING OR WITHDRAWAL OF LIFE-SUSTAINING TREATMENT IF IT CONFLICTS WITH THE WARD'S WISHES; DEFINING "SUBSTITUTED JUDGMENT"; AMENDING SECTIONS 72-5-101 AND 72-5-321, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	1806
238	<i>(House Bill No. 517; Hollenbaugh)</i> ESTABLISHING THE CRITICAL INCIDENT STRESS MANAGEMENT ACT; REQUIRING THAT CRITICAL INCIDENT MEETINGS BE CLOSED TO THE PUBLIC AND OTHERS; REQUIRING THAT CERTAIN INFORMATION PROVIDED DURING CRITICAL INCIDENT STRESS MANAGEMENT AND RESPONSE BE KEPT CONFIDENTIAL; PROVIDING DEFINITIONS; PROVIDING EXCEPTIONS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	1809
239	<i>(House Bill No. 529; Jones)</i> REVISING ENVIRONMENTAL REVIEW LAWS RELATED TO ENERGY DEVELOPMENT PROJECTS; LIMITING THE SCOPE OF ENVIRONMENTAL REVIEW UNDER THE MONTANA ENVIRONMENTAL POLICY ACT FOR CERTAIN ENERGY DEVELOPMENT PROJECTS ON STATE LANDS; AMENDING SECTION 77-1-121, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE	1811
240	<i>(House Bill No. 542; Vance)</i> REVISING MOTORSPORTS MANUFACTURER UNFAIR TRADE PRACTICES LAW; REVISING DEFINITIONS; REVISING WHAT CONSTITUTES UNFAIR TRADE PRACTICES WITH RESPECT TO THE RELATIONSHIP BETWEEN MOTORSPORTS MANUFACTURERS AND MOTORSPORTS DEALERS; CLARIFYING INJUNCTION AND DAMAGES PROVISIONS AND ELIMINATING THE VENUE REQUIREMENT WITH RESPECT TO THE PROPER PLACE TO BRING A CLAIM FOR AN UNFAIR TRADE PRACTICE BY A MOTORSPORTS MANUFACTURER; AMENDING SECTIONS 30-14-2501, 30-14-2502, AND 30-14-2503, MCA; AND PROVIDING EFFECTIVE DATES, AN APPLICABILITY DATE, AND A TERMINATION DATE.	1812

241	(<i>House Bill No. 563; Kottel</i>) ESTABLISHING A PROCESS FOR A DISTRICT COURT TO RECOGNIZE A ROUTE OF A COUNTY ROAD AS THE LEGAL ROUTE IF CERTAIN CONDITIONS EXIST; AND AMENDING SECTIONS 7-14-2101 AND 60-1-201, MCA	1822
242	(<i>House Bill No. 591; Pease-Lopez</i>) PROVIDING THAT ONE MEMBER OF THE BOARD OF PARDONS AND PAROLE MUST BE AN ENROLLED MEMBER OF A STATE-RECOGNIZED OR FEDERALLY RECOGNIZED INDIAN TRIBE LOCATED WITHIN THE BOUNDARIES OF THE STATE OF MONTANA; AMENDING SECTION 2-15-2302, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	1825
243	(<i>Senate Bill No. 68; Wanzenried</i>) CREATING AN EXCEPTION TO THE UNLAWFUL DISPOSITION OF DEAD ANIMALS FOR LICENSED COMPOSTING FACILITIES; AMENDING SECTION 75-10-213, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	1826
244	(<i>Senate Bill No. 136; Gebhardt</i>) CLARIFYING THE EXCEPTION TO AN ORDER ESTABLISHING TEMPORARY OR PERMANENT OIL AND GAS WELL SPACING UNITS; AMENDING SECTION 82-11-201, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	1826
245	(<i>Senate Bill No. 200; Erickson</i>) BANNING THE SALE OF PHOSPHORUS-CONTAINING HOUSEHOLD CLEANING PRODUCTS IN CERTAIN COUNTIES FOR WATER QUALITY REASONS; PROVIDING FOR ENFORCEMENT; AMENDING SECTION 75-7-411, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.	1828
246	(<i>Senate Bill No. 261; Wanzenried</i>) ENABLING A CITY OR TOWN COUNCIL OR COMMISSION TO ADOPT ORDINANCES OR RESOLUTIONS TO PROVIDE FOR THE SAFE OPERATION OF THE MUNICIPAL BUSLINE TRANSPORTATION SYSTEM AND TO PROVIDE FOR THE ENFORCEMENT OF THOSE ADOPTED ORDINANCES OR RESOLUTIONS; AND AMENDING SECTION 7-14-4403, MCA	1830
247	(<i>Senate Bill No. 275; Squires</i>) ADDING AN ADDITIONAL PHARMACIST TO THE BOARD OF PHARMACY; AND AMENDING SECTION 2-15-1733, MCA	1830
248	(<i>Senate Bill No. 294; Gillan</i>) INCLUDING STREETS AND ROADS AMONG THE UNDERTAKINGS FOR WHICH A MUNICIPALITY MAY ISSUE REVENUE BONDS; AMENDING SECTIONS 7-7-4402 AND 7-7-4424, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	1831
249	(<i>Senate Bill No. 311; Gallus</i>) ELIMINATING THE REQUIREMENT THAT A MEDICAL CERTIFICATE BE ATTACHED TO A DECLARATION OF MARRIAGE; AND AMENDING SECTION 40-1-311, MCA	1832
250	(<i>House Bill No. 23; Himmelberger</i>) REMOVING STATUTORY REFERENCES TO THE LEGISLATIVE ADMINISTRATION COMMITTEES; AMENDING SECTIONS 5-2-202 AND 5-11-402, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE; AND PROVIDING AN EFFECTIVE DATE.	1833
251	(<i>House Bill No. 40; Cohenour</i>) REVISING THE WATER PERMIT AND CHANGE IN APPROPRIATION RIGHT PROCESS; CLARIFYING THE DEFINITION OF "CORRECT AND COMPLETE"; REQUIRING THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION TO ISSUE A PRELIMINARY DETERMINATION ON A WATER RIGHT PERMIT OR A CHANGE IN APPROPRIATION RIGHT; REQUIRING PERMIT OR CHANGE IN APPROPRIATION RIGHT DECISIONS WITHIN 90 DAYS AFTER CLOSE OF ADMINISTRATIVE RECORD; AMENDING SECTIONS 85-2-102, 85-2-307, 85-2-308, 85-2-309, 85-2-310,	

	85-2-401, AND 85-2-804, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.	1834
252	<i>(House Bill No. 147; MacLaren)</i> REVISING DISCLOSURE AND REPORTING OF CERTAIN CAMPAIGN EXPENDITURES, INCLUDING EXPENDITURES BY INDEPENDENT COMMITTEES, MADE AFTER THE CLOSING DATE OF THE PREELECTION REPORTING PERIOD; AND AMENDING SECTIONS 13-37-226 AND 13-37-228, MCA	1842
253	<i>(House Bill No. 222; Cohenour)</i> REQUIRING THAT A PERSON WHO IS CONVICTED OF A HUNTING, FISHING, OR TRAPPING CRIMINAL VIOLATION AND WHOSE PRIVILEGES TO HUNT, FISH, OR TRAP HAVE BEEN REVOKED IS NOT ELIGIBLE TO PURCHASE A LICENSE TO HUNT, FISH, OR TRAP UNTIL ALL SENTENCING TERMS ARE MET; AMENDING SECTIONS 87-1-102 AND 87-2-106, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	1845
254	<i>(House Bill No. 357; Berry)</i> SHORTENING A CONSTRUCTION CONTRACTOR'S OBLIGATION TO PAY INTEREST ON A DELAYED PERIODIC OR FINAL PAYMENT TO A SUBCONTRACTOR FROM 30 DAYS PLUS 3 WORKING DAYS TO 30 DAYS; PROVIDING THAT ONLY ACCEPTANCE OF A FINAL PAYMENT, RATHER THAN ACCEPTANCE OF A PROGRESS PAYMENT OR FINAL PAYMENT, RELEASES ANY CLAIM FOR INTEREST; AND AMENDING SECTION 28-2-2104, MCA	1851
255	<i>(House Bill No. 362; Henry)</i> REVISING LAWS RELATING TO DISASTER AND EMERGENCY SERVICES; DEFINING "DISASTER MEDICINE"; LIMITING LIABILITY OF LICENSED HEALTH CARE PROFESSIONALS DURING THE PRACTICE OF DISASTER MEDICINE; AND AMENDING SECTIONS 10-3-101, 10-3-103, 10-3-111, 10-3-302, AND 10-3-303, MCA.	1852
256	<i>(House Bill No. 371; Cohenour)</i> REVISING THE MOTOR VEHICLE CODE TO INCLUDE OTHER ON-TRACK EQUIPMENT IN STATUTES CONCERNING APPROACHING TRAINS AT RAILROAD CROSSINGS AND SIGNALS; AND AMENDING SECTIONS 61-8-347, 61-8-348, 61-8-349, 61-8-350, 61-8-713, AND 61-8-813, MCA.	1856
257	<i>(House Bill No. 374; Arntzen)</i> GENERALLY REVISING ELECTRICIAN LICENSING LAWS; REVISING DEFINITIONS; REQUIRING ELECTRICIANS TO CARRY THEIR LICENSES ON JOBSITES; REVISING LICENSE EXEMPTION PROVISIONS; INCREASING PENALTIES FOR VIOLATING LICENSING LAWS; MAKING THE IMPOSITION OF CERTAIN PENALTIES PERMISSIVE RATHER THAN MANDATORY; AMENDING SECTIONS 37-68-101, 37-68-102, 37-68-103, 37-68-201, 37-68-301, 37-68-302, 37-68-303, 37-68-304, 37-68-305, 37-68-311, 37-68-315, AND 37-68-322, MCA; AND REPEALING SECTIONS 37-68-307 AND 37-68-314, MCA	1859
258	<i>(House Bill No. 404; Reinhart)</i> PROVIDING AUTHORITY TO THE BOARD OF PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS TO PRESCRIBE UNIFORM STANDARDS GOVERNING CERTIFICATES OF SURVEY AND FINAL SUBDIVISION PLATS	1865
259	<i>(House Bill No. 412; Wiseman)</i> REVISING THE LIQUOR EXCISE TAX RATE SCHEDULE TO PROVIDE ADDITIONAL RATES FOR COMPANIES THAT PRODUCE LESS THAN 200,000 PROOF GALLONS OF LIQUOR; AMENDING SECTION 16-1-401, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE	1865
260	<i>(House Bill No. 416; MacDonald)</i> EXEMPTING CERTAIN BIODIESEL PRODUCED FROM WASTE VEGETABLE OIL FEEDSTOCK FROM THE SPECIAL FUEL TAX; PROVIDING DEFINITIONS; PROVIDING	

	REGISTRATION AND REPORTING REQUIREMENTS; AMENDING SECTION 15-70-301, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.	1866
261	<i>(House Bill No. 466; Beck)</i> PROVIDING THAT EMPLOYEES OF ALL POLITICAL SUBDIVISIONS OF THE STATE WHO ARE MEMBERS OF THE NATIONAL GUARD OR MILITARY RESERVES ARE ENTITLED TO PAID MILITARY LEAVE; AMENDING SECTION 10-1-1009, MCA; AND PROVIDING AN EFFECTIVE DATE.	1870
262	<i>(House Bill No. 544; Vincent)</i> PROVIDING THAT A DISABILITY INSURER MAY NOT CHARGE THE INSURED ANY FEES OR PENALTY FOR CANCELING COVERAGE THAT THE INSURED HAS PAID FOR IN ADVANCE; REQUIRING THE DISABILITY INSURER TO REFUND ANY UNEARNED PORTION OF THE PREMIUM TO THE INSURED; AND CREATING AN EXCEPTION FOR CERTAIN SHORT-TERM DISABILITY POLICIES.	1870
263	<i>(House Bill No. 574; Vincent)</i> REVISING THE ELEMENTS OF THE OFFENSES OF BURGLARY AND AGGRAVATED BURGLARY; AND AMENDING SECTION 45-6-204, MCA.	1871
264	<i>(House Bill No. 588; Ankney)</i> REVISING THE DISTRIBUTION OF COAL GROSS PROCEEDS TAXES TO LOCAL TAXING JURISDICTIONS AND THE STATE; ESTABLISHING A BASIS FOR THE DISTRIBUTION OF COAL GROSS PROCEEDS TAXES; PROVIDING THAT COAL GROSS PROCEEDS TAXES MUST BE DISTRIBUTED ACCORDING TO THE PREVIOUS FISCAL YEAR MILL LEVIES; ELIMINATING THE DISTRIBUTION OF COAL GROSS PROCEEDS BASED ON THE UNIT VALUE CALCULATION; REMOVING THE STATUTORY APPROPRIATION OF COAL GROSS PROCEEDS TAXES; AMENDING SECTIONS 15-23-703 AND 17-7-502, MCA; REPEALING SECTIONS 15-23-705, 15-23-706, AND 15-23-707, MCA; AND PROVIDING AN EFFECTIVE DATE AND APPLICABILITY DATES.	1871
265	<i>(Senate Bill No. 9; Erickson)</i> ALLOWING FOR CERTAIN PUBLIC TRANSPORTATION SYSTEMS TO BE INCLUDED IN PROJECTS FINANCED BY MUNICIPAL REVENUE BONDS; AMENDING SECTION 7-7-4402, MCA; AND PROVIDING AN EFFECTIVE DATE.	1875
266	<i>(Senate Bill No. 71; Erickson)</i> REVISING STATE REMEDIATION LAWS; ALLOWING REIMBURSEMENT OF CLAIMS FROM A LEAD LIABLE PERSON UPON COMPLETION AND APPROVAL OF CERTAIN REPORTS; CLARIFYING THE DEPARTMENT'S RESPONSIBILITY TO IDENTIFY PERSONS LIABLE FOR A RELEASE OR THREATENED RELEASE; AND AMENDING SECTIONS 75-10-743 AND 75-10-745, MCA	1875
267	<i>(Senate Bill No. 95; Brueggeman)</i> AUTHORIZING THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO USE TEMPORARY NUTRIENT CRITERIA TO ESTABLISH PERMIT LIMITS FOR POINT SOURCE DISCHARGES TO SURFACE WATER; ESTABLISHING A TIME LIMIT FOR TEMPORARY CRITERIA; REQUIRING A REPORT TO THE ENVIRONMENTAL QUALITY COUNCIL; AND AMENDING SECTION 75-5-103, MCA	1881
268	<i>(Senate Bill No. 96; Jent)</i> REQUIRING A MENTAL EVALUATION OF CERTAIN CRIMINAL DEFENDANTS CLAIMING A MENTAL DISEASE OR DEFECT OR A DEVELOPMENTAL DISABILITY; AMENDING SECTIONS 46-14-311 AND 46-18-111, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE	1886
269	<i>(Senate Bill No. 104; Esp)</i> REVISING THE TIME REQUIREMENTS APPLICABLE TO THE HOLDING OF ESTRAYS AND THE PUBLIC	

	NOTIFICATION REQUIREMENTS RELATING TO THE DISPOSITION OF ESTRAYS BY A STOCK INSPECTOR; AND AMENDING SECTION 81-4-603, MCA	1888
270	(<i>Senate Bill No. 123; Squires</i>) PROHIBITING THE USE OF AN AMENDED NOTICE OF PROPOSED RULEMAKING BY A STATE AGENCY TO CURE A DEFICIENCY IN A STATEMENT OF REASONABLE NECESSITY UNLESS CERTAIN CONDITIONS ARE MET; AMENDING SECTION 2-4-305, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	1889
271	(<i>Senate Bill No. 133; Kaufmann</i>) GENERALLY REVISING INSURANCE LAWS; SUBSTITUTING THE TERM “BUSINESS ENTITY” FOR “PARTNERSHIP” AND “CORPORATION” IN VARIOUS CONTEXTS THROUGHOUT THE INSURANCE CODE; AUTHORIZING THE COMMISSIONER OF INSURANCE TO ADOPT RULES TO FACILITATE ELECTRONIC FILING OF CERTAIN DOCUMENTS; EXTENDING THE TIME THAT A LICENSEE MAY NOT CLAIM AN EXEMPTION FROM CERTAIN PROVISIONS OF STATE INSURANCE LAWS BASED ON FEDERAL PRIVACY STANDARDS; PROVIDING THAT A BUSINESS ENTITY THAT IS OTHER THAN A CORPORATION OR PARTNERSHIP MUST BE ORGANIZED UNDER THE LAWS OF THIS STATE; CLARIFYING THAT DISABILITY INSURANCE IS SUBJECT TO GUARANTEED RENEWABILITY PROVISIONS; REQUIRING THAT INSUREDS PAY ONLY THE REQUIRED COPAYMENT OR OTHER COST-SHARING REQUIREMENT FOR COVERED PRESCRIPTION DRUGS AT THE TIME OF PURCHASE; CLARIFYING CERTAIN INCURRED GROUP HEALTH INSURANCE CLAIMS MAY BE HELD PENDING PREMIUM PAYMENT; AMENDING SECTIONS 33-1-601, 33-2-116, 33-2-301, 33-2-305, 33-2-306, 33-4-502, 33-4-503, 33-4-504, 33-17-211, 33-17-212, 33-17-214, 33-17-231, 33-17-301, 33-17-1001, 33-17-1002, 33-17-1103, 33-17-1204, 33-19-105, 33-20-606, 33-20-1303, 33-20-1307, 33-21-113, 33-22-101, 33-22-142, 33-22-232, 33-22-302, 33-22-530, 33-22-602, 33-22-1809, 33-28-104, 33-30-102, 33-31-102, 33-31-111, AND 33-31-311, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE	1891
272	(<i>Senate Bill No. 151; Brueggeman</i>) REVISING INSURANCE LAWS PERTAINING TO VIATICAL SETTLEMENTS; PROHIBITING VIATICAL SETTLEMENT FRAUD AND PROVIDING REMEDIES AND PENALTIES; INCLUDING SUSPECTED VIATICAL SETTLEMENT FRAUD IN ACTIVITIES THAT MUST BE REPORTED BY INSURERS AND OTHERS; REVISING REQUIREMENTS FOR VIATICAL SETTLEMENT CONTRACT TERMS; LENGTHENING TO 3 BUSINESS DAYS THE AMOUNT OF TIME A VIATICAL SETTLEMENT PROVIDER HAS TO DEPOSIT PROCEEDS OF A SETTLEMENT INTO AN ESCROW OR TRUST ACCOUNT; ESTABLISHING CRITERIA FOR DETERMINING CONFLICT OF LAWS QUESTIONS; AMENDING SECTIONS 33-1-1301, 33-1-1302, 33-1-1303, 33-20-1308, AND 33-20-1314, MCA; AND PROVIDING EFFECTIVE DATES	1918
273	(<i>Senate Bill No. 222; Hansen</i>) REVISING PROVISIONS RELATED TO FOUR-LANE HIGHWAY CONSTRUCTION ALONG U.S. HIGHWAY 2; REMOVING THE REQUIREMENT THAT THE DEPARTMENT SEEK FEDERAL FUNDING FOR THE PROJECT THAT DOES NOT REQUIRE A STATE MATCH; REMOVING THE PROHIBITION ON EXPENDING RESOURCES THAT WOULD JEOPARDIZE FUTURE HIGHWAY PROJECTS; AND AMENDING SECTION 60-2-133, MCA	1924
274	(<i>Senate Bill No. 227; Brown</i>) REVISING THE TIME FOR FILING CERTAIN CAMPAIGN FINANCE REPORTS; REQUIRING THAT	

	CERTAIN REPORTS BE FILED ELECTRONICALLY; AND AMENDING SECTION 13-37-226, MCA	1924
275	(<i>Senate Bill No. 228; Barrett</i>) REVISING LAWS RELATED TO WOLF MANAGEMENT; PLACING PRIORITY ON THE PROTECTION OF HUMANS, LIVESTOCK, AND PETS; ALLOWING THE REMOVAL OF PROBLEM WOLVES FOR LIVESTOCK DEPREDATION; DEFINING “PROBLEM WOLVES”; PROVIDING THAT FOLLOWING DELISTING SPECIAL KILL PERMITS MAY BE ISSUED TO LANDOWNERS AND PUBLIC LAND PERMITTEES; AMENDING SECTIONS 87-1-217 AND 87-5-131, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	1926
276	(<i>Senate Bill No. 297; Larsen</i>) ESTABLISHING A SAND AND GRAVEL DEPOSIT PROGRAM WITHIN THE MONTANA BUREAU OF MINES AND GEOLOGY; ALLOWING THE MONTANA BUREAU OF MINES AND GEOLOGY TO ACCEPT GIFTS, GRANTS, AND REIMBURSEMENTS; REQUIRING PRESENTATIONS OF FINDINGS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	1927
277	(<i>Senate Bill No. 308; Keane</i>) REVISING LAWS RELATED TO THE STANDARD PREVAILING RATE OF WAGES FOR PUBLIC WORKS CONTRACTS; PROVIDING FOR WAGE AND BENEFIT SURVEYS AND ALTERNATE METHODOLOGIES; SPECIFYING PAYMENT TERMS FOR APPRENTICES WORKING ON PUBLIC WORKS CONTRACTS; LIMITING TO 10 THE MAXIMUM NUMBER OF PREVAILING WAGE RATE DISTRICTS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 15-6-157, 15-6-158, 15-6-159, 15-24-3111, 15-70-522, 18-2-401, 18-2-402, 18-2-403, 18-2-407, 18-2-411, 18-2-412, AND 69-3-2005, MCA; AND PROVIDING AN EFFECTIVE DATE	1928
278	(<i>Senate Bill No. 367; Hamlett</i>) REVISING REGISTRATION AND VOTING FOR ABSENT UNIFORMED SERVICES AND OVERSEAS ELECTORS; REQUIRING ELECTION ADMINISTRATORS TO ALLOW ABSENT UNIFORMED SERVICES AND OVERSEAS ELECTORS TO REGISTER AND VOTE ELECTRONICALLY; AUTHORIZING LATE AND SAME-DAY REGISTRATION AND VOTING BY ABSENT UNIFORMED SERVICES AND OVERSEAS ELECTORS; REVISING WHAT MUST BE INCLUDED IN RULES ADOPTED BY THE SECRETARY OF STATE CONCERNING ELECTRONIC REGISTRATION AND VOTING; REQUIRING THE SECRETARY OF STATE TO REPORT TO THE GOVERNOR AND THE LEGISLATURE; AMENDING SECTIONS 13-21-104, 13-21-201, 13-21-207, AND 13-21-210, MCA; AND PROVIDING EFFECTIVE DATES.	1944
279	(<i>Senate Bill No. 392; Brueggeman</i>) AUTHORIZING THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO REVIEW PARCELS OF LAND SUBMITTED FOR REVIEW BY THE OWNER OF THE PARCEL TO DETERMINE WHETHER THE PARCEL MAY BE DEVELOPED WITH WATER AND WASTEWATER SYSTEMS AND TO PROVIDE ADEQUATE SOLID WASTE DISPOSAL AND STORM WATER MANAGEMENT; AUTHORIZING THE ISSUANCE OF A CERTIFICATE OF SUBDIVISION APPROVAL FOR THE PARCEL; AND PROVIDING AN EFFECTIVE DATE	1947
280	(<i>Senate Bill No. 426; Laslovich</i>) ADOPTING THE NATIONAL BISON RANGE WATER COMPACT; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	1948
281	(<i>Senate Bill No. 463; Wanzenried</i>) CLARIFYING THAT RESPITE CARE WORKERS MAY BE EMPLOYED BY A FAMILY MEMBER; REQUIRING TRAINING AND EDUCATIONAL MATERIALS TO BE PROVIDED TO	

	AN INDIVIDUAL EMPLOYING A RESPITE CARE WORKER; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	1956
282	<i>(House Bill No. 59; Hamilton)</i> REVISING THE TEACHERS' RETIREMENT SYSTEM LAWS; REVISING LAWS TO COMPLY WITH THE PENSION PROTECTION ACT OF 2006; CLARIFYING DEFINITIONS; CLARIFYING WHO MUST BE A MEMBER OF THE SYSTEM; CLARIFYING FAMILY LAW ORDERS; CLARIFYING OPTIONAL RETIREMENT ALLOWANCES; REQUIRING CERTIFICATION OF TERMINATION OF EMPLOYMENT IN COMPLIANCE WITH THE INTERNAL REVENUE CODE; COMPLYING WITH THE FEDERAL HEROES EARNINGS ASSISTANCE AND RELIEF TAX ACT OF 2008; AMENDING SECTIONS 19-20-101, 19-20-302, 19-20-305, 19-20-401, 19-20-409, 19-20-603, 19-20-605, 19-20-701, 19-20-702, 19-20-703, 19-20-718, 19-20-731, 19-20-804, 19-20-905, 19-20-1001, 19-20-1003, 20-15-106, AND 20-15-403, MCA; REPEALING SECTION 19-20-406, MCA; AND PROVIDING AN EFFECTIVE DATE AND RETROACTIVE APPLICABILITY DATES.	1958
283	<i>(House Bill No. 109; Hunter)</i> GENERALLY REVISING THE STATUTES CONCERNING CERTAIN PUBLIC EMPLOYEE RETIREMENT SYSTEMS; REQUIRING THE PUBLIC EMPLOYEE RETIREMENT BOARD TO ADOPT RULES; AMENDING SECTIONS 19-2-303, 19-2-506, 19-2-704, 19-2-710, 19-2-715, 19-2-801, 19-2-908, 19-3-201, 19-3-316, 19-3-403, 19-3-504, 19-3-513, 19-3-906, 19-3-1015, 19-3-1106, 19-3-1210, 19-3-2111, 19-3-2133, 19-5-601, 19-5-612, 19-5-801, 19-5-802, 19-6-612, 19-7-404, 19-7-612, 19-8-712, 19-9-904, 19-9-1101, 19-13-104, 19-13-704, 19-13-803, 19-13-804, 19-17-107, 19-17-401, 19-17-408, AND 19-17-504, MCA; AND PROVIDING AN EFFECTIVE DATE	1975
284	<i>(House Bill No. 170; Menahan)</i> GENERALLY REVISING STATUTES GOVERNING VARIOUS STATE RETIREMENT SYSTEMS IN ORDER TO ENSURE THAT THOSE SYSTEMS CONSTITUTE QUALIFIED RETIREMENT PLANS UNDER THE INTERNAL REVENUE CODE; AMENDING SECTIONS 5-2-304, 19-2-303, 19-2-602, 19-2-902, 19-2-907, 19-2-1001, 19-2-1002, 19-2-1005, 19-3-315, 19-3-412, 19-3-1501, 19-3-2123, 19-3-2126, 19-5-701, 19-7-1001, 19-8-801, 19-9-301, 19-9-1206, 19-9-1208, 19-13-210, AND 19-13-301, MCA; AND PROVIDING AN EFFECTIVE DATE AND RETROACTIVE APPLICABILITY DATES	2000
285	<i>(Senate Bill No. 22; Murphy)</i> CREATING THE WATER POLICY COMMITTEE; ALLOWING THE WATER POLICY COMMITTEE TO STUDY ANY ISSUE RELATED TO WATER POLICY; MODIFYING THE STATUTORY PROVISIONS REQUIRING THE ENVIRONMENTAL QUALITY COUNCIL TO STUDY WATER POLICY ISSUES; REQUIRING THE WATER POLICY COMMITTEE TO COORDINATE WITH THE ENVIRONMENTAL QUALITY COUNCIL AND ANY OTHER COMMITTEE TO AVOID DUPLICATION OF EFFORTS; AMENDING SECTIONS 5-5-202 AND 85-2-105, MCA; AND PROVIDING AN EFFECTIVE DATE	2030
286	<i>(Senate Bill No. 57; Gillan)</i> GENERALLY REVISING THE LAWS RELATING TO SPECIAL DISTRICTS; ALLOWING FOR THE CREATION OF SPECIAL DISTRICTS BY LOCAL GOVERNMENTS WORKING INDIVIDUALLY AND JOINTLY; ESTABLISHING UNIFORM STANDARDS FOR THE CREATION, ADMINISTRATION, AND OPERATION OF SPECIAL DISTRICTS BY GOVERNING BODIES AND ELECTED OR APPOINTED BOARDS; ELIMINATING SPECIFIC PROVISIONS RELATING TO CEMETERY DISTRICTS, COUNTY MUSEUMS, FACILITIES FOR THE ARTS, MUSEUM DISTRICTS, COUNTY PARK DISTRICTS, COUNTY FAIR COMMISSIONS, COUNTY	

FAIR DISTRICTS, MULTICOUNTY FAIR DISTRICTS, JOINT SOLID WASTE MANAGEMENT DISTRICTS, LOCAL IMPROVEMENT DISTRICTS, MOSQUITO CONTROL DISTRICTS, MULTIJURISDICTIONAL SERVICE DISTRICTS, PARK MAINTENANCE DISTRICTS, ROAD IMPROVEMENT DISTRICTS, RODENT CONTROL DISTRICTS, SOLID WASTE MANAGEMENT DISTRICTS, AND TELEVISION DISTRICTS; GRANTING RULEMAKING AUTHORITY; AMENDING SECTIONS 7-1-201, 7-1-202, 7-6-2527, 7-7-2101, 7-11-1102, 7-11-1112, 7-13-2511, 7-13-2512, 7-14-2138, 7-16-2105, 7-16-2109, 7-21-3411, 7-22-2512, 15-6-201, 20-15-403, 53-30-503, AND 70-30-102, MCA; REPEALING SECTIONS 7-11-1101, 7-11-1105, 7-11-1106, 7-11-1107, 7-11-1111, 7-12-4001, 7-13-201, 7-13-202, 7-13-203, 7-13-204, 7-13-205, 7-13-206, 7-13-207, 7-13-208, 7-13-209, 7-13-210, 7-13-211, 7-13-212, 7-13-213, 7-13-215, 7-13-216, 7-13-217, 7-13-218, 7-13-231, 7-13-232, 7-13-233, 7-13-234, 7-13-235, 7-13-236, 7-13-237, 7-13-301, 7-13-302, 7-13-303, 7-13-304, 7-13-305, 7-13-306, 7-13-307, 7-13-308, 7-13-309, 7-13-310, 7-13-311, 7-13-2501, 7-13-2502, 7-13-2503, 7-13-2504, 7-13-2505, 7-13-2506, 7-13-2507, 7-13-2508, 7-13-2509, 7-13-2510, 7-13-2521, 7-13-2527, 7-13-2528, 7-13-2529, 7-13-2541, 7-13-2542, 7-14-2701, 7-14-2702, 7-14-2703, 7-14-2704, 7-14-2705, 7-14-2706, 7-14-2707, 7-14-2708, 7-14-2709, 7-14-2710, 7-14-2711, 7-14-2712, 7-14-2713, 7-14-2714, 7-14-2715, 7-14-2716, 7-14-2717, 7-14-2718, 7-14-2719, 7-14-2720, 7-14-2721, 7-14-2731, 7-14-2732, 7-14-2733, 7-14-2734, 7-14-2735, 7-14-2736, 7-14-2737, 7-14-2738, 7-14-2739, 7-14-2740, 7-14-2741, 7-14-2742, 7-14-2743, 7-14-2744, 7-14-2745, 7-14-2746, 7-14-2751, 7-14-2752, 7-14-2753, 7-14-2754, 7-14-2755, 7-14-2756, 7-14-2757, 7-14-2758, 7-14-2759, 7-14-2760, 7-14-2761, 7-14-2762, 7-14-2763, 7-14-2901, 7-14-2902, 7-14-2903, 7-14-2907, 7-14-2908, 7-16-2201, 7-16-2202, 7-16-2203, 7-16-2205, 7-16-2211, 7-16-2212, 7-16-2213, 7-16-2214, 7-16-2215, 7-16-2216, 7-16-2217, 7-16-2218, 7-16-2219, 7-16-2401, 7-16-2402, 7-16-2403, 7-16-2404, 7-16-2405, 7-16-2406, 7-16-2407, 7-16-2408, 7-16-2409, 7-16-2410, 7-16-2411, 7-16-2412, 7-16-2413, 7-16-2414, 7-16-2415, 7-16-2416, 7-16-2417, 7-16-2418, 7-16-2419, 7-16-2420, 7-16-2421, 7-16-2422, 7-16-2423, 7-16-2424, 7-16-2425, 7-16-2426, 7-16-2427, 7-16-2428, 7-16-2429, 7-16-2430, 7-16-2431, 7-16-2432, 7-16-2433, 7-16-2434, 7-16-2435, 7-16-2436, 7-16-2437, 7-16-2438, 7-16-2439, 7-16-2440, 7-16-2441, 7-16-2442, 7-16-2443, 7-16-2444, 7-16-2445, 7-16-2446, 7-16-2447, 7-16-2448, 7-35-101, 7-35-102, 7-35-2101, 7-35-2102, 7-35-2103, 7-35-2104, 7-35-2105, 7-35-2106, 7-35-2107, 7-35-2108, 7-35-2109, 7-35-2110, 7-35-2111, 7-35-2112, 7-35-2113, 7-35-2114, 7-35-2115, 7-35-2116, 7-35-2121, 7-35-2122, 7-35-2123, 7-35-2124, 7-35-2125, 7-35-2201, 7-35-2202, 7-35-4101, 7-35-4103, 7-35-4105, 7-35-4106, 7-35-4107, 7-35-4108, AND 7-35-4109, MCA; AND PROVIDING AN EFFECTIVE DATE.

2032

287 (Senate Bill No. 58; Gillan) GENERALLY REVISING THE LAWS RELATING TO LOCAL GOVERNMENTS; ALLOWING CONTRACTING WITH PRIVATE INSTITUTIONS FOR THE SALE OF BONDS RELATED TO RURAL IMPROVEMENT DISTRICTS AND SPECIAL IMPROVEMENT DISTRICTS; AMENDING SECTIONS 7-12-2172 AND 7-12-4204, MCA; AND PROVIDING AN EFFECTIVE DATE

2056

288 (*Senate Bill No. 62; Laible*) CLARIFYING THE FUNDING FOR THE ENVIRONMENTAL CONTINGENCY ACCOUNT; AMENDING SECTION 15-38-202, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 2057

289 (*Senate Bill No. 113; Keane*) ESTABLISHING A PILOT PROGRAM FOR MECHANIZED EQUIPMENT FUELS REDUCTION ON STATE LANDS WITHIN THE WILDLAND-URBAN INTERFACE AND FOR FIRE SUPPRESSION PURPOSES; REQUIRING THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION TO REPORT TO THE LEGISLATURE; PROVIDING RULEMAKING AUTHORITY; CREATING A MECHANIZED EQUIPMENT FUELS REDUCTION PILOT PROGRAM ACCOUNT; PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE. 2059

290 (*Senate Bill No. 126; Murphy*) PROVIDING FOR A PERMANENT TRANSPORTATION PERMIT FOR RODEO BULLS; ESTABLISHING CONDITIONS FOR ISSUANCE OF THE PERMIT; PROVIDING THAT THE PERMIT IS VALID FOR THE LIFE OF THE BULL OR UNTIL THE BULL CHANGES OWNERSHIP; REQUIRING RECOGNITION BY THE STATE OF VALID PERMANENT TRANSPORTATION PERMITS ISSUED FOR RODEO BULLS IN OTHER JURISDICTIONS; AMENDING SECTIONS 81-3-203 AND 81-3-211, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 2061

291 (*Senate Bill No. 148; Peterson*) GENERALLY REVISING AND CLARIFYING LAWS RELATED TO LOCAL GOVERNMENTS; RECOGNIZING ALTERNATIVE FORMS OF COUNTY GOVERNMENT; REVISING SPECIFIC DOLLAR AMOUNTS IN STATUTES; ELIMINATING ARCHAIC STATUTES; AMENDING SECTIONS 7-3-4465, 7-4-2101, 7-4-2102, 7-4-2104, 7-4-2105, 7-4-2108, 7-4-2111, 7-4-2312, 7-4-2503, 7-4-2504, 7-4-2525, 7-4-2715, 7-5-2129, 7-6-201, 7-6-4413, 7-8-2215, 7-14-2712, 7-21-2116, 7-21-2303, 7-21-2305, 7-21-2306, 7-21-2308, 7-21-2404, 7-21-2407, 7-21-2408, 7-21-2409, 7-21-2410, 7-21-2503, 7-21-2507, 7-21-3101, 7-21-3105, 7-21-3107, 7-21-3212, 7-33-2314, 81-4-505, AND 81-4-509, MCA; AND REPEALING SECTIONS 7-4-4202, 7-14-2713, 7-21-3202, 7-21-3213, 7-31-4102, AND 30-13-112, MCA. 2065

292 (*Senate Bill No. 156; Cooney*) CHANGING THE BEGINNING AND ENDING DATES THAT A CANDIDATE MAY FILE FOR CERTAIN ELECTIONS; CLARIFYING PROVISIONS FOR SPECIAL ELECTIONS CALLED TO FILL A VACANCY IN CONGRESSIONAL OFFICES; AND AMENDING SECTIONS 13-10-201, 13-10-208, 13-10-325, 13-10-326, 13-10-405, 13-10-503, 13-10-601, 13-12-201, 13-14-112, 13-14-113, 13-25-203, 13-25-205, 13-26-103, 13-35-107, AND 13-37-126, MCA 2076

293 (*Senate Bill No. 174; Perry*) CREATING THE PROFESSIONAL CLASSIFICATION OF CLINICAL PHARMACIST PRACTITIONER; PROVIDING DEFINITIONS AND QUALIFICATIONS; REQUIRING THE BOARD OF PHARMACY AND THE BOARD OF MEDICAL EXAMINERS TO ESTABLISH REQUIREMENTS FOR CLINICAL PHARMACIST PRACTITIONERS; AND AMENDING SECTIONS 37-7-101 AND 37-7-201, MCA. 2082

294 (*Senate Bill No. 202; Hinkle*) PROHIBITING THE FEEDING OF CERTAIN WILDLIFE; AMENDING SECTION 87-3-130, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 2088

295 (*Senate Bill No. 280; Gebhardt*) REVISING THE EXEMPTION OF CERTAIN PERSONAL PROPERTY OF A RENTAL PROPERTY BUSINESS BY EXTENDING THE EXEMPTION TO THE PERSONAL

	PROPERTY RENTED ON A SEMIMONTHLY OR MONTHLY BASIS; AMENDING SECTION 15-6-219, MCA; AND PROVIDING AN APPLICABILITY DATE	2089
296	(<i>Senate Bill No. 424; Barkus</i>) ESTABLISHING THE MERCURY-ADDED THERMOSTAT COLLECTION ACT; BANNING MERCURY-ADDED THERMOSTAT SALES AND INSTALLATION; REQUIRING COLLECTION AND RECYCLING OF MERCURY-ADDED THERMOSTATS; PROVIDING RULEMAKING AUTHORITY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	2090
297	(<i>House Bill No. 19; Ingraham</i>) CLARIFYING STATE ELECTION LAWS TO PROVIDE FOR CONSISTENT TREATMENT AMONG POLLING PLACE, ABSENTEE, MAIL, AND PROVISIONAL BALLOT PROVISIONS; PROVIDING DEFINITIONS; CLARIFYING PUBLIC NOTICE REQUIREMENTS; CREATING MORE CONSISTENCY BETWEEN THE ADMINISTRATION OF SCHOOL ELECTIONS AND OTHER ELECTIONS BY REQUIRING TRAINING AND REVISING PAYMENT FOR SCHOOL ELECTION JUDGES; CLARIFYING HOW TO HANDLE TIE VOTES IN A SCHOOL TRUSTEE ELECTION; ELIMINATING OUTDATED PROVISIONS; AND AMENDING SECTIONS 13-1-101, 13-1-108, 13-1-113, 13-1-115, 13-2-110, 13-2-116, 13-2-220, 13-2-222, 13-2-301, 13-2-304, 13-2-402, 13-3-205, 13-3-206, 13-4-102, 13-4-106, 13-4-202, 13-4-203, 13-10-211, 13-13-204, 13-13-205, 13-13-212, 13-13-213, 13-13-214, 13-13-222, 13-13-241, 13-13-301, 13-15-107, 13-17-103, 13-17-203, 13-17-212, 13-19-102, 13-19-105, 13-19-106, 13-19-204, 13-19-205, 13-19-206, 13-19-207, 13-19-301, 13-19-303, 13-19-304, 13-19-305, 13-19-306, 13-19-307, 13-19-308, 13-19-310, 13-19-311, 13-19-312, 13-19-313, 13-19-314, 13-21-203, 13-21-210, 13-27-311, 13-37-226, 20-20-107, AND 20-20-203, MCA	2095
298	(<i>House Bill No. 34; Wilmer</i>) REVISING TEACHERS' RETIREMENT SYSTEM LAWS; SUSPENDING RETIREMENT BENEFITS WHEN MEMBERS RETURN TO FULL-TIME EMPLOYMENT COVERED BY THE TEACHERS' RETIREMENT SYSTEM AND PROVIDING FOR THE CALCULATION OF A SECOND BENEFIT; REQUIRING EMPLOYER CONTRIBUTIONS ON WAGES PAID TO RETIRED MEMBERS; CLARIFYING THE EFFECTIVE DATE OF RETIREMENT OF A MEMBER WHO TERMINATES WITHIN 30 DAYS OF THE END OF A SCHOOL YEAR; AMENDING SECTIONS 19-20-501, 19-20-605, 19-20-703, AND 19-20-731, MCA; AND PROVIDING AN EFFECTIVE DATE	2127
299	(<i>House Bill No. 409; Pomnichowski</i>) ESTABLISHING A CANCER DRUG DEPOSITORY PROGRAM AND PARTICIPANT REGISTRY; PROVIDING DEFINITIONS; PROVIDING IMMUNITY; AND AMENDING SECTIONS 37-7-101, 37-7-1401, 37-7-1402, AND 37-7-1408, MCA	2134
300	(<i>House Bill No. 420; Reinhart</i>) PROVIDING THAT A COUNTY, CITY, OR TOWN WITH A BUILDING CODE ENFORCEMENT PROGRAM MAY ADOPT INCENTIVE-BASED ENERGY CONSERVATION STANDARDS FOR NEW CONSTRUCTION; PROVIDING THAT THE INCENTIVE-BASED ENERGY CONSERVATION STANDARDS ADOPTED MAY EXCEED ANY APPLICABLE ENERGY CONSERVATION STANDARDS CONTAINED IN THE STATE BUILDING CODE; AND AMENDING SECTIONS 50-60-102, 50-60-106, 50-60-301, AND 50-60-802, MCA	2142
301	(<i>House Bill No. 443; Menahan</i>) CLARIFYING THE AUTHORITY OF THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO MANAGE CERTAIN SPECIES; REVISING THE DEFINITION OF	

“MANAGEMENT”; AMENDING SECTION 87-5-102, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 2146

302 *(House Bill No. 451; Ebinger)* REQUIRING GENERAL CONTRACTORS AND BUILDERS OR DEVELOPERS TO DISCLOSE CERTAIN INFORMATION AND TO PROVIDE EXPRESS WARRANTIES WITH RESPECT TO THE BUILDING OR SALE OF NEW RESIDENCES 2148

303 *(House Bill No. 475; Phillips)* RELATING TO ELECTRONIC-FORMAT RULES AND RULEMAKING NOTICES, ELECTRONIC RULEMAKING SERVICES, AND FEES FOR THOSE RULES, NOTICES, AND SERVICES CHARGED BY THE SECRETARY OF STATE; AND AMENDING SECTIONS 2-4-305, 2-4-306, 2-4-311, AND 2-4-313, MCA. 2149

304 *(House Bill No. 480; Pomnichowski)* AUTHORIZING NONRESIDENT YOUTH TO HUNT UPLAND GAME BIRDS AND MIGRATORY BIRDS WITH THE PURCHASE OF A CLASS B-1 NONRESIDENT UPLAND GAME BIRD LICENSE AT A DISCOUNTED PRICE; AMENDING SECTIONS 87-1-270 AND 87-2-805, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 2153

305 *(House Bill No. 488; Jones)* REVISING TERRITORY TRANSFER LAWS RELATING TO SCHOOL DISTRICTS; AMENDING SECTION 20-6-105, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 2157

306 *(House Bill No. 499; French)* REVISING LAWS RELATED TO THE UPLAND GAME BIRD ENHANCEMENT PROGRAM; ESTABLISHING A CITIZENS' ADVISORY COUNCIL; AUTHORIZING DEVELOPMENT OF A STRATEGIC PROGRAM PLAN; REVISING REPORTING REQUIREMENTS; AMENDING SECTIONS 87-1-247 AND 87-1-250, MCA; AND PROVIDING AN EFFECTIVE DATE 2159

307 *(House Bill No. 546; Pomnichowski)* PROVIDING THAT A PRIVATE ENTITY MAY NOT, AS A CONDITION OF PROPERTY OWNERSHIP WITHIN THE JURISDICTION OF THE PRIVATE ENTITY OR BY OTHER MEANS, PROHIBIT THE PLACEMENT OF A SIGN ADVOCATING THE ELECTION, APPOINTMENT, OR DEFEAT OF A CANDIDATE FOR PUBLIC OFFICE OR THE PASSAGE OR DEFEAT OF A BALLOT ISSUE ON PROPERTY BELONGING TO AN INDIVIDUAL OR JOINT OWNER WHO AUTHORIZES THE SIGN TO BE PLACED ON PROPERTY BELONGING TO THE OWNER OR ON COMMON AREAS IN WHICH THE OWNER OWNS AN UNDIVIDED INTEREST; ALLOWING FOR REGULATION OF SIGN SIZE AND PLACEMENT; AND AMENDING SECTIONS 70-1-521, 70-17-203, 70-17-204, 70-17-206, 70-20-306, 70-23-308, 70-23-506, AND 70-23-601, MCA 2162

308 *(House Bill No. 567; Sonju)* GENERALLY REVISING NEW MOTOR VEHICLE FRANCHISING LAWS; REVISING DEFINITIONS; MODIFYING CLAIMS PROCEDURES BETWEEN FRANCHISORS AND NEW MOTOR VEHICLE DEALERS; REVISING PROCEDURES FOR CANCELLING OR TERMINATING FRANCHISE AGREEMENTS; REVISING PROVISIONS PERTAINING TO PROHIBITED ACTS; AMENDING SECTIONS 61-4-201, 61-4-202, 61-4-204, 61-4-205, 61-4-207, 61-4-208, AND 61-4-210, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 2164

309 *(House Bill No. 635; McChesney)* REPEALING THE MONTANA EQUITY CAPITAL INVESTMENT ACT; AMENDING SECTIONS 33-2-705 AND 90-1-112, MCA; REPEALING SECTIONS 15-30-184, 15-31-152, 90-10-101, 90-10-102, 90-10-103, 90-10-201, 90-10-202, 90-10-301, 90-10-302, 90-10-303, 90-10-304, 90-10-305, 90-10-306, 90-10-307, 90-10-308, 90-10-309, AND 90-10-310, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 2176

310	<i>(Senate Bill No. 26; Murphy)</i>	REVISING THE REGULATION OF ECONOMIC CREDENTIALING OF PHYSICIANS; MODIFYING ECONOMIC CREDENTIALING REGULATIONS TO INCLUDE OUTPATIENT CENTERS FOR SURGICAL SERVICES AND TO EXCLUDE DIAGNOSTIC FACILITIES; DEFINING “CONFLICT OF INTEREST”; REVISING REGULATORY AUTHORITY OF DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES; RETAINING THE RESTRICTION ON HOSPITALS LIMITING MEMBERSHIP OR PRIVILEGES; AMENDING SECTIONS 50-5-117 AND 50-5-207, MCA; REPEALING SECTION 6, CHAPTER 351, LAWS OF 2007; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	2178
311	<i>(Senate Bill No. 76; Black)</i>	REVISING THE PERCENTAGE OWNERSHIP REQUIREMENTS FOR APPROVAL OF UNIT PLAN OPERATIONS BY PERSONS PAYING THE COSTS OF UNIT OPERATIONS; AMENDING SECTION 82-11-207, MCA; AND PROVIDING AN EFFECTIVE DATE	2181
312	<i>(Senate Bill No. 84; Gillan)</i>	AUTHORIZING THE MONTANA CORRECTIONAL ENTERPRISES PROGRAM; REORGANIZING STATUTES DEALING WITH MONTANA CORRECTIONAL ENTERPRISES; AMENDING SECTIONS 39-71-118, 53-1-202, 53-30-131, 53-30-132, 53-30-133, AND 61-3-478, MCA; REPEALING SECTIONS 53-1-301, 53-1-302, 53-1-303, AND 53-1-304, MCA; AND PROVIDING A RETROACTIVE APPLICABILITY DATE.	2182
313	<i>(Senate Bill No. 127; Gillan)</i>	REVISING LAWS RELATING TO INSURANCE PRODUCERS; REVISING INSURANCE PRODUCER LICENSING; PROVIDING DEFINITIONS; AMENDING SECTIONS 33-2-301, 33-2-305, 33-2-306, 33-17-102, 33-17-212, 33-17-214, 33-17-1001, AND 33-17-1203, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.	2192
314	<i>(Senate Bill No. 193; McGee)</i>	REQUIRING THE PRESERVATION OF MONUMENTS FOR THE PURPOSES OF LAND SURVEYS.	2200
315	<i>(Senate Bill No. 226; Hawks)</i>	AUTHORIZING THE TEMPORARY LICENSURE OF NONRESIDENT DENTISTS AND DENTAL HYGIENISTS TO PROVIDE VOLUNTARY SERVICES TO PERSONS SERVED BY UNIVERSITY CLINICS, CORRECTIONAL FACILITY CLINICS, AND CERTAIN FEDERALLY FUNDED CLINICS	2201
316	<i>(Senate Bill No. 247; Black)</i>	REVISING LAWS RELATED TO NONFERROUS METAL TRANSACTIONS; REQUIRING SALVAGE METAL DEALERS TO MAINTAIN AND RETAIN NONFERROUS METAL ACQUISITION RECORDS; AUTHORIZING INSPECTION OF THOSE RECORDS; AND PROVIDING THAT A VIOLATION CONSTITUTES A MISDEMEANOR	2202
317	<i>(Senate Bill No. 269; Brown)</i>	GENERALLY REVISING LAWS REGULATING THE SALE OF TIMESHARES; REVISING DEFINITIONS; REVISING THE BOARD OF REALTY REGULATION’S RULEMAKING AUTHORITY; REVISING REGISTRATION APPLICATION PROCEDURES; SUBSTITUTING “PUBLIC OFFERING STATEMENT” FOR “DISCLOSURE DOCUMENT”; REQUIRING NOTICE TO THE BOARD OF ANY CHANGES IN A TIMESHARE OFFERING; EXPANDING THE EXEMPTIONS FROM REGISTRATION FOR TIMESHARE OFFERINGS; AMENDING SECTIONS 37-53-102, 37-53-104, 37-53-202, 37-53-203, 37-53-204, 37-53-205, 37-53-301, 37-53-302, 37-53-303, 37-53-304, 37-53-307, AND 37-53-308, MCA; REPEALING SECTIONS 37-53-211, 37-53-212, 37-53-214, 37-53-401, 37-53-402, 37-53-403, 37-53-504, AND 37-53-505, MCA	2203

318 (*Senate Bill No. 292; Gebhardt*) PROVIDING FOR A REDUCED SEVERANCE TAX RATE ON COAL RECOVERED FROM A STRIP MINE BY AUGER MINING; AMENDING SECTIONS 15-35-102 AND 15-35-103, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE 2211

319 (*Senate Bill No. 299; Tropila*) REVISING THE APPOINTMENT, QUALIFICATIONS, AND DUTIES OF NOTARIES PUBLIC; REQUIRING TRAINING IN SPECIFIED CIRCUMSTANCES; REQUIRING THAT A JOURNAL BE KEPT; REQUIRING THE DESTRUCTION OF THE NOTARY PUBLIC'S STAMP AND SEAL UPON TERMINATION FROM OFFICE; AMENDING SECTIONS 1-5-401, 1-5-402, 1-5-416, 1-5-419, AND 1-5-610, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE 2213

320 (*Senate Bill No. 330; Moss*) STATING ACCOUNTABILITY AS A PURPOSE AND POLICY OF THE STATE FOR SERVICES FOR OLDER MONTANANS; PROVIDING A PROCESS TO ACHIEVE ACCOUNTABILITY AND REQUIRING REPORTS; AND AMENDING SECTION 52-3-503, MCA 2217

321 (*Senate Bill No. 351; Essmann*) GENERALLY REVISING MORTGAGE LENDING LAWS; EXPANDING THE MORTGAGE BROKER AND LOAN ORIGINATOR ACT TO INCLUDE MORTGAGE LENDERS; IMPLEMENTING PROVISIONS OF THE FEDERAL SECURE AND FAIR ENFORCEMENT FOR MORTGAGE LICENSING ACT OF 2008 WITH RESPECT TO MORTGAGE BROKERS, MORTGAGE LENDERS, AND MORTGAGE LOAN ORIGINATORS; PROVIDING FOR A REGISTERED AGENT FOR MORTGAGE BROKERS, MORTGAGE LENDERS, AND MORTGAGE LOAN ORIGINATORS WITHOUT AN IN-STATE OFFICE; REPEALING THE MONTANA RESIDENTIAL MORTGAGE LENDER LICENSING ACT; AMENDING SECTIONS 32-9-101, 32-9-102, 32-9-103, 32-9-104, 32-9-109, 32-9-110, 32-9-116, 32-9-117, 32-9-118, 32-9-121, 32-9-122, 32-9-123, 32-9-124, 32-9-125, 32-9-126, 32-9-130, AND 32-9-133, MCA; REPEALING SECTIONS 32-9-108, 32-9-115, 32-9-119, 32-10-101, 32-10-102, 32-10-103, 32-10-201, 32-10-202, 32-10-203, 32-10-204, 32-10-207, 32-10-208, 32-10-209, 32-10-301, 32-10-302, 32-10-303, 32-10-309, 32-10-310, 32-10-401, 32-10-402, 32-10-403, 32-10-404, 32-10-405, 32-10-406, 32-10-501, 32-10-502, 32-10-503, 32-10-504, 32-10-505, 32-10-506, 32-10-507, 32-10-512, 32-10-513, 32-10-514, AND 32-10-515, MCA; AND PROVIDING AN EFFECTIVE DATE 2218

322 (*Senate Bill No. 353; Black*) ELIMINATING THE LICENSE TAX RATE REDUCTION FOR ETHANOL; AMENDING SECTION 15-70-204, MCA; AND PROVIDING AN EFFECTIVE DATE. 2246

323 (*Senate Bill No. 361; Ripley*) REVISING LAWS RELATING TO TAX LIENS; PROVIDING THAT A COUNTY TREASURER MAY ALLOW A PURCHASER OF A PROPERTY TAX LIEN TO USE AN AFFIDAVIT OF COSTS IN LIEU OF PRODUCING THE RECEIPTS OF COSTS; PROVIDING THAT THE NOTICE OF PAYMENT FOR A TAX LIEN SALE CERTIFICATE MAY NOT BE MADE MORE THAN 60 DAYS PRIOR TO THE DATE OF PAYMENT; AND AMENDING SECTIONS 15-17-121 AND 15-17-212, MCA 2247

324 (*Senate Bill No. 375; Peterson*) PROVIDING THAT A STATE BANK, CREDIT UNION, OR MORTGAGE LENDER MAY NOT REQUIRE A BORROWER, AS A CONDITION OF OBTAINING OR MAINTAINING A LOAN SECURED BY REAL PROPERTY, TO PROVIDE INSURANCE ON IMPROVEMENTS TO REAL PROPERTY IN AN AMOUNT THAT EXCEEDS THE REASONABLE REPLACEMENT VALUE OF THE IMPROVEMENTS; AND AMENDING SECTIONS 32-1-430, 32-3-604, AND 32-10-401, MCA 2249

MONTANA SESSION LAWS 2009

1

- 325 *(Senate Bill No. 388; Gillan)* CREATING AN INCUMBENT WORKER TRAINING PROGRAM; PROVIDING CRITERIA FOR PARTICIPATION AND FOR AWARDS; AND PROVIDING RULEMAKING AUTHORITY 2251
- 326 *(Senate Bill No. 401; Laslovich)* REQUIRING THE BOARD OF MEDICAL EXAMINERS TO ENSURE THAT A LICENSEE WHO IS REQUIRED TO PARTICIPATE IN A REHABILITATION PROGRAM MUST BE ALLOWED TO ENROLL IN A QUALIFIED PROGRAM WITHIN MONTANA IF ONE IS AVAILABLE; AMENDING SECTIONS 37-3-203, 37-3-208, AND 37-3-401, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 2255
- 327 *(Senate Bill No. 441; Laslovich)* GENERALLY REVISING LAWS RELATING TO JUDGMENTS AND COLLECTIONS; CLARIFYING THE STATUTE OF LIMITATIONS FOR BRINGING AN ACTION TO COLLECT EXPENSES INCURRED BY EITHER SPOUSE FOR FAMILY EXPENSES OR CHILDREN'S EDUCATION; PROVIDING THAT WHEN A JUDGMENT IS FOR A FINE AND IMPRISONMENT, THE COURT MAY ORDER EXECUTION ON THE FINE PORTION OF THE JUDGMENT; AND AMENDING SECTIONS 40-2-106 AND 46-19-102, MCA. 2257
- 328 *(Senate Bill No. 444; Laslovich)* CLARIFYING THE APPLICATION OF THE UNIFORM PRUDENT MANAGEMENT OF INSTITUTIONAL FUNDS ACT TO PROPERTY CONTRIBUTED PRIOR TO OCTOBER 1, 2007; AMENDING SECTIONS 72-30-102, 72-30-207, 72-30-208, 72-30-209, AND 72-30-210, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 2258
- 329 *(Senate Bill No. 449; Keane)* AUTHORIZING THE BOARD OF OIL AND GAS CONSERVATION TO PROMOTE THE STATE'S OIL AND GAS INDUSTRY, TO ENCOURAGE EFFICIENT ENERGY USE, TO PROMOTE ENVIRONMENTALLY SOUND EXPLORATION AND PRODUCTION METHODS AND TECHNOLOGIES, TO DEVELOP THE STATE'S OIL AND GAS RESOURCES, AND TO SUPPORT RESEARCH AND EDUCATIONAL ACTIVITIES CONCERNING THE OIL AND NATURAL GAS EXPLORATION AND PRODUCTION INDUSTRY; ALLOWING COORDINATION WITH MONTANA TECH OF THE UNIVERSITY OF MONTANA; AUTHORIZING THE BOARD TO MAKE LOANS OR GRANTS, ENTER INTO CONTRACTS OR AGREEMENTS, ACCEPT FUNDS, AND DISTRIBUTE MONEY; AND AMENDING SECTION 82-11-111, MCA 2262
- 330 *(House Bill No. 42; Vincent)* REQUIRING THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO ADDRESS FIRE MITIGATION, PINE BEETLE INFESTATION, AND WILDLIFE HABITAT ENHANCEMENT FOR CERTAIN LANDS UNDER DEPARTMENT JURISDICTION; ESTABLISHING A FOREST MANAGEMENT SPECIAL REVENUE ACCOUNT; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTIONS 17-7-502, 87-1-201, AND 87-1-601, MCA; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE. 2264
- 331 *(House Bill No. 150; Brown)* CREATING THE MONTANA RECREATION RESPONSIBILITY ACT; PROVIDING THAT A PERSON WHO ENGAGES IN A SPORT OR RECREATIONAL OPPORTUNITY ASSUMES THE INHERENT RISKS IN THAT SPORT OR RECREATIONAL OPPORTUNITY AND IS RESPONSIBLE FOR INJURIES AND DAMAGES RESULTING FROM THOSE INHERENT RISKS; LIMITING THE LIABILITY OF THE PROVIDERS OF A SPORT OR RECREATIONAL OPPORTUNITY; PROVIDING GOVERNMENTAL IMMUNITY; CLARIFYING THAT A PROVIDER IS NOT REQUIRED TO ELIMINATE, ALTER, OR CONTROL THE INHERENT RISKS WITHIN A

	PARTICULAR SPORT OR RECREATIONAL OPPORTUNITY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE	2269
332	<i>(House Bill No. 228; Kerns)</i> PRESERVING AND CLARIFYING LAWS RELATING TO THE RIGHT OF SELF-DEFENSE AND THE RIGHT TO BEAR ARMS; AMENDING SECTIONS 45-3-103, 45-8-321, AND 46-6-502, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	2271
333	<i>(House Bill No. 238; Milburn)</i> ESTABLISHING A STATE TEEN DRIVER SAFETY DAY AS AN OFFICIAL DAY OF OBSERVANCE IN MONTANA TO PROMOTE TEEN DRIVER EDUCATION AND SAFETY.	2275
334	<i>(House Bill No. 262; Ebinger)</i> REVISING THE DEFINITION OF “LOW-EMISSION WOOD OR BIOMASS COMBUSTION DEVICE” TO INCLUDE A MASONRY HEATER AND AN OUTDOOR HYDRONIC HEATER FOR THE PURPOSE OF CLAIMING THE TAX CREDIT FOR INSTALLING AN ALTERNATIVE ENERGY SYSTEM; AMENDING SECTIONS 15-32-102 AND 15-32-201, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE	2276
335	<i>(House Bill No. 269; Mehlhoff)</i> REVISING THE DOLLAR RATE AT WHICH FINES FOR CERTAIN CRIMINAL OFFENSES WILL BE SATISFIED BASED ON EACH DAY OF IMPRISONMENT; AMENDING SECTIONS 46-17-302 AND 61-7-118, MCA; AND PROVIDING AN EFFECTIVE DATE	2278
336	<i>(House Bill No. 280; Hunter)</i> SPECIFYING THAT NEW COMMUNITY HEALTH CENTERS MAY RECEIVE STATE FUNDING FOR A MAXIMUM OF 6 YEARS; AMENDING SECTION 50-4-805, MCA; AND PROVIDING AN EFFECTIVE DATE.	2279
337	<i>(House Bill No. 306; Morgan)</i> REQUIRING THE DEPARTMENT OF JUSTICE TO DESIGN AND ISSUE SPECIAL MOTORCYCLE LICENSE PLATES FOR MILITARY PERSONNEL, VETERANS, AND SPOUSES; REQUIRING THE DONATION FOR A PLATE TO BE DEPOSITED INTO THE SPECIAL REVENUE ACCOUNT FOR THE STATE VETERANS’ CEMETERIES; AMENDING SECTIONS 61-3-455 AND 61-3-458, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE	2280
338	<i>(House Bill No. 318; Kottel)</i> REGULATING DEBT SETTLEMENT PROVIDERS; PROVIDING DEFINITIONS; PROVIDING INSURANCE AND ACCOUNTING REQUIREMENTS FOR DEBT SETTLEMENT PROVIDERS; ESTABLISHING PROHIBITED PRACTICES FOR DEBT SETTLEMENT PROVIDERS; AND PROVIDING REMEDIES	2283
339	<i>(House Bill No. 322; Blewett)</i> REQUIRING A PERSON PROPOSED, NOMINATED, OR APPOINTED AS A NEUTRAL ARBITRATOR TO DISCLOSE A CONFLICT OF INTEREST; PROVIDING FOR VACATING AN AWARD BECAUSE OF A FAILURE TO DISCLOSE A CONFLICT OF INTEREST; AND AMENDING SECTIONS 27-5-211 AND 27-5-312, MCA	2286
340	<i>(House Bill No. 356; Wagner)</i> REVISING THE USE OF PORTABLE SCALES; REQUIRING PORTABLE SCALES TO BE USED ON ENGINEERED SITES; DEFINING “ENGINEERED SITE”; AND AMENDING SECTIONS 61-10-141 AND 61-10-144, MCA	2289
341	<i>(House Bill No. 384; Villa)</i> GENERALLY REVISING THE MONTANA UNIFIED VOLUME CAP BOND ALLOCATION PLAN ACT; INCREASING THE FEE FOR ISSUANCE OF THE BONDS; PROVIDING THAT AS A CONDITION TO ISSUING BONDS EACH ISSUER IS REQUIRED TO PROVIDE THE LEGISLATIVE AUDITOR WITH FULL ACCESS TO ITS FINANCIAL RECORDS; PROVIDING THAT AS A	

CONDITION OF ISSUING BONDS THE MONTANA HIGHER EDUCATION STUDENT ASSISTANCE CORPORATION IS REQUIRED TO COMPLY WITH OPEN MEETING LAWS AND PROVIDE THE LEGISLATIVE AUDITOR WITH FULL ACCESS TO ANY MANAGEMENT OR LOAN SERVICING CONTRACTS; AMENDING SECTIONS 17-5-1302, 17-5-1312, AND 17-5-2201, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 2291

342 *(House Bill No. 449; McChesney)* GENERALLY REVISING STATE AND LOCAL GOVERNMENT LAWS RELATED TO FINANCE; REVISING NOTICE INFORMATION IN CONNECTION WITH INTENTION TO CREATE A RURAL SPECIAL IMPROVEMENT DISTRICT; REVISING PROTEST PROVISIONS FOR THE CREATION OR EXTENSION OF A RURAL SPECIAL IMPROVEMENT DISTRICT; ALTERING THE TIME FOR CANVASSING OF VOTES FOR WATER AND SEWER DISTRICT ELECTIONS; CLARIFYING CHARGES FOR SERVICES; CLARIFYING THE LEVY OF DISTRICT WATER OR SEWER TAX TO PAY EXPENSES OF OR CLAIMS AGAINST THE DISTRICT; REMOVING CONDITIONS PLACED ON STATE REFUNDING BONDS; CLARIFYING THE ACCOUNTS FOR DEPOSIT OF PROCEEDS OF, AND THE USE OF BOND PREMIUMS ON, STATE GENERAL OBLIGATION BONDS; REMOVING THE REQUIREMENT THAT REVISED MUNICIPAL UTILITY RATE SCHEDULES BE FILED WITH THE PUBLIC SERVICE COMMISSION; EXTENDING THE MAXIMUM TERM OF LOAN UNDER WATER POLLUTION CONTROL STATE REVOLVING FUND PROGRAM IN CERTAIN CIRCUMSTANCES; AMENDING SECTIONS 7-12-2103, 7-12-2105, 7-12-2109, 7-12-2112, 7-13-2256, 7-13-2301, 7-13-2302, 17-5-305, 17-5-803, 69-7-112, AND 75-5-1113, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 2293

343 *(House Bill No. 487; McNutt)* PROVIDING THAT FARM IMPLEMENTS OR CONSTRUCTION EQUIPMENT THAT IS RENTED UNDER A PURCHASE INCENTIVE RENTAL PROGRAM IS CONSIDERED BUSINESS INVENTORY FOR THE PURPOSE OF EXEMPTION FROM PROPERTY TAXATION; REQUIRING THAT PROPERTY MUST MEET CERTAIN CONDITIONS TO QUALIFY AS PURCHASE INCENTIVE RENTAL PROGRAM PROPERTY; AMENDING SECTIONS 15-6-138, 15-6-202, AND 15-24-301, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE 2301

344 *(House Bill No. 562; Cohenour)* ALLOWING A SCHOOL DISTRICT THAT HAS PROPERTY SUBJECT TO PENDING PROPERTY TAX PROTESTS TO WAIVE THE DISTRICT'S RIGHT TO RECEIVE ITS PORTION OF THE PROTESTED TAXES UPON SETTLEMENT OF THE TAX PROTEST; PROVIDING THAT A DISTRICT THAT HAS WAIVED ITS RIGHT TO RECEIVE ITS PORTION OF PROTESTED PROPERTY TAXES WILL HAVE ITS GUARANTEED TAX BASE AID DETERMINED ON PROPERTY VALUE THAT DOES NOT INCLUDE THE VALUE OF THE PROTESTED PROPERTY; AMENDING SECTION 15-1-402, MCA; AND PROVIDING AN APPLICABILITY DATE 2304

345 *(House Bill No. 585; McClafferty)* PROMOTING MONTANA'S FAMILY HUNTING HERITAGE BY CREATING NONRESIDENT COMBINATION HUNTING LICENSES THAT MAY BE USED BY ADULT NONRESIDENT FAMILY MEMBERS WHO WISH TO RETURN TO MONTANA TO HUNT WITH A SPONSOR OR FAMILY MEMBER; ESTABLISHING THE TERMS AND CONDITIONS OF LICENSURE AND SPONSORSHIP; DEDICATING MONEY FROM THE SALE OF THE LICENSES TO THE ACQUISITION OF PUBLIC HUNTING ACCESS TO INACCESSIBLE PUBLIC LAND; AND PROVIDING A DELAYED EFFECTIVE DATE AND A TERMINATION DATE 2307

346 (*House Bill No. 608; Sesso*) AUTHORIZING LOCAL GOVERNMENTS TO EXECUTE A LIEN FOR PURPOSES OF DEBRIS REMOVAL; AMENDING SECTIONS 27-18-101, 27-18-202, 27-18-203, 27-18-204, AND 27-18-1502, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 2309

347 (*House Bill No. 622; Himmelberger*) REVISING LAWS RELATING TO CONSTITUENT ACCOUNTS; EXPANDING THE PERSONS WHO MAY ESTABLISH A CONSTITUENT ACCOUNT; REQUIRING THAT MONEY REMAINING IN A CONSTITUENT SERVICES ACCOUNT ESTABLISHED PRIOR TO MAY 14, 2007, MUST BE DONATED TO CHARITY OR DEPOSITED TO A NEW CONSTITUENT SERVICES ACCOUNT; AMENDING SECTION 13-37-402, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE 2311

348 (*House Bill No. 628; Stoker*) PROVIDING A STATUTE OF LIMITATIONS FOR PROSECUTION OF CARELESS DRIVING RESULTING IN DEATH AND RECKLESS DRIVING RESULTING IN DEATH; AND AMENDING SECTIONS 45-1-205 AND 61-5-405, MCA 2312

349 (*House Bill No. 630; Sands*) REVISING LAWS RELATED TO REVOLVING FUNDS FOR RURAL IMPROVEMENT DISTRICTS AND SPECIAL IMPROVEMENT DISTRICTS; INCREASING THE AMOUNT OF MONEY THAT MAY BE REQUIRED FOR DEPOSIT IN REVOLVING FUNDS WHEN USED TO SECURE BONDS OR WARRANTS FOR IMPROVEMENTS; MAKING THE PURPOSES FOR WHICH EXCESS FUNDS IN RURAL IMPROVEMENT DISTRICT REVOLVING FUNDS MAY BE USED COMPARABLE TO THOSE OF SPECIAL IMPROVEMENT DISTRICT REVOLVING FUNDS; AMENDING SECTIONS 7-12-2153, 7-12-2182, 7-12-2185, 7-12-2186, 7-12-4169, 7-12-4222, 7-12-4225, AND 7-12-4227, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 2314

350 (*House Bill No. 653; Pomnichowski*) PROVIDING FOR THE ADJUSTMENT OF BASE TAXABLE VALUE IN AN URBAN RENEWAL AREA, AN INDUSTRIAL DISTRICT, OR A TECHNOLOGY DISTRICT FOR TAX INCREMENT FINANCING PURPOSES BECAUSE OF A LOCAL DISASTER; AMENDING SECTION 7-15-4293, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE. 2321

351 (*Senate Bill No. 8; Hansen*) ALLOWING FOR THE CREATION AND EXPANSION OF REGIONAL RESOURCE AUTHORITIES; GRANTING A REGIONAL RESOURCE AUTHORITY CERTAIN POWERS; AUTHORIZING THE ISSUANCE OF REVENUE BONDS TO FUND PROJECTS; AMENDING SECTIONS 2-7-501, 7-6-4020, 7-6-4035, AND 15-10-420, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 2322

352 (*Senate Bill No. 32; Barkus*) PROVIDING THAT CERTIFICATION OF A PERSON AS DISABLED FOR PURPOSES OF OBTAINING A PERMIT TO HUNT FROM A VEHICLE MAY BE ENDORSED BY A LICENSED CHIROPRACTOR IN ADDITION TO CERTAIN OTHER MEDICAL CARE PROVIDERS; AMENDING SECTION 87-2-803, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 2334

353 (*Senate Bill No. 73; Hawks*) REVISING THE DEFINITION OF MEDIUM-SPEED ELECTRIC VEHICLE; AND AMENDING SECTION 61-1-101, MCA 2337

354 (*Senate Bill No. 79; Juneau*) DEFINING “NONEMERGENCY AMBULANCE TRANSPORT” AND “VOLUNTEER EMERGENCY MEDICAL TECHNICIAN”; ESTABLISHING STAFFING

	REQUIREMENTS FOR CERTAIN AMBULANCE TRANSPORTS; AMENDING SECTION 50-6-302, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	2348
355	<i>(Senate Bill No. 86; Tropila)</i> GENERALLY REVISING GAMBLING LAWS; REVISING DEFINITIONS; REQUIRING THE SUBMISSION OF FINGERPRINTS FOR THE PURPOSE OF CRIMINAL BACKGROUND CHECKS BY LICENSE APPLICANTS; PROVIDING FOR A LICENSE FOR ASSOCIATED GAMBLING BUSINESSES; REQUIRING APPROVAL OF CERTAIN BINGO CARDS; REMOVING CERTAIN RESTRICTIONS ON RAFFLE PRIZES; AMENDING SECTIONS 23-5-112, 23-5-115, 23-5-157, 23-5-324, 23-5-412, 23-5-413, AND 23-5-621, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE	2349
356	<i>(Senate Bill No. 108; Jent)</i> REVISING CUSTODY LAWS RELATING TO MILITARY SERVICE; PRECLUDING A COURT FROM CONSIDERING MILITARY SERVICE ALONE AS A DETRIMENT TO THE BEST INTEREST OF THE CHILD IN CHILD CUSTODY PROCEEDINGS; ESTABLISHING AN EXPEDITED HEARING PROCEDURE WHEN A PARENT RECEIVES MILITARY SERVICE ORDERS; PROVIDING THAT A COURT-ORDERED MODIFICATION OF A PARENTING PLAN BASED ON MILITARY SERVICE ORDERS OF A PARENT IS TEMPORARY; ALLOWING VISITATION RIGHTS TO CERTAIN FAMILY MEMBERS WHEN A PARENT RECEIVES MILITARY SERVICE ORDERS; PRECLUDING A COURT FROM CONSIDERING MILITARY SERVICE ALONE IN PARENTING PLANS; AND AMENDING SECTIONS 40-4-212, 40-4-216, 40-4-219, 40-4-228, AND 40-4-234, MCA.	2358
357	<i>(Senate Bill No. 198; Lewis)</i> CLASSIFYING CERTAIN BIOMASS GENERATION FACILITIES UP TO 25 MEGAWATTS IN NAMEPLATE CAPACITY AS CLASS FOURTEEN PROPERTY; INCLUDING CLASS FOURTEEN BIOMASS GENERATION FACILITIES WITH WIND GENERATION FACILITIES RELATING TO CERTAIN TRANSMISSION LINES AS FACILITIES UNDER THE MAJOR FACILITY SITING ACT; AMENDING SECTIONS 15-6-137, 15-6-141, 15-6-156, 15-6-157, AND 75-20-104, MCA; AND PROVIDING AN APPLICABILITY DATE	2364
358	<i>(Senate Bill No. 231; Laible)</i> REQUIRING A GOVERNMENTAL ENTITY TO PREPARE A SERVICE AREA REPORT TO DOCUMENT THE CALCULATION OF IMPACT FEES; AMENDING SECTIONS 7-6-1602, AND 7-6-1603, MCA; AND PROVIDING AN EFFECTIVE DATE.	2371
359	<i>(Senate Bill No. 234; Gillan)</i> REQUIRING INSURANCE COVERAGE FOR AUTISM SPECTRUM DISORDERS; AMENDING SECTIONS 33-1-102, 33-22-706, 33-31-111, AND 33-35-306, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE	2374
360	<i>(Senate Bill No. 281; Shockley)</i> REVISING LAWS GOVERNING DRIVER'S LICENSE SUSPENSIONS; AMENDING SECTIONS 46-6-310, 46-9-401, 61-5-214, AND 61-5-218, MCA; AND PROVIDING AN EFFECTIVE DATE	2381
361	<i>(Senate Bill No. 286; Brown)</i> REVISING AND CLARIFYING THE MILK CONTROL LAWS; TRANSFERRING CERTAIN FUNCTIONS FROM THE DEPARTMENT OF LIVESTOCK TO THE BOARD OF MILK CONTROL; AMENDING SECTIONS 81-1-101, 81-23-101, 81-23-103, 81-23-104, 81-23-201, 81-23-202, 81-23-203, 81-23-204, 81-23-302, 81-23-303, 81-23-401, 81-23-402, 81-23-404, 81-23-405, AND 81-23-406, MCA; REPEALING SECTIONS 81-23-304 AND 81-23-305, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE	2384
362	<i>(Senate Bill No. 350; Gillan)</i> PROVIDING FOR ROUTINE HIV SCREENING AND INCORPORATING THE SCREENING INTO THE	

PATIENT'S GENERAL INFORMED CONSENT FOR MEDICAL CARE; INCORPORATING PRENATAL SCREENING FOR HIV-RELATED CONDITIONS INTO THE PREGNANT PATIENT'S GENERAL INFORMED CONSENT FOR MEDICAL CARE; PROVIDING FOR LABOR AND DELIVERY HIV SCREENING IN CERTAIN CIRCUMSTANCES; AMENDING SECTIONS 50-16-702, 50-16-1003, 50-16-1008, 50-16-1009, AND 50-16-1013, MCA; AND REPEALING SECTION 50-16-1007, MCA 2393

363 *(Senate Bill No. 356; Zinke)* PROVIDING FOR THE LICENSURE OF MANUFACTURED HOME DEALERS BY THE DEPARTMENT OF JUSTICE; ESTABLISHING LICENSE APPLICATION REQUIREMENTS; REQUIRING BONDS; AND PROVIDING RULEMAKING AUTHORITY TO THE DEPARTMENT 2398

364 *(Senate Bill No. 430; Hamlett)* REMOVING THE REQUIREMENT THAT COAL MINE OPERATORS REPORT TONS OF COAL SOLD TO PURCHASERS; CLARIFYING THE PROCEDURE TO COMPUTE OIL AND NATURAL GAS TAX IN ABSENCE OF A STATEMENT; CLARIFYING WHEN THE PENALTY PROVISIONS FOR DELINQUENT BENTONITE TAX AND THE WHOLESALE ENERGY TRANSACTION TAX RETURNS APPLY; DIRECTING INITIAL CIGARETTE TAX APPEALS TO THE DEPARTMENT OF REVENUE RATHER THAN TO THE STATE TAX APPEAL BOARD; AMENDING SECTIONS 15-35-104, 15-36-313, 15-39-105, 15-72-112, 16-11-105, 16-11-149, AND 72-3-1006, MCA; AND PROVIDING A RETROACTIVE APPLICABILITY DATE 2400

365 *(Senate Bill No. 442; Laslovich)* ESTABLISHING THE SHAKEN BABY SYNDROME EDUCATION PROGRAM; REQUIRING THE PREPARATION AND DISTRIBUTION OF SHAKEN BABY SYNDROME EDUCATIONAL MATERIALS; AND PROVIDING EFFECTIVE DATES 2403

366 *(Senate Bill No. 451; Wanzenried)* REPEALING THE MEGALANDFILL SITING LAWS; AMENDING SECTION 75-1-208, MCA; REPEALING SECTIONS 75-10-901, 75-10-902, 75-10-903, 75-10-906, 75-10-907, 75-10-908, 75-10-909, 75-10-910, 75-10-913, 75-10-914, 75-10-916, 75-10-917, 75-10-918, 75-10-919, 75-10-920, 75-10-921, 75-10-922, 75-10-923, 75-10-924, 75-10-925, 75-10-926, 75-10-927, 75-10-928, 75-10-929, 75-10-930, 75-10-933, 75-10-934, 75-10-935, 75-10-938, 75-10-939, 75-10-940, 75-10-941, 75-10-942, 75-10-943, 75-10-944, 75-10-945, 75-10-950, 75-10-951, 75-10-952, 75-10-953, AND 75-10-954, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 2404

367 *(Senate Bill No. 462; Steinbeisser)* CREATING A SEPARATE LIEN ON OIL OR GAS OR THE PROCEEDS OF OIL OR GAS FOR INTEREST OWNERS; CLARIFYING RIGHTS OF PURCHASERS; PROVIDING A PROCESS FOR CLAIMING A SECURITY INTEREST AND LIEN; PROVIDING A PERSONAL RIGHT OF ACTION; PROVIDING FOR PRIORITY OVER CERTAIN CONSTRUCTION LIENS; AND AMENDING SECTIONS 71-3-124, 71-3-1002, AND 71-3-1011, MCA 2406

368 *(Senate Bill No. 464; Laslovich)* PROHIBITING A PERSON CONDUCTING A REMEDIAL ACTION FROM INCLUDING A COVENANT NOT TO SUE IN A CONTRACT WITH A PROPERTY OWNER; PROVIDING CERTAIN EXCEPTIONS; ESTABLISHING A CIVIL PENALTY; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE 2411

369 *(House Bill No. 4; Jones)* APPROPRIATING MONEY THAT WOULD USUALLY BE APPROPRIATED BY BUDGET AMENDMENT TO VARIOUS STATE AGENCIES FOR THE FISCAL YEAR ENDING JUNE 30, 2009; PROVIDING THAT CERTAIN APPROPRIATIONS CONTINUE

	INTO STATE AND FEDERAL FISCAL YEARS 2010 AND 2011; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	2412
370	<i>(House Bill No. 6; McNutt)</i> IMPLEMENTING THE RENEWABLE RESOURCE GRANT AND LOAN PROGRAM; APPROPRIATING MONEY TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION FOR GRANTS UNDER THE RENEWABLE RESOURCE GRANT AND LOAN PROGRAM; PRIORITIZING GRANTS AND AMOUNTS; ESTABLISHING CONDITIONS FOR GRANTS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	2419
371	<i>(House Bill No. 7; McNutt)</i> APPROPRIATING MONEY TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION FOR GRANTS FOR DESIGNATED PROJECTS UNDER THE RECLAMATION AND DEVELOPMENT GRANTS PROGRAM; PRIORITIZING GRANTS AND AMOUNTS; ESTABLISHING CONDITIONS FOR GRANTS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	2426
372	<i>(House Bill No. 8; McNutt)</i> APPROVING RENEWABLE RESOURCE PROJECTS AND AUTHORIZING LOANS; REAUTHORIZING RENEWABLE RESOURCE PROJECTS AUTHORIZED BY THE 60TH LEGISLATURE; APPROPRIATING MONEY TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION FOR LOANS UNDER THE RENEWABLE RESOURCE GRANT AND LOAN PROGRAM; AUTHORIZING THE ISSUANCE OF COAL SEVERANCE TAX BONDS; AUTHORIZING THE CREATION OF A STATE DEBT AND APPROPRIATING COAL SEVERANCE TAXES FOR DEBT SERVICE; PLACING CERTAIN CONDITIONS UPON LOANS; AND PROVIDING AN EFFECTIVE DATE	2429
373	<i>(House Bill No. 55; Hawk)</i> REQUIRING THE YOUTH COURT TO IMPOSE RESTRICTIONS ON A DELINQUENT YOUTH'S RESIDENCY IF THE YOUTH HAS BEEN ADJUDICATED FOR A SEXUAL OFFENSE AND HAS BEEN DETERMINED TO BE A LEVEL 3 SEXUAL OFFENDER; REQUIRING NOTIFICATION TO SCHOOL DISTRICTS; AMENDING SECTIONS 41-5-215 AND 41-5-1513, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE	2432
374	<i>(House Bill No. 108; Hollenbaugh)</i> CREATING A CRIME VICTIMS COMPENSATION ACCOUNT; STATUTORILY APPROPRIATING THE ACCOUNT; PROVIDING THAT CERTAIN RESTITUTION MONEY PAID BY A CRIMINAL OFFENDER MUST BE DEPOSITED IN A STATE SPECIAL REVENUE ACCOUNT FOR CRIME VICTIMS COMPENSATION; AMENDING SECTIONS 17-7-502, 46-18-236, 46-18-241, 46-18-250, 46-18-251, 53-1-107, 53-9-104, 53-9-132, 53-9-133, AND 53-30-132, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.	2435
375	<i>(House Bill No. 110; Sesso)</i> REVISING LAWS RELATING TO THE PROCUREMENT OF STATE OFFICE SPACE; SETTING SIZE AND TERM LIMITS; REQUIRING LEGISLATIVE APPROVAL FOR CERTAIN BUILDING LEASES ENTERED INTO BY THE STATE; REQUIRING THE CONSOLIDATION OF THE HELENA OFFICES OF STATE AGENCIES UNDER CERTAIN CIRCUMSTANCES; PROVIDING FOR REPORTS ON SPACE ALLOCATION; AND AMENDING SECTION 2-17-101, MCA	2444
376	<i>(House Bill No. 128; Sesso)</i> REVISING AND CLARIFYING THE APPROPRIATION OF BOND PROCEEDS FOR AEROSPACE TRANSPORTATION AND TECHNOLOGY PROJECTS;	

	APPROPRIATING BOND PROCEEDS; AMENDING SECTION 17-5-820, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	2446
377	<i>(House Bill No. 152; Hamilton)</i> CREATING THE QUALITY SCHOOLS FACILITY GRANT PROGRAM; PROVIDING FOR FUNDING OF THE PROGRAM THROUGH THE SCHOOL FACILITY AND TECHNOLOGY ACCOUNT; PROVIDING FOR ADMINISTRATION OF THE PROGRAM THROUGH THE DEPARTMENT OF COMMERCE; ESTABLISHING CRITERIA AND PRIORITIES FOR THE AWARD OF GRANTS; DEPOSITING CERTAIN TIMBER HARVEST REVENUE, CERTAIN MINERAL ROYALTIES, AND POWER SITE RENTAL PAYMENTS IN THE SCHOOL FACILITY AND TECHNOLOGY ACCOUNT; STATUTORILY APPROPRIATING \$1 MILLION A YEAR FOR GRANTS FOR SCHOOL TECHNOLOGY PURPOSES; APPROPRIATING \$12 MILLION TO THE DEPARTMENT OF COMMERCE TO AWARD SCHOOL FACILITY PROJECT GRANTS, MATCHING PLANNING GRANTS, AND EMERGENCY GRANTS TO PUBLIC SCHOOL DISTRICTS FOR SCHOOL FACILITIES DURING THE 2011 BIENNIUM; AMENDING SECTIONS 17-6-340, 20-9-342, 20-9-343, 20-9-516, 20-9-534, 20-9-620, 20-9-622, AND 77-4-208, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE	2448
378	<i>(House Bill No. 171; Augare)</i> RETAINING THE REGULATION OF PROFESSIONAL BOXING AND ELIMINATING ALL OTHER LAWS REGULATING PROFESSIONAL AND SEMIPROFESSIONAL COMBATIVE EVENTS; AMENDING SECTIONS 23-3-301, 23-3-402, 23-3-404, 23-3-405, 23-3-501, 23-3-502, 23-3-601, 23-3-602, AND 23-3-603, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	2456
379	<i>(House Bill No. 224; Hiner)</i> ESTABLISHING A LOAN REIMBURSEMENT PROGRAM FOR REGISTERED PROFESSIONAL NURSES WORKING AT THE MONTANA STATE PRISON AND MONTANA STATE HOSPITAL; PROVIDING AN APPROPRIATION; AND PROVIDING AN EFFECTIVE DATE	2459
380	<i>(House Bill No. 258; McChesney)</i> APPROPRIATING MONEY TO THE STATE AUDITOR FOR TAX CREDITS, PREMIUM ASSISTANCE PAYMENTS, AND PREMIUM INCENTIVE PAYMENTS FROM THE SMALL BUSINESS HEALTH INSURANCE POOL; AND PROVIDING AN EFFECTIVE DATE	2460
381	<i>(House Bill No. 312; Beck)</i> REVISING THE QUALIFICATIONS FOR RESORT AREAS AND RESORT COMMUNITIES; REVISING THE POPULATION CAP BASED ON THE MOST RECENT FEDERAL CENSUS FOR AN AREA OR A COMMUNITY TO QUALIFY AS A RESORT AREA OR RESORT COMMUNITY; AND AMENDING SECTION 7-6-1501, MCA	2460
382	<i>(House Bill No. 315; Blewett)</i> INCREASING THE MAXIMUM PENSION AND ANNUITY INCOME EXCLUSION BY PROVIDING FOR INFLATION ADJUSTMENTS TO THE EXCLUSION AMOUNT AND THE INCOME CAP; AMENDING SECTIONS 15-30-111, 19-2-1004, 19-17-407, 19-18-612, 19-19-504, 19-20-706, AND 19-21-212, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.	2461
383	<i>(House Bill No. 333; Noonan)</i> ALLOWING THE BUREAU OF MINES AND GEOLOGY TO CONDUCT GEOTHERMAL RESEARCH; GRANTING UTILITIES NEAR GEOTHERMAL SITES THE ABILITY TO PARTICIPATE IN RESEARCH AND DEVELOPMENT OF THE SITE; AND PROVIDING AN EFFECTIVE DATE.	2467

- 384 *(House Bill No. 478; Grinde)* DEFINING “SMALL PLANT VENDOR”; EXEMPTING SMALL PLANT VENDORS FROM LICENSURE FEES; REVISING INSPECTION AND INFESTATION PROCEDURES TO INCLUDE SMALL PLANT VENDORS; REVISING UNLAWFUL ACTS AND PENALTIES; AMENDING SECTIONS 80-7-105, 80-7-106, 80-7-108, 80-7-109, 80-7-110, 80-7-122, 80-7-133, AND 80-7-135, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE

2468
- 385 *(House Bill No. 578; Caferro)* CREATING THE MONTANA HEALTH CORPS ACT; PROVIDING FOR ENROLLMENT OF RETIRED PHYSICIANS IN THE HEALTH CORPS; PROVIDING FOR HOME HEALTH CARE VISITS TO PATIENTS ELIGIBLE FOR MEDICARE OR MEDICAID; LIMITING CHARGES MADE BY HEALTH CORPS MEMBERS; LIMITING THE LIABILITY OF HEALTH CORPS MEMBERS; GRANTING RULEMAKING AUTHORITY; AND PROVIDING AN EFFECTIVE DATE.

2472
- 386 *(House Bill No. 583; Fleming)* SUPPORTING A NETWORK OF FOUR ESTABLISHED MONTANA FOOD AND AGRICULTURAL DEVELOPMENT CENTERS ADMINISTERED BY THE DEPARTMENT OF AGRICULTURE; PROVIDING A FUND TRANSFER; PROVIDING AN APPROPRIATION; AND PROVIDING AN EFFECTIVE DATE

2473
- 387 *(House Bill No. 615; MacLaren)* CREATING AN ONLINE MOTOR VEHICLE LIABILITY INSURANCE VERIFICATION SYSTEM; PROVIDING FOR LAW ENFORCEMENT USE OF THE SYSTEM; PROVIDING FOR A FUNDING MECHANISM AND OPERATING ACCOUNT FOR THE VERIFICATION SYSTEM; RAISING CERTAIN VEHICLE REGISTRATION FEES; ALLOWING THE DEPARTMENT OF JUSTICE TO SET REINSTATEMENT AND AUTHORIZED USER FEES; ALLOWING INSURERS TO DISCLOSE CERTAIN INFORMATION TO BE USED IN THE SYSTEM; GRANTING THE DEPARTMENT RULEMAKING AUTHORITY TO ADMINISTER THE SYSTEM; AMENDING SECTIONS 33-19-306, 61-3-321, 61-6-101, 61-6-102, 61-6-103, 61-6-105, AND 61-6-302, MCA; REPEALING SECTION 61-6-106, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE

2475
- 388 *(House Bill No. 634; McAlpin)* PROVIDING FOR THE TRANSPORTATION OF INDIVIDUALS WHO MAY BE SUFFERING FROM MENTAL ILLNESS TO THE STATE HOSPITAL FOR INVOLUNTARY COMMITMENT OR TREATMENT; ALLOCATING COSTS; REQUIRING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO ADOPT RULES AND PROVIDE A REPORT; CREATING A STATE SPECIAL REVENUE ACCOUNT; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 7-32-2144 AND 53-21-132, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE

2487
- 389 *(House Bill No. 636; Dickenson)* EXCLUDING FROM CORPORATE GROSS INCOME AND FROM INDIVIDUAL ADJUSTED GROSS INCOME THE AMOUNT OF THE GAIN RECOGNIZED FROM THE SALE OR EXCHANGE OF A MOBILE HOME PARK TO CERTAIN ENTITIES; AMENDING SECTION 15-30-111, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE

2490
- 390 *(House Bill No. 655; Belcourt)* CREATING THE HORSE OWNER AMNESTY ACT; ALLOWING CERTAIN HORSE OWNERS TO SURRENDER A HORSE TO THE DEPARTMENT OF LIVESTOCK AT A LICENSED LIVESTOCK MARKET UPON PAYMENT OF A FEE; PROVIDING FOR THE DISPOSAL OF THE HORSE BY PUBLIC AUCTION OR ADOPTION; PROHIBITING THE HORSE OWNER FROM

	BEING CHARGED WITH ANIMAL CRUELTY; CREATING A HORSE OWNER AMNESTY SPECIAL REVENUE ACCOUNT; PROVIDING A STATUTORY APPROPRIATION TO THE DEPARTMENT; GRANTING THE DEPARTMENT RULEMAKING AUTHORITY AND AUTHORITY TO SET CERTAIN FEES; AND AMENDING SECTION 17-7-502, MCA.	2495
391	(<i>House Bill No. 656; Stahl</i>) REVISING THE ADMINISTRATION OF AGENCY LIQUOR STORES; INCREASING THE VOLUME SALES AMOUNT FOR DETERMINING AGENCY LIQUOR SALES COMMISSIONS TO ACCOUNT FOR INFLATION; PROVIDING FOR FUTURE INCREASES IN THE COMMISSION AMOUNT TO BE DETERMINED BY A LIQUOR-SPECIFIC INFLATIONARY ADJUSTMENT TO BE DETERMINED BY THE DEPARTMENT OF REVENUE; AND AMENDING SECTION 16-2-101, MCA.	2498
392	(<i>Senate Bill No. 18; Wanzenried</i>) REVISING THE LAWS GOVERNING FISCAL NOTES; SUBSTITUTING A SPONSOR'S FISCAL NOTE REBUTTAL FOR A SPONSOR'S FISCAL NOTE; PROVIDING FOR THE CONTENT OF A SPONSOR'S FISCAL NOTE REBUTTAL; CLARIFYING THE CONTENT OF FISCAL NOTES; AMENDING SECTIONS 5-4-204 AND 5-4-205, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	2501
393	(<i>Senate Bill No. 38; Curtiss</i>) GENERALLY REVISING LAWS GOVERNING NURSERIES AND PLANT DEALERS; REVISING LICENSING PROVISIONS AND FEES APPLIED TO SELLERS OF NURSERY STOCK; AMENDING SECTION 80-7-106, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	2503
394	(<i>Senate Bill No. 48; Essmann</i>) STANDARDIZING THE STATUTES RELATED TO TAX INCREMENT FINANCING DISTRICTS BY CORRECTING CERTAIN INTERNAL REFERENCES AND TERMINOLOGY AND BY ENSURING CONSISTENT APPLICATION OF CERTAIN STATUTES TO EACH TYPE OF TAX INCREMENT FINANCING DISTRICT; AMENDING SECTIONS 7-15-4282, 7-15-4283, 7-15-4284, 7-15-4286, 7-15-4288, 7-15-4290, 7-15-4292, 7-15-4293, 7-15-4294, 7-15-4295, 7-15-4296, 7-15-4299, 7-15-4301, 7-15-4302, 7-15-4304, 7-15-4324, AND 17-5-820, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	2505
395	(<i>Senate Bill No. 55; Steinbeisser</i>) GENERALLY REVISING MONTANA FERTILIZER LAWS; PROHIBITING POLITICAL SUBDIVISIONS FROM REGULATING COMMERCIAL FERTILIZERS AND SOIL AMENDMENTS; REVISING DEFINITIONS; REVISING INSPECTION, ANALYSIS, APPLICATION, REGISTRATION, LICENSING, LABELING, ASSESSMENT, PENALTY, PUBLICATION, AND ENFORCEMENT PROVISIONS APPLICABLE TO FERTILIZERS; AND AMENDING SECTIONS 7-1-111, 75-10-701, 80-10-101, 80-10-102, 80-10-103, 80-10-201, 80-10-202, 80-10-204, 80-10-205, 80-10-206, 80-10-207, 80-10-208, 80-10-209, 80-10-303, AND 80-15-302, MCA; AND PROVIDING AN EFFECTIVE DATE	2516
396	(<i>Senate Bill No. 97; Wanzenried</i>) REVISING LAWS GOVERNING THE PETROLEUM TANK RELEASE CLEANUP FUND; REVISING REIMBURSEMENT AND ELIGIBILITY PROVISIONS; REVISING THE CONDITIONS FOR IMPOSING A CLEANUP FEE ON GASOLINE, FUEL, AND HEATING OIL DISTRIBUTED IN MONTANA; GRANTING RULEMAKING AUTHORITY; AMENDING SECTIONS 75-11-302, 75-11-307, 75-11-309, AND 75-11-314, MCA; AND PROVIDING AN APPLICABILITY DATE	2532

397	<i>(Senate Bill No. 131; Williams)</i>	REQUIRING THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION TO DESIGNATE THE WILDLAND-URBAN INTERFACE PARCELS IN EACH COUNTY USING CERTAIN CRITERIA; REQUIRING THE DEPARTMENT TO CREATE AND MAINTAIN MAPS OF THE WILDLAND-URBAN INTERFACE PARCELS; REQUIRING THE USE OF A COMMUNITY WILDFIRE PROTECTION PLAN IF ONE HAS BEEN ADOPTED; PROHIBITING ADDITIONAL OR INCREASED FEES IF LOCATION IN A WILDLAND-URBAN INTERFACE IS THE ONLY CRITERIA; PROVIDING AN APPROPRIATION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	2540
398	<i>(Senate Bill No. 176; Perry)</i>	PROVIDING A LIMITED EXEMPTION FROM CONTINUING EDUCATION REQUIREMENTS FOR INDIVIDUALS WHO EXECUTE ONLY SURETY BONDS; AMENDING SECTION 33-17-1203, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	2541
399	<i>(Senate Bill No. 204; Moss)</i>	CREATING A MONTANA CENTENNIAL FARM AND RANCH PROGRAM; PROVIDING FOR THE ADMINISTRATION OF THE PROGRAM; AND GRANTING RULEMAKING AUTHORITY FOR THE PROGRAM TO THE MONTANA HISTORICAL SOCIETY.	2542
400	<i>(Senate Bill No. 214; Steinbeisser)</i>	INCREASING PENALTIES FOR THEFT OF A COMMONLY DOMESTICATED HOOFED ANIMAL AND FOR ILLEGAL BRANDING OR ALTERING OR OBSCURING A BRAND; REQUIRING MANDATORY COMMUNITY SERVICE IF A PRISON SENTENCE IS DEFERRED; PROVIDING FOR FORFEITURE OF PROPERTY FOR THE THEFT OF A COMMONLY DOMESTICATED HOOFED ANIMAL AND FOR ILLEGAL BRANDING OR ALTERING OR OBSCURING A BRAND; AMENDING SECTIONS 45-2-311, 45-6-301, AND 45-6-327, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE	2543
401	<i>(Senate Bill No. 260; Gillan)</i>	CLARIFYING THE TAX AND REPORTING REQUIREMENTS OF PUBLICLY TRADED PARTNERSHIPS; DEFINING THE RECAPTURE OF MONTANA SOURCE DEPRECIATION AND DEPLETION IN REGARD TO THE SALE BY A NONRESIDENT OF AN INTEREST IN A PUBLICLY TRADED PARTNERSHIP DOING BUSINESS IN MONTANA; CLARIFYING THAT THE BENEFICIAL OWNERS OF TRADED OWNERSHIP INTERESTS OF THE PARTNERSHIPS ARE TAXED; PROVIDING THAT A PUBLICLY TRADED PARTNERSHIP IS EXEMPT FROM COMPOSITE RETURN AND WITHHOLDING REQUIREMENTS IF IT FILES AN ANNUAL INFORMATION RETURN IDENTIFYING CERTAIN BENEFICIAL OWNERS OF TRADED OWNERSHIP INTERESTS OF THE PARTNERSHIP; AMENDING SECTIONS 15-30-101, 15-30-1102, AND 15-30-1113, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE	2548
402	<i>(Senate Bill No. 264; Brueggeman)</i>	AUTHORIZING THE MONTANA FACILITY FINANCE AUTHORITY TO FINANCE CERTAIN PROJECTS FOR FOR-PROFIT OR NONPROFIT CORPORATIONS AND ORGANIZATIONS; PROVIDING FOR TAXATION OF THOSE PROJECTS; AMENDING SECTIONS 90-7-102 AND 90-7-104, MCA; AND PROVIDING AN EFFECTIVE DATE.	2557
403	<i>(Senate Bill No. 271; Squires)</i>	PROVIDING FOR REGULATION AND LICENSURE OF MARRIAGE AND FAMILY THERAPISTS; PROVIDING DEFINITIONS; PROVIDING LICENSURE REQUIREMENTS AND PRIVILEGES FOR MARRIAGE AND FAMILY THERAPISTS;	

TITLE CONTENTS

PROVIDING CERTAIN EXEMPTIONS FROM LICENSURE AS MARRIAGE AND FAMILY THERAPISTS; PROVIDING PENALTIES; AMENDING SECTION 37-22-201, MCA; AND PROVIDING AN EFFECTIVE DATE 2559

404 *(Senate Bill No. 303; Wanzenried)* REQUIRING THAT SECTIONS OF THE STATE WATER PLAN ADDRESS VARIOUS WATER ISSUES WITHIN THE CLARK FORK, MISSOURI, AND YELLOWSTONE RIVER BASINS; CREATING WATER USER COUNCILS; AND AMENDING SECTION 85-1-203, MCA 2562

405 *(Senate Bill No. 305; Tutvedt)* AMENDING AND CLARIFYING ASPECTS OF THE MONTANA SUBDIVISION AND PLATTING ACT; PROVIDING CONSEQUENCES FOR FAILURE TO COMPLY WITH ESTABLISHED SUBDIVISION REVIEW TIMELINES; GENERALLY INCREASING THE PREDICTABILITY OF THE SUBDIVISION REVIEW PROCESS; AMENDING SECTIONS 76-3-510, 76-3-604, AND 76-4-125, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 2564

406 *(Senate Bill No. 310; Shockley)* PROHIBITING A WAIVER OF RIGHT TO PROTEST AS A CONDITION OF SUBDIVISION APPROVAL; AND AMENDING SECTION 76-3-608, MCA. 2568

407 *(Senate Bill No. 369; Esp)* REVISING LOCAL GOVERNMENT NOXIOUS WEED LAWS; REVISING THE PROCEDURES FOR NOTIFICATION AND COMPLIANCE WITH REGARD TO NOXIOUS WEED CONTROL MEASURES; ELIMINATING THE PROVISION FOR AN ADMINISTRATIVE HEARING FOR A PERSON WHO IS ADVERSELY AFFECTED BY A WEED DISTRICT BOARD DECISION; AMENDING SECTIONS 7-22-2123 AND 7-22-2124, MCA; REPEALING SECTION 7-22-2110, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 2569

408 *(Senate Bill No. 404; Brueggeman)* REVISING LAWS RELATING TO THE LOCATION OF SHOOTING PRESERVES; AMENDING SECTION 87-4-502, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 2571

409 *(Senate Bill No. 427; Laslovich)* ESTABLISHING THE MONTANA CONTAMINATED PROPERTY COMPENSATION AND RESTORATION ACT; REVISING DAMAGES AWARDED FOR CONTAMINATION OF REAL PROPERTY; DEFINING “RESTORATION DAMAGES” AND “SPECIAL USE PROPERTY”; ESTABLISHING A PROVISION FOR BURDEN OF PROOF FOR A COMMON LAW CLAIM FOR CONTAMINATION OF SPECIAL USE PROPERTY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE 2571

410 *(Senate Bill No. 457; Branae)* CREATING A SCENIC-HISTORIC BYWAYS PILOT PROJECT; DESIGNATING CERTAIN HIGHWAYS THAT MAY BE INCLUDED IN THE PROJECT; AMENDING THE DEPARTMENT OF TRANSPORTATION’S RULEMAKING AUTHORITY FOR ADMINISTERING THE PROJECT; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE 2573

411 *(Senate Bill No. 467; Balyeat)* REQUIRING THAT BEFORE A TAX DEED SALE MAY BE HELD A TITLE GUARANTEE MUST BE OBTAINED ON THE PROPERTY AND NOTICE MUST BE GIVEN TO ALL PARTIES, OTHER THAN UTILITIES, LISTED ON THE TITLE GUARANTEE; AND AMENDING SECTIONS 15-18-212, 15-18-213, AND 15-18-216, MCA 2574

412 *(Senate Bill No. 491; Lewis)* REVISING THE METHOD FOR DETERMINING THE PORTION OF THE PROPERTY TAX LEVY BY POLITICAL SUBDIVISIONS FOR GROUP BENEFIT INSURANCE CONTRIBUTIONS THAT ARE NOT SUBJECT TO THE PROPERTY TAX LIMITATION LAW; PROVIDING A TRANSITION PROVISION;

AMENDING SECTIONS 2-9-212, 2-18-703, AND 15-10-420, MCA; AND PROVIDING AN EFFECTIVE DATE. 2578

413 (Senate Bill No. 508; Brueggeman) REVISING MOTOR VEHICLE LAWS; CREATING AN ONLINE MOTOR VEHICLE LIABILITY INSURANCE VERIFICATION SYSTEM; PROVIDING FOR LAW ENFORCEMENT USE OF THE SYSTEM; PROVIDING FOR A CONTRACT BETWEEN THE DEPARTMENT OF JUSTICE AND MONTANA CORRECTIONAL ENTERPRISES TO MANUFACTURE AND DISTRIBUTE LICENSE PLATES; CREATING A VEHICLE INSURANCE VERIFICATION AND LICENSE PLATE OPERATING ACCOUNT; CREATING A LICENSE PLATE PRODUCTION OPERATING ACCOUNT; ALLOWING INSURERS TO PROVIDE CERTAIN INFORMATION TO BE USED IN THE SYSTEM; REQUIRING THAT A VEHICLE OWNER COMPLY WITH MANDATORY MOTOR VEHICLE LIABILITY INSURANCE REQUIREMENTS BEFORE REGISTERING OR RENEWING REGISTRATION FOR A VEHICLE; PROVIDING FOR THE DEPOSIT OF CERTAIN FEES IN THE OPERATING ACCOUNTS; REVISING CERTAIN LICENSE PLATE FEES; REQUIRING REPLACEMENT OF LICENSE PLATES THAT ARE A CERTAIN AGE OR OLDER; ALLOWING PERSONALIZED LICENSE PLATES TO BE ISSUED FOR SPECIAL MILITARY PLATES; REVISING PROVISIONS FOR THE GENERIC SPECIALTY LICENSE PLATE SPONSOR FEE; GRANTING THE DEPARTMENT OF JUSTICE RULEMAKING AUTHORITY TO ADMINISTER THE ONLINE MOTOR VEHICLE LIABILITY INSURANCE VERIFICATION SYSTEM, THE REISSUANCE OF LICENSE PLATES, AND THE CONTRACT WITH MONTANA CORRECTIONAL ENTERPRISES; ALLOWING THE DEPARTMENT OF JUSTICE TO SET CERTAIN REINSTATEMENT FEES; REVISING LAWS GOVERNING PLACEMENT OF TAIL LAMPS; AMENDING SECTIONS 33-19-306, 61-3-301, 61-3-303, 61-3-312, 61-3-315, 61-3-321, 61-3-332, 61-3-333, 61-3-407, 61-3-465, 61-3-478, 61-3-480, 61-3-535, 61-3-562, 61-6-101, 61-6-102, 61-6-103, 61-6-105, 61-6-302, AND 61-9-204, MCA; REPEALING SECTION 61-6-106, MCA; AND PROVIDING EFFECTIVE DATES. 2583

414 (Senate Bill No. 511; Tropila) ESTABLISHING A SACRAMENTAL WINE LICENSE FOR THE RETAIL SALE OF SACRAMENTAL WINE TO A CHURCH OR OTHER ESTABLISHED RELIGIOUS ORGANIZATION EXCLUSIVELY FOR OFF-PREMISES USE; AMENDING SECTION 16-1-106, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 2607

415 (House Bill No. 173; Hendrick) CREATING A PILOT PROJECT TO HELP LOCAL PUBLIC HEALTH AGENCIES UNDERTAKE ACTIVITIES RELATED TO MEETING NATIONAL GUIDELINES; PROVIDING FOR AN ALLOCATION OF FUNDS; AND PROVIDING AN EFFECTIVE DATE 2610

416 (House Bill No. 418; Butcher) AUTHORIZING INVESTOR-OWNED EQUINE SLAUGHTER OR PROCESSING FACILITIES; PROHIBITING A COURT FROM GRANTING AN INJUNCTION TO STOP OR DELAY THE CONSTRUCTION OF AN EQUINE SLAUGHTER OR PROCESSING FACILITY BASED ON LEGAL CHALLENGES OR APPEALS OF A PERMIT, LICENSE, CERTIFICATE, OR OTHER APPROVAL ISSUED IN CONJUNCTION WITH ENVIRONMENTAL LAWS; SETTING BONDING REQUIREMENTS; AND AMENDING SECTIONS 75-1-201, 75-2-104, 75-5-614, 75-5-621, 75-5-641, 81-9-111, 81-9-112, 81-9-115, 81-9-116, 81-9-201, 81-9-229, AND 81-9-230, MCA 2613

417 (House Bill No. 459; Grinde) CREATING THE MONTANA VIRTUAL ACADEMY; PROVIDING FOR THE ACADEMY'S PURPOSES AND

	GOVERNANCE; REQUIRING A REPORT TO THE LEGISLATURE; AND PROVIDING AN EFFECTIVE DATE.	2622
418	<i>(House Bill No. 464; O'Hara)</i> CREATING THE ADVANCING AGRICULTURAL EDUCATION IN MONTANA PROGRAM ACCOUNT; AND PROVIDING FOR THE USE OF THE ACCOUNT.	2623
419	<i>(House Bill No. 657; Stahl)</i> REQUIRING THE REVENUE AND TRANSPORTATION INTERIM COMMITTEE TO APPOINT A SUBCOMMITTEE TO CONDUCT A STUDY OF THE CLASSIFICATION, VALUATION, AND TAXATION OF OIL AND NATURAL GAS PROPERTY; PROVIDING AN APPROPRIATION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	2624
420	<i>(House Bill No. 659; Roberts)</i> DIRECTING THE STATE ADMINISTRATION AND VETERANS' AFFAIRS INTERIM COMMITTEE TO EXAMINE AND RECOMMEND TO THE 62ND LEGISLATURE FUNDING AND BENEFIT CHANGES IN THE STATEWIDE PUBLIC EMPLOYEES' AND TEACHERS' RETIREMENT SYSTEMS; PROVIDING AN APPROPRIATION; AND PROVIDING AN EFFECTIVE DATE	2626
421	<i>(House Bill No. 670; Vincent)</i> PROVIDING FOR LOCAL GOVERNMENT AND SCHOOL DISTRICT DISCRETION TO ABATE PROPERTY TAXES ON CERTAIN COMMERCIAL OR INDUSTRIAL REAL PROPERTY AND PERSONAL PROPERTY TO FACILITATE THE CONTINUED OPERATION OF THE BUSINESS USING THE PROPERTY; REQUIRING JOINT APPROVAL OF THE ABATEMENT BY AFFECTED GOVERNING BODIES; PROVIDING FOR THE RECAPTURE OF THE TAX BENEFIT; AMENDING SECTIONS 15-6-134 AND 15-6-138, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.	2628
422	<i>(Senate Bill No. 158; Barkus)</i> INCREASING THE NUMBER OF DISTRICT COURT JUDGES; PROVIDING FOR ADDITIONAL JUDGES IN THE 1ST, 11TH, AND 13TH JUDICIAL DISTRICTS TO BE ELECTED AT THE NOVEMBER 2010 GENERAL ELECTION; AMENDING SECTION 3-5-102, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE	2633
423	<i>(Senate Bill No. 300; Steinbeisser)</i> INCREASING THE ASSESSMENT ON FERTILIZER SOLD IN MONTANA AND ADJUSTING THE PERCENTAGES OF THE ASSESSMENT TO BE USED BY THE COOPERATIVE EXTENSION SERVICE AND THE AGRICULTURAL EXPERIMENT STATION; AMENDING SECTIONS 80-10-103 AND 80-10-104, MCA; AND PROVIDING AN EFFECTIVE DATE	2633
424	<i>(Senate Bill No. 396; Story)</i> PROVIDING AN EXEMPTION FOR A REPLACEMENT APPROPRIATION FOR A WATER RIGHT FOR CERTAIN CHANGES IN POINTS OF DIVERSION; AND AMENDING SECTION 85-2-402, MCA	2634
425	<i>(Senate Bill No. 100; Black)</i> INCREASING THE COAL SEVERANCE TAX ALLOCATION TO THE OIL, GAS, AND COAL NATURAL RESOURCE ACCOUNT; AMENDING SECTION 15-35-108, MCA; AND PROVIDING EFFECTIVE DATES, APPLICABILITY DATES, AND TERMINATION DATES	2640
426	<i>(Senate Bill No. 117; Wanzenried)</i> REVISING STATUTORY APPROPRIATIONS; ELIMINATING CERTAIN STATUTORY APPROPRIATIONS CONCERNING VARIOUS MISCELLANEOUS PROVISIONS; TRANSFERRING THE AUTHORIZED USE OF THE STATUTORY APPROPRIATION FOR THE OPTIONAL RETIREMENT PROGRAM FOR THE ADMINISTRATIVE OFFICERS AND MEMBERS	

OF THE INSTRUCTIONAL AND SCIENTIFIC STAFF OF THE MONTANA UNIVERSITY SYSTEM FROM THE STATE TREASURER TO THE BOARD OF REGENTS; CONSOLIDATING CERTAIN HORSERACING STATUTORY APPROPRIATIONS INTO ONE STATUTORY APPROPRIATION; ELIMINATING AN INVALID STATUTORY APPROPRIATION RELATIVE TO THE CERCLA MATCH DEBT SERVICE FUND; AMENDING SECTIONS 17-7-304, 17-7-502, 19-21-203, 23-4-105, 23-4-202, 23-4-204, 23-4-302, 23-4-304, 44-1-504, 53-6-703, 75-10-622, 80-5-510, AND 87-1-513, MCA; AND PROVIDING AN EFFECTIVE DATE 2643

427 (*Senate Bill No. 164; Barrett*) EXPANDING THE GOOD NEIGHBOR POLICY TO INCLUDE RECREATIONAL LAND AND WATER ACQUIRED BY THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS FOR PUBLIC HUNTING, FISHING, TRAPPING, AND OUTDOOR RECREATION AND ESTABLISHING MAINTENANCE PRIORITIES FOR THAT LAND; DEFINING "MAINTENANCE" AS APPLIED TO PUBLIC RECREATIONAL LAND AND WATER; REQUIRING THAT A PERCENTAGE ABOVE THE PURCHASE PRICE OF THE DEPARTMENT'S ACQUIRED LAND OR WATER RIGHTS BE BUDGETED FOR MAINTENANCE; ESTABLISHING A MAINTENANCE ACCOUNT; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTIONS 17-7-502, 23-1-126, 23-1-127, AND 87-1-209, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE. 2652

428 (*Senate Bill No. 268; Brown*) REVISING THE LAW REQUIRING CERTAIN VEHICLES TO SECURE CERTAIN LOADS WHEN TRAVELING ON A PUBLIC HIGHWAY; AND AMENDING SECTION 61-8-370, MCA 2657

429 (*Senate Bill No. 343; Jackson*) CREATING THE MONTANA AQUATIC INVASIVE SPECIES ACT; ESTABLISHING THE INVASIVE SPECIES ACCOUNT; DEFINING DEPARTMENTAL RESPONSIBILITIES; ENCOURAGING COOPERATION AMONG PUBLIC AND PRIVATE ENTITIES; GRANTING RULEMAKING AUTHORITY; AUTHORIZING THE USE OF MANAGEMENT AREAS TO PREVENT THE SPREAD OF AQUATIC INVASIVE SPECIES; PROVIDING FOR THE PREVENTION AND CONTROL OF INFESTATIONS; AUTHORIZING INSPECTION OF THE EXTERIOR OF VESSELS FOR AQUATIC INVASIVE SPECIES; PROHIBITING THE TRANSFER OR TRANSPORT OF AQUATIC INVASIVE SPECIES; PROVIDING EXCEPTIONS; AUTHORIZING EMERGENCY DECLARATIONS; PROVIDING CIVIL AND CRIMINAL PENALTIES; AMENDING SECTIONS 10-3-312, 87-1-506, AND 87-5-721, MCA; AND PROVIDING AN EFFECTIVE DATE 2658

430 (*Senate Bill No. 399; Laslovich*) PROVIDING CHILDREN WITH MENTAL HEALTH NEEDS WITH IN-STATE SERVICE ALTERNATIVES TO OUT-OF-STATE PLACEMENT; ESTABLISHING DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES INFORMATION COLLECTION AND REPORTING REQUIREMENTS REGARDING HIGH-RISK CHILDREN WITH MULTIAGENCY SERVICE NEEDS; AND AMENDING SECTION 52-2-302, MCA. 2666

431 (*Senate Bill No. 425; Bales*) REVISING LAWS RELATED TO THE FUNDING AND OPERATION OF THE FORT PECK MULTISPECIES FISH HATCHERY; AMENDING SECTION 87-3-235, MCA; REPEALING SECTION 87-3-236, MCA; AND PROVIDING EFFECTIVE DATES . . . 2668

432 (*Senate Bill No. 475; Esp*) REQUIRING NOTICE OF OIL AND GAS LEASE SALES; AND SETTING A NOMINATION DEADLINE 2670

433	<i>(Senate Bill No. 509; Gebhardt)</i> PROVIDING THAT COSTS OF WASHING AND CLEANING OF COAL MINED FROM AN UNDERGROUND MINE ARE NOT INCLUDED IN THE CONTRACT SALES PRICE OF COAL; REVISING WHEN THE DEPARTMENT MAY IMPUTE THE VALUE OF COAL; AMENDING SECTIONS 15-23-701, 15-23-703, 15-35-102, AND 15-35-107, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE, AN APPLICABILITY DATE, AND A TERMINATION DATE	2671
434	<i>(House Bill No. 3; Ankney)</i> APPROPRIATING MONEY TO VARIOUS STATE AGENCIES FOR THE FISCAL YEAR ENDING JUNE 30, 2009; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	2675
435	<i>(House Bill No. 10; Wiseman)</i> APPROPRIATING MONEY FOR INFORMATION TECHNOLOGY CAPITAL PROJECTS FOR THE BIENNIUM ENDING JUNE 30, 2011; PROVIDING FOR MATTERS RELATING TO THE APPROPRIATIONS; PROVIDING FOR A TRANSFER OF FUNDS FROM THE GENERAL FUND TO THE LONG-RANGE INFORMATION TECHNOLOGY PROGRAM ACCOUNT; PROVIDING FOR THE DEVELOPMENT AND ACQUISITION OF NEW INFORMATION TECHNOLOGY SYSTEMS FOR THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES, THE DEPARTMENT OF ADMINISTRATION, THE DEPARTMENT OF REVENUE, AND THE DEPARTMENT OF LABOR AND INDUSTRY; AUTHORIZING THE ISSUANCE OF EMPLOYMENT SECURITY REVENUE BONDS; PLEDGING FUNDS IN THE EMPLOYMENT SECURITY ACCOUNT FOR THE REPAYMENT OF THE BONDS; PROVIDING TERMS AND CONDITIONS FOR THE BONDS; AUTHORIZING THE CREATION OF STATE DEBT; AMENDING SECTION 39-51-409, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	2676
436	<i>(House Bill No. 52; McNutt)</i> ESTABLISHING A GROUND WATER INVESTIGATION PROGRAM; PROVIDING FOR PRIORITIZATION OF SUBBASINS BY THE GROUND WATER ASSESSMENT STEERING COMMITTEE; ADDING A MEMBER OF THE DEVELOPMENT COMMUNITY TO THE GROUND WATER ASSESSMENT STEERING COMMITTEE; PROVIDING A CONTINGENT APPROPRIATION FOR THE PROGRAM; AMENDING SECTION 2-15-1523, MCA; AND PROVIDING AN EFFECTIVE DATE.	2681
437	<i>(House Bill No. 85; Sands)</i> CREATING A GRANT PROGRAM FOR EMERGENCY MEDICAL SERVICE PROVIDERS; ESTABLISHING ELIGIBILITY REQUIREMENTS AND REVIEW CRITERIA; AUTHORIZING THE DEPARTMENT OF TRANSPORTATION TO ADOPT RULES; PROVIDING A CONTINGENT APPROPRIATION; PROVIDING DEFINITIONS; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE	2683
438	<i>(House Bill No. 97; Boland)</i> EXTENDING THE APPLICATION OF THE BOND VALIDATING ACT; AMENDING SECTION 17-5-205, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	2686
439	<i>(House Bill No. 98; Barrett)</i> AUTHORIZING STATE AGENCIES TO ENTER INTO ENERGY PERFORMANCE CONTRACTS; AMENDING SECTIONS 18-2-101, 18-4-132, 90-4-1101, 90-4-1102, 90-4-1103, 90-4-1104, 90-4-1105, 90-4-1106, 90-4-1107, 90-4-1108, AND 90-4-1109, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	2687
440	<i>(House Bill No. 135; Belcourt)</i> DIRECTING THAT STATE FUNDS FOR MITIGATION MEASURES REQUIRED BY THE FORT BELKNAP-MONTANA WATER RIGHTS COMPACT BE MADE AVAILABLE TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION; APPROPRIATING \$1 MILLION TO THE	

	DEPARTMENT FOR THE PURPOSES OF SATISFYING THE STATE'S COST-SHARE OBLIGATIONS UNDER THE FORT BELKNAP-MONTANA COMPACT; AMENDING SECTION 85-20-1004, MCA; AND PROVIDING AN EFFECTIVE DATE	2692
441	<i>(House Bill No. 154; Bergren)</i> REVISING LAWS RELATING TO THE FIRE SUPPRESSION ACCOUNT; REVISING THE PURPOSE OF THE ACCOUNT; REMOVING THE STATUTORY APPROPRIATION OF THE ACCOUNT; APPROPRIATING MONEY FOR FIRE PREVENTION AND SUPPRESSION FOR THE 2011 BIENNIUM; AUTHORIZING EXPENDITURES FROM THE ACCOUNT FOR UNPAID FIRE COSTS; AMENDING SECTIONS 17-7-502 AND 76-13-150, MCA; REPEALING SECTION 6, CHAPTER 2, SPECIAL LAWS OF SEPTEMBER 2007; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	2693
442	<i>(House Bill No. 194; Mendenhall)</i> STATUTORILY APPROPRIATING THE COUNTY PAYMENTS FROM THE HARD-ROCK MINING IMPACT TRUST ACCOUNT; AMENDING SECTIONS 17-7-502, 90-6-304, AND 90-6-331, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.	2695
443	<i>(House Bill No. 301; Kottel)</i> INCLUDING REASONABLE PARALEGAL FEES AS A COMPONENT OF ATTORNEY FEES THAT MAY BE AWARDED TO A PREVAILING PARTY IN CERTAIN CASES; DEFINING "PARALEGAL"; AMENDING SECTIONS 25-10-302 AND 37-61-215, MCA; AND PROVIDING AN APPLICABILITY DATE	2697
444	<i>(House Bill No. 332; Getz)</i> REVISING THE LAWS RELATING TO SCHOOLS; REVISING THE LAWS PERTAINING TO THE LOCATION OF AND NOTICE REQUIREMENTS FOR CERTAIN SCHOOL BOARD MEETINGS; EXPANDING THE DISCIPLINARY POWERS OF SCHOOL ADMINISTRATORS; CLARIFYING THE LAWS GOVERNING STUDENT SUSPENSIONS; AND AMENDING SECTIONS 20-3-322, 20-5-201, AND 20-5-202, MCA	2699
445	<i>(House Bill No. 483; Jones)</i> REVISING ENVIRONMENTAL LAWS RELATED TO ENERGY DEVELOPMENT PROJECTS; REVISING BOARD OF ENVIRONMENTAL REVIEW HEARING REQUEST PROCEDURES; REQUIRING A WRITTEN UNDERTAKING TO BE GIVEN BY CERTAIN PARTIES REQUESTING A HEARING OR A STAY BEFORE A COURT OR THE BOARD OF ENVIRONMENTAL REVIEW; MODIFYING THE EXPIRATION DATE REQUIREMENTS FOR A PERMIT OR LICENSE UNDER THE AIR QUALITY LAWS; CLARIFYING THE USE OF BEST AVAILABLE CONTROL TECHNOLOGY REGULATIONS AND GUIDANCE; ESTABLISHING DEADLINES FOR THE BOARD OF ENVIRONMENTAL REVIEW TO ISSUE A FINAL DECISION UNDER THE AIR QUALITY LAWS AND THE MAJOR FACILITY SITING ACT; AMENDING SECTIONS 2-4-623, 2-4-702, 75-2-103, 75-2-211, 75-5-103, AND 75-20-223, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE	2701
446	<i>(House Bill No. 486; MacLaren)</i> GENERALLY REVISING LAND USE LAWS; CLARIFYING SUBDIVISION REVIEW FOR CONDOMINIUMS; INCLUDING SAND AND GRAVEL RESOURCES AMONG THE ITEMS THAT MUST BE MAPPED IN A GROWTH POLICY; CHANGING PETITION AND PROTEST DEFINITIONS FOR PLANNING AND ZONING DISTRICTS; REVISING THE MEMBERSHIP OF PLANNING AND ZONING COMMISSIONS; ALLOWING A COUNTY COMMISSION TO VOID A PLANNING AND ZONING DISTRICT UNDER A CERTAIN CONDITION; REQUIRING A COUNTY TO ATTEMPT TO OBTAIN COMPLIANCE WITH CERTAIN ZONING REGULATIONS BEFORE	

	FILING A COMPLAINT; REVISING PUBLIC NOTICE REQUIREMENTS FOR ZONING AND REQUIRING PUBLIC NOTICE FOR INTERIM ZONING; REQUIRING A TIME LIMIT FOR PROVIDING A WRITTEN DECISION FOR A SUBDIVISION APPLICATION; ALLOWING A GOVERNING BODY TO REQUIRE THAT IMPROVEMENTS TO PROTECT PUBLIC HEALTH AND SAFETY BE COMPLETED BEFORE ALLOWING BONDING OR OTHER REASONABLE SECURITY; ESTABLISHING WHEN A PARK DEDICATION MAY BE REQUIRED FOR A FIRST MINOR SUBDIVISION FROM A TRACT OF RECORD; AMENDING SECTIONS 70-23-301, 76-1-601, 76-2-101, 76-2-102, 76-2-107, 76-2-202, 76-2-203, 76-2-205, 76-2-206, 76-2-210, 76-2-304, 76-3-207, 76-3-504, 76-3-506, 76-3-507, 76-3-510, 76-3-608, 76-3-609, 76-3-610, 76-3-620, 76-3-621, AND 76-3-625, MCA; REPEALING SECTION 76-3-210, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND APPLICABILITY DATES	2717
447	<i>(House Bill No. 531; Nooney)</i> TO PROHIBIT THE USE OF AN AUTOMATED ENFORCEMENT SYSTEM TO ENFORCE A TRAFFIC CONTROL DEVICE; PROVIDING EXCEPTIONS; AMENDING SECTIONS 61-8-203 AND 61-8-206, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	2738
448	<i>(House Bill No. 536; Malek)</i> REVISING IGNITION INTERLOCK DEVICE REQUIREMENTS; AMENDING SECTIONS 61-5-208, 61-8-442, AND 61-8-733, MCA; AND PROVIDING AN APPLICABILITY DATE	2739
449	<i>(House Bill No. 557; Belcourt)</i> DIRECTING THE BOARD OF ENVIRONMENTAL REVIEW TO ADOPT RULES FOR THE APPROVAL OF REGIONAL PUBLIC WATER SUPPLY SYSTEMS; AMENDING SECTION 75-6-103, MCA; AND PROVIDING AN APPLICABILITY DATE	2741
450	<i>(House Bill No. 598; Noonan)</i> EXEMPTING EMPLOYMENT OF A CONTRACT MUSICIAN FROM COVERAGE UNDER THE WORKERS' COMPENSATION ACT; AMENDING SECTION 39-71-401, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	2743
451	<i>(House Bill No. 662; Arntzen)</i> LICENSING AND REGULATING MASSAGE THERAPISTS; ESTABLISHING A BOARD OF MASSAGE THERAPISTS; PROVIDING RULEMAKING AUTHORITY FOR THE BOARD; ESTABLISHING QUALIFICATIONS FOR LICENSURE; PROVIDING PENALTIES; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	2747
452	<i>(Senate Bill No. 119; Esp)</i> REQUIRING A MEDICAID PROGRAM FOR WORKERS WITH DISABILITIES; ESTABLISHING ELIGIBILITY REQUIREMENTS; PROVIDING FOR COST SHARING; AMENDING SECTIONS 53-6-113 AND 53-6-131, MCA; AND PROVIDING AN EFFECTIVE DATE	2751
453	<i>(Senate Bill No. 235; Murphy)</i> EXPANDING THE EXEMPTION FROM LICENSING AS A PSYCHOLOGIST TO INCLUDE PSYCHOLOGICAL TESTING, EVALUATION, AND ASSESSMENT BY QUALIFIED MEMBERS OF OTHER PROFESSIONS; CLARIFYING THAT THE QUALIFIED MEMBERS OF OTHER PROFESSIONS INCLUDE LICENSED PROFESSIONAL COUNSELORS; AND AMENDING SECTIONS 37-17-104 AND 37-23-102, MCA	2755
454	<i>(Senate Bill No. 290; Jackson)</i> REQUIRING THE ENERGY AND TELECOMMUNICATIONS INTERIM COMMITTEE TO REVIEW THE STATE ENERGY POLICY EACH INTERIM AND RECOMMEND CHANGES TO THE LEGISLATURE; AMENDING SECTIONS 90-4-1001 AND 90-4-1003, MCA; REPEALING SECTION 90-4-1002, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	2757

455	(<i>Senate Bill No. 400; Laslovich</i>) LIMITING DISMISSALS IN JUSTICES' COURT; AMENDING SECTION 25-31-409, MCA; AND REPEALING SECTION 25-33-208, MCA	2759
456	(<i>Senate Bill No. 446; Story</i>) REVISING HOSPITAL LAWS TO PROVIDE LICENSING REQUIREMENTS FOR SPECIALTY HOSPITALS; REQUIRING AN IMPACT STUDY BEFORE A SPECIALTY HOSPITAL IS LICENSED; REQUIRING PAYMENT NONDISCRIMINATION AND CHARITY CARE POLICIES FOR HOSPITALS; REQUIRING HOSPITALS TO ENSURE 24-HOUR EMERGENCY CARE; AMENDING SECTIONS 50-5-101 AND 50-5-245, MCA; AND PROVIDING AN EFFECTIVE DATE	2759
457	(<i>House Bill No. 9; Hollenbaugh</i>) ESTABLISHING PRIORITIES FOR CULTURAL AND AESTHETIC PROJECTS GRANT AWARDS; APPROPRIATING MONEY FOR CULTURAL AND AESTHETIC GRANTS; AND PROVIDING AN EFFECTIVE DATE	2768
458	(<i>House Bill No. 11; Sesso</i>) APPROPRIATING MONEY TO THE DEPARTMENT OF COMMERCE FOR FINANCIAL ASSISTANCE TO LOCAL GOVERNMENT INFRASTRUCTURE PROJECTS THROUGH THE TREASURE STATE ENDOWMENT PROGRAM; AUTHORIZING GRANTS FROM THE TREASURE STATE ENDOWMENT STATE SPECIAL REVENUE ACCOUNT; PLACING CONDITIONS UPON GRANTS AND FUNDS; APPROPRIATING MONEY TO THE DEPARTMENT OF COMMERCE FOR EMERGENCY GRANTS; APPROPRIATING MONEY TO THE DEPARTMENT OF COMMERCE FOR PRELIMINARY ENGINEERING GRANTS; APPROPRIATING MONEY FROM THE TREASURE STATE ENDOWMENT REGIONAL WATER SYSTEM STATE SPECIAL REVENUE ACCOUNT TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION FOR FINANCIAL ASSISTANCE TO REGIONAL WATER AUTHORITIES FOR REGIONAL WATER PROJECTS; TERMINATING CERTAIN PRIOR TREASURE STATE ENDOWMENT GRANTS; AMENDING SECTION 90-6-701, MCA, AND SECTION 1, CHAPTER 383, LAWS OF 2007; AND PROVIDING EFFECTIVE DATES	2771
459	(<i>House Bill No. 123; Jones</i>) REDUCING THE STATUTORY APPROPRIATIONS FOR THE GROWTH THROUGH AGRICULTURE PROGRAM AND FOR RESEARCH AND COMMERCIALIZATION PROJECTS; EXTENDING THE TERMINATION DATE FOR CERTAIN ALLOCATIONS AND STATUTORY APPROPRIATIONS OF THE INTEREST INCOME FROM \$140 MILLION OF THE COAL SEVERANCE TAX PERMANENT FUND; AMENDING SECTION 15-35-108, MCA, SECTION 3, CHAPTER 481, LAWS OF 2003, AND SECTION 6, CHAPTER 481, LAWS OF 2003; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE	2780
460	(<i>House Bill No. 158; Augare</i>) PROVIDING FOR TRIBAL GOVERNMENTAL ELIGIBILITY FOR ALL GRANTS AND LOANS UNDER THE BIG SKY ECONOMIC DEVELOPMENT PROGRAM; AND AMENDING SECTIONS 90-1-201, 90-1-202, 90-1-203, 90-1-204, AND 90-1-205, MCA	2782
461	(<i>House Bill No. 213; Sesso</i>) ESTABLISHING A SOUTHWESTERN MONTANA STATE VETERANS' HOME IN BEAVERHEAD, DEER LODGE, JEFFERSON, MADISON, POWELL, OR SILVER BOW COUNTY; ESTABLISHING A SITE SELECTION COMMITTEE; ALLOCATING A PORTION OF CIGARETTE TAX MONEY TO AN ACCOUNT FOR USE IN CONSTRUCTION OF THE SOUTHWESTERN MONTANA STATE VETERANS' HOME SUBJECT TO APPROPRIATION	

BY THE 62ND LEGISLATURE; AMENDING SECTIONS 10-2-401, 10-2-416, 16-11-119, 53-1-402, 53-1-413, 53-1-602, AND 53-6-1201, MCA; AND PROVIDING EFFECTIVE DATES 2785

462 *(House Bill No. 279; Reinhart)* PROHIBITING THE DEPARTMENT OF TRANSPORTATION FROM RECOVERING INDIRECT COSTS FOR THE COMMUNITY TRANSPORTATION ENHANCEMENT PROGRAM; AND AMENDING SECTION 17-1-106, MCA. 2790

463 *(House Bill No. 602; Cohenour)* REVISING PROVISIONS ON THE USE OF STATE-OWNED VEHICLES; ESTABLISHING RESTRICTIONS ON COMMUTING FROM AN EMPLOYEE'S RESIDENCE TO A WORKSITE; AMENDING SECTION 2-17-411, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 2790

464 *(House Bill No. 644; Sesso)* APPROPRIATING \$200,000 FROM THE STATE GENERAL FUND TO BE USED BY THE DEPARTMENT OF COMMERCE TO PROVIDE FUNDING FOR CULTURAL DEVELOPMENT IN BUTTE-SILVER BOW; AND PROVIDING AN EFFECTIVE DATE 2792

465 *(Senate Bill No. 65; Hawks)* GENERALLY REVISING TRUST LAND FUNDING LAWS; DEFINING "DISTRIBUTABLE REVENUE"; PROVIDING A NEW FUNDING FORMULA; REVISING LAWS GOVERNING TRUST LAND ADMINISTRATION ACCOUNTS AND THEIR USES; CREATING AN EARNINGS RESERVE ACCOUNT; CREATING THE FOREST IMPROVEMENT ACCOUNT; ELIMINATING THE RESOURCE DEVELOPMENT ACCOUNT, THE RECREATIONAL USE ACCOUNT, THE STATE TIMBER SALE ACCOUNT, AND THE STATE SPECIAL REVENUE ACCOUNT FOR COMMERCIAL LEASING RENTAL PAYMENTS; TRANSFERRING UNENCUMBERED BALANCES; REQUIRING THE BOARD OF REGENTS TO DESIGNATE HOW CERTAIN TIMBER SALE PROCEEDS ARE DISTRIBUTED; AMENDING SECTIONS 17-2-107, 17-3-1003, 18-2-107, 20-9-341, 20-9-620, 20-25-422, 77-1-101, 77-1-108, 77-1-109, 77-1-127, 77-1-605, 77-1-613, 77-1-802, 77-1-808, 77-1-809, 77-1-810, 77-1-815, 77-1-905, 77-2-328, 77-2-362, 77-5-204, AND 77-5-219, MCA; REPEALING SECTIONS 77-1-602, 77-1-604, 77-1-606, 77-1-607, 77-1-608, AND 77-1-609, MCA; AND PROVIDING AN EFFECTIVE DATE. 2793

466 *(Senate Bill No. 171; Barkus)* CREATING THE OFFENSE OF DAMAGE TO RENTAL PROPERTY; PROVIDING A PENALTY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE 2808

467 *(Senate Bill No. 263; Shockley)* REVISING LAWS GOVERNING THE OFFICE OF STATE PUBLIC DEFENDER; REQUIRING ASSIGNED COUNSEL TO FILE CERTAIN COSTS WITH THE DISTRICT COURT; CLARIFYING THAT AN ASSIGNMENT OF COUNSEL BY THE OFFICE OF STATE PUBLIC DEFENDER IS SUBJECT TO INQUIRY AND DENIAL BY A COURT; AMENDING SECTIONS 46-8-113 AND 47-1-111, MCA; AND PROVIDING AN EFFECTIVE DATE 2809

468 *(Senate Bill No. 322; Curtiss)* REVISING LAWS RELATED TO APICULTURE; REQUIRING AN APPLICATION FEE FOR A NEW REGISTRATION OF AN APIARY SITE; REVISING APIARY REREGISTRATION, LOCATION, ABANDONMENT, INSPECTION, QUARANTINE, FEE, AND PENALTY PROVISIONS; EXEMPTING HOBBYIST APIARY SITES FROM REGISTRATION PROVISIONS; AMENDING SECTIONS 80-6-101, 80-6-102, 80-6-103, 80-6-104, 80-6-111, 80-6-112, 80-6-113, 80-6-114, 80-6-201, 80-6-202, 80-6-203, AND 80-6-303, MCA; AND REPEALING SECTIONS 80-6-105 AND 80-6-115, MCA 2811

469	(<i>Senate Bill No. 360; Keane</i>) GENERALLY REVISING THE MONTANA MAJOR FACILITY SITING ACT; CLARIFYING THE DEFINITION OF "FACILITY"; AMENDING SECTION 75-20-104, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE	2822
470	(<i>Senate Bill No. 418; Branae</i>) ALLOWING A TAXPAYER TO APPLY FOR RELIEF FROM JOINT AND SEVERAL LIABILITY UNDER THE INDIVIDUAL INCOME TAX; AUTHORIZING THE DEPARTMENT TO ADOPT RULES ON RELIEF FROM JOINT AND SEVERAL LIABILITY; UPDATING CERTAIN PROVISIONS RELATING TO THE INDIVIDUAL INCOME TAX EXEMPTION FOR A QUALIFYING CHILD; REQUIRING CONSISTENCY BETWEEN THE DEDUCTION PERMITTED AN ESTATE OR TRUST FOR TAXES PAID OR ACCRUED DURING A YEAR WITH THE DEDUCTION ALLOWED FOR INDIVIDUAL TAXPAYERS; CLARIFYING THE EXTENSION OF TIME ALLOWED FOR FILING AN INDIVIDUAL INCOME TAX RETURN; MAKING TECHNICAL CORRECTIONS REGARDING THE SUSPENSION OF THE STATUTE OF LIMITATIONS UNDER THE INDIVIDUAL INCOME TAX; CLARIFYING WHEN THE DEPARTMENT MUST PAY INTEREST TO INDIVIDUAL INCOME TAXPAYERS FOR LATE-FILED RETURNS; AMENDING SECTIONS 15-30-112, 15-30-136, 15-30-142, 15-30-144, 15-30-146, AND 15-30-149, MCA; AND PROVIDING EFFECTIVE DATES AND APPLICABILITY DATES	2824
471	(<i>Senate Bill No. 439; Story</i>) EXTENDING THE MORATORIUM ON LICENSURE OF SPECIALTY HOSPITALS; AMENDING SECTION 50-5-245, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	2831
472	(<i>Senate Bill No. 465; Hamlett</i>) REVISING AND CLARIFYING THE LAWS RELATED TO THE TREATMENT OF PROPERTY CONSISTING OF THE BED OF NAVIGABLE RIVERS AND STREAMS; PROVIDING FOR A REDUCTION FROM GRAZING LAND BEFORE A REDUCTION FROM CURRENT LAND USE FOR PROPERTY TAX PURPOSES; PROVIDING THAT IN A DISPUTE OVER THE OWNERSHIP OF THE BED OF A RIVER OR STREAM A PRESUMPTION MAY NOT BE MADE BASED UPON THE TAX STATUS OF THE PROPERTY; CLARIFYING THE OWNERSHIP OF STRUCTURES; CLARIFYING THE ABILITY TO CONTROL NOXIOUS WEEDS; AMENDING SECTIONS 61-8-371, 77-1-111, 77-1-126, 77-1-127, 77-1-806, 77-1-809, 77-3-442, 77-6-113, 77-6-115, 77-6-302, 77-6-303, AND 77-6-501, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	2831
473	(<i>Senate Bill No. 476; Shockley</i>) REVISING THE CRIME OF THEFT AND OTHER OFFENSES AGAINST PROPERTY; RAISING THE MONETARY THRESHOLD FOR FELONY THEFT AND OTHER OFFENSES AGAINST PROPERTY AND REVISING PENALTIES; AND AMENDING SECTIONS 45-2-101, 45-6-101, 45-6-103, 45-6-104, 45-6-301, 45-6-309, 45-6-311, 45-6-312, 45-6-313, 45-6-316, 45-6-317, 45-6-325, 45-6-332, 45-6-341, AND 45-7-210, MCA.	2840
474	(<i>Senate Bill No. 498; Bales</i>) REGULATING CARBON SEQUESTRATION; REQUIRING A PERMIT FOR A CARBON DIOXIDE INJECTION WELL; AUTHORIZING THE BOARD OF OIL AND GAS CONSERVATION TO REGULATE THE INJECTION OF CARBON DIOXIDE; AFFIRMING THE DOMINANCE OF A MINERAL ESTATE; ESTABLISHING FEES FOR ADMINISTERING A CARBON SEQUESTRATION PROGRAM AND LONG-TERM OVERSIGHT OF WELLS; REQUIRING NOTICE OF CARBON DIOXIDE INJECTION WELLS; REQUIRING THE BOARD TO SOLICIT AND CONSIDER COMMENTS FROM THE DEPARTMENT OF ENVIRONMENTAL QUALITY PRIOR TO ISSUING AN INJECTION PERMIT AND PRIOR TO ISSUING A CERTIFICATE OF COMPLETION;	

	REQUIRING THE BOARD TO SOLICIT AND CONSIDER COMMENTS FROM THE DEPARTMENT OF ENVIRONMENTAL QUALITY PRIOR TO TRANSFERRING LIABILITY TO THE STATE; REQUIRING TESTING AFTER ISSUANCE OF A CERTIFICATE OF COMPLETION AND PRIOR TO TRANSFER OF LIABILITY; ALLOWING FOR THE TRANSFER OF TITLE TO SEQUESTERED CARBON DIOXIDE TO THE STATE AFTER BOARD CERTIFICATION; ALLOWING UNITIZATION FOR GEOLOGIC STORAGE RESERVOIRS; EXEMPTING A CARBON DIOXIDE INJECTION WELL FROM GROUND WATER PERMIT REQUIREMENTS; AMENDING SECTIONS 70-30-105, 75-5-103, 75-5-401, 77-3-430, 82-10-402, 82-11-101, 82-11-104, 82-11-111, 82-11-118, 82-11-122, 82-11-123, 82-11-127, 82-11-136, 82-11-137, 82-11-161, 82-11-163, 82-11-201, 82-11-204, 82-11-205, AND 82-11-214, MCA; AND PROVIDING EFFECTIVE DATES	2856
475	<i>(Senate Bill No. 507; Story)</i> GENERALLY REVISING AND CLARIFYING LAWS RELATED TO THE TREATMENT OF PROPERTY CONSISTING OF THE BED OF NAVIGABLE RIVERS; REQUIRING AUTHORIZATION FROM THE BOARD OF LAND COMMISSIONERS FOR USES ON THE BEDS OF NAVIGABLE RIVERS; REQUIRING THE BOARD OF LAND COMMISSIONERS TO ADOPT RULES FOR PROVIDING EASEMENTS, LEASES, OR LICENSES FOR USES ON THE BEDS OF NAVIGABLE RIVERS; CLARIFYING THE AUTHORITY OF THE BOARD OF LAND COMMISSIONERS TO GRANT EASEMENTS; AND AMENDING SECTION 77-2-101, MCA	2878
476	<i>(Senate Bill No. 510; Gebhardt)</i> AUTHORIZING A BOARD OF COUNTY COMMISSIONERS TO AUTHORIZE A 50 PERCENT LOCAL ABATEMENT OF THE COAL GROSS PROCEEDS TAX FROM A NEW OR EXPANDING UNDERGROUND COAL MINE; PROVIDING THAT THE ABATEMENT CAN LAST FOR 5 OR 10 YEARS; REQUIRING NOTIFICATION OF ALL AFFECTED SCHOOL DISTRICTS; PROVIDING FOR THE DISTRIBUTION OF THE REDUCED TAX COLLECTIONS; AMENDING SECTION 15-23-703, MCA; AND PROVIDING AN APPLICABILITY DATE	2882
477	<i>(House Bill No. 678; Pomnichowski)</i> REVISING LAWS RELATED TO OPENCUT MINING; ESTABLISHING AN OPENCUT FUND AND ANNUAL FEE; EXEMPTING CERTAIN OPENCUT OPERATIONS FROM THE RESOURCE INDEMNITY AND GROUND WATER ASSESSMENT TAX; REVISING THE OPENCUT PERMITTING PROCESS; AMENDING SECTIONS 15-38-104, 15-38-106, 15-38-113, 82-4-405, 82-4-424, 82-4-432, AND 82-4-437, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND APPLICABILITY DATES	2887
478	<i>(House Bill No. 5; Sesso)</i> GENERALLY REVISING LAWS RELATING TO CAPITAL PROJECTS; INCLUDING ENERGY CONSERVATION PROJECTS AS CAPITAL PROJECTS; APPROPRIATING MONEY FOR CAPITAL PROJECTS FOR THE BIENNIUM ENDING JUNE 30, 2011; PROVIDING FOR OTHER MATTERS RELATING TO THE APPROPRIATIONS; PROVIDING FOR A TRANSFER OF FUNDS FROM THE STATE GENERAL FUND TO THE LONG-RANGE BUILDING PROGRAM ACCOUNT; CREATING AN ENERGY CONSERVATION CAPITAL PROJECTS ACCOUNT; PROVIDING FOR TRANSFERS OF FUNDS FROM THE STATE GENERAL FUND TO THE ENERGY CONSERVATION REPAYMENT ACCOUNT AND THE ENERGY CONSERVATION CAPITAL PROJECTS ACCOUNT; AUTHORIZING COMMUNITY COLLEGES TO PARTICIPATE IN THE ENERGY CONSERVATION PROGRAM; REQUIRING PAYMENT OF INTEREST ON ENERGY CONSERVATION PROJECT COSTS; REQUIRING THE INCLUSION OF ENERGY SAVINGS IN THE EXECUTIVE BUDGET;	

	AMENDING SECTIONS 17-7-111, 17-7-123, 90-4-602, AND 90-4-615, MCA, AND SECTION 2, CHAPTER 560, LAWS OF 2005; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.	2894
479	<i>(House Bill No. 130; Stoker)</i> PROVIDING FOR STATE MATCHING FUNDS TO BE GRANTED TO COUNTIES FOR CRISIS INTERVENTION, JAIL DIVERSION, INVOLUNTARY PRECOMMITMENT, AND SHORT-TERM INPATIENT TREATMENT COSTS FOR THE MENTALLY ILL; REQUIRING RULEMAKING; PROVIDING IMPLEMENTATION INSTRUCTIONS; REQUIRING A REPORT; AND PROVIDING EFFECTIVE DATES	2912
480	<i>(House Bill No. 131; Stoker)</i> REQUIRING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO CONTRACT FOR CRISIS BEDS AND EMERGENCY AND COURT-ORDERED DETENTION BEDS FOR THE MENTALLY ILL; REQUIRING RULEMAKING; PROVIDING TARGET IMPLEMENTATION DATES; REQUIRING A REPORT; AND PROVIDING EFFECTIVE DATES	2914
481	<i>(House Bill No. 132; Stoker)</i> PROVIDING THAT A RESPONDENT IN AN INVOLUNTARY COMMITMENT CASE MAY AGREE TO SHORT-TERM INPATIENT TREATMENT IN LIEU OF FACING A COMMITMENT HEARING; AMENDING COURT PROCESS AND PROFESSIONAL EXAMINATION PROVISIONS; SPECIFYING SHORT-TERM INPATIENT TREATMENT PARAMETERS AND PATIENT RIGHTS; PROVIDING FOR A REPORT; AMENDING SECTIONS 53-21-102, 53-21-122, 53-21-123, 53-21-162, AND 53-21-1001, MCA; AND PROVIDING AN EFFECTIVE DATE.	2916
482	<i>(House Bill No. 331; Morgan)</i> REVISING LAWS RELATING TO LICENSED ESTABLISHMENTS; REVISING THE LICENSE FEES FOR ESTABLISHMENTS; AMENDING SECTIONS 50-50-103, 50-50-205, 50-51-204, 50-52-202, AND 50-57-205, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	2922
483	<i>(House Bill No. 658; Jopek)</i> GENERALLY REVISING TAX LAWS; MITIGATING THE EFFECTS OF PROPERTY TAX REAPPRAISAL; PHASING IN CHANGES TO THE TAX RATES FOR CLASS THREE AND FOUR PROPERTY; PHASING IN CHANGES TO THE TAX RATES OF CLASS TEN PROPERTY; ESTABLISHING EXEMPTION RATES FOR RESIDENTIAL AND COMMERCIAL CLASS FOUR PROPERTY; REVISING THE LOW-INCOME PROPERTY TAX ASSISTANCE PROGRAM; REVISING THE EXTENDED PROPERTY TAX ASSISTANCE PROGRAM; CHANGING THE WAY THE VALUE OF CERTAIN NEWLY CONSTRUCTED PROPERTY IS DETERMINED FOR LOCAL GOVERNMENT MILL LEVY AUTHORITY; REVISING THE METHOD FOR VALUING AGRICULTURAL PROPERTY BY INCREASING WATER LABOR COSTS FOR IRRIGATED LAND AND PROVIDING THAT ALFALFA HAY ADJUSTED TO 80 PERCENT OF THE SALES PRICE IS THE BASE CROP FOR NONIRRIGATED LAND; REVISING THE DETERMINATION OF THE CAPITALIZATION RATE FOR THE VALUATION OF FOREST LANDS; ESTABLISHING A FOREST LANDS TAXATION ADVISORY COMMITTEE TO ADVISE THE DEPARTMENT OF REVENUE IN ITS DETERMINATION OF THE VALUE OF FOREST LANDS; PROVIDING FOR THE APPOINTMENT AND TERMS OF THE MEMBERS OF THE COMMITTEE; REQUIRING NOTICE OF PROPERTY TAX ASSISTANCE PROGRAMS ON CLASSIFICATION AND APPRAISAL NOTICES AND PROPERTY TAX BILLS; EXTENDING APPLICATION DEADLINES FOR THE LOW-INCOME PROPERTY TAX ASSISTANCE PROGRAM AND THE	

	DISABLED OR DECEASED VETERANS' RESIDENCE PROPERTY TAX EXEMPTION PROGRAM; CHANGING THE REPORTING REQUIREMENTS RELATING TO TAX INCREMENT FINANCING; REQUESTING THAT THE REVENUE AND TRANSPORTATION INTERIM COMMITTEE REVIEW PROPERTY TAX ASSISTANCE TO TAXPAYERS; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 7-15-4285, 15-6-134, 15-6-143, 15-6-193, 15-6-222, 15-7-102, 15-7-111, 15-7-201, 15-10-420, 15-16-101, AND 15-44-103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.	2925
484	<i>(House Bill No. 669; Vincent)</i> CREATING A DISTRESSED WOOD PRODUCTS INDUSTRY REVOLVING LOAN PROGRAM; GRANTING RULEMAKING AUTHORITY; AUTHORIZING A LOAN APPLICATION FEE; REQUIRING OUTCOME MEASURES; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTION 17-7-502, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	2942
485	<i>(House Bill No. 674; Vincent)</i> GENERALLY REVISING LAWS RELATING TO CERTAIN STATE LANDS; AUTHORIZING THE CREATION OF STATE DEBT THROUGH THE ISSUANCE OF GENERAL OBLIGATION BONDS FOR PURCHASE AND MANAGEMENT OF REAL PROPERTY AND APPURTENANCES FOR SUSTAINABLE FOREST MANAGEMENT, RECREATIONAL USE, AND INCOME-GENERATING POTENTIAL; APPROPRIATING THE PROCEEDS OF THE BONDS FOR PURCHASE AND MANAGEMENT OF REAL PROPERTY AND APPURTENANCES FOR SUSTAINABLE FOREST MANAGEMENT, RECREATIONAL USE, AND INCOME-GENERATING POTENTIAL; PROVIDING CONSIDERATIONS FOR THE BOARD OF LAND COMMISSIONERS TO TAKE INTO ACCOUNT WHEN DETERMINING WHETHER TO REQUEST THE ISSUANCE OF BONDS; PROVIDING FOR THE OFFSETTING OF LAND PURCHASES; PROVIDING FOR THE DISPOSITION OF INTEREST AND INCOME; REQUIRING NOTICE ON LAND ACQUISITIONS FOR THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS; REQUIRING THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO PAY AN AMOUNT EQUAL TO TAXES ON LAND PURCHASES; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTIONS 17-5-803, 17-7-502, 87-1-209, AND 87-1-603, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	2945
486	<i>(House Bill No. 676; Sesso)</i> IMPLEMENTING THE GENERAL APPROPRIATIONS ACT; ELIMINATING GENERAL FUND TRANSFERS TO THE HIGHWAY NONRESTRICTED STATE SPECIAL REVENUE ACCOUNT; RESTRICTING TRANSFERS OF CIGARETTE TAXES ALLOCATED FOR THE SUPPORT OF VETERANS' NURSING HOMES; REVISING THE DEFINITION OF PRESENT LAW BASE FOR THE ENSUING BUDGET CYCLE; REQUIRING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO DEVELOP ALTERNATIVE METHODS OF DELIVERING SERVICES AND TO DEVELOP GOALS, MILESTONES, AND MEASURES TO GUIDE THE REVIEW OF ALTERNATIVES; RESTRICTING THE TRANSFER OF THE UNRESERVED BALANCE IN THE COAL SEVERANCE TAX COMBINED ACCOUNT; PROVIDING AN INCREASE IN EACH YEAR OF THE 2011 BIENNIUM IN THE BASIC ENTITLEMENT AND THE TOTAL PER-ANB ENTITLEMENT; REQUIRING REPORTS BY THE OFFICE OF PUBLIC DEFENDER; REQUIRING THE ADOPTION OF RULES RELATING TO THE WORKING CARETAKER RELATIVE PROGRAM UNDER TANF; AUTHORIZING MONEY IN THE TOBACCO SETTLEMENT ACCOUNT AND THE HEALTH AND MEDICAID INITIATIVES ACCOUNT TO BE USED FOR THE HEALTHY MONTANA	

KIDS PLAN; REQUIRING NOTICE TO ENROLLEES OF RESTRICTIONS ON ACCESS TO HEALTH CARE PROVIDERS; PROVIDING THAT CONTRACTS TO IMPLEMENT THE CHILDREN'S HEALTH INSURANCE PROGRAM MAY NOT RESTRICT ACCESS TO HEALTH CARE PROVIDERS; CHANGING THE LEAF-CUTTING BEE ENTERPRISE FUND TO A STATE SPECIAL REVENUE ACCOUNT; PROVIDING A FUND TRANSFER FROM THE WATER ADJUDICATION STATE SPECIAL REVENUE ACCOUNT TO THE NATURAL RESOURCES OPERATIONS STATE SPECIAL REVENUE ACCOUNT; PROVIDING A FUND TRANSFER FROM THE ENVIRONMENTAL QUALITY PROTECTION FUND TO THE NATURAL RESOURCES OPERATIONS STATE SPECIAL REVENUE ACCOUNT; PROVIDING A FUND TRANSFER FROM THE JUNK VEHICLE FUND TO THE NATURAL RESOURCES OPERATIONS STATE SPECIAL REVENUE ACCOUNT; REQUIRING A REPORT BY THE DEPARTMENT OF TRANSPORTATION ON EMERGENCY MEDICAL SERVICES GRANTS; REVISING THE ALLOCATION OF PREMIUM TAXES; PROVIDING CONDITIONS FOR THE SELECTION OF THE VENDOR FOR THE VEHICLE INSURANCE VERIFICATION SYSTEM; ELIMINATING THE RENAL DISEASE TREATMENT PROGRAM; AMENDING SECTIONS 2-15-3004, 7-14-112, 10-2-112, 10-2-603, 10-3-801, 15-1-122, 15-35-108, 15-38-301, 16-11-119, 17-6-606, 17-7-102, 17-7-111, 17-7-304, 20-9-306, 33-2-708, 47-1-201, 53-4-212, 53-4-1005, 53-4-1007, 53-4-1012, 53-4-1201, 75-10-704, 80-6-1109, AND 85-2-280, MCA; REPEALING SECTIONS 15-30-169, 50-44-101, 50-44-102, AND 50-44-103, MCA; AND PROVIDING AN EFFECTIVE DATE, APPLICABILITY DATES, AND TERMINATION DATES

2952

487 *(Senate Bill No. 489; Essmann)* REVISING TAXATION LAWS RELATED TO PIPELINES; CLARIFYING THAT REGULATED NATURAL GAS AND OIL PIPELINES AND COMMON CARRIER PIPELINES ARE TAXED AS CLASS NINE PROPERTY AND THAT OIL AND GAS PRODUCTION PROPERTY, INCLUDING FLOW LINES AND GATHERING LINES, IS TAXED AS CLASS EIGHT PROPERTY; AMENDING SECTIONS 15-6-138, 15-6-141, 15-23-101, AND 15-23-301, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

2981

488 *(House Bill 2; Sesso)* APPROPRIATING MONEY TO VARIOUS STATE AGENCIES FOR THE BIENNIUM ENDING JUNE 30, 2011; AND PROVIDING AN EFFECTIVE DATE.

2985

489 *(House Bill No. 645; Sesso)* IMPLEMENTING THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009; PROVIDING APPROPRIATIONS OF FEDERAL FUNDS AND OTHER FUNDS AVAILABLE BECAUSE OF THE RECEIPT OF FEDERAL FUNDS; REVISING STATUTES TO IMPLEMENT THE RECEIPT AND EXPENDITURE OF THE FEDERAL FUNDS AND THE FUNDS AVAILABLE BECAUSE OF THE RECEIPT OF THE FEDERAL FUNDS; AUTHORIZING THE ADOPTION OF RETROACTIVE ADMINISTRATIVE RULES; REVISING THE ALLOCATION OF THE HOSPITAL BED TAX; REVISING INDIRECT COST RECOVERY LAWS; REVISING THE DEFINITIONS OF BASE BUDGET AND PRESENT LAW BASE FOR THE NEXT STATE BUDGET CYCLE; CLARIFYING THE PAYMENT OF SCHOOL DISTRICT EMPLOYEE RETIREMENT COSTS FOR THE ENSUING BIENNIUM; REVISING THE BASE PERIOD FOR UNEMPLOYMENT BENEFITS; PROVIDING FOR A PART-TIME WORK SEARCH AND PARTICIPATION IN WORKER TRAINING FOR UNEMPLOYMENT PURPOSES; REVISING THE USE OF THE HEALTH AND MEDICAID INITIATIVES ACCOUNT; INCREASING THE

ELIGIBILITY FOR CASH ASSISTANCE BENEFITS FROM THE TANF BLOCK GRANT; CLARIFYING WATER POLLUTION LAWS AND THE USE OF FEDERAL FUNDS FOR WATER PROJECTS; REVISING THE ALTERNATIVE ENERGY LOAN PROGRAM; ESTABLISHING THE DISTRESSED WOOD PRODUCTS INDUSTRY RECOVERY PROGRAM; PROVIDING FOR A QUICK START ENERGY PROGRAM WITHIN THE DEPARTMENT OF COMMERCE FOR QUICK START ENERGY EFFICIENCY IMPROVEMENTS FOR SCHOOL FACILITIES; REVISING THE PRIORITIES FOR FUNDING UNDER THE BIG SKY ECONOMIC DEVELOPMENT PROGRAM; PROVIDING FOR THE ALLOCATION AND AUTHORIZATION OF THE TYPES OF BONDS MADE AVAILABLE UNDER THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009; AUTHORIZING THE MONTANA FACILITY FINANCE AUTHORITY TO FINANCE CERTAIN PROJECTS FOR FOR-PROFIT OR NONPROFIT CORPORATIONS AND ORGANIZATIONS; PROVIDING FOR TAXATION OF THOSE PROJECTS; PROVIDING FOR THE DISTRIBUTION OF FUNDS FOR IMPROVEMENTS FOR SCHOOL FACILITIES; AUTHORIZING A PERMISSIVE SCHOOL LEVY FOR THE BASE BUDGET; AUTHORIZING A SCHOOL DISTRICT LEVY FOR THE OVER-BASE BUDGET; ESTABLISHING THE ENERGY DEVELOPMENT AND DEMONSTRATION GRANT PROGRAM; PROVIDING A FUND TRANSFER FROM THE STATE GENERAL FUND TO THE SENIOR CITIZEN AND PERSONS WITH DISABILITIES TRANSPORTATION SERVICES ACCOUNT; EXTENDING THE HOSPITAL BED TAX; AMENDING SECTIONS 2-4-306, 7-7-2255, 7-7-2501, 7-7-4255, 7-7-4421, 7-7-4501, 7-12-2171, 7-15-4290, 7-15-4301, 7-15-4302, 15-66-102, 17-1-106, 17-2-124, 17-5-504, 17-5-803, 17-5-922, 17-5-1506, 17-7-102, 17-7-402, 17-7-502, 20-9-403, 20-9-433, 20-9-501, 20-25-402, 20-25-427, 39-51-201, 52-3-115, 53-4-212, 53-6-149, 53-6-1201, 75-5-1102, 75-5-1107, 75-6-202, 75-6-226, 75-25-101, 75-25-102, 90-1-204, 90-5-101, 90-5-103, 90-7-102, AND 90-7-104, MCA, SECTION 20, CHAPTER 390, LAWS OF 2003, SECTIONS 4 AND 7, CHAPTER 606, LAWS OF 2005, SECTIONS 4, 5, 6, AND 8, CHAPTER 517, LAWS OF 2007, AND SECTION 9-B, CHAPTER 5, SPECIAL LAWS OF MAY 2007; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE, A RETROACTIVE APPLICABILITY DATE, AND A TERMINATION DATE. 3039

HOUSE JOINT RESOLUTIONS

<u>HJR</u>	<u>Page</u>
4 <i>(Vincent)</i> ENCOURAGING CONGRESS TO INCREASE GUBERNATORIAL AUTHORITY WITH RESPECT TO HAZARDOUS FUELS EMERGENCIES AND REDUCTION	3121
6 <i>(Lake)</i> URGING THE SUPERINTENDENT OF PUBLIC INSTRUCTION AND THE BOARD OF PUBLIC EDUCATION TO WORK WITH THE EDUCATION AND LOCAL GOVERNMENT INTERIM COMMITTEE ON DEVELOPING K-12 SHARED POLICY GOALS AND ACCOUNTABILITY MEASURES THAT CAN BE USED BY LEGISLATORS, THE EDUCATION COMMUNITY, AND THE PUBLIC TO EVALUATE PROGRESS TOWARD THE GOALS AND USED BY THE MONTANA LEGISLATURE TO GUIDE ITS FUNDING DECISIONS.	3122
7 <i>(Vincent)</i> URGING THE IMMEDIATE MODIFICATION OF INEFFECTIVE FEDERAL LAND MANAGEMENT AND WILDFIRE POLICIES IN ORDER TO PROTECT THE HEALTH, SAFETY, AND WELFARE OF MONTANA'S COMMUNITIES.	3122

8	(<i>Kasten</i>) ENDORSING THE OPPORTUNITY PROVIDED BY RICHLAND COUNTY TO CREATE A COMBINED FACILITY FOR THE RICHLAND COUNTY EXTENSION OFFICE AND THE MONTANA STATE UNIVERSITY MONTANA AGRICULTURAL EXPERIMENT STATION AT THE EASTERN AGRICULTURAL RESEARCH CENTER, SIDNEY, MONTANA	3123
9	(<i>Furey</i>) RECOGNIZING THE SERVICE OF MONTANANS IN THE ARMED FORCES OF THE UNITED STATES	3124
14	(<i>Warburton</i>) SUPPORTING THE UPDATE IN THE U.S. DEPARTMENT OF THE INTERIOR REGULATIONS THAT PROVIDE GUIDANCE AND CONTROLS FOR THE POSSESSION AND TRANSPORTATION OF FIREARMS IN NATIONAL PARK AREAS AND NATIONAL WILDLIFE REFUGES, TO REFLECT CURRENT STATE LAWS AUTHORIZING THE POSSESSION OF CONCEALED FIREARMS, WHILE MAINTAINING EXISTING REGULATORY PROVISIONS THAT ENSURE VISITOR SAFETY AND RESOURCE PROTECTION; AND URGING THE MONTANA ATTORNEY GENERAL, IF IT IS DETERMINED THAT THE ATTORNEY GENERAL HAS STANDING, TO INTERVENE ON BEHALF OF THE STATE IN LAWSUITS THAT SEEK TO BLOCK THE UPDATED REGULATIONS	3125
15	(<i>Milburn</i>) REQUESTING AN INTERIM STUDY TO EVALUATE THE FEASIBILITY OF AND FUNDING SOURCES FOR A MONETARY INCENTIVE PROGRAM TO ENCOURAGE AND COMPENSATE PRIVATE LANDOWNERS WHO GRANT PUBLIC ACCESS TO THEIR PROPERTY FOR RECREATIONAL AND TOURISM-RELATED ACTIVITIES	3126
17	(<i>French</i>) REQUESTING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO EXAMINE THE USE OF MEDICATION AIDES IN NURSING HOMES AND TO PROVIDE A REPORT TO THE 62ND LEGISLATURE	3127
22	(<i>O'Hara</i>) EXPRESSING THE OPINION OF THE LEGISLATURE THAT THE 50TH ANNIVERSARY OF MONTANA'S GIFT TO THE UNITED STATES OF THE STATUE OF CHARLES M. RUSSELL AND THE PENDING 25TH ANNIVERSARY OF MONTANA'S GIFT TO THE UNITED STATES OF THE STATUE OF JEANNETTE RANKIN DESERVE RECOGNITION AND CELEBRATION	3129
25	(<i>Warburton</i>) REQUESTING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO EXAMINE ISSUES RELATED TO THE DETERMINATION OF MEDICAID ELIGIBILITY FOR NURSING HOME CARE AND TO PROVIDE A REPORT TO THE 62ND LEGISLATURE	3130
27	(<i>Wilmer</i>) URGING EDUCATORS, JOURNALISTS, AND PUBLIC SPEAKERS TO LEARN THE NAME OF EACH TRIBE IN MONTANA IN THE TRIBE'S OWN LANGUAGE AND TO USE THOSE NAMES	3131
29	(<i>Becker</i>) DESIGNATING MAY 12 AS RHEUMATOID ARTHRITIS AWARENESS DAY IN MONTANA	3132
30	(<i>Himmelberger</i>) REQUESTING THAT AN APPROPRIATE INTERIM OR STATUTORY COMMITTEE BE DESIGNATED TO STUDY WILDLAND FIRE SUPPRESSION	3133
32	(<i>Ebinger</i>) REQUESTING AN INTERIM STUDY TO EVALUATE THE ECONOMIC IMPACT OF HISTORIC PRESERVATION AND STRATEGIES FOR HISTORIC PRESERVATION	3134
33	(<i>Bergren</i>) REQUESTING AND ACCEPTING THE FUNDS AVAILABLE TO THE STATE OF MONTANA UNDER THE AMERICAN RECOVERY	

TITLE CONTENTS

	AND REINVESTMENT ACT AND CERTIFYING THAT THE STATE OF MONTANA WILL USE THE FUNDS TO CREATE JOBS AND PROMOTE ECONOMIC GROWTH	3136
35	<i>(Himmelberger)</i> REQUESTING AN INTERIM LEGISLATIVE STUDY OF PAY POLICIES AND PRACTICES ON BONUSES FOR STATE GOVERNMENT EMPLOYEES; ARTICULATING POLICY GOALS; AND REQUIRING A REPORT OF FINDINGS AND RECOMMENDATIONS TO THE 62ND LEGISLATURE	3137
36	<i>(Kottel)</i> REQUESTING AN INTERIM STUDY OF HOW TO ENHANCE ECONOMIC SECURITY OF MONTANANS THROUGH FAMILY ASSET BUILDING, EDUCATION IN HOME OWNERSHIP AND PERSONAL FINANCE, AND DEVELOPMENT OF SMALL BUSINESSES	3139
39	<i>(Noonan)</i> REQUESTING THAT AN INTERIM COMMITTEE STUDY THE DEVELOPMENT OF ADDITIONAL COMMUNITY SERVICES FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES AND CO-OCCURRING MENTAL ILLNESS OR CERTAIN BEHAVIORS	3140

HOUSE RESOLUTIONS

<u>HR</u>		<u>Page</u>
1	<i>(Villa)</i> ADOPTING THE HOUSE RULES	3141
2	<i>(McGillvray)</i> ENCOURAGING AND COMMENDING EFFORTS BY MONTANA'S SCHOOL DISTRICTS TO DEVELOP AND IMPLEMENT BULLYING PREVENTION PROGRAMS.	3168

SENATE JOINT RESOLUTIONS

<u>SJR</u>		<u>Page</u>
1	<i>(Peterson)</i> ADOPTING THE JOINT LEGISLATIVE RULES	3168
2	<i>(Lewis)</i> REQUESTING AN INTERIM STUDY TO REEXAMINE THE COMMUNITY COLLEGE ESTABLISHMENT PROCESS; AND REQUIRING THAT THE FINAL RESULTS OF THE STUDY BE REPORTED TO THE 62ND LEGISLATURE	3184
3	<i>(Laible)</i> REQUESTING AN INTERIM STUDY TO CONSIDER THE POSSIBLE ESTABLISHMENT OF A MONTANA SCHOLARSHIP PROGRAM; AND REQUIRING THAT THE FINAL RESULTS OF THE STUDY BE REPORTED TO THE 62ND LEGISLATURE	3185
5	<i>(Laible)</i> REQUESTING CONTINUED MONITORING OF EFFORTS TO MAKE HEALTH CARE COSTS MORE UNDERSTANDABLE	3186
6	<i>(Hansen)</i> URGING 24-HOUR COMMERCIAL SERVICE AT THE PORT OF ENTRY-TURNER	3187
8	<i>(Hawks)</i> URGING THE BOARD OF REGENTS, COMMISSIONER OF HIGHER EDUCATION, SUPERINTENDENT OF PUBLIC INSTRUCTION, AND BOARD OF PUBLIC EDUCATION TO WORK WITH THE EDUCATION AND LOCAL GOVERNMENT INTERIM COMMITTEE ON DEVELOPING K-20 SHARED POLICY GOALS AND ACCOUNTABILITY MEASURES THAT CAN BE USED BY LEGISLATORS, THE EDUCATION COMMUNITY, AND THE PUBLIC TO EVALUATE PROGRESS TOWARD THE GOALS AND BY THE MONTANA LEGISLATURE TO GUIDE ITS FUNDING DECISIONS	3189

9	<i>(Wanzenried)</i> REQUESTING AN INTERIM STUDY OF THE STUDENT FINANCIAL ASSISTANCE SYSTEM IN MONTANA AND REQUIRING THAT THE FINAL RESULTS OF THE STUDY BE REPORTED TO THE 62ND LEGISLATURE	3190
13	<i>(Zinke)</i> COMMEMORATING THE CENTENNIAL OF GLACIER NATIONAL PARK	3191
14	<i>(Larsen)</i> REQUESTING AN INTERIM STUDY TO EXAMINE THE POSSIBILITY OF STATE AGENCIES DEVELOPING AND MAINTAINING JOINT LABORATORY FACILITIES FOR TESTING RELATED TO WILDLIFE, LIVESTOCK, AGRICULTURE, AND PUBLIC HEALTH; AND REQUIRING THAT THE FINAL RESULTS OF THE STUDY BE REPORTED TO THE 62ND LEGISLATURE	3193
15	<i>(Tutvedt)</i> EXPRESSING SUPPORT FOR THE DECISION BY THE UNITED STATES FISH AND WILDLIFE SERVICE TO DELIST THE GRAY WOLF AND URGING THE MONTANA DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO DEFEND THE DECISION TO DELIST THE GRAY WOLF AGAINST ANY LEGAL CHALLENGE	3193
16	<i>(Brown)</i> REQUESTING AN INTERIM STUDY TO INVESTIGATE THE ISSUES OF UNDERINSURED AND UNINSURED MOTORISTS IN MONTANA, CALCULATE THE COST TO MONTANA'S CITIZENS, AND PRESENT FINDINGS AND RECOMMENDATIONS TO THE 62ND LEGISLATURE	3195
19	<i>(Peterson)</i> URGING THE U.S. FISH AND WILDLIFE SERVICE TO MANAGE THE CHARLES M. RUSSELL NATIONAL WILDLIFE REFUGE IN A MANNER THAT IS CONSISTENT WITH THE ENABLING LEGISLATION AND WITH LOCAL MONTANA NEEDS AND VALUES; AND REQUESTING BETTER COMMUNICATION WITH SURROUNDING CONSERVATION DISTRICTS	3196
22	<i>(Zinke)</i> REQUESTING THAT THE GOVERNOR'S OFFICE PROVIDE AN ASSESSMENT OF STATE-OWNED AIRCRAFT TO DETERMINE A PHASED REPLACEMENT OR RETIREMENT SCHEDULE	3197
28	<i>(Peterson)</i> REQUESTING AN INTERIM STUDY TO EVALUATE METHODS FOR INCREASING RECYCLING AND SOLID WASTE RECOVERY WITHIN THE STATE OF MONTANA	3198
29	<i>(Moss)</i> REQUESTING AN INTERIM STUDY TO EXAMINE THE RETENTION AND PRESERVATION OF BIOLOGICAL EVIDENCE BY STATE AND LOCAL LAW ENFORCEMENT AGENCIES	3199
30	<i>(Zinke)</i> REQUESTING AN INTERIM STUDY TO EXAMINE THE PREMIUM COST DRIVERS IN MONTANA'S WORKERS' COMPENSATION SYSTEM AND LAWS RELATED TO THE MONTANA STATE FUND AND TO PROPOSE LEGISLATION FOR CONSIDERATION BY THE 62ND LEGISLATURE TO ADDRESS THE PREMIUM COST DRIVERS AND THE MONTANA STATE FUND	3200
35	<i>(Schmidt)</i> REQUESTING THAT AN INTERIM COMMITTEE STUDY MATTERS RELATED TO HEALTH CARE.	3202
37	<i>(Essmann)</i> REQUESTING AN INTERIM STUDY OF THE FILING OPTIONS FOR MARRIED TAXPAYERS UNDER MONTANA'S INDIVIDUAL INCOME TAX LAW	3204
39	<i>(Brueggeman)</i> REQUESTING AN INTERIM LEGISLATIVE STUDY OF DRIVING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS IN MONTANA	3205

SENATE RESOLUTIONS

<u>SR</u>		<u>Page</u>
1	<i>(Peterson)</i> ADOPTING THE SENATE RULES	3206
2	<i>(Shockley)</i> CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 15, 2009, TO THE SENATE	3226
3	<i>(Brueggeman)</i> CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE TRANSPORTATION COMMISSION MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 15, 2009, TO THE SENATE	3235
4	<i>(Laible)</i> CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE BOARD OF REGENTS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 15, 2009, TO THE SENATE	3236
5	<i>(Laible)</i> CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE BOARD OF PUBLIC EDUCATION MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 15, 2009, TO THE SENATE	3236
6	<i>(Laible)</i> CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT MADE BY THE GOVERNOR TO THE BOARD OF REGENTS AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 15, 2009, TO THE SENATE	3236
7	<i>(Steinbeisser)</i> CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT MADE BY THE GOVERNOR TO THE BOARD OF LIVESTOCK AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 15, 2009, TO THE SENATE	3237
9	<i>(Shockley)</i> CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED FEBRUARY 26, 2009, TO THE SENATE	3237
10	<i>(Steinbeisser)</i> CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT MADE BY THE GOVERNOR TO THE BOARD OF LIVESTOCK AND SUBMITTED BY WRITTEN COMMUNICATION DATED FEBRUARY 26, 2009, TO THE SENATE	3241
11	<i>(Gebhardt)</i> CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED FEBRUARY 26, 2009, TO THE SENATE	3241
12	<i>(Gebhardt)</i> CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED FEBRUARY 26, 2009, TO THE SENATE	3242
13	<i>(Gebhardt)</i> CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED FEBRUARY 26, 2009, TO THE SENATE	3242
18	<i>(Steinbeisser)</i> CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS MADE BY THE GOVERNOR TO THE BOARD OF LIVESTOCK AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 18, 2009, TO THE SENATE	3243

MONTANA SESSION LAWS 2009

lxxx

19	(<i>Wanzenried</i>) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 23, 2009, TO THE SENATE	3243
20	(<i>Kaufmann</i>) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 23, 2009, TO THE SENATE	3244
21	(<i>Tropila</i>) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT OF THE COMMISSIONER OF LABOR AND INDUSTRY MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 24, 2009, TO THE SENATE	3244
22	(<i>Tropila</i>) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT OF THE DIRECTOR OF THE DEPARTMENT OF COMMERCE MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 23, 2009, TO THE SENATE	3245
23	(<i>Brown</i>) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT OF THE DIRECTOR OF THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 25, 2009, TO THE SENATE	3245
25	(<i>Barkus</i>) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 24, 2009, TO THE SENATE	3246
28	(<i>Shockley</i>) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 18, 2009, TO THE SENATE	3246
29	(<i>Steinbeisser</i>) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT OF THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 24, 2009, TO THE SENATE	3247
30	(<i>Black</i>) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT MADE BY THE GOVERNOR TO THE PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 23, 2009, TO THE SENATE	3248
31	(<i>Black</i>) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT MADE BY THE GOVERNOR TO THE PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 24, 2009, TO THE SENATE	3248
32	(<i>Brueggeman</i>) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT OF THE DIRECTOR OF THE DEPARTMENT OF TRANSPORTATION MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 24, 2009, TO THE SENATE	3249
33	(<i>Shockley</i>) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS MADE BY THE GOVERNOR AND SUBMITTED	

TITLE CONTENTS

	BY WRITTEN COMMUNICATION DATED MARCH 23, 2009, TO THE SENATE	3249
34	<i>(Shockley)</i> CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED APRIL 2, 2009, TO THE SENATE	3250
35	<i>(Shockley)</i> CONCURRING IN, CONFIRMING, AND CONSENTING TO AN APPOINTMENT TO THE MILK CONTROL BOARD MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 18, 2009, TO THE SENATE	3252
36	<i>(Gillan)</i> CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT OF THE DIRECTOR OF REVENUE MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 23, 2009, TO THE SENATE	3252
37	<i>(Shockley)</i> CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED APRIL 2, 2009, TO THE SENATE	3253
38	<i>(Laible)</i> CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE BOARD OF PUBLIC EDUCATION MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED APRIL 2, 2009, TO THE SENATE	3254

2008 BALLOT ISSUES

Legislative Referendum Number 118		
	SUBMITTING A 6-MILL LEVY FOR SUPPORT OF THE MONTANA UNIVERSITY SYSTEM TO THE ELECTORATE; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE	3257
Initiative Number 155		
	HEALTHY MONTANA KIDS PLAN ACT	3257

LAWS

**Enacted by the
SIXTY-FIRST LEGISLATURE
IN REGULAR SESSION**

**Held at Helena, the Seat of Government
January 5, 2009, through April 28, 2009**

**Explanatory Note: Section 5-11-205, MCA, provides that
new parts of existing statutes be printed in italics and
that deleted provisions be shown as stricken.**

**COMPILED BY MONTANA
LEGISLATIVE SERVICES DIVISION**

CHAPTER NO. 1

[HB 1]

AN ACT APPROPRIATING MONEY FOR THE OPERATION OF THE CURRENT AND SUBSEQUENT LEGISLATURE; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Appropriation. (1) The following amounts are appropriated from the state general fund for fiscal years 2009, 2010, and 2011 for the operation of the 61st legislature and the costs of preparing for the 62nd legislature:

LEGISLATIVE BRANCH (1104)

1. Senate	\$3,023,738
2. House of Representatives	4,805,661
3. Legislative Services Division	799,509

(2) The following amounts are appropriated from the state general fund for fiscal year 2011 for the initial costs of the 62nd legislature:

LEGISLATIVE BRANCH (1104)

1. Senate	\$183,514
2. House	325,353
3. Legislative Services Division	6,000

Section 2. Effective date. [This act] is effective on passage and approval.

Approved January 15, 2009

CHAPTER NO. 2

[SB 7]

AN ACT GENERALLY REVISING AND CLARIFYING THE MONTANA CODE ANNOTATED; DIRECTING THE CODE COMMISSIONER TO CORRECT ERRONEOUS REFERENCES CONTAINED IN MATERIAL ENACTED BY THE 61ST LEGISLATURE; AMENDING SECTIONS 2-4-102, 2-5-103, 2-15-1781, 2-15-3113, 7-2-2723, 7-2-2743, 7-3-121, 7-3-122, 7-3-124, 7-3-154, 7-4-2505, 7-13-2527, 7-32-303, 10-3-1304, 10-4-101, 13-15-105, 13-15-107, 13-27-316, 15-1-121, 15-6-138, 15-6-192, 15-6-221, 15-7-111, 15-8-205, 15-8-301, 15-10-420, 15-16-402, 15-17-323, 15-17-911, 15-18-411, 15-18-413, 15-24-301, 15-24-2403, 15-30-140, 15-31-121, 16-1-306, 17-7-111, 17-7-138, 18-2-401, 18-5-605, 19-3-2121, 19-21-203, 20-7-328, 20-7-329, 20-7-330, 20-9-501, 20-9-707, 22-2-107, 23-5-119, 27-20-102, 30-10-324, 31-2-106, 33-1-111, 37-17-102, 39-51-403, 39-51-503, 39-71-2352, 39-73-104, 41-2-103, 41-3-205, 41-5-103, 41-5-322, 41-5-331, 41-5-1201, 41-5-1202, 41-5-1203, 41-5-1204, 41-5-1205, 41-5-1301, 41-5-1302, 41-5-1304, 41-5-1401, 41-5-1432, 41-5-1501, 41-5-1511, 41-5-1512, 41-5-1701, 41-5-1703, 41-5-1706, 44-1-303, 45-6-312, 46-23-508, 50-5-101, 50-6-503, 50-19-101, 52-3-813, 53-6-1201, 53-19-309, 53-20-125, 53-20-128, 53-20-133, 61-4-128, 69-8-419, 69-8-421, 70-32-106, 71-1-212, 72-3-606, 75-1-110, 75-1-220, 75-2-111, 75-2-211, 75-10-101, 75-10-102, 75-10-103, 75-10-112, 75-10-1007, 76-3-511, 76-7-204, 76-13-123, 76-13-211, 76-13-402, 76-13-405, 76-13-406, 76-15-408, 77-2-362,

85-1-619, 85-2-344, 87-1-272, 87-1-504, 87-1-505, 87-2-201, AND 87-2-514, MCA; AND REPEALING SECTIONS 15-7-134, 16-1-405, AND 20-9-631, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-4-102, MCA, is amended to read:

“2-4-102. Definitions. For purposes of this chapter, the following definitions apply:

(1) “Administrative rule review committee” or “committee” means the appropriate committee assigned subject matter jurisdiction in Title 5, chapter 5, part 2.

(2) (a) “Agency” means an agency, as defined in 2-3-102, of the state government, except that the provisions of this chapter do not apply to the following:

(i) the state board of pardons and parole, except that the board is subject to the requirements of 2-4-103, 2-4-201, 2-4-202, and 2-4-306 and its rules must be published in the ARM and the register;

(ii) the supervision and administration of a penal institution with regard to the institutional supervision, custody, control, care, or treatment of ~~youths~~ *youth* or prisoners;

(iii) the board of regents and the Montana university system;

(iv) the financing, construction, and maintenance of public works;

(v) the public service commission when conducting arbitration proceedings pursuant to 47 U.S.C. 252 and 69-3-837.

(b) ~~Agency~~ *The term* does not include a school district, a unit of local government, or any other political subdivision of the state.

(3) “ARM” means the Administrative Rules of Montana.

(4) “Contested case” means a proceeding before an agency in which a determination of legal rights, duties, or privileges of a party is required by law to be made after an opportunity for hearing. The term includes but is not restricted to ratemaking, price fixing, and licensing.

(5) (a) “Interested person” means a person who has expressed to the agency an interest concerning agency actions under this chapter and has requested to be placed on the agency’s list of interested persons as to matters of which the person desires to be given notice.

(b) The term does not extend to contested cases.

(6) “License” includes the whole or part of an agency permit, certificate, approval, registration, charter, or other form of permission required by law but does not include a license required solely for revenue purposes.

(7) “Licensing” includes an agency process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal, limitation, transfer, or amendment of a license.

(8) “Party” means a person named or admitted as a party or properly seeking and entitled as of right to be admitted as a party, but this chapter may not be construed to prevent an agency from admitting any person as a party for limited purposes.

(9) “Person” means an individual, partnership, corporation, association, governmental subdivision, agency, or public organization of any character.

(10) “Register” means the Montana Administrative Register.

(11) (a) "Rule" means each agency regulation, standard, or statement of general applicability that implements, interprets, or prescribes law or policy or describes the organization, procedures, or practice requirements of an agency. The term includes the amendment or repeal of a prior rule.

(b) The term does not include:

(i) statements concerning only the internal management of an agency or state government and not affecting private rights or procedures available to the public, including rules implementing the state personnel classification plan, the state wage and salary plan, or the statewide ~~budgeting and~~ *budgeting, and human resource* system;

(ii) formal opinions of the attorney general and declaratory rulings issued pursuant to 2-4-501;

(iii) rules relating to the use of public works, facilities, streets, and highways when the substance of the rules is indicated to the public by means of signs or signals;

(iv) seasonal rules adopted annually or biennially relating to hunting, fishing, and trapping when there is a statutory requirement for the publication of the rules and rules adopted annually or biennially relating to the seasonal recreational use of lands and waters owned or controlled by the state when the substance of the rules is indicated to the public by means of signs or signals; or

(v) uniform rules adopted pursuant to interstate compact, except that the rules must be filed in accordance with 2-4-306 and must be published in the ARM.

(12) (a) "Significant interest to the public" means agency actions under this chapter regarding matters that the agency knows to be of widespread citizen interest. These matters include issues involving a substantial fiscal impact to or controversy involving a particular class or group of individuals.

(b) The term does not extend to contested cases.

(13) "Substantive rules" are either:

(a) legislative rules, which if adopted in accordance with this chapter and under expressly delegated authority to promulgate rules to implement a statute have the force of law and when not so adopted are invalid; or

(b) adjective or interpretive rules, which may be adopted in accordance with this chapter and under express or implied authority to codify an interpretation of a statute. The interpretation lacks the force of law."

Section 2. Section 2-5-103, MCA, is amended to read:

"2-5-103. Definitions. As used in this part, the following definitions apply:

(1) "Agency" means any board, bureau, commission, department, authority, or officer of the executive branch of state government authorized or required by law to make rules.

(2) "Consensus" means unanimous concurrence among the interests represented on a negotiated rulemaking committee established under 2-5-106, unless the committee agrees upon another specified definition.

(3) "Convener" means a person who impartially assists an agency in determining whether establishment of a negotiated rulemaking committee is feasible and appropriate for a particular rulemaking procedure.

(4) "Facilitator" means a person who impartially aids in the discussions and negotiations among the members of a negotiated rulemaking committee to develop a proposed rule. A facilitator does not have decisionmaking authority.

(5) "Interest" means, with respect to an issue or matter, multiple parties that have a similar point of view or that are likely to be affected in a similar manner.

(6) "Negotiated rulemaking" means rulemaking through the use of a negotiated rulemaking committee.

(7) "Negotiated rulemaking committee" or "committee" means an advisory committee established under 2-5-106 and authorized under 2-4-304 to consider and discuss issues for the purpose of reaching a consensus in the development of a proposed rule.

(8) "Person" means an individual, partnership, corporation, association, governmental subdivision, agency, or public or private organization of any character.

(9) "Rule" means an agency regulation, standard, or statement of general applicability that implements, interprets, or prescribes law or policy or describes the organization, procedures, or practice requirements of an agency. The term includes the amendment or repeal of a prior rule but does not include:

(a) statements concerning only the internal management of an agency and not affecting private rights or procedures available to the public;

(b) formal opinions of the attorney general and declaratory rulings issued pursuant to 2-4-501;

(c) rules relating to the use of public works, facilities, streets, and highways when the substance of the rules is indicated to the public by means of signs or signals;

(d) rules implementing the state personnel classification plan, the state wage and salary plan, or the statewide ~~budgeting and~~ accounting, *budgeting, and human resource* system;

(e) uniform rules adopted pursuant to *an* interstate compact, except that the rules must be filed in accordance with 2-4-306 and must be published in the Administrative Rules of Montana."

Section 3. Section 2-15-1781, MCA, is amended to read:

"2-15-1781. Board of private security. (1) There is a board of private security.

(2) The board consists of seven voting members appointed by the governor with the consent of the senate. The members shall represent:

(a) one contract security company or proprietary security organization, as defined by 37-60-101;

(b) one electronic security company, as defined by 37-60-101;

(c) one city police department;

(d) one county sheriff's office;

(e) one member of the public;

(f) one member of the ~~peace-officers'~~ *Montana public safety officer* standards and training ~~advisory~~ council; and

(g) a licensed private investigator or a registered process server.

(3) Members of the board must be at least 25 years of age and have been residents of this state for more than 5 years.

(4) The appointed members of the board shall serve for ~~a term~~ *terms* of 3 years. The terms of board members must be staggered.

(5) The governor may remove a member for misconduct, incompetency, neglect of duty, or unprofessional or dishonorable conduct.

(6) A vacancy on the board must be filled in the same manner as the original appointment and may ~~only~~ be *only* for the unexpired portion of the term.

(7) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121.”

Section 4. Section 2-15-3113, MCA, is amended to read:

“2-15-3113. Additional powers and duties of livestock loss reduction and mitigation board. (1) The livestock loss reduction and mitigation board shall:

(a) process claims;

(b) seek information necessary to ensure that claim documentation is complete;

(c) provide payments authorized by the board for confirmed and probable livestock losses, along with a written explanation of payment;

(d) submit monthly and annual reports to the board ~~{of livestock}~~ *of livestock* summarizing claims and expenditures and the results of action taken on claims and maintain files of all claims received, including supporting documentation;

(e) provide information to the board ~~{of livestock}~~ *of livestock* regarding appealed claims and implement any decision by the board;

(f) prepare the annual budget for the board; and

(g) provide proper documentation of staff time and expenditures.

(2) The livestock loss reduction and mitigation board may enter into an agreement with any Montana tribe, if the tribe has adopted a wolf management plan for reservation lands that is consistent with the state wolf management plan, to provide that tribal lands within reservation boundaries are eligible for mitigation grants pursuant to 2-15-3111 and that livestock losses on tribal lands within reservation boundaries are eligible for reimbursement payments pursuant to 2-15-3112.

(3) The livestock loss reduction and mitigation board shall:

(a) coordinate and share information with state, federal, and tribal officials, livestock producers, nongovernmental organizations, and the general public in an effort to reduce livestock losses caused by wolves;

(b) establish an annual budget for the prevention, mitigation, and reimbursement of livestock losses caused by wolves;

(c) perform or contract for the performance of periodic program audits and reviews of program expenditures, including payments to individuals, incorporated entities, and producers who receive loss reduction grants and reimbursement payments;

(d) adjudicate appeals of claims;

(e) investigate alternative or enhanced funding sources, including possible agreements with public entities and private wildlife or livestock organizations that have active livestock loss reimbursement programs in place;

(f) meet as necessary to conduct business; and

(g) report annually to the governor, the legislature, members of the Montana congressional delegation, the board of livestock, the fish, wildlife, and parks commission, and the public regarding results of the programs established in 2-15-3111 through 2-15-3113.”

Section 5. Section 7-2-2723, MCA, is amended to read:

“7-2-2723. Vesting of property and legal rights. The county designated in the petition for the abandonment of a county as the county to which the territory of the abandoned county ~~shall is to~~ be attached, subject to the provisions of this part, shall:

(1) succeed to, have, possess, and own all other property, assets, liens, rights, remedies, and claims of every kind owned and belonging to or possessed by the abandoned county on the date ~~when the same~~ *that county* ceases to exist; and

(2) have the right to demand, collect, and receive ~~any and~~ all money to which ~~such the~~ abandoned county was entitled for taxes for which tax *lien* sales had not been held, for licenses, and for other demands remaining unpaid on the date ~~when such that the~~ abandoned county ceases to exist and to enforce in any manner authorized by law ~~any and all of such~~ rights, remedies, and claims.”

Section 6. Section 7-2-2743, MCA, is amended to read:

“7-2-2743. Collection of taxes and other money. Taxes levied for all ~~such funds which that~~ were delinquent on the day ~~when such the~~ county ceased to exist and for which tax *lien* sales had not been held and all licenses and other money owing to ~~such the~~ county at ~~such that~~ time ~~shall must~~ be collected by the treasurer of the county designated in the petition for abandonment as the county to which its territory is to be attached and ~~become a part and placed in and must be~~ deposited to the credit of the funds of ~~such the~~ abandoned and abolished county ~~to which the same properly belong.”~~

Section 7. Section 7-3-121, MCA, is amended to read:

“7-3-121. Purpose. The purpose of 7-3-121 through ~~7-3-125 and 7-3-141 through~~ 7-3-161 is to provide procedures for alteration of existing forms of local government.”

Section 8. Section 7-3-122, MCA, is amended to read:

“7-3-122. Definitions. As used in 7-3-121 through ~~7-3-125 and 7-3-141 through~~ 7-3-161, unless the context indicates otherwise, the following definitions apply:

(1) “Authority” means:

(a) a municipal or regional airport authority as provided in Title 67, chapter 11;

(b) a conservancy district as provided in Title 85, chapter 9;

(c) a conservation district as provided in Title 76, chapter 15;

(d) a drainage district as provided in Title 85, chapter 8;

(e) an irrigation district as provided in Title 85, chapter 7;

(f) a hospital district as provided in Title 7, chapter 34, part 21;

(g) a ~~flood control and~~ water conservation *and flood control* district as provided in Title 76, chapter 5, part 11;

(h) a county water and sewer district as provided in Title 7, chapter 13, part 22; or

(i) an urban transportation district as provided in Title 7, chapter 14, part 2.

(2) “Finance administrator” means the individual responsible for the financial administration of the local government and generally means the

county or city treasurer or town clerk unless the alternative form or governing body specifies a different individual.

(3) "Form of government" or "form" means one of the types of local government enumerated in 7-3-102 and the type of government described in 7-3-111.

(4) "Governing body" means the commission or the town meeting legislative body established in the alternative form of a local government under Title 7, chapter 3, parts 1 through 7.

(5) "Local improvement district" means an improvement district in which property is assessed to pay for specific capital improvements benefiting the assessed property.

(6) "Plan of government" has the meaning provided in 7-1-4121.

(7) "Records administrator" means the individual responsible for keeping the public records of the local government and generally means the county, city, or town clerk unless the alternative form or governing body specifies a different individual.

(8) "Subordinate service district" means a special district within a local government in which certain services are provided and in which taxes may be levied to finance the services."

Section 9. Section 7-3-124, MCA, is amended to read:

"7-3-124. Election procedure. Except as otherwise provided in 7-3-121 through 7-3-125 and 7-3-141 through 7-3-161, each election under 7-3-121 through 7-3-125 and 7-3-141 through 7-3-161 is conducted in the same manner as an election involving ballot issues or *an election* of local officials."

Section 10. Section 7-3-154, MCA, is amended to read:

"7-3-154. Judicial review. Judicial review to determine the validity of the procedures whereby any charter or alternative plan of government is adopted may be initiated by petition in district court of 10 or more registered voters of the local government brought within 60 days after the election at which the charter or plan of government, revision, or amendment is approved. If no petition is filed within that period, compliance with all the procedures required by 7-3-121 through 7-3-125 and 7-3-141 through 7-3-161 and the validity of the manner in which the charter or plan of government was approved is conclusively presumed. It is presumed that proper procedure was followed and all procedural requirements were met. The adoption of a charter or plan of government may not be considered invalid because of any procedural error or omission unless it is shown that the error or omission materially and substantially affected its adoption."

Section 11. Section 7-4-2505, MCA, is amended to read:

"7-4-2505. Amount of compensation for deputies and assistants. (1) Subject to subsection (2), the boards of county commissioners in the several counties in the state shall fix the compensation allowed any deputy or assistant of the following officers:

- (a) clerk and recorder;
- (b) clerk of the district court;
- (c) treasurer;
- (d) county attorney;
- (e) auditor.

(2) (a) The salary of a deputy or an assistant listed in subsection (1), other than a deputy county attorney, may not be more than 90% of the salary of the officer under whom the deputy or assistant is serving. The salary of a deputy county attorney, including longevity payments provided in ~~7-4-2503(3)(d)~~ 7-4-2503(3)(c), may not exceed the salary of the county attorney under whom the deputy is serving.

(b) If a deputy or assistant is employed for a period of less than 1 year, the compensation of the deputy or assistant must be for the time employed, ~~provided~~ and the rate of compensation may not be in excess of the rates provided by law for similar deputies and assistants.”

Section 12. Section 7-13-2527, MCA, is amended to read:

“7-13-2527. List of property owners. (1) A copy of the order creating the district must be delivered to the department of revenue.

(2) The department shall, on or before August 1 of each year, prepare and certify a list of all persons owning class four property, *provided for in 15-6-134*, within the district and deliver a copy of the list to the board of trustees of the district.”

Section 13. Section 7-32-303, MCA, is amended to read:

“7-32-303. Peace officer employment, education, and certification standards — suspension or revocation — penalty. (1) For purposes of this section, unless the context clearly indicates otherwise, “peace officer” means a deputy sheriff, undersheriff, police officer, highway patrol officer, fish and game warden, park ranger, campus security officer, or airport police officer.

(2) A sheriff of a county, *the* mayor of a city, *a* board, ~~or a~~ commission, or *any* other person authorized by law to appoint peace officers in this state may not appoint any person as a peace officer who does not meet the following qualifications plus any additional qualifying standards for employment promulgated by the Montana public safety officer standards and training council established in 2-15-2029:

(a) be a citizen of the United States;

(b) be at least 18 years of age;

(c) be fingerprinted and a search made of the local, state, and national fingerprint files to disclose any criminal record;

(d) not have been convicted of a crime for which the person could have been imprisoned in a federal or state penitentiary;

(e) be of good moral character, as determined by a thorough background investigation;

(f) be a high school graduate or have passed the general ~~education~~ *educational* development test and have been issued an equivalency certificate by the superintendent of public instruction or by an appropriate issuing agency of another state or of the federal government;

(g) be examined by a licensed physician, who is not the applicant’s personal physician, appointed by the employing authority to determine if the applicant is free from any mental or physical condition that might adversely affect performance by the applicant of the duties of a peace officer;

(h) successfully complete an oral examination conducted by the appointing authority or its designated representative to demonstrate the possession of communication skills, temperament, motivation, and other characteristics

necessary to the accomplishment of the duties and functions of a peace officer; and

(i) possess or be eligible for a valid Montana driver's license.

(3) At the time of appointment, a peace officer shall take a formal oath of office.

(4) Within 10 days of the appointment, termination, resignation, or death of any peace officer, written notice thereof must be given to the Montana public safety officer standards and training council by the employing authority.

(5) (a) Except as provided in subsections (5)(b) and (5)(c), it is the duty of an appointing authority to cause each peace officer appointed under its authority to attend and successfully complete, within 1 year of the initial appointment, an appropriate peace officer basic course certified by the Montana public safety officer standards and training council. Any peace officer appointed after September 30, 1983, who fails to meet the minimum requirements as set forth in subsection (2) or who fails to complete the basic course as required by this subsection (5)(a) forfeits the position, authority, and arrest powers accorded a peace officer in this state.

(b) A peace officer who has been issued a basic certificate by the Montana public safety officer standards and training council and whose last date of employment as a peace officer was less than 36 months prior to the date of the person's present appointment as a peace officer is not required to fulfill the basic educational requirements of subsection (5)(a). If the peace officer's last date of employment as a peace officer was 36 or more but less than 60 months prior to the date of present employment as a peace officer, the peace officer may satisfy the basic educational requirements as set forth in subsection (5)(c).

(c) A peace officer *referred to* under the provisions of subsection (5)(b) or a peace officer who has completed a basic peace officer's course in another state and whose last date of employment as a peace officer was less than 60 months prior to the date of present appointment as a peace officer may, within 1 year of the peace officer's present employment or initial appointment as a peace officer within this state, satisfy the basic educational requirements by successfully passing a basic equivalency test administered by the Montana law enforcement academy and successfully completing a legal training course conducted by the academy. If the peace officer fails the basic equivalency test, the peace officer shall complete the basic course within 120 days of the date of the test.

(6) The Montana public safety officer standards and training council may extend the 1-year time requirements of subsections (5)(a) and (5)(c) upon the written application of the peace officer and the appointing authority of the officer. The application must explain the circumstances that make the extension necessary. Factors that the council may consider in granting or denying the extension include but are not limited to illness of the peace officer or a member of the peace officer's immediate family, absence of reasonable access to the basic course or the legal training course, and an unreasonable shortage of personnel within the department. The council may not grant an extension to exceed 180 days.

(7) A peace officer who has successfully met the employment standards and qualifications and the educational requirements of this section and who has completed a 1-year probationary term of employment must, upon application to the Montana public safety officer standards and training council, be issued a basic certificate by the council, certifying that the peace officer has met all the basic qualifying peace officer standards of this state.

(8) It is unlawful for a person whose certification as a peace officer, detention officer, or detention center administrator has been revoked or suspended by the Montana public safety officer standards and training council to act as a peace officer, detention officer, or detention center administrator. A person convicted of violating this subsection is guilty of a misdemeanor, punishable by a term of imprisonment not to exceed 6 months in the county jail or by a fine not to exceed \$500, or both.”

Section 14. Section 10-3-1304, MCA, is amended to read:

“10-3-1304. Radioactive waste transportation monitoring, emergency response, and training account — purpose — disbursement.

(1) There is an account in the state special revenue fund to be known as the radioactive waste transportation monitoring, emergency response, and training account administered by the disaster and emergency services division of the department of military affairs.

(2) The money deposited into this account by the department of transportation pursuant to 10-3-1307 may be used only for the following purposes:

(a) to reimburse the highway patrol for expenses incurred in monitoring or providing escorts for motor carriers transporting high-level radioactive waste or transuranic waste through the state;

(b) to provide funding for training local emergency response personnel in handling radioactive waste accidents, spills, and other related emergencies; and

(c) to reimburse local emergency response entities for costs incurred in the event that an accident, spill, or other related emergency occurs.

~~(3) Prior to rulemaking provided for under 10-3-1309(3), the disaster and emergency services division of the department of military affairs shall coordinate with the public service commission and the department of transportation to provide to an appropriate legislative interim committee prior to the 59th legislature a plan that prioritizes prospective disbursement of money in the account described in subsection (1).”~~

Section 15. Section 10-4-101, MCA, is amended to read:

“10-4-101. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) “Allowable costs” means the actual costs associated with upgrading, purchasing, programming, installing, testing, operating, and maintaining data, hardware, and software necessary to comply with federal communications commission orders.

(2) “Basic 9-1-1 account” means the 9-1-1 emergency telecommunications account established in 10-4-301(1)(a).

(3) “Basic 9-1-1 service” means a telephone service meeting the standards established in ~~10-4-102~~ 10-4-103 that automatically connects a person dialing the digits 9-1-1 to an established public safety answering point.

(4) “Basic 9-1-1 system” includes equipment for connecting and outswitching 9-1-1 calls within a telephone central office, trunking facilities from the central office to a public safety answering point, and equipment, as appropriate, that is used for transferring the call to another point, when appropriate, and that is capable of providing basic 9-1-1 service.

(5) “Commercial mobile radio service” means:

(a) a mobile service that is:

(i) provided for profit with the intent of receiving compensation or monetary gain;

(ii) an interconnected service; and

(iii) available to the public or to classes of eligible users so as to be effectively available to a substantial portion of the public; or

(b) a mobile service that is the functional equivalent of a mobile service described in subsection (5)(a).

(6) "Department" means the department of administration provided for in Title 2, chapter 15, part 10.

(7) "Direct dispatch" means a 9-1-1 service in which a public safety answering point, upon receipt of a telephone request for emergency services, provides for a decision as to the proper action to be taken and for dispatch of appropriate emergency service units.

(8) "Emergency" means an event that requires dispatch of a public or private safety agency.

(9) "Emergency services" means services provided by a public or private safety agency, including law enforcement, firefighting, ambulance or medical services, and civil defense services.

(10) "Enhanced 9-1-1 account" means the 9-1-1 emergency telecommunications account established in 10-4-301(1)(b).

(11) "Enhanced 9-1-1 service" means telephone service that meets the requirements for basic 9-1-1 service and that consists of selective routing with the capability of automatic number identification and automatic location identification at a public safety answering point enabling users of the public telecommunications system to request emergency services by dialing the digits 9-1-1.

(12) "Enhanced 9-1-1 system" includes customer premises equipment that is directly related to the operation of an enhanced 9-1-1 system, including but not limited to automatic number identification or automatic location identification controllers and display units, printers, and software associated with call detail recording, and that is capable of providing enhanced 9-1-1 service.

(13) "Exchange access services" means:

(a) telephone exchange access lines or channels that provide local access from the premises of a subscriber in this state to the local telecommunications network to effect the transfer of information; and

(b) unless a separate tariff rate is charged for the exchange access lines or channels, any facility or service provided in connection with the services described in subsection (13)(a).

(14) "Federal communications commission order" means a federal communications commission enhanced 9-1-1 first report and order addressing 47 CFR 20.18.

(15) A "9-1-1 jurisdiction" means a group of public or private safety agencies who operate within or are affected by one or more common central office boundaries and who have agreed in writing to jointly plan a 9-1-1 emergency telephone system.

(16) "Phase I wireless enhanced 9-1-1" means a 9-1-1 system that automatically delivers number information to the public safety answering point for wireless calls.

(17) "Phase II wireless enhanced 9-1-1" means a 9-1-1 system that automatically delivers number information and location information to the public safety answering point for wireless calls.

(18) "Place of primary use" means the primary business or residential street address location at which an end-use customer's use of the commercial mobile radio service primarily occurs.

(19) "Private safety agency" means any entity, except a public safety agency, providing emergency fire, ambulance, or medical services.

(20) "Provider" means a public utility, a cooperative telephone company, or any other entity that provides telephone exchange access services.

(21) "Public safety agency" means the state and any city, county, city-county consolidated government, municipal corporation, chartered organization, public district, or public authority located in whole or in part within this state that provides or has authority to provide emergency services.

(22) "Public safety answering point" means a communications facility operated on a 24-hour basis that first receives 9-1-1 calls from persons in a 9-1-1 service area and that may, as appropriate, directly dispatch public or private safety services or transfer or relay 9-1-1 calls to appropriate public safety agencies.

(23) "Relay" means a 9-1-1 service in which a public safety answering point, upon receipt of a telephone request for emergency services, notes the pertinent information from the caller and relays the information to the appropriate public safety agency, other agencies, or other providers of emergency services for dispatch of an emergency unit.

(24) "Subscriber" means an end user who receives telephone exchange access services or who contracts with a wireless provider for commercial mobile radio services.

(25) "Transfer" means a 9-1-1 service in which a public safety answering point, upon receipt of a telephone request for emergency services, directly transfers the request to an appropriate public safety answering agency or other provider of emergency services.

(26) "Wireless enhanced 9-1-1" means either phase I wireless enhanced 9-1-1 or phase II wireless enhanced 9-1-1.

(27) "Wireless enhanced 9-1-1 account" means the wireless enhanced 9-1-1 account established in 10-4-301.

(28) "Wireless provider" means an entity, as defined in 35-1-113, that is authorized by the federal communications commission to provide facilities-based commercial mobile radio service within this state."

Section 16. Section 13-15-105, MCA, is amended to read:

"13-15-105. Notices relating to absentee ballot counting board. (1) Whenever an absentee ballot counting board is appointed under ~~15-15-112~~ *13-15-112*, the election administrator shall:

(a) publish in the contracted newspaper of the county as provided in 7-5-2411 a notice indicating the method that will be used for counting absentee ballots; and

(b) post in a conspicuous location at the office of the election administrator, by 5 p.m. of the day before an election, a notice that indicates the place and time that the counting board for absentee ballots will meet on election day.

(2) If the count will begin while the polls are open, the notice required under subsection (1) must inform the public that any person observing the procedures of the counting board must be sequestered with the board until the polls are closed and is required to take the oath provided in 13-15-207(4).”

Section 17. Section 13-15-107, MCA, is amended to read:

“13-15-107. Handling and counting provisional and challenged ballots. (1) To verify eligibility to vote, a provisionally registered elector who casts a provisional ballot has until 5 p.m. on the day after the election to provide valid identification information either in person, by facsimile, by electronic mail, or by mail postmarked no later than the day after the election.

(2) (a) If a legally registered elector casts a provisional ballot because the elector failed to provide sufficient identification as required pursuant to 13-13-114(1)(a), the election administrator shall compare the elector’s signature on the affirmation required under 13-13-601 to the elector’s signature on the elector’s voter registration card.

(b) If the signatures match, the election administrator shall handle the ballot as provided in subsection ~~(6)~~ (5).

(c) If the signatures do not match, the ballot must be rejected and handled as provided in 13-15-108.

(3) A provisional ballot must be counted if the election administrator verifies the elector’s eligibility pursuant to rules adopted under 13-13-603. However, if the election administrator cannot verify the elector’s eligibility under the rules, the elector’s provisional ballot must be rejected and handled as provided in 13-15-108. If the ballot is provisional because of a challenge and the challenge was made on the grounds that the elector is of unsound mind or serving a felony sentence in a penal institution, the elector’s provisional ballot must be counted unless the challenger provides documentation by 5 p.m. on the day after the election that a court has established that the elector is of unsound mind or that the elector has been convicted and sentenced and is still serving a felony sentence in a penal institution.

(4) The election administrator shall provide an elector who cast a provisional ballot but whose ballot was not counted with the reasons why the ballot was not counted.

(5) A provisional ballot cast by an elector whose voter information is verified before 5 p.m. on the day after the election must be removed from its provisional envelope, grouped with other ballots in a manner that allows for the secrecy of the ballot to the greatest extent possible, and counted as any other ballot.”

Section 18. Section 13-27-316, MCA, is amended to read:

“13-27-316. Court review of attorney general opinion or approved petitioner statements. (1) If the proponents of a ballot ~~measure~~ *issue* believe that the ballot statements approved by the attorney general do not satisfy the requirements of 13-27-312 or believe that the attorney general was incorrect in determining that the petition was legally deficient, they may, within 10 days of the attorney general’s determination regarding legal sufficiency provided for in 13-27-202, file an original proceeding in the supreme court challenging the adequacy of the statement or the attorney general’s determination and requesting the court to alter the statement or modify the attorney general’s determination.

(2) If the opponents of a ballot ~~measure~~ *issue* believe that the petitioner ballot statements approved by the attorney general do not satisfy the

requirements of 13-27-312 or believe that the attorney general was incorrect in determining that the petition was legally sufficient, they may, within 10 days of the date of certification to the governor that the completed petition has been officially filed, file an original proceeding in the supreme court challenging the adequacy of the statement or the attorney general's determination and requesting the court to alter the statement or overrule the attorney general's determination concerning the legal sufficiency of the petition. The attorney general shall respond to a complaint within 5 days.

(3) (a) Notice must be served upon the secretary of state and upon the attorney general.

(b) If the proceeding requests modification of ballot statements, an action brought under this section must state how the petitioner's ballot statements approved by the attorney general do not satisfy the requirements of 13-27-312 and must propose alternate ballot statements that satisfy the requirements of 13-27-312.

(c) (i) Pursuant to Article IV, section 7(2), of the Montana constitution, an action brought pursuant to this section takes precedence over other cases and matters in the supreme court. The court shall examine the proposed issue and the challenged statement or determination of the attorney general and shall as soon as possible render a decision as to the adequacy of the ballot statements or the correctness of the attorney general's determination.

(ii) If the court decides that the ballot statements do not meet the requirements of 13-27-312, it may order the attorney general to revise the statements within 5 days or certify to the secretary of state a statement that the court determines will meet the requirements of 13-27-312. A statement revised by the attorney general pursuant to the court's order or certified by the court must be placed on the petition for circulation and on the official ballot.

(iii) If the court decides that the attorney general's legal sufficiency determination is incorrect and that a proposed issue does not comply with statutory and constitutional requirements governing submission of the issue to the electors, any petitions supporting the issue are void and the issue may not appear on the ballot. A proponent of the ballot issue may resubmit a revised issue, pursuant to 13-27-202, subject to the deadlines provided in this chapter.

(iv) If the court decides that the attorney general's legal deficiency determination is incorrect and that a proposed issue complies with statutory and constitutional requirements governing submission of the issue to the electors, the attorney general shall prepare ballot statements pursuant to 13-27-312 and forward the statements to the secretary of state within 5 days of the court's decision.

(4) A petition for a proposed ballot issue may be circulated by a signature gatherer upon transmission of the sample petition form by the secretary of state pending review under this section. If, upon review, the attorney general or the supreme court revises the petition form or ballot statements, any petitions signed prior to the revision are void.

(5) An original proceeding in the supreme court under this section is the exclusive remedy for a challenge to the petitioner's ballot statements, as approved by the attorney general, or the attorney general's legal sufficiency determination. A ballot issue may not be invalidated under this section after the secretary of state has certified the ballot under 13-12-201.

(6) This section does not limit the right to challenge a constitutional defect in the substance of an issue approved by a vote of the people."

Section 19. Section 15-1-121, MCA, is amended to read:

“15-1-121. Entitlement share payment — appropriation. (1) The amount calculated pursuant to this subsection, as adjusted pursuant to subsection (3)(a)(i), is each local government’s base entitlement share. The department shall estimate the total amount of revenue that each local government received from the following sources for the fiscal year ending June 30, 2001:

- (a) personal property tax reimbursements pursuant to sections 167(1) through (5) and 169(6), Chapter 584, Laws of 1999;
- (b) vehicle, boat, and aircraft taxes and fees pursuant to:
 - (i) Title 23, chapter 2, part 5;
 - (ii) Title 23, chapter 2, part 6;
 - (iii) Title 23, chapter 2, part 8;
 - (iv) 61-3-317;
 - (v) 61-3-321;
 - (vi) Title 61, chapter 3, part 5, except for 61-3-509(3), as that subsection read prior to the amendment of 61-3-509 in 2001;
 - (vii) Title 61, chapter 3, part 7;
 - (viii) 5% of the fees collected under 61-10-122;
 - (ix) 61-10-130;
 - (x) 61-10-148; and
 - (xi) 67-3-205;
- (c) gaming revenue pursuant to Title 23, chapter 5, part 6, except for the permit fee in 23-5-612(2)(a);
- (d) district court fees pursuant to:
 - (i) 25-1-201, except those fees in 25-1-201(1)(d), (1)(g), and (1)(j);
 - (ii) 25-1-202;
 - (iii) 25-9-506; and
 - (iv) 27-9-103;
- (e) certificate of title fees for manufactured homes pursuant to 15-1-116;
- (f) financial institution taxes collected pursuant to the former provisions of Title 15, chapter 31, part 7;
- (g) all beer, liquor, and wine taxes pursuant to:
 - (i) 16-1-404;
 - (ii) 16-1-406; and
 - (iii) 16-1-411;
- (h) late filing fees pursuant to 61-3-220;
- (i) title and registration fees pursuant to 61-3-203;
- (j) veterans’ cemetery license plate fees pursuant to 61-3-459;
- (k) county personalized license plate fees pursuant to 61-3-406;
- (l) special mobile equipment fees pursuant to 61-3-431;
- (m) single movement permit fees pursuant to 61-4-310;
- (n) state aeronautics fees pursuant to 67-3-101; and

(o) department of natural resources and conservation payments in lieu of taxes pursuant to Title 77, chapter 1, part 5.

(2) (a) From the amounts estimated in subsection (1) for each county government, the department shall deduct fiscal year 2001 county government expenditures for district courts, less reimbursements for district court expenses, and fiscal year 2001 county government expenditures for public welfare programs to be assumed by the state in fiscal year 2002.

(b) The amount estimated pursuant to subsections (1) and (2)(a) is each local government's base year component. The sum of all local governments' base year components is the base year entitlement share pool. For the purpose of calculating the sum of all local governments' base year components, the base year component for a local government may not be less than zero.

(3) (a) The base year entitlement share pool must be increased annually by a growth rate as provided for in this subsection (3). The amount determined through the application of annual growth rates is the entitlement share pool for each fiscal year. By October 1 of each even-numbered year, the department shall calculate the growth rate of the entitlement share pool for each year of the next biennium in the following manner:

(i) Before applying the growth rate for fiscal year 2007 to determine the fiscal year 2007 entitlement share payments, the department shall subtract from the fiscal year 2006 entitlement share payments the following amounts:

Beaverhead	\$6,972
Big Horn	\$52,551
Blaine	\$13,625
Broadwater	\$2,564
Carbon	\$11,537
Carter	\$407
Cascade	\$100,000
Chouteau	\$3,536
Custer	\$7,011
Daniels	\$143
Dawson	\$3,893
Fallon	\$1,803
Fergus	\$9,324
Flathead	\$100,000
Gallatin	\$160,000
Garfield	\$91
Glacier	\$3,035
Golden Valley	\$2,282
Granite	\$4,554
Hill	\$31,740
Jefferson	\$5,700
Judith Basin	\$1,487
Lake	\$38,314
Lewis and Clark	\$160,000

Liberty	\$152
Lincoln	\$3,759
Madison	\$8,805
McCone	\$1,651
Meagher	\$2,722
Mineral	\$2,361
Missoula	\$200,000
Musselshell	\$23,275
Park	\$6,582
Petroleum	\$36
Phillips	\$653
Pondera	\$10,270
Powder River	\$848
Powell	\$5,146
Prairie	\$717
Ravalli	\$93,090
Richland	\$3,833
Roosevelt	\$9,526
Rosebud	\$19,971
Sanders	\$30,712
Sheridan	\$271
Stillwater	\$12,117
Sweet Grass	\$2,463
Teton	\$5,560
Toole	\$7,113
Treasure	\$54
Valley	\$6,899
Wheatland	\$918
Wibaux	\$72
Yellowstone	\$270,000
Anaconda-Deer Lodge	\$20,707
Butte-Silver Bow	\$53,057
Alberton	\$675
Bainville	\$258
Baker	\$2,828
Bearcreek	\$143
Belgrade	\$11,704
Belt	\$1,056
Big Sandy	\$1,130
Big Timber	\$2,910
Billings	\$163,499

Ch. 2	MONTANA SESSION LAWS 2009	18
Boulder		\$2,340
Bozeman		\$52,805
Bridger		\$1,303
Broadus		\$766
Broadview		\$258
Brockton		\$414
Browning		\$1,830
Cascade		\$1,374
Chester		\$1,430
Chinook		\$2,275
Choteau		\$3,050
Circle		\$1,018
Clyde Park		\$572
Colstrip		\$4,090
Columbia Falls		\$6,805
Columbus		\$3,245
Conrad		\$4,562
Culbertson		\$1,216
Cut Bank		\$5,316
Darby		\$1,348
Deer Lodge		\$5,708
Denton		\$503
Dillon		\$6,928
Dodson		\$194
Drummond		\$561
Dutton		\$661
East Helena		\$2,888
Ekalaka		\$689
Ennis		\$1,518
Eureka		\$1,733
Fairfield		\$1,120
Fairview		\$1,152
Flaxville		\$143
Forsyth		\$3,286
Fort Benton		\$2,579
Fort Peck		\$393
Froid		\$328
Fromberg		\$855
Geraldine		\$457
Glasgow		\$5,361
Glendive		\$8,099

Grass Range	\$254
Great Falls	\$96,422
Hamilton	\$7,148
Hardin	\$5,920
Harlem	\$1,422
Harlowton	\$1,678
Havre	\$16,223
Helena	\$45,877
Hingham	\$263
Hobson	\$397
Hot Springs	\$912
Hysham	\$482
Ismay	\$43
Joliet	\$1,006
Jordan	\$606
Judith Gap	\$263
Kalispell	\$28,144
Kevin	\$304
Laurel	\$10,804
Lavina	\$361
Lewistown	\$10,170
Libby	\$4,475
Lima	\$397
Livingston	\$12,145
Lodge Grass	\$889
Malta	\$3,389
Manhattan	\$2,485
Medicine Lake	\$410
Melstone	\$234
Miles City	\$14,152
Missoula	\$104,264
Moore	\$319
Nashua	\$536
Neihart	\$149
Opheim	\$180
Outlook	\$125
Philipsburg	\$1,612
Pinesdale	\$1,413
Plains	\$2,007
Plentywood	\$3,185
Plevna	\$225

Ch. 2	MONTANA SESSION LAWS 2009	20
Polson		\$7,722
Poplar		\$1,544
Red Lodge		\$3,903
Rexford		\$263
Richey		\$309
Ronan		\$3,262
Roundup		\$3,280
Ryegate		\$465
Saco		\$354
Scobey		\$1,798
Shelby		\$5,677
Sheridan		\$1,150
Sidney		\$7,747
Stanford		\$737
Stevensville		\$3,063
St. Ignatius		\$1,367
Sunburst		\$709
Superior		\$1,521
Terry		\$1,011
Thompson Falls		\$2,272
Three Forks		\$3,130
Townsend		\$3,286
Troy		\$1,654
Twin Bridges		\$695
Valier		\$817
Virginia City		\$223
Walkerville		\$1,183
West Yellowstone		\$2,083
Westby		\$263
White Sulphur Springs		\$1,734
Whitefish		\$9,932
Whitehall		\$1,889
Wibaux		\$893
Winifred		\$259
Winnett		\$314
Wolf Point		\$4,497

(ii) The department shall calculate the average annual growth rate of the Montana gross state product, as published by the bureau of economic analysis of the United States department of commerce, for the following periods:

(A) the last 4 calendar years for which the information has been published; and

(B) the 4 calendar years beginning with the year before the first year in the period referred to in subsection (3)(a)(ii)(A).

(iii) The department shall calculate the average annual growth rate of Montana personal income, as published by the bureau of economic analysis of the United States department of commerce, for the following periods:

(A) the last 4 calendar years for which the information has been published; and

(B) the 4 calendar years beginning with the year before the first year in the period referred to in subsection (3)(a)(iii)(A).

(b) (i) The entitlement share pool growth rate for the first year of the biennium must be the following percentage of the average of the growth rates calculated in subsections (3)(a)(ii)(B) and (3)(a)(iii)(B):

(A) for counties, 54%;

(B) for consolidated local governments, 62%; and

(C) for incorporated cities and towns, 70%.

(ii) The entitlement share pool growth rate for the second year of the biennium must be the following percentage of the average of the growth rates calculated in subsections (3)(a)(ii)(A) and (3)(a)(iii)(A):

(A) for counties, 54%;

(B) for consolidated local governments, 62%; and

(C) for incorporated cities and towns, 70%.

(4) As used in this section, "local government" means a county, a consolidated local government, an incorporated city, and an incorporated town. A local government does not include a tax increment financing district provided for in subsection (6). For purposes of calculating the base year component for a county or consolidated local government, the department shall include the revenue listed in subsection (1) for all special districts within the county or consolidated local government. The county or consolidated local government is responsible for making an allocation from the county's or consolidated local government's share of the entitlement share pool to each special district within the county or consolidated local government in a manner that reasonably reflects each special district's loss of revenue sources listed in subsection (1).

(5) (a) The entitlement share pools calculated in this section and the block grants provided for in subsection (6) are statutorily appropriated, as provided in 17-7-502, from the general fund to the department for distribution to local governments. Each local government is entitled to a pro rata share of each year's entitlement share pool based on the local government's base component in relation to the base year entitlement share pool. The distributions must be made on a quarterly basis.

(b) (i) The growth amount is the difference between the entitlement share pool in the current fiscal year and the entitlement share pool in the previous fiscal year. For the purposes of subsection (5)(b)(ii)(A), a county with a negative base year component has a base year component of zero. The growth factor in the entitlement share must be calculated separately for:

(A) counties;

(B) consolidated local governments; and

(C) incorporated cities and towns.

(ii) In each fiscal year, the growth amount for counties must be allocated as follows:

(A) 50% of the growth amount must be allocated based upon each county's percentage of the base year entitlement share pool for all counties; and

(B) 50% of the growth amount must be allocated based upon the percentage that each county's population bears to the state population not residing within consolidated local governments as determined by the latest interim year population estimates from the Montana department of commerce as supplied by the United States bureau of the census.

(iii) In each fiscal year, the growth amount for consolidated local governments must be allocated as follows:

(A) 50% of the growth amount must be allocated based upon each consolidated local government's percentage of the base year entitlement share pool for all consolidated local governments; and

(B) 50% of the growth amount must be allocated based upon the percentage that each consolidated local government's population bears to the state's total population residing within consolidated local governments as determined by the latest interim year population estimates from the Montana department of commerce as supplied by the United States bureau of the census.

(iv) In each fiscal year, the growth amount for incorporated cities and towns must be allocated as follows:

(A) 50% of the growth amount must be allocated based upon each incorporated city's or town's percentage of the base year entitlement share pool for all incorporated cities and towns; and

(B) 50% of the growth amount must be allocated based upon the percentage that each city's or town's population bears to the state's total population residing within incorporated cities and towns as determined by the latest interim year population estimates from the Montana department of commerce as supplied by the United States bureau of the census.

(v) In each fiscal year, the amount of the entitlement share pool not represented by the growth amount is distributed to each local government in the same manner as the entitlement share pool was distributed in the prior fiscal year.

(6) (a) If a tax increment financing district was not in existence during the fiscal year ending June 30, 2000, then the tax increment financing district is not entitled to any block grant. If a tax increment financing district referred to in subsection (6)(b) terminates, then the block grant provided for in subsection (6)(b) terminates.

(b) One-half of the payments provided for in this subsection (6)(b) must be made by November 30 and the other half by May 31 of each year. Subject to subsection (6)(a), the entitlement share for tax increment financing districts is as follows:

Cascade	Great Falls - downtown	\$468,966
Deer Lodge	TIF District 1	3,148
Deer Lodge	TIF District 2	3,126
Flathead	Kalispell - District 1	758,359
Flathead	Kalispell - District 2	5,153
Flathead	Kalispell - District 3	41,368

Flathead	Whitefish District	164,660
Gallatin	Bozeman - downtown	34,620
Lewis and Clark	Helena - #2	731,614
Missoula	Missoula - 1-1B & 1-1C	1,100,507
Missoula	Missoula - 4-1C	33,343
Silver Bow	Butte - uptown	283,801
Yellowstone	Billings	436,815

(7) The estimated base year entitlement share pool and any subsequent entitlement share pool for local governments do not include revenue received from countywide transportation block grants ~~or from countywide retirement block grants.~~

(8) (a) If revenue that is included in the sources listed in subsections (1)(b) through (1)(o) is significantly reduced, except through legislative action, the department shall deduct the amount of revenue loss from the entitlement share pool beginning in the succeeding fiscal year and the department shall work with local governments to propose legislation to adjust the entitlement share pool to reflect an allocation of the loss of revenue.

(b) For the purposes of subsection (8)(a), a significant reduction is a loss that causes the amount of revenue received in the current year to be less than 95% of the amount of revenue received in the base year.

(9) A three-fifths vote of each house is required to reduce the amount of the entitlement share calculated pursuant to subsections (1) through (3).

(10) When there has been an underpayment of a local government's share of the entitlement share pool, the department shall distribute the difference between the underpayment and the correct amount of the entitlement share. When there has been an overpayment of a local government's entitlement share, the local government shall remit the overpaid amount to the department.

(11) A local government may appeal the department's estimation of the base year component, the entitlement share pool growth rate, or a local government's allocation of the entitlement share pool, according to the uniform dispute review procedure in 15-1-211.

(12) A payment required pursuant to this section may not be offset by a debt owed to a state agency by a local government in accordance with Title 17, chapter 4, part 1."

Section 20. Section 15-6-138, MCA, is amended to read:

"15-6-138. Class eight property — description — taxable percentage.

(1) Class eight property includes:

(a) all agricultural implements and equipment that are not exempt under 15-6-207 or 15-6-220;

(b) all mining machinery, fixtures, equipment, tools that are not exempt under 15-6-219, and supplies except those included in class five *under 15-6-135*;

(c) all oil and gas production machinery, fixtures, equipment, including pumping units, oil field storage tanks, water storage tanks, water disposal injection pumps, gas compressor and dehydrator units, communication towers, gas metering shacks, treaters, gas separators, water flood units, gas boosters, and similar equipment that is skidable, portable, or movable, tools that are not exempt under 15-6-219, and supplies except those included in class five;

(d) all manufacturing machinery, fixtures, equipment, tools, except a certain value of hand-held tools and personal property related to space vehicles, ethanol manufacturing, and industrial dairies and milk processors as provided in 15-6-220, and supplies except those included in class five;

(e) all goods and equipment that are intended for rent or lease, except goods and equipment that are specifically included and taxed in another class;

(f) special mobile equipment as defined in 61-1-101;

(g) furniture, fixtures, and equipment, except that specifically included in another class, used in commercial establishments as defined in this section;

(h) x-ray and medical and dental equipment;

(i) citizens' band radios and mobile telephones;

(j) radio and television broadcasting and transmitting equipment;

(k) cable television systems;

(l) coal and ore haulers;

(m) theater projectors and sound equipment; and

(n) all other property that is not included in any other class in this part, except that property that is subject to a fee in lieu of a property tax.

(2) As used in this section, *the following definitions apply*:

(a) ~~Coal~~ "Coal and ore haulers" means nonhighway vehicles that exceed 18,000 pounds an axle and that are primarily designed and used to transport coal, ore, or other earthen material in a mining or quarrying environment.

(~~3~~)*(b)* "Commercial establishment" includes any hotel, motel, office, petroleum marketing station, or service, wholesale, retail, or food-handling business.

(~~4~~)*(3)* Class eight property is taxed at 3% of its market value.

(~~5~~)*(4)* The class eight property of a person or business entity that owns an aggregate of \$20,000 or less in market value of class eight property is exempt from taxation."

Section 21. Section 15-6-192, MCA, is amended to read:

"15-6-192. Application for classification as new industrial property.

(1) Any person, firm, or other group seeking to qualify its property for classification as new industrial property under class five, *as provided in 15-6-135*, shall make application to the department of revenue on a form provided by the department.

(2) The department of revenue shall promulgate rules for the determination of what constitutes an adverse impact, taking into consideration the number of people to be employed and the size of the community in which the location of the industrial property is contemplated.

(3) If the department makes an initial determination that the industrial property qualifies as new industrial property under class five, it shall publish notice of and hold a public hearing to determine whether the property should retain this classification.

(4) Local taxing authority officials may waive their objections to the property's classification in class five if the owner of the new industrial property agrees to prepay property taxes on the property during the construction period. The maximum amount of prepayment shall be is the amount of tax the owner would have paid on the property if it had not been classified under class five.

(5) If a new industrial facility qualifies under class five, its property tax payment may not be reduced for reimbursement of its prepaid taxes as provided in 15-16-201 until the class five qualification expires.”

Section 22. Section 15-6-221, MCA, is amended to read:

“15-6-221. Exemption for rental housing providing affordable housing to lower-income tenants. (1) That portion of residential rental property that is dedicated to providing affordable housing for lower-income persons is exempt from property taxation in any year that:

(a) the property is owned and operated by an entity, including but not limited to a limited partnership, limited liability corporation, or limited liability partnership in which a general partner is a nonprofit corporation exempt from taxation under section 26 U.S.C. 501(c)(3), as amended, and incorporated and admitted under the Montana Nonprofit Corporation Act as provided in Title 35, chapter 2, or is a housing authority ~~created under~~ *as defined in 7-15-4402* and the nonprofit general partner actively participates in accordance with the definition found in 26 U.S.C. 469(i). Section 26 U.S.C. 469(i) is applicable without reference to section 26 U.S.C. 469(i)(6).

(b) the board of housing, established in 2-15-1814, has allocated low-income housing tax credits to the owner; under 26 U.S.C. 42, which requires that:

(i) at least 20% of the residential units in the property are rent-restricted, as defined in 26 U.S.C. 42, and rented to tenants whose household incomes do not exceed 50% of the median family income, adjusted for family size, for the county in which the property is located; or

(ii) at least 40% of the residential units in the property are rent-restricted, as defined in 26 U.S.C. 42, and rented to persons whose household incomes do not exceed 60% of the median income, adjusted for family size, for the county in which the property is located;

(c) a deed restriction or other legally binding instrument restricts the property’s usage and provides that the units designated for use by lower-income households must be made available to or occupied by lower-income households for the period required to qualify for low-income housing tax credits at rents that do not exceed those prescribed by the terms of the deed restriction or other legally binding instruments;

(d) the property meets a public purpose in providing housing to an underserved population and provides a minimum of 50% of the units in the property to tenants at 50% of the median family income for the area, with rents restricted to a maximum of 30% of 50% of median family income, as calculated under 26 U.S.C. 42; and

(e) the owner’s partnership or operating agreement or accompanying document provides that at the end of the compliance period, as that term is defined in 26 U.S.C. 42, the ownership of the property may be transferred to the nonprofit corporation or housing authority general partner as provided for in 26 U.S.C. 42(i)(7).

(2) Prior to the allocation of low-income housing tax credits to the owner, as provided in subsection (1)(b), the unit of local government where the proposed project is to be located shall give due notice, as defined in 76-15-103, and hold a public hearing to solicit comment on whether the proposed qualifying low-income rental housing property meets a community housing need. A record of the public hearing must be forwarded to the board of housing for consideration in granting the allocation of tax credits.

(3) For purposes of this section the following definitions apply:

(a) "Median family income" means the household income, adjusted for family size, determined annually by the United States department of housing and urban development, or its successor agency, to be the median family income for persons residing within each county of the state.

(b) A residential unit is "rent-restricted" if it satisfies the criteria of 26 U.S.C. 42(g)(2)."

Section 23. Section 15-7-111, MCA, is amended to read:

"15-7-111. Periodic revaluation of certain taxable property. (1) The department shall administer and supervise a program for the revaluation of all taxable property within ~~classes three, four, and ten~~ *class three under 15-6-133, class four under 15-6-134, and class ten under 15-6-143.* All other property must be revalued annually.

(2) The department shall value and phase in the value of newly constructed, remodeled, or reclassified property in a manner consistent with the valuation within the same class and the values established pursuant to subsection (1). The department shall adopt rules for determining the assessed valuation and phased-in value of new, remodeled, or reclassified property within the same class.

(3) The department of revenue shall administer and supervise a program for the revaluation of all taxable property within classes three, four, and ten. A comprehensive written reappraisal plan must be promulgated by the department. The reappraisal plan adopted must provide that all class three, four, and ten property in each county is revalued by January 1, 2009, effective for January 1, 2009, and each succeeding 6 years. The resulting valuation changes must be phased in for each year until the next reappraisal. If a percentage of change for each year is not established, then the percentage of phase in for each year is 16.66%."

Section 24. Section 15-8-205, MCA, is amended to read:

"15-8-205. Initial assessment of class four trailer, manufactured home, and mobile home property — when. The department shall assess ~~all class four~~ trailer, manufactured home, and mobile home property *as class four property under 15-6-134* immediately upon arrival in the county if the taxes have not been previously paid for that year in another county in Montana."

Section 25. Section 15-8-301, MCA, is amended to read:

"15-8-301. Statement — what to contain. (1) The department may require from a person a statement under oath setting forth specifically all the real and personal property owned by, in possession of, or under the control of the person at midnight on January 1. The statement must be in writing, showing separately:

(a) all property belonging to, claimed by, or in the possession or under the control or management of the person;

(b) all property belonging to, claimed by, or in the possession or under the control or management of any firm of which the person is a member;

(c) all property belonging to, claimed by, or in the possession or under the control or management of any corporation of which the person is president, secretary, cashier, or managing agent;

(d) the county in which the property is situated or in which the property is liable to taxation and, if liable to taxation in the county in which the statement is

made, also the city, town, school district, road district, or other revenue districts in which the property is situated;

(e) an exact description of all lands, improvements, and personal property;

(f) all depots, shops, stations, buildings, and other structures erected on the space covered by the right-of-way and all other property owned by any person owning or operating any railroad within the county.

(2) The department shall notify the taxpayer in the statement for reporting personal property owned by a business or used in a business that the statement is for reporting business equipment and other business personal property described in Title 15, chapter 6, part 1. A taxpayer owning exempt business equipment is subject to limited reporting requirements; however, all new businesses shall report their class eight property, *as defined in 15-6-138*, so that the department can determine the market value of the property. The department shall by rule develop reporting requirements for business equipment to limit the annual reporting of exempt business equipment to the extent feasible.

(3) Whenever one member of a firm or one of the proper officers of a corporation has made a statement showing the property of the firm or corporation, another member of the firm or another officer is not required to include the property in that person's statement but the statement must show the name of the person or officer who made the statement in which the property is included.

(4) The fact that a statement is not required or that a person has not made a statement, under oath or otherwise, does not relieve the person's property from taxation."

Section 26. Section 15-10-420, MCA, is amended to read:

"15-10-420. Procedure for calculating levy. (1) (a) Subject to the provisions of this section, a governmental entity that is authorized to impose mills may impose a mill levy sufficient to generate the amount of property taxes actually assessed in the prior year plus one-half of the average rate of inflation for the prior 3 years. The maximum number of mills that a governmental entity may impose is established by calculating the number of mills required to generate the amount of property tax actually assessed in the governmental unit in the prior year based on the current year taxable value, less the current year's value of newly taxable property, plus one-half of the average rate of inflation for the prior 3 years.

(b) A governmental entity that does not impose the maximum number of mills authorized under subsection (1)(a) may carry forward the authority to impose the number of mills equal to the difference between the actual number of mills imposed and the maximum number of mills authorized to be imposed. The mill authority carried forward may be imposed in a subsequent tax year.

(c) For the purposes of subsection (1)(a), the department shall calculate one-half of the average rate of inflation for the prior 3 years by using the consumer price index, U.S. city average, all urban consumers, using the 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of labor.

(2) A governmental entity may apply the levy calculated pursuant to subsection (1)(a) plus any additional levies authorized by the voters, as provided in 15-10-425, to all property in the governmental unit, including newly taxable property.

(3) (a) For purposes of this section, newly taxable property includes:

- (i) annexation of real property and improvements into a taxing unit;
- (ii) construction, expansion, or remodeling of improvements;
- (iii) transfer of property into a taxing unit;
- (iv) subdivision of real property; and
- (v) transfer of property from tax-exempt to taxable status.

(b) Newly taxable property does not include an increase in value that arises because of an increase in the incremental value within a tax increment financing district.

(4) (a) For the purposes of subsection (1), the taxable value of newly taxable property includes the release of taxable value from the incremental taxable value of a tax increment financing district because of:

- (i) a change in the boundary of a tax increment financing district;
- (ii) an increase in the base value of the tax increment financing district pursuant to 7-15-4287; or
- (iii) the termination of a tax increment financing district.

(b) If a tax increment financing district terminates prior to the certification of taxable values as required in 15-10-202, the increment value is reported as newly taxable property in the year in which the tax increment financing district terminates. If a tax increment financing district terminates after the certification of taxable values as required in 15-10-202, the increment value is reported as newly taxable property in the following tax year.

(c) For the purpose of subsection (3)(a)(iv), the subdivision of real property includes the first sale of real property that results in the property being taxable as class four property *under 15-6-134* or as nonqualified agricultural land as described in 15-6-133(1)(c).

(5) Subject to subsection (8), subsection (1)(a) does not apply to:

- (a) school district levies established in Title 20; or
- (b) the portion of a governmental entity's property tax levy for premium contributions for group benefits excluded under 2-9-212 or 2-18-703.

(6) For purposes of subsection (1)(a), taxes imposed do not include net or gross proceeds taxes received under 15-6-131 and 15-6-132.

(7) In determining the maximum number of mills in subsection (1)(a), the governmental entity may increase the number of mills to account for a decrease in reimbursements.

(8) The department shall calculate, on a statewide basis, the number of mills to be imposed for purposes of 15-10-107, 20-9-331, 20-9-333, 20-9-360, 20-25-423, and 20-25-439. However, the number of mills calculated by the department may not exceed the mill levy limits established in those sections. The mill calculation must be established in whole mills. If the mill levy calculation does not result in a whole number of mills, then the calculation must be rounded up to the nearest whole mill.

(9) (a) The provisions of subsection (1) do not prevent or restrict:

- (i) a judgment levy under 2-9-316, 7-6-4015, or 7-7-2202;
- (ii) a levy to repay taxes paid under protest as provided in 15-1-402;
- (iii) an emergency levy authorized under 10-3-405, 20-9-168, or 20-15-326; or
- (iv) a levy for the support of a study commission under 7-3-184.

(b) A levy authorized under subsection (9)(a) may not be included in the amount of property taxes actually assessed in a subsequent year.

(10) A governmental entity may levy mills for the support of airports as authorized in 67-10-402, 67-11-301, or 67-11-302 even though the governmental entity has not imposed a levy for the airport or the airport authority in either of the previous 2 years and the airport or airport authority has not been appropriated operating funds by a county or municipality during that time.

(11) The department may adopt rules to implement this section. The rules may include a method for calculating the percentage of change in valuation for purposes of determining the elimination of property, new improvements, or newly taxable property in a governmental unit."

Section 27. Section 15-16-402, MCA, is amended to read:

"15-16-402. Tax on personal property lien on realty — separate assessment — filing of mortgage satisfaction. (1) The tax due on personal property is a prior lien upon the personal property. The lien has precedence over any other lien, claim, or demand upon the personal property. Except as provided in subsection (2), the tax on personal property is also a lien upon the real property of the owner of the personal property on and after January 1 of each year.

(2) The taxes on personal property based on a taxable value up to and including \$10,000 are a first and prior lien upon the real property of the owner of the personal property. Taxes on personal property based on a taxable value in excess of \$10,000 are a first and prior lien upon the real property of the owner unless the owner or holder of any mortgage or other lien upon the real property appearing of record in the office of the clerk and recorder of the county where the real property is situated, at or before the time the personal property tax attached to the real property, has filed a notice as provided in subsection (3). If the notice is filed, the personal property taxes on the taxable value in excess of \$10,000 are not a lien upon the owner's real property. The county treasurer shall, at the request of a mortgagee or lienholder, issue a statement of the personal property tax due on the taxable value up to and including \$10,000. Personal property taxes on a taxable value up to \$10,000 may be paid, redeemed from a tax *lien* sale as provided by law, or discharged separately from any personal property taxes in excess of that amount. Payment of the taxes on a taxable value up to \$10,000, as provided in this subsection, discharge the tax lien upon the personal property of the owner to the extent of the payment in the order that the person paying the tax directs.

(3) The holder of any mortgage or lien upon real property who desires to obtain the benefits of this section shall file each year in the office of the county treasurer of the county and with the department a notice giving:

- (a) the name and address of the mortgagee and holder of the mortgage or lien;
- (b) the name of the reputed owner of the land;
- (c) the description of the land;
- (d) the date of record and expiration of the mortgage or lien;
- (e) the amount of the mortgage or lien; and
- (f) a statement that the holder claims the benefit of the provisions of this section.

(4) The notice is ineffectual as to any taxes that are a lien upon real property prior to the filing of the notice as provided in subsection (3).

(5) A holder of a mortgage on real property upon which personal property taxes are a lien under this section, when the owner of the real property and personal property has failed to pay taxes due on the real property and personal property for 1 or more years, may file with the department a written request to have the personal property and real property of the owner separately assessed. The request must be made by certified mail at least 10 days prior to January 1 in the year for which property is assessed. Upon receipt by the department of the request, the department shall make a separate assessment of real and personal property of the owner of the property, and the personal property taxes may not be a lien upon the mortgaged real property. The personal property taxes must be collected in the manner provided by law for other personal property.

(6) The holder of a mortgage or lien upon real property who files a certificate of satisfaction and the proof and acknowledgment of filing the certificate, as provided for in 71-1-211, shall file a copy of the certificate and the proof and acknowledgment with:

(a) the county treasurer if the holder has filed a notice under subsection (3); and

(b) the department if the holder has filed a written request under subsection (5).

(7) The provisions of this section do not apply to property for which delinquent property taxes have been suspended or canceled under the provisions of Title 15, chapter 24, part 17.”

Section 28. Section 15-17-323, MCA, is amended to read:

“15-17-323. Assignment of rights — form. (1) A tax lien sale certificate or other official record in which the county is listed as the purchaser must be assigned by the county treasurer to any person who, after providing proof of mail notice to the person to whom the property was assessed, as required by subsection (5), pays to the county the amount of the delinquent taxes, including penalties, interest, and costs, accruing from the date of delinquency.

(2) (a) The assignment made under subsection (1) must be in the form of an assignment certificate in substantially the following form:

I,, the treasurer of County, state of Montana, hereby certify that a tax *lien* sale for tax year 20..., in the county of, was held on (date), for the purpose of liquidating delinquent assessments, and I further certify that a property tax lien for delinquent taxes in the following property (insert property description) was offered for sale and that there was no purchaser of the property tax lien. Accordingly, the county was listed as the purchaser as required by 15-17-214, MCA. As of the date of this certificate, the delinquency, including penalties, interest, and costs amounting to \$, has not been liquidated by the person to whom the property was assessed, nor has the delinquency been otherwise redeemed.

Because there has been no liquidation of the delinquency or other redemption, I hereby assign all rights, title, and interest of the county of, state of Montana, acquired in the property by virtue of the tax lien sale to (name and address of assignee) to proceed to obtain a tax deed to the property or receive payment in case of redemption as provided by law.

Witness my hand and official seal of office this day of, 20...

..... County Treasurer

..... County

(b) A copy of an assignment certificate must be mailed to the person to whom the taxes were assessed, at the address of record, together with a notice that the person may contact the county treasurer for further information on lien assignments and property tax *lien* sales.

(3) An assignment made by a purchaser other than the county, by an assignee of the county, or by a previous assignee may be made for any consideration whatsoever. An assignment so made is legal and binding only upon filing with the county treasurer a statement that the purchaser's or other assignee's interest in the property has been assigned. The statement must contain:

(a) the name and address of the new assignee;

(b) the name and address of the original purchaser of the tax lien sale certificate;

(c) the name and address of each previous assignee, if any;

(d) a description of the property upon which the property tax lien was issued, which must contain the same information as contained in the tax lien sale certificate or assignment certificate, as appropriate;

(e) the signature of the party, whether it is the purchaser or the assignee, making the assignment;

(f) the signature of the new assignee; and

(g) the date on which the statement was signed.

(4) If the certificate described in subsection (1) or the statement described in subsection (3) is lost or destroyed, the county treasurer shall, upon adequate proof and signed affidavit by the assignee that loss or destruction has occurred, issue a duplicate certificate to the assignee.

(5) Prior to making a payment under subsection (1), a person shall send notice of the proposed payment, by certified mail, to the person to whom the property was assessed. The form of the notice must be adopted by the department by rule. The notice must have been mailed at least 2 weeks prior to the date of the payment. The person making the payment shall provide proof of the mailing.

(6) The provisions of this section apply to any sale of land for which a treasurer's deed was not issued on or before March 5, 1917, or for which a tax deed was not issued on or before April 23, 1987, and the holder of any certificate described in subsection (1) has the same rights, powers, and privileges with regard to securing a deed as any purchaser of land at a tax lien sale may now have."

Section 29. Section 15-17-911, MCA, is amended to read:

"15-17-911. Sale of personal property for delinquent taxes — fee — disposition of proceeds — unsold property. (1) The tax on personal property may be collected and payment enforced by the seizure and sale of any personal property in the possession of the person assessed. Seizure and sale are authorized at any time after the date the taxes become delinquent or by the institution of a civil action for its collection in any court of competent jurisdiction. A resort to one method does not bar the right to resort to any other method. Any of the methods provided may be used until the full amount of the tax is collected.

(2) The provisions of 15-16-119 and this section apply to a seizure and sale under subsection (1).

(3) (a) A sale under subsection (1) must be:

(i) conducted at public auction;

(ii) conducted under the provisions of 25-13-701(1)(b); and

(iii) noticed as a treasurer's sale of personal property seized for taxes.

(b) The return on the levy and sale must be signed by the sheriff or deputy sheriff as ex officio deputy county treasurer.

(4) (a) The county treasurer shall charge \$25 or a fee set by the county commissioners, plus the cost, as defined in 15-17-121, of the collection of delinquent personal property taxes. The cost must be assessed against the delinquent taxpayer and is in addition to any sheriff's fees, mileage, and costs charged under subsection (4)(b).

(b) The sheriff is entitled to the fees, mileage, and costs as provided in 7-32-2141 and 7-32-2143, which must be assessed against the delinquent taxpayer.

(5) On payment of the price bid for any property sold as provided in this section, delivery of the property, with a bill of sale, vests the title of the property in the purchaser.

(6) (a) After sale of the property, the proceeds of the sale must be used first to reimburse the county for all costs and charges incurred in seizing the property and conducting the sale. Any excess, up to the total amount of the taxes owed, must be distributed proportionally to the funds that would have received the taxes if they had been paid before becoming delinquent. Any remaining excess, up to the amount of the penalty and interest owed, must then be distributed proportionally to the fund that would have received the penalty and interest if they had been paid in full.

(b) Any money collected in excess of the delinquent tax, penalties, interest, costs, and charges must be returned to the person owning the property prior to the sale, if known. If the person does not claim the excess immediately following the sale, the treasurer shall deposit the money in the county treasury for a period of 1 year from the date of sale. If the person has not claimed the excess within 1 year from the date of sale, the county treasurer shall deposit the amount in the county general fund and the person has no claim to it.

(7) Any property seized for the purpose of liquidating a delinquency by a tax *lien* sale that remains unsold following a sale may be left at the place of sale at the risk of the owner.

(8) The provisions of this section do not apply to property for which delinquent property taxes have been suspended or canceled under the provisions of Title 15, chapter 24, part 17.

(9) The county commission, in its discretion, may cancel any personal property taxes, including penalty, interest, costs, and charges that remain unsatisfied after the property upon which the taxes were assessed had been seized and sold. If the taxes are canceled, one copy of the order of cancellation must be filed with the county clerk and recorder and one copy with the county treasurer."

Section 30. Section 15-18-411, MCA, is amended to read:

"15-18-411. Action to quiet title to tax deed — notice. (1) (a) In an action brought to set aside or annul any tax deed or to determine the rights of a purchaser to real property claimed to have been acquired through tax

proceedings or a tax *lien* sale, the purchaser, upon filing an affidavit, may obtain from the court an order directed to the person claiming to:

- (i) own the property;
- (ii) have any interest in or lien upon the property;
- (iii) have a right to redeem the property; or
- (iv) have rights hostile to the tax title.

(b) The person described in subsections (1)(a)(i) through (1)(a)(iv) is referred to as the true owner.

(c) Except as provided in subsection (1)(d), the order described in subsection (1)(a) may command the true owner to:

- (i) deposit with the court for the use of the purchaser:

(A) the amount of all taxes, interest, penalties, and costs that would have accrued if the property had been regularly and legally assessed and taxed as the property of the true owner and was about to be redeemed by the true owner; and

(B) the amount of all sums reasonably paid by the purchaser following the order and after 3 years from the date of the tax *lien* sale to preserve the property or to make improvements on the property while in the purchaser's possession, as the total amount of the taxes, interest, penalties, costs, and improvements is alleged by the plaintiff and as must appear in the order; or

(ii) show cause on a date to be fixed in the order, not exceeding 30 days from the date of the order, why the payment should not be made.

(d) The deposit provided for in subsection (1)(c) may not be required of a person found by the court to be indigent following an examination into the matter by the court upon the request of a true owner claiming to be indigent.

(2) The affidavit must list the name and address of the true owner and whether the owner is in the state of Montana, if known to the plaintiff, or state that the address of the true owner is not known to the plaintiff.

(3) (a) The order must be filed with the county clerk and a copy served personally upon each person shown in the affidavit claiming to be a true owner and whose name and address are reasonably ascertainable.

(b) Jurisdiction is acquired over all other persons by:

- (i) publishing the order once in the official newspaper of the county;
- (ii) posting the order in three public places in the county at least 10 days prior to the hearing; and
- (iii) giving a copy to the county treasurer."

Section 31. Section 15-18-413, MCA, is amended to read:

"15-18-413. Title conveyed by deed — defects. (1) All deeds executed more than 3 years after the applicable tax *lien* sale convey to the grantee absolute title to the property described in the deed as of 3 years following the date of sale of the property interest at the tax *lien* sale.

(2) The conveyance includes:

(a) all right, title, interest, estate, lien, claim, and demand of the state of Montana and of the county in and to the property; and

(b) the right, if the tax deed, tax *lien* sale, or any of the tax proceedings upon which the deed may be based are attacked and held irregular or void, to recover the unpaid taxes, interest, penalties, and costs that would accrue if the tax proceedings had been regular and it was desired to redeem the property.

(3) The tax deed is free of all encumbrances except as provided in 15-18-214(1)(a) through (1)(c).

(4) A tax deed is prima facie evidence of the right of possession accruing as of the date of the expiration of the redemption period described in 15-18-111.

(5) (a) Subject to subsection (5)(b), if any tax deed or deed purporting to be a tax deed is issued more than 3 years and 30 days after the date of the sale of the property interest at the applicable tax *lien* sale, the grantee may publish in the official newspaper of the county, once a week for 2 consecutive weeks, a notice entitled "Notice of Claim of a Tax Title". The notice must:

(i) describe all property claimed to have been acquired by a tax deed;

(ii) contain an estimate of the amount due on the property for delinquent taxes, interest, penalties, and costs;

(iii) contain a statement that for further specific information, reference must be made to the records in the office of the county treasurer;

(iv) list the name and address of record of the person in whose name the property was assessed or taxed; and

(v) contain a statement that demand is made that the true owner shall, within 30 days after the later of service or the first publication of the notice, pay to the county treasurer for use by the claimant the amount of taxes, interest, penalties, and costs as the same appear in the records of the county treasurer to redeem the property or the true owner may bring a suit to quiet the true owner's title or to set aside the tax deed.

(b) The notice described in subsection (5)(a) must be served on a taxpayer whose name and address are reasonably ascertainable.

(6) (a) Provided that the statutory requirements for a notice of intended issuance of a tax deed required by 15-18-212 have been complied with and if within the 30-day period the taxes, interest, penalties, and costs are not paid or a quiet title action is not brought, all defects in the tax proceedings and any right of redemption are considered waived. Except as provided in subsection (6)(b), after the 30-day period, the title to the property described in the notice and in the tax deed is valid and binding, irrespective of any irregularities, defects, or omissions in any of the provisions of the laws of Montana regarding the assessment, levying of taxes, or sale of property for taxes, whether or not the irregularities, defects, or omissions could void the proceedings.

(b) The proceedings in subsection (6)(a) are void if the taxes were not delinquent or have been paid."

Section 32. Section 15-24-301, MCA, is amended to read:

"15-24-301. Personal property brought into state — assessment — exceptions — custom combine equipment. (1) Except as provided in subsections (2) through (5), property in the following cases is subject to taxation and assessment for all taxes levied that year in the county in which it is located:

(a) personal property, excluding livestock, brought into this state at any time during the year that is used in the state for hire, compensation, or profit;

(b) property belonging to an owner or user who is engaged in a gainful occupation or business enterprise in the state; or

(c) property that becomes a part of the general property of the state.

(2) The taxes on this property are levied in the same manner, except as otherwise provided, as though the property had been in the county on the

regular assessment date, provided that the property has not been regularly assessed for the year in some other county of the state.

(3) This section does not levy a tax against a merchant or dealer within this state on goods, wares, or merchandise brought into the county to replenish the stock of the merchant or dealer.

(4) Except as provided in 15-6-217, a motor vehicle that is brought into this state by a nonresident person temporarily employed in Montana and used exclusively for transportation of the person is subject to registration under 61-3-701.

(5) Agricultural harvesting machinery classified ~~under~~ *as* class eight *property under 15-6-138*, licensed in another state, and operated on the land of a person other than the owner of the machinery under a contract for hire is subject to a fee in lieu of tax of \$35 for each machine for the calendar year in which the fee is collected. The machinery is subject to taxation under class eight only if the machinery is sold in Montana.”

Section 33. Section 15-24-2403, MCA, is amended to read:

“15-24-2403. Expanding industry taxable value decrease — application — approval — reports. (1) After December 31, 1991, an existing industry with qualifying property that represents an expansion of the industry is entitled to receive a decrease in the tax rate for class eight property if the property results in the hiring of full-time qualifying employees for each year in which the taxable value decrease is in effect.

(2) A person, firm, or other group seeking to qualify its property for the taxable value decrease under subsection (1) shall apply to the department of revenue on a form provided by the department. The application must include:

(a) the description of the personal property that may qualify for the taxable value decrease;

(b) the date on which the qualifying property is intended to be operational;

(c) the rate of pay and number of existing employees and new employees to be used in the operation of the qualifying property;

(d) a statement that the new employees are in addition to the existing workforce of the industry and the specific responsibilities of each new employee; and

(e) a statement that all the applicant’s taxes are paid in full.

(3) The department shall make an initial determination as to whether the industry qualifies for the taxable value decrease.

(4) (a) If the department determines that the property qualifies for a taxable value decrease, the governing body of the affected county, consolidated government, incorporated city or town, or school district shall give due notice as defined in 76-15-103 and hold a public hearing. Each governing body may either approve or disapprove the grant of taxable value decrease. A governing body may not grant approval for the project until all of the applicant’s taxes have been paid in full. Taxes paid under protest do not preclude approval.

(b) The resolution provided for in subsection (4)(a) must include the document that grants approval of the application that was submitted to the department by the taxpayer seeking the taxable value decrease.

(5) The tax reduction described in subsection (1) applies to:

(a) the number of mills levied and assessed by each governing body approving the benefit over which the governing body has sole discretion; and

(b) statewide levies if the governing body approving the tax reduction is a county, consolidated government, or incorporated city or town.

(6) The number of new employees used by the department to calculate the taxable value decrease in subsection (7) must be determined by the wages paid to qualifying employees. A qualifying employee paid the amount of the average wage as determined by the quarterly statistical report published by the department of labor and industry is considered one new employee. Qualifying employees are considered equivalent new employees if they are paid three-quarters of the average wage or more. The qualifying employee is the equivalent of a new employee in the same fraction that ~~his~~ *the employee's* wages are to the average wage, but a qualifying employee may not be considered more than two new employees.

(7) (a) Qualifying property is entitled to a decrease in the taxable rate of class eight property *under 15-6-138* based upon a percentage difference between a possible low rate of 3% and a high rate of the existing class eight property tax rate. The reduced taxable value rate is determined by calculating the inverse of the number of equivalent new employees divided by the number of existing employees and multiplying the product of that calculation by the decimal equivalent of the tax rate for class eight property.

(b) For each year that the taxable value decrease is in effect, the taxpayer shall report by March 1 to the department, on forms prescribed by the department, the wages of and the number of qualifying employees that are used in the operation of the qualifying property for which the taxable value decrease was granted.”

Section 34. Section 15-30-140, MCA, is amended to read:

“15-30-140. Refundable income tax credit — statewide equalization property tax levies on principal residence — rules. (1) (a) There is a credit against the tax imposed by this chapter, which is calculated by multiplying the amount of property taxes imposed and paid on a property taxpayer’s principal residence under 20-9-331, 20-9-333, and 20-9-360 on \$20,000 of market value on the residence times the relief multiple.

(b) ~~(i)~~ As used in subsection (1)(a), the relief multiple is a number used to change the amount of tax relief allowed under this section. The relief multiple is 0. Each interim, the revenue and transportation interim committee shall, based upon actual and projected state revenue and spending and any other appropriate factors, determine if a change in the relief multiple is justified. If a change is justified, the committee shall request a bill to change the relief multiple.

~~(ii) The department of administration shall certify to the budget director on August 1, 2007, the amount of unaudited general fund revenue received in fiscal year 2007 as recorded when the fiscal year 2007 statewide accounting, budgeting, and human resources system records are closed in July 2007. Fiscal year 2007 is the period from July 1, 2006, to June 30, 2007. General fund revenue is as recorded in the statewide accounting, budgeting, and human resources system using generally accepted accounting principles in accordance with 17-1-102(2). If the unaudited general fund revenue received in fiscal year 2007 exceeds \$1,802,000,000, for each \$1,000,000 greater than \$1,802,000,000, the factor in subsection (1)(b)(i) must increase by 0.1 for tax year 2007 only.~~

(2) As used in this section, “principal residence” means a class four residential dwelling *under 15-6-134* that is a single-family dwelling unit, unit of a multiple-unit dwelling, trailer, manufactured home, or mobile home and as much of the surrounding land, not exceeding 1 acre, as is reasonably necessary for its use as a dwelling and that is occupied by the owner for at least 7 months during the tax year.

(3) Only one claim may be made with respect to any property.

(4) If the amount of the credit exceeds the claimant’s liability under this chapter, the amount of the excess must be refunded to the claimant. The credit may be claimed even if the claimant has no income taxable under this chapter.

(5) The department may adopt rules to implement and administer this section.”

Section 35. Section 15-31-121, MCA, is amended to read:

“15-31-121. Rate of tax — minimum tax — distribution of revenue. (1) Except as provided in subsection (2), the percentage of net income to be paid under 15-31-101 is 6 3/4% of all net income for the tax period.

(2) For a taxpayer making a water’s-edge election, the percentage of net income to be paid under 15-31-101 is 7% of all taxable net income for the tax period.

(3) Each corporation subject to taxation under this part shall pay a minimum tax of not less than \$50.

~~(4) For fiscal year 2005, the tax collected from water’s-edge corporations must be deposited as follows:~~

~~(a) \$375,000 in the state special revenue fund to the credit of the department of public health and human services for state matching funds to maximize federal funds for medicaid health services; and~~

~~(b) the balance in the state general fund.”~~

Section 36. Section 16-1-306, MCA, is amended to read:

“16-1-306. Revenue to be paid to state treasurer. Except as provided in 16-1-404, ~~16-1-405~~, 16-1-406, and 16-1-411, all fees, charges, taxes, and revenue collected by or under authority of the department must, in accordance with the provisions of 17-2-124, be deposited to the credit of the state general fund.”

Section 37. Section 17-7-111, MCA, is amended to read:

“17-7-111. Preparation of state budget — agency program budgets — form distribution and contents. (1) (a) To prepare a state budget, the executive branch, the legislature, and the citizens of the state need information that is consistent and accurate. Necessary information includes detailed disbursements by fund type for each agency and program for the appropriate time period, recommendations for creating a balanced budget, and recommended disbursements and estimated receipts by fund type and fund category.

(b) Subject to the requirements of this chapter, the budget director and the legislative fiscal analyst shall by agreement:

(i) establish necessary standards, formats, and other matters necessary to share information between the agencies and to ensure that information is consistent and accurate for the preparation of the state’s budget; and

(ii) provide for the collection and provision of budgetary and financial information that is in addition to or different from the information otherwise required to be provided pursuant to this section.

(2) In the preparation of a state budget, the budget director shall, not later than the date specified in 17-7-112(1), distribute to all agencies the proper forms and instructions necessary for the preparation of budget estimates by the budget director. These forms must be prescribed by the budget director to procure the information required by subsection (3). The forms must be submitted to the budget director by the date provided in 17-7-112(2)(a), or the agency's budget is subject to preparation based upon estimates as provided in 17-7-112(5). The budget director may refuse to accept forms that do not comply with the provisions of this section or the instructions given for completing the forms.

(3) The agency budget request must set forth a balanced financial plan for the agency completing the forms for each fiscal year of the ensuing biennium. The plan must consist of:

(a) a consolidated agency budget summary of funds subject to appropriation or enterprise funds that transfer profits to the general fund or to an account subject to appropriation for the current base budget expenditures, including statutory appropriations, and for each present law adjustment and new proposal request setting forth the aggregate figures of the full-time equivalent personnel positions (FTE) and the budget, showing a balance between the total proposed disbursements and the total anticipated receipts, together with the other means of financing the budget for each fiscal year of the ensuing biennium, contrasted with the corresponding figures for the last-completed fiscal year and the fiscal year in progress;

(b) a schedule of the actual and projected receipts, disbursements, and solvency of each fund for the current biennium and estimated for the subsequent biennium;

(c) a statement of the agency mission and a statement of goals and objectives for each program of the agency. The goals and objectives must include, in a concise form, sufficient specific information and quantifiable information to enable the legislature to formulate an appropriations policy regarding the agency and its programs and to allow a determination, at some future date, on whether the agency has succeeded in attaining its goals and objectives.

(d) actual FTE and disbursements for the completed fiscal year of the current biennium, estimated FTE and disbursements for the current fiscal year, and the agency's request for the ensuing biennium, by program;

(e) actual disbursements for the completed fiscal year of the current biennium, estimated disbursements for the current fiscal year, and the agency's recommendations for the ensuing biennium, by disbursement category;

(f) for ~~only~~ agencies with more than 20 FTE, a plan to reduce the proposed base budget for the general appropriations act and the proposed state pay plan to 95% of the current base budget or lower if directed by the budget director. Each agency plan must include base budget reductions that reflect the required percentage reduction by fund type for the general fund and state special revenue fund types. Exempt from the calculations of the 5% target amounts are legislative audit costs, administratively attached entities that hire their own staff under 2-15-121, and state special revenue accounts that do not transfer their investment earnings or fund balances to the general fund. The plan must include:

(i) a prioritized list of services that would be eliminated or reduced;

(ii) for each service included in the prioritized list, the savings that would result from the elimination or reduction; and

(iii) the consequences or impacts of the proposed elimination or reduction of each service.

(g) a reference for each new information technology proposal stating whether the new proposal is included in the approved agency information technology plan as required in 2-17-523; and

(h) other information the budget director feels is necessary for the preparation of a budget.

(4) The budget director shall prepare and submit to the legislative fiscal analyst in accordance with 17-7-112:

(a) detailed recommendations for the state long-range building program. Each recommendation must be presented by institution, agency, or branch, by funding source, with a description of each proposed project.

(b) a statewide project budget summary as provided in 2-17-526;

(c) the proposed pay plan schedule for all executive branch employees at the program level by fund, with the specific cost and funding recommendations for each agency. Submission of a pay plan schedule under this subsection is not an unfair labor practice under 39-31-401.

(d) agency proposals for the use of cultural and aesthetic project grants under Title 22, chapter 2, part 3, the renewable resource grant and loan program under Title 85, chapter 1, part 6, the reclamation and development grants program under Title 90, chapter 2, part 11, and the treasure state endowment program under Title 90, chapter 6, part 7.

(5) The board of regents shall submit, with its budget request for each university unit in accordance with 17-7-112, a report on the university system bonded indebtedness and related finances as provided in this subsection (5). The report must include the following information for each year of the biennium, contrasted with the same information for the last-completed fiscal year and the fiscal year in progress:

(a) a schedule of estimated total bonded indebtedness for each university unit by bond indenture;

(b) a schedule of estimated revenue, expenditures, and fund balances by fiscal year for each outstanding bond indenture, clearly delineating the accounts relating to each indenture and the minimum legal funding requirements for each bond indenture; and

(c) a schedule showing the total funds available from each bond indenture and its associated accounts, with a list of commitments and planned expenditures from ~~such~~ *the* accounts, itemized by revenue source and project for each year of the current and ensuing bienniums.

(6) (a) The department of revenue shall make Montana individual income tax information available by removing names, addresses, and social security numbers and substituting in their place a state accounting record identifier number. Except for the purposes of complying with federal law, the department may not alter the data in any other way.

(b) The department of revenue shall provide the name and address of a taxpayer on written request of the budget director when the values on the requested return, including estimated payments, are considered necessary by the budget director to properly analyze state revenue and are of a sufficient magnitude to materially affect the analysis and when the identity of the

taxpayer is necessary to evaluate the effect of the return or payments on the analysis being performed.”

Section 38. Section 17-7-138, MCA, is amended to read:

“17-7-138. Operating budget. (1) (a) Expenditures by a state agency must be made in substantial compliance with the budget approved by the legislature. Substantial compliance may be determined by conformity to the conditions contained in the general appropriations act and to legislative intent as established in the narrative accompanying the general appropriations act. An explanation of any significant change in agency or program scope must be submitted on a regular basis to the interim committee that has program evaluation and monitoring functions for the agency pursuant to Title 5, chapter 5, part 2. An explanation of any significant change in agency or program scope, objectives, activities, or expenditures must be submitted to the legislative fiscal analyst for review and comment by the legislative finance committee prior to any implementation of the change. A significant change may not conflict with a condition contained in the general appropriations act. If the approving authority certifies that a change is time-sensitive, the approving authority may approve the change prior to the next regularly scheduled meeting of the legislative finance committee. The approving authority shall submit all proposed time-sensitive changes to the legislative fiscal analyst prior to approval. If the legislative fiscal analyst determines that notification of the legislative finance committee is warranted, the legislative fiscal analyst shall immediately notify as many members as possible of the proposed change and communicate any concerns expressed to the approving authority. The approving authority shall present a report fully explaining the reasons for the action to the next meeting of the legislative finance committee. Except as provided in subsection (2), the expenditure of money appropriated in the general appropriations act is contingent upon approval of an operating budget by August 1 of each fiscal year. An approved original operating budget must comply with state law and conditions contained in the general appropriations act.

(b) For the purposes of this subsection (1), an agency or program is considered to have a significant change in its scope, objectives, activities, or expenditures if:

(i) the operating budget change exceeds \$1 million; or

(ii) the operating budget change exceeds 25% of a budget category and the change is greater than \$25,000. If there have been other changes to the budget category in the current fiscal year, all the changes, including the change under consideration, must be used in determining the 25% and \$25,000 threshold.

(2) The expenditure of money appropriated in the general appropriations act to the board of regents, on behalf of the university system units, as defined in 17-7-102, is contingent upon approval of a comprehensive operating budget by October 1 of each fiscal year. The operating budget must contain detailed revenue and expenditures and anticipated fund balances of current funds, loan funds, endowment funds, and plant funds. After the board of regents approves operating budgets, transfers between units may be made only with the approval of the board of regents. Transfers and related justification must be submitted to the office of budget and program planning and to the legislative fiscal analyst.

(3) The operating budget for money appropriated by the general appropriations act must be separate from the operating budget for money appropriated by another law except a law appropriating money for the state pay plan or any portion of the state pay plan. The legislature may restrict the use of

funds appropriated for personal services to allow use only for the purpose of the appropriation. Each operating budget must include expenditures for each agency program, detailed at least by first-level categories as provided in 17-1-102(3). Each agency shall record its operating budget for all funds, other than higher education funds, and any approved changes on the statewide budget and accounting state financial system *accounting, budgeting, and human resource system*. Documents implementing approved changes must be signed. The operating budget for higher education funds must be recorded on the university financial system, with separate accounting categories for each source or use of state government funds. State sources and university sources of funds may be combined for the general operating portion of the current unrestricted funds.”

Section 39. Section 18-2-401, MCA, is amended to read:

“18-2-401. Definitions. Unless the context requires otherwise, in this part, the following definitions apply:

(1) A ~~“bona~~ *“Bona fide resident of Montana”* is *means* a person who, at the time of employment and immediately prior to the time of employment, has lived in this state in a manner and for a time that is sufficient to clearly justify the conclusion that the person’s past habitation in this state has been coupled with an intention to make it the person’s home. Persons who come to Montana solely in pursuance of any contract or agreement to perform labor may not be considered to be bona fide residents of Montana within the meaning and for the purpose of this part.

(2) “Commissioner” means the commissioner of labor and industry provided for in 2-15-1701.

(3) (a) “Construction services” means work performed by an individual in construction, heavy construction, highway construction, and remodeling work.

(b) The term does not include:

(i) engineering, superintendence, management, office, or clerical work on a public works contract; or

(ii) consulting contracts, contracts with commercial suppliers for goods and supplies, or contracts with professionals licensed under state law.

(4) “Contractor” means any general contractor, subcontractor, firm, association, partnership, corporation, limited liability partnership, or limited liability company engaged in construction services.

(5) “Department” means the department of labor and industry provided for in 2-15-1701.

(6) “District” means a prevailing wage rate district established as provided in 18-2-411.

(7) “Employer” means any firm, association, partnership, corporation, limited liability partnership, or limited liability company engaged in nonconstruction services.

(8) “Heavy and highway construction wage rates” means wage rates, including fringe benefits for health and welfare and pension contributions, that meet the requirements of the Employee Retirement Income Security Act of 1974 and other bona fide programs approved by the United States department of labor and zone pay and travel allowance that are determined and established statewide for heavy and highway construction projects, such as alteration or repair of roads, streets, highways, alleys, runways, trails, parking areas, utility

rights-of-way, staging yards located on or off the right-of-way, or new or reopened pits that produce aggregate, asphalt, concrete, or backfill when the pit does not normally sell to the general public.

(9) “Nonconstruction services” means work performed by an individual, not including management, office, or clerical work, for:

(a) the maintenance of publicly owned buildings and facilities, including public highways, roads, streets, and alleys;

(b) custodial or security services for publicly owned buildings and facilities;

(c) grounds maintenance for publicly owned property;

(d) the operation of public drinking water supply, waste collection, and waste disposal systems;

(e) law enforcement, including janitors and prison guards;

(f) fire protection;

(g) public or school transportation driving;

(h) nursing, nurse’s aid services, and medical laboratory technician services;

(i) material and mail handling;

(j) food service and cooking;

(k) motor vehicle and construction equipment repair and servicing; and

(l) appliance and office machine repair and servicing.

(10) “Project location” means the construction site where a public works project involving construction services is being built, installed, or otherwise improved or reclaimed, as specified on the project plans and specifications.

(11) (a) “Public works contract” means a contract for construction services let by the state, county, municipality, school district, or political subdivision or for nonconstruction services let by the state, county, municipality, or political subdivision in which the total cost of the contract is in excess of \$25,000. The nonconstruction services classification does not apply to any school district that at any time prior to April 27, 1999, contracted with a private contractor for the provision of nonconstruction services on behalf of the district.

(b) The term does not include contracts entered into by the department of public health and human services for the provision of human services.

(12) “Special circumstances” means all work performed at a facility that is built or developed for a specific Montana public works project and that is located in a prevailing wage district that contains the project location or that is located in a contiguous prevailing wage district.

(13) (a) “Standard prevailing rate of wages” or “standard prevailing wage” means:

(i) the heavy and highway construction wage rates applicable to heavy and highway construction projects; or

(ii) those wages, other than heavy and highway construction wages, including fringe benefits for health and welfare and pension contributions, that meet the requirements of the Employee Retirement *Income* Security Act of 1974 and other bona fide programs approved by the United States department of labor and travel allowance that are paid in the district by other contractors for work of a similar character performed in that district by each craft, classification, or type of worker needed to complete a contract under this part. In each district, the standard prevailing rate of wages must be computed by the

department based on work performed by electrical contractors who are licensed under Title 37, chapter 68, master plumbers who are licensed under Title 37, chapter 69, part 3, and Montana contractors who are registered under Title 39, chapter 9, and whose work is performed according to commercial building codes. The contractor survey must include information pertaining to the number of skilled craftspersons employed in the employer's peak month of employment and the wages and benefits paid for each craft. In setting the prevailing wages from the survey for each craft, the department shall use the weighted average wage for each craft, except in those cases in which the survey shows that 50% of the craftspersons are receiving the same wage. When the survey shows that 50% of the craftspersons are receiving the same wage, that wage is the prevailing wage for that craft. The work performed must be work of a similar character to the work performed in the district unless the annual survey of construction contractors and the biennial survey of nonconstruction service employers in the district does not generate sufficient data. If the survey produces insufficient data, the rate may be established by the use of other information or methods that the commissioner determines fairly establish the standard prevailing rate of wages. The commissioner shall establish by rule the method or methods by which the standard prevailing rate of wages is determined. The rules must establish a process for determining if there is insufficient data generated by the survey of employers in the district that requires the use of other methods of determining the standard prevailing rate of wages. The rules must identify the amount of data that constitutes insufficient data and require the commissioner of labor to use other methods of determining the standard prevailing rate of wages when insufficient data exists. The alternative methods of determining the prevailing rate of wages must provide for review and the incorporation of data from work of a similar character that is conducted as near as possible to the original district.

(b) When work of a similar character is not being performed in the district, the standard prevailing rate of wages, including fringe benefits for health and welfare and pension contributions, that meets the requirements of the Employee Retirement *Income* Security Act of 1974 and other bona fide programs approved by the United States department of labor and the rate of travel allowance must be those rates established by collective bargaining agreements in effect in the district for each craft, classification, or type of worker needed to complete the contract.

(14) "Work of a similar character" means work on private commercial projects as well as work on public projects."

Section 40. Section 18-5-605, MCA, is amended to read:

"18-5-605. Implementation. (1) For the purposes of ensuring the effective phasing in of nonvisual access technology procurement, the head of any state agency may not approve exclusion of the technology access clause required by 18-5-604 from any contract with respect to the compatibility of standard operating systems and software with nonvisual access software and peripheral devices or with respect to the initial design, development, and installation of information systems, including the design and procurement of interactive equipment and software.

(2) This section does not require the installation of software or peripheral devices used for nonvisual access when the information technology is being used by individuals who are not blind or visually impaired.

(3) Notwithstanding subsection (2), the applications programs and underlying operating systems, including the format of the data, used for the manipulation and presentation of information must permit the installation and effective use of nonvisual access software and peripheral devices.

(4) Compliance with this part with regard to information technology purchased prior to July 1, 2001, must be achieved at the time of procurement of an upgrade or replacement of existing equipment or software.

~~(5) Until July 1, 2003, a state agency may be exempted from the requirements of 18-5-604 if the cost would cause the state agency's budget to exceed legislative appropriations.~~

~~(6)(5) A state agency may be exempted from the provisions of this part if the state agency makes a good faith determination that compliance would result in an undue burden."~~

Section 41. Section 19-3-2121, MCA, is amended to read:

"19-3-2121. Determination and adjustment of plan choice rate and contribution allocations. (1) The board shall periodically review the sufficiency of the plan choice rate and shall adjust the allocation of contributions under 19-3-2117 as specified in this section. The board shall collect and maintain the data necessary to comply with this section.

(2) The plan choice rate set in ~~19-3-2117(2)(b)~~ 19-3-2117(2)(a)(ii) must be adjusted as provided in this section, taking into account:

(a) as determined under subsection (3), the change in the normal cost contribution rate in the defined benefit plan that is the result of member selection of the defined contribution plan; and

(b) as determined under subsection (4), the sufficiency of the plan choice rate to actuarially fund the defined contribution plan member's appropriate share of the defined benefit plan's unfunded liabilities.

(3) The change in the normal cost contribution rate must be an amount equal to the difference between the normal cost contribution rate in the defined benefit plan that would have resulted if all system members remained in the defined benefit plan and the normal cost contribution rate in the defined benefit plan for the actual members of the defined benefit plan, multiplied by the compensation paid to all of the members in the defined benefit plan, divided by the compensation paid to all of the members in the defined contribution plan. The measurements under this subsection must be based on the defined benefit plan in effect on the effective date of the defined contribution plan until the board determines that the defined benefit plan has been amended in a manner that significantly affects plan choices available to system members. After a board determination that the defined benefit plan has been significantly changed, the measurements in this subsection with respect to members entering the system after the significant change must be made on the basis of the defined benefit plan, as amended.

(4) The sufficiency of the plan choice rate to actuarially fund the appropriate share of the defined benefit plan's unfunded liabilities must be determined as follows:

(a) The board shall determine the number of years required to actuarially fund the defined benefit plan's unfunded liabilities as of the June 30, 1998, actuarial valuation, which must be the initial schedule for the defined contribution plan to actuarially fund the plan's share of the unfunded liabilities. The board shall reduce the schedule by 1 year each biennium.

(b) During each subsequent actuarial valuation of the defined benefit plan conducted pursuant to 19-2-405, the board shall determine whether the plan choice rate minus the amount provided in subsection (2)(a) of this section is sufficient to pay the unfunded liability obligations within the schedule determined under subsection (4)(a) of this section. If the amount is insufficient to fund the liability over a period of 10 years longer than the scheduled period or is more than sufficient to fund the liability over a period of 10 years earlier than the scheduled period, the board shall determine to the nearest 0.1% the amount of the increase or decrease in the plan choice rate that is required to actuarially fund the liabilities according to the established schedule.

(5) If the board determines that the plan choice rate should be increased or decreased, the plan choice rate under ~~19-3-2117(2)(b)~~ 19-3-2117(2)(a)(ii) must be increased or decreased accordingly. If the plan choice rate is increased, the allocation of employer contributions to member accounts under 19-3-2117(2)(a)(i) must be decreased by that amount. If the plan choice rate is decreased, the allocation of employer contributions to member accounts under 19-3-2117(2)(a)(i) must be increased by that amount.

(6) If the board determines that the contribution rate to the disability plan under ~~19-3-2117(2)(d)~~ 19-3-2117(2)(a)(iv) should be increased, the employer contribution to each member's account under 19-3-2117(2)(a)(i) must be decreased by that amount. If the board determines that the contribution rate to the disability plan under ~~19-3-2117(2)(d)~~ 19-3-2117(2)(a)(iv) should be decreased, the employer contribution to each member's account under 19-3-2117(2)(a)(i) must be increased by that amount.

(7) By November 1 of the year of a determination pursuant to this section that the allocation of employer contributions under 19-3-2117(2) must be changed, the board shall notify system members, participating employers, employee and employer organizations, the governor, and the legislature of its determination and of the changes required.

(8) Effective January 1 of the year after the regular legislative session that immediately follows a determination under this section, the plan choice rate and the allocation of contributions under 19-3-2117(2) must be adjusted according to the board's determination."

Section 42. Section 19-21-203, MCA, is amended to read:

"19-21-203. Contributions — supplemental and plan choice rate contributions. The following provisions apply to program participants not otherwise covered under 19-21-214:

(1) (a) Each program participant shall contribute an amount equal to the member's contribution required under 19-20-602.

(b) (i) Each month, the board of regents shall calculate an amount equal to 1% of each participant's earned compensation, total the amounts calculated, and certify to the state treasurer the total amount for all participants combined.

(ii) Within 1 week of receiving notice of the certified amount, the state treasurer shall transfer the certified amount from the general fund to the board of regents. Upon receipt of the amount transferred, the board ~~of regents~~ of regents shall allocate and deposit to the account of each participant the amount calculated for that participant under subsection (1)(b)(i). The amounts transferred under this subsection (1)(b)(ii) are statutorily appropriated, as provided in 17-7-502.

(c) The board of regents shall contribute an amount that, when added to the sum of the participant's contribution plus the contribution made under subsection (1)(b)(ii), is equal to 13% of the participant's earned compensation.

(2) (a) The board of regents may:

(i) reduce the participant's contribution rate established in subsection (1) to an amount not less than 6% of the participant's earned compensation; and

(ii) increase the employer's contribution rate to an amount not greater than 6% of the participant's earned compensation.

(b) Notwithstanding the supplemental contributions required under 19-20-604 and subsection (5) of this section, the sum of the participant's contributions made under subsection (1)(a), the state's contributions made under subsection (1)(b), and the employer's contributions made under subsection (1)(c) must remain at 13% of the participant's earned compensation.

(3) The board of regents shall determine whether the participant's contribution is to be made by salary reduction under section 403(b) of the Internal Revenue Code, 26 U.S.C. 403(b), as amended, or by employer pickup under section 414(h)(2) of that code, 26 U.S.C. 414(h)(2), as amended.

(4) The disbursing officer of the employer or other official designated by the board of regents shall pay both the participant's contribution and the appropriate portion of the board of regents' contribution to the designated company or companies for the benefit of the participant.

(5) The board of regents shall make the supplemental contributions to the teachers' retirement system, as provided in 19-20-621, to discharge the obligation incurred by the Montana university system for the past service liability incurred by active, inactive, and retired members of the teachers' retirement system."

Section 43. Section 20-7-328, MCA, is amended to read:

"20-7-328. Legislative intent. (1) It is the intent of the legislature that the administration of the programs authorized by the Carl D. Perkins ~~Vocational and Applied Technology Education Act~~ *Career and Technical Education Improvement Act of 2006* provide a seamless system of services to those people seeking to improve their ~~vocational~~ *career* and technical skills.

(2) It is the intent of the legislature that the superintendent of public instruction and the commissioner work cooperatively in providing that system of ~~vocational~~ *career* and technical services at both the secondary and postsecondary levels.

(3) It is the intent of the legislature that the development of the state plan for ~~vocational~~ *career* and technical education be a cooperative effort of the superintendent of public instruction and the commissioner in consultation with teachers, students, and institutions or agencies that provide the services and activities."

Section 44. Section 20-7-329, MCA, is amended to read:

"20-7-329. Eligible agency for federal vocational education requirements. (1) The board of regents is the eligible agency for purposes of the 1984 federal Carl D. Perkins ~~Vocational and Applied Technology Education Act~~ *Career and Technical Education Improvement Act of 2006*, as amended, which requires a state participating in programs under that act to designate a state board as the eligible agency responsible for administration or supervision of those programs.

(2) The board of regents shall contract with the superintendent of public instruction for the administration and supervision of K-12 career and ~~vocational/technical~~ *technical* education programs, services, and activities allowed by the ~~1984 federal Carl D. Perkins Vocational and Applied Technology Education Act~~ *Career and Technical Education Improvement Act of 2006*, as amended, and in concert with the state plan for ~~vocational career~~ and technical education required by the act. The board of regents may contract with other agencies for the administration and supervision of ~~vocational-technical~~ *technical* education programs, services, and activities that receive funding allowed by the ~~1984 federal Carl D. Perkins Vocational and Applied Technology Education Act~~ *Career and Technical Education Improvement Act of 2006*, as amended.”

Section 45. Section 20-7-330, MCA, is amended to read:

“20-7-330. Creation of state plan committee — meetings — report. (1)

The superintendent of public instruction and the commissioner shall each appoint three people from their respective advisory boards to serve on a committee to review and update the 5-year state plan for ~~vocational career~~ and technical education as required by 20 U.S.C. 2323. Two members appointed from each advisory board must be educators, and the remaining member appointed from each advisory board must be a representative of a business or community interest.

(2) At least four times a year, the board of regents shall meet with the superintendent of public instruction, teachers, students, labor organizations, businesses, and institutions or agencies involved in vocational and technical education to:

(a) discuss the state plan;

(b) identify any issues or concerns with the administration of the Carl D. Perkins ~~Vocational and Applied Technology Education Act~~ *Career and Technical Education Improvement Act of 2006* in Montana;

(c) identify the needs of ~~vocational-technical~~ *technical* students and programs in Montana and determine the best way to meet those needs; and

(d) if necessary, make changes in the administration and operation of the Carl D. Perkins ~~Vocational and Applied Technology Education Act~~ *Career and Technical Education Improvement Act of 2006* in Montana.

(3) The board of regents shall report the results of the meetings required in subsection (2) to the legislature in accordance with the provisions of 5-11-210.”

Section 46. Section 20-9-501, MCA, is amended to read:

“20-9-501. Retirement costs and retirement fund. (1) The trustees of a district or the management board of a cooperative employing personnel who are members of the teachers’ retirement system or the public employees’ retirement system, who are covered by unemployment insurance, or who are covered by any federal social security system requiring employer contributions shall establish a retirement fund for the purposes of budgeting and paying the employer’s contributions to the systems as provided in subsection (2)(a). The district’s or the cooperative’s contribution for each employee who is a member of the teachers’ retirement system must be calculated in accordance with Title 19, chapter 20, part 6. The district’s or the cooperative’s contribution for each employee who is a member of the public employees’ retirement system must be calculated in accordance with 19-3-316. The district’s or the cooperative’s contributions for each employee covered by any federal social security system must be paid in

accordance with federal law and regulation. The district's or the cooperative's contribution for each employee who is covered by unemployment insurance must be paid in accordance with Title 39, chapter 51, part 11.

(2) (a) The district or the cooperative shall pay the employer's contributions to the retirement, federal social security, and unemployment insurance systems from the retirement fund for the following:

(i) a district employee whose salary and health-related benefits, if any health-related benefits are provided to the employee, are paid from state or local funding sources;

(ii) a cooperative employee whose salary and health-related benefits, if any health-related benefits are provided to the employee, are paid from the cooperative's interlocal cooperative fund if the fund is supported solely from districts' general funds and state special education allowable cost payments, pursuant to 20-9-321, or are paid from the miscellaneous programs fund, provided for in 20-9-507, from money received from the medicaid program, pursuant to 53-6-101;

(iii) a district employee whose salary and health-related benefits, if any health-related benefits are provided to the employee, are paid from the district's school food services fund provided for in 20-10-204; and

(iv) a district employee whose salary and health-related benefits, if any health-related benefits are provided to the employee, are paid from the district impact aid fund, pursuant to 20-9-514.

(b) For an employee whose benefits are not paid from the retirement fund, the district or the cooperative shall pay the employer's contributions to the retirement, federal social security, and unemployment insurance systems from the funding source that pays the employee's salary.

(3) The trustees of a district required to make a contribution to a system referred to in subsection (1) shall include in the retirement fund of the final budget the estimated amount of the employer's contribution. After the final retirement fund budget has been adopted, the trustees shall pay the employer contributions to the systems in accordance with the financial administration provisions of this title.

(4) When the final retirement fund budget has been adopted, the county superintendent shall establish the levy requirement by:

(a) determining the sum of the money available to reduce the retirement fund levy requirement by adding:

(i) any anticipated money that may be realized in the retirement fund during the ensuing school fiscal year;

(ii) oil and natural gas production taxes;

(iii) coal gross proceeds taxes under 15-23-703;

~~(iv) countywide school retirement block grants distributed under 20-9-631;~~

~~(iv)~~(iv) any fund balance available for reappropriation as determined by subtracting the amount of the end-of-the-year fund balance earmarked as the retirement fund operating reserve for the ensuing school fiscal year by the trustees from the end-of-the-year fund balance in the retirement fund. The retirement fund operating reserve may not be more than 35% of the final retirement fund budget for the ensuing school fiscal year and must be used for the purpose of paying retirement fund warrants issued by the district under the final retirement fund budget.

(vi)(v) any other revenue anticipated that may be realized in the retirement fund during the ensuing school fiscal year, excluding any guaranteed tax base aid.

(b) notwithstanding the provisions of subsection (9), subtracting the money available for reduction of the levy requirement, as determined in subsection (4)(a), from the budgeted amount for expenditures in the final retirement fund budget.

(5) The county superintendent shall:

(a) total the net retirement fund levy requirements separately for all elementary school districts, all high school districts, and all community college districts of the county, including any prorated joint district or special education cooperative agreement levy requirements; and

(b) report each levy requirement to the county commissioners on the fourth Monday of August as the respective county levy requirements for elementary district, high school district, and community college district retirement funds.

(6) The county commissioners shall fix and set the county levy or district levy in accordance with 20-9-142.

(7) The net retirement fund levy requirement for a joint elementary district or a joint high school district must be prorated to each county in which a part of the district is located in the same proportion as the district ANB of the joint district is distributed by pupil residence in each county. The county superintendents of the counties affected shall jointly determine the net retirement fund levy requirement for each county as provided in 20-9-151.

(8) The net retirement fund levy requirement for districts that are members of special education cooperative agreements must be prorated to each county in which the district is located in the same proportion as the special education cooperative budget is prorated to the member school districts. The county superintendents of the counties affected shall jointly determine the net retirement fund levy requirement for each county in the same manner as provided in 20-9-151, and the county commissioners shall fix and levy the net retirement fund levy for each county in the same manner as provided in 20-9-152.

(9) The county superintendent shall calculate the number of mills to be levied on the taxable property in the county to finance the retirement fund net levy requirement by dividing the amount determined in subsection (5)(a) by the sum of:

(a) the amount of guaranteed tax base aid that the county will receive for each mill levied, as certified by the superintendent of public instruction; and

(b) the taxable valuation of the district divided by 1,000.

(10) The levy for a community college district may be applied only to property within the district.

(11) The county superintendent of each county shall submit a report of the revenue amounts used to establish the levy requirements for county school funds supporting elementary and high school district retirement obligations to the superintendent of public instruction not later than the second Monday in September. The report must be completed on forms supplied by the superintendent of public instruction.”

Section 47. Section 20-9-707, MCA, is amended to read:

“20-9-707. Agreement with accredited Montana job corps program.

(1) The trustees of a school district may enter into an interlocal cooperative agreement for the ensuing school fiscal year under the provisions of Title 7, chapter 11, part 1, with a Montana job corps program accredited by the northwest ~~association of schools and colleges~~ *commission on colleges and universities* to provide educational or vocational services that are supplemental to the educational programs offered by the resident school district.

(2) A student who receives educational or vocational services at a Montana job corps program pursuant to an agreement authorized under subsection (1) must be enrolled, for purposes of calculating average number belonging, in a public school in the student's district of residence. Credits taken at the accredited Montana job corps program must be approved by the school district and meet the requirements for graduation at a school in the student's district of residence, must be taught by an instructor who has a current and appropriate Montana high school certification, and must be reported by the institution to the student's district of residence. Upon accumulating the necessary credits at either a school in the district of residence or at an accredited Montana job corps program pursuant to an interlocal cooperative agreement, a student must be allowed to graduate from the school in the student's district of residence.

(3) A school district that, pursuant to an interlocal cooperative agreement, allows an enrolled student to attend a Montana job corps program accredited as prescribed in subsection (1) is not responsible for payment of the student's transportation costs to the job corps program.

(4) A student attending a job corps program may not claim the job corps program's facility as the student's residence for the purposes of this section.”

Section 48. Section 22-2-107, MCA, is amended to read:

“22-2-107. Gifts and donations. The council may acquire, accept, receive, dispose of, and administer in the name of the council any gifts, donations, properties, securities, bequests, and legacies that may be made to it. ~~Moneys~~ *Money* received by donation, gift, bequest, or legacy, unless otherwise provided by the donor, ~~shall~~ *must* be deposited in the state special revenue fund of the state treasury and used for the general operation of the council. The council is the official agency of the state to receive and disburse any funds made available by the national ~~foundation on~~ *endowment for* the arts.”

Section 49. Section 23-5-119, MCA, is amended to read:

“23-5-119. Appropriate alcoholic beverage license for certain gambling activities. (1) Except as provided in subsection (3), to be eligible to offer gambling under Title 23, chapter 5, part 3, 5, or 6, an applicant ~~shall~~ *must* own in the applicant's name:

(a) a retail all-beverages license issued under 16-4-201, but *the owner of* a license transferred after July 1, 2007, to a quota area pursuant to a department-conducted lottery under 16-4-204(1)(a) is not eligible to offer gambling;

(b) except as provided in subsection (1)(c), a license issued prior to October 1, 1997, under 16-4-105, authorizing the sale of beer and wine for consumption on the licensed premises;

(c) a beer and wine license issued in an area outside of an incorporated city or town as provided in 16-4-105(1)(e). The owner of the license whose premises are situated outside of an incorporated city or town may offer gambling, regardless

of when the license was issued, if the owner and premises qualify under Title 23, chapter 5, part 3, 5, or 6:

- (d) a retail beer and wine license issued under 16-4-109;
- (e) a retail all-beverages license issued under 16-4-202; or
- (f) a retail all-beverages license issued under 16-4-208.

(2) For purposes of subsection (1)(b), a license issued under 16-4-105 prior to October 1, 1997, may be transferred to a new owner or to a new location or transferred to a new owner and location by the department of revenue pursuant to the applicable provisions of Title 16. The owner of the license that has been transferred may offer gambling if the owner and the premises qualify under Title 23, chapter 5, part 3, 5, or 6.

(3) Lessees of retail all-beverages licenses issued under 16-4-208 or beer and wine licenses issued under 16-4-109 who have applied for and been granted a gambling operator's license under 23-5-177 are eligible to offer and may be granted permits for gambling authorized under Title 23, chapter 5, part 3, 5, or 6.

(4) A license transferee or a qualified purchaser operating pending final approval under 16-4-404(6) who has been granted a gambling operator's license under 23-5-177 may be granted permits for gambling under Title 23, chapter 5, part 3, 5, or 6."

Section 50. Section 27-20-102, MCA, is amended to read:

"27-20-102. When and by whom receiver appointed. A receiver may be appointed by the court in which an action is pending ~~or by the judge thereof when the action is:~~

- (1) ~~in an action~~ by a vendor to vacate a fraudulent purchase of property;;
- (2) by a creditor to subject any property or fund to ~~his~~ *the creditor's* claim; ~~or~~
- (3) between partners or others jointly owning or interested in any property or fund, on the application of the plaintiff or of any party whose right to or interest in the property or fund or the proceeds ~~thereof~~ *of the property or fund* is probable; and ~~where~~ *when* it is shown that the property or fund is in danger of being lost, removed, or materially injured;
- (2)(4) ~~in an action~~ by a mortgagee for the foreclosure of ~~his~~ *the mortgagee's* mortgage and sale of the mortgaged property, ~~where and when it appears is shown~~ that the mortgaged property is in danger of being lost, removed, or materially injured or that the condition of the mortgage has not been performed and the property is probably insufficient to discharge the mortgage debt;
- (3)(5) after judgment, to carry the judgment into effect;
- (4)(6) after judgment, to dispose of the property according to the judgment or to preserve it during the pendency of an appeal; or
- (7) ~~in~~ *for* proceedings in aid of execution, when an execution has been returned unsatisfied or when the judgment debtor refuses to apply ~~his~~ *the judgment debtor's* property in satisfaction of the judgment;
- (5) ~~in all other cases where, before February 1, 1864, receivers have been appointed by the usages of courts of equity."~~

Section 51. Section 30-10-324, MCA, is amended to read:

"30-10-324. Definitions. As used in 30-10-324 through 30-10-326, the following definitions apply:

(1) (a) "Compensation" means the receipt of money, a thing of value, or a financial benefit.

(b) Compensation does not include:

(i) payments to a participant based upon the sale of goods or services by the participant to third persons when the goods or services are purchased for actual use or consumption; or

(ii) payments to a participant based upon the sale of goods or services to the participant that are used or consumed by the participant.

(2) (a) "Consideration" means the payment of money, the purchase of goods or services, or the purchase of intangible property.

(b) Consideration does not include:

(i) the purchase of goods or services furnished at cost that are used in making sales and that are not for resale; or

(ii) a participant's time and effort expended in the pursuit of sales or in recruiting activities.

(3) (a) "Multilevel distribution company" means a person that:

(i) sells, distributes, or supplies goods or services through independent agents, contractors, or distributors at different levels of distribution;

(ii) may recruit other participants in the company; and

(iii) is eligible for commissions, cross-commissions, override commissions, bonuses, refunds, dividends, or other consideration that is or may be paid as a result of the sale of goods or services or the recruitment of or the performance or actions of other participants.

(b) The term does not include an insurance producer, real estate broker, or salesperson or an investment adviser, investment adviser representative, broker-dealer, or salesperson, as defined in 30-10-103, operating in compliance with this chapter.

(4) "Participant" means a person involved in a sales plan or operation.

(5) "Person" means an individual, corporation, partnership, limited liability company, or other business entity.

(6) (a) "Pyramid promotional scheme" means a sales plan or operation in which a participant gives consideration for the opportunity to receive compensation derived primarily from obtaining the participation of other persons in the sales plan or operation rather than from the sale of goods or services by the participant or the other persons induced to participate in the sales plan or operation by the participant.

(b) A pyramid promotional scheme includes a Ponzi scheme, in which a person makes payments to investors from money obtained from later investors, rather than from any profits or other income of an underlying or purported underlying business venture.

(c) A pyramid promotional scheme does not include a sales plan or operation that:

(i) subject to the provisions of subsection ~~(6)(b)(v)~~ (6)(c)(v), provides compensation to a participant based primarily upon the sale of goods or services by the participant, including goods or services used or consumed by the participant, and not primarily for obtaining the participation of other persons in the sales plan or operation and that provides compensation to the participant

based upon the sale of goods or services by persons whose participation in the sales plan or operation has been obtained by the participant;

(ii) does not require a participant to purchase goods or services in an amount that unreasonably exceeds an amount that can be expected to be resold or consumed within a reasonable period of time;

(iii) is authorized to use a federally registered trademark or servicemark that identifies the company promoting the sales plan or operation, the goods or services sold, or the sales plan or operation;

(iv) (A) provides each person joining the sales plan or operation with a written agreement containing or a written statement describing the material terms of participating in the sales plan or operation;

(B) allows a person at least 15 days to cancel the person's participation in the sales plan or operation plan; and

(C) provides that if the person cancels participation within the time provided and returns any required items, the person is entitled to a refund of any consideration given to participate in the sales plan or operation; and

(v) (A) ~~provides for~~, upon the request of a participant deciding to terminate participation in the sales plan or operation, *provides for* the repurchase, at not less than 90% of the amount paid by the participant, of any currently marketable goods or services sold to the participant within 12 months of the request that have not been resold or consumed by the participant; and

(B) if disclosed to the participant at the time of purchase, provides that goods or services are not considered currently marketable if the goods have been consumed or the services rendered or if the goods or services are seasonal, discontinued, or special promotional items. Sales plan or operation promotional materials, sales aids, and sales kits are subject to the provisions of this subsection ~~(6)(b)(v)~~ (6)(c)(v) if they are a required purchase for the participant or if the participant has received or may receive a financial benefit from their purchase."

Section 52. Section 31-2-106, MCA, is amended to read:

"31-2-106. Exempt property — bankruptcy proceeding. An individual may not exempt from the property of the estate in any bankruptcy proceeding the property specified in 11 U.S.C. 522(d). An individual may exempt from the property of the estate in any bankruptcy proceeding:

(1) that property exempt from execution of judgment as provided in 19-2-1004, 19-18-612, 19-19-504, 19-20-706, 19-21-212, Title 25, chapter 13, part 6, 33-7-522, 33-15-512 through 33-15-514, 39-51-3105, 39-71-743, 39-73-110, 53-2-607, 53-9-129, Title 70, chapter 32, and 80-2-245;

(2) the individual's right to receive unemployment compensation and unemployment benefits; and

(3) the individual's right to receive benefits from or interest in a private or governmental retirement, pension, stock bonus, profit-sharing, annuity, or similar plan or contract on account of illness, disability, death, age, or length of service, excluding that portion of contributions made by the individual within 1 year before the filing of the petition in bankruptcy that exceeds 15% of the individual's gross income for that 1-year period, unless:

(a) the plan or contract was established by or under the auspices of an insider that employed the individual at the time the individual's rights under the plan or contract arose;

(b) the benefit is paid on account of age or length of service; and

(c) the plan or contract does not qualify under section 401(a), 403(a), 403(b), 408, or 409 of the Internal Revenue Code, 26 U.S.C. 401(a), 403(a), 403(b), 408, or 409.”

Section 53. Section 33-1-111, MCA, is amended to read:

“33-1-111. Eligibility requirements of health insurance issuers. As a condition of doing business in the state of Montana, a health insurance issuer, a multiple employer welfare arrangement, a third-party administrator, a health maintenance organization, a pharmacy benefit manager, a health services corporation, or any other party that by statute, contract, or agreement is legally responsible for payment of a claim for a health care item or service shall:

(1) upon request, provide to the department of public health and human services eligibility information for individuals who are eligible for or receiving medicaid, including but not limited to:

(a) data to determine during what period the medicaid recipient or medicaid-eligible individual or the spouse or dependents of the recipient or eligible individual may be or may have been covered by any of the entities listed in this section; and

(b) data regarding the nature of the coverage that is or was provided, including but not limited to the name, address, and identifying information of the entity providing coverage;

(2) respond to any inquiry from the department of public health and human services regarding a claim for payment for any health care item or service submitted not later than 3 years after the date the item or service was provided;

(3) accept the department of public health and human services’ right of recovery and the assignment from the medicaid recipient to the department of public health and human services of any right of an individual or other entity to payment from any of the entities listed in this section for an item or service for which medicaid has paid; and

(4) agree not to deny a claim submitted by the department of public health and human services solely on the basis of the date of submission of the claim, the type or format of the claim form, or a failure to present proper documentation at the point of sale that is the basis of the claim if:

(a) the claim is submitted by the department of public health and human services within the 3-year period beginning on the date on which the service or item was provided; and

(b) any action by the department of public health and human services to enforce its rights with respect to the claim is commenced within 6 years after the department submitted the claim.

(5) This section may not be construed to:

(a) require that a third party pay any *claim by the department* ~~claim of public health and human services~~ for services or items that are not covered under the applicable health care plan;

(b) require that any third-party administrator, fiscal intermediary, or other contractor pay a *claim by the department* ~~claim of public health and human services~~ from its own funds unless the entity also bears the financial obligation for the claim under the applicable plan documents;

(c) impose any liability on an entity to pay claims that the entity does not otherwise bear; or

(d) negate any right of indemnification against a plan sponsor or other entity with ultimate liability for health care claims by a third-party administrator, fiscal intermediary, or other contractor that pays the claims.”

Section 54. Section 37-17-102, MCA, is amended to read:

“37-17-102. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) “Accredited college or university” means a college or university accredited by the regional accrediting association for institutions of higher learning, such as the ~~northwest association of schools and colleges~~ *commission on colleges and universities*.

(2) “Board” means the board of psychologists provided for in 2-15-1741.

(3) “Department” means the department of labor and industry provided for in Title 2, chapter 15, part 17.

(4) (a) “Practice of psychology” means the observation, description, interpretation, and modification of human behavior by the application of psychological principles, methods, and procedures for the purpose of eliminating symptomatic, maladaptive, or undesired behavior and improving interpersonal relations, work and life adjustment, personal effectiveness, and mental health.

(b) The practice of psychology includes but is not limited to psychological testing and evaluation or assessment of personal characteristics such as intelligence, personality, abilities, interests, aptitudes, and neuropsychological functioning; counseling, psychoanalysis, psychotherapy, hypnosis, biofeedback, and behavior analysis and therapy; diagnosis and treatment of mental and emotional disorders or disabilities, chemical dependency, substance abuse, and the psychological aspects of physical illness, accident, injury, or disability; and psychoeducational evaluation, therapy, remediation, and consultation.

(5) A person represents to the public that the person is a “psychologist” when the person uses a title or description of services incorporating the words “psychologist”, “psychological”, “psychologic”, or “psychology” and offers to render or renders psychological services ~~defined~~ *described* in subsection (4) to individuals, groups, corporations, or the public, whether or not the person does so for compensation or fee.”

Section 55. Section 39-51-403, MCA, is amended to read:

“39-51-403. Money to be requisitioned from unemployment trust fund solely for payment of benefits — exception. (1) Money may be requisitioned from this state’s account in the unemployment trust fund solely for the payment of benefits and in accordance with regulations prescribed by the department, except that money credited to this state’s account pursuant to sections 903 and 904 of the Social Security Act, (42 U.S.C. 1103 and 1104), as amended, may also be withdrawn for the payment of expenses for the administration of this chapter and of public employment offices, as provided by this chapter. Money withheld by the department from a benefits payment at the request of an individual or in accordance with the department’s rules pertaining to deductions and withholding for federal income tax purposes pursuant to 39-51-2207 or money withheld for repayment of an overissuance of food stamp ~~coupons~~ *benefits* pursuant to 39-51-2208 must be considered benefits for the purposes of this subsection.

(2) The department shall from time to time requisition from the unemployment trust fund amounts, not exceeding the amounts in this state in

the fund, *as that* it considers necessary for the payment of benefits for a reasonable future period. Upon receipt of a requisition, the treasurer shall deposit the money in the benefit account and shall issue warrants for the payment of benefits solely from the benefit account.

(3) Expenditures of money in the benefit account and refunds from the clearing account are not subject to any provisions of law requiring specific appropriations or other formal release by state officers of money in their custody.

(4) Any balance of money requisitioned from the unemployment trust fund that remains unclaimed or unpaid in the benefit account after the expiration of the period for which the sums were requisitioned must be deducted from estimates for and may be used for the payment of benefits during succeeding periods or, in the discretion of the department, must be redeposited with the secretary of the treasury of the United States to the credit of this state's account in the unemployment trust fund, as provided in 39-51-402."

Section 56. Section 39-51-503, MCA, is amended to read:

"39-51-503. Agreements with railroad retirement board. The department is authorized to cooperate with and enter into agreements with the railroad retirement board with respect to establishment, maintenance, and use of employment service facilities and to make available to the railroad retirement board the records of the department relating to employer's status and contributions received from employers covered by the Railroad Unemployment Insurance Act, (45 U.S.C. 351, et seq.), together with employee wage records and other data that the railroad retirement board considers necessary or desirable for the administration of the Railroad Unemployment Insurance Act. Any money received by the department from the railroad retirement board or any other governmental agency with respect to the establishment, maintenance, and use of employment service facilities must be paid into and credited to the proper division of the unemployment insurance administration fund *account* set up and established under 39-51-406 and 39-51-407."

Section 57. Section 39-71-2352, MCA, is amended to read:

"39-71-2352. Separate payment structure and sources for claims for injuries resulting from accidents that occurred before July 1, 1990, and on or after July 1, 1990 — spending limit — authorizing transfer of money. (1) Premiums paid to the state fund based upon wages payable before July 1, 1990, may be used only to administer and pay claims for injuries resulting from accidents that occurred before July 1, 1990. Premiums paid to the state fund based upon wages payable on or after July 1, 1990, may be used only to administer and pay claims for injuries resulting from accidents that occur on or after July 1, 1990.

(2) The state fund shall:

(a) determine the cost of administering and paying claims for injuries resulting from accidents that occurred before July 1, 1990, and separately determine the cost of administering and paying claims for injuries resulting from accidents that occur on or after July 1, 1990;

(b) keep adequate and separate accounts of the costs determined under subsection (2)(a); and

(c) fund administrative expenses and benefit payments for claims for injuries resulting from accidents that occurred before July 1, 1990, and claims

for injuries resulting from accidents that occur on or after July 1, 1990, separately from the sources provided by law.

(3) The state fund may not spend more than \$1.25 million a year to administer claims for injuries resulting from accidents that occurred before July 1, 1990.

(4) As used in this section, "adequately funded" means the present value of:

- (a) the total cost of future benefits remaining to be paid; and
- (b) the cost of administering the claims.

~~(5) Based on audited financial statements adjusted for unrealized gains and losses for each fiscal year, funds in excess of the adequate funding amount established in subsection (4) must be transferred as follows:~~

~~(a) Prior to June 30, 2003:~~

~~(i) the amount of \$1.9 million must be transferred to the general fund to be transferred to the state library equipment account and appropriated to the university system and the department of public health and human services;~~

~~(ii) the amount of \$2.1 million must be transferred to the school flexibility fund, provided for in 20-9-543; and~~

~~(iii) the amount of \$9,178,000 must be transferred to the general fund.~~

~~(b) Prior to June 30, 2004, an amount up to \$4.3 million in available excess funds from fiscal year 2003 must be transferred to the general fund.~~

~~(c) Prior to June 30, 2005, an amount up to \$3.78 million in available excess funds from fiscal year 2004 must be transferred to the general fund.~~

~~(d)(5) In the fiscal years 2004 and 2005, any remaining amount, and in subsequent fiscal years, an amount of funds in excess of the adequate funding amount established in subsection (4), based on audited financial statements adjusted for unrealized gains and losses, must be transferred to the general fund.~~

(6) If in any fiscal year after the old fund liability tax is terminated claims for injuries resulting from accidents that occurred before July 1, 1990, are not adequately funded, any amount necessary to pay claims for injuries resulting from accidents that occurred before July 1, 1990, must be transferred from the general fund to the account provided for in 39-71-2321.

(7) The independent actuary engaged by the state fund pursuant to 39-71-2330 shall project the unpaid claims liability for claims for injuries resulting from accidents that occurred before July 1, 1990, each fiscal year until all claims are paid."

Section 58. Section 39-73-104, MCA, is amended to read:

"39-73-104. Eligibility requirements for benefits. Payment must be made under this chapter to any person who:

(1) has silicosis, as defined in 39-73-101, that results in the person's total disability so as to render it impossible for the person to follow continuously any substantially gainful occupation;

(2) has resided in and been an inhabitant of the state of Montana for 10 years or more immediately preceding the date of the application;

(3) is not receiving, with respect to any month for which the person would receive a payment under this chapter, compensation under ~~39-71-115~~ 39-71-715 equal to the sum of \$350."

Section 59. Section 41-2-103, MCA, is amended to read:

“41-2-103. Definitions. As used in this part, the following definitions apply:

(1) “Agriculture” means:

(a) all aspects of farming, including the cultivation and tillage of the soil;

(b) (i) dairying; and

(ii) the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities, including commodities defined as agricultural commodities in the federal Agricultural Marketing Act, (12 U.S.C. 1141j(g));

(c) the raising of livestock, bees, fur-bearing animals, or poultry; and

(d) any practices, including forestry or lumbering operations, performed by a farmer or on a farm as an incident to or in conjunction with farming operations, including preparation for market or delivery to storage, to market, or to carriers for transportation to market.

(2) “Department” means the department of labor and industry provided for in 2-15-1701.

(3) “Domestic service” means an occasional, irregular, or incidental nonhazardous occupational activity related to and conducted in or around a private residence, including but not limited to babysitting, pet sitting or similar household chore, and manual yard work. Domestic service specifically excludes industrial homework.

(4) (a) “Employed” or “employment” means an occupation engaged in, permitted, or suffered, with or without compensation in money or other valuable consideration, whether paid to the minor or to some other person, including but not limited to occupations as servant, agent, subagent, or independent contractor.

(b) The term does not include casual, community service, nonrevenue raising, uncompensated activities.

(5) “Employer” includes an individual, partnership, association, corporation, business trust, person, or group of persons acting directly or indirectly in the interest of an employer in relation to an employee.

(6) “Minor” means an individual under 18 years of age, except for an individual who:

(a) has received a high school diploma or has received a passing score on the general ~~education~~ *educational* development examination; or

(b) is 16 years of age or older and is enrolled in a registered state or federal apprenticeship program.

(7) “Occupation” means:

(a) an occupation, service, trade, business, or industry in which employees are employed;

(b) any branch or group of industries in which employees are employed; or

(c) any employment or class of employment in which employees are employed.”

Section 60. Section 41-3-205, MCA, is amended to read:

“41-3-205. Confidentiality — disclosure exceptions. (1) The case records of the department and its local affiliate, the local office of public assistance, the county attorney, and the court concerning actions taken under

this chapter and all records concerning reports of child abuse and neglect must be kept confidential except as provided by this section. Except as provided in subsections (7) and (8), a person who purposely or knowingly permits or encourages the unauthorized dissemination of the contents of case records is guilty of a misdemeanor.

(2) Records may be disclosed to a court for in camera inspection if relevant to an issue before it. The court may permit public disclosure if it finds disclosure to be necessary for the fair resolution of an issue before it.

(3) Records, including case notes, correspondence, evaluations, videotapes, and interviews, unless otherwise protected by this section or unless disclosure of the records is determined to be detrimental to the child or harmful to another person who is a subject of information contained in the records, may be disclosed to the following persons or entities in this state and any other state or country:

(a) a department, agency, or organization, including a federal agency, military enclave, or Indian tribal organization, that is legally authorized to receive, inspect, or investigate reports of child abuse or neglect and that otherwise meets the disclosure criteria contained in this section;

(b) a licensed youth care facility or a licensed child-placing agency that is providing services to the family or child who is the subject of a report in the records or to a person authorized by the department to receive relevant information for the purpose of determining the best interests of a child with respect to an adoptive placement;

(c) a health or mental health professional who is treating the family or child who is the subject of a report in the records;

(d) a parent, guardian, or person designated by a parent or guardian of the child who is the subject of a report in the records or other person responsible for the child's welfare, without disclosure of the identity of any person who reported or provided information on the alleged child abuse or neglect incident contained in the records;

(e) a child named in the records who was allegedly abused or neglected or the child's legal guardian or legal representative, including the child's guardian ad litem or attorney or a special advocate appointed by the court to represent a child in a pending case;

(f) the state protection and advocacy program as authorized by 42 U.S.C. 6042(a)(2)(B) 42 U.S.C. 15043(a)(2);

(g) approved foster and adoptive parents who are or may be providing care for a child;

(h) a person about whom a report has been made and that person's attorney, with respect to the relevant records pertaining to that person only and without disclosing the identity of the reporter or any other person whose safety may be endangered;

(i) an agency, including a probation or parole agency, that is legally responsible for the supervision of an alleged perpetrator of child abuse or neglect;

(j) a person, agency, or organization that is engaged in a bona fide research or evaluation project and that is authorized by the department to conduct the research or evaluation;

(k) the members of an interdisciplinary child protective team authorized under 41-3-108 or of a family group decisionmaking meeting for the purposes of

assessing the needs of the child and family, formulating a treatment plan, and monitoring the plan;

(l) the coroner or medical examiner when determining the cause of death of a child;

(m) a child fatality review team recognized by the department;

(n) a department or agency investigating an applicant for a license or registration that is required to operate a youth care facility, day-care facility, or child-placing agency;

(o) a person or entity who is carrying out background, employment-related, or volunteer-related screening of current or prospective employees or volunteers who have or may have unsupervised contact with children through employment or volunteer activities. A request for information under this subsection (3)(o) must be made in writing. Disclosure under this subsection (3)(o) is limited to information that indicates a risk to children, persons with developmental disabilities, or older persons posed by the person about whom the information is sought, as determined by the department.

(p) the news media, a member of the United States congress, or a state legislator, if disclosure is limited to confirmation of factual information regarding how the case was handled and if disclosure does not violate the privacy rights of the child or the child's parent or guardian, as determined by the department;

(q) an employee of the department or other state agency if disclosure of the records is necessary for administration of programs designed to benefit the child;

(r) an agency of an Indian tribe, a qualified expert witness, or the relatives of an Indian child if disclosure of the records is necessary to meet requirements of the federal Indian Child Welfare Act;

(s) a ~~youth~~ *juvenile* probation officer who is working in an official capacity with the child who is the subject of a report in the records;

(t) a county attorney, peace officer, or attorney who is hired by or represents the department if disclosure is necessary for the investigation, defense, or prosecution of a case involving child abuse or neglect;

(u) a foster care review committee established under 41-3-115 or, when applicable, a citizen review board established under Title 41, chapter 3, part 10;

(v) a school employee participating in an interview of a child by a social worker, county attorney, or peace officer, as provided in 41-3-202;

(w) a member of a county interdisciplinary child information team formed under the provisions of 52-2-211;

(x) members of a local interagency staffing group provided for in 52-2-203;

(y) a member of a youth placement committee formed under the provisions of 41-5-121; or

(z) a principal of a school or other employee of the school district authorized by the trustees of the district to receive the information with respect to a student of the district who is a client of the department.

(4) A school or school district may disclose, without consent, personally identifiable information from the education records of a pupil to the department, the court, a review board, and the child's assigned attorney, guardian ad litem, or special advocate.

(5) Information that identifies a person as a participant in or recipient of substance abuse treatment services may be disclosed only as allowed by federal substance abuse confidentiality laws, including the consent provisions of the law.

(6) The confidentiality provisions of this section must be construed to allow a court of this state to share information with other courts of this state or of another state when necessary to expedite the interstate placement of children.

(7) A person who is authorized to receive records under this section shall maintain the confidentiality of the records and may not disclose information in the records to anyone other than the persons described in subsection (3)(a). However, this subsection may not be construed to compel a family member to keep the proceedings confidential.

(8) A news organization or its employee, including a freelance writer or reporter, is not liable for reporting facts or statements made by an immediate family member under subsection (7) if the news organization, employee, writer, or reporter maintains the confidentiality of the child who is the subject of the proceeding.

(9) This section is not intended to affect the confidentiality of criminal court records, records of law enforcement agencies, or medical records covered by state or federal disclosure limitations.

(10) Copies of records, evaluations, reports, or other evidence obtained or generated pursuant to this section that are provided to the parent, the guardian, or the parent or guardian's attorney must be provided without cost."

Section 61. Section 41-5-103, MCA, is amended to read:

"41-5-103. Definitions. As used in the Montana Youth Court Act, unless the context requires otherwise, the following definitions apply:

(1) "Adult" means an individual who is 18 years of age or older.

(2) "Agency" means any entity of state or local government authorized by law to be responsible for the care or rehabilitation of youth.

(3) "Assessment officer" means a person who is authorized by the court to provide initial intake and evaluation for a youth who appears to be in need of intervention or an alleged delinquent youth.

(4) "Commit" means to transfer legal custody of a youth to the department or to the youth court.

(5) "Correctional facility" means a public or private, physically secure residential facility under contract with the department and operated solely for the purpose of housing adjudicated delinquent youth.

(6) "Cost containment pool" means funds allocated by the department under 41-5-132 for distribution by the cost containment review panel.

(7) "Cost containment review panel" means the panel established in 41-5-131.

(8) "Court", when used without further qualification, means the youth court of the district court.

(9) "Criminally convicted youth" means a youth who has been convicted in a district court pursuant to 41-5-206.

(10) (a) "Custodian" means a person, other than a parent or guardian, to whom legal custody of the youth has been given.

(b) The term does not include a person who has only physical custody.

(11) “Delinquent youth” means a youth who is adjudicated under formal proceedings under the Montana Youth Court Act as a youth:

(a) who has committed an offense that, if committed by an adult, would constitute a criminal offense; or

(b) who has been placed on probation as a delinquent youth and who has violated any condition of probation.

(12) “Department” means the department of corrections provided for in 2-15-2301.

(13) (a) “Department records” means information or data, either in written or electronic form, maintained by the department pertaining to youth who are committed under 41-5-1513(1)(b) or who are under parole supervision.

(b) Department records do not include information provided by the department to the department of public health and human services’ management information system or information maintained by the youth court through the office of court administrator.

(14) “Detention” means the holding or temporary placement of a youth in the youth’s home under home arrest or in a facility other than the youth’s own home for:

(a) the purpose of ensuring the continued custody of the youth at any time after the youth is taken into custody and before final disposition of the youth’s case;

(b) contempt of court or violation of a valid court order; or

(c) violation of a youth parole agreement.

(15) “Detention facility” means a physically restricting facility designed to prevent a youth from departing at will. The term includes a youth detention facility, short-term detention center, and regional detention facility.

(16) “Emergency placement” means placement of a youth in a youth care facility for less than 45 days to protect the youth when there is no alternative placement available.

(17) “Family” means the parents, guardians, legal custodians, and siblings or other youth with whom a youth ordinarily lives.

(18) “Final disposition” means the implementation of a court order for the disposition or placement of a youth as provided in 41-5-1422, 41-5-1503, 41-5-1504, 41-5-1512, 41-5-1513, and 41-5-1522 through 41-5-1525.

(19) (a) “Formal youth court records” means information or data, either in written or electronic form, on file with the clerk of district court pertaining to a youth under the jurisdiction of the youth court and includes petitions, motions, other filed pleadings, court findings, verdicts, orders and decrees, and predispositional studies.

(b) The term does not include information provided by the youth court to the department of public health and human services’ management information system.

(20) “Foster home” means a private residence licensed by the department of public health and human services for placement of a youth.

(21) “Guardian” means an adult:

(a) who is responsible for a youth and has the reciprocal rights, duties, and responsibilities with the youth; and

(b) whose status is created and defined by law.

(22) "Habitual truancy" means recorded absences of 10 days or more of unexcused absences in a semester or absences without prior written approval of a parent or a guardian.

(23) (a) "Holdover" means a room, office, building, or other place approved by the board of crime control for the temporary detention and supervision of youth in a physically unrestricting setting for a period not to exceed 24 hours while the youth is awaiting a probable cause hearing, release, or transfer to an appropriate detention or shelter care facility.

(b) The term does not include a jail.

(24) (a) "Informal youth court records" means information or data, either in written or electronic form, maintained by youth court probation offices pertaining to a youth under the jurisdiction of the youth court and includes reports of preliminary inquiries, youth assessment materials, medical records, school records, and supervision records of probationers.

(b) The term does not include information provided by the youth court to the department of public health and human services' management information system.

(25) (a) "Jail" means a facility used for the confinement of adults accused or convicted of criminal offenses. The term includes a lockup or other facility used primarily for the temporary confinement of adults after arrest.

(b) The term does not include a colocated juvenile detention facility that complies with 28 CFR, part 31.

(26) "Judge", when used without further qualification, means the judge of the youth court.

(27) "Juvenile home arrest officer" means a court-appointed officer administering or supervising juveniles in a program for home arrest, as provided for in Title 46, chapter 18, part 10.

(28) "Law enforcement records" means information or data, either in written or electronic form, maintained by a law enforcement agency, as defined in 7-32-201, pertaining to a youth covered by this chapter.

(29) (a) "Legal custody" means the legal status created by order of a court of competent jurisdiction that gives a person the right and duty to:

(i) have physical custody of the youth;

(ii) determine with whom the youth shall live and for what period;

(iii) protect, train, and discipline the youth; and

(iv) provide the youth with food, shelter, education, and ordinary medical care.

(b) An individual granted legal custody of a youth shall personally exercise the individual's rights and duties as guardian unless otherwise authorized by the court entering the order.

(30) "Necessary parties" includes the youth and the youth's parents, guardian, custodian, or spouse.

(31) (a) "Out-of-home placement" means placement of a youth in a program, facility, or home, other than a custodial parent's home, for purposes other than preadjudicatory detention.

(b) The term does not include shelter care or emergency placement of less than 45 days.

(32) (a) "Parent" means the natural or adoptive parent.

(b) The term does not include:

(i) a person whose parental rights have been judicially terminated; or

(ii) the putative father of an illegitimate youth unless the putative father's paternity is established by an adjudication or by other clear and convincing proof.

(33) "Probable cause hearing" means the hearing provided for in 41-5-332.

(34) "Regional detention facility" means a youth detention facility established and maintained by two or more counties, as authorized in 41-5-1804.

(35) "Restitution" means payments in cash to the victim or with services to the victim or the general community when these payments are made pursuant to a consent adjustment, consent decree, or other youth court order.

(36) "Running away from home" means that a youth has been reported to have run away from home without the consent of a parent or guardian or a custodian having legal custody of the youth.

(37) "Secure detention facility" means a public or private facility that:

(a) is used for the temporary placement of youth or individuals accused or convicted of criminal offenses or as a sanction for contempt of court, violation of a parole agreement, or violation of a valid court order; and

(b) is designed to physically restrict the movements and activities of youth or other individuals held in lawful custody of the facility.

(38) "Serious juvenile offender" means a youth who has committed an offense that would be considered a felony offense if committed by an adult and that is an offense against a person, an offense against property, or an offense involving dangerous drugs.

(39) "Shelter care" means the temporary substitute care of youth in physically unrestricting facilities.

(40) "Shelter care facility" means a facility used for the shelter care of youth. The term is limited to the facilities enumerated in 41-5-347.

(41) "Short-term detention center" means a detention facility licensed by the department for the temporary placement or care of youth, for a period not to exceed 10 days excluding weekends and legal holidays, pending a probable cause hearing, release, or transfer of the youth to an appropriate detention facility, youth assessment center, or shelter care facility.

(42) "State youth correctional facility" means the Pine Hills youth correctional facility in Miles City or the Riverside youth correctional facility in Boulder.

(43) "Substitute care" means full-time care of youth in a residential setting for the purpose of providing food, shelter, security and safety, guidance, direction, and, if necessary, treatment to youth who are removed from or are without the care and supervision of their parents or guardians.

(44) "Victim" means:

(a) a person who suffers property, physical, or emotional injury as a result of an offense committed by a youth that would be a criminal offense if committed by an adult;

(b) an adult relative of the victim, as defined in subsection (44)(a), if the victim is a minor; and

(c) an adult relative of a homicide victim.

(45) “Youth” means an individual who is less than 18 years of age without regard to sex or emancipation.

(46) “Youth assessment” means a multidisciplinary assessment of a youth as provided in 41-5-1203.

(47) “Youth assessment center” means a staff-secured location that is licensed by the department of public health and human services to hold a youth for up to 10 days for the purpose of providing an immediate and comprehensive community-based youth assessment to assist the youth and the youth’s family in addressing the youth’s behavior.

(48) “Youth care facility” has the meaning provided in 52-2-602.

(49) “Youth court” means the court established pursuant to this chapter to hear all proceedings in which a youth is alleged to be a delinquent youth or a youth in need of intervention and includes the youth court judge, *juvenile* probation officers, and assessment officers.

(50) “Youth detention facility” means a secure detention facility licensed by the department for the temporary substitute care of youth that is:

(a) (i) operated, administered, and staffed separately and independently of a jail; or

(ii) a colocated secure detention facility that complies with 28 CFR, part 31; and

(b) used exclusively for the lawful detention of alleged or adjudicated delinquent youth or as a sanction for contempt of court, violation of a parole agreement, or violation of a valid court order.

(51) “Youth in need of intervention” means a youth who is adjudicated as a youth and who:

(a) commits an offense prohibited by law that if committed by an adult would not constitute a criminal offense, including but not limited to a youth who:

(i) violates any Montana municipal or state law regarding alcoholic beverages; or

(ii) continues to exhibit behavior, including running away from home or habitual truancy, beyond the control of the youth’s parents, foster parents, physical custodian, or guardian despite the attempt of the youth’s parents, foster parents, physical custodian, or guardian to exert all reasonable efforts to mediate, resolve, or control the youth’s behavior; or

(b) has committed any of the acts of a delinquent youth but whom the youth court, in its discretion, chooses to regard as a youth in need of intervention.”

Section 62. Section 41-5-322, MCA, is amended to read:

“41-5-322. Release from custody — detention — shelter care. (1) Whenever a peace officer believes, on reasonable grounds, that a youth can be released to a responsible person, the peace officer may release the youth to that person upon receiving a written promise from the person to bring the youth before the *juvenile* probation officer at a time and place specified in the written promise, or a peace officer may release the youth under any other reasonable circumstances.

(2) Whenever the peace officer believes, on reasonable grounds, that the youth must be detained, the peace officer shall notify the *juvenile* probation officer immediately and shall, as soon as practicable, provide the *juvenile*

probation officer with a written report of the peace officer's reasons for holding the youth in detention. If it is necessary to hold the youth pending appearance before the youth court, then the youth must be held in a place of detention, as provided in 41-5-348, that is approved by the youth court.

(3) If the peace officer believes that the youth must be sheltered, the peace officer shall notify the *juvenile* probation officer immediately and shall provide a written report of the peace officer's reasons for placing the youth in shelter care. If the youth is then held, the youth must be placed in a shelter care facility approved by the youth court."

Section 63. Section 41-5-331, MCA, is amended to read:

"41-5-331. Rights of youth taken into custody — questioning — waiver of rights. (1) When a youth is taken into custody for questioning upon a matter that could result in a petition alleging that the youth is either a delinquent youth or a youth in need of intervention, the following requirements must be met:

(a) The youth must be advised of the youth's right against self-incrimination and the youth's right to counsel.

(b) The investigating officer, *juvenile* probation officer, or person assigned to give notice shall immediately notify the parents, guardian, or legal custodian of the youth that the youth has been taken into custody, the reasons for taking the youth into custody, and where the youth is being held. If the parents, guardian, or legal custodian cannot be found through diligent efforts, a close relative or friend chosen by the youth must be notified.

(2) A youth may waive the rights listed in subsection (1) under the following situations:

(a) when the youth is 16 years of age or older, the youth may make an effective waiver;

(b) when the youth is under 16 years of age and the youth and the youth's parent or guardian agree, they may make an effective waiver; or

(c) when the youth is under 16 years of age and the youth and the youth's parent or guardian do not agree, the youth may make an effective waiver only with advice of counsel."

Section 64. Section 41-5-1201, MCA, is amended to read:

"41-5-1201. Preliminary inquiry — referral of youth in need of care.

(1) Whenever the court receives information from an agency or person, including a parent or guardian of a youth, based upon reasonable grounds, that a youth is or appears to be a delinquent youth or a youth in need of intervention or that the youth is subject to a court order or consent order and has violated the terms of an order, a *juvenile* probation officer or an assessment officer shall make a preliminary inquiry into the matter.

(2) If the *juvenile* probation officer or assessment officer determines that the facts indicate that the youth is a youth in need of care, as defined in 41-3-102, the matter must be immediately referred to the department of public health and human services."

Section 65. Section 41-5-1202, MCA, is amended to read:

"41-5-1202. Preliminary inquiry — procedure — youth assessment.

(1) In conducting a preliminary inquiry under 41-5-1201, the *juvenile* probation officer or assessment officer shall:

(a) advise the youth of the youth's rights under this chapter and the constitutions of the state of Montana and the United States;

(b) determine whether the matter is within the jurisdiction of the court;

(c) determine, if the youth is in detention, a youth assessment center, or shelter care, whether detention, placement in a youth assessment center, or shelter care should be continued or modified based upon criteria set forth in 41-5-341 through 41-5-343.

(2) In conducting a preliminary inquiry, the *juvenile* probation officer or assessment officer may:

(a) require the presence of any person relevant to the inquiry;

(b) request subpoenas from the judge to accomplish this purpose;

(c) require investigation of the matter by any law enforcement agency or any other appropriate state or local agency;

(d) perform a youth assessment pursuant to 41-5-1203."

Section 66. Section 41-5-1203, MCA, is amended to read:

"41-5-1203. Preliminary inquiry — youth assessment. (1) The *juvenile* probation officer or assessment officer may perform a youth assessment if:

(a) a youth has been referred to the youth court as an alleged youth in need of intervention with a minimum of two misdemeanor offenses or three offenses in the past year that would not be offenses if the youth were an adult;

(b) the youth is alleged to be a youth in need of intervention or a delinquent youth and the youth or the youth's parents or guardian requests the youth assessment and both the youth and the parents or guardian are willing to cooperate with the assessment process; or

(c) the circumstances surrounding a youth who has committed an act that would be a felony if committed by an adult indicate the need for a youth assessment and the safety of the community has been considered in determining where the youth assessment is conducted.

(2) A youth assessment:

(a) must be a multidisciplinary effort that may include, but is not limited to a chemical dependency evaluation of the youth, an educational assessment of the youth, an evaluation to determine if the youth has mental health needs, or an assessment of the need for any family-based services or other services provided by the department of public health and human services or other state and local agencies. The education component of the youth assessment is intended to address attendance, behavior, and performance issues of the youth. The education component is not intended to interfere with the right to attend a nonpublic or home school that complies with 20-5-109.

(b) must include a summary of the family's strengths and needs as they relate to addressing the youth's behavior;

(c) may occur in a youth's home, with or without electronic monitoring, or pursuant to 41-5-343 in a youth assessment center licensed by the department of public health and human services or in any other entity licensed by the department of public health and human services. The county shall provide adequate security in other licensed entities through provision of additional staff or electronic monitoring. The staff provided by the county must meet licensing requirements applicable to the licensed entity in which the youth is being held.

(3) The assessment officer arranging the youth assessment shall work with the parent or guardian of the youth to coordinate the performance of the various parts of the assessment with any providers that may already be working with the family or providers that are chosen by the family to the extent possible to meet the goals of the Youth Court Act.”

Section 67. Section 41-5-1204, MCA, is amended to read:

“41-5-1204. Preliminary inquiry — determinations — release. Once relevant information is secured after a preliminary inquiry under 41-5-1201, the *juvenile* probation officer or assessment officer shall:

(1) determine whether the interest of the public or the youth requires that further action be taken;

(2) terminate the inquiry upon the determination that no further action be taken; and

(3) release the youth immediately upon the determination that the filing of a petition is not authorized.”

Section 68. Section 41-5-1205, MCA, is amended to read:

“41-5-1205. Preliminary inquiry — dispositions available to juvenile probation officer. Upon determining that further action is required after a preliminary inquiry under 41-5-1201, the *juvenile* probation officer or assessment officer may:

(1) arrange informal disposition as provided in 41-5-1301; or

(2) refer the matter to the county attorney for filing a petition in youth court charging the youth to be a delinquent youth or a youth in need of intervention or for filing an information in the district court as provided in 41-5-206.”

Section 69. Section 41-5-1301, MCA, is amended to read:

“41-5-1301. Informal disposition. After a preliminary inquiry under 41-5-1201, the *juvenile* probation officer or assessment officer upon determining that further action is required and that referral to the county attorney is not required may:

(1) provide counseling, refer the youth and the youth’s family to another agency providing appropriate services, or take any other action or make any informal adjustment that does not involve probation or detention; or

(2) provide for treatment or adjustment involving probation or other disposition authorized under 41-5-1302 through 41-5-1304 if the treatment or adjustment is voluntarily accepted by the youth’s parents or guardian and the youth, if the matter is referred immediately to the county attorney for review, and if the *juvenile* probation officer or assessment officer proceeds no further unless authorized by the county attorney.”

Section 70. Section 41-5-1302, MCA, is amended to read:

“41-5-1302. Consent adjustment without petition. (1) Before referring the matter to the county attorney and subject to the limitations in subsection (3), the *juvenile* probation officer or assessment officer may enter into a consent adjustment and give counsel and advice to the youth, the youth’s family, and other interested parties if it appears that:

(a) the admitted facts bring the case within the jurisdiction of the court;

(b) counsel and advice without filing a petition would be in the best interests of the child, the family, and the public; and

(c) the youth may be a youth in need of intervention and the *juvenile* probation officer or assessment officer believes that the parents, foster parents, physical custodian, or guardian exerted all reasonable efforts to mediate, resolve, or control the youth's behavior and the youth continues to exhibit behavior beyond the control of the parents, foster parents, physical custodian, or guardian.

(2) Any probation or other disposition imposed under this section against a youth must conform to the following procedures:

(a) Every consent adjustment must be reduced to writing and signed by the youth and the youth's parents or the person having legal custody of the youth.

(b) If the *juvenile* probation officer or assessment officer believes that the youth is a youth in need of intervention, the *juvenile* probation officer or assessment officer shall determine that the parents, foster parents, physical custodian, or guardian exerted all reasonable efforts to mediate, resolve, or control the youth's behavior and that the youth continues to exhibit behavior beyond the control of the parents, foster parents, physical custodian, or guardian.

(c) Approval by the youth court judge is required if the complaint alleges commission of a felony or if the youth has been or will be in any way detained.

(3) A consent adjustment without petition under this section may not be used to dispose of a youth's alleged second or subsequent offense if:

(a) the youth has admitted commission of or has been adjudicated or sentenced for a prior offense that would be a felony if committed by an adult;

(b) the second or subsequent offense would be a felony if committed by an adult and was committed within 3 years of a prior offense; or

(c) the second or subsequent offense would be a misdemeanor if committed by an adult and was committed within 3 years of a prior offense, other than a felony, unless the *juvenile* probation officer notifies the youth court and obtains written approval from the county attorney and the youth court judge.

(4) For purposes of subsection (3), related offenses committed by a youth during the same 24-hour period must be considered a single offense."

Section 71. Section 41-5-1304, MCA, is amended to read:

"41-5-1304. Disposition permitted under consent adjustment. (1) The following dispositions may be imposed by consent adjustment:

(a) probation;

(b) placement of the youth in substitute care in a youth care facility, as defined in 52-2-602 and pursuant to a recommendation made under 41-5-121;

(c) placement of the youth with a private agency responsible for the care and rehabilitation of the youth pursuant to a recommendation made under 41-5-121;

(d) restitution, as provided in 41-5-1521, upon approval of the youth court judge;

(e) placement of the youth under home arrest as provided in Title 46, chapter 18, part 10;

(f) confiscation of the youth's driver's license, if the youth has one, by the *juvenile* probation officer for a specified period of time, not to exceed 90 days. The *juvenile* probation officer shall notify the department of justice of the confiscation and its duration. The department of justice may not enter the confiscation on the youth's driving record. The *juvenile* probation officer shall

notify the department of justice when the confiscated driver's license has been returned to the youth. A youth's driver's license may be confiscated under this subsection more than once. The *juvenile* probation officer may, in the *juvenile* probation officer's discretion and with the concurrence of a parent or guardian, return a youth's confiscated driver's license before the termination of the time period for which it had been confiscated. The confiscation may not be used by an insurer as a factor in determining the premium or part of a premium to be paid for motor vehicle insurance covering the youth or a vehicle or vehicles driven by the youth, nor may it be used as grounds for denying coverage for an accident or other occurrence under an existing policy;

(g) a requirement that the youth receive counseling services;

(h) placement in a youth assessment center for up to 10 days;

(i) placement of the youth in detention for up to 3 days on a space-available basis at the county's expense, which is not reimbursable under part 19 of this chapter;

(j) a requirement that the youth perform community service;

(k) a requirement that the youth participate in victim-offender mediation;

(l) an agreement that the youth pay a contribution covering all or a part of the costs for the adjudication, disposition, attorney fees for the costs of prosecuting or defending the youth, costs of detention, supervision, care, custody, and treatment of the youth, including the costs of counseling;

(m) an agreement that the youth pay a contribution covering all or a part of the costs of a victim's counseling or restitution for damages that result from the offense for which the youth is disposed;

(n) any other condition ordered by the court to accomplish the goals of the consent adjustment, including but not limited to mediation or youth assessment. Before ordering youth assessment, the court shall provide the family *with* an estimate of the cost of youth assessment, and the court shall take into consideration the financial resources of the family before ordering parental or guardian contribution for the costs of youth assessment.

(2) If the youth violates a parole agreement as provided for in 52-5-126, the youth must be returned to the court for further disposition. A youth may not be placed in a state youth correctional facility under a consent adjustment.

(3) If the youth is placed in substitute care, an assessment placement, or detention requiring payment by any state department or local government agency, the court shall examine the financial ability of the youth's parents or guardians to pay a contribution covering all or part of the costs for the adjudication, disposition, supervision, care, placement, and treatment of the youth, including the costs of necessary medical, dental, and other health care."

Section 72. Section 41-5-1401, MCA, is amended to read:

"41-5-1401. Petition — county attorney — procedure — release from custody. (1) The county attorney may apply to the youth court for permission to file a petition charging a youth to be a delinquent youth or a youth in need of intervention. The application must be supported by evidence that the youth court may require. If it appears that there is probable cause to believe that the allegations of the petition are true, the youth court shall grant leave to file the petition.

(2) A petition charging a youth who is held in detention or a youth assessment center must be filed within 7 working days from the date the youth

was first taken into custody or the petition must be dismissed and the youth released unless good cause is shown to further detain the youth.

(3) If a petition is not filed under this section, the complainant and victim, if any, must be informed by the *juvenile* probation officer or assessment officer of the action and the reasons for not filing and must be advised of the right to submit the matter to the county attorney for review. The county attorney, upon receiving a request for review, shall consider the facts, consult with the *juvenile* probation officer or assessment officer, and make the final decision as to whether a petition is filed.”

Section 73. Section 41-5-1432, MCA, is amended to read:

“41-5-1432. Enforcement of restitution orders. If the court orders payment of restitution and the youth fails to pay the restitution in accordance with the payment schedule or structure established by the court or *juvenile* probation officer, the youth’s *juvenile* probation officer may, on the officer’s own motion or at the request of the victim, file a petition for violation of probation or ask the court to hold a hearing to determine whether the conditions of probation should be changed. The *juvenile* probation officer shall ask for a hearing if the restitution has not been paid prior to 60 days before the term of probation expires. The court shall schedule and hold the hearing before the youth’s term of probation expires.”

Section 74. Section 41-5-1501, MCA, is amended to read:

“41-5-1501. Consent decree with petition. (1) (a) Subject to the provisions of subsection (2), after the filing of a petition under 41-5-1402 and before the entry of a judgment, the court may, on motion of counsel for the youth or on the court’s own motion, suspend the proceedings and continue the youth under supervision under terms and conditions negotiated with probation services and agreed to by all necessary parties. The court’s order continuing the youth under supervision under this section is known as a “consent decree”. Except as provided in subsection (1)(b), the procedures used and dispositions permitted under this section must conform to the procedures and dispositions specified in 41-5-1302 through 41-5-1304 relating to consent adjustments without petition and the responsibility of the youth’s parents or guardians to pay a contribution for the costs of placement in substitute care.

(b) A youth may be placed in detention for up to 10 days on a space-available basis at the county’s expense, which is not reimbursable under part 19 of this chapter.

(2) A consent decree under this section may not be used by the court unless the youth admits guilt for a charge of an offense set forth in the petition and accepts responsibility for the youth’s actions.

(3) If the youth or the youth’s counsel objects to a consent decree, the court shall proceed to findings, adjudication, and disposition of the case.

(4) If, either prior to discharge by probation services or expiration of the consent decree, a new petition alleging that the youth is a delinquent youth or a youth in need of intervention is filed against the youth or if the youth fails to fulfill the expressed terms and conditions of the consent decree, the petition under which the youth was continued under supervision may be reinstated in the discretion of the county attorney in consultation with probation services. In the event of reinstatement, the proceeding on the petition must be continued to conclusion as if the consent decree had never been entered.

(5) A youth who is discharged by probation services or who completes a period under supervision without reinstatement of the original petition may not again be proceeded against in any court for the same offense alleged in the petition, and the original petition must be dismissed with prejudice. This subsection does not preclude a civil suit against the youth for damages arising from the youth's conduct.

(6) If the terms of the consent decree extend for a period in excess of 6 months, the *juvenile* probation officer shall at the end of each 6-month period submit a report that must be reviewed by the court.

(7) A consent decree with petition under this section may not be used to dispose of a youth's alleged second or subsequent offense if that offense would be a felony if committed by an adult or third or subsequent offense if that offense would be a misdemeanor if committed by an adult unless it is recommended by the county attorney and accepted by the youth court judge."

Section 75. Section 41-5-1511, MCA, is amended to read:

"41-5-1511. Dispositional hearing — contributions by parents or guardians for expenses. (1) As soon as practicable after a youth is found to be a delinquent youth or a youth in need of intervention, the court shall conduct a dispositional hearing. The dispositional hearing may involve a determination of the financial ability of the youth's parents or guardians to pay a contribution for the cost of the adjudication, disposition, supervision, care, commitment, and treatment of the youth as required in 41-5-1525, including the costs of necessary medical, dental, and other health care.

(2) Before conducting the dispositional hearing, the court shall direct that a youth assessment or predisposition report be made in writing by a *juvenile* probation officer or an assessment officer concerning the youth, the youth's family, the youth's environment, and other matters relevant to the need for care or rehabilitation or disposition of the case, including a statement by the victim or the victim's family. The youth court may have the youth examined, and the results of the examination must be made available to the court as part of the youth assessment or predisposition report. The court may order the examination of a parent or guardian whose ability to care for or supervise a youth is at issue before the court. The results of the examination must be included in the youth assessment or predisposition report. The youth or the youth's parents, guardian, or counsel has the right to subpoena all persons who have prepared any portion of the youth assessment or predisposition report and has the right to cross-examine the parties at the dispositional hearing.

(3) Defense counsel must be furnished with a copy of the youth assessment or predisposition report and psychological report prior to the dispositional hearing.

(4) The dispositional hearing must be conducted in the manner set forth in 41-5-1502(5) through (7). The court shall hear all evidence relevant to a proper disposition of the case best serving the interests of the youth, the victim, and the public. The evidence must include but is not limited to the youth assessment and predisposition report provided for in subsection (2) of this section.

(5) If the court finds that it is in the best interest of the youth, the youth, the youth's parents or guardian, or the public may be temporarily excluded from the hearing during the taking of evidence on the issues of need for treatment and rehabilitation."

Section 76. Section 41-5-1512, MCA, is amended to read:

“41-5-1512. Disposition of youth in need of intervention or youth who violate consent adjustments. (1) If a youth is found to be a youth in need of intervention or to have violated a consent adjustment, the youth court may enter its judgment making one or more of the following dispositions:

(a) place the youth on probation. The youth court shall retain jurisdiction in a disposition under this subsection.

(b) place the youth in a residence that ensures that the youth is accountable, that provides for rehabilitation, and that protects the public. Before placement, the sentencing judge shall seek and consider placement recommendations from the youth placement committee.

(c) commit the youth to the youth court for the purposes of placement in a private, out-of-home facility subject to the conditions in 41-5-1522. In an order committing a youth to the youth court, the court shall determine whether continuation in the youth’s own home would be contrary to the welfare of the youth and whether reasonable efforts have been made to prevent or eliminate the need for removal of the youth from the youth’s home.

(d) order restitution for damages that result from the offense for which the youth is disposed by the youth or by the person who contributed to the delinquency of the youth;

(e) require the performance of community service;

(f) require the youth, the youth’s parents or guardians, or the persons having legal custody of the youth to receive counseling services;

(g) require the medical and psychological evaluation of the youth, the youth’s parents or guardians, or the persons having legal custody of the youth;

(h) require the parents, guardians, or other persons having legal custody of the youth to furnish services the court may designate;

(i) order further care, treatment, evaluation, or relief that the court considers beneficial to the youth and the community;

(j) subject to the provisions of 41-5-1504, commit the youth to a mental health facility if, based upon the testimony of a professional person as defined in 53-21-102, the court finds that the youth is found to be suffering from a mental disorder, as defined in 53-21-102, and meets the criteria in 53-21-126(1);

(k) place the youth under home arrest as provided in Title 46, chapter 18, part 10;

(l) order confiscation of the youth’s driver’s license, if the youth has one, by the *juvenile* probation officer for a specified period of time, not to exceed 90 days. The *juvenile* probation officer shall notify the department of justice of the confiscation and its duration. The department of justice may not enter the confiscation on the youth’s driving record. The *juvenile* probation officer shall notify the department of justice when the confiscated driver’s license has been returned to the youth. A youth’s driver’s license may be confiscated under this subsection more than once. The *juvenile* probation officer may, in the *juvenile* probation officer’s discretion and with the concurrence of a parent or guardian, return a youth’s confiscated driver’s license before the termination of the time period for which it had been confiscated. The confiscation may not be used by an insurer as a factor in determining the premium or part of a premium to be paid for motor vehicle insurance covering the youth or a vehicle or vehicles driven by the youth and may not be used as grounds for denying coverage for an accident or other occurrence under an existing policy.

(m) order the youth to pay a contribution covering all or a part of the costs for adjudication, disposition, and attorney fees for the costs of prosecuting or defending the youth and costs of detention, supervision, care, custody, and treatment of the youth, including the costs of counseling;

(n) order the youth to pay a contribution covering all or a part of the costs of a victim's counseling;

(o) defer imposition of sentence for up to 45 days for a placement evaluation at a suitable program or facility with the following conditions:

(i) The court may not order placement for evaluation at a youth correctional facility of a youth who has committed an offense that would not be a criminal offense if committed by an adult or a youth who has violated a consent adjustment.

(ii) The placement for evaluation must be on a space-available basis. Except as provided in subsection (1)(o)(iii), the court shall pay the cost of the placement for evaluation from its judicial district's allocation provided for in 41-5-130 or 41-5-2012.

(iii) The court may require the youth's parents or guardians to pay a contribution covering all or a part of the costs of the evaluation if the court determines after an examination of financial ability that the parents or guardians are able to pay the contribution. Any remaining unpaid costs of evaluation are the financial responsibility of the judicial district of the court that ordered the evaluation.

(p) order placement of a youth in a youth assessment center for up to 10 days;

(q) order the youth to participate in mediation that is appropriate for the offense committed.

(2) The court may not order a local government entity to pay for care, treatment, intervention, or placement. A court may not order a local government entity to pay for evaluation and in-state transportation of a youth.

(3) The court may not order a state government entity to pay for care, treatment, intervention, placement, or evaluation that results in a deficit in the annual allocation established for that district under 41-5-130 without approval from the cost containment review panel."

Section 77. Section 41-5-1701, MCA, is amended to read:

"41-5-1701. Employment of juvenile probation officers and youth court staff. All *juvenile* probation officers and youth court staff are employees of the judicial branch of state government. The employees are subject to classification and compensation as determined by the judicial branch personnel plan adopted by the supreme court under 3-1-130 and must receive state employee benefits and expenses as provided in Title 2, chapter 18."

Section 78. Section 41-5-1703, MCA, is amended to read:

"41-5-1703. Powers and duties of juvenile probation officers. (1) A *juvenile* probation officer shall:

(a) perform the duties set out in 41-5-1302;

(b) make predisposition studies and submit reports and recommendations to the court;

(c) supervise, assist, and counsel youth placed on probation or under the *juvenile* probation officer's supervision, including enforcement of the terms of probation or intervention;

(d) assist any public and private community and work projects engaged in by youth to pay fines, make restitution, and pay any other costs ordered by the court that are associated with youth delinquency or need for intervention;

(e) perform any other functions designated by the court.

(2) A *juvenile* probation officer does not have power to make arrests or to perform any other law enforcement functions in carrying out the *juvenile* probation officer's duties except that a *juvenile* probation officer may take into custody any youth who violates either the youth's probation or a lawful order of the court.

(3) The duties of a full-time or part-time *juvenile* probation officer may not be performed by a person serving as a law enforcement officer."

Section 79. Section 41-5-1706, MCA, is amended to read:

"41-5-1706. Juvenile probation officer training. (1) The office of court administrator may conduct a 40-hour juvenile probation officer basic training program and other training programs and courses for juvenile probation officers.

(2) A juvenile probation officer who successfully completes the 40-hour basic training program or another program or course must be issued a certificate by the office of court administrator.

(3) Each chief *juvenile* probation officer and deputy *juvenile* probation officer shall obtain 16 hours a year of training in subjects relating to the powers and duties of *juvenile* probation officers."

Section 80. Section 44-1-303, MCA, is amended to read:

"44-1-303. Duties. The chief, with the approval of the attorney general and within the limits of any appropriation made available for such purposes, shall:

(1) designate the authority and responsibility in each rank, grade, and position;

(2) formulate standards, policies, and qualifications in the selection of recruit patrol officers;

(3) prescribe the official uniform of the Montana highway patrol;

(4) station employees in such localities as he shall deem the chief determines to be advisable for the enforcement of the traffic laws of this state;

(5) charge against each employee the value of property of the state lost or destroyed through the carelessness or neglect of such that employee;

(6) discharge, demote, or temporarily suspend after hearing, as provided in parts 7 and 8 of this chapter, any patrol officer of the department;

(7) have purchased or otherwise acquired by the purchasing department of the state motor equipment vehicles and all other equipment and commodities deemed by him considered by the chief to be essential to the efficient operation of the Montana highway patrol."

Section 81. Section 45-6-312, MCA, is amended to read:

"45-6-312. Unauthorized acquisition or transfer of food stamps. (1) A person commits the offense of unauthorized acquisition or transfer of food stamps stamp benefits if the person knowingly:

(a) acquires, purchases, possesses, or uses any food stamp or coupon benefit that the person is not entitled to; or

(b) transfers, sells, trades, gives, or otherwise disposes of any food stamp or coupon benefit to another person not entitled to receive or use it.

(2) A person convicted of an offense under this section shall be fined not more than \$1,000 or be imprisoned in the county jail for not more than 6 months, or both. A person convicted of an offense under this section, which offense is part of a common scheme or in which the value of the food stamps stamp benefits exceeds \$1,000, shall be fined not more than \$50,000 or be imprisoned in the state prison for not more than 10 years, or both.

(3) As used in this section, "food stamp or coupon benefits" means any stamp, coupon, or type of certification provided for the purchase of eligible food pursuant to the Food Stamp Act of 1977, 7 U.S.C. 2011 through 2029, or any similar public assistance program."

Section 82. Section 46-23-508, MCA, is amended to read:

"46-23-508. Dissemination of information. (1) Information maintained under this part is confidential criminal justice information, as defined in 44-5-103, except that:

(a) the name and address of a registered sexual or violent offender are public criminal justice information, as defined in 44-5-103; and

(b) the department of justice or the registration agency shall release any offender registration information that it possesses relevant to the public if the department of justice or the registration agency determines that a registered offender is a risk to the safety of the community and that disclosure of the registration information that it possesses may protect the public and, at a minimum:

(i) if the offender is also a violent offender, the department of justice shall and the registration agency may disseminate to the victim and the public:

(A) the offender's name; and

(B) the offenses for which the offender is required to register under this part;

(ii) if an offender was given a level 1 designation under 46-23-509, the department of justice shall and the registration agency may disseminate to the victim and the public:

(A) the offender's address;

(B) the name, photograph, and physical description of the offender;

(C) the offender's date of birth; and

(D) the offenses for which the offender is required to register under this part;

(iii) if an offender was given a level 1 designation and committed an offense against a minor or was given a level 2 designation under 46-23-509, the department of justice shall and the registration agency may disseminate to the victim and the public:

(A) the offender's address;

(B) the type of victim targeted by the offense;

(C) the name, photograph, and physical description of the offender;

(D) the offender's date of birth;

(E) the license plate number and a description of any motor vehicle owned or operated by the offender;

(F) the offenses for which the offender is required to register under this part; and

(G) any conditions imposed by the court upon the offender for the safety of the public; and

(iv) if an offender was given a level 3 designation under 46-23-509, the department of justice and the registration agency shall give the victim and the public notification that includes the information contained in subsection (1)(b)(iii). The notification must also include the date of the offender's release from confinement or, if not confined, the date the offender was sentenced, with a notation that the offender was not confined, and must include the community in which the offense occurred.

(c) prior to release of information under subsection (1)(b), a registration agency may, in its sole discretion, request an in camera review by a district court of the determination by the registration agency under subsection (1)(b). The court shall review a request under this subsection (1)(c) and shall, as soon as possible, render its opinion so that release of the information is not delayed beyond release of the offender from confinement.

(2) The identity of a victim of an offense for which registration is required under this part may not be released by a registration agency without the permission of the victim.

(3) Dissemination to the public of information allowed or required by this section may be done by newspaper, paper flyers, the internet, or any other media determined by the disseminating entity. In determining the method of dissemination, the disseminating entity should consider the level of risk posed by the offender to the public.

(4) The department of justice shall develop a model community notification policy to assist registration agencies in implementing the dissemination provisions of this section."

Section 83. Section 50-5-101, MCA, is amended to read:

"50-5-101. Definitions. As used in parts 1 through 3 of this chapter, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Accreditation" means a designation of approval.

(2) "Accreditation association for ambulatory health care" means the organization nationally recognized by that name that surveys ~~ambulatory surgical centers~~ *outpatient centers for surgical services* upon their requests and grants accreditation status to the ~~ambulatory surgical centers~~ *outpatient centers for surgical services* that it finds meet its standards and requirements.

(3) "Activities of daily living" means tasks usually performed in the course of a normal day in a resident's life that include eating, walking, mobility, dressing, grooming, bathing, toileting, and transferring.

(4) "Adult day-care center" means a facility, freestanding or connected to another health care facility, that provides adults, on a regularly scheduled basis, with the care necessary to meet the needs of daily living but that does not provide overnight care.

(5) (a) "Adult foster care home" means a private home or other facility that offers, except as provided in 50-5-216, only light personal care or custodial care to four or fewer disabled adults or aged persons who are not related to the owner or manager of the home by blood, marriage, or adoption or who are not under the full guardianship of the owner or manager.

(b) As used in this subsection (5), the following definitions apply:

(i) "Aged person" means a person as defined by department rule as aged.

(ii) "Custodial care" means providing a sheltered, family-type setting for an aged person or disabled adult so as to provide for the person's basic needs of food and shelter and to ensure that a specific person is available to meet those basic needs.

(iii) "Disabled adult" means a person who is 18 years of age or older and who is defined by department rule as disabled.

(iv) (A) "Light personal care" means assisting the aged person or disabled adult in accomplishing such personal hygiene tasks as bathing, dressing, and hair grooming and supervision of prescriptive medicine administration.

(B) The term does not include the administration of prescriptive medications.

(6) "Affected person" means an applicant for a certificate of need, a health care facility located in the geographic area affected by the application, an agency that establishes rates for health care facilities, or a third-party payer who reimburses health care facilities in the area affected by the proposal.

(7) "Assisted living facility" means a congregate residential setting that provides or coordinates personal care, 24-hour supervision and assistance, both scheduled and unscheduled, and activities and health-related services.

(8) "Capital expenditure" means:

(a) an expenditure made by or on behalf of a health care facility that, under generally accepted accounting principles, is not properly chargeable as an expense of operation and maintenance; or

(b) a lease, donation, or comparable arrangement that would be a capital expenditure if money or any other property of value had changed hands.

(9) "Certificate of need" means a written authorization by the department for a person to proceed with a proposal subject to 50-5-301.

(10) "Chemical dependency facility" means a facility whose function is the treatment, rehabilitation, and prevention of the use of any chemical substance, including alcohol, that creates behavioral or health problems and endangers the health, interpersonal relationships, or economic function of an individual or the public health, welfare, or safety.

(11) "Clinical laboratory" means a facility for the microbiological, serological, chemical, hematological, radiobioassay, cytological, immunohematological, pathological, or other examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of a disease or assessment of a medical condition.

(12) "College of American pathologists" means the organization nationally recognized by that name that surveys clinical laboratories upon their requests and accredits clinical laboratories that it finds meet its standards and requirements.

(13) "Commission on accreditation of rehabilitation facilities" means the organization nationally recognized by that name that surveys rehabilitation facilities upon their requests and grants accreditation status to a rehabilitation facility that it finds meets its standards and requirements.

(14) "Comparative review" means a joint review of two or more certificate of need applications that are determined by the department to be competitive in that the granting of a certificate of need to one of the applicants would substantially prejudice the department's review of the other applications.

(15) “Congregate” means the provision of group services designed especially for elderly or disabled persons who require supportive services and housing.

(16) “Construction” means the physical erection of a health care facility and any stage of the physical erection, including groundbreaking, or remodeling, replacement, or renovation of an existing health care facility.

(17) “Council on accreditation” means the organization nationally recognized by that name that surveys behavioral treatment programs, chemical dependency treatment programs, residential treatment facilities, and mental health centers upon their requests and grants accreditation status to programs and facilities that it finds meet its standards and requirements.

(18) “Critical access hospital” means a facility that is located in a rural area, as defined in 42 U.S.C. 1395ww(d)(2)(D), and that has been designated by the department as a critical access hospital pursuant to 50-5-233.

(19) “Department” means the department of public health and human services provided for in 2-15-2201.

(20) “End-stage renal dialysis facility” means a facility that specializes in the treatment of kidney diseases and includes freestanding hemodialysis units.

(21) “Federal acts” means federal statutes for the construction of health care facilities.

(22) “Governmental unit” means the state, a state agency, a county, municipality, or political subdivision of the state, or an agency of a political subdivision.

(23) (a) “Health care facility” or “facility” means all or a portion of an institution, building, or agency, private or public, excluding federal facilities, whether organized for profit or not, that is used, operated, or designed to provide health services, medical treatment, or nursing, rehabilitative, or preventive care to any individual. The term includes chemical dependency facilities, critical access hospitals, end-stage renal dialysis facilities, home health agencies, home infusion therapy agencies, hospices, hospitals, infirmaries, long-term care facilities, intermediate care facilities for the developmentally disabled, medical assistance facilities, mental health centers, outpatient centers for primary care, outpatient centers for surgical services, rehabilitation facilities, residential care facilities, and residential treatment facilities.

(b) The term does not include offices of private physicians, dentists, or other physical or mental health care workers regulated under Title 37, including licensed addiction counselors.

(24) “Home health agency” means a public agency or private organization or subdivision of the agency or organization that is engaged in providing home health services to individuals in the places where they live. Home health services must include the services of a licensed registered nurse and at least one other therapeutic service and may include additional support services.

(25) “Home infusion therapy agency” means a health care facility that provides home infusion therapy services.

(26) “Home infusion therapy services” means the preparation, administration, or furnishing of parenteral medications or parenteral or enteral nutritional services to an individual in that individual’s residence. The services include an educational component for the patient, the patient’s caregiver, or the patient’s family member.

(27) “Hospice” means a coordinated program of home and inpatient health care that provides or coordinates palliative and supportive care to meet the needs of a terminally ill patient and the patient’s family arising out of physical, psychological, spiritual, social, and economic stresses experienced during the final stages of illness and dying and that includes formal bereavement programs as an essential component. The term includes:

(a) an inpatient hospice facility, which is a facility managed directly by a medicare-certified hospice that meets all medicare certification regulations for freestanding inpatient hospice facilities; and

(b) a residential hospice facility, which is a facility managed directly by a licensed hospice program that can house three or more hospice patients.

(28) (a) “Hospital” means a facility providing, by or under the supervision of licensed physicians, services for medical diagnosis, treatment, rehabilitation, and care of injured, disabled, or sick individuals. Except as otherwise provided by law, services provided may or may not include obstetrical care, emergency care, or any other service allowed by state licensing authority. A hospital has an organized medical staff that is on call and available within 20 minutes, 24 hours a day, 7 days a week, and provides 24-hour nursing care by licensed registered nurses. The term includes:

(i) hospitals specializing in providing health services for psychiatric, developmentally disabled, and tubercular patients; and

(ii) specialty hospitals.

(b) The term does not include critical access hospitals.

(29) “Infirmarium” means a facility located in a university, college, government institution, or industry for the treatment of the sick or injured, with the following subdefinitions:

(a) an “infirmarium—A” provides outpatient and inpatient care;

(b) an “infirmarium—B” provides outpatient care only.

(30) (a) “Intermediate care facility for the developmentally disabled” means a facility or part of a facility that provides intermediate developmental disability care for two or more persons.

(b) The term does not include community homes for persons with developmental disabilities that are licensed under 53-20-305 or community homes for persons with severe disabilities that are licensed under 52-4-203.

(31) “Intermediate developmental disability care” means the provision of intermediate nursing care services, health-related services, and social services for persons with a developmental disability, as defined in 53-20-102, or for persons with related problems.

(32) “Intermediate nursing care” means the provision of nursing care services, health-related services, and social services under the supervision of a licensed nurse to patients not requiring 24-hour nursing care.

(33) “Joint commission on accreditation of healthcare organizations” means the organization nationally recognized by that name that surveys health care facilities upon their requests and grants accreditation status to a health care facility that it finds meets its standards and requirements.

(34) “Licensed health care professional” means a licensed physician, physician assistant, advanced practice registered nurse, or registered nurse who is practicing within the scope of the license issued by the department of labor and industry.

(35) (a) “Long-term care facility” means a facility or part of a facility that provides skilled nursing care, residential care, intermediate nursing care, or intermediate developmental disability care to a total of two or more individuals or that provides personal care.

(b) The term does not include community homes for persons with developmental disabilities licensed under 53-20-305; community homes for persons with severe disabilities; licensed under 52-4-203; youth care facilities; licensed under 52-2-622; hotels, motels, boardinghouses, roominghouses, or similar accommodations providing for transients, students, or individuals who do not require institutional health care; or juvenile and adult correctional facilities operating under the authority of the department of corrections.

(36) “Medical assistance facility” means a facility that meets both of the following:

(a) provides inpatient care to ill or injured individuals before their transportation to a hospital or that provides inpatient medical care to individuals needing that care for a period of no longer than 96 hours unless a longer period is required because transfer to a hospital is precluded because of inclement weather or emergency conditions. The department or its designee may, upon request, waive the 96-hour restriction retroactively and on a case-by-case basis if the individual’s attending physician, physician assistant, or nurse practitioner determines that the transfer is medically inappropriate and would jeopardize the health and safety of the individual.

(b) either is located in a county with fewer than six residents a square mile or is located more than 35 road miles from the nearest hospital.

(37) “Mental health center” means a facility providing services for the prevention or diagnosis of mental illness, the care and treatment of mentally ill patients, the rehabilitation of mentally ill individuals, or any combination of these services.

(38) “Nonprofit health care facility” means a health care facility owned or operated by one or more nonprofit corporations or associations.

(39) “Offer” means the representation by a health care facility that it can provide specific health services.

(40) (a) “Outdoor behavioral program” means a program that provides treatment, rehabilitation, and prevention for behavioral problems that endanger the health, interpersonal relationships, or educational functions of a youth and that:

- (i) serves either adjudicated or nonadjudicated youth;
- (ii) charges a fee for its services; and
- (iii) provides all or part of its services in the outdoors.

(b) “Outdoor behavioral program” does not include recreational programs such as boy scouts, girl scouts, 4-H clubs, or other similar organizations.

(41) “Outpatient center for primary care” means a facility that provides, under the direction of a licensed physician, either diagnosis or treatment, or both, to ambulatory patients and that is not an outpatient center for surgical services.

(42) “Outpatient center for surgical services” means a clinic, infirmary, or other institution or organization that is specifically designed and operated to provide surgical services to patients not requiring hospitalization and that may include recovery care beds.

(43) "Patient" means an individual obtaining services, including skilled nursing care, from a health care facility.

(44) "Person" means an individual, firm, partnership, association, organization, agency, institution, corporation, trust, estate, or governmental unit, whether organized for profit or not.

(45) "Personal care" means the provision of services and care for residents who need some assistance in performing the activities of daily living.

(46) "Practitioner" means an individual licensed by the department of labor and industry who has assessment, admission, and prescription authority.

(47) "Recovery care bed" means, except as provided in 50-5-235, a bed occupied for less than 24 hours by a patient recovering from surgery or other treatment.

(48) "Rehabilitation facility" means a facility that is operated for the primary purpose of assisting in the rehabilitation of disabled individuals by providing comprehensive medical evaluations and services, psychological and social services, or vocational evaluation and training or any combination of these services and in which the major portion of the services is furnished within the facility.

(49) "Resident" means an individual who is in a long-term care facility or in a residential care facility.

(50) "Residential care facility" means an adult day-care center, an adult foster care home, an assisted living facility, or a retirement home.

(51) "Residential psychiatric care" means active psychiatric treatment provided in a residential treatment facility to psychiatrically impaired individuals with persistent patterns of emotional, psychological, or behavioral dysfunction of such severity as to require 24-hour supervised care to adequately treat or remedy the individual's condition. Residential psychiatric care must be individualized and designed to achieve the patient's discharge to less restrictive levels of care at the earliest possible time.

(52) "Residential treatment facility" means a facility operated for the primary purpose of providing residential psychiatric care to individuals under 21 years of age.

(53) "Retirement home" means a building or buildings in which separate living accommodations are rented or leased to individuals who use those accommodations as their primary residence.

(54) "Skilled nursing care" means the provision of nursing care services, health-related services, and social services under the supervision of a licensed registered nurse on a 24-hour basis.

(55) (a) "Specialty hospital" means a subclass of hospital that is exclusively engaged in the diagnosis, care, or treatment of one or more of the following categories:

(i) patients with a cardiac condition;

(ii) patients with an orthopedic condition;

(iii) patients undergoing a surgical procedure; or

(iv) patients treated for cancer-related diseases and receiving oncology services.

(b) For purposes of this subsection (55), a specialty hospital may provide other services for medical diagnosis, treatment, rehabilitation, and care of

injured, disabled, or sick individuals as otherwise provided by law if the care encompasses 35% or less of the hospital services.

(c) The term “specialty hospital” does not include:

- (i) psychiatric hospitals;
- (ii) rehabilitation hospitals;
- (iii) children’s hospitals;
- (iv) long-term care hospitals; or
- (v) critical access hospitals.

(56) “State health care facilities plan” means the plan prepared by the department to project the need for health care facilities within Montana and approved by the governor and a statewide health coordinating council appointed by the director of the department.

(57) “Swing bed” means a bed approved pursuant to 42 U.S.C. 1395tt to be used to provide either acute care or extended skilled nursing care to a patient.”

Section 84. Section 50-6-503, MCA, is amended to read:

“50-6-503. Rulemaking. (1) The department shall adopt rules specifying the following:

- (a) the contents of the written notice required by ~~50-6-502(7)~~ 50-6-502(6);
- (b) reporting requirements for each use of an AED;
- (c) the contents of a plan prepared in accordance with 50-6-502 and requirements applicable to the subject matter of the plan;
- (d) training requirements in cardiopulmonary resuscitation and AED use for any individual authorized by an AED program plan to use an AED;
- (e) guidelines for medical oversight of an AED program;
- (f) minimum requirements for a medical protocol for use of an AED;
- (g) performance requirements for an AED in order for the AED to be used in an AED program; and
- (h) a list of the AED training programs approved by the department.

(2) The department may not adopt rules for any purpose other than those in subsection (1).”

Section 85. Section 50-19-101, MCA, is amended to read:

“50-19-101. Definitions. *As used in this part, the following definitions apply:*

(1) “Department” means the department of public health and human services provided for in 2-15-2201.

(2) “Health care provider” means a licensed physician, a physician assistant, a registered nurse, an advanced practice registered nurse, a naturopathic physician, or a direct-entry midwife practicing within the scope of the provider’s professional license.

(3) “Standard serological test” means a test for syphilis, rubella immunity, and blood group, including ABO (Landsteiner blood type designation—O, A, B, AB) and RH (Dd) type, and a screening for hepatitis B surface antigen, approved by the department.”

Section 86. Section 52-3-813, MCA, is amended to read:

“52-3-813. Confidentiality. (1) The case records of the department, its local affiliate, the county attorney, and the court concerning actions taken under this part and all reports made pursuant to 52-3-811 must be kept confidential except as provided by this section. For the purposes of this section, the term “case records” includes records of an investigation of a report of abuse, sexual abuse, neglect, or exploitation.

(2) The records and reports required to be kept confidential by subsection (1) may be disclosed, upon request, to the following persons or entities in this or any other state:

(a) a physician who is caring for an older person or a person with a developmental disability who the physician reasonably believes was abused, sexually abused, neglected, or exploited;

(b) a legal guardian or conservator of the older person or the person with a developmental disability if the identity of the person who made the report is protected and the legal guardian or conservator is not the person suspected of the abuse, sexual abuse, neglect, or exploitation;

(c) the person named in the report as allegedly being abused, sexually abused, neglected, or exploited if that person is not legally incompetent;

(d) any person engaged in bona fide research if the person alleged in the report to have committed the abuse, sexual abuse, neglect, or exploitation is later convicted of an offense constituting abuse, sexual abuse, neglect, or exploitation and if the identity of the older person or the person with a developmental disability who is the subject of the report is not disclosed to the researcher;

(e) an adult protective service team. Members of the team are required to keep information about the subject individuals confidential.

(f) an authorized representative of a provider of services to a person alleged to be an abused, sexually abused, neglected, or exploited older person or person with a developmental disability if:

(i) the department and the provider are parties to a contested case proceeding under Title 2, chapter 4, part 6, resulting from action by the department adverse to the license of the provider and if information contained in the records or reports of the department is relevant to the case;

(ii) disclosure to the provider is determined by the department to be necessary to protect an interest of a person alleged to be an abused, sexually abused, neglected, or exploited older person or person with a developmental disability; or

(iii) the person is carrying out background screening or ~~employment-~~*employment-related* or volunteer-related screening of current or prospective employees or volunteers who have or may have unsupervised contact with an older person or a person with a developmental disability through employment or volunteer activities if the disclosure is limited to information that indicates a risk to an older person or a person with a developmental disability posed by the employee or volunteer, as determined by the department. A request for information under this subsection must be made in writing.

(g) an employee of the department if disclosure of the record or report is necessary for administration of a program designed to benefit a person alleged to be an abused, sexually abused, neglected, or exploited older person or person with a developmental disability;

(h) an authorized representative of a guardianship program approved by the department if the department determines that disclosure to the program or to a person designated by the program is necessary for the proper provision of guardianship services to a person alleged to be an abused, sexually abused, neglected, or exploited older person or person with a developmental disability;

(i) protection and advocacy systems authorized under the provisions of 29 U.S.C. 794e, ~~42 U.S.C. 6042~~, and 42 U.S.C. 10805, and 42 U.S.C. 15043;

(j) the news media if disclosure is limited to confirmation of factual information regarding how the case was handled and does not violate the privacy rights of the older person, person with a developmental disability, or alleged perpetrator of abuse, sexual abuse, neglect, or exploitation, as determined by the department;

(k) a coroner or medical examiner who is determining the cause of death of an older person or a person with a developmental disability;

(l) a person about whom a report has been made and that person's attorney with respect to relevant records pertaining to that person only without disclosing the identity of the person who made the report or any other person whose safety might be endangered through disclosure;

(m) an agency, including a probation or parole agency, that is legally responsible for the supervision of an alleged perpetrator of abuse, sexual abuse, neglect, or exploitation of an older person or a person with a developmental disability; and

(n) a department, agency, or organization, including a federal agency, military reservation, or tribal organization, that is legally authorized to receive, inspect, or investigate reports of abuse, sexual abuse, neglect, or exploitation of an older person or a person with a developmental disability and that meets the disclosure criteria contained in this section.

(3) The records and reports required to be kept confidential by subsection (1) must be disclosed, upon request, to the following persons or entities in this or any other state:

(a) a county attorney or other law enforcement official who requires the information in connection with an investigation of a violation of this part;

(b) a court that has determined, in camera, that public disclosure of the report, data, information, or record is necessary for the determination of an issue before it;

(c) a grand jury upon its determination that the report, data, information, or record is necessary in the conduct of its official business.

(4) If the person who is reported to have abused, sexually abused, neglected, or exploited an older person or a person with a developmental disability is the holder of a license, permit, or certificate issued by the department of labor and industry under the provisions of Title 37 or issued by any other entity of state government, the report may be submitted to the entity that issued the license, permit, or certificate."

Section 87. Section 53-6-1201, MCA, is amended to read:

"53-6-1201. Special revenue fund — health and medicaid initiatives.

(1) There is a health and medicaid initiatives account in the state special revenue fund established by 17-2-102. This account is to be administered by the department of public health and human services.

(2) There must be deposited in the account:

- (a) money from cigarette taxes deposited under 16-11-119(1)(c);
 - (b) money from taxes on tobacco products other than cigarettes deposited under 16-11-119(3)(b); and
 - (c) any interest and income earned on the account.
- (3) This account may be used only to provide funding for:
- (a) the state funds necessary to take full advantage of available federal matching funds in order to maximize enrollment of eligible children under the children's health insurance program, provided for under Title 53, chapter 4, part 10, and to provide outreach to the eligible children. The increased revenue in this account is intended to increase enrollment rates for eligible children in the program and not to be used to support existing levels of enrollment based upon appropriations for the biennium ending June 30, 2005.
 - (b) a new need-based prescription drug program established by the legislature for children, seniors, chronically ill, and disabled persons that does not supplant similar services provided under any existing program;
 - (c) increased medicaid services and medicaid provider rates. The increased revenue is intended to increase medicaid services and medicaid provider rates and not to supplant the general fund in the trended traditional level of appropriation for medicaid services and medicaid provider rates.
 - (d) an offset to loss of revenue to the general fund as a result of new tax credits;
 - (e) funding new programs to assist eligible small employers with the costs of providing health insurance benefits to eligible employees;
 - (f) the cost of administering the tax credit, the purchasing pool, and the premium incentive payments and premium assistance payments as provided in Title 33, chapter 22, part 20; and
 - (g) providing a state match for the medicaid program for premium incentive payments or premium assistance payments to the extent that a waiver is granted by federal law as provided in 53-2-216.
- ~~(4) (a) Except for \$1 million appropriated for the startup costs of 53-6-1004 and 53-6-1005, the money appropriated for fiscal year 2006 for the programs in subsections (3)(b) and (3)(d) through (3)(g) may not be expended until the office of budget and program planning has certified that \$25 million has been deposited in the account provided for in this section or December 1, 2005, whichever occurs earlier.~~
- ~~(b)(4) (a)~~ On or before July 1, the budget director shall calculate a balance required to sustain each program in subsection (3) for each fiscal year of the biennium. If the budget director certifies that the reserve balance will be sufficient, then the agencies may expend the revenue for the programs as appropriated. If the budget director determines that the reserve balance of the revenue will not support the level of appropriation, the budget director shall notify each agency. Upon receipt of the notification, the agency shall adjust the operating budget for the program to reflect the available revenue as determined by the budget director.
- ~~(e)(b)~~ Until the programs or credits described in subsections (3)(b) and (3)(d) through (3)(g) are established, the funding must be used exclusively for the purposes described in subsections (3)(a) and (3)(c).
- (5) The phrase "trended traditional level of appropriation", as used in subsection (3)(c), means the appropriation amounts, including supplemental

appropriations, as those amounts were set based on eligibility standards, services authorized, and payment amount during the past five biennial budgets.

(6) The department of public health and human services may adopt rules to implement this section.”

Section 88. Section 53-19-309, MCA, is amended to read:

“53-19-309. Gifts and grants. The committee may accept contributions, gifts, and grants, in money or otherwise, to the program established in 53-19-306. Monetary contributions, gifts, and grants must be deposited in the ~~fund~~ *account* provided for in 53-19-310.”

Section 89. Section 53-20-125, MCA, is amended to read:

“53-20-125. Outcome of screening — recommendation for commitment to residential facility or imposition of community treatment plan — hearing. (1) A court may commit a person to a residential facility or impose a community treatment plan only if the person:

(a) is 18 years of age or older; and

(b) is determined to be seriously developmentally disabled and in need of commitment to a residential facility or imposition of a community treatment plan by the residential *facility* screening team, as provided in 53-20-133, and by a court, as provided in 53-20-129 or in this section.

(2) After the screening required by 53-20-133, the residential facility screening team shall file its written recommendation and report with the court. The report must include the factual basis for the recommendation and must describe any tests or evaluation devices that have been employed in evaluating the respondent. The residential facility screening team shall provide to the court, the county attorney, the respondent’s attorney, and any other party requesting it the social and placement information that the team relied upon in making its determination.

(3) Notice of the determination of the residential facility screening team must be mailed or delivered to:

(a) the respondent;

(b) the respondent’s parents, guardian, or next of kin, if known;

(c) the responsible person;

(d) the respondent’s advocate, if any;

(e) the county attorney;

(f) the residential facility;

(g) the attorney for the respondent, if any; and

(h) the attorney for the parents or guardian, if any.

(4) The respondent, the respondent’s parents or guardian, the responsible person, the respondent’s advocate, if any, or the attorney for any party may request that a hearing be held on the recommendation of the residential facility screening team. The request for a hearing must be made in writing within 15 days of service of the report.

(5) Notice of the hearing must be mailed or delivered to each of the parties listed in subsection (4).

(6) The hearing must be held before the court without jury. The rules of civil procedure apply.

(7) Upon receiving the report of the residential facility screening team and after a hearing, if one is requested, the court shall enter findings of fact and take one of the following actions:

(a) If both the residential facility screening team and the court find that the respondent is seriously developmentally disabled and in need of commitment to a residential facility, the court shall order the respondent committed to a residential facility for an extended course of treatment and habilitation.

(b) If both the residential facility screening team and the court find that the respondent is seriously developmentally disabled but either the residential facility screening team or the court finds that a less restrictive community treatment plan has been proposed, the court may impose a community treatment plan that meets the conditions set forth in 53-20-133(4). If the court finds that a community treatment plan proposed by the parties or recommended by the residential facility screening team does not meet the conditions set forth in 53-20-133(4), it may order the respondent committed to a residential facility. The court may not impose a community treatment plan unless the residential facility screening team certifies that all services in the proposed plan meet the conditions of 53-20-133(4)(c) and (4)(d).

(c) If either the residential facility screening team or the court finds that the respondent has a developmental disability but is not seriously developmentally disabled, the court shall dismiss the petition and refer the respondent to the department of public health and human services to be considered for placement in voluntary community-based services according to 53-20-209.

(d) If either the residential facility screening team or the court finds that the respondent does not have a developmental disability or is not in need of developmental disability services, the court shall dismiss the petition.

(8) (a) If the residential facility screening team recommends commitment to a residential facility or imposition of a community treatment plan and none of the parties notified of the recommendation request a hearing within 15 days of service of the screening team's report, the court may:

(i) issue an order committing the respondent to the residential facility for an extended period of treatment and habilitation;

(ii) issue an order imposing a community treatment plan that the court finds meets the conditions set forth in 53-20-133(4); or

(iii) initiate its own inquiry as to whether an order should be granted.

(b) The court may not impose a community treatment plan unless the residential facility screening team certifies that all services in the proposed plan meet the conditions in 53-20-133(4)(c) and (4)(d).

(9) The court may refuse to authorize commitment of a respondent to a residential facility for an extended period of treatment and habilitation if commitment is not in the best interests of the respondent.

(10) A court order entered in a proceeding under this part must be provided to the residential facility screening team."

Section 90. Section 53-20-128, MCA, is amended to read:

"53-20-128. Recommitment — extension of community treatment plan. (1) The qualified mental retardation professional responsible for a resident's habilitation or the case manager responsible for habilitation of a person under a community treatment plan may request that the county

attorney file a petition for recommitment or extension of the order imposing the community treatment plan.

(2) A petition for recommitment or extension must be filed with the district court before the end of the current period of commitment or the expiration of the order imposing the current community treatment plan.

(3) A petition for recommitment or extension of a community treatment plan must be accompanied by a written report containing the recommendation of the qualified mental retardation professional or case manager and a summary of the current habilitation plan or community treatment plan for the respondent.

(4) The petition must be reviewed in accordance with 53-20-133 by the residential facility screening team.

(5) Copies of the petition for recommitment and the report of the qualified mental retardation professional or case manager must be sent to:

- (a) the court that issued the current order;
- (b) the residential *facility* screening team;
- (c) the resident;
- (d) the resident's parents or guardian or next of kin, if any;
- (e) the attorney who most recently represented the resident, if any;
- (f) the responsible person appointed by the court, if any; and
- (g) the resident's advocate, if any.

(6) The provisions of 53-20-125 apply to a petition for recommitment or extension of an order imposing a community treatment plan.

(7) If either the court or the residential facility screening team finds that the respondent has been placed voluntarily in community-based services or that the need for developmental disabilities services no longer exists, the court shall dismiss the petition.

(8) The court may not order recommitment to a residential facility that does not have an individualized habilitation plan for the resident.

(9) The court may not extend an order imposing a community treatment plan unless the residential facility screening team certifies that all services in the proposed plan meet the conditions set forth in 53-20-133(4)(c) and (4)(d)."

Section 91. Section 53-20-133, MCA, is amended to read:

"53-20-133. Residential facility screening team — referral by court — membership — rules. (1) When the district court receives a petition for commitment to a residential facility or for imposition of a community treatment plan under this part, the court, prior to proceeding, shall refer the respondent to the residential facility screening team for screening to determine whether commitment to a residential facility or imposition of a community treatment plan is appropriate for the respondent.

(2) A court may not commit a respondent to a residential facility or impose a community treatment plan under 53-20-125, 53-20-128, or 53-20-129 unless the residential facility screening team determines that commitment to a residential facility or imposition of a community treatment plan is appropriate for the respondent.

(3) The residential facility screening team may not determine that commitment to a residential facility or imposition of a community treatment

plan is appropriate on an extended basis unless the residential facility screening team determines that the respondent is seriously developmentally disabled.

(4) The residential facility screening team may not recommend ~~commitment to~~ *imposition of* a community treatment plan unless it finds that the proposed plan:

(a) provides adequate assurances of safety from the consequences of the behaviors of the respondent for both the respondent and the community;

(b) provides effective habilitation services for the respondent's developmental disability;

(c) is funded from public or private sources that are identified, committed, and available to pay for all of the proposed services to the respondent; and

(d) ensures services from identified, qualified providers that are committed and available to provide all of the proposed services to the respondent.

(5) For purposes of this part, the department of public health and human services shall adopt rules providing for the membership and terms of the members of the residential facility screening team and setting forth the criteria and procedures to govern the determinations made by the residential facility screening team."

Section 92. Section 61-4-128, MCA, is amended to read:

"61-4-128. Common standards — dealer plates — demonstrator plates — identification cards — fees. (1) (a) Dealer, demonstrator, and courtesy license plates authorized under this part must be designed by the department in a manner that is similar to standard license plates furnished under 61-3-332, but the word "dealer", "demonstrator", or "courtesy" must be included in the plate design.

(b) Dealer, demonstrator, and courtesy license plates must be numbered in a manner that is readily distinguishable from other plate styles issued by the department. The numbering system for dealer plates must contain the distinctive license number assigned by the department to a dealer and a number or alphanumeric *identification mark* that relates to the assignment of sets of dealer plates to a dealer. The numbering system for demonstrator plates may be sequential and unrelated to the number of demonstrator plates or the distinctive license number assigned to a dealer, wholesaler, or auto auction.

(c) Dealer, demonstrator, and courtesy plates issued under this part must be replaced on the same cycle that is required for standard license plates under 61-3-332.

(d) Except as provided in 61-4-124, dealer, demonstrator, and courtesy plates must display a registration decal, affixed as prescribed by the department, for the calendar year for which use of the plate or plates is authorized under this part.

(2) (a) Identification cards must be designed by the department and furnished to dealers to authorize the demonstration of a motorboat or personal watercraft, a snowmobile, or an off-highway vehicle by a dealer licensed under this part or a customer of a dealer licensed under this part. Each identification card must include the dealer's name and address and the license number assigned by the department to the dealer and must designate the type of power sports vehicle for which its use is authorized, such as a motorboat or personal watercraft, snowmobile, or off-highway vehicle.

(b) The department may use the same numbering system for identification cards as it uses for demonstrator plates.

(3) (a) Upon issuance of a license to a dealer whose business includes the sale of motorboats or personal watercraft, snowmobiles, or off-highway vehicles, the department shall furnish identification cards to a dealer as follows:

(i) for a dealer who sells motorboats or personal watercraft, one identification card;

(ii) for a dealer who sells snowmobiles, two identification cards; and

(iii) for a dealer who sells off-highway vehicles, two identification cards.

(b) The dealer may obtain additional identification cards for \$2, as needed, and upon submitting justification for the need to the department.

(4) (a) An identification card issued to a dealer who sells motorboats or personal watercraft may be displayed on a dealer's motorboat or personal watercraft while the motorboat or personal watercraft is operating for a purpose related to the buying, selling, exchanging, or performance testing of the motorboat or personal watercraft by the dealer, manufacturer, or potential buyer.

(b) An identification card issued to a dealer who sells snowmobiles must be carried by the dealer when demonstrating the dealer's snowmobiles or by the dealer's customer.

(c) An identification card issued to a dealer who sells off-highway vehicles must be carried by the dealer when the dealer's off-highway vehicles are being demonstrated for sale purposes or by the dealer's customer.

(5) (a) All dealer, demonstrator, and courtesy plates and identification cards issued under this part expire on December 31 of the year of issue and must be renewed annually.

(b) A dealer, wholesaler, or auto auction that files the annual report required under 61-4-120, 61-4-124, or 61-4-125 on or before December 31 of the calendar year may display or use dealer or demonstrator plates and identification cards assigned for the prior calendar year through the last day of February of the following year."

Section 93. Section 69-8-419, MCA, is amended to read:

"69-8-419. Electricity supply resource planning and procurement — duties of public utility — objectives — commission rules. (1) The public utility shall:

(a) plan for future electricity supply resource needs;

(b) manage a portfolio of electricity supply resources; and

(c) procure new electricity supply resources when needed.

(2) The public utility shall pursue the following objectives in fulfilling its duties pursuant to subsection (1):

(a) provide adequate and reliable electricity supply service at the lowest long-term total cost;

(b) conduct an efficient electricity supply resource planning and procurement process that evaluates the full range of cost-effective electricity supply and demand-side management options;

(c) identify and cost-effectively manage and mitigate risks related to its obligation to provide electricity supply service;

(d) use open, fair, and competitive procurement processes whenever possible; and

(e) provide electricity supply service and related services at just and reasonable rates.

(3) By March 31, 2008, the commission shall adopt rules that guide the electricity supply resource planning and procurement processes used by the public utility and facilitate the achievement of the objectives in subsection (2) by the public utility. The rules must establish:

(a) goals, objectives, and guidelines that are consistent with the objectives in subsection (2) for:

(i) planning for future electricity supply resource needs;

(ii) managing the portfolio of electricity supply resources; and

(iii) procuring new electricity supply resources;

(b) standards for the evaluation by the commission of the reasonableness of a power supply purchase agreement proposed by the public utility; and

(c) minimum filing requirements for an application by the public utility for approval of an electricity supply resource.”

Section 94. Section 69-8-421, MCA, is amended to read:

“69-8-421. Approval of electricity supply resources. (1) A public utility that removed its generation assets from its rate base pursuant to this chapter prior to October 1, 2007, may apply to the commission for approval of an electricity supply resource that is not yet procured.

(2) Within 45 days of the public utility’s submission of an application for approval, the commission shall determine whether or not the application is adequate and in compliance with the commission’s minimum filing requirements. If the commission determines that the application is inadequate, it shall explain the deficiencies.

(3) The commission shall issue an order within 180 days of receipt of an adequate application for approval of a power purchase agreement from an existing generating resource unless it determines that extraordinary circumstances require additional time.

(4) (a) Except as provided in subsections (4)(b) through (4)(d), the commission shall issue an order within 270 days of receipt of an adequate application for approval of a lease, an acquisition of an equity interest in a new or existing plant or equipment used to generate electricity, or a power purchase agreement for which approval would result in construction of a new electric generating resource. The commission may extend the time limit up to an additional 90 days if it determines that extraordinary circumstances require it.

(b) If an air quality permit pursuant to Title 75, chapter 2, is required for a new electrical generation resource or a modification to an existing resource, the commission shall hold the public hearing on the application for approval at least 30 days after the issuance of the final air quality permit.

(c) If a final air quality permit is not issued within the time limit pursuant to subsection (4)(a), the commission shall extend the time limit in order to comply with subsection (4)(b).

(d) The commission may extend the time limit for issuing an order for an additional 60 days following the hearing pursuant to subsection (4)(b).

(5) To facilitate timely consideration of an application, the commission may initiate proceedings to evaluate planning and procurement activities related to a potential resource procurement prior to the public utility's submission of an application for approval.

(6) (a) The commission may approve or deny, in whole or in part, an application for approval of an electricity supply resource.

(b) The commission may consider all relevant information known up to the time that the administrative record in the proceeding is closed in the evaluation of an application for approval.

(c) A commission order granting approval of an application must include the following findings:

(i) approval, in whole or in part, is in the public interest; and

(ii) procurement of the electricity supply resource is consistent with the requirements in 69-3-201, the objectives in 69-8-419, and commission rules.

(d) The commission order may include a provision for allowable generation assets cost of service when the utility has filed an application for the lease or acquisition of an equity interest in a plant or equipment used to generate electricity.

(e) When issuing an order for the acquisition of an equity interest or lease in a facility or equipment that is constructed after January 1, 2007, and that is used to generate electricity that is primarily fueled by natural or synthetic gas, the commission shall require the applicant to implement cost-effective carbon offsets. Expenditures required for cost-effective carbon offsets pursuant to this subsection (6)(e) are fully recoverable in rates. By March 31, 2008, the commission shall adopt rules for the implementation of this subsection (6)(e).

(f) The commission order may include other findings that the commission determines are necessary.

(g) A commission order that denies approval must describe why the findings required in subsection (6)(c) could not be reached.

(7) Notwithstanding any provision of this chapter to the contrary, if the commission has issued an order containing the findings required under subsection (6)(c), the commission may not subsequently disallow the recovery of costs related to the approved electricity supply resource based on contrary findings.

(8) Until the state or federal government has adopted uniformly applicable statewide standards for the capture and sequestration of carbon dioxide, the commission may not approve an application for the acquisition of an equity interest or lease in a facility or equipment used to generate electricity that is primarily fueled by coal and that is constructed after January 1, 2007, unless the facility or equipment captures and sequesters a minimum of 50% of the carbon dioxide produced by the facility. Carbon dioxide captured by a facility or equipment may be sequestered offsite from the facility or equipment.

(9) Nothing limits the commission's ability to subsequently, in any future rate proceeding, inquire into the manner in which the public utility has managed, dispatched, operated, or maintained any resource or managed any power supply purchase agreement as part of its overall resource portfolio. The commission may subsequently disallow rate recovery for the costs that result from the failure of a public utility to reasonably manage, dispatch, operate, maintain, or administer electricity supply resources in a manner consistent with 69-3-201, 69-8-419, and commission rules.

(10) The commission may engage independent engineering, financial, and management consultants or advisory services to evaluate a public utility's electricity supply resource procurement plans and proposed electricity supply resources. The consultants must have demonstrated knowledge and experience with electricity supply procurement and resource portfolio management, modeling, risk management, and engineering practices. The commission shall charge a fee to the public utility to pay for the costs of consultants or advisory services. These costs are recoverable in rates.

(11) By March 31, 2008, the commission shall adopt rules prescribing minimum filing requirements for applications filed pursuant to this part."

Section 95. Section 70-32-106, MCA, is amended to read:

"70-32-106. Contents of declaration. ~~The~~ *Subject to 70-32-216, the* declaration of homestead must contain a statement that the person making it is residing on the premises and claims them as a homestead and a description of the premises."

Section 96. Section 71-1-212, MCA, is amended to read:

"71-1-212. Penalties for failure to give certificate of discharge or release after full performance. After the full performance of the conditions of a mortgage and whether before or after a breach of the mortgage, a mortgagee or the personal representative or assignee of the mortgagee who refuses or neglects to execute, acknowledge, and deliver to the mortgagor a certificate of discharge or release of the mortgage within 90 days after a request for one is liable to the mortgagor or the mortgagor's heirs or assigns *in* the sum of \$500 and all actual damages resulting from the neglect or refusal."

Section 97. Section 72-3-606, MCA, is amended to read:

"72-3-606. Possession and protection of estate. (1) Except as otherwise provided by a decedent's will ~~and subject to the provisions of chapter 12, part 7,~~ every *a* personal representative has a right to and shall take possession or control of the decedent's property, except that any real property or tangible personal property may be left with or surrendered to the person presumptively entitled ~~thereto~~ *to the property* unless or until, in the judgment of the personal representative, possession of the property by ~~him~~ *the personal representative* will be necessary for purposes of administration. The request by a personal representative for delivery of any property possessed by an heir or devisee is conclusive evidence, in any action against the heir or devisee for possession ~~thereof of the property,~~ that the possession of the property by the personal representative is necessary for purposes of administration.

(2) The personal representative shall pay taxes on and take all steps reasonably necessary for the management, protection, and preservation of the estate in ~~his~~ *the personal representative's* possession. ~~He~~ *The personal representative* may maintain an action to recover possession of property or to determine the title ~~thereto to the property.~~

Section 98. Section 75-1-110, MCA, is amended to read:

"75-1-110. Environmental rehabilitation and response account. (1) There is an environmental rehabilitation and response account in the state special revenue fund provided for in 17-2-102.

(2) There must be deposited in the account:

(a) fine and penalty money received pursuant to 75-10-1223, 82-4-311, and 82-4-424 and other funds or contributions designated for deposit to the account;

(b) unclaimed or excess reclamation bond money received pursuant to 82-4-241, 82-4-311, and 82-4-424, and ~~82-4-426~~; and

(c) interest earned on the account.

(3) Money in the account is available to the department of environmental quality by appropriation and must be used to pay for:

(a) reclamation and revegetation of land affected by mining activities, research pertaining to the reclamation and revegetation of land, and the rehabilitation of water affected by mining activities;

(b) reclamation and revegetation of unreclaimed mine lands for which the department may not require reclamation by, or obtain costs of reclamation from, a legally responsible party;

(c) remediation of sites containing hazardous wastes or hazardous substances for which the department may not recover costs from a legally responsible party; or

(d) response to an imminent threat of substantial harm to the environment, to public health, or to public safety for which no funding or insufficient funding is available pursuant to 75-1-1101.

(4) Any unspent or unencumbered money in the account at the end of a fiscal year must remain in the account until spent or appropriated by the legislature.”

Section 99. Section 75-1-220, MCA, is amended to read:

“75-1-220. Definitions. For the purposes of this part, the following definitions apply:

(1) “Appropriate board” means, for administrative actions taken under this part by the:

(a) department of environmental quality, the board of environmental review, as provided for in 2-15-3502;

(b) department of fish, wildlife, and parks, the fish, wildlife, and parks commission, as provided for in 2-15-3402;

(c) department of transportation, the transportation commission, as provided for in 2-15-2502;

(d) department of natural resources and conservation for state trust land issues, the board of land commissioners, as provided for in Article X, section 4, of the Montana constitution;

(e) department of natural resources and conservation for oil and gas issues, the board of oil and gas conservation, as provided for in 2-15-3303; and

(f) department of livestock, the board of livestock, as provided for in 2-15-3102.

(2) “Complete application” means, for the purpose of complying with this part, an application for a permit, license, or other authorization that contains all data, studies, plans, information, forms, fees, and signatures required to be included with the application sufficient for the agency to approve the application under the applicable statutes and rules.

(3) “Cumulative impacts” means the collective impacts on the human environment of the proposed action when considered in conjunction with other past, present, and future actions related to the proposed action by location or generic type.

(4) “Environmental review” means any environmental assessment, environmental impact statement, or other written analysis required under this part by a state agency of a proposed action to determine, examine, or document the effects and impacts of the proposed action on the quality of the human and physical environment as required under this part.

(5) “Project sponsor” means any applicant, owner, operator, agency, or other entity that is proposing an action that requires an environmental review. If the action involves state agency-initiated actions on state trust lands, the term also includes each institutional beneficiary of any trust as described in The Enabling Act of Congress (approved February 22, 1899, 25 Stat. 676), as amended, the Morrill Act of 1862 (7 U.S.C. 301 through 308), and the Morrill Act of 1890 (7 U.S.C. 321 through ~~328~~ 329).

(6) “Public scoping process” means any process to determine the scope of an environmental review.”

Section 100. Section 75-2-111, MCA, is amended to read:

“75-2-111. Powers of board. The board shall, subject to the provisions of 75-2-207:

(1) adopt, amend, and repeal rules for the administration, implementation, and enforcement of this chapter, for issuing orders under and in accordance with 42 U.S.C. 7419, and for fulfilling the requirements of 42 U.S.C. 7420 and regulations adopted pursuant to that section, except that, for purposes other than agricultural open burning, the board may not adopt permitting requirements or any other rule relating to:

(a) any agricultural activity or equipment that is associated with the use of agricultural land or the planting, production, processing, harvesting, or storage of agricultural crops by an agricultural producer and that is not subject to the requirements of 42 U.S.C. 7475, 7503, or ~~7661~~ 7661a; or

(b) a commercial operation relating to the activities or equipment referred to in subsection (1)(a) that remains in a single location for less than 12 months and is not subject to the requirements of 42 U.S.C. 7475, 7503, or ~~7661~~ 7661a;

(2) hold hearings relating to any aspect of or matter in the administration of this chapter at a place designated by the board. The board may compel the attendance of witnesses and the production of evidence at hearings. The board shall designate an attorney to assist in conducting hearings and shall appoint a reporter who must be present at all hearings and take full stenographic notes of all proceedings, transcripts of which will be available to the public at cost.

(3) issue orders necessary to effectuate the purposes of this chapter;

(4) by rule require access to records relating to emissions;

(5) by rule adopt a schedule of fees required for permits, permit applications, and registrations consistent with this chapter;

(6) have the power to issue orders under and in accordance with 42 U.S.C. 7419.”

Section 101. Section 75-2-211, MCA, is amended to read:

“75-2-211. Permits for construction, installation, alteration, or use.

(1) The board shall, by rule, provide for the issuance, modification, suspension, revocation, and renewal of a permit issued under this part.

(2) (a) Except as provided in 75-1-208(4)(b), 75-2-234, and subsections (2)(b) and (2)(c) of this section, not later than 180 days before construction, installation, or alteration begins or as a condition of use of any machine,

equipment, device, or facility that the board finds may directly or indirectly cause or contribute to air pollution or that is intended primarily to prevent or control the emission of air pollutants, the owner or operator shall file with the department the appropriate permit application on forms available from the department.

(b) Except as provided in subsection (2)(e), the owner or operator of an oil or gas well facility shall file the permit application with the department no later than January 3, 2006, or 60 days after the initial well completion date, whichever is later. For purposes of this section, the initial well completion date for an oil or gas well facility is:

(i) for an oil or gas well facility producing oil, the date when the first oil is produced through wellhead equipment into lease tanks from the ultimate producing interval after casing has been run; and

(ii) for an oil or gas well facility producing gas, the date when the oil or gas well facility is capable of producing gas through wellhead equipment from the ultimate producing interval after casing has been run.

(c) An owner or operator who complies with subsection (2)(b) may construct, install, or use equipment necessary to complete or operate an oil or gas well facility without a permit until the department's decision on the application is final. If the owner or operator does not comply with subsection (2)(b), the owner or operator may not operate the oil or gas well facility and is liable for a violation of this section for every day of construction, installation, or operation of the facility.

(d) The board shall adopt rules establishing air emission control requirements applicable to an oil or gas well facility during the time from the initial well completion date until the department's decision on the application is final.

(e) The provisions of subsections (2)(b) and (2)(c) do not apply to an oil or gas well facility subject to the federal air permitting provisions of 42 U.S.C. 7475 or 7503.

(3) The permit program administered by the department pursuant to this section must include the following:

(a) requirements and procedures for permit applications, including standard application forms;

(b) requirements and procedures for submittal of information necessary to determine the location, quantity, and type of emissions;

(c) procedures for public notice and opportunity for comment or public hearing, as appropriate;

(d) procedures for providing notice and an opportunity for comment to contiguous states and federal agencies, as appropriate;

(e) requirements for inspection, monitoring, recordkeeping, and reporting;

(f) procedures for the transfer of permits;

(g) requirements and procedures for suspension, modification, and revocation of permits by the department;

(h) requirements and procedures for appropriate emission limitations and other requirements, including enforceable measures necessary to ensure compliance with those limitations and requirements;

(i) requirements and procedures for permit modification and amendment; and

(j) requirements and procedures for issuing a single permit authorizing emissions from similar operations at multiple temporary locations, which permit may include conditions necessary to ensure compliance with the requirements of this chapter at all authorized locations and a requirement that the owner or operator notify the department in advance of each change in location.

(4) This section does not restrict the board's authority to adopt regulations providing for a single air quality permit system.

(5) Department approval of an application to transfer a portable emission source from one location to another is exempt from the provisions of 75-1-201(1).

(6) The department may, for good cause shown, waive or shorten the time required for filing the appropriate applications.

(7) The department shall require that applications for permits be accompanied by any plans, specifications, and other information that it considers necessary.

(8) An application is not considered filed until the applicant has submitted all fees required under 75-2-220 and all information and completed application forms required pursuant to subsections (2), (3), and (7) of this section. If the department fails to notify the applicant in writing within 30 days after the purported filing of an application that the application is incomplete and fails to list the reasons why the application is considered incomplete, the application is considered filed as of the date of the purported filing.

(9) (a) Except as provided in 75-1-205(4) and 75-1-208(4)(b), if an application for a permit requires the preparation of an environmental impact statement under the Montana Environmental Policy Act, Title 75, chapter 1, parts 1 through 3, the department shall notify the applicant in writing of the approval or denial of the application:

(i) within 180 days after the department's receipt of a filed application, as provided in subsection (8), if the department prepares the environmental impact statement;

(ii) within 30 days after issuance of the final environmental impact statement by the lead agency if a state agency other than the department has been designated by the governor as lead agency for preparation of the environmental impact statement; or

(iii) if the application is for a machine, equipment, a device, or a facility at an operation that requires a permit under Title 82, chapter 4, part 1, 2, or 3, within 30 days of issuance of the final environmental impact statement in accordance with time requirements of Title 82, chapter 4, part 1, 2, or 3.

(b) If an application does not require the preparation of an environmental impact statement, is not subject to the provisions of 75-2-215, and is not subject to the federal air quality permitting provisions of 42 U.S.C. 7475, 7503, or ~~7661~~ 7661a, the department shall notify the applicant in writing within 60 days after its receipt of a filed application, as provided in subsection (8), of its approval or denial of the application, except as provided in subsection (14).

(c) If an application does not require the preparation of an environmental impact statement and is subject to the federal air permitting provisions of 42 U.S.C. 7475, 7503, or ~~7661~~ 7661a, the department shall notify the applicant, in

writing, within 75 days after its receipt of a filed application, as provided in subsection (8), of its approval or denial of the application.

(d) Except as provided in subsection (9)(e), if an application does not require the preparation of an environmental impact statement and is subject to the provisions of 75-2-215, the department shall notify the applicant of its approval or denial of the application, in writing, within 75 days after its receipt of a filed application, as provided in subsection (8).

(e) If an application for a permit is for the construction, installation, alteration, or use of a source that is also required to obtain a license pursuant to 75-10-221 or a permit pursuant to 75-10-406, the department shall prepare a single environmental review document pursuant to Title 75, chapter 1, for the permit required under this section and the license or permit required under 75-10-221 or 75-10-406 and act on the applications within the time period provided for in 75-2-215(3)(e).

(f) The time for notification may be extended for 30 days by written agreement of the department and the applicant. Additional 30-day extensions may be granted by the department upon the request of the applicant. Notification of approval or denial may be served personally or by certified mail on the applicant or the applicant's agent.

(g) Failure by the department to act in a timely manner does not constitute approval or denial of the application. This does not limit or abridge the right of any person to seek available judicial remedies to require the department to act in a timely manner.

(10) When the department approves or denies the application for a permit under this section, a person who is jointly or severally adversely affected by the department's decision may request a hearing before the board. The request for hearing must be filed within 15 days after the department renders its decision. An affidavit setting forth the grounds for the request must be filed within 30 days after the department renders its decision. The contested case provisions of the Montana Administrative Procedure Act, Title 2, chapter 4, part 6, apply to a hearing before the board under this subsection.

(11) (a) The department's decision on the application is not final until 15 days have elapsed from the date of the decision.

(b) The filing of a request for hearing does not stay the department's decision. However, the board may order a stay upon receipt of a petition and a finding, after notice and opportunity for hearing, that:

(i) the person requesting the stay is entitled to the relief demanded in the request for a hearing; or

(ii) continuation of the permit during the appeal would produce great or irreparable injury to the person requesting the stay.

(c) Upon granting a stay, the board may require a written undertaking to be given by the party requesting the stay for the payment of costs and damages incurred by the permit applicant and its employees if the board determines that the permit was properly issued. When requiring an undertaking, the board shall use the same procedures and limitations as are provided in 27-19-306(2) through (4) for undertakings on injunctions.

(12) The board shall provide, by rule, a period of 30 days in which the public may submit comments on draft air quality permits for applications that:

(a) are subject to the federal air quality permitting provisions of 42 U.S.C. 7475, 7503, or ~~7661~~ 7661a;

- (b) are subject to the requirements of 75-2-215; or
- (c) require the preparation of an environmental impact statement.

(13) The board shall provide, by rule, a period of 15 days in which the public may submit comments on draft air quality permits not subject to subsection (12).

(14) The board shall provide, by rule, the basis upon which the department may extend by 15 days:

(a) the period as provided in subsection (13) in which the public may submit comments on draft air quality permits not subject to subsection (12); and

(b) the period for notifying an applicant of its final decision on approval or denial of an application, as provided in subsection (9)(b).

(15) (a) The board may adopt rules for issuance, modification, suspension, revocation, renewal, or creation of:

- (i) general permits covering multiple similar sources; or
- (ii) other permits covering multiple similar sources.

(b) Rules adopted pursuant to subsection (15)(a) may provide for construction and operation under the permit upon authorization by the department or upon notice to the department.”

Section 102. Section 75-10-101, MCA, is amended to read:

“75-10-101. Purpose. The purpose of this part is to encourage the good management of solid waste and the conservation of natural resources through the promotion or development of systems to collect, separate, reclaim, recycle, and dispose of solid waste for energy production purposes ~~where~~ *when* economically feasible and to provide a coordinated state solid waste *management* and resource recovery plan.”

Section 103. Section 75-10-102, MCA, is amended to read:

“75-10-102. Public policies. (1) To implement this part, the following are declared to be public policies of this state:

(a) Maximum recycling from solid waste is necessary to protect the public health, welfare, and quality of the natural environment.

(b) Solid waste management systems ~~shall~~ *must* be developed, financed, planned, designed, constructed, and operated for the benefit of the people of this state.

(c) Private industry is to be utilized to the maximum extent possible in planning, designing, managing, constructing, operating, manufacturing, and marketing functions related to solid waste management systems.

(d) Local governments shall retain primary responsibility for adequate solid waste management with the state preserving those functions necessary to ~~assure~~ *ensure* effective solid waste management systems throughout the state.

(e) Costs for the management and regulation of solid waste management systems should be charged to those persons generating solid waste in order to encourage the reduction of the solid waste stream.

(f) Encouragement and support *should* be given to individuals and municipalities to separate solid waste at its source in order to maximize the value of ~~such~~ *those* wastes for reuse.

(g) The state shall provide technical advisory assistance to local governments and other affected persons in the planning, developing, financing, and implementation of solid waste management systems.

(h) Actions and activities performed or carried out by persons and their contractors in accordance with this part ~~shall~~ *must* be in conformity with the state solid waste *management and resource recovery* plan.

(i) When licensing a solid waste management system, the department shall consult with units of local government that have jurisdiction over the area encompassing the proposed system.

(2) This part is in addition and supplemental to any other law providing for the financing of a solid waste management system and does not amend or repeal any other law.”

Section 104. Section 75-10-103, MCA, is amended to read:

“75-10-103. Definitions. Unless the context clearly requires otherwise, in this part, the following definitions apply:

(1) “Board” means the board of environmental review provided for in 2-15-3502.

(2) “Container site” means a solid waste management facility that:

(a) is generally open to the public for the collection of solid waste that is generated by more than one household or firm and that is collected in a refuse container with a total capacity of not more than 50 cubic yards; or

(b) receives waste from waste collection vehicles and:

(i) receives no more than 3,000 tons of waste each year;

(ii) has control measures in place, including onsite staffing, to adequately contain solid wastes and blowing litter on the site and to minimize spills and leakage of liquid wastes; and

(iii) is a site at which a local government unit requires commercial waste haulers to deposit wastes at the site only during hours that the site is staffed.

(3) “Department” means the department of environmental quality provided for in 2-15-3501.

(4) “Local government” means a county, incorporated city or town, or solid waste management district organized under the laws of this state.

(5) “Person” means any individual, firm, partnership, company, association, corporation, city, town, or local governmental entity or any other state, federal, or private entity, whether organized for profit or not.

(6) “Resource recovery facility” means any facility at which solid waste is processed for the purpose of extracting, converting to energy, or otherwise separating and preparing solid waste for reuse.

(7) (a) “Solid waste” means all putrescible and nonputrescible wastes, including but not limited to garbage, rubbish, refuse, ashes, sludge from sewage treatment plants, water supply treatment plants, or air pollution control facilities; construction and demolition wastes; dead animals, including offal; discarded home and industrial appliances; and wood products or wood byproducts and inert materials.

(b) Solid waste does not mean municipal sewage, industrial wastewater effluents, mining wastes regulated under the mining and reclamation laws administered by the department, slash and forest debris regulated under laws administered by the department of natural resources and conservation, or marketable byproducts.

(8) “Solid waste management system” means any system that controls the storage, treatment, recycling, recovery, or disposal of solid waste. For the

purposes of this definition, a container site is not a component of a solid waste management system.

(9) "State solid waste *management and resource recovery* plan" means the statewide plan formulated by the department as authorized by this part."

Section 105. Section 75-10-112, MCA, is amended to read:

"75-10-112. Powers and duties of local government. A local government may:

(1) plan, develop, and implement a solid waste management system consistent with the state's solid waste *management and resource recovery* plan and propose modifications to the state's solid waste *management and resource recovery* plan;

(2) upon adoption of the state plan by the board, pass an ordinance or resolution to exempt the local jurisdiction from complying with the state plan and subsequent rules implementing the state plan. The ordinance or resolution must include a means to provide solid waste disposal to the citizens of the jurisdiction as required in part 2 of this chapter.

(3) employ appropriate personnel to carry out the provisions of this part;

(4) purchase, rent, or execute leasing agreements for equipment and material necessary for the implementation of a solid waste management system;

(5) cooperate with and enter into agreements with any persons in order to implement an effective solid waste management system;

(6) receive gifts, grants, or donations or acquire by gift, deed, or purchase land necessary for the implementation of any provision of this part;

(7) enforce the rules of the department or a local board of health pertaining to solid waste management through the appropriate county attorney;

(8) apply for and utilize state, federal, or other available money for developing or operating a solid waste management system;

(9) borrow from any lending agency funds available for assistance in planning a solid waste management system;

(10) subject to 15-10-420, finance a solid waste management system through the assessment of a tax as authorized by state law;

(11) sell on an installment sales contract or lease to a person all or a portion of a solid waste management system that the local government plans, designs, or constructs for the consideration and upon the terms established by the local governments and consistent with the loan requirements set forth in this part and rules adopted to implement this part;

(12) procure insurance against any loss in connection with property, assets, or activities;

(13) mortgage or otherwise encumber all or a portion of a solid waste management system when the local government finds that the action is necessary to implement the purposes of this part, as long as the action is consistent with the loan requirements set forth in this part and rules adopted to implement this part;

(14) hold or dispose of real property and, subject to agreements with lessors and lessees, develop or alter the property by making improvements or betterments for the purpose of enhancing the value and usefulness of the property;

(15) finance, design, construct, own, and operate a solid waste management system or contract for any or all of the powers authorized under this part;

(16) control the disposition of solid waste generated within the jurisdiction of a local government;

(17) enter into long-term contracts with local governments and private entities for:

(a) financing, designing, constructing, and operating a solid waste management system;

(b) marketing all raw or processed material recovered from solid waste;

(c) marketing energy products or byproducts resulting from processing or utilization of solid waste;

(18) finance an areawide solid waste management system through the use of any of the sources of revenue available to the implementation entity for public works projects, by the use of revenue bonds issued by the city or county, or by fees levied by a solid waste management district, whichever is appropriate;

(19) enter into interlocal agreements in order to achieve and implement the powers enumerated in this part;

(20) regulate the siting and operation of container sites.”

Section 106. Section 75-10-1007, MCA, is amended to read:

“75-10-1007. Criminal penalty. A person who violates this part or a rule adopted pursuant to this part is guilty of a misdemeanor. Absolute liability, as provided for in 45-2-104, is imposed for a violation of this section ~~part or a rule adopted under this part.~~”

Section 107. Section 76-3-511, MCA, is amended to read:

“76-3-511. Local regulations no more stringent than state regulations or guidelines. (1) Except as provided in subsections (2) through (4) or unless required by state law, a governing body may not adopt a regulation under 76-3-501 or ~~76-3-504(1)(f)(iii)~~ 76-3-504(1)(g)(iii) that is more stringent than the comparable state regulations or guidelines that address the same circumstances. The governing body may incorporate by reference comparable state regulations or guidelines.

(2) The governing body may adopt a regulation to implement 76-3-501 or ~~76-3-504(1)(f)(iii)~~ 76-3-504(1)(g)(iii) that is more stringent than comparable state regulations or guidelines only if the governing body makes a written finding, after a public hearing and public comment and based on evidence in the record, that:

(a) the proposed local standard or requirement protects public health or the environment; and

(b) the local standard or requirement to be imposed can mitigate harm to the public health or environment and is achievable under current technology.

(3) The written finding must reference information and peer-reviewed scientific studies contained in the record that forms the basis for the governing body’s conclusion. The written finding must also include information from the hearing record regarding the costs to the regulated community that are directly attributable to the proposed local standard or requirement.

(4) (a) A person affected by a regulation of the governing body adopted after January 1, 1990, and before April 14, 1995, that that person believes to be more stringent than comparable state regulations or guidelines may petition the

governing body to review the regulation. If the governing body determines that the regulation is more stringent than comparable state regulations or guidelines, the governing body shall comply with this section by either revising the regulation to conform to the state regulations or guidelines or by making the written finding, as provided under subsection (2), within a reasonable period of time, not to exceed 12 months after receiving the petition. A petition under this section does not relieve the petitioner of the duty to comply with the challenged regulation. The governing body may charge a petition filing fee in an amount not to exceed \$250.

(b) A person may also petition the governing body for a regulation review under subsection (4)(a) if the governing body adopts a regulation after January 1, 1990, in an area in which no state regulations or guidelines existed and the state government subsequently establishes comparable regulations or guidelines that are less stringent than the previously adopted governing body regulation.”

Section 108. Section 76-7-204, MCA, is amended to read:

“76-7-204. Environmental control easement conveyances. (1) The designated grantee of an environmental control easement granted under this chapter is one or more of the following entities:

- (a) a federal public entity;
- (b) the state of Montana, acting by and through the department or any other state agency;
- (c) any other public body having jurisdiction over the environmental control site; or
- (d) a qualified private organization.

(2) A grantee’s acceptance of the easement interest and related obligations must be evidenced by the grantee’s execution of the instrument creating the environmental control easement.

(3) Prior to or contemporaneously with the conveyance of an environmental control easement to a designated grantee, the environmental control site owner shall:

- (a) obtain documents demonstrating that every person or entity holding an interest in the environmental control site or any part of the site, including without limitation each mortgagee, lienholder, lessee, and encumbrancer, irrevocably subordinates the entity’s interest to the environmental control easement;
- (b) record the documents required under subsection (3)(a) in the appropriate county; and
- (c) submit those documents required under subsection (3)(a) to the designated grantee.

(4) An environmental control easement may not be separated from the land and survives foreclosure of a mortgage, lien, or other encumbrance, as well as tax *lien* sales and the issuance of a tax deed.”

Section 109. Section 76-13-123, MCA, is amended to read:

“76-13-123. Failure to extinguish recreational fire. A person who fails to extinguish a recreational fire that the person has set or ignited or in which the person has been left in charge or who negligently allows the fire to spread from the ~~plot~~ *area* described in 76-13-121 is subject to the penalty provided in 50-63-102 and is subject to the provisions of 50-63-103.”

Section 110. Section 76-13-211, MCA, is amended to read:

“76-13-211. Amount due for protection treated as lien. (1) Whenever the department provides wildland fire protection for any wildland or timber not protected by the owner of the wildland or timber as required by part 1 or this part, the amount due for the protection is a lien upon the wildland or timber that continues until the amount due is paid.

(2) The lien has the same force, effect, and priority as general tax liens under the laws of the state and is subject and inferior only to tax liens on the ~~lands~~ *wildland or timber*. The county attorney of the county in which the ~~land~~ *wildland or timber* is situated shall on request of the department foreclose the lien in the name of the state and in the manner provided by law, or the county attorney upon the request of the department shall institute an action against the landowner in the name of the state in any district or justice court having jurisdiction to recover the debt. The state in the action is not required to pay any fees or costs to the clerk of the court or justice of the peace.

(3) The remedies provided by this section are cumulative and do not affect the other provisions of part 1 or this part for the payment and collection of amounts due to the department.”

Section 111. Section 76-13-402, MCA, is amended to read:

“76-13-402. Basis for management of fire hazards. The fire hazard reduction or management referred to in this part ~~shall~~ *must* be carried on by the department in keeping with modern and progressive forest practices and effective ~~forest~~ fire protection and may include but is not limited to the taking of protective measures to prevent injury or the destruction of forest resources without actual abatement of the hazard.”

Section 112. Section 76-13-405, MCA, is amended to read:

“76-13-405. Contracts with forest fire protection agencies. The department is authorized to enter into contracts with ~~forest~~ fire protection agencies, including agencies of the United States, for fire hazard reduction or management when in its opinion the work can best be accomplished in that manner.”

Section 113. Section 76-13-406, MCA, is amended to read:

“76-13-406. Limitation on liability. The department and other recognized ~~forest~~ fire protection agencies, including any agency of the United States, with which the department has entered into an agreement for fire hazard reduction or management as provided in 76-13-405 and any officer, official, or employee of the department or other recognized ~~forest~~ fire protection agency is not liable for any damage to the land, product, improvement, or other things of value upon the lands on which the fire hazards are being managed or reduced in accordance with provisions of this part, the rules adopted under 76-13-403, and the fire hazard reduction agreement when reasonable care and caution has been used and the work is being or has been performed in compliance with the rules provided in 76-13-403.”

Section 114. Section 76-15-408, MCA, is amended to read:

“76-15-408. Funding of storage reservoirs. Each district shall seek funding for the construction of off-stream storage reservoirs, especially funding from the ~~renewable resource fund~~ *natural resources projects state special revenue account*. The department shall provide assistance, both administrative and technical, in the preparation of grant and funding applications by the districts.”

Section 115. Section 77-2-362, MCA, is amended to read:

“77-2-362. State land bank fund — statutory appropriation — rules.

(1) There is a state land bank fund. The proceeds from the sale of state trust land authorized by 77-2-361 through 77-2-367 must be deposited into the state land bank fund. The purpose of the state land bank fund is to temporarily hold proceeds from the sale of trust land pending the purchase of other land, easements, or improvements for the benefit of the beneficiaries of the respective trusts. A separate record of the proceeds received from the sale of trust land for each of the respective trusts must be maintained. Proceeds from the sale of lands that are part of a trust land grant may be used only to purchase land for the same trust.

(2) (a) Proceeds deposited in the state land bank fund, except earnings on those proceeds, are statutorily appropriated, as provided in 17-7-502, to the department for the purposes described in 77-2-361 through 77-2-367. All earnings on the proceeds deposited in the state land bank fund are subject to the provisions of Article X, sections 5 and 10, of the Montana constitution.

(b) Except as provided in subsection (2)(c), up to 10% of the proceeds in the state land bank fund may be used by the department to fund the transactional costs of buying, selling, appraising, or marketing real property. Transactional costs may include realtor’s fees, title reports, title insurance, legal fees, and other costs that may be necessary to complete a conveyance of real property.

(c) Proceeds from the sale of lands held pursuant to the Morrill Act of 1862, 7 U.S.C. 301 through 308, and the Morrill Act of 1890, 7 U.S.C. 321 through 328 329, may not be used for any transactional costs or trust administration purposes for those lands.

(d) The department may hold proceeds from the sale of state land in the state land bank fund for a period not to exceed 10 years after the effective date of each sale. If, by the end of the 10th year, the proceeds from the subject land sale have not been encumbered to purchase other lands, easements, or improvements within the state, the proceeds from that sale must be deposited in the public school fund or in the permanent fund of the respective trust as required by law, along with any earnings on the proceeds from the land sale, unless the time period is extended by the legislature.

(3) The board shall adopt rules providing for the implementation and administration of the state land bank fund, purchases, and sales.”

Section 116. Section 85-1-619, MCA, is amended to read:

“85-1-619. Debt service fund — pledge and administration of sufficient balance. (1) The legislature may levy, impose, assess, and pledge and appropriate to the renewable resource loan debt service fund any tax, charge, fee, rental, or other income from any designated source. The state reserves the right to modify from time to time the nature and amount of special taxes and other revenues *revenue* pledged and appropriated to the renewable resource loan debt service fund, provided that the aggregate resources so pledged and appropriated are determined by the legislature to be sufficient for the prompt and full payment of the principal of and interest and redemption premiums when due on all bonds payable from that fund and provided that the pledge of the full faith and credit and taxing powers of the state for the security of all bonds ~~shall be and remain~~ *is and remains* irrevocable until they are fully paid.

(2) Money in the renewable resource loan debt service fund must be used to pay interest, principal, and redemption premiums when due and payable with

respect to renewable resource bonds, and for bonds issued prior to 1985, to accumulate a reserve for the further security of the payments.

(3) After the reserve provided for in subsection (2) for bonds issued prior to 1985 has been accumulated in the renewable resource loan debt service fund, money at any time received in the renewable resource loan debt service fund in excess of that amount must be transferred by the treasurer to the ~~renewable resource grant and loan program~~ *natural resources projects* state special revenue account.”

Section 117. Section 85-2-344, MCA, is amended to read:

“85-2-344. Bitterroot River subbasin temporary closure — definitions — exceptions. (1) Unless the context requires otherwise, in this section, the following definitions apply:

(a) “Application” means an application for a beneficial water use permit pursuant to 85-2-302 or a state water reservation pursuant to 85-2-316.

(b) “Bitterroot River basin” means the drainage area of the Bitterroot River and its tributaries above the confluence of the Bitterroot River and Clark Fork of the Columbia River and designated as “Basin 76H”.

(c) “Bitterroot River subbasin” means one of the following hydrologically related portions of the Bitterroot River basin:

- (i) the mainstem subbasin, designated as “Subbasin 76HA”;
- (ii) the north end subbasin, designated as “Subbasin 76HB”;
- (iii) the east side subbasin, designated as “Subbasin 76HC”;
- (iv) the southeast subbasin, designated as “Subbasin 76HD”;
- (v) the south end subbasin, designated as “Subbasin 76HE”;
- (vi) the southwest subbasin, designated as “Subbasin 76HF”;
- (vii) the west central subbasin, designated as “Subbasin 76HG”; or
- (viii) the northwest subbasin, designated as “Subbasin 76HH”.

(2) As provided in 85-2-319, the department may not grant an application for a permit to appropriate water or for a state water reservation within a Bitterroot River subbasin until the closure for the basin is terminated pursuant to subsection (3) (5) of this section, except for:

(a) an application for a permit to appropriate ground water if the applicant complies with the provisions of 85-2-360;

(b) an application for a permit to appropriate water for use of surface water by or for a municipality;

(c) temporary emergency appropriations pursuant to 85-2-113(3);

(d) an application submitted pursuant to 85-20-1401, Article VI;

(e) an application to store water during high spring flow in an impoundment with a capacity of 50 acre-feet or more; or

(f) an application for a permit to appropriate surface water to conduct response actions related to natural resource restoration required for:

(i) remedial actions pursuant to the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601, et seq.;

(ii) aquatic resource activities carried out in compliance with and as required by the federal Clean Water Act of 1977, 33 U.S.C. 1251 through 1387; or

(iii) remedial actions taken pursuant to Title 75, chapter 10, part 7.

(3) A permit issued to conduct remedial actions or aquatic resource activities under subsection (2)(f) may not be used for dilution.

(4) A change of use authorization for changing the purpose of use may not be issued for any permit issued pursuant to subsection (2)(b), (2)(c), or (2)(f).

(5) Each Bitterroot River subbasin is closed to new appropriations and new state water reservations until 2 years after all water rights in the subbasin arising under the laws of the state are subject to an enforceable and administrable decree as provided in 85-2-406(4).”

Section 118. Section 87-1-272, MCA, is amended to read:

“87-1-272. (Temporary) Future fisheries improvement program — funding priority — reports required. (1) In order to enhance future fisheries through natural reproduction, the department shall establish and implement a statewide voluntary program that promotes fishery habitats and spawning areas for the rivers, streams, and lakes of Montana’s fisheries.

(2) ~~The department shall when~~ *When* projects are suggested by the future fisheries review panel, *the department shall*, through a public hearing process and with the approval of the commission, prioritize projects that have been recommended by the review panel to be funded. Emphasis must be given to projects that enhance the historic habitat of native fish species. The department shall fund and implement the program regarding the long-term enhancement of streams and streambanks, instream flows, water leasing, lease or purchase of stored water, and other voluntary programs that deal with wild fish and aquatic habitats. A project conducted under the future fisheries improvement program may not restrict or interfere with the exercise of any water rights or property rights of the owners of streambeds and property adjacent to streambeds, streambanks, and lakes. The fact that a program project has been completed on private property does not create any right of public access to the private property unless that right is granted voluntarily by the property owner.

(3) The department shall work in cooperation with private landowners, conservation districts, irrigation districts, local officials, anglers, and other citizens to implement the future fisheries improvement program. Any department employee who is employed under this section to facilitate contact with landowners must have experience in commercial or irrigated agriculture. The department shall encourage the use of volunteer labor and grants, matching grants, and private donations to accomplish program purposes. The department may use contracted services:

(a) for negotiations with landowners, local officials, citizens, and others;

(b) for coordination with other agencies that may be involved in projects conducted under this section; and

(c) to perform and supervise project work.

(4) Funds expended under this section may be used only for projects for the protection of the fisheries resource that have been identified by the review panel established in 87-1-273 and approved by the commission and may not be used for the acquisition of any interest in land.

(5) (a) The department shall report to the commission on the progress of the future fisheries improvement program every 12 months and post a copy of the report on a state electronic access system to ensure public access to the report.

(b) The department shall also present a detailed report to the senate fish and game committee, the house fish, wildlife, and parks committee, and the natural resources and commerce joint appropriations subcommittee of each regular

session of the legislature on the progress of the future fisheries improvement program and shall include specific information regarding progress and projects related to the restoration of native Montana fish species. The legislative report must include the department's program activities and expenses since the last report and the project schedules and anticipated expenses for the ensuing 10 years' implementation of the future fisheries improvement program. The department shall include a listing of the funding source for each project funded since the last report and shall identify any project that involves stream remediation from mining activities. All financial information presented in the legislative report must conform to the requirements of the ~~state~~ *statewide* accounting, budgeting, and human ~~resources~~ *resource* system.

(c) In order to implement 87-1-273 and this section, the department may expend revenue from the future fisheries improvement program for up to two additional full-time employees. (Terminates July 1, 2009—sec. 3, Ch. 183, L. 2007.)

87-1-272. (Effective July 1, 2009) **Future fisheries improvement program — funding priority — reports required.** (1) In order to enhance future fisheries through natural reproduction, the department shall establish and implement a statewide voluntary program that promotes fishery habitats and spawning areas for the rivers, streams, and lakes of Montana's fisheries.

(2) ~~The department shall by April 1, 1996, and thereafter when~~ *When* projects are suggested by the future fisheries review panel, ~~the department shall~~, through a public hearing process and with the approval of the commission, prioritize projects that have been recommended by the review panel to be funded. Emphasis must be given to projects that enhance the historic habitat of native fish species. The department shall fund and implement the program regarding the long-term enhancement of streams and streambanks, instream flows, water leasing, lease or purchase of stored water, and other voluntary programs that deal with wild fish and aquatic habitats. A project conducted under the future fisheries improvement program may not restrict or interfere with the exercise of any water rights or property rights of the owners of streambeds and property adjacent to streambeds, streambanks, and lakes. The fact that a program project has been completed on private property does not create any right of public access to the private property unless that right is granted voluntarily by the property owner.

(3) The department shall work in cooperation with private landowners, conservation districts, irrigation districts, local officials, anglers, and other citizens to implement the future fisheries improvement program. Any department employee who is employed under this section to facilitate contact with landowners must have experience in commercial or irrigated agriculture. The department shall encourage the use of volunteer labor and grants, matching grants, and private donations to accomplish program purposes. The department may use contracted services:

- (a) for negotiations with landowners, local officials, citizens, and others;
- (b) for coordination with other agencies that may be involved in projects conducted under this section; and
- (c) to perform and supervise project work.

(4) Funds expended under this section may be used only for projects for the protection of the fisheries resource that have been identified by the review panel established in 87-1-273 and approved by the commission and may not be used for the acquisition of any interest in land.

(5) (a) The department shall report to the commission on the progress of the future fisheries improvement program every 12 months and post a copy of the report on a state electronic access system to ensure public access to the report.

(b) The department shall also present a detailed report to each regular session of the legislature on the progress of the future fisheries improvement program. The legislative report must include the department's program activities and expenses since the last report and the project schedules and anticipated expenses for the ensuing 10 years' implementation of the future fisheries improvement program.

(c) In order to implement 87-1-273 and this section, the department may expend revenue from the future fisheries improvement program for up to two additional full-time employees."

Section 119. Section 87-1-504, MCA, is amended to read:

"87-1-504. Protection of private property — duty of wardens. It is the duty of wardens (~~state conservation officers~~) to enforce the provisions of 45-6-101, 45-6-203, 75-10-212(2), 77-1-801, 77-1-806, and rules adopted under 77-1-804 on private and state lands being used for hunting and fishing ~~and to act as ex officio firewardens as provided by 77-5-104.~~"

Section 120. Section 87-1-505, MCA, is amended to read:

"87-1-505. Warden's power in protection of private property. Wardens (~~state conservation officers~~) shall have the power of peace officers in the enforcement of 45-6-101, 45-6-203, and 75-10-212(2)."

Section 121. Section 87-2-201, MCA, is amended to read:

"87-2-201. Wildlife conservation license prerequisite for other licenses. Except as provided in ~~87-2-803(5)~~ 87-2-803(6), it is unlawful for any person ~~or persons~~ to purchase ~~any a~~ hunting, fishing, or trapping license without first having obtained a wildlife conservation license as ~~hereinafter~~ provided *in this part*."

Section 122. Section 87-2-514, MCA, is amended to read:

"87-2-514. Nonresident child of resident allowed to purchase nonresident licenses at reduced cost. (1) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is the natural or adopted child of a resident, as defined in 87-2-102, and who meets the qualifications of subsection (3) may purchase a Class B nonresident fishing license, a Class B-1 nonresident upland game bird license, and a Class B-7 nonresident deer A tag at the reduced cost specified in subsection (2) and may purchase a Class B-15 nonresident child's elk license as provided in 87-2-515. This section does not allow a nonresident child of a resident to purchase nonresident combination licenses at a reduced price.

(2) The fee for a nonresident license purchased pursuant to subsection (1) is twice the amount charged for an equivalent resident license. The nonresident child shall also purchase a nonresident wildlife conservation license as prescribed in 87-2-202 and pay the nonresident hunting access enhancement fee in 87-2-202(3)(d) if the nonresident child purchases a hunting license.

(3) To qualify for a license pursuant to subsection (1), a nonresident child of a resident shall apply at any department regional office or at the department's state office in Helena and present proof of the following:

(a) a birth certificate verifying the applicant's birth in Montana;

(b) a high school diploma from a Montana public, private, or home school or certified verification that the applicant has passed the general ~~education~~ *educational* development test in Montana; and

(c) proof that the applicant has a natural or adoptive parent who is a current Montana resident, as defined in 87-2-102.

(4) A qualified nonresident child of a resident may purchase licenses pursuant to subsection (1) for up to 6 license years after receiving a diploma or passing the general ~~education~~ *educational* development test as provided in subsection (3)(b).

(5) A nonresident child of a resident who has been issued a hunting license pursuant to this section is not eligible to apply for or be issued any nonresident special permit.

(6) A nonresident child of a resident who has been issued a hunting license pursuant to this section must be accompanied by a licensed resident family member while hunting in the field.”

Section 123. Repealer. Sections 15-7-134, 16-1-405, and 20-9-631, MCA, are repealed.

Section 124. Directions to code commissioner. The code commissioner is directed to implement 1-11-102(2)(g)(ii) by correcting any clearly inaccurate references to other sections of the Montana Code Annotated contained in material enacted by the 61st legislature.

Approved February 10, 2009

CHAPTER NO. 3

[SB 10]

AN ACT REMOVING FROM DRUG COURT STATUTES LANGUAGE CONCERNING FEDERAL FUNDING FOR RESEARCH; AND AMENDING SECTION 46-1-1112, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 46-1-1112, MCA, is amended to read:

“46-1-1112. Funding. (1) There is a drug treatment court federal resources account in the federal special revenue fund that is administered by the office of the supreme court administrator. Any federal money received for funding drug treatment courts must be deposited in the drug treatment court federal resources account and may be used only for purposes of this part. The money in the fund may not be transferred at the end of each year but must remain deposited to the credit of the drug treatment court federal resources account.

(2) A drug offender shall pay the total cost or a reasonable portion of the cost to participate. The cost paid by a drug offender may not exceed \$300 a month. The costs assessed must be compensatory and not punitive in nature and must take into account the drug offender’s ability to pay. Upon a showing of indigency, the drug treatment court may reduce or waive costs under this subsection (2). Any fees received by the court from an offender are not court costs, charges, or fines.

~~(3) Funding must be provided from the drug treatment court federal resources account or other available resources for a period of 5 years from April 19, 2005, to research the impact of Montana drug treatment courts on recidivism and money saved as a result of implementing this part.~~

(4)(3) All federal funds received from grants for purposes of funding drug treatment courts must be exhausted before money is spent from other appropriations for that purpose.

(5)(4) This part does not prohibit drug treatment court teams from obtaining supplemental funds.

(6)(5) This part does not supplant funds currently utilized by drug treatment courts.”

Approved February 10, 2009

CHAPTER NO. 4

[SB 11]

AN ACT CLARIFYING THE AMOUNT OF THE GROSS VALUE OF PRODUCT THAT IS NONTAXABLE UNDER THE METALLIFEROUS MINES LICENSE TAX; AMENDING SECTION 15-37-103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-37-103, MCA, is amended to read:

“15-37-103. Rate of tax. (1) The license tax to be paid by a person engaged in or carrying on the business of working or operating any mine or mining property in this state from which gold, silver, copper, lead, or any other metal or metals or precious or semiprecious gems or stones are produced is an amount computed on the gross value of product derived by the person from mining business, work, or operation within this state during the preceding reporting period.

(2) Concentrate shipped to a smelter, mill, or reduction work is taxed at the following rates:

Gross Value of Product	Rate of Tax (percentage of gross value)
<i>subject to subsection (4), the first \$250,000</i>	0%
more than \$250,000	1.81% of the increment

(3) Gold, silver, or any platinum-group metal that is dore, bullion, matte, or another form of processed concentrate that is processed in a treatment facility owned or operated by the taxpayer and that is sold or shipped to a refinery for final processing is taxed at the following rates:

Gross Value of Product	Rate of Tax (percentage of gross value)
<i>subject to subsection (4), the first \$250,000</i>	0%
more than \$250,000	1.6% of the increment

(4) *The amount of gross value of product that is nontaxable under subsection (2) or (3) may not exceed \$250,000 in a calendar year.*”

Section 2. Effective date. [This act] is effective on passage and approval.

Section 3. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to metalliferous mines license taxes for reporting periods beginning after December 31, 2002.

Approved February 10, 2009

CHAPTER NO. 5

[SB 39]

AN ACT EXTENDING THE PERIOD FOR SUSPENSION OF ADJUDICATION PROCEEDINGS DURING NEGOTIATIONS OF FEDERAL INDIAN AND NON-INDIAN RESERVED WATER RIGHTS; EXTENDING THE TIME FOR A TRIBE OR FEDERAL AGENCY TO FILE ALL OF ITS CLAIMS FOR RESERVED RIGHTS AFTER TERMINATION OF NEGOTIATIONS; AMENDING SECTIONS 85-2-217, 85-2-702, AND 85-2-704, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 85-2-217, MCA, is amended to read:

“85-2-217. Suspension of adjudication. While negotiations for the conclusion of a compact under part 7 are being pursued, all proceedings to generally adjudicate reserved Indian water rights and federal reserved water rights of those tribes and federal agencies that are negotiating are suspended. The obligation to file water rights claims for those federal non-Indian and Indian reserved rights is also suspended. This suspension is effective until July 1, ~~2009~~ 2013, as long as negotiations are continuing or ratification of a completed compact is being sought. If approval by the state legislature and tribes or federal agencies has not been accomplished by July 1, ~~2009~~ 2013, the suspension must terminate on that date. Upon termination of the suspension of this part, the tribes and the federal agencies are subject to the special filing requirements of 85-2-702(3) and all other requirements of the state water adjudication system provided for in Title 85, chapter 2. Those tribes and federal agencies that choose not to negotiate their federal non-Indian and Indian reserved water rights are subject to the full operation of the state adjudication system and may not benefit from the suspension provisions of this section.”

Section 2. Section 85-2-702, MCA, is amended to read:

“85-2-702. Negotiation with Indian tribes. (1) The reserved water rights compact commission, created by 2-15-212, may negotiate with the Indian tribes or their authorized representatives jointly or severally to conclude compacts authorized under 85-2-701. Compact proceedings must be commenced by the commission. The commission shall serve by certified mail directed to the governing body of each tribe a written request for the initiation of negotiations under this part and a request for the designation of an authorized representative of the tribe to conduct compact negotiations. Compact negotiations commence upon receipt of the written designation from the governing body of a tribe.

(2) When the compact commission and the Indian tribes or their authorized representatives have agreed to a compact, they shall sign a copy and file an original copy with the department of state of the United States of America and copies with the secretary of state of Montana and with the governing body for the tribe involved. The compact is effective and binding upon all parties upon

ratification by the legislature of Montana and any affected tribal governing body, and approval by the appropriate federal authority.

(3) Upon its ratification by the Montana legislature and the tribe, the terms of a compact must be included in the preliminary decree as provided by 85-2-231, and unless an objection to the compact is sustained under 85-2-233, the terms of the compact must be included in the final decree without alteration. However, if approval of the state legislature and the tribe has not been accomplished by July 1, ~~2009~~ 2013, all Indian claims for reserved water rights that have not been resolved by a compact must be filed with the department within ~~6~~ 24 months. These new filings must be used in the formulation of the preliminary decree and must be given treatment similar to that given to all other filings.”

Section 3. Section 85-2-704, MCA, is amended to read:

“85-2-704. Termination of negotiations. (1) The commission or any negotiating tribe or federal agency may terminate negotiations by providing notice to all parties 30 days in advance of the termination date. On the termination date, the suspension of the application of part 2 provided for in 85-2-217 shall also terminate *terminates*. The tribe or federal agency shall file all of its claims for reserved rights within ~~6~~ 24 months of the termination of negotiations.

(2) Once negotiations have been terminated pursuant to subsection (1), they may be reopened only by mutual agreement of the parties.”

Section 4. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

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

Approved February 19, 2009

CHAPTER NO. 6

[SB 115]

AN ACT TO SIMPLIFY INCOME-BASED PROPERTY TAX REDUCTION ENTITLEMENT DETERMINATIONS, INCLUDING THE PROPERTY TAX ASSISTANCE PROGRAM AND THE DISABLED VETERAN EXEMPTION; HARMONIZING INCOME THRESHOLDS AND APPLICATION FILING DATE DEADLINES; CLARIFYING THAT FOR THE PROPERTY TAX ASSISTANCE PROGRAM, THE THRESHOLD AMOUNTS FOR MARRIED COUPLE AND HEAD OF HOUSEHOLD ARE USED WHEN THE INCOME OF TWO OR MORE OWNERS IS CONSIDERED IN DETERMINING QUALIFICATION; HARMONIZING THE DISABLED VETERAN EXEMPTION TO PROVIDE THAT SINGLE VETERANS WHO ARE HEADS OF HOUSEHOLD HAVE THE SAME FILING THRESHOLD AS A MARRIED COUPLE; AMENDING SECTIONS 15-6-134, 15-6-211, AND 15-16-102, MCA; REPEALING SECTION 15-6-191, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-6-134, MCA, is amended to read:

“15-6-134. Class four property — description — taxable percentage.

(1) Class four property includes:

(a) subject to 15-6-222 and subsections (1)(f) and (1)(g) of this section, all land, except that specifically included in another class;

(b) subject to 15-6-222 and subsections (1)(f) and (1)(g) of this section, all improvements, including trailers, manufactured homes, or mobile homes used as a residence, except those specifically included in another class;

(c) the first \$100,000 or less of the taxable market value of any improvement on real property, including trailers, manufactured homes, or mobile homes, and appurtenant land not exceeding 5 acres owned or under contract for deed and actually occupied *by one or more qualified claimants* for at least 7 months a year as ~~the~~ *their* primary residential dwelling of any person whose total income from all sources, including net business income and otherwise tax-exempt income of all types but not including social security income paid directly to a nursing home, is not more than \$15,000 for a single person or \$20,000 for a married couple or a head of household, as adjusted according to subsection (2)(b)(ii). For the purposes of this subsection (1)(c), net business income is gross income less ordinary operating expenses but before deducting depreciation or depletion allowance, or both.;

(d) all golf courses, including land and improvements actually and necessarily used for that purpose, that consist of at least nine holes and not less than 700 lineal yards;

(e) subject to 15-6-222(1), all improvements on land that is eligible for valuation, assessment, and taxation as agricultural land under 15-7-202, including 1 acre of real property beneath improvements on land described in 15-6-133(1)(c). The 1 acre must be valued at market value.

(f) (i) single-family residences, including trailers, manufactured homes, or mobile homes;

(ii) rental multifamily dwelling units;

(iii) appurtenant improvements to the residences or dwelling units, including the parcels of land upon which the residences and dwelling units are located and any leasehold improvements; and

(iv) vacant residential lots; and

(g) (i) commercial buildings and the parcels of land upon which they are situated; and

(ii) vacant commercial lots.

(2) Class four property is taxed as follows:

(a) Except as provided in 15-24-1402, 15-24-1501, and 15-24-1502, property described in subsections (1)(a), (1)(b), and (1)(e) through (1)(g) of this section is taxed at:

(i) 3.22% of its taxable market value in tax year 2005;

(ii) 3.14% of its taxable market value in tax year 2006;

(iii) 3.07% of its taxable market value in tax year 2007; and

(iv) 3.01% of its taxable market value in tax years after 2007.

(b) (i) Property qualifying under the property tax assistance program in subsection (1)(c) is taxed at the rate provided in subsection (2)(a) of its taxable market value multiplied by a percentage figure based on *the federal adjusted gross income for the preceding calendar year of the owner or owners who occupied the property as their primary residence* and determined from the following table:

Income Single Person	Income Married Couple Head of Household	Percentage Multiplier
\$0 - \$ 6,000	\$0 - \$8,000	20%
\$6,001 - \$9,200	\$8,001 - \$14,000	50%
\$9,201 - \$15,000	\$14,001 - \$20,000	70%

(ii) The income levels contained in the table in subsection (2)(b)(i) must be adjusted for inflation annually by the department. The adjustment to the income levels is determined by:

(A) multiplying the appropriate dollar amount from the table in subsection (2)(b)(i) by the ratio of the PCE for the second quarter of the year prior to the year of application to the PCE for the second quarter of 1995; and

(B) rounding the product thus obtained to the nearest whole dollar amount.

(iii) "PCE" means the implicit price deflator for personal consumption expenditures as published quarterly in the Survey of Current Business by the bureau of economic analysis of the U.S. department of commerce.

(c) Property described in subsection (1)(d) is taxed at one-half the taxable percentage rate established in subsection (2)(a).

(3) Within the meaning of comparable property, as defined in 15-1-101, property assessed as commercial property is comparable only to other property assessed as commercial property and property assessed as other than commercial property is comparable only to other property assessed as other than commercial property.

(4) (a) As used in this section "qualified claimants" means one or more owners who:

(i) occupied the residence as their primary residence for more than 7 months during the preceding calendar year;

(ii) had combined federal adjusted gross income as reported on their federal income tax return for the preceding calendar year that does not exceed the threshold provided in subsection (2)(b); and

(iii) file a claim for assistance on a form that the department prescribes on or before April 15 of the year for which the assistance is claimed.

(b) The combined federal adjusted gross income of two or more owners who are qualified claimants:

(i) may not exceed the married couple, head of household thresholds provided in subsection (2)(b); and

(ii) determines the amount of tax reduction under subsection (2)(b).

(c) If a claimant is not required to file a federal income tax return for the preceding calendar year, the claimant shall determine the claimant's federal adjusted gross income as if the claimant had filed a return and shall provide other evidence of income as required by the department."

Section 2. Section 15-6-211, MCA, is amended to read:

"15-6-211. Certain disabled or deceased veterans' residences exempt. (1) *Subject to subsection (7), a residence and appurtenant land, not to exceed 5 acres, on which it is built that is owned and occupied by a veteran or a veteran's spouse is exempt from property taxation as provided in this section if the veteran:*

(a) was killed while on active duty or died as a result of a service-connected disability; or

(b) if living:

(i) was honorably discharged from active service in any branch of the armed services; and

(ii) is currently rated 100% disabled or is paid at the 100% disabled rate by the U.S. department of veterans affairs for a service-connected disability, as verified by official documentation from the U.S. department of veterans affairs.

(2) Property qualifying under subsection (1) is taxed at the rate provided in 15-6-134(2)(a) multiplied by a percentage figure based on income and determined from the following table:

Income Single Person	Income Married Couple <i>Head of Household</i>	Percentage Multiplier
\$0 - \$30,000	\$0 - \$36,000	0%
\$30,001 - \$33,000	\$36,001 - \$39,000	20%
\$33,001 - \$36,000	\$39,001 - \$42,000	30%
\$36,001 - \$39,000	\$42,001 - \$45,000	50%

(3) The property tax exemption under this section remains in effect as long as the property is the primary residence owned and occupied by the veteran or, if the veteran is deceased, by the veteran's spouse and the spouse:

(a) is the owner and occupant of the house;

(b) is unmarried; and

(c) has obtained from the U.S. department of veterans affairs a letter indicating that the veteran was rated 100% disabled or was paid at the 100% disabled rate by the U.S. department of veterans affairs for a service-connected disability at the time of death or that the veteran died while on active duty or as a result of a service-connected disability.

(4) Property qualifying under subsection (3) is taxed at the rate provided in 15-6-134(2)(a) multiplied by a percentage figure based on income and determined from the following table:

Income Surviving Spouse	Percentage Multiplier
\$0 - \$25,000	0%
\$25,001 - \$28,000	20%
\$28,001 - \$31,000	30%
\$31,001 - \$34,000	50%

(5) For the purposes of the exemption under this section, the income referred to in subsections (2) and (4) is the taxpayer's federal adjusted gross income for the preceding calendar year, as reported on ~~the latest~~ the taxpayer's federal income tax return. A taxpayer who is not required to file a federal income tax return for the preceding calendar year shall determine the taxpayer's federal adjusted gross income as if the taxpayer had filed a return and shall provide other evidence of income as required by the department.

(6) (a) The income levels contained in the tables in subsections (2) and (4) must be adjusted for inflation annually by the department. The adjustment to the income levels is determined by:

(i) multiplying the appropriate dollar amount from the table by the ratio of the PCE for the second quarter of the year prior to the year of application to the PCE for the second quarter of 2002; and

(ii) rounding the product obtained in subsection (6)(a)(i) to the nearest dollar amount.

(b) "PCE" means the implicit price deflator for personal consumption expenditures as published quarterly in the Survey of Current Business by the bureau of economic analysis of the U.S. department of commerce.

(7) *A claim for exemption on a form prescribed by the department must be filed with the department on or before April 15 of the year for which the exemption is claimed.*"

Section 3. Section 15-16-102, MCA, is amended to read:

"15-16-102. Time for payment — penalty for delinquency. Unless suspended or canceled under the provisions of 10-1-606 or Title 15, chapter 24, part 17, all taxes levied and assessed in the state of Montana, except assessments made for special improvements in cities and towns payable under 15-16-103, are payable as follows:

(1) One-half of the taxes are payable on or before 5 p.m. on November 30 of each year or within 30 days after the tax notice is postmarked, whichever is later, and one-half are payable on or before 5 p.m. on May 31 of each year.

(2) Unless one-half of the taxes are paid on or before 5 p.m. on November 30 of each year or within 30 days after the tax notice is postmarked, whichever is later, the amount payable is delinquent and draws interest at the rate of 5/6 of 1% a month from and after the delinquency until paid and 2% must be added to the delinquent taxes as a penalty.

(3) All taxes due and not paid on or before 5 p.m. on May 31 of each year are delinquent and draw interest at the rate of 5/6 of 1% a month from and after the delinquency until paid, and 2% must be added to the delinquent taxes as a penalty.

(4) (a) If the date on which taxes are due falls on a holiday or Saturday, taxes may be paid without penalty or interest on or before 5 p.m. of the next business day in accordance with 1-1-307.

(b) If taxes on property qualifying under the low-income property tax assistance provisions of 15-6-134(1)(c) ~~and 15-6-191~~ are paid within 20 calendar days of the date on which the taxes are due, the taxes may be paid without penalty or interest. If a tax payment is made later than 20 days after the taxes were due, the penalty must be paid and interest accrues from the date on which the taxes were due.

(5) (a) A taxpayer may pay current year taxes without paying delinquent taxes. The county treasurer shall accept a partial payment equal to the delinquent taxes, including penalty and interest, for one or more full tax years if taxes for both halves of the current tax year have been paid. Payment of taxes for delinquent taxes must be applied to the taxes that have been delinquent the longest. The payment of taxes for the current tax year is not a redemption of the property tax lien for any delinquent tax year.

(b) A payment by a co-owner of an undivided ownership interest that is subject to a separate assessment otherwise meeting the requirements of subsection (5)(a) is not a partial payment.

(6) The penalty and interest on delinquent assessment payments for specific parcels of land may be waived by resolution of the city council. A copy of the resolution must be certified to the county treasurer.

(7) If the department revises an assessment that results in an additional tax of \$5 or less, an additional tax is not owed and a new tax bill does not need to be prepared.

(8) The county treasurer may accept a partial payment of centrally assessed property taxes as provided in 76-3-207.”

Section 4. Repealer. Section 15-6-191, MCA, is repealed.

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

Section 6. Retroactive applicability. (1) [This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2008.

(2) (a) [Section 1] applies to claims for assistance for 2009.

(b) [Section 2] applies to claims for exemption for 2009.

Approved February 19, 2009

CHAPTER NO. 7

[HB 13]

AN ACT GENERALLY REVISING LAWS GOVERNING STATE EMPLOYEE CLASSIFICATION AND COMPENSATION; INCREASING THE EMPLOYER CONTRIBUTION FOR GROUP BENEFITS; APPROPRIATING FUNDS TO IMPLEMENT PAY AND BENEFIT REVISIONS, FOR PERSONAL SERVICE CONTINGENCIES, AND FOR A LABOR-MANAGEMENT TRAINING INITIATIVE; AMENDING SECTIONS 2-18-101, 2-18-202, 2-18-301, 2-18-303, 2-18-703, 2-18-1204, 13-37-106, 15-2-102, AND 44-1-504, MCA; REPEALING SECTIONS 2-18-110 AND 2-18-207, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-18-101, MCA, is amended to read:

“2-18-101. Definitions. As used in parts 1 through 3 and part 10 of this chapter, the following definitions apply:

(1) “Agency” means a department, board, commission, office, bureau, institution, or unit of state government recognized in the state budget.

(2) “Base salary” means the amount of compensation paid to an employee, excluding:

(a) state contributions to group benefits provided in 2-18-703;

(b) overtime;

(c) fringe benefits as defined in 39-2-903; and

(d) the longevity allowance provided in 2-18-304.

(3) “Benchmark” means a representative position in a specific occupation that is used to illustrate the application of the job evaluation factor used to determine the pay band for an occupation.

(4) “Board” means the board of personnel appeals established in 2-15-1705.

(5) “Broadband classification plan” means a job evaluation method that measures the difficulty of the work and the knowledge or skills required to perform the work.

(6) "Broadband pay plan" means a pay plan using a pay hierarchy of broad pay bands based on the broadband classification plan.

(7) "Compensation" means the annual or hourly wage or salary and includes the state contribution to group benefits under the provisions of 2-18-703.

(8) "Competencies" means sets of measurable and observable knowledge, skills, and behaviors that contribute to success in a *job position*.

(9) "*Competitive pay zone*" means that portion of the pay range for a band level of an occupation that is most consistent with the pay being offered by competing employers for fully competent employees within that occupation.

~~(9)~~(10) "Department" means the department of administration created in 2-15-1001.

~~(10)~~(11) (a) Except in 2-18-306, "employee" means any state employee other than an employee excepted under 2-18-103 or 2-18-104.

(b) The term does not include a student intern.

~~(11)~~ "Entry salary" means the entry-level base salary for each occupational pay range.

(12) "Job evaluation factor" means a measure of the complexities of the predominant duties of the *job a position*.

(13) "Job sharing" means the sharing by two or more persons of a position.

~~(14)~~ "Market salary" means the ~~midpoint in an occupational pay range, based on the average~~ *median* base salary that other employers pay to employees in comparable occupations as determined by the department's salary survey of the relevant labor market.

(15) "Occupation" means a generalized family of *jobs positions* having substantially similar duties and requiring similar qualifications, education, and experience.

~~(16)~~ "Occupational pay range" means a range of pay, including an entry salary, market salary, and maximum salary, for a specific occupation within a specific pay band. An occupation may have more than one occupational pay range. An occupational pay range must fit within the appropriate pay band.

~~(17)~~(16) "Pay band" means a wide salary range covering a number of different occupations.

~~(18)~~(17) "Permanent employee" means an employee who is designated by an agency as permanent and who has attained or is eligible to attain permanent status.

~~(19)~~(18) "Permanent status" means the state an employee attains after satisfactorily completing an appropriate probationary period.

~~(20)~~(19) "Personal staff" means those positions occupied by employees appointed by the elected officials enumerated in Article VI, section 1, of the Montana constitution or by the public service commission as a whole.

~~(21)~~(20) "Position" means a collection of duties and responsibilities currently assigned or delegated by competent authority, requiring the full-time, part-time, or intermittent employment of one person.

~~(22)~~(21) "Program" means a combination of planned efforts to provide a service.

~~(23)~~(22) "Seasonal employee" means a permanent employee who is designated by an agency as seasonal, who performs duties interrupted by the

seasons, and who may be recalled without the loss of rights or benefits accrued during the preceding season.

(24)(23) "Short-term worker" means a person who:

- (a) is hired by an agency for an hourly wage established by the agency;
- (b) may not work for the agency for more than 90 days in a continuous 12-month period;
- (c) is not eligible for permanent status;
- (d) may not be hired into another position by the agency without a competitive selection process; and
- (e) is not eligible to earn the leave and holiday benefits provided in part 6 of this chapter or the group insurance benefits provided in part 7 of this chapter.

(25)(24) "Student intern" means a person who:

- (a) has been accepted in or is currently enrolled in an accredited school, college, or university and is hired directly by an agency in a student intern position;
- (b) is not eligible for permanent status;
- (c) is not eligible to become a permanent employee without a competitive selection process;
- (d) must be covered by the hiring agency's workers' compensation insurance;
- (e) is not eligible to earn the leave and holiday benefits provided for in part 6 of this chapter or the group insurance benefits provided in part 7 of this chapter; and

(f) may be discharged without cause.

(26)(25) "Telework" means a flexible work arrangement where a designated employee may work from home within the state of Montana or an alternative worksite within the state of Montana 1 or more days a week instead of physically traveling to a central workplace.

(27)(26) "Temporary employee" means an employee who:

- (a) is designated as temporary by an agency for a definite period of time not to exceed 12 months;
- (b) performs temporary duties or permanent duties on a temporary basis;
- (c) is not eligible for permanent status;
- (d) is terminated at the end of the employment period; and
- (e) is not eligible to become a permanent employee without a competitive selection process."

Section 2. Section 2-18-202, MCA, is amended to read:

~~2-18-202. Guidelines for classification~~ *Identification of occupations.* (1) In providing for the broadband classification plan, the department shall group all positions in state service into defined occupations based on similarity of work performed, responsibilities assumed, difficulty of work, required knowledge, and required skills.

~~(2) Similar pay may be provided to individuals with the same occupation within an occupational pay range."~~

Section 3. Section 2-18-301, MCA, is amended to read:

~~2-18-301. Purpose and intent~~ *Intent of part — rules.* (1) ~~The purpose of this part is to provide the market-based compensation necessary to attract and retain competent and qualified employees in order to perform the services that the state is required to provide to its citizens.~~

(2)(1) It is the intent of the legislature that compensation plans for state employees, excluding those employees excepted under 2-18-103 or 2-18-104, be based, *in part*, on an analysis of the labor market as provided by the department in a biennial salary survey. The salary survey must be submitted to the office of budget and program planning as a part of the information required by 17-7-111.

(3)(2) ~~Except as provided in 2-18-110, pay~~ Pay adjustments, *if any*, provided for in 2-18-303 supersede any other plan or systems established through collective bargaining after the adjournment of the legislature.

(4) ~~Pay provided for in 2-18-303 may not be increased through collective bargaining after adjournment of the legislature.~~

(5)(3) Total funds required to implement the pay increases, *if any*, provided for in 2-18-303 for any employee group or bargaining unit may not be increased through collective bargaining over the amount appropriated by the legislature.

(6)(4) The department shall administer the pay program established by the legislature on the basis of ~~merit~~ *competency*, internal equity, and competitiveness to external labor markets when fiscally able.

(7)(5) The broadband pay plan must consist of nine pay bands. Each pay band must contain a salary range with a minimum salary and a maximum salary. ~~The department shall adopt an entry salary, market salary, and maximum salary for each occupation within each pay band. These salary ranges are also known as occupational pay ranges.~~

(8)(6) Based on the biennial salary survey, the department shall:

(a) identify current market rates for all occupations;

(b) establish *salary ranges for each pay band levels*; and

(c) ~~set occupational pay ranges for all occupations~~ *recommend competitive pay zones.*

(9)(7) The department may promulgate rules not inconsistent with the provisions of this part, collective bargaining statutes, or negotiated contracts to carry out the purposes of this part.

(10)(8) Nothing in this part prohibits the board of regents from engaging in negotiations with the collective bargaining units representing the classified staff of the university system.”

Section 4. Section 2-18-303, MCA, is amended to read:

~~2-18-303. Procedures for administering broadband pay plan.~~ (1) (a) On the first day of the first complete pay period in fiscal year ~~2008~~ *2010*, each employee is entitled to the amount of the employee’s base salary as it was on June 30, ~~2007~~ *2009*.

(b) ~~Effective on the first day of the first complete pay period that includes October 1, 2007, the base salary of each employee must be increased by 3%. Effective on the first day of the first complete pay period that includes October 1, 2008, the base salary of each employee must be increased by 3%.~~

(2) (a) ~~Effective October 1, 2007, and October 1, 2008, the appropriation that represents 6/10 of 1% of the salary for each full-time equivalent position must be allocated to each agency to distribute to its employees for reasons including but not limited to market progression, job performance, or employee competencies.~~

~~(b) To the extent that this distribution applies to employees within a collective bargaining unit, the distribution is a negotiable subject under Title 39, chapter 31. The amount of money allocated to agencies and available to distribute to members of each bargaining unit must be determined by multiplying the salaries of the total number of full-time equivalents in the bargaining unit by 6/10 of 1%.~~

~~(c) The allocation described in subsection (2)(b) may not be distributed to members of a collective bargaining unit until the employer's collective bargaining representative receives written notice that the employee's collective bargaining unit has ratified a pay addendum to the collective bargaining agreement specifying the distribution.~~

~~(3)(2) An employee's base salary may be no less than the *minimum salary of the pay band entry salary for the to which the employee's assigned occupation position is allocated.*~~

~~(3) All full-time employees whose base pay is \$45,000 or less annually will receive a one-time lump-sum payment of \$450 for the first full pay period after July 1, 2009. All part-time employees who are regularly scheduled to work 20 hours or more per week and whose base pay is \$21.635 per hour or less will receive a one-time lump-sum payment of \$225 for the first full pay period after July 1, 2009.~~

~~(4) (a) (i) A member of a bargaining unit may not receive the pay *increase adjustment* provided for in subsection (1)(b) (3) until the employer's collective bargaining representative receives written notice that the employee's collective bargaining unit has ratified a collective bargaining agreement.~~

~~(ii) If ratification of a collective bargaining agreement, as required by subsection (4)(a)(i), is not completed by the date on which a legislatively authorized pay increase is implemented, members of the bargaining unit must continue to receive the compensation that they were receiving until an agreement is ratified.~~

~~(b) Methods of administration consistent with the purpose of this part and necessary to properly implement the pay adjustments provided for in this section may be provided for in collective bargaining agreements.~~

~~(5) The current wage or salary of an employee may not be reduced by the implementation of the broadband pay plan.~~

~~(6)(5) (a) Montana highway patrol officer base salaries and biennial salary increases must be established through the broadband pay plan. Before January 1 of each odd-numbered year, the department shall, after seeking the advice of the Montana highway patrol, conduct a salary survey to be used in establishing the base salary and any biennial salary increase for existing and entry-level highway patrol officer positions. The county sheriff's offices in the following consolidated governments and counties are the labor market for purposes of the survey: Butte-Silver Bow, Cascade, Yellowstone, Missoula, Lewis and Clark, Gallatin, Flathead, and Dawson. The base salary and biennial salary increases for existing and entry-level highway patrol officer positions must then be determined by the department of justice, using the results of the salary survey and the department of justice pay plan guidelines. Base or biennial salary increases under this subsection are exclusive of and not in addition to any increases otherwise awarded to other state employees after July 1, 2006. Base or biennial salary increases under this subsection are exclusive of and not in addition to any increases otherwise awarded to other state employees after July 1, 2006.~~

(b) To the extent that the plan applies to employees within a collective bargaining unit, the implementation of the plan is a negotiable subject under 39-31-305.

(c) The department of justice shall submit the salary survey to the office of budget and program planning as a part of the information required by 17-7-111.

(d) The salary survey and plan must be completed at least 6 months before the start of each regular legislative session.”

Section 5. Section 2-18-703, MCA, is amended to read:

“2-18-703. Contributions. (1) Each agency, as defined in 2-18-601, and the state compensation insurance fund shall contribute the amount specified in this section toward the group benefits cost.

(2) For employees defined in 2-18-701 and for members of the legislature, the employer contribution for group benefits is ~~\$557~~ \$626 a month from January 2007 2009 through December 2007 2009, ~~\$590~~ \$679 a month from January 2008 2010 through December 2008 2010, and ~~\$626~~ \$733 for January 2009 2011 and for each succeeding month. For employees of the Montana university system, the employer contribution for group benefits is ~~\$557~~ \$626 a month from July 2006 2008 through June 2007 2009, ~~\$590~~ \$679 a month from July 2007 2009 through June 2008 2010, and ~~\$626~~ \$733 for July 2008 2010 and for each succeeding month. If a state employee is terminated to achieve a reduction in force, the continuation of contributions for group benefits beyond the termination date is subject to negotiation under 39-31-305. Permanent part-time, seasonal part-time, and temporary part-time employees who are regularly scheduled to work less than 20 hours a week are not eligible for the group benefit contribution. An employee who elects not to be covered by a state-sponsored group benefit plan may not receive the state contribution. A portion of the employer contribution for group benefits may be applied to an employee’s costs for participation in Part B of medicare under Title XVIII of the Social Security Act, as amended, if the state group benefit plan is the secondary payer and medicare the primary payer.

(3) For employees of elementary and high school districts and of local government units, the employer’s premium contributions may exceed but may not be less than \$10 a month. Subject to the public hearing requirement provided in 2-9-212(2)(b), the increase in a local government’s property tax levy for premium contributions for group benefits beyond the amount of contributions in effect on the first day of the last fiscal year is not subject to the mill levy calculation limitation provided for in 15-10-420.

(4) Unused employer contributions for any state employee must be transferred to an account established for this purpose by the department of administration and upon transfer may be used to offset losses occurring to the group of which the employee is eligible to be a member.

(5) Unused employer contributions for any government employee may be transferred to an account established for this purpose by a self-insured government and upon transfer may be used to offset losses occurring to the group of which the employee is eligible to be a member or to increase the reserves of the group.

(6) The laws prohibiting discrimination on the basis of marital status in Title 49 do not prohibit bona fide group insurance plans from providing greater or additional contributions for insurance benefits to employees with dependents than to employees without dependents or with fewer dependents.”

Section 6. Section 2-18-1204, MCA, is amended to read:

“2-18-1204. Salary and benefits protection — employee transfer. An employee whose position is eliminated as a result of privatization, reorganization of an agency, closure of or a reduction in force at an agency, or other actions by the legislature and who is subsequently transferred to a different position in a state agency is entitled to:

(1) the same hourly salary as previously received if the new position is in the same ~~occupational pay range~~ *competitive pay zone* or higher as the one previously held;

(2) retain all accrued sick leave credits;

(3) retain, cash out, or use accrued vacation leave credits to extend the employee’s effective layoff date; and

(4) relocation expenses as provided in agency policy.”

Section 7. Section 13-37-106, MCA, is amended to read:

“13-37-106. Salary. (1) The commissioner of political practices is entitled to receive a salary within the ~~occupational pay range~~ *pay band*, as defined in 2-18-101, determined by the department of administration as provided in subsection (4).

(2) The commissioner is also entitled to longevity, expense reimbursement, leave, insurance, and other benefits provided to classified state employees under Title 2, chapter 18.

(3) The salary of the commissioner may not be reduced during the term for which the commissioner is appointed.

(4) The department of administration shall determine the appropriate occupation and ~~occupational pay range~~ *pay band* for the commissioner of political practices in the same manner that it determines the occupation and ~~occupational pay range~~ *pay band* for employees in state government pursuant to Title 2, chapter 18.

(5) The governor shall set the salary of the commissioner of political practices within the ~~occupational pay range~~ *pay band* established by the department of administration.

(6) The commissioner of political practices must receive pay adjustments consistent with those required by the legislature for state employees in 2-18-303 and 2-18-304.”

Section 8. Section 15-2-102, MCA, is amended to read:

“15-2-102. Qualification and compensation. (1) To be appointed a member of the state tax appeal board, a person shall possess knowledge of the subject of taxation and skill in matters relating to taxation. A member may not hold any other state office or any office under the government of the United States or under the government of any other state. The person shall devote the entire time to the duties of the office and may not hold any other position of trust or profit or engage in any occupation or business interfering or inconsistent with the person’s duties. The state tax appeal board is attached to the department of administration for administrative purposes only as provided in 2-15-121. However, the board may hire its own personnel, and 2-15-121(2)(d) does not apply.

(2) State tax appeal board members must be paid a salary within the ~~occupational pay range~~ *pay band*, defined in 2-18-101, determined by the department of administration as provided in subsection (3). State tax appeal

board members must receive pay and pay adjustments consistent with those required by the legislature for state employees in 2-18-303 and 2-18-304. The member designated as presiding officer as provided for in 15-2-103 must receive an additional 5% in salary. All members of the board must receive travel expenses as provided for in 2-18-501 through 2-18-503 when away from the capital on official business.

(3) The department of administration shall determine the appropriate occupation and ~~occupational pay range~~ *pay band* for the state tax appeal board members in the same manner that it determines the occupation and ~~occupational pay range~~ *pay band* for employees in state government pursuant to Title 2, chapter 18.

(4) The governor shall set the salary of the state tax appeal board members within the ~~occupational pay range~~ *pay band* established by the department of administration.”

Section 9. Section 44-1-504, MCA, is amended to read:

“44-1-504. Special revenue account to partially fund highway patrol officers’ salaries — statutory appropriation. (1) There is an account in the state special revenue fund provided for in 17-2-102.

(2) The money in the account is statutorily appropriated, as provided in 17-7-502, to the department of justice to fund, pursuant to ~~2-18-303(6)~~ *2-18-303(5)*:

(a) the base salary and associated operating costs for highway patrol officer positions; and

(b) biennial salary increases for highway patrol officers.”

Section 10. Appropriations. (1) The following money for the indicated fiscal years is appropriated to the listed agencies to implement the adjustments provided for in 2-18-703:

Fiscal Year 2010

	General Fund	State Special	Federal Special	Proprietary
Legislative Branch	\$41,022			
Consumer Counsel		\$1,908		
Judicial Branch	\$133,322	\$6,360	\$239	
Executive Branch	\$1,629,967	\$1,284,249	\$782,932	\$35,373
MUS	\$1,429,997	\$636	\$54,060	
Total	\$3,234,308	\$1,293,153	\$837,231	\$35,373

Fiscal Year 2011

	General Fund	State Special	Federal Special	Proprietary
Legislative Branch	\$123,840			
Consumer Counsel		\$5,760		

Judicial Branch	\$408,240	\$19,200	\$720	
Executive Branch	\$4,931,731	\$3,881,955	\$2,364,781	\$106,782
MUS	\$2,885,088	\$1,284	\$109,140	
Total	\$8,348,899	\$3,908,199	\$2,474,641	\$106,782

(2) The following money for fiscal year 2010 is appropriated as one-time-only appropriations to the listed agencies to implement the adjustments provided for in 2-18-303(3):

	General Fund	State Special	Federal Special	Proprietary
Legislative Branch	\$19,744			
Consumer Counsel		\$527		
Judicial Branch	\$124,649	\$2,633	\$395	
Executive Branch	\$1,838,668	\$1,344,238	\$765,219	\$37,480
MUS	\$1,082,390	\$527	\$28,958	
Total	\$3,065,451	\$1,347,925	\$794,572	\$37,480

(3) The following money is appropriated for the biennium to the office of budget and program planning, from the designated state fund, to be distributed to agencies when personnel vacancies do not occur, retirement costs exceed agency resources, or other contingencies arise:

	General Fund	State Special	Federal Special	Proprietary
	\$4,000,000	\$2,400,000	\$500,000	\$100,000

(4) The amount of \$75,000 is appropriated from the general fund to the department of administration for the biennium for a labor-management training initiative.

Section 11. Repealer. Sections 2-18-110 and 2-18-207, MCA, are repealed.

Section 12. Effective date. [This act] is effective July 1, 2009.

Approved March 11, 2009

CHAPTER NO. 8

[SB 2]

AN ACT REVISING THE DEADLINE FOR THE SUBMISSION OF THE BUDGET FOR THE CONSOLIDATED LEGISLATIVE BRANCH TO THE OFFICE OF BUDGET AND PROGRAM PLANNING; AMENDING SECTIONS 17-7-111 AND 17-7-112, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 17-7-111, MCA, is amended to read:

“17-7-111. Preparation of state budget — agency program budgets — form distribution and contents. (1) (a) To prepare a state budget, the executive branch, the legislature, and the citizens of the state need information that is consistent and accurate. Necessary information includes detailed disbursements by fund type for each agency and program for the appropriate time period, recommendations for creating a balanced budget, and recommended disbursements and estimated receipts by fund type and fund category.

(b) Subject to the requirements of this chapter, the budget director and the legislative fiscal analyst shall by agreement:

(i) establish necessary standards, formats, and other matters necessary to share information between the agencies and to ensure that information is consistent and accurate for the preparation of the state’s budget; and

(ii) provide for the collection and provision of budgetary and financial information that is in addition to or different from the information otherwise required to be provided pursuant to this section.

(2) In the preparation of a state budget, the budget director shall, not later than the date specified in 17-7-112(1), distribute to all agencies the proper forms and instructions necessary for the preparation of budget estimates by the budget director. These forms must be prescribed by the budget director to procure the information required by subsection (3). The forms must be submitted to the budget director by the date provided in 17-7-112(2)(a) or the agency’s budget is subject to preparation based upon estimates as provided in 17-7-112(5). The budget director may refuse to accept forms that do not comply with the provisions of this section or the instructions given for completing the forms.

(3) The agency budget request must set forth a balanced financial plan for the agency completing the forms for each fiscal year of the ensuing biennium. The plan must consist of:

(a) a consolidated agency budget summary of funds subject to appropriation or enterprise funds that transfer profits to the general fund or to an account subject to appropriation for the current base budget expenditures, including statutory appropriations, and for each present law adjustment and new proposal request setting forth the aggregate figures of the full-time equivalent personnel positions (FTE) and the budget, showing a balance between the total proposed disbursements and the total anticipated receipts, together with the other means of financing the budget for each fiscal year of the ensuing biennium, contrasted with the corresponding figures for the last-completed fiscal year and the fiscal year in progress;

(b) a schedule of the actual and projected receipts, disbursements, and solvency of each fund for the current biennium and estimated for the subsequent biennium;

(c) a statement of the agency mission and a statement of goals and objectives for each program of the agency. The goals and objectives must include, in a concise form, sufficient specific information and quantifiable information to enable the legislature to formulate an appropriations policy regarding the agency and its programs and to allow a determination, at some future date, on whether the agency has succeeded in attaining its goals and objectives.

(d) actual FTE and disbursements for the completed fiscal year of the current biennium, estimated FTE and disbursements for the current fiscal year, and the agency's request for the ensuing biennium, by program;

(e) actual disbursements for the completed fiscal year of the current biennium, estimated disbursements for the current fiscal year, and the agency's recommendations for the ensuing biennium, by disbursement category;

(f) for only agencies with more than 20 FTE, a plan to reduce the proposed base budget for the general appropriations act and the proposed state pay plan to 95% of the current base budget or lower if directed by the budget director. Each agency plan must include base budget reductions that reflect the required percentage reduction by fund type for the general fund and state special revenue fund types. Exempt from the calculations of the 5% target amounts are legislative audit costs, administratively attached entities that hire their own staff under 2-15-121, and state special revenue accounts that do not transfer their investment earnings or fund balances to the general fund. The plan must include:

(i) a prioritized list of services that would be eliminated or reduced;

(ii) for each service included in the prioritized list, the savings that would result from the elimination or reduction; and

(iii) the consequences or impacts of the proposed elimination or reduction of each service.

(g) a reference for each new information technology proposal stating whether the new proposal is included in the approved agency information technology plan as required in 2-17-523; and

(h) other information the budget director feels is necessary for the preparation of a budget.

(4) The budget director shall prepare and submit to the legislative fiscal analyst in accordance with 17-7-112:

(a) detailed recommendations for the state long-range building program. Each recommendation must be presented by institution, agency, or branch, by funding source, with a description of each proposed project.

(b) a statewide project budget summary as provided in 2-17-526;

(c) the proposed pay plan schedule for all executive branch employees at the program level by fund, with the specific cost and funding recommendations for each agency. Submission of a pay plan schedule under this subsection is not an unfair labor practice under 39-31-401.

(d) agency proposals for the use of cultural and aesthetic project grants under Title 22, chapter 2, part 3, the renewable resource grant and loan program under Title 85, chapter 1, part 6, the reclamation and development grants program under Title 90, chapter 2, part 11, and the treasure state endowment program under Title 90, chapter 6, part 7.

(5) The board of regents shall submit, with its budget request for each university unit in accordance with 17-7-112, a report on the university system bonded indebtedness and related finances as provided in this subsection (5). The report must include the following information for each year of the biennium, contrasted with the same information for the last-completed fiscal year and the fiscal year in progress:

(a) a schedule of estimated total bonded indebtedness for each university unit by bond indenture;

(b) a schedule of estimated revenue, expenditures, and fund balances by fiscal year for each outstanding bond indenture, clearly delineating the accounts relating to each indenture and the minimum legal funding requirements for each bond indenture; and

(c) a schedule showing the total funds available from each bond indenture and its associated accounts, with a list of commitments and planned expenditures from such accounts, itemized by revenue source and project for each year of the current and ensuing bienniums.

(6) (a) The department of revenue shall make Montana individual income tax information available by removing names, addresses, and social security numbers and substituting in their place a state accounting record identifier number. Except for the purposes of complying with federal law, the department may not alter the data in any other way.

(b) The department of revenue shall provide the name and address of a taxpayer on written request of the budget director when the values on the requested return, including estimated payments, are considered necessary by the budget director to properly analyze state revenue and are of a sufficient magnitude to materially affect the analysis and when the identity of the taxpayer is necessary to evaluate the effect of the return or payments on the analysis being performed.”

Section 2. Section 17-7-112, MCA, is amended to read:

“17-7-112. Submission deadlines — budgeting schedule. The following is the schedule for the preparation of a state budget for submission to the legislature convening in the following year:

(1) By August 1, forms necessary for preparation of budget estimates must be distributed pursuant to 17-7-111(2).

(2) (a) ~~By~~ *Except as provided in subsection (2)(b)*, by September 1, each agency shall submit the information required under 17-7-111 to the budget director.

(b) *By September 1, the consolidated legislative branch shall submit a preliminary draft of the information required under 17-7-111 to the budget director. By October 10, the consolidated legislative branch shall submit the information required under 17-7-111 in final form to the budget director.*

(3) By September 1, the budget director shall submit each state agency’s budget request, *except the budget request for the consolidated legislative branch*, required under 17-7-111(3) to the legislative fiscal analyst. The transfer of budget information must be done on a schedule mutually agreed to by the budget director and the legislative fiscal analyst in a manner that facilitates an even transfer of budget information that allows each office to maintain a reasonable staff workflow.

(4) By October 10, the budget director shall furnish the legislative fiscal analyst with a preliminary budget reflecting the base budget in a format agreed upon by both the office of budget and program planning and the legislative fiscal analyst.

(5) By October 30, a budget request must be prepared by the budget director and submitted to the legislative fiscal analyst on behalf of any agency that did not present the information required by this section. The budget request must be based upon the budget director’s studies of the operations, plans, and needs of the institution, university unit, or agency.

(6) By November 1, the budget director shall furnish the legislative fiscal analyst with a present law base for each agency and a copy of the documents that reflect the anticipated receipts and other means of financing the base budget and present law base for each fiscal year of the ensuing biennium. The material must be in a format agreed upon by both the office of budget and program planning and the legislative fiscal analyst.

(7) By November 12, the budget director shall furnish the legislative fiscal analyst with the documents, in a format agreed upon by both the office of budget and program planning and the legislative fiscal analyst, that reflect expenditures to the second level, as provided in 17-1-102(3), by funding source and detailed by accounting entity.

(8) By November 15, the proposed pay plan schedule and the statewide project budget summary required by 17-7-111(4), a preliminary budget that meets the statutory requirements for submission of the budget to the legislature, and a summary of the preliminary budget designed for distribution to members and members-elect of the legislature must be submitted to the legislative fiscal analyst.

(9) By December 15, the budget director shall submit a preliminary budget to the governor and to the governor-elect, if there is one, as provided in 17-7-121, and shall furnish the legislative fiscal analyst with all amendments to the preliminary budget.

(10) By January 7, recommended changes proposed by a governor-elect must be transmitted to the legislative fiscal analyst and the legislature as provided in 17-7-121."

Section 3. Effective date. [This act] is effective on passage and approval.

Approved March 13, 2009

CHAPTER NO. 9

[SB 24]

AN ACT ELIMINATING THE MONTANA CONSENSUS COUNCIL; REPEALING SECTION 2-15-1027, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Repealer. Section 2-15-1027, MCA, is repealed.

Section 2. Effective date. [This act] is effective on passage and approval.

Approved March 13, 2009

CHAPTER NO. 10

[SB 29]

AN ACT GENERALLY REVISING AND CLARIFYING LAWS RELATED TO APPROPRIATIONS; REPEALING THE LAWS RELATED TO RETIRED HIGHWAY GENERAL OBLIGATION BONDS; AMENDING SECTIONS 16-11-124, 17-5-911, 17-5-912, 17-7-113, 17-7-122, 17-7-123, 20-9-603, 39-51-406, 50-19-322, 53-7-204, 53-22-104, 67-2-403, 75-10-625, 75-10-626, 80-7-908, 80-11-224, 87-1-201, AND 90-4-201, MCA; AND REPEALING SECTIONS 17-5-501, 17-5-502, 17-5-503, 17-5-504, 17-5-505, 17-5-506, AND 17-5-507, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 16-11-124, MCA, is amended to read:

“16-11-124. Disposition of license fees. (1) All license fees collected under the provisions of this part must be deposited with the state treasurer in the general fund.

(2) Each biennium, there must be appropriated to the department and the department of justice an amount justified and reasonable to operate the cigarette enforcement responsibilities of each department.

~~(3) All expenses charged against the appropriation must be justified by itemized claims coupled with standard accounting reports.”~~

Section 2. Section 17-5-911, MCA, is amended to read:

“17-5-911. Highway revenue bond debt service account — deposit of bond proceeds. (1) There is in the debt service fund a highway revenue bond debt service account. ~~Subject only to the prior pledge and appropriation made by 17-5-507, the~~ *The* state treasurer ~~must~~ *shall* deposit such highway revenues as ~~may be~~ *that are* pledged to the payment of particular bonds, to the credit of the highway revenue bond debt service account as required by resolution or indenture.

(2) All proceeds of an issue of bonds must be deposited in a separate account in the state special revenue fund, except that any premiums and accrued interest received may be deposited in a separate account in the debt service fund established for that bond issue by resolution or indenture. No more than the principal and interest on the bonds due in any year may be retained in the highway revenue bond debt service account for the payment of bonds. The remainder of pledged revenues is available for authorized purposes of the department. Money deposited in ~~such~~ *the* separate accounts in the state special revenue fund until spent for project purposes may be pledged and appropriated for the payment of bonds, which are a first lien and prior charge upon ~~such~~ *the* funds, and ~~such~~ *the* funds may be used for payment of bonds to the extent highway revenues deposited in the highway revenue bond debt service account are not sufficient for ~~such~~ *that* purpose.

(3) Interest and investment earnings on the separate accounts named in subsections (1) and (2) ~~shall~~ *must* be retained in the separate accounts referred to in subsection (2).”

Section 3. Section 17-5-912, MCA, is amended to read:

“17-5-912. Pledge of highway revenues. All or any portion of highway revenues may be pledged to the payment of the principal, interest, and redemption premium, if any, on particular issues of state highway revenue bonds, and ~~such~~ *the* pledge is and remains at all times a first lien and prior charge upon ~~such~~ *the* pledged highway revenues credited to the highway revenue bond debt service account, subject to ~~a first lien and charge in favor of certain highway bonds as provided in 17-5-507 and subject to the pledge of particular highway revenues to secure particular issues of highway revenue bonds.”~~

Section 4. Section 17-7-113, MCA, is amended to read:

“17-7-113. Inquiries and investigations by budget director. The budget director or ~~his~~ *the director's* designated representative shall make ~~such~~ further inquiries and investigations ~~as he~~ *that the budget director* considers necessary as to any item included in the report and estimates furnished by any department, agency, or institution. ~~In making such investigations, he shall be~~

allowed his travel expenses as provided for in 2-18-501 through 2-18-503, as amended, in visiting any institution or department in the state.”

Section 5. Section 17-7-122, MCA, is amended to read:

“17-7-122. Preparation of budget. (1) The governor shall, following the receipt of the preliminary budget from the budget director, have prepared a budget for the ensuing biennium and shall submit the budget to the legislative fiscal analyst in accordance with 17-7-112 ~~for inclusion in the combined governor’s budget and budget analysis report.~~

(2) Legislative branch budget proposals must be included in the budget submitted by the governor without changes.

(3) Judicial branch budget proposals must be included in the budget submitted by the governor, but expenditures above the current base budget need not be part of the balanced financial plan pursuant to 17-7-123.”

Section 6. Section 17-7-123, MCA, is amended to read:

“17-7-123. Form of executive budget. (1) The budget submitted must set forth a balanced financial plan for funds subject to appropriation and enterprise funds that transfer profits to the general fund or to accounts subject to appropriation for each accounting entity and for the state government for each fiscal year of the ensuing biennium. The ~~base level plan~~ *budget* must consist of:

(a) a consolidated budget summary setting forth the aggregate figures of the budget in a manner that shows a balance between the total proposed disbursements and the total anticipated receipts, together with the other means of financing the budget for each fiscal year of the ensuing biennium, contrasted with the corresponding figures for the last-completed fiscal year and the fiscal year in progress. The consolidated budget summary must be supported by explanatory schedules or statements.

(b) budget and full-time equivalent personnel position comparisons by agency, program, and appropriated funds for the current and subsequent biennium;

(c) the departmental mission and a statement of goals and objectives for the department;

(d) base budget disbursements for the completed fiscal year of the current biennium, estimated comparable disbursements for the current fiscal year, and the proposed present law base budget plus new proposals, if any, for each department and each program of the department;

(e) a statement containing recommendations of the governor for the ensuing biennium by program and disbursement category, including:

(i) explanations of appropriation and revenue measures included in the budget that involve policy changes;

(ii) matters not included as a part of the budget bill but included as a part of the executive budget, such as the state employee pay plan, programs funded through separate appropriations measures, and other matters considered necessary for comprehensive public and legislative consideration of the state budget; and

(iii) a summary of budget requests that include proposed expenditures on information technology resources. The summary must include funding, program references, and a decision package reference;

(f) a report on:

(i) enterprise funds not subject to the requirements of subsections (1)(a) through (1)(e), including retained earnings and contributed capital, projected operations and charges, and projected fund balances; and

(ii) fees and charges in the internal service fund type, including changes in the level of fees and charges, projected use of the fees and charges, and projected fund balances. Fees and charges in the internal service fund type must be approved by the legislature in the general appropriations act. Fees and charges in a biennium may not exceed the level approved by the legislature in the general appropriations act effective for that biennium.

(g) any other financial or budgetary material agreed to by the budget director and the legislative fiscal analyst.

(2) The statement of departmental goals and objectives and the schedule *as required in 17-7-111(3)(b)* for each fund ~~required in 17-7-111(3)(b)~~ of the executive budget are not required to be printed but must be available in the office of budget and program planning and on the internet.”

Section 7. Section 20-9-603, MCA, is amended to read:

“20-9-603. Acceptance and expenditure of federal moneys for state.

(1) The governor and the superintendent of public instruction are authorized on behalf of the state of Montana to request and accept ~~such moneys as are now money that is~~ or will be made available under any act of congress of the United States or otherwise for purposes of public school building construction or for any other purposes of public schools and public education as permitted under the laws of the state of Montana and as authorized by the grants from the federal government. ~~Such moneys shall~~ *The money must* be deposited by the governor and superintendent of public instruction in the state treasury and ~~are appropriated and made is~~ available for appropriation to the superintendent of public instruction. ~~All such moneys shall~~ *The money must* be expended for the purpose of public school building construction or for any other purposes of public schools and public education as permitted under the laws of the state of Montana and as authorized by the grants from the federal government.

(2) The governor and superintendent of public instruction are further authorized on behalf of the state of Montana to accept ~~moneys~~ *money* provided from federal sources for the express purpose of distribution to nonpublic education. ~~Such moneys shall~~ *The money must* be deposited by the governor and superintendent of public instruction in the state treasury and ~~are appropriated and made is~~ available for appropriation to the superintendent of public instruction. ~~All such moneys shall~~ *The money must* be distributed in the manner provided by the laws of the state of Montana and as authorized or expressed by grants from the federal government.

(3) All expenditures of ~~moneys~~ *money* from federal sources under this section ~~shall~~ *must* be made under the supervision and in the discretion of the superintendent of public instruction. Any balance in the account in which ~~such moneys are~~ *the money is* maintained ~~shall~~ *may* not lapse at any time but ~~shall~~ *must* be continuously available to the superintendent of public instruction for expenditures consistent with this title and acts of the federal government.”

Section 8. Section 39-51-406, MCA, is amended to read:

“39-51-406. Unemployment insurance administration account. (1)

There is an account in the federal special revenue fund to be known as the unemployment insurance administration account. All money that is deposited, appropriated, or paid into this account is ~~appropriated and made~~ available for *appropriation* to the department. All money in the account must be expended

solely for the purpose of defraying the costs of administration of this chapter and costs of administration of other legislation specifically delegated by the legislature to the department for administration.

(2) All money received and deposited in the account from the United States or any agency of the United States pursuant to section 302, Title III, of the Social Security Act, 42 U.S.C. 502, must be expended solely for the purpose and in the amounts found necessary by the secretary of labor for the proper and efficient administration of this chapter.

(3) The account consists of:

(a) all money received from the United States or any agency of the United States pursuant to section 302, Title III, of the Social Security Act, 42 U.S.C. 502, as amended; and

(b) all money, trust funds, supplies, facilities, or services furnished, deposited, paid, and received from the United States or any agency of the United States.

(4) Notwithstanding any provisions of this section, all money requisitioned and deposited in this account pursuant to 39-51-403 through 39-51-405 must remain part of the unemployment insurance fund and must be used only in accordance with the conditions specified in 39-51-403 through 39-51-405.

(5) All money in this account must be deposited, administered, and disbursed in the same manner and under the same conditions and requirements as is provided by law for other accounts. The balance in this account may not lapse at any time but must be continuously available to the department for expenditure consistent with this chapter.

(6) Any reference to the unemployment insurance administration fund in this code means the unemployment insurance administration account in the federal special revenue fund.”

Section 9. Section 50-19-322, MCA, is amended to read:

“50-19-322. Federal and other aid. (1) The department may apply for and receive federal aid and other funding available for the MIAMI project.

(2) Federal funds and other funding ~~as that~~ may be available ~~are~~ *may be* appropriated to the department for use in administering the provisions of this part.”

Section 10. Section 53-7-204, MCA, is amended to read:

“53-7-204. Federal and other aid. (1) The department may apply for and receive federal aid money or other funding available for the programs provided for under this part.

(2) Federal funds and other funding ~~as that~~ may be available ~~are~~ *may be* appropriated to the department for use in administering the provisions of this part.”

Section 11. Section 53-22-104, MCA, is amended to read:

“53-22-104. Annual budget. The department of public health and human services in its annual budget shall include amounts necessary to discharge the financial obligations incurred by it to carry out the purposes of the Interstate Compact on Mental Health, ~~and the legislature shall appropriate sums necessary for carrying out the purposes of the compact.”~~

Section 12. Section 67-2-403, MCA, is amended to read:

“67-2-403. Federal aid. (1) The department may cooperate with the government of the United States and any agency or department thereof of the *United States* in the acquisition, construction, improvement, maintenance, and operation of airports and other air navigation facilities in this state and may comply with the laws of the United States and any regulations made under those laws for the expenditure of federal moneys money upon airports and other navigation facilities.

(2) The department may accept, receive, and receipt for federal moneys money and other moneys money, either public or private, for and in behalf of this state or a municipality of this state, for the acquisition, construction, improvement, maintenance, and operation of airports and other air navigation facilities, whether the work is to be done by the state or by the municipalities or jointly, aided by grants of aid from the United States upon terms and conditions prescribed by the laws of the United States and any rules made under them. The department may act as agent of a municipality of this state upon the request of the municipality in accepting, receiving, and receipting for moneys money in its behalf for airports or other air navigation facility purposes and in contracting for the acquisition, construction, improvement, maintenance, or operation of airports or other air navigation facilities financed either in whole or in part by federal moneys money. The governing body of a municipality may designate the department as its agent for those purposes and enter into an agreement with it prescribing the terms and conditions of the agency in accordance with federal laws and rules. Moneys Money paid by the United States government shall *must* be retained by the state or paid to the municipalities under terms and conditions imposed by the United States government in making the grants.

(3) All contracts for the acquisition, construction, improvement, maintenance, and operation of airports or other air navigation facilities made by the department, either as the agent of this state or as the agent of a municipality, shall *must* be made under the laws of this state governing the making of like similar contracts by the state or by municipalities. However, where when the acquisition, construction, improvement, maintenance, and operation of an airport, landing strip, or other air navigation facility is financed wholly or partially with federal moneys money, the department, as agent of the state or of a municipality of the state, may let contracts in the manner prescribed by the federal authorities, acting under the laws of the United States and any rules made under them.

(4) All moneys money accepted for disbursement by the department under subsection (2) of this section shall *must* be deposited in the state treasury and, unless otherwise prescribed by the authority from which the money is received, kept in separate funds, designated according to the purposes for which the moneys were money was made available, and held by the state in trust for those purposes. All those moneys are money appropriated for the purposes for which they were it was made available, to *must* be spent in accordance with federal laws and regulations and with this title. The department may, whether acting for this state or as the agent of any of its municipalities or when requested by the United States government or an agency or department of the United States, disburse the moneys money appropriated for the designated purposes, but this does not preclude any other authorized method of disbursement.”

Section 13. Section 75-10-625, MCA, is amended to read:

“75-10-625. Authorization for sale of CERCLA bonds. The board of examiners is authorized to issue and sell CERCLA general obligation bonds in an amount not exceeding \$10 million upon the request of the department of

environmental quality, as provided for in 75-10-623. Proceeds of the bonds or notes ~~are appropriated to~~ *must be deposited in* the hazardous waste/CERCLA special revenue account provided for in 75-10-621 to fund state participation in remedial action under section 104 of CERCLA, as amended, state costs for maintenance of sites at which remedial action under CERCLA has been completed, the state share required to obtain matching federal funds for underground storage tank corrective action, and costs of issuance of the bonds or notes.”

Section 14. Section 75-10-626, MCA, is amended to read:

“75-10-626. Agreement with department of environmental quality. For the proceeds of bonds or notes authorized ~~and appropriated~~ by this part, the board of examiners and the department of environmental quality may enter into an agreement under the terms of which the department shall pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes ~~from which the appropriation was made~~ and to accumulate and maintain reserves as may be required under the bonds. The agreement must further provide that income from the investment of bond proceeds and the reserves not required for the purposes presented in 75-10-625 must be credited against the department’s payment obligation. The agreement must also allow for the accumulation of reserves during the first year that the bonds are outstanding, if required. Payments by the department must be made from available funds.”

Section 15. Section 80-7-908, MCA, is amended to read:

“80-7-908. Deposit and disbursement of funds — records — investment. (1) There is a state noxious weed forage account in the state special revenue account. All funds received by the department from fees or penalties collected or received under 80-7-905 through 80-7-907, 80-7-921, and 80-7-922(1) and all other related funds received must be deposited in the state noxious weed forage account.

(2) The department may by contract allow for the collection of fees authorized under 80-7-907. A portion of the fees collected may be retained by the collector, and the portion of the fees assigned to the department must be submitted to the department. The contract must require:

- (a) a record of the name of the person collecting fees;
- (b) a record of fees collected;
- (c) a record of the amounts submitted to the department;
- (d) a record of the amount retained by the collector; and
- (e) that all records be kept in accordance with generally accepted accounting principles.

(3) Funds received under 80-7-905 through 80-7-907, 80-7-921, and 80-7-922(1) that are not immediately required for the purposes of this part must be invested under provisions of the unified investment program established in Title 17, chapter 6, part 2. The income from the investments must be deposited in the state special revenue fund and credited to the department.

(4) Funds received pursuant to this part are ~~appropriated~~ *available for appropriation* to the department for the administration of the noxious weed seed free forage program and for the purposes of this part.”

Section 16. Section 80-11-224, MCA, is amended to read:

“80-11-224. Determination of amount and allocation of assessment.

(1) The committee shall set the amount of the assessment each year in accordance with 80-11-206.

(2) Money deposited in the wheat and barley account pursuant to 80-11-210 is ~~appropriated~~ *available for appropriation* to the committee for purposes of carrying out research and marketing under this part.

(3) The committee may be assessed costs by the department for the services it provides upon request or pursuant to 2-15-121. However, the costs charged must have a substantial relationship to the cost of services supplied.”

Section 17. Section 87-1-201, MCA, is amended to read:

“87-1-201. Powers and duties. (1) The department shall supervise all the wildlife, fish, game, game and nongame birds, waterfowl, and the game and fur-bearing animals of the state and may implement voluntary programs that encourage hunting access on private lands and that promote harmonious relations between landowners and the hunting public. ~~It~~ *The department* possesses all powers necessary to fulfill the duties prescribed by law and to bring actions in the proper courts of this state for the enforcement of the fish and game laws and the rules adopted by the department.

(2) The department shall enforce all the laws of the state ~~respecting~~ *regarding* the protection, preservation, management, and propagation of fish, game, fur-bearing animals, and game and nongame birds within the state.

(3) The department has the exclusive power to spend for the protection, preservation, management, and propagation of fish, game, fur-bearing animals, and game and nongame birds all state funds collected or acquired for that purpose, whether arising from state appropriation, licenses, fines, gifts, or otherwise. Money collected or received from the sale of hunting and fishing licenses or permits, from the sale of seized game or hides, from fines or damages collected for violations of the fish and game laws, or from appropriations or received by the department from any other sources is ~~appropriated to and~~ *under the control of the department and is available for appropriation to the department.*

(4) The department may discharge any appointee or employee of the department for cause at any time.

(5) The department may dispose of all property owned by the state used for the protection, preservation, management, and propagation of fish, game, fur-bearing animals, and game and nongame birds that is of no further value or use to the state and shall turn over the proceeds from the sale to the state treasurer to be credited to the fish and game account in the state special revenue fund.

(6) The department may not issue permits to carry firearms within this state to anyone except regularly appointed officers or wardens.

(7) The department is authorized to make, promulgate, and enforce reasonable rules and regulations not inconsistent with the provisions of *Title 87, chapter 2*, that in its judgment will accomplish the purpose of chapter 2.

(8) The department is authorized to promulgate rules relative to tagging, possession, or transportation of bear within or outside of the state.

(9) (a) The department shall implement programs that:

(i) manage wildlife, fish, game, and nongame animals in a manner that prevents the need for listing under 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq.;

(ii) manage listed species, sensitive species, or a species that is a potential candidate for listing under 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq., in a manner that assists in the maintenance or recovery of those species; and

(iii) manage elk, deer, and antelope populations based on habitat estimates determined as provided in 87-1-322 and maintain elk, deer, and antelope population numbers at or below population estimates as provided in 87-1-323. In implementing an elk management plan, the department shall, as necessary to achieve harvest and population objectives, request that land management agencies open public lands and public roads to public access during the big game hunting season.

(b) In maintaining or recovering a listed species, a sensitive species, or a species that is a potential candidate for listing, the department shall seek, to the fullest extent possible, to balance maintenance or recovery of those species with the social and economic impacts of species maintenance or recovery.

(c) Any management plan developed by the department pursuant to this subsection (9) is subject to the requirements of Title 75, chapter 1, part 1.

(d) This subsection (9) does not affect the ownership or possession, as authorized under law, of a privately held listed species, a sensitive species, or a species that is a potential candidate for listing.

(10) The department shall publish an annual game count, estimating to the department's best ability the numbers of each species of game animal, as defined in 87-2-101, in the hunting districts and administrative regions of the state. In preparing the publication, the department may incorporate field observations, hunter reporting statistics, or any other suitable method of determining game numbers. The publication must include an explanation of the basis used in determining the game count."

Section 18. Section 90-4-201, MCA, is amended to read:

"90-4-201. Weatherization money sources — consolidation. (1) All federal funds and grants available and becoming eligible to Montana under the provisions of the U.S. department of energy low-income weatherization assistance program, the U.S. department of health and human services low-income home energy assistance program, and any other federal funds intended to increase the energy efficiency of dwellings occupied by persons of low and fixed incomes, except for Title XX of the Social Security Act, are to be coordinated and are ~~appropriated~~ *available for appropriation* to the department of public health and human services.

(2) The department of public health and human services shall allocate and spend for home weatherization programs under this part at least 5% of the funds received from the U.S. department of health and human services low-income home energy assistance program if federal law permits this allocation."

Section 19. Repealer. Sections 17-5-501, 17-5-502, 17-5-503, 17-5-504, 17-5-505, 17-5-506, and 17-5-507, MCA, are repealed.

Approved March 13, 2009

CHAPTER NO. 11

[SB 43]

AN ACT REVISING THE LIST OF COUNTRIES THAT ARE CONSIDERED TAX HAVENS FOR THE APPORTIONMENT OF TAXABLE INCOME FOR THE PURPOSES OF A WATER'S-EDGE ELECTION UNDER THE CORPORATION LICENSE TAX; AMENDING SECTION 15-31-322, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-31-322, MCA, is amended to read:

“15-31-322. Water’s-edge election — inclusion of tax havens. (1) Notwithstanding any other provisions of law, a taxpayer subject to the taxes imposed under this chapter may apportion its income under this section. A return under a water’s-edge election must include the income and apportionment factors of the following affiliated corporations only:

(a) a corporation incorporated in the United States in a unitary relationship with the taxpayer and eligible to be included in a federal consolidated return as described in 26 U.S.C. 1501 through 1505 that has more than 20% of its payroll and property assignable to locations inside the United States. For purposes of determining eligibility for inclusion in a federal consolidated return under this subsection (1)(a), the 80% stock ownership requirements of 26 U.S.C. 1504 must be reduced to ownership of over 50% of the voting stock directly or indirectly owned or controlled by an includable corporation.

(b) domestic international sales corporations, as described in 26 U.S.C. 991 through 994, and foreign sales corporations, as described in 26 U.S.C. 921 through 927;

(c) export trade corporations, as described in 26 U.S.C. 970 and 971;

(d) foreign corporations deriving gain or loss from disposition of a United States real property interest to the extent recognized under 26 U.S.C. 897;

(e) a corporation incorporated outside the United States if over 50% of its voting stock is owned directly or indirectly by the taxpayer and if more than 20% of the average of its payroll and property is assignable to a location inside the United States; or

(f) a corporation that is in a unitary relationship with the taxpayer and that is incorporated in a tax haven, including Andorra, Anguilla, Antigua and Barbuda, Aruba, the Bahamas, Bahrain, Barbados, Belize, Bermuda, British Virgin Islands, Cayman Islands, Cook Islands, ~~Turks and Caicos Islands~~, *Cyprus*, Dominica, Gibraltar, Grenada, Guernsey-Sark-Alderney, Isle of Man, Jersey, Liberia, Liechtenstein, Luxembourg, ~~Maldives~~, *Malta*, Marshall Islands, *Mauritius*, Monaco, Montserrat, Nauru, Netherlands Antilles, Niue, Panama, Samoa, *San Marino*, Seychelles, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, ~~Tonga~~, *Turks and Caicos Islands*, U.S. Virgin Islands, and Vanuatu.

(2) The department shall report biennially to the revenue and transportation interim committee with an update of countries that may be considered a tax haven under subsection (1)(f).”

Section 2. Effective date. [This act] is effective on passage and approval.

Section 3. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2008.

Approved March 13, 2009

CHAPTER NO. 12

[SB 125]

AN ACT INCLUDING THE 22ND JUDICIAL DISTRICT IN THE JUDICIAL DISTRICTS REPRESENTED IN THE COMPOSITION OF THE JUDICIAL NOMINATION COMMISSION; AMENDING SECTION 3-1-1001, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 3-1-1001, MCA, is amended to read:

“3-1-1001. Creation, composition, and function of commission. (1) A judicial nomination commission for the state is created. Its function is to provide the governor with a list of candidates for appointment to fill any vacancy on the supreme court or any district court and to provide the chief justice of the supreme court with a list of candidates for appointment to fill any term or vacancy for the chief water judge pursuant to 3-7-221. The commission ~~shall be~~ *is* composed of seven members as follows:

(a) four lay members who are neither judges nor attorneys, active or retired, who reside in different geographical areas of the state, and each of whom is representative of a different industry, business, or profession, whether actively ~~so~~ engaged or retired, who ~~shall be~~ *are* appointed by the governor;

(b) two attorneys actively engaged in the practice of law, one from that part of the state that is composed of judicial districts 1 through 5, 9, 11, and 18 through 21 and one from that part of the state that is composed of judicial districts 6 through 8, 10, ~~and~~ 12 through 17, ~~and~~ 22, who ~~shall be~~ *are* appointed by the supreme court;

(c) one district judge elected by the district judges under an elective procedure initiated and conducted by the supreme court and certified to ~~such~~ election by the chief justice of the supreme court. The election ~~shall be~~ *is* considered an appointment for the purposes of this part.

(2) Appointments provided for in this section ~~shall~~ *must* be made within 30 days of the completion of the preceding terms.”

Section 2. Effective date. [This act] is effective on passage and approval.

Approved March 16, 2009

CHAPTER NO. 13

[HB 74]

AN ACT GRANTING THE FISH, WILDLIFE, AND PARKS COMMISSION THE DISCRETION TO INCLUDE MOUNTAIN LION, BEAR, AND WOLF AMONG THE SPECIES FOR WHICH THE COMMISSION MAY DESIGNATE ARCHERY AND ARCHERY-ONLY SEASONS; AMENDING SECTION 87-1-304, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 87-1-304, MCA, is amended to read:

“87-1-304. Fixing of seasons and bag and possession limits. (1) (a) The commission may:

- (i) fix seasons, bag limits, possession limits, and season limits;
- (ii) open or close or shorten or lengthen seasons on any species of game, bird, fish, or fur-bearing animal as defined by 87-2-101; and
- (iii) declare areas open to the hunting of deer, antelope, elk, moose, sheep, and goat, *mountain lion, bear, and wolf* by ~~bow and arrow permit~~ *holders persons holding an archery stamp and the required license, permit, or tag* and designate times when only bows and arrows may be used to hunt deer, antelope, elk, moose, sheep, and goat, *mountain lion, bear, and wolf* in those areas.

(b) The commission may restrict areas and species to hunting with only specified hunting arms, including bow and arrow, for the reasons of safety or of providing diverse hunting opportunities and experiences.

(c) The commission may declare areas open to special license holders only and issue special licenses in a limited number when the commission determines, after proper investigation, that a special season is necessary to ensure the maintenance of an adequate supply of game birds, fish, or animals or fur-bearing animals. The commission may declare a special season and issue special licenses when game birds, animals, or fur-bearing animals are causing damage to private property or when a written complaint of damage has been filed with the commission by the owner of that property. In determining to whom special licenses must be issued, the commission may, when more applications are received than the number of animals to be killed, award permits to those chosen under a drawing system. The procedures used for awarding the permits from the drawing system must be determined by the commission.

(2) The commission may adopt rules governing the use of livestock and vehicles by archers during special archery seasons.

(3) The commission may divide the state into fish and game districts and create fish, game, or fur-bearing animal districts throughout the state. The commission may declare a closed season for hunting, fishing, or trapping in any of those districts and later may open those districts to hunting, fishing, or trapping.

(4) The commission may declare a closed season on any species of game, fish, game birds, or fur-bearing animals threatened with undue depletion from any cause. The commission may close any area or district of any stream, public lake, or public water or portions thereof to hunting, trapping, or fishing for limited periods of time when necessary to protect a recently stocked area, district, water, spawning waters, spawn-taking waters, or spawn-taking stations or to prevent the undue depletion of fish, game, fur-bearing animals, game birds, and nongame birds. The commission may open the area or district upon consent of a majority of the property owners affected.

(5) The commission may authorize the director to open or close any special season upon 12 hours' notice to the public.

(6) The commission may declare certain fishing waters closed to fishing except by persons under 15 years of age. The purpose of this subsection is to provide suitable fishing waters for the exclusive use and enjoyment of juveniles under 15 years of age, at times and in areas the commission in its discretion considers advisable and consistent with its policies relating to fishing.”

Section 2. Effective date. [This act] is effective on passage and approval.

Approved March 17, 2009

CHAPTER NO. 14

[HB 90]

AN ACT TO INCLUDE LLAMAS AS ANIMALS FOR WHICH MONTANA LIVESTOCK PRODUCERS ARE ELIGIBLE FOR COVERAGE FOR LOSSES CAUSED BY WOLVES; AMENDING SECTION 2-15-3112, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-15-3112, MCA, is amended to read:

“2-15-3112. Livestock loss mitigation program — definitions. The livestock loss reduction and mitigation board shall establish and administer a program to reimburse livestock producers for livestock losses caused by wolves, subject to the following provisions:

(1) The board shall establish eligibility requirements for reimbursement, which must provide that all Montana livestock producers are eligible for coverage for losses by wolves to cattle, swine, horses, mules, sheep, goats, *llamas*, and livestock guard animals on state, federal, and private land and on tribal land that is eligible through agreement pursuant to 2-15-3113(2).

(2) Confirmed and probable livestock losses must be reimbursed at an amount not to exceed fair market value as determined by the board.

(3) Other losses may be reimbursed at rates determined by the board.

(4) A claim process must be established to be used when a livestock producer suffers a livestock loss for which wolves may be responsible. The claim process must set out a clear and concise method for documenting and processing claims for reimbursement for livestock losses.

(5) A process must be established to allow livestock producers to appeal reimbursement decisions. A producer may appeal a staff adjuster’s decision by notifying the staff adjuster and the board in writing, stating the reasons for the appeal and providing documentation supporting the appeal. If the documentation is incomplete, the board or a producer may consult with the U.S. department of agriculture wildlife services to complete the documentation. The board may not accept any appeal on the question of whether the loss was or was not a confirmed or probable loss because that final determination lies solely with the U.S. department of agriculture wildlife services and may not be changed by the board. The board shall hold a hearing on the appeal within 90 days of receipt of the written appeal, allowing the staff adjuster and the producer to present their positions. A decision must be rendered by the board within 30 days after the hearing. The producer must be notified in writing of the board’s decision.

(6) As used in this section, the following definitions apply:

(a) “Confirmed” means reasonable physical evidence that livestock was actually attacked or killed by a wolf, including but not limited to the presence of bite marks indicative of the spacing of canine tooth punctures of wolves and associated subcutaneous hemorrhaging and tissue damage indicating that the attack occurred while the animal was alive, feeding patterns on the carcass, fresh tracks, scat, hair rubbed off on fences or brush, eyewitness accounts, or

other physical evidence that allows a reasonable inference of wolf predation on an animal that has been largely consumed.

(b) "Fair market value" means:

(i) for commercial sheep more than 1 year old, the average price of sheep of similar age and sex paid at the most recent Billings livestock sale ring or other ring as determined by the board;

(ii) for commercial lambs, the average market weaning value;

(iii) for registered sheep, the average price paid to the specific breeder for sheep of similar age and sex during the past year at public or private sales for that registered breed;

(iv) for commercial cattle more than 1 year old, the average price of cattle of similar age and sex paid at the most recent Billings livestock sale ring or other ring as determined by the board;

(v) for commercial calves, the average market weaning value;

(vi) for registered cattle, the average price paid to the owner for cattle of similar age and sex during the past year at public or private sales for that registered breed;

(vii) for other registered livestock, the average price paid to the producer at public or private sales for animals of similar age and sex. A producer may provide documentation that a registered animal has a fair market value in excess of the average price, in which case the board shall seek additional verification of the value of the animal from independent sources. If the board determines that the value of that animal is greater than the average price, then the increased value must be accepted as the fair market value for that animal.

(viii) for other livestock, the average price paid at the most recent public auction for the type of animal lost or the replacement price as determined by the board.

(c) "Probable" means the presence of some evidence to suggest possible predation but a lack of sufficient evidence to clearly confirm predation by a particular species. A kill may be classified as probable depending on factors including but not limited to recent confirmed predation by the suspected depredating species in the same or a nearby area, recent observation of the livestock by the owner or the owner's employees, and telemetry monitoring data, sightings, howling, or fresh tracks suggesting that the suspected depredating species may have been in the area when the depredation occurred."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved March 17, 2009

CHAPTER NO. 15

[HB 100]

AN ACT REVISING THE COMPOSITION OF THE MONTANA MINT COMMITTEE; REDUCING THE NUMBER OF REQUIRED MEMBERS; CHANGING THE TERMS OF OFFICE; CHANGING THE REQUIREMENTS OF HOW THE COMMITTEE IS CONVENED; AMENDING SECTIONS 2-15-3006 AND 80-11-405, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-15-3006, MCA, is amended to read:

“2-15-3006. Montana mint committee — composition — allocation.

(1) There is a Montana mint committee composed of ~~six~~ *at least four and not more than six* members. The members include the director of the department of agriculture and ~~five~~ *at least three and not more than five* members appointed by the governor.

(2) Each ~~of the five~~ appointed ~~members~~ *member* must be a citizen of Montana who is actively involved in the growing of mint in this state, and one of the appointed members must be a member of or otherwise represent the mint industry research council. The qualifications of members must continue during their terms of office.

(3) A list of nominees for appointment must be submitted to the governor by Montana associations representing mint growers. Names of nominees must be submitted at least 91 days before the expiration of a committee member’s term. The governor shall appoint members from among the persons nominated.

(4) Appointed members shall serve ~~staggered~~ terms of ~~3~~ 4 years. ~~Initial appointment must be as follows:~~

(a) ~~one member for a 1-year term;~~

(b) ~~two members for 2-year terms; and~~

(c) ~~two members for a 3-year term.~~

(5) The committee is allocated to the department of agriculture for administrative purposes only as prescribed in 2-15-121.”

Section 2. Section 80-11-405, MCA, is amended to read:

“80-11-405. Election of ~~chairman~~ *presiding officer* — time of meetings. At the first meeting of the committee, it shall elect a ~~chairman~~ *presiding officer* from among its members. The committee ~~shall~~ *may* meet at least once annually *at the request of the department of agriculture* and at such other times as called by the ~~chairman~~ *presiding officer* or by any ~~three~~ *two* members of the committee.”

Section 3. Effective date. [This act] is effective on passage and approval.

Approved March 17, 2009

CHAPTER NO. 16

[HB 125]

AN ACT CLARIFYING CERTAIN RULEMAKING AUTHORITY OF THE DEPARTMENT OF TRANSPORTATION; REMOVING THE REFERENCE TO THE OBSOLETE SINGLE-STATE REGISTRATION SYSTEM; CLARIFYING THAT THE DEPARTMENT OF TRANSPORTATION MAY ADOPT RULES RELATED TO COOPERATIVE OR RECIPROCAL AGREEMENTS WITH OTHER STATES; AMENDING SECTION 61-3-710, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 61-3-710, MCA, is amended to read:

“61-3-710. Rulemaking authority. The department of transportation may adopt and enforce rules for the administration of ~~the single-state registration system~~ *cooperative or reciprocal vehicle registration*, including the

setting of a fee, and for other matters necessary to carry out the provisions of 61-3-708 and 61-3-709.”

Section 2. Effective date. [This act] is effective on passage and approval.

Approved March 17, 2009

CHAPTER NO. 17

[HB 126]

AN ACT AUTHORIZING THE DEPARTMENT OF ADMINISTRATION TO MANAGE WORKERS' COMPENSATION COVERAGE WITH THE STATE FUND FOR ALL STATE AGENCIES; ALLOWING EXCEPTIONS FOR THE JUDICIAL AND LEGISLATIVE BRANCHES; PROVIDING RULEMAKING AUTHORITY FOR THE DEPARTMENT OF ADMINISTRATION; AMENDING SECTION 39-71-403, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 39-71-403, MCA, is amended to read:

“39-71-403. Plan three exclusive for state agencies — election of plan by public corporations — financing of self-insurance fund — exemption for university system — ~~definition definitions~~ — rulemaking. (1) (a) Except as provided in subsection (5), if a state agency is the employer, the terms, conditions, and provisions of compensation plan No. 3, state fund, are exclusive, compulsory, and obligatory upon both employer and employee. Any sums necessary to be paid under the provisions of this chapter by a state agency are considered to be ordinary and necessary expenses of the agency. The agency shall pay the sums into the state fund at the time and in the manner provided for in this chapter, notwithstanding that the state agency may have failed to anticipate the ordinary and necessary expense in a budget, estimate of expenses, appropriations, ordinances, or otherwise.

(b) (i) *Subject to subsection (5), the department of administration, provided for in 2-15-1001, shall manage workers' compensation insurance coverage for all state agencies.*

(ii) *The state fund shall provide the department of administration with all information regarding the state agencies' coverage.*

(iii) *Notwithstanding the status of a state agency as employer in subsection (1)(a) and contingent upon mutual agreement between the department of administration and the state fund, the state fund shall issue one or more policies for all state agencies.*

(2) A public corporation, other than a state agency, may elect coverage under compensation plan No. 1, plan No. 2, or plan No. 3, separately or jointly with any other public corporation, other than a state agency. A public corporation electing compensation plan No. 1 may purchase reinsurance or issue bonds or notes pursuant to subsection (3)(b). A public corporation electing compensation plan No. 1 is subject to the same provisions as a private employer electing compensation plan No. 1.

(3) (a) A public corporation, other than a state agency, that elects plan No. 1 may establish a fund sufficient to pay the compensation and benefits provided for in this chapter and to discharge all liabilities that are reasonably incurred during the fiscal year for which the election is effective. Proceeds from the fund

must be used only to pay claims covered by this chapter and for actual and necessary expenses required for the efficient administration of the fund, including debt service on any bonds and notes issued pursuant to subsection (3)(b).

(b) (i) A public corporation, other than a state agency, separately or jointly with another public corporation, other than a state agency, may issue and sell its bonds and notes for the purpose of establishing, in whole or in part, the self-insurance workers' compensation fund provided for in subsection (3)(a) and to pay the costs associated with the sale and issuance of the bonds. Bonds and notes may be issued in an amount not exceeding 0.18% of the total assessed value of taxable property, determined as provided in 15-8-111, of the public corporation as of the date of issue. The bonds and notes must be authorized by resolution of the governing body of the public corporation and are payable from an annual property tax levied in the amount necessary to pay principal and interest on the bonds or notes. This authority to levy an annual property tax exists despite any provision of law or maximum levy limitation, including 15-10-420, to the contrary. The revenue derived from the sale of the bonds and notes may not be used for any other purpose.

(ii) The bonds and notes:

(A) may be sold at public or private sale;

(B) do not constitute debt within the meaning of any statutory debt limitation; and

(C) may contain other terms and provisions that the governing body determines.

(iii) Two or more public corporations, other than state agencies, may agree to exercise their respective borrowing powers jointly under this subsection (3)(b) or may authorize a joint board to exercise the powers on their behalf.

(iv) The fund established from the proceeds of bonds and notes issued and sold under this subsection (3)(b) may, if sufficient, be used in lieu of a surety bond, reinsurance, specific and aggregate excess insurance, or any other form of additional security necessary to demonstrate the public corporation's ability to discharge all liabilities as provided in subsection (3)(a). Subject to the total assessed value limitation in subsection (3)(b)(i), a public corporation may issue bonds and notes to establish a fund sufficient to discharge liabilities for periods greater than 1 year.

(4) All money in the fund established under subsection (3)(a) not needed to meet immediate expenditures must be invested by the governing body of the public corporation or the joint board created by two or more public corporations as provided in subsection (3)(b)(iii), and all proceeds of the investment must be credited to the fund.

~~(5) The provisions of subsection (1) do not apply to the Montana university system. For the purposes of subsection (1)(b), the judicial branch or the legislative branch may choose not to have the department of administration manage its workers' compensation policy.~~

~~(6) The department of administration may adopt rules to implement [section 1(1)(b)(i)].~~

~~(6)(7) As in subsections (2) through (4), this section, the following definitions apply:~~

~~(a) "public "Public corporation" includes the Montana university system.~~

(b) (i) "State agency" means:

(A) the executive branch and its departments and all boards, commissions, committees, bureaus, and offices;

(B) the judicial branch; and

(C) the legislative branch.

(ii) The term does not include the Montana university system."

Section 2. Effective date. [This act] is effective July 1, 2009.

Approved March 17, 2009

CHAPTER NO. 18

[HB 168]

AN ACT EXPANDING ELIGIBILITY FOR LOANS UNDER THE AGRICULTURAL LOAN AUTHORITY ACT BY INCREASING THE ALLOWABLE MAXIMUM NET WORTH OF LOAN APPLICANTS; AMENDING SECTION 80-12-203, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 80-12-203, MCA, is amended to read:

"80-12-203. Qualifications of applicants. (1) To be eligible for a loan approved by the authority for issuance of a bond, an applicant must:

(a) declare ~~his~~ *the* intention to maintain ~~his~~ residence in Montana during the length of the loan;

(b) have been approved by a financial institution; and

(c) have a net worth not to exceed ~~\$250,000~~ *\$450,000*.

(2) Applications for loans to be approved by the authority for issuance of bonds may be submitted by individuals, partnerships, associations, or joint ventures. All persons involved in the application must meet the requirements of subsection (1). Corporations, as defined in 35-1-113, may not apply."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved March 17, 2009

CHAPTER NO. 19

[HB 368]

AN ACT PROVIDING THAT THE DEPARTMENT OF AGRICULTURE MAY STATE A PARTIAL LIST OF FEES FOR INSPECTION, TESTING, AND WEIGHING OF AGRICULTURAL COMMODITIES ON THE PLACARD POSTED BY WAREHOUSE OPERATORS AND COMMODITY DEALERS; AMENDING SECTION 80-4-711, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 80-4-711, MCA, is amended to read:

"80-4-711. Agricultural commodity sampling — appeal procedure.

(1) At the time of delivery of an agricultural commodity to a warehouse operator or commodity dealer for storage or sale, each warehouse operator or commodity

dealer shall take a representative sample from each load of agricultural commodity delivered and preserve the sample in a moistureproof container with the owner's name marked on the container. A written agreement must be given to the depositor authorizing the depositor to state a preference of grading facility. The options provided for grading facilities in the agreement must include but may not be limited to the state grain laboratory. The written agreement must specify the time period to which the agreement applies. If the state grain lab is chosen as the grading facility, a composite sample consisting of a minimum of 1 1/2 quarts or 1,050 grams of the representative sample must be submitted directly to the state grain laboratory for analysis as to grade, dockage, protein, and other factors that the laboratory is able to analyze that affect the purchase price. The warehouse operator or commodity dealer shall retain a minimum of 1 1/2 quarts or 1,050 grams of the remaining sample for 60 days.

(2) All fees and other charges associated with the grain sample analysis must reflect as nearly as possible the actual cost of the services.

(3) If a request for a state grain laboratory analysis is not made pursuant to subsection (1) and the depositor, warehouse operator, or commodity dealer is dissatisfied with the results of a private analysis, the depositor, warehouse operator, or commodity dealer may appeal to the state grain laboratory. When an appeal is made, the warehouse operator or commodity dealer shall submit 1 1/2 quarts or 1,050 grams of the representative sample to the state grain laboratory for appeal analysis.

(4) If the depositor, warehouse operator, or commodity dealer is dissatisfied with the results of a state grain laboratory analysis, as provided in subsection (1) or (3), the depositor, warehouse operator, or commodity dealer may appeal to the FGIS, United States department of agriculture. A FGIS appeal must be made within 10 working days of the state grain laboratory's analysis. The sample for FGIS appeal must be a portion of that agricultural commodity retained by the state grain laboratory when it conducted its analysis. The results on the state grain laboratory appeal sample are final and binding. In the absence of an appeal to FGIS or in the case of an agricultural commodity for which there are no FGIS standards, the state grain laboratory's analysis is final and binding.

(5) Each warehouse operator or commodity dealer shall post in a conspicuous place a placard, issued by the department, stating the procedures provided for in this section and *a partial list of the fees established in 80-4-721*. The department shall provide space on the placard on which the warehouse operator or commodity dealer is required to list anticipated shipping and handling fees.

(6) All samples submitted for analysis are the property of the state grain laboratory and subject to its disposition.

(7) An agricultural commodity purchased for resale as seed is exempt from the requirements of this section.

(8) A producer of malting barley may by contract waive the right to submit a sample to the state grain laboratory provided in this section."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved March 17, 2009

CHAPTER NO. 20

[SB 42]

AN ACT PROVIDING A PROCESS FOR THE SUBSTITUTION OF THE WORKERS' COMPENSATION JUDGE IN THE EVENT OF A RECUSAL BY THE WORKERS' COMPENSATION JUDGE; AMENDING SECTION 39-71-2901, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 39-71-2901, MCA, is amended to read:

“39-71-2901. Location of office — court powers — *withdrawal* — *substitution*. (1) The principal office of the workers' compensation judge shall *must* be in the city of Helena.

(2) The workers' compensation court has power to:

- (a) preserve and enforce order in its immediate presence;
- (b) provide for the orderly conduct of proceedings before it and its officers;
- (c) compel obedience to its judgments, orders, and process in the same manner and by the same procedures as in civil actions in district court;
- (d) compel the attendance of persons to testify; and
- (e) punish for contempt in the same manner and by the same procedures as in district court.

(3) *The workers' compensation judge shall withdraw from all or part of any matter if the judge believes the circumstances make disqualification appropriate. In the case of a withdrawal, the workers' compensation judge shall designate and contract for a substitute workers' compensation judge to preside over the proceeding from the list provided for in subsection (4). The substitute judge must be compensated at the same hourly rate charged by the department of justice agency legal services bureau for the provision of legal services to state agencies. The substitute judge must be reimbursed for travel expenses as provided for in 2-18-501 through 2-18-503. When the substitute judge has accepted jurisdiction, the clerk of the workers' compensation court shall mail a copy of the assumption of jurisdiction to each attorney or party of record. The certificate of service must be attached to the assumption of jurisdiction form in the court file.*

(4) *The workers' compensation judge shall maintain a list of persons who are interested in serving as a substitute workers' compensation judge in the event of a recusal by the judge and who prior to being put on the list of potential substitutes have been admitted to the practice of law in Montana for at least 5 years, currently reside in Montana, and have resided in the state for 2 years.”*

Section 2. Effective date. [This act] is effective on passage and approval.

Approved March 17, 2009

CHAPTER NO. 21

[SB 90]

AN ACT CLARIFYING THE REQUIREMENTS FOR NOTIFICATION OF THE PRIMARY SPONSOR OF LEGISLATION IN THE ADMINISTRATIVE RULEMAKING PROCESS; REQUIRING A WRITTEN STATEMENT WHEN A PRIMARY SPONSOR'S COMMENTS ARE NOT INCORPORATED INTO

AN ADMINISTRATIVE RULE; AMENDING SECTIONS 2-4-110, 2-4-302, 2-4-305, AND 2-4-312, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-4-110, MCA, is amended to read:

“2-4-110. Departmental review of rule notices. (1) The head of each department of the executive branch shall appoint an existing attorney, paralegal, or other qualified person from that department to review each departmental rule proposal notice, adoption notice, or other notice relating to administrative rulemaking. Notice of the name of the person appointed under this subsection and of any successor must be given to the secretary of state and the appropriate administrative rule review committee within 10 days of the appointment.

(2) The person appointed under subsection (1) shall review each notice by any division, bureau, or other unit of the department, including units attached to the department for administrative purposes only under 2-15-121, for compliance with this chapter before the notice is filed with the secretary of state. The reviewer shall pay particular attention to 2-4-302 and 2-4-305. The review must include but is not limited to consideration of:

(a) the adequacy of the statement of reasonable necessity for the intended action and whether the intended action is reasonably necessary to effectuate the purpose of the code section or sections implemented;

(b) whether the proper statutory authority for the rule is cited;

(c) whether the citation of the code section or sections implemented is correct; ~~and~~

(d) whether the intended action is contrary to the code section or sections implemented or to other law; *and*

(e) *for a rule that initially implements legislation, whether the intended action is contrary to any comments submitted to the department by the primary sponsor of the legislation for the purposes of 2-4-302.*

(3) The person appointed under subsection (1) shall sign each notice for which this section requires a review. The act of signing is an affirmation that the review required by this section has been performed to the best of the reviewer’s ability. The secretary of state may not accept for filing a notice that does not have the signature required by this section.”

Section 2. Section 2-4-302, MCA, is amended to read:

“2-4-302. Notice, hearing, and submission of views. (1) (a) Prior to the adoption, amendment, or repeal of any rule, the agency shall give written notice of its proposed action. The proposal notice must include a statement of either the terms or substance of the intended action or a description of the subjects and issues involved, the reasonable necessity for the proposed action, and the time when, place where, and manner in which interested persons may present their views on the proposed action. The reasonable necessity must be written in plain, easily understood language.

(b) The agency shall state in the proposal notice the date on which and the manner in which ~~notification was given to~~ *contact was made with* the primary sponsor as required in subsection (2)(d). If the notification to the primary sponsor was given by mail, the date stated in the proposal notice must be the date on which the notification was mailed by the agency. If the proposal notice

fails to state the date on which and the manner in which the primary sponsor was ~~notified~~ *contacted*, the filing of the proposal notice under subsection (2)(a) is ineffective for the purposes of this part and for the purposes of the law that the agency cites in the proposal notice as the authority for the proposed action.

(c) If the agency proposes to adopt, increase, or decrease a monetary amount that a person shall pay or will receive, such as a fee, cost, or benefit, the notice must include an estimate, if known, of:

(i) the cumulative amount for all persons of the proposed increase, decrease, or new amount; and

(ii) the number of persons affected.

(2) (a) The proposal notice must be filed with the secretary of state for publication in the register, as provided in 2-4-312. Within 3 days of publication, a copy of the published proposal notice must be sent to interested persons who have made timely requests to the agency to be informed of its rulemaking proceedings, and to the office of any professional, trade, or industrial society or organization or member of those entities who has filed a request with the appropriate administrative rule review committee when the request has been forwarded to the agency as provided in subsection (2)(b). Each agency shall create and maintain a list of interested persons and the subject or subjects in which each person on the list is interested. A person who submits a written comment or attends a hearing in regard to proposed agency action under this part must be informed of the list by the agency. An agency complies with this subsection if it includes in the proposal notice an advisement explaining how persons may be placed on the list of interested persons and if it complies with subsection (7).

(b) The appropriate administrative rule review committee shall forward a list of all organizations or persons who have submitted a request to be informed of agency actions to the agencies that the committee oversees that publish rulemaking notices in the register. The list must be amended by the agency upon request of any person requesting to be added to or deleted from the list.

(c) The proposal notice required by subsection (1) must be published at least 30 days in advance of the agency's proposed action. The agency shall post the proposal notice on a state electronic access system or other electronic communications system available to the public.

(d) (i) When an agency begins to work on the substantive content and the wording of a proposal notice for a rule that initially implements legislation, the agency shall ~~notify~~ *contact, as provided in subsection (8)*, the legislator who was the primary sponsor of the legislation to:

(A) *obtain the legislator's comments;*

(B) *inform the legislator of the known dates by which each step of the rulemaking process must be completed; and*

(C) *provide the legislator with information about the time periods during which the legislator may comment on the proposed rules, including the opportunity to provide comment to the appropriate administrative rule review committee.*

(ii) If the legislation affected more than one program, ~~notice must be given to~~ the primary sponsor *must be contacted* pursuant to this subsection (2)(d) each time that a rule is being proposed to initially implement the legislation for a program.

(ii)(iii) Within 3 days after a proposal notice covered under subsection (2)(d)(i) has been published as required in subsection (2)(a), a copy of the published notice must be sent to the primary sponsor ~~notified~~ *contacted* under *this* subsection (2)(d)(i).

(3) If a statute provides for a method of publication different from that provided in subsection (2), the affected agency shall comply with the statute in addition to the requirements contained in this section. However, the notice period may not be less than 30 days or more than 6 months.

(4) Prior to the adoption, amendment, or repeal of any rule, the agency shall afford interested persons at least 20 days' notice of a hearing and at least 28 days from the day of the original notice to submit data, views, or arguments, orally or in writing. If an amended or supplemental notice is filed, additional time may be allowed for oral or written submissions. In the case of substantive rules, the notice of proposed rulemaking must state that opportunity for oral hearing must be granted if requested by either 10% or 25, whichever is less, of the persons who will be directly affected by the proposed rule, by a governmental subdivision or agency, by the appropriate administrative rule review committee, or by an association having not less than 25 members who will be directly affected. If the proposed rulemaking involves matters of significant interest to the public, the agency shall schedule an oral hearing.

(5) An agency may continue a hearing date for cause. In the discretion of the agency, contested case procedures need not be followed in hearings held pursuant to this section. If a hearing is otherwise required by statute, nothing in this section alters that requirement.

(6) If an agency fails to publish a notice of adoption within the time required by 2-4-305(7) and the agency again proposes the same rule for adoption, amendment, or repeal, the proposal must be considered a new proposal for purposes of compliance with this chapter.

(7) At the commencement of a hearing on the intended action, the person designated by the agency to preside at the hearing shall:

(a) read aloud the "Notice of Function of Administrative Rule Review Committee" appearing in the register; and

(b) inform the persons at the hearing of the provisions of subsection (2)(a) and provide them an opportunity to place their names on the list.

(8) (a) For purposes of ~~notifying~~ *contacting* primary sponsors under subsections (2)(a) and (2)(d) ~~who are no longer members of the legislature~~, a *current* or former legislator who wishes to receive notice ~~may~~ *shall* keep the *current* or former legislator's name, address, e-mail address, and telephone number on file with the secretary of state. *The secretary of state shall update the contact information whenever the secretary of state receives corrected information from the legislator.* An agency proposing rules shall consult the register when providing sponsor ~~notice~~ *contact*.

(b) *An agency has complied with the primary bill sponsor contact requirements of this section when the agency has attempted to reach the primary bill sponsor at the legislator's address, e-mail address, and telephone number on file with the secretary of state pursuant to subsection (8)(a).*"

Section 3. Section 2-4-305, MCA, is amended to read:

"2-4-305. Requisites for validity — authority and statement of reasons. (1) (a) The agency shall fully consider written and oral submissions respecting the proposed rule, *including comments submitted by the primary*

sponsor of the legislation prior to the drafting of the substantive content and wording of a proposed rule that initially implements legislation.

(b) (i) Upon adoption of a rule, an agency shall issue a concise statement of the principal reasons for and against its adoption, incorporating in the statement the reasons for overruling the considerations urged against its adoption. If substantial differences exist between the rule as proposed and as adopted and the differences have not been described or set forth in the adopted rule as that rule is printed in the register, the differences must be described in the statement of reasons for and against agency action. When written or oral submissions have not been received, an agency may omit the statement of reasons.

(ii) *If an adopted rule that initially implements legislation does not reflect the comments submitted by the primary sponsor, the agency shall provide a statement explaining why the sponsor's comments were not incorporated into the adopted rule.*

(2) Rules may not unnecessarily repeat statutory language. Whenever it is necessary to refer to statutory language in order to convey the meaning of a rule interpreting the language, the reference must clearly indicate the portion of the language that is statutory and the portion that is an amplification of the language.

(3) Each proposed and adopted rule must include a citation to the specific grant of rulemaking authority pursuant to which the rule or any part of the rule is adopted. In addition, each proposed and adopted rule must include a citation to the specific section or sections in the Montana Code Annotated that the rule purports to implement. A substantive rule may not be proposed or adopted unless:

(a) a statute granting the agency authority to adopt rules clearly and specifically lists the subject matter of the rule as a subject upon which the agency shall or may adopt rules; or

(b) the rule implements and relates to a subject matter or an agency function that is clearly and specifically included in a statute to which the grant of rulemaking authority extends.

(4) Each rule that is proposed and adopted by an agency and that implements a policy of a governing board or commission must include a citation to and description of the policy implemented. Each agency rule implementing a policy and the policy itself must be based on legal authority and otherwise comply with the requisites for validity of rules established by this chapter.

(5) To be effective, each substantive rule adopted must be within the scope of authority conferred and in accordance with standards prescribed by other provisions of law.

(6) Whenever by the express or implied terms of any statute a state agency has authority to adopt rules to implement, interpret, make specific, or otherwise carry out the provisions of the statute, an adoption, amendment, or repeal of a rule is not valid or effective unless it is:

(a) consistent and not in conflict with the statute; and

(b) reasonably necessary to effectuate the purpose of the statute. A statute mandating that the agency adopt rules establishes the necessity for rules but does not, standing alone, constitute reasonable necessity for a rule. The agency shall also address the reasonableness component of the reasonable necessity requirement by, as indicated in 2-4-302(1) and subsection (1) of this section,

stating the principal reasons and the rationale for its intended action and for the particular approach that it takes in complying with the mandate to adopt rules. Subject to the provisions of subsection (8), reasonable necessity must be clearly and thoroughly demonstrated for each adoption, amendment, or repeal of a rule in the agency's notice of proposed rulemaking and in the written and oral data, views, comments, or testimony submitted by the public or the agency and considered by the agency. A statement that merely explains what the rule provides is not a statement of the reasonable necessity for the rule.

(7) A rule is not valid unless notice of it is given and it is adopted in substantial compliance with 2-4-302, 2-4-303, or 2-4-306 and this section and unless notice of adoption of the rule is published within 6 months of the publishing of notice of the proposed rule. If an amended or supplemental notice of either proposed or final rulemaking, or both, is published concerning the same rule, the 6-month limit must be determined with reference to the latest notice in all cases.

(8) An agency may use an amended proposal notice or the adoption notice to correct deficiencies in citations of authority for rules and in citations of sections implemented by rules. An agency may use an amended proposal notice but, except for clerical corrections, may not use the adoption notice to correct deficiencies in a statement of reasonable necessity.

(9) If a majority of the members of the appropriate administrative rule review committee notify the committee presiding officer that those members object to a notice of proposed rulemaking, the committee shall notify the agency in writing that the committee objects to the proposal notice and will address the objections at the next committee meeting. Following notice by the committee to the agency, the proposal notice may not be adopted until publication of the last issue of the register that is published before expiration of the 6-month period during which the adoption notice must be published, unless prior to that time, the committee meets and does not make the same objection. A copy of the committee's notification to the agency must be included in the committee's records."

Section 4. Section 2-4-312, MCA, is amended to read:

"2-4-312. Publication and arrangement of register. (1) The secretary of state shall publish in the register all notices, rules, and interpretations filed with the secretary of state at least once a month but not more often than twice a month.

(2) The secretary of state shall send the register without charge to each person listed in 2-4-313(1) and to each member of the legislature requesting the register. The secretary of state shall send the register to any other person who pays a subscription fee, which must be established and deposited in accordance with 2-15-405. The register must be sent in electronic format unless a hard copy is requested.

(3) The register must contain three sections, *including* a rules section, a notice section, and an interpretation section, as follows:

(a) The rules section of the register must contain all rules filed since the compilation and publication of the preceding issue of the register, together with the ~~concise statement of reasons~~ *statements* required under 2-4-305(1).

(b) The notice section of the register must contain all rulemaking notices filed with the secretary of state pursuant to 2-4-302 since the compilation and publication of the preceding register.

(c) The interpretation section of the register must contain all opinions of the attorney general and all declaratory rulings of agencies issued since the publication of the preceding register.

(4) Each issue of the register must contain the issue number and date of the register and a table of contents. Each page of the register must contain the issue number and date of the register of which it is a part. The secretary of state may include with the register information to help the user in relating the register to the ARM.”

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

Approved March 21, 2009

CHAPTER NO. 22

[SB 116]

AN ACT CLARIFYING THE DISTRIBUTION OF THE AVIATION FUEL TAX; AMENDING SECTIONS 15-70-221 AND 67-1-301, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-70-221, MCA, is amended to read:

“15-70-221. Refund or credit authorized. (1) A person who purchases and uses any gasoline on which the Montana gasoline license tax has been paid for denaturing ethanol to be used in ethanol-blended gasoline, for operating stationary gasoline engines used off the public highways and streets, or for any commercial use other than operating vehicles upon any of the public highways or streets of this state is allowed a refund of the amount of tax paid directly or indirectly on the gasoline. The refund may not exceed the tax paid or to be paid to the state. Except as provided in subsection (5), a refund is not allowed for the tax per gallon upon aviation fuel allocated to the department of transportation by 67-1-301.

(2) A distributor who pays the gasoline license tax to this state erroneously is allowed a credit or refund of the amount of tax paid erroneously.

(3) (a) A distributor is entitled to a credit for the tax paid to the department on those sales of gasoline with a tax liability of \$200 or greater for which the distributor has not received consideration from or on behalf of the purchaser and for which the distributor has not forgiven any liability. The distributor may not have declared the accounts of the purchaser worthless more than once during a 3-year period, and the distributor must have claimed those accounts as bad debts for federal or state income tax purposes.

(b) If a credit has been granted under this subsection (3), any amount collected on the accounts that were declared worthless must be reported to the department and the tax due must be prorated on the collected amount and must be paid to the department.

(c) The department may require a distributor to submit periodic reports listing accounts that are delinquent for 90 days or more.

(4) A person who purchases and exports for sale, use, or consumption outside Montana gasoline on which the Montana gasoline tax has been paid is entitled to a credit or refund of the amount of tax paid unless the person is not licensed and is not paying the tax to the state the fuel is destined for. The credit or refund must be made upon completion of the information reports required under

15-70-209 and presentation to the department of proof of delivery outside Montana as it may by rule require.

(5) A scheduled passenger air carrier certified under 14 CFR, part 121 or 135, may claim a refund of 2 cents on each gallon of aviation fuel purchased by the carrier on which the Montana gasoline license tax has been paid. *The refund must be paid from the account established in 67-1-301(3)(a)(ii).*”

Section 2. Section 67-1-301, MCA, is amended to read:

“67-1-301. Money — receipt and disbursement. (1) All costs and expenses of administering this title, including the salaries of employees of the department engaged in functions pertaining to aeronautics, the expenses of members of the board, and all other disbursements necessary to carry out the purposes of this title, must be paid out of the following revenue:

(a) all gifts and all legislative appropriations to the department for aeronautics;

(b) all money received from any branch or department of the federal government or from other sources for the purposes ~~mentioned in~~ of this title or for the furtherance of aeronautics generally in this state.

(2) All money collected under subsection (1) must be deposited in the state treasury to the credit of the department.

(3) (a) ~~The~~ *Except as provided in subsection (5), the* following amounts must be deposited from the proceeds of the 4-cent-a-gallon tax imposed on aviation fuel by 15-70-204(1)(a):

(i) in the state special revenue fund to the credit of the department, an amount equal to the proceeds of 2 cents a gallon collected under 15-70-204(1)(a) for the sole purpose of carrying out its functions pertaining to aeronautics; and

(ii) in a separate account in the state special revenue fund to the credit of the department;

~~(A) an amount equal to the proceeds of 2 cents a gallon to provide refunds pursuant to 15-70-221(5), to provide grants to municipalities for airport development or improvement programs, and to provide navigational aids, safety improvements, weather reporting services, and other aeronautical services for airports and landing fields and for the state’s airways; and~~

~~(B) 25% of the amount collected from scheduled passenger air carriers certified under 14 CFR, part 121 or 135.~~

(b) Money deposited in the account created in 67-1-306 may, with the approval of the board, be used only to provide loans to local governments and state agencies for aeronautical purposes, including airport improvement. The board shall establish procedures, including the interest rate charged, for providing loans. Proceeds of all repayments of loans, including interest, made under this subsection (3)(b) must be deposited in the account created in 67-1-306.

(c) Money deposited in the separate account established in subsection (3)(a)(ii) may, *after refunds are provided pursuant to 15-70-221(5) and* with the approval of the board, be used only to provide grants to municipalities for airport development or improvement programs and to provide navigational aids, safety improvements, weather reporting services, and other aeronautical services for airports and landing fields and for the state’s airways. The board shall establish procedures for the awarding of grants.

(4) Except as provided in 15-70-221, the gasoline license tax imposed by the laws of this state on aviation fuel purchased and used for the operation of airplanes or aircraft may not be refunded.

(5) Of the amount of aviation fuel tax collected from the scheduled passenger air carriers certified under 14 CFR, part 121 or 135, 25% must be deposited in ~~the~~ *an account separate from the* account ~~provided for~~ *established* in subsection (3)(a)(ii) to be used only for pavement preservation grants, with the approval of the board, on airports served by these air carriers.”

Section 3. Effective date. [This act] is effective July 1, 2009.

Section 4. Applicability. [This act] applies to taxes imposed on aviation fuel after June 30, 2009.

Approved March 17, 2009

CHAPTER NO. 23

[SB 130]

AN ACT REPEALING THE REQUIREMENT FOR A TRANSPORTATION PERMIT FOR THE ENTRY OF LIVESTOCK INTO MONTANA; REPEALING SECTION 81-3-214, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Repealer. Section 81-3-214, MCA, is repealed.

Section 2. Effective date. [This act] is effective on passage and approval.

Approved March 17, 2009

CHAPTER NO. 24

[SB 181]

AN ACT REQUIRING INFORMATION AGENTS TO REPORT PROCEEDS FROM CERTAIN REAL ESTATE TRANSACTIONS; AMENDING SECTION 15-30-301, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-30-301, MCA, is amended to read:

“15-30-301. Information agents’ duties. (1) ~~Every~~ *Each* information agent shall make a return to the department of complete information concerning the following distributions made for any individual during the ~~taxable~~ *tax* year upon which ~~no~~ withholding tax has *not* been deducted:

(a) sums in excess of \$10 distributed as dividends, interest as defined in section 6049 of the Internal Revenue Code, 26 U.S.C. 6049, royalties, and payments made under a retirement plan covering an owner-employee as defined in section 401(c)(3) of the Internal Revenue Code, 26 U.S.C. 401(c)(3);

(b) all interest income in excess of \$10 from obligations of another state and a county, municipality, district, or other political subdivision of that state;

(c) interest, other than that specified in subsections (1)(a) and (1)(b), rents, salaries, wages, prizes, awards, annuities, pensions, and other fixed or

determinable gains, profits, and income in excess of \$600, except interest coupons payable to the bearer; and

(d) *proceeds from real estate transactions that are required to be reported under rules or regulations of the United States department of the treasury.*

(2) The return must be made under the ~~regulations~~ *rules adopted by the department* and in the form and manner prescribed by the department. For ease of reporting, the form must be as nearly identical to the comparable federal form as possible.”

Section 2. Effective date. [This act] is effective on passage and approval.

Approved March 17, 2009

CHAPTER NO. 25

[HB 76]

AN ACT REVISING UNEMPLOYMENT INSURANCE BENEFIT LAWS; CLARIFYING THE DEFINITION OF “BENEFIT YEAR”; UPDATING LAWS ON TRANSFER OF DUTIES FROM THE DEPARTMENT OF REVENUE TO THE DEPARTMENT OF LABOR AND INDUSTRY; CLARIFYING THE USE AND PROCEDURES FOR MONEY CREDITED TO THE UNEMPLOYMENT TRUST FUND BY THE SECRETARY OF THE TREASURY OF THE UNITED STATES; AUTHORIZING THE DEPARTMENT TO CHARGE FOR PROVIDING INFORMATION TO THE RAILROAD RETIREMENT BOARD; REVISING THE PROVISIONS RELATING TO RECIPROCAL BENEFIT ARRANGEMENTS WITH OTHER STATES AND THE FEDERAL GOVERNMENT; DISTINGUISHING BETWEEN THE DEFINITIONS OF “FEDERAL FISCAL YEAR” AND “STATE FISCAL YEAR”; REVISING THE COMPUTATION OF PAYMENTS IN LIEU OF CONTRIBUTIONS; MODIFYING THE CALCULATION TO DETERMINE THE MINIMUM WEEKLY BENEFIT AMOUNT; REVISING CRITERIA FOR DISQUALIFICATION FOR BENEFITS BASED UPON FAILURE TO APPLY FOR OR ACCEPT SUITABLE WORK; REVISING CRITERIA FOR PROMPT PAYMENT OF CLAIMS; REVISING PROVISIONS RELATING TO FALSE STATEMENTS AND MISREPRESENTATIONS; AMENDING SECTIONS 39-51-201, 39-51-301, 39-51-310, 39-51-404, 39-51-406, 39-51-407, 39-51-408, 39-51-503, 39-51-504, 39-51-602, 39-51-1105, 39-51-1121, 39-51-1125, 39-51-1212, 39-51-1213, 39-51-1302, 39-51-2201, 39-51-2304, 39-51-2306, 39-51-2401, 39-51-2405, 39-51-2408, AND 39-51-3204, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 39-51-201, MCA, is amended to read:

“39-51-201. General definitions. As used in this chapter, unless the context clearly requires otherwise, the following definitions apply:

(1) “Annual payroll” means the total amount of wages paid by an employer, regardless of the time of payment, for employment during a calendar year.

(2) “Base period” means the first 4 of the last 5 completed calendar quarters immediately preceding the first day of an individual’s benefit year. However, in the case of a combined-wage claim pursuant to the arrangement approved by the secretary of labor of the United States, the base period is the period applicable under the unemployment law of the paying state. For an individual who fails to meet the qualifications of 39-51-2105 or a similar statute of another

state because of a temporary total disability, as defined in 39-71-116, or a similar statute of another state or the United States, the base period means the first 4 quarters of the last 5 completed calendar quarters preceding the disability if a claim for unemployment benefits is filed within 24 months of the date on which the individual's disability was incurred.

(3) "Benefit year", ~~with respect to any individual~~, means the 52-consecutive-week period beginning with the first day of the calendar week in which ~~the~~ *an* individual files a valid claim for benefits, except that the benefit year is 53 weeks if filing a new valid claim would result in overlapping any quarter of the base year *period* of a previously filed new claim. A subsequent benefit year may not be established *in Montana* until the expiration of the current benefit year. However, in the case of a combined-wage claim pursuant to the arrangement approved by the secretary of labor of the United States, the ~~base period~~ *benefit year* is the period applicable under the unemployment law of the paying state.

(4) "Benefits" means the money payments payable to an individual, as provided in this chapter, with respect to the individual's unemployment.

(5) "Board" means the board of labor appeals provided for in Title 2, chapter 15, part 17.

(6) "Calendar quarter" means the period of 3 consecutive calendar months ending on March 31, June 30, September 30, or December 31.

(7) "Contributions" means the money payments to the state unemployment insurance fund required by this chapter but does not include assessments under 39-51-404.

(8) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

(9) (a) "Domestic or household service" means employment of persons other than members of the household for the purpose of tending to the aid and comfort of the employer or members of the employer's family, including but not limited to housecleaning and yard work.

(b) The term does not include employment beyond the scope of normal household or domestic duties, such as home health care or domiciliary care.

(10) "Employing unit" means any individual or organization, including the state government and any of its political subdivisions or instrumentalities or an Indian tribe or tribal unit, partnership, association, trust, estate, joint-stock company, insurance company, limited liability company or limited liability partnership that has filed with the secretary of state, or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or the trustee's successor, or legal representative of a deceased person in whose employ one or more individuals perform or performed services within this state, except as provided under 39-51-204(1)(a) and (1)(q). All individuals performing services within this state for any employing unit that maintains two or more separate establishments within this state are considered to be employed by a single employing unit for all the purposes of this chapter. Each individual employed to perform or assist in performing the work of any agent or employee of an employing unit is considered to be employed by the employing unit for the purposes of this chapter, whether the individual was hired or paid directly by the employing unit or by the agent or employee, provided that the employing unit has actual or constructive knowledge of the work.

(11) "Employment office" means a free public employment office or branch of an office operated by this state or maintained as a part of a state-controlled system of public employment offices or other free public employment offices operated and maintained by the United States government or its instrumentalities as the department may approve.

(12) "Fund" means the unemployment insurance fund established by this chapter to which all contributions and payments in lieu of contributions must be paid and from which all benefits provided under this chapter must be paid.

(13) "Gross misconduct" means a criminal act, other than a violation of a motor vehicle traffic law, for which an individual has been convicted in a criminal court or has admitted or conduct that demonstrates a flagrant or wanton disregard of and for the rights, title, or interest of a fellow employee or the employer.

(14) "Hospital" means an institution that has been licensed, certified, or approved by the state as a hospital.

(15) "Independent contractor" means an individual working under an independent contractor exemption certificate provided for in 39-71-417.

(16) "Indian tribe" means an Indian tribe as defined in the Indian Self-Determination and Education Assistance Act, 25 U.S.C. 450b(e).

(17) (a) "Institution of higher education", for the purposes of this part, means an educational institution that:

(i) admits as regular students only individuals having a certificate of graduation from a high school or the recognized equivalent of a certificate;

(ii) is legally authorized in this state to provide a program of education beyond high school;

(iii) provides an educational program for which the institution awards a bachelor's or higher degree or provides a program that is acceptable for full credit toward a bachelor's or higher degree, a program of postgraduate or postdoctoral studies, or a program of training to prepare students for gainful employment in a recognized occupation; and

(iv) is a public or other nonprofit institution.

(b) All universities in this state are institutions of higher education for purposes of this part.

(18) "Licensed and practicing health care provider" means a health care provider who is primarily responsible for the treatment of a person seeking unemployment insurance benefits and who is:

(a) licensed to practice in this state as:

(i) a physician under Title 37, chapter 3;

(ii) a dentist under Title 37, chapter 4;

(iii) an advanced practice registered nurse under Title 37, chapter 8, and recognized as a nurse practitioner or certified nurse specialist by the board of nursing, established in 2-15-1734;

(iv) a physical therapist under Title 37, chapter 11;

(v) a chiropractor under Title 37, chapter 12;

(vi) a clinical psychologist under Title 37, chapter 17; or

(vii) a physician assistant under Title 37, chapter 20; or

(b) with respect to a person seeking unemployment insurance benefits who resides outside of this state, a health care provider licensed or certified as a member of one of the professions listed in subsection (18)(a) in the jurisdiction where the person seeking the benefit lives.

(19) "No-additional-cost service" has the meaning provided in section 132 of the Internal Revenue Code, 26 U.S.C. 132.

(20) "State" includes, in addition to the states of the United States of America, the District of Columbia, Puerto Rico, the Virgin Islands, and Canada.

(21) "Taxes" means contributions and assessments required under this chapter but does not include penalties or interest for past-due or unpaid contributions or assessments.

(22) "Tribal unit" means an Indian tribe and any tribal subdivision or subsidiary or any business enterprise that is wholly owned by that tribe.

(23) "Unemployment insurance administration fund" means the unemployment insurance administration fund established by this chapter from which administrative expenses under this chapter must be paid.

(24) (a) "Wages", unless specifically exempted under subsection (24)(b), means all remuneration payable for personal services, including the cash value of all remuneration paid in any medium other than cash. The reasonable cash value of remuneration payable in any medium other than cash must be estimated and determined pursuant to rules prescribed by the department. The term includes but is not limited to:

(i) commissions, bonuses, and remuneration paid for overtime work, holidays, vacations, and sickness periods;

(ii) severance or continuation pay, backpay, and any similar pay made for or in regard to previous service by the employee for the employer, other than retirement or pension benefits from a qualified plan; and

(iii) tips or other gratuities received by the employee, to the extent that the tips or gratuities are documented by the employee to the employer for tax purposes.

(b) The term does not include:

(i) the amount of any payment made by the employer for employees, if the payment was made for:

(A) retirement or pension pursuant to a qualified plan as defined under the provisions of the Internal Revenue Code;

(B) sickness or accident disability under a workers' compensation policy;

(C) medical or hospitalization expenses in connection with sickness or accident disability, including health insurance for the employee or the employee's immediate family; or

(D) death, including life insurance for the employee or the employee's immediate family;

(ii) employee expense reimbursements or allowances for meals, lodging, travel, subsistence, or other expenses, as set forth in department rules;

(iii) a no-additional-cost service; or

(iv) wage subsidies received pursuant to the alternative trade adjustment assistance for older workers program, 19 U.S.C. 2318.

(25) "Week" means a period of 7 consecutive calendar days ending at midnight on Saturday.

(26) "Weekly benefit amount" means the amount of benefits that an individual would be entitled to receive for 1 week of total unemployment."

Section 2. Section 39-51-301, MCA, is amended to read:

"39-51-301. Administration — duties and powers of department — emergency provisions. (1) It is the duty of the department to administer this chapter. The department may adopt, amend, or rescind rules to employ persons, make expenditures, require reports, make investigations, and take action that it considers necessary or suitable in administering this chapter.

(2) The department shall determine its own organization and methods of procedure in accordance with the provisions of this chapter and must have an official seal, which is judicially noticed.

(3) Whenever the department believes that a change in contribution or benefit rates is necessary to protect the solvency of the fund, it shall promptly inform the governor and the legislature and make recommendations with respect to the change.

(4) The department and the board may issue subpoenas and compel testimony and the production of evidence, including books and records, in regard to any investigation or proceeding under this chapter.

(5) (a) In the aftermath of a disaster, as defined in 10-3-103, the department may waive, suspend, or modify its rules concerning the filing of a claim for benefits, filing continued claims, registration for work, or work search if all of the following conditions are met:

(i) the president of the United States declares a disaster pursuant to 42 U.S.C. 5170, et seq.; and

(ii) the governor issues an executive order directing the department to waive, suspend, or modify rules relating to claims.

(b) In a disaster declared under subsection (5)(a), the department may waive, suspend, or modify its rules relating to claims in portions of the state named by the department as appropriate to address the nature of the disaster and the purposes of unemployment insurance laws.

~~(6) — Employees transferring from the department of revenue to the department as a result of the termination of the delegation of duties associated with unemployment insurance contribution functions are entitled to all rights, including those under 2-15-131, possessed as a state officer or employee before transferring, including rights under any law or administrative policy including the State Employee Protection Act. Employees transferring must be considered internal applicants by the department of revenue for recruitment purposes for 1 year from the date of the termination of the delegation of duties associated with unemployment insurance contribution functions.~~

~~(7) — The department shall succeed the department of revenue in its rights to property relating to the termination of the delegation of duties associated with unemployment insurance contribution functions to the extent that is consistent with federal property transfer policy. The property includes real property, records, office equipment, forms, supplies, and contracts other than the program budget plan with the United States department of labor.~~

~~(8) (a) The termination of the delegation of duties associated with unemployment insurance contribution functions does not affect the validity of any pending judicial or administrative proceeding.~~

~~(b) All appeals that have not been heard prior to the termination of the delegation of duties associated with unemployment insurance contribution functions must be made in accordance with the procedures identified in 39-51-1109.~~

~~(c) The department must be substituted for the department of revenue and succeed to all audits, determinations, and other actions following the date of the termination of the delegation of duties associated with unemployment insurance contribution functions.~~

~~(9) The rights, privileges, and duties of the holders of bonds and other obligations issued and of the parties to contracts, leases, indentures, and other transactions entered into before the termination of the delegation of duties associated with unemployment insurance contribution functions remain in effect, and none of those rights, privileges, duties, covenants, or agreements are impaired or diminished by reason of the delegation of duties. The department is substituted for the department of revenue and succeeds to the rights and duties under the provisions of those bonds, contracts, leases, indentures, and other transactions. The provisions of this subsection do not apply to the program budget plan agreement between the department and the United States department of labor.”~~

Section 3. Section 39-51-310, MCA, is amended to read:

“39-51-310. Function of board. The board shall act in a quasi-judicial capacity for the hearing of disputes concerning the administration of Montana’s unemployment insurance laws ~~concerning benefits.~~”

Section 4. Section 39-51-404, MCA, is amended to read:

“39-51-404. Administrative expenses *Special administrative funds.*

~~(1) Money credited to the account of this state in the unemployment trust fund by the secretary of the treasury of the United States pursuant to sections section 903 and 904 of the Social Security Act, 42 U.S.C. 1103 and 1104, as amended, may be used, pursuant to a specific appropriation by the legislature, for the payment of expenses incurred by the department for the administration of the unemployment insurance laws and public employment offices. The appropriation must specify the purposes of the appropriation and the amounts of the appropriation. requisitioned and used for the payment of expenses incurred for the administration of this chapter pursuant to a specific appropriation by the legislature if the expenses are incurred and the money is requisitioned after the enactment of an appropriation law that:~~

~~(a) specifies the purposes for which the money is appropriated and the amounts appropriated; and~~

~~(b) limits the amount that may be used during any 12-month period beginning on July 1 and ending on the next June 30 to an amount not exceeding the amount by which the aggregate of the amounts credited to the account of this state pursuant to sections 903 and 904 of the Social Security Act, 42 U.S.C. 1103 and 1104, as amended, during the same 12-month period and the 34 preceding 12-month periods exceeds the aggregate of the amounts used pursuant to this section and charged against the amounts credited to the account of this state during any of the 35 12-month periods.~~

~~(2) For the purposes of this section, amounts used during any 12-month period must be charged against equivalent amounts that were first credited and that are not already charged, except that an amount used for administration during any 12-month period may not be charged against any amount credited during a 12-month period earlier than the 34th preceding period. Money requisitioned for the payment of expenses of administration pursuant to this section must be deposited in the unemployment insurance administration account but, until expended, must remain a part of the unemployment insurance fund.~~

~~(3)(2) The department shall maintain a separate record of the deposit, obligation, expenditure, and return of funds deposited. If any money deposited is for any reason not to be expended for the purpose for which it was appropriated or if it remains unexpended at the end of the period specified by the law appropriating the money, it must be withdrawn and returned to the secretary of the treasury of the United States for credit to this state's account in the unemployment trust fund.~~

~~(4)(3) The following assessments must be levied against and paid by the indicated employers:~~

~~(a) beginning January 1, 2008:~~

~~(i)(a) 0.13% of all taxable wages paid by employers assigned a Rate Class 1, Schedules I and II, and Rate Class 2, Schedule I, contribution rate as provided in 39-51-1218;~~

~~(ii)(b) 0.18% of all taxable wages paid by employers assigned a contribution rate other than Rate Class 1, Schedules I and II, and Rate class 2, Schedule I, as provided in 39-51-1218;~~

~~(iii)(c) 0.18% of all taxable wages paid by employers assigned an industrial rate as provided in 39-51-1217;~~

~~(iv)(d) 0.08% of total wages paid by all employers as provided in 39-51-1124;~~

~~(b)(e) beginning July 1, 2008, 0.09% of total wages paid by all employers as provided in 39-51-1212.~~

~~(5)(4) All assessments and investment income must be deposited in the employment security account provided for in 39-51-409.~~

~~(6)(5) The following assessments and investment income from those assessments are designated to be used for the administration of the unemployment insurance program:~~

~~(a) 0.05% of all taxable wages paid by all employers as provided in 39-51-1218;~~

~~(b) 0.05% of all taxable wages paid by employers assigned an industry rate as provided in 39-51-1217;~~

~~(c) 0.03% of total wages paid by all employers as provided in 39-51-1124; and~~

~~(d) beginning July 1, 2008, 0.04% of total wages paid by all employers as provided in 39-51-1212.~~

~~(7)(6) If unemployment insurance funding sources exceed the needs of the unemployment insurance program, all or a portion of the excess may be appropriated and used for the purposes outlined in 39-51-409."~~

Section 5. Section 39-51-406, MCA, is amended to read:

"39-51-406. Unemployment insurance administration account. (1) There is an account in the federal special revenue fund to be known as the

unemployment insurance administration account. All money that is deposited, appropriated, or paid into this account is ~~appropriated and made~~ available for *appropriation* to the department. All money in the account must be expended solely for the purpose of defraying the costs of administration of this chapter and costs of administration of other legislation specifically delegated by the legislature to the department for administration of *unemployment insurance laws*.

(2) All money received and deposited in the account from the United States or any agency of the United States pursuant to section 302, ~~Title III~~, of the Social Security Act, 42 U.S.C. 502, must be expended solely for the purpose and in the amounts found necessary by the secretary of labor for the proper and efficient administration of this chapter.

(3) The account consists of:

(a) all money received from the United States or any agency of the United States pursuant to section 302, ~~Title III~~, of the Social Security Act, 42 U.S.C. 502, as amended; and

(b) all money, trust funds, supplies, facilities, or services furnished, deposited, paid, and received from the United States or any agency of the United States *that are designated for use in the administration of the unemployment insurance program*.

(4) Notwithstanding any provisions of this section, all money requisitioned and deposited in this account pursuant to 39-51-403 through 39-51-405 must remain part of the unemployment insurance fund and must be used only in accordance with the conditions specified in 39-51-403 through 39-51-405.

(5) All money in this account must be deposited, administered, and disbursed in the same manner and under the same conditions and requirements as is provided by law for other accounts. The balance in this account may not lapse at any time but must be continuously available to the department for expenditure consistent with this chapter.

(6) Any reference to the unemployment insurance administration fund in this code means the unemployment insurance administration account in the federal special revenue fund.”

Section 6. Section 39-51-407, MCA, is amended to read:

“39-51-407. Reimbursement of fund by state. ~~This state recognizes its obligation to replace and pledges the faith of this state that funds will be provided in the future and applied to the replacement of any of the money received from the United States or any agency of the United States under Title III of the Social Security Act (now Subchapter III), any unencumbered balances in the unemployment insurance administration account, any money granted to this state pursuant to the provisions of the Wagner-Peyser Act (29 U.S.C. 49, et seq.), and any money made available by the state or its political subdivisions and matched by money granted to this state pursuant to the provisions of the Wagner-Peyser Act that the secretary of labor finds have, *The state of Montana shall replace within a reasonable time any money received under section 302 of the Social Security Act, 42 U.S.C. 502, that, because of any action or contingency, has been lost or have has been expended for purposes other than or in amounts in excess of those found necessary by the secretary of labor of the United States for the proper administration of this chapter Montana’s unemployment insurance laws. The money must be promptly supplied by money furnished by the state of Montana or any of its subdivisions for the use of the department and used only for purposes approved by the secretary of labor. The*~~

department shall, if necessary, promptly report to the governor and the governor to the legislature, by a letter to the speaker of the house of representatives and the president of the senate, the amount required for replacement of the money.”

Section 7. Section 39-51-408, MCA, is amended to read:

“39-51-408. Advances from federal unemployment trust fund. (1) The department is authorized to apply for advances on behalf of the state of Montana from its account in the federal unemployment trust fund and to accept responsibility for repayment of ~~such~~ *any* advances in accordance with the conditions specified ~~by congress in section 1201 of the Social Security Act, 42 U.S.C. 1321.~~

(2) (a) The interest cost, if any, from ~~such~~ *the* advances must be assessed against employers subject to experience rating. Interest cost may not be assessed against state or local government employers covered by 39-51-1212 or against nonprofit organizations making payments in lieu of contributions pursuant to 39-51-1124.

(b) An assessment must be made beginning with the calendar year following the calendar year in which it became necessary to apply for an advance from the federal unemployment trust fund and after the interest charges on the advance have been determined. The rate ~~will~~ *must* be determined by the department based upon the interest charges. This rate must be applied to the employer’s taxable wages and be submitted in the same manner as regular contributions but as a separate payment.

(c) The amount received must be deposited in the unemployment insurance account and used to pay interest costs. Any surplus must be used to pay benefits. The department shall maintain separate records of deposits, obligations, and expenditures of all money collected pursuant to this section.”

Section 8. Section 39-51-503, MCA, is amended to read:

“39-51-503. Agreements with railroad retirement board. (1) The department is authorized to cooperate with and enter into agreements with the railroad retirement board with respect to establishment, maintenance, and use of employment service facilities. ~~and to~~

(2) ~~The department shall~~ make available to the railroad retirement board the records of the department relating to employer’s status and contributions received from employers covered by the Railroad Unemployment Insurance Act (45 U.S.C. 351, et seq.), together with employee wage records and other data that the railroad retirement board considers necessary or desirable for the administration of the Railroad Unemployment Insurance Act, 45 U.S.C. 351, et seq. ~~Any money received by the department from the railroad retirement board or any other governmental agency with respect to the establishment, maintenance, and use of employment service facilities must be paid into and credited to the proper division of the unemployment insurance administration fund set up and established under 39-51-406 and 39-51-407.~~

(3) ~~The department may charge reasonable fees commensurate with the costs of producing and providing information pursuant to this section. The department shall deposit the fees in the department’s state special revenue account.~~

Section 9. Section 39-51-504, MCA, is amended to read:

“39-51-504. Reciprocal benefit arrangements. (1) The department is hereby authorized to enter into *reciprocal benefit* arrangements with the appropriate agencies of other states, or the federal government, or both.

(2) (a) ~~whereby individuals~~ *Subject to subsection (2)(b), services performed by an individual performing services in this and other states for a single employing unit that are customarily performed in more than one state may be considered to be performed entirely within any one of the states in which:*

- (i) *any part of the services are performed;*
- (ii) *the individual maintains the individual's residence; or*
- (iii) *the employing unit maintains a place of business.*

(b) ~~An election made by the employing unit and approved by the department must be in place and must designate in which of the states described in subsection (2)(a) the services must be considered to have been performed. under circumstances not specifically provided for in this chapter or under similar provisions of the unemployment insurance laws of such other states shall be deemed to be engaged in employment performed entirely within this state or within one of such other states and whereby potential rights to benefits accumulated under the unemployment insurance laws of several states or under such a law of the federal government or both may constitute the basis for the payment of benefits through a single appropriate agency under terms which the department finds will be fair and reasonable as to all affected interests and will not result in any substantial loss to the fund.~~

(2)(3) The department shall participate in any arrangements, approved by the U.S. secretary of labor, *for the payment of benefits on the basis of combining an individual's wages and employment covered under this chapter with the individual's wages and employment covered by the unemployment laws of another state or the federal government provided that the arrangements contain provisions:*

(a) ~~for the application of the base period of a single state to a claim involving the combining of an individual's wages and employment covered by the laws of two or more states; with the appropriate agencies of the other states or of the federal government whereby wages or services upon the basis of which an individual may become entitled to benefits under the unemployment insurance law of another state or of the federal government shall be deemed to be wages for employment by employers for benefit purposes, provided that:~~

(a) ~~in any instance involving the combining of an individual's wages and employment covered under two or more state unemployment insurance laws, that the base period of a single state law will be used;~~

(b) ~~such that the combining of wages will not involve the duplicate use of such wage credits; and~~

(c) ~~such that the other state agency or agency of the federal government has agreed to reimburse the unemployment insurance fund for such the portion of benefits paid under this chapter upon the basis of such the wages or services as the department finds will be fair and reasonable as with regard to all affected interests, and whereby the department will reimburse other state or federal agencies charged with the administration of unemployment insurance laws with such reasonable portion of benefits paid under the law of any such other states or of the federal government upon the basis of employment or wages for employment by employers as the department finds will be fair and reasonable to all affected interests; and~~

(d) ~~Reimbursements so that the reimbursements~~ payable shall must be deemed considered to be benefits for the purposes of this chapter.

(4) *Wages or services for which an individual may become entitled to benefits under the unemployment insurance laws of another state or the federal government must be considered wages for employment for benefit purposes by employers.*

~~(3)~~(5) The department is hereby authorized to ~~make issue reimbursements to other state or federal agencies and to receive reimbursements from other state or federal agencies and to deposit or withdraw the reimbursements from or to the~~ unemployment insurance fund in accordance with arrangements made pursuant to this section.”

Section 10. Section 39-51-602, MCA, is amended to read:

“39-51-602. Method to be used by department in keeping wage records. Wage records kept by the department ~~for the purposes of this chapter~~ must be kept on the basis of wages paid., ~~except that for the~~ For purposes of determining benefit eligibility and the amount and duration of benefits payable, wages, including lump-sum payments of accrued wages, ~~must~~ may be assigned to periods of time as determined in accordance with rules adopted by the department.”

Section 11. Section 39-51-1105, MCA, is amended to read:

“39-51-1105. Liability for taxes, penalties, and interest owed. (1) The officer of a corporation whose responsibility it is to pay the taxes, penalties, and interest, as provided by 39-51-1103(1) and (2) and 39-51-1125(1) ~~and (2)~~, is liable for the taxes, penalties, and interest due.

(2) (a) The department shall consider the officer of the corporation individually liable with the corporation for filing reports and unpaid taxes, penalties, and interest upon a determination that the corporate officer:

(i) possessed the responsibility to file reports and pay taxes on behalf of the corporation; and

(ii) possessed the responsibility on behalf of the corporation to direct the filing of reports or payment of other corporate obligations and exercised the responsibility that resulted in failure to file reports or pay taxes due.

(b) The department is not limited to considering the elements set forth in subsection (2)(a) to establish individual liability and may consider any other available information.

(3) The liability imposed upon an individual by this section remains unaffected by the bankruptcy of a business entity to which a discharge cannot be granted under 11 U.S.C. 727. The individual is liable for the unpaid amount of taxes, penalties, and interest.

(4) In the case of a limited liability company treated as a partnership pursuant to 39-51-207, the liability for unemployment insurance taxes, penalties, and interest owed extends jointly and severally to each member.

(5) In the case of a limited liability company that is not treated as a partnership pursuant to 39-51-207, liability for unemployment insurance taxes, penalties, and interest owed extends jointly and severally to the managers of the limited liability company.”

Section 12. Section 39-51-1121, MCA, is amended to read:

“39-51-1121. Definitions. As used in part 12 and this part, the following definitions apply:

(1) "Computation date" means the *12-month* reporting period ending September 30 preceding the calendar year for which a covered employer's contribution rate is effective.

(2) "Cutoff date" means October 31 immediately following the computation date. The department may extend the cutoff date in meritorious cases.

(3) "Deficit employer" means an employer who is subject ~~under~~ to this chapter and who has established a record of accumulated benefits charged to the employer's account in excess of the employer's accumulated contributions paid as of the cutoff date.

(4) "Eligible employer" means an employer who has been subject ~~under~~ to this chapter for the 3 *federal* fiscal years immediately preceding the computation date and who has:

(a) established a record of accumulated contributions in excess of benefits charged to the employer's account; and

(b) paid wages in at least 1 of the 8 calendar quarters preceding the computation date.

(5) "~~Fiscal~~ *Federal fiscal year*" means the four consecutive calendar quarters ending on September 30.

(6) "Governmental entities" means the state or any political subdivision of the state or an instrumentality of the state or a political subdivision, including any employing unit funded directly by tax levies.

(7) "New employer" means an employer who:

(a) has not been subject to the provisions of this chapter for the 3 *federal* fiscal years immediately preceding the computation date; and

(b) has established a record of accumulated contributions in excess of benefits charged to the employer's account.

(8) "*State fiscal year*" means the four consecutive calendar quarters ending on June 30.

~~(8)~~(9) "Taxable wage base" means the amount of wages subject to contributions and to assessments under 39-51-404 for each calendar year. Payment of contributions and of assessments under 39-51-404 may apply only to wages paid up to and including the amount specified in 39-51-1108."

Section 13. Section 39-51-1125, MCA, is amended to read:

"39-51-1125. Computation of payments in lieu of contributions. (1) ~~After June 30, 1987, qualified employers~~ *Employers* electing to make payments in lieu of contributions ~~under 39-51-1103~~ shall pay into the fund an amount equivalent to the full amount of regular benefits plus the state's share of extended benefits paid to individuals based on wages paid by the employing unit. ~~After December 31, 1978, governmental~~ *Governmental* entities shall pay the full amount of extended benefits.

~~(2) If benefits paid an individual are based on wages paid by both the employer and one or more other employers, the amount payable by any one employer to the fund bears the same ratio to total benefits paid to the individual as the base period wages paid to the individual by such employer bear to the total amount of base period wages paid to the individual by all the individual's base period employers.~~

~~(3)~~(2) *If* ~~When~~ the base period wages of an individual include wages from more than one ~~such~~ employer, the amount to be paid into the fund with respect

to the benefits paid to the individual ~~shall~~ *must* be prorated among the liable employers in proportion to the wages paid to the individual by each ~~such~~ employer during the base period.

(4)(3) The amount of payment required from employers ~~shall~~ *must* be ascertained by the department monthly and becomes due and payable by the employer quarterly as directed in this chapter. Penalty and interest for delinquency ~~shall~~ *must* be assessed ~~such~~ *to* employers as specified in 39-51-1301.

(5)(4) A payment may not be required under this section with respect to benefits paid to an individual if the qualified employer continues to provide employment to the individual ~~with no~~ *without a* reduction in hours or wages.”

Section 14. Section 39-51-1212, MCA, is amended to read:

“39-51-1212. Experience rating for governmental entities. (1) ~~Governmental entities covered under this chapter shall make payments at the median rate.~~

(2)(1) The rates of governmental entities who have accumulated experience rating credits must be adjusted annually as follows with each governmental entity assigned a rate based upon:

(a) its benefit cost experience, to be arrived at by dividing the total sum of benefits charged to the employer’s account for all past periods that are completed transactions by December 31 by total wages from date of subjectivity of the employing unit through December 31; and

(b) the benefit cost for all past years of governmental entities electing to pay contributions compared with total payrolls reported for all past years by these governmental entities used as a median, with the rates ~~so~~ fixed using the median *so* that the rates will, when applied to the total annual payroll for subject governmental entities, yield total paid contributions equaling approximately the total benefit costs.

(3)(2) New governmental entities electing to pay contributions must be assigned the median rate for the year in which they become subject.

(4)(3) The minimum rate may not be less than 0.06% and the maximum rate may not be greater than 1.5%. The rates are to be graduated at one-tenth intervals.

(5)(4) If benefit charges exceed contributions paid in the last 2 completed *state* fiscal years, governmental entities’ rates must be adjusted by increasing all rates to the next higher schedule.

(6)(5) The computed rate is effective July 1 of each year.

(7)(6) Governmental entities must be charged for their share of the total benefits paid to a claimant if the governmental entity contributed wages during the claimant’s base period. The benefit charged must be based on the percentage of wages paid by the governmental entity as compared to the total wages paid by all employers in the claimant’s base period.

(8)(7) A payment may not be required under this section with respect to benefits paid to an individual if the governmental employer continues to provide employment to the individual ~~with no~~ *without a* reduction in hours or wages.”

Section 15. Section 39-51-1213, MCA, is amended to read:

“39-51-1213. Classification of employers for experience rating purposes. (1) The department shall for each calendar year classify employers in accordance with their actual experience in the payment of contributions and

with respect to benefits charged against their accounts, with contribution rates reflecting benefit experience. Each employer's rate for a calendar year must be determined on the basis of the employer's record as of October 1 of the preceding calendar year.

(2) In making the classification, each eligible and deficit employer's contribution rate is determined in the manner set forth below:

(a) Each employer is given an "experience factor", which is contributions paid since October 1, 1981, minus benefits charged on each employer's account since October 1, 1981, divided by the employer's average annual taxable payroll rounded to the next lower dollar amount for the 3 *federal* fiscal years immediately preceding the computation date. The computation of the "experience factor" must be to six decimal places.

(b) Schedules must be prepared listing all eligible and deficit employers in inverse numerical order of their experience factors. There must be listed on the schedules for each employer in addition to the experience factor:

(i) the amount of the employer's taxable payroll for the *federal* fiscal year ending on the computation date; and

(ii) the cumulative total consisting of the sum of the employer's taxable payroll for the *federal* fiscal year ending on the computation date and the corresponding taxable payrolls for all other employers preceding that employer on the schedules.

(3) The cumulative taxable payroll amounts listed on the schedules provided for in 39-51-1218 must be segregated into groups that will yield approximately the average tax rate according to the tax schedule assigned for that particular taxable year. Each group must be identified by the rate class number listed in the table that represents the percentage limits of each group. Each employer on the schedules is assigned that contribution rate opposite that employer's rate class for the tax schedule in effect for the taxable year.

(4) (a) If the grouping of rate classes requires the inclusion of exactly one-half of an employer's taxable payroll, the employer is assigned the lower of the two rates designated for the two classes in which the halves of that employer's taxable payroll are required.

(b) If the group of rate classes requires the inclusion of a portion other than exactly one-half of an employer's taxable payroll, the employer is assigned the rate designated for the class in which the greater part of that employer's taxable payroll is required.

(c) If one or more employers on the schedules have experience factors identical to that of the last employer included in a particular rate class, ~~all such~~ *those* employers are included in and assigned the contribution rate specified for the class, notwithstanding the provisions of 39-51-1214.

(5) If the taxable payroll amount, the experience factor, or both of any eligible or deficit employer listed on the schedules is changed, the employer is placed in that position on the schedules that the employer would have occupied had that employer's taxable payroll amount or experience factor as changed been used in determining that employer's position in the first instance. However, the change does not affect the position or rate classification of any other employer listed on the schedules and does not affect the rate determination for previous years.

(6) An employer who has not filed all required payroll reports or paid all taxes, penalties, and interest due by the cutoff date must be assigned a

contribution rate in effect for the taxable year for the employer's classification as an eligible, deficit, or new employer, plus an additional assessment of 50% of the employer's assigned contribution rate, rounded to the nearest 1/100 of 1%."

Section 16. Section 39-51-1302, MCA, is amended to read:

"39-51-1302. Summary or jeopardy assessment of unpaid taxes. (1) If ~~any~~ an employer fails to file a report or return as required under this chapter or the ~~regulations of rules adopted by~~ the department ~~adopted thereunder~~ within the time specified or if the employer's records are inaccurate or are incomplete when an employer has ~~already~~ filed a quarterly wage report for the period in question, the department may make a summary or jeopardy assessment of the amount due by ~~making up such estimating the~~ report and determining the amount of taxes due and owing to the fund upon the basis of ~~such any~~ information as ~~that~~ the department may be able to obtain, ~~and thereupon the same shall~~ *The tax must* be collected the same as other reports and taxes due, with penalty and interest as provided in this chapter.

(2) Upon making ~~such a~~ summary or jeopardy assessment, the department shall immediately notify the employer in writing by personal service or by certified mail ~~in the usual course at sent to the last known last-known mailing address or principal~~ place of business operated by the employer. ~~Such The~~ assessment ~~shall be~~ *is* final unless:

(a) the employer ~~shall protest such~~ *protests the* assessment in writing within 15 days after service of the notice; ~~or,~~

(b) ~~within the same period of time,~~ the employer ~~shall file files within 15 days after service of the notice~~ a correct, signed, and sworn report and statement as provided ~~for by the this~~ chapter and the ~~regulations rules~~ of the department; ~~or~~

(c) *the department has good cause to amend the summary or jeopardy assessment, in which case the department shall notify the employer in the manner provided for in this subsection (2).*

(3) Upon written protest being filed ~~by an employer, as above set forth,~~ a day certain for the hearing thereof shall be fixed by the department and notice thereof mailed to the employer. At such hearing, the facts ascertained by the department shall be conclusive and the department may upon the basis of such facts ascertained assess the amount due, modify, set aside, or revise the prior assessment and require the employer to pay the amount due with penalty and interest as provided for in this chapter. A copy of the decision of the department and the assessment of the amount due shall be mailed to the employer at his last known principal place of business and thereupon become final ~~the department may reconsider the summary or jeopardy assessment, and if the department redetermines the assessment, it shall notify the employer of its redetermination and the reasons for the redetermination. A summary or jeopardy assessment or redetermination by the department under this subsection is final unless the employer submits a written appeal within 10 days in the same manner as provided in 39-51-1109.~~

Section 17. Section 39-51-2201, MCA, is amended to read:

"39-51-2201. Weekly benefit amount — determination of average weekly wage. (1) An individual's weekly benefit amount must be an amount equal to 1% of the total base period wages or equal to 1.9% of the total wages paid in the 2 calendar quarters in which wages were the highest during the base period. The weekly benefit amount, if not a multiple of \$1, must be rounded to

the nearest lower full dollar amount. However, the amount may not be less than the minimum or more than the maximum weekly benefit amount.

(2) On or before May 31 of each year, the total wages paid by all employers as reported on contribution reports submitted on or before that date for the preceding calendar year must be divided by the average monthly number of individuals employed during the same preceding calendar year as reported on the contribution reports. The amount obtained is the average annual wage. The average annual wage divided by 52, rounded to the nearest cent, is the average weekly wage.

(3) The maximum and minimum weekly benefit amounts are computed in the following manner:

(a) (i) If the unemployment insurance contributions schedule provided for in 39-51-1218 is Schedule II or higher, the maximum weekly benefit amount is 66.5% of the average weekly wage and must be applied to all maximum weekly benefit amount claims for benefits filed to establish a benefit year commencing on or after July 1 of the same year.

(ii) The minimum weekly benefit amount must be 19% of the average weekly wage.

~~(iii) The minimum weekly benefit amount, if not a multiple of \$1, must be computed to the nearest lower full dollar amount.~~

(b) (i) If the unemployment insurance contributions schedule provided for in 39-51-1218 is Schedule I, the maximum weekly benefit amount is 67.5% of the average weekly wage and must be applied to all maximum weekly benefit amount claims for benefits filed to establish a benefit year commencing on or after July 1 of the same year.

(ii) The minimum weekly benefit amount must be 20% of the average weekly wage.

~~(iii) The minimum weekly benefit amount, if not a multiple of \$1, must be computed to the nearest lower full dollar amount."~~

Section 18. Section 39-51-2304, MCA, is amended to read:

"39-51-2304. Disqualification for failure to apply for or to accept suitable work. (1) (a) An individual is disqualified for benefits if the individual fails without good cause to:

(i) apply for available and suitable work when directed to do so by the employment office or the department; *or*

(ii) accept an offer from a former employer or a new employer of suitable work that the individual is physically able and mentally qualified to perform; ~~or~~

~~(iii) return to customary self-employment, if any, when directed to do so by the department.~~

(b) The disqualification continues for the week in which the failure occurs and until the individual has performed services for which remuneration is received equal to or in excess of six times that individual's weekly benefit amount subsequent to the week the act causing the disqualification occurred, with a reduction in the individual's maximum benefit amount equal to six times the weekly benefit amount, as determined by the department, ~~provided the individual has not left this work under disqualifying circumstances.~~ The services ~~must~~ constitute employment as defined in 39-51-203 ~~and 39-51-204.~~

(2) In determining whether or not any work is suitable for an individual, the department shall consider:

- (a) the degree of risk involved to the individual's health, safety, and morals;
- (b) the individual's physical fitness and prior training;
- (c) the individual's experience and previous earnings;
- (d) the individual's length of unemployment and prospects for securing local work in the customary occupation; and
- (e) the distance of the available work from the individual's residence.

(3) Notwithstanding any other provisions of this chapter, including subsection (4), work may not be considered suitable and benefits may not be denied under this chapter to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

- (a) if the position offered is vacant due directly to a strike, lockout, or other labor dispute;
- (b) if the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality;
- (c) if, as a condition of being employed, the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

(4) Subject to subsection (3), after 13 weeks of unemployment, suitable work is work that meets the criteria in this section and that offers 75% of the individual's earnings in previous insured work in the individual's customary occupation. ~~An~~ *However, an* individual, ~~however,~~ is not required to accept a job paying less than the federal minimum wage."

Section 19. Section 39-51-2306, MCA, is amended to read:

"39-51-2306. Disqualification because of receipt of certain other wages, compensation, or benefits. (1) An individual is disqualified for benefits for any week with respect to which the individual receives payment *for the week or part of the week* in the form of:

(a) compensation for disability under the workers' compensation law or the occupational disease law of this or any other state or under a similar law of the United States. However, when an injured claimant ceases to draw compensation benefits and returns to the labor market, the claimant is entitled to receive unemployment compensation benefits under this chapter if the claimant is otherwise qualified. Compensation received as a payment for a permanent partial disability may not be computed to be spread over a period of weeks in advance so as to bar the recipient from receiving unemployment compensation benefits under this chapter if the recipient has returned to the labor market and is otherwise qualified.

(b) benefits under the Railroad Unemployment Insurance Act, 45 U.S.C. 351, et seq., or any state unemployment compensation act or similar laws of any state or of the United States. This disqualification does not apply to any week with respect to which an individual receives benefits under an unemployment compensation law of another state or of the United States if the benefits are paid pursuant to 39-51-504.

(2) If an individual receives wages, compensation, or benefits as set forth in subsection (1) after payment of unemployment benefits with respect to the same week for which unemployment benefits were received, the individual shall repay the unemployment benefits, and the department may collect the

unemployment benefits in the same manner as provided for collection of benefits under 39-51-3206.”

Section 20. Section 39-51-2401, MCA, is amended to read:

“39-51-2401. Claims to be made in accordance with regulations — employers to post and make available copies of such regulations notice of coverage. Claims for benefits shall *must* be made in accordance with such regulations as *rules adopted by* the department ~~may prescribe~~. Each employer shall post and maintain printed statements of such regulations ~~the notice of coverage that is prepared and distributed by the department~~ in places readily accessible to individuals in ~~his~~ *the employer’s* service and shall make available to each such individual at the time he becomes unemployed a printed statement of such regulations. Such printed statements shall ~~shall~~ *The notice of coverage must be* supplied by the department to each employer without cost to ~~him~~ *the employer.*”

Section 21. Section 39-51-2405, MCA, is amended to read:

“39-51-2405. Prompt payment of claims. (1) ~~Notwithstanding any provision in 39-51-2402 or 39-51-2404,~~ benefits shall *Benefits must* be paid promptly in accordance with *the most recently issued*:

(a) a determination or redetermination under 39-51-2402;

(b) ~~or the decision of an appeals referee, the board, or a reviewing court under 39-51-2404~~ *39-51-2403*;

(c) *decision of the board under 39-51-2404; or*

(d) *decision of a reviewing court pursuant to a judicial review initiated under 39-51-2404.* ~~upon the issuance of such determination, redetermination, or decision regardless of the pendency of the period to apply for reconsideration, file an appeal, or petition for judicial review that is provided with respect thereto in 39-51-2404, as the case may be, or the pendency of any such application, filing, or petition, unless and until such determination, redetermination, or decision has been modified or reversed by a subsequent redetermination or decision, in which event benefits shall be paid or denied for weeks of unemployment thereafter in accordance with such modifying or reversing redetermination or decision.~~

(2) ~~If a deputy’s determination or redetermination allowing benefits is affirmed in any amount by an appeals referee or by the board or if a decision of an appeals referee allowing benefits is affirmed in any amount by the board, such benefits shall be paid promptly regardless of any further appeal or the disposition of such appeal and no injunction, supersedeas, stay, or other writ or process suspending the payment of such benefits shall be issued by the board or any court. Benefits shall not be paid for any weeks of unemployment involved in such modification or reversal that begins after such final decision.~~

(2) *The filing of a request for redetermination, an appeal, or a request for judicial review may not delay or postpone the payment of benefits until the determination, redetermination, or decision has been modified or reversed.*

(3) *An individual considered eligible to receive benefits must be paid promptly regardless of any further appeal or disposition of an appeal that is not a final disposition of the case. An injunction, stay, writ, or other process suspending the payment of benefits may not be issued by the board or a court until the final disposition of the case.”*

Section 22. Section 39-51-2408, MCA, is amended to read:

“39-51-2408. Disputed claim — records of all proceedings to be kept.

A full and complete record shall *must* be kept of all proceedings in connection with a disputed claim. All testimony at any hearing upon a disputed claim shall *must* be recorded but need not be transcribed unless ~~the disputed claim is further appealed~~ *required by a district court or appellate court for judicial review.*”

Section 23. Section 39-51-3204, MCA, is amended to read:

“39-51-3204. Employing unit making false statement or representation, failing to disclose material fact, or failing or refusing to make contributions or other payments, furnish reports, or permit inspection or copying of records — criminal penalty. (1) Any employing unit or any officer or agent of an employing unit or any other person ~~who makes~~ *may not make* a false statement or representation knowing it to be false or ~~who~~ knowingly ~~fails~~ *fail* to disclose a material fact *in order to*:

(a) prevent or reduce the payment of benefits to any *entitled* individual; ~~entitled thereto or to avoid becoming or remaining subject hereto or to~~

(b) avoid or reduce any contribution or other payment required from an employing unit under this chapter or under the employment security law of any other state or territory or the federal government; *or*

(c) ~~avoid the requirements of this chapter. or who willfully fails or refuses to make any such contributions or other payment or to furnish any reports required hereunder or to produce or permit the inspection or copying of records as required hereunder~~

(2) *An employing unit, any officer or agent of an employing unit, or any other person who violates a provision of subsection (1) shall be punished by a fine of not less than \$50 or more than \$500, or by imprisonment for not less than 3 days or more than 30 days in the county jail, or by both. such fine and imprisonment, and each such* *Each* false statement or representation or failure to disclose a material fact and each day of ~~such~~ *the failure to disclose or refusal shall constitute constitutes* a separate offense.

(3) *An employing unit or any officer or agent of the employing unit is subject to the penalty provisions of subsection (2) for willfully failing or refusing to:*

(a) *make any contributions or payments required by this chapter;*

(b) *furnish any reports required by this chapter; or*

(c) *produce or permit the inspection or copying of any records or materials as required by this chapter.”*

Section 24. Effective date. [This act] is effective July 1, 2009.

Approved March 20, 2009

CHAPTER NO. 26

[HB 101]

AN ACT REVISING THE TIME PERIODS WITHIN WHICH AN EMPLOYER MAY WITHHOLD MONEY FROM AN EMPLOYEE'S FINAL PAYCHECK IN CASES OF THEFT OF PROPERTY OR THEFT OF FUNDS; AMENDING SECTIONS 39-3-204 AND 39-3-205, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 39-3-204, MCA, is amended to read:

“39-3-204. Payment of wages generally. (1) Except as provided in subsections (2) and (3), every employer of labor in the state of Montana shall pay to each employee the wages earned by the employee in lawful money of the United States or checks on banks convertible into cash on demand at the full face value of the checks, and a person for whom labor has been performed may not withhold from any employee any wages earned or unpaid for a longer period than 10 business days after the wages are due and payable, *except as provided in 39-3-205*. However, reasonable deductions may be made for board, room, and other incidentals supplied by the employer, whenever the deductions are a part of the conditions of employment, or ~~other deductions as otherwise~~ provided for by law.

(2) Wages may be paid to the employee by electronic funds transfer or similar means of direct deposit if the employee has consented in writing or electronically, if a record is retained, to be paid in this manner. However, an employee may not be required to use electronic funds transfer or similar means of direct deposit as a method for payment of wages.

(3) If an employee submits a timesheet after the employer's established deadline for processing employee timesheets for a particular time period and the employer does not pay the employee within the 10-day period provided for in subsection (1), the employer may pay the employee the wages due in the ensuing pay period. An employer may not withhold payment of the employee's wages beyond the next ensuing pay period. If there is not an established time period or time when wages are due and payable, the pay period is presumed to be semimonthly in length.”

Section 2. Section 39-3-205, MCA, is amended to read:

“39-3-205. Payment of wages when employee separated from employment prior to payday — exceptions. (1) ~~When~~ *Except as provided in subsection (2) or (3), when* an employee separates from the employ of any employer, all the unpaid wages of the employee are due and payable on the next regular payday for the pay period during which the employee was separated from employment or 15 days from the date of separation from employment, whichever occurs first, either through the regular pay channels or by mail if requested by the employee.

(2) Except as provided in subsection (3), when an employee is separated for cause or laid off from employment by the employer, all the unpaid wages of the employee are due and payable immediately upon separation unless the employer has a written personnel policy governing the employment that extends the time for payment of final wages to the employee's next regular payday for the pay period or to within 15 days from the separation, whichever occurs first.

(3) When an employee is discharged by reason of an allegation of theft of property or funds connected to the employee's work, the employer may withhold from the employee's final paycheck an amount sufficient to cover the value of the theft if:

(a) the employee agrees in writing to the withholding; or

(b) the employer files a report of the theft with the local law enforcement agency within 7 *business* days of the separation from employment, subject to the following conditions:

(i) if no charges are filed in a court of competent jurisdiction against the employee for the alleged theft within ~~15~~ 30 days of the filing of the report with a local law enforcement agency, wages are due and payable upon the expiration of the ~~15-day~~ 30-day period.

(ii) if charges are filed against the employee for theft, the court may order the withheld wages to be offset by the value of the theft. If the employee is found not guilty or if the employer withholds an amount in excess of the value of the theft, the court may order the employer to pay the employee the withheld amount plus interest.”

Section 3. Effective date. [This act] is effective on passage and approval.

Approved March 20, 2009

CHAPTER NO. 27

[HB 138]

AN ACT REVISING OCCUPATIONAL HEALTH AND SAFETY REGULATIONS; REPEALING THE OCCUPATIONAL HEALTH ACT OF MONTANA AND PARTS OF THE MONTANA SAFETY ACT AND REPLACING THEM WITH THE MONTANA OCCUPATIONAL SAFETY AND HEALTH ACT; LIMITING APPLICABILITY AND ENFORCEMENT OF CERTAIN PROVISIONS TO PUBLIC SECTOR EMPLOYERS AND EMPLOYEES; PROVIDING DUTIES FOR PUBLIC SECTOR EMPLOYERS AND EMPLOYEES; PROVIDING FOR STOP-WORK ORDERS, INJUNCTIONS, AND PENALTIES; PROVIDING FOR SAFETY CONSULTATIONS; PROHIBITING RETALIATION; REVISING COAL MINE INSPECTION STATUTES; PROVIDING PENALTIES; AMENDING SECTIONS 20-15-403, 39-71-201, 39-71-1503, 50-71-102, 50-73-102, 50-73-402, 50-73-406, AND 50-73-409, MCA; REPEALING SECTIONS 50-70-101, 50-70-102, 50-70-103, 50-70-104, 50-70-105, 50-70-107, 50-70-108, 50-70-109, 50-70-111, 50-70-112, 50-70-113, 50-70-114, 50-70-115, 50-70-116, 50-70-117, 50-70-118, 50-71-101, 50-71-103, 50-71-104, 50-71-105, 50-71-106, 50-71-107, 50-71-108, 50-71-109, 50-71-110, 50-71-301, 50-71-302, 50-71-303, 50-71-311, 50-71-312, 50-71-313, 50-71-314, 50-71-315, 50-71-316, 50-71-321, 50-71-322, 50-71-323, 50-71-324, 50-71-325, 50-71-326, 50-71-327, 50-71-331, 50-71-332, 50-71-333, AND 50-71-334, MCA; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Montana’s general occupational safety act, the Montana Safety Act, was enacted in 1969, prior to the adoption of the federal Occupational Safety and Health Act of 1970; and

WHEREAS, as a result of the enactment of the federal Occupational Safety and Health Act of 1970, federal law has become the basis for occupational safety and health regulation in the private sector; and

WHEREAS, states have responsibility for nonfederal public sector compliance with occupational safety and health regulations; and

WHEREAS, since the creation of the federal Occupational Safety and Health Administration, the Montana Safety Act and the Occupational Health Act of Montana do not reflect the reality of federal occupational safety and health regulation and enforcement in Montana’s private sector; and

WHEREAS, the Montana Safety Act contains various archaic rulemaking and hearings provisions because it was enacted prior to the adoption of the Montana Administrative Procedure Act; and

WHEREAS, the Occupational Health Act of Montana, enacted in 1971, suffers from many of the same jurisdictional and procedural flaws as does the Montana Safety Act; and

WHEREAS, it is appropriate to modernize Montana's occupational safety and health laws for occupations other than those in mining and consolidate them into a unified body of law that reflects the scope of state regulation of general occupational safety and health matters as limited to public sector employment.

Be it enacted by the Legislature of the State of Montana:

Section 1. Short title. [Sections 1 through 13] may be cited as the "Montana Occupational Safety and Health Act".

Section 2. Definitions. As used in [sections 1 through 13], the following definitions apply:

(1) "Department" means the department of labor and industry provided for in 2-15-1701.

(2) "Employee" has the meaning provided in 39-71-118.

(3) "Employer" has the meaning provided in 39-71-117.

(4) "Health" means protection against occupational illness.

(5) "Inspection" means an onsite review of a workplace by the department to determine compliance with standards adopted under [sections 1 through 13].

(6) "Private sector employer" means any employer that is not a public sector employer. The term includes for-profit and not-for-profit employers.

(7) (a) "Public sector employee" means an employee of a public sector employer.

(b) The term does not include a contractor.

(8) "Public sector employer" means:

(a) a state agency;

(b) each county in the state;

(c) each municipality in the state;

(d) each school district or community college; and

(e) any other political subdivision of the state.

(9) "Safety" means protection against occupational injury or death.

(10) "Safety consultation services" has the meaning provided in 39-71-1503.

(11) "Standard" means a rule adopted by the department pursuant to [sections 1 through 13] that is designed to promote or ensure safety or health in the workplace.

(12) "State agency" means any branch of government, including a department, board, commission, office, bureau, institution, university system entity, or unit of state government recognized in the state budget.

(13) "Workplace" means any site or location where an employee performs work for the employee's employer.

Section 3. Administrative authority — funding. (1) The department has authority to administer the provisions of [sections 1 through 13].

(2) In addition to administering the provisions of [sections 1 through 13], the department may:

- (a) promote occupational safety and health;
 - (b) educate employers and employees in occupational safety and health matters;
 - (c) conduct research regarding occupational safety and health data, topics, and techniques; and
 - (d) investigate occupational injuries, illnesses, and deaths involving public sector employees.
- (3) The department may develop and operate a statewide employment safety program. The statewide employment safety program may include but is not limited to:
- (a) a safety awareness component;
 - (b) an employee education component;
 - (c) an employer education component; and
 - (d) industry-specific initiatives.
- (4) The activities of the department under the provisions of [sections 1 through 13] are funded by the workers' compensation administration fund provided in 39-71-201.
- (5) The department may accept, receive, and administer gifts, grants, or other funds from public or private agencies and from the United States for the purpose of carrying out the provisions of [sections 1 through 13]. Funds received by the department under this subsection (5) must be deposited into the fund provided for in 39-71-201.

Section 4. Rulemaking — variances. (1) The department may adopt appropriate standards for safety and health by administrative rule, including:

- (a) any safety or health regulations promulgated by the federal occupational safety and health administration; and
 - (b) standards that are not inconsistent with federal safety and health regulation but that provide for a greater level of protection for employees.
- (2) The department may adopt other rules that are reasonably necessary to implement [sections 1 through 13].
- (3) (a) The department may by rule:
- (i) provide a procedure to grant a temporary variance from the particular provisions of a standard; and
 - (ii) permit the temporary use of other or different devices or methods than provided by the standard.
- (b) A temporary variance may be granted only if the public sector employer:
- (i) has an effective program for complying with the standard as quickly as is practicable;
 - (ii) is taking all available steps to safeguard public sector employees against the hazards covered by the standard; and
 - (iii) is unable to comply with the standard because:
 - (A) professional or technical personnel needed to implement compliance with the standard are temporarily unavailable;
 - (B) material or equipment needed to comply with the standard is temporarily unavailable; or

(C) necessary construction or alteration of facilities cannot be completed by the effective date of the standard.

Section 5. Applicability of standards — exceptions. (1) The standards for safety and health and the enforcement rules adopted pursuant to [sections 1 through 13] apply to all public sector employers in this state and to public sector employees.

(2) The standards and enforcement rules adopted pursuant to [sections 1 through 13] do not apply to employment by:

- (a) private sector employers;
- (b) the federal government and its instrumentalities;
- (c) a federally recognized tribal government; or
- (d) a tribal government recognized by the state.

Section 6. Duties of public sector employers and public sector employees. (1) Each public sector employer shall:

(a) furnish a place of employment that is free from recognized hazards that cause or are likely to cause death or serious physical harm to public sector employees;

(b) adopt and use practices, means, methods, operations, and processes that are adequate to render the workplace safe; and

(c) take appropriate actions necessary to protect the life, health, and safety of public sector employees.

(2) Each public sector employee shall comply with the safety and health standards, rules, and orders issued pursuant to [sections 1 through 13] as they apply to the public sector employee's own actions and conduct.

Section 7. Public sector employer records and reports. (1) Each public sector employer shall maintain records of occupational injuries, illnesses, and deaths as the department may require by rule.

(2) The department may inspect those records or require that the public sector employer submit those records to the department for its review.

(3) Except as otherwise provided by rule, a public sector employer complies with the requirements of this section if the public sector employer completes and submits a first report of injury form to the department or to the public sector employer's worker's compensation insurer within 30 days of the public sector employer becoming aware of an occupational injury, illness, or death suffered by a public sector employee.

Section 8. Inspections. (1) The department may inspect all workplaces of any public sector employer for the purpose of determining whether the public sector employer is in compliance with the safety and health standards that apply to the employer and the employer's workplaces. A department employee conducting an inspection shall, upon request, present appropriate credentials to the public sector employer. The department shall invite a representative of the public sector employer and a representative of any labor organization that represents employees of the public sector employer who are working at the workplace that is to be inspected to accompany the department employee on the inspection. The labor organization representative must be on paid status while accompanying the department employee on the inspection.

(2) An inspection may be performed:

- (a) periodically without prior notice or scheduling;

(b) at the request of the public sector employer;

(c) as the result of a complaint of a violation of a safety or health standard at a public sector employer's workplace;

(d) as part of a department investigation following a report of an occupational injury, illness, or death; or

(e) following the issuance of a citation, after the public sector employer has been given a reasonable opportunity to correct any violation of standards.

(3) A public sector employer may not interfere with a department inspection conducted pursuant to this section.

(4) The department may not unreasonably interfere with the operations of a public sector employer while conducting an inspection. An unscheduled inspection does not constitute unreasonable interference with the public sector employer's operations.

Section 9. Report of inspection — violations — penalty — appeal process. (1) (a) The department shall make a written report of each inspection that it conducts under [section 8].

(b) The inspection report must include a list of violations of standards that the inspector discovered during the inspection. A violation of a standard by a public sector employee is attributable to the public sector employer for the purposes of [sections 1 through 13].

(c) The department shall provide a copy of the inspection report to the public sector employer and to a representative of a labor organization that represents public sector employees at the workplace that was inspected.

(d) The public sector employer shall post a copy of the list of hazards included in the inspection report at one or more visible locations at the workplace that is the subject of the inspection report. The posting must be in a location likely to be seen by employees at that workplace.

(2) The department may issue a written citation to the public sector employer for a violation of a standard. The citation must specify:

(a) the nature of the violation;

(b) the standard that was violated; and

(c) a timeframe within which the public sector employer is required to correct the violation.

(3) (a) The department may impose upon a public sector employer a monetary penalty of not more than \$1,000 for each violation for which a citation has been issued.

(b) The department may, in its sole discretion, waive or reduce a penalty under this subsection (3) if the public sector employer timely corrects or cures the violation for which the penalty was imposed.

(c) Monetary penalties collected pursuant to this subsection (3) must be deposited into the workers' compensation administration fund provided for in 39-71-201.

(4) (a) A public sector employer may appeal a citation or a penalty.

(b) An appeal to the department must be in writing and made within 30 days of the issuance of the citation.

(c) The appeal of a citation or a penalty is conducted as a contested case under Title 2, chapter 4.

Section 10. Stop-work orders. (1) The department may order a public sector employer to immediately and temporarily stop work at a particular workplace if a department inspector who has personally observed the workplace and the hazards that are present determines that:

(a) the conditions or operations that are present at the workplace constitute a violation of a standard established by the department;

(b) the violation poses an immediate and substantial risk of serious bodily injury or death to a public sector employee or a member of the public; and

(c) the public sector employer or a public sector employee who is present at the workplace is unable or unwilling to:

(i) immediately correct the violation; or

(ii) suspend the unsafe operation until the violation is corrected.

(2) The temporary stop-work order must be in writing and specify:

(a) the location of the workplace;

(b) the specific standard that is being violated;

(c) the nature of the risk posed by the violation;

(d) the date and the time that the temporary stop-work order is issued; and

(e) the name, employment address, and work telephone number of the person issuing the temporary stop-work order.

(3) The temporary stop-work order is effective upon communication or delivery to any one of the following:

(a) the public sector employer's onsite supervisor at the workplace;

(b) the public sector employer's manager in charge of workplace operations; or

(c) the chief executive of the public sector employer.

(4) A copy of the temporary stop-work order must be promptly posted by the department at the workplace. A posted temporary stop-work order may not be removed by any person while it is in effect.

(5) A temporary stop-work order is effective for 72 hours unless:

(a) the violation is corrected to the satisfaction of the department; or

(b) the temporary stop-work order is stayed by order of a district court judge following actual notice to the department and the public sector employer.

(6) The violation of a temporary stop-work order or the unauthorized removal of a posted copy of a temporary stop-work order is punishable as a contempt of court.

(7) As used in this section, the term "serious bodily injury" has the same meaning as provided in 45-2-101.

Section 11. Injunctive relief. In addition to any remedies available under [sections 1 through 13], the department may institute and maintain in the name of the state an action for injunctive relief as provided in Title 27, chapter 19, to:

(1) immediately restrain a public sector employer and public sector employees from engaging in any activity for which the department has issued a temporary stop-work order pursuant to [section 10];

(2) enjoin a violation of [sections 1 through 13];

(3) enjoin a violation of a rule, including a safety or health standard, adopted under [sections 1 through 13]; or

(4) require compliance with [sections 1 through 13], including compliance with any rules adopted under [sections 1 through 13].

Section 12. Safety consultation services. The department may, in its sole discretion, provide onsite safety consultation services to public sector employers and private sector employers that request onsite safety consultation services.

Section 13. Retaliation prohibited. A public sector employer may not retaliate against a public sector employee who:

(1) contacts the department with a complaint of a violation of a standard in the workplace;

(2) cooperates with the department in the performance of an inspection or an investigation; or

(3) testifies or cooperates with the department in any case arising out of:

(a) an inspection;

(b) an investigation;

(c) a citation;

(d) a temporary stop-work order; or

(e) a civil action seeking injunctive relief.

Section 14. Section 20-15-403, MCA, is amended to read:

“20-15-403. Applications of other school district provisions. (1) When the term “school district” appears in the following sections outside of Title 20, the term includes community college districts and the provisions of those sections applicable to school districts apply to community college districts: 2-9-101, 2-9-111, 2-9-316, 2-16-114, 2-16-602, 2-16-614, 2-18-703, 7-3-1101, 7-6-2604, 7-6-2801, 7-7-123, 7-8-2214, 7-8-2216, 7-11-103, 7-12-4106, 7-13-110, 7-13-210, 7-15-4206, 10-1-703, 15-1-101, 15-6-204, 15-16-101, 15-16-605, 15-70-301, 17-5-101, 17-5-202, 17-6-103, 17-6-204, 17-6-213, 17-7-201, 18-1-201, 18-2-101, 18-2-103, 18-2-113, 18-2-114, 18-2-401, 18-2-404, 18-2-432, 18-5-205, 19-1-102, 19-1-811, 22-1-309, 25-1-402, 27-18-406, 33-20-1104, 39-3-104, 39-4-107, 39-31-103, 39-31-304, 39-71-116, 39-71-117, 39-71-2106, 40-6-237, 49-3-101, 49-3-102, [section 2], 52-2-617, 53-20-304, 82-10-201 through 82-10-203, 85-7-2158, and 90-6-208 and Rules 4D(2)(g) and 15(c), M.R.Civ.P., as amended.

(2) When the term “school district” appears in a section outside of Title 20 but the section is not listed in subsection (1), the school district provision does not apply to a community college district.”

Section 15. Section 39-71-201, MCA, is amended to read:

“39-71-201. Administration fund. (1) A workers’ compensation administration fund is established out of which are to be paid upon lawful appropriation all costs of administering the Workers’ Compensation Act and the statutory occupational safety *and health* acts that the department is required to administer, with the exception of the certification of independent contractors provided for in Title 39, chapter 71, part 4, the subsequent injury fund provided for in 39-71-907, and the uninsured employers’ fund provided for in 39-71-503. The department shall collect and deposit in the state treasury to the credit of the workers’ compensation administration fund:

(a) all fees and penalties provided in 39-71-107, 39-71-205, 39-71-223, 39-71-304, 39-71-307, 39-71-315, 39-71-316, 39-71-401(6), 39-71-2204, 39-71-2205, and 39-71-2337; and

(b) all penalties assessed under [section 9]; and

~~(b)~~(c) all fees paid by an assessment of 3% of paid losses, plus administrative fines and interest provided by this section.

(2) For the purposes of this section, paid losses include the following benefits paid during the preceding calendar year for injuries covered by the Workers' Compensation Act without regard to the application of any deductible whether the employer or the insurer pays the losses:

(a) total compensation benefits paid; and

(b) except for medical benefits in excess of \$200,000 for each occurrence that are exempt from assessment, total medical benefits paid for medical treatment rendered to an injured worker, including hospital treatment and prescription drugs.

(3) Each plan No. 1 employer, plan No. 2 insurer subject to the provisions of this section, and plan No. 3, the state fund, shall file annually on March 1 in the form and containing the information required by the department a report of paid losses pursuant to subsection (2).

(4) Each employer enrolled under compensation plan No. 1, compensation plan No. 2, or compensation plan No. 3, the state fund, shall pay a proportionate share of all costs of administering and regulating the Workers' Compensation Act and the statutory occupational safety acts that the department is required to administer, with the exception of the certification of independent contractors provided for in Title 39, chapter 71, part 4, the subsequent injury fund provided for in 39-71-907, and the uninsured employers' fund provided for in 39-71-503. In addition, compensation plan No. 3, the state fund, shall pay a proportionate share of these costs based upon paid losses for claims arising before July 1, 1990.

(5) (a) Each employer enrolled under compensation plan No. 1 shall pay an assessment to fund administrative and regulatory costs. The assessment is equal to 3% of the paid losses paid in the preceding calendar year by or on behalf of the plan No. 1 employer or \$500, whichever is greater. Any entity, other than the department, that assumes the obligations of an employer enrolled under compensation plan No. 1 is considered to be the employer for the purposes of this section.

(b) An employer formerly enrolled under compensation plan No. 1 shall pay an assessment to fund administrative and regulatory costs. The assessment is equal to 3% of the paid losses paid in the preceding calendar year by or on behalf of the employer for claims arising out of the time when the employer was enrolled under compensation plan No. 1.

(c) Payment of the assessment provided for by this subsection (5) must be paid by the employer in:

(i) one installment due on July 1; or

(ii) two equal installments due on July 1 and December 31 of each year.

(d) If an employer fails to timely pay to the department the assessment under this section, the department may impose on the employer an administrative fine of \$500 plus interest on the delinquent amount at the annual interest rate of 12%. Administrative fines and interest must be deposited in the workers' compensation administration fund.

(6) (a) Compensation plan No. 3, the state fund, shall pay an assessment to fund administrative and regulatory costs attributable to claims arising before July 1, 1990. The assessment is equal to 3% of the paid losses paid in the preceding calendar year for claims arising before July 1, 1990. As required by 39-71-2352, the state fund may not pass along to insured employers the cost of the assessment for administrative and regulatory costs that is attributable to claims arising before July 1, 1990.

(b) Payment of the assessment must be paid in:

(i) one installment due on July 1; or

(ii) two equal installments due on July 1 and December 31 of each year.

(c) If the state fund fails to timely pay to the department the assessment under this section, the department may impose on the state fund an administrative fine of \$500 plus interest on the delinquent amount at the annual interest rate of 12%. Administrative fines and interest must be deposited in the workers' compensation administration fund.

(7) (a) Each employer insured under compensation plan No. 2 or plan No. 3, the state fund, shall pay a premium surcharge to fund administrative and regulatory costs. The premium surcharge must be collected by each plan No. 2 insurer and by plan No. 3, the state fund, from each employer that it insures. The premium surcharge must be stated as a separate cost on an insured employer's policy or on a separate document submitted to the insured employer and must be identified as "workers' compensation regulatory assessment surcharge". The premium surcharge must be excluded from the definition of premiums for all purposes, including computation of insurance producers' commissions or premium taxes. However, an insurer may cancel a workers' compensation policy for nonpayment of the premium surcharge. When collected, assessments may not constitute an element of loss for the purpose of establishing rates for workers' compensation insurance but, for the purpose of collection, must be treated as a separate cost imposed upon insured employers.

(b) The amount to be funded by the premium surcharge is equal to 3% of the paid losses paid in the preceding calendar year by or on behalf of all plan No. 2 insurers and 3% of paid losses for claims arising on or after July 1, 1990, for plan No. 3, the state fund, plus or minus any adjustments as provided by subsection (7)(f). The amount to be funded must be divided by the total premium paid by all employers enrolled under compensation plan No. 2 or plan No. 3 during the preceding calendar year. A single premium surcharge rate, applicable to all employers enrolled in compensation plan No. 2 or plan No. 3, must be calculated annually by the department by not later than April 30. The resulting rate, expressed as a percentage, is levied against the premium paid by each employer enrolled under compensation plan No. 2 or plan No. 3 in the next fiscal year.

(c) On or before April 30 of each year, the department, in consultation with the advisory organization designated pursuant to 33-16-1023, shall notify plan No. 2 insurers and plan No. 3, the state fund, of the premium surcharge percentage to be effective for policies written or renewed annually on and after July 1 of that year.

(d) The premium surcharge must be paid whenever the employer pays a premium to the insurer. Each insurer shall collect the premium surcharge levied against every employer that it insures. Each insurer shall pay to the department all money collected as a premium surcharge within 20 days of the end of the calendar quarter in which the money was collected. If an insurer fails to timely pay to the department the premium surcharge collected under this

section, the department may impose on the insurer an administrative fine of \$500 plus interest on the delinquent amount at the annual interest rate of 12%. Administrative fines and interest must be deposited in the workers' compensation administration fund.

(e) If an employer fails to remit to an insurer the total amount due for the premium and premium surcharge, the amount received by the insurer must be applied to the premium surcharge first and the remaining amount applied to the premium due.

(f) The amount actually collected as a premium surcharge in a given year must be compared to the 3% of paid losses paid in the preceding year. Any amount collected in excess of the 3% must be deducted from the amount to be collected as a premium surcharge in the following year. The amount collected that is less than the 3% must be added to the amount to be collected as a premium surcharge in the following year.

(8) On or before April 30 of each year, upon a determination by the department, an insurer under compensation plan No. 2 that pays benefits in the preceding calendar year but that will not collect any premium for coverage in the following fiscal year shall pay an assessment equal to 3% of paid losses paid in the preceding calendar year, subject to a minimum assessment of \$500, that is due on July 1.

(9) An employer that makes a first-time application for permission to enroll under compensation plan No. 1 shall pay an assessment of \$500 within 15 days of being granted permission by the department to enroll under compensation plan No. 1.

(10) The department shall deposit all funds received pursuant to this section in the state treasury, as provided in this section.

(11) The administration fund must be debited with expenses incurred by the department in the general administration of the provisions of this chapter, including the salaries of its members, officers, and employees and the travel expenses of the members, officers, and employees, as provided for in 2-18-501 through 2-18-503, incurred while on the business of the department either within or without the state.

(12) Disbursements from the administration fund must be made after being approved by the department upon claim for disbursement.

(13) The department may assess and collect the workers' compensation regulatory assessment surcharge from uninsured employers, as defined in 39-71-501, that fail to properly comply with the coverage requirements of the Workers' Compensation Act. Any amounts collected by the department pursuant to this subsection must be deposited in the workers' compensation administration fund."

Section 16. Section 39-71-1503, MCA, is amended to read:

"39-71-1503. Safety consultation. (1) As used in this part, "safety consultation services" means assistance rendered by an insurer *or the department* to advise and aid an ~~insured~~ employer in the identification, evaluation, and control of existing and potential accidental and occupational health problems. The services may be delivered in person, by mail, *electronically*, or by telephone, based upon need.

(2) Safety consultation services include but are not limited to:

(a) surveys consisting of onsite identification and subsequent evaluation of exposures relative to employees, materials, equipment, work methods, processes, and facilities;

(b) recommendations expressed in the form of communications to an insured employer, with reference to control of exposures to occupational accident, injury, or illness and to improvement of safety programs and systems;

(c) *education and* training programs, including aids, programs, and materials made available to assist in the control of exposures;

(d) consultations to advise insured employers relative to risk, exposure, and experience in the insured employer's business;

(e) accident analysis consisting of review of reported accidents to determine cause and trends; and

(f) industrial hygiene services, including recognition, evaluation, and control of chemical, physical, and biological exposures."

Section 17. Section 50-71-102, MCA, is amended to read:

"50-71-102. Definitions. Unless the context requires otherwise, in this chapter *part*, the following definitions apply:

(1) ~~"Amendment" means such modification or change in a code as shall be intended to be of universal or general application.~~

(2) ~~"Code" means a standard body of rules for safety formulated, adopted, and issued by the department under the provisions of this chapter.~~

(3) ~~"Department" means the department of labor and industry.~~

(4)(1) "Employee" and "worker" are defined as *have the meanings provided* in 39-71-118.

(5)(2) "Employer" is defined as *has the meaning provided* in 39-71-117.

(6) ~~"Variation" means a special, limited modification or change in the code which is applicable only to the particular place of employment of the employer or person petitioning for such modification or change."~~

Section 18. Section 50-73-102, MCA, is amended to read:

"50-73-102. Definitions. As used in this chapter, the following definitions apply:

(1) "Department" means the department of labor and industry and the state coal mine inspectors employed by the department.

(2) "Excavations" and "workings" mean all parts of a mine excavated or being excavated, including shafts, slopes, tunnels, entries, rooms, and working places, whether abandoned or in use.

(3) ~~"Gassy mine" means a mine is considered to be potentially gassy. The department may further define this term in its rules.~~

(4)(3) "Mine" and "coal mine" mean all parts of the property of a mining plant under one management ~~which~~ *that* contribute, directly or indirectly, to the mining or handling of coal.

(5)(4) "Mine examiner" means a person charged with the examination of the condition of the mine before the miners are permitted to enter ~~it~~ *the mine* and who is commonly known as the "fire boss".

(6)(5) "Mine foreman" means a person who is charged with the general direction of the underground work or both the underground work and the

outside work of a coal mine and who is commonly known and designated as “mine boss”.

~~(7)~~(6) “Operator”, as applied to the ~~party~~ *entity* in control of a mine under this chapter, means the person, firm, or body corporate ~~which~~ *that* is the immediate proprietor as owner or lessee of the ~~plant~~ *mine* and, as such, is responsible for the condition and management ~~thereof of the mine~~.

~~(8)~~(7) “Shaft” means any vertical opening through the strata ~~which~~ *that* is or may be used for the purpose of ventilation or escape or for hoisting or lowering of ~~men~~ *workers* or material in connection with the mining of coal.

~~(9)~~(8) “Slope” and “drift” mean respectively an incline or horizontal way, opening, or tunnel to a seam of coal to be used for the same purpose as a shaft.

(9) “*Written inspection report*” means a report prepared by the department identifying safety and health hazards noted during a mine inspection. The term includes any citation or order issued by the department that refers to a violation of safety or health standards at the mine.”

Section 19. Section 50-73-402, MCA, is amended to read:

“50-73-402. Department authorized to enter and inspect coal mines.

(1) The department may enter, inspect, and examine any coal mine or any shaft, drift, or slope in the process of sinking for the purpose of mining coal in this state and the workings and the machinery belonging ~~thereto to the coal mine~~ at all reasonable times either by day or night, ~~but not so as to~~. *The department’s entry, inspection, or examination under this subsection may not impede or obstruct the workings of the mine.*

(2) The department may at any time perform ~~such~~ inspections and investigations ~~as it that the department~~ considers necessary in surface and underground mines ~~which are~~ subject to this chapter: ~~for the purpose of obtaining, utilizing, and disseminating~~

(a) *to obtain, use, and disseminate* information relating to health and safety conditions in the mines, the causes of accidents involving bodily injury or loss of life, or the causes of occupational diseases originating ~~therein in the mine~~; and ~~for the purpose of determining whether there is~~

(b) *to determine* compliance with a health and safety standard or order issued under this chapter.

~~(3) For the purpose of making an inspection or investigation authorized by this chapter, representatives of the~~ *The* department may enter, upon or through, any mine ~~which is~~ subject to this chapter *to conduct an inspection or investigation.*

(4) *The department shall prepare a written report for every inspection or investigation conducted under 50-73-406 and this section, noting the time and the material circumstances of the inspection or investigation.”*

Section 20. Section 50-73-406, MCA, is amended to read:

“50-73-406. Minimum inspection intervals. The department shall carefully examine all the coal mines in operation in this state at least ~~every 3 months~~ *quarterly* and more often if necessary to see that every precaution is taken to ~~insure~~ *ensure* the safety of all workers that may be ~~engaged~~ *working* in the coal mine. The department shall make a record of the visit, noting the time ~~and the material circumstances of the inspection.”~~

Section 21. Section 50-73-409, MCA, is amended to read:

“50-73-409. Department Operator to post statement of conditions at some conspicuous location. (1) ~~The department operator shall post in some conspicuous location the department’s written inspection report at each mine visited and inspected by it a plain statement of the conditions of the mine showing what in its judgment is necessary for the better protection of the lives and health of persons employed in the mine the department.~~

(2) ~~The statement written inspection report, signed by the department inspector, shall give must include the date of inspection and be posted in one or more conspicuous locations and remain posted until replaced by a subsequent inspection report. For the purposes of this subsection, a conspicuous location is one where the written inspection report:~~

(a) ~~is likely to be seen by the mine workers; and~~

(b) ~~is available to be read by any interested mine worker. Where a local union has jurisdiction over the mine inspected, the department shall post three copies of the statement of conditions within 1 week after making the inspection. It~~

(3) ~~The operator shall promptly provide a copy of the written inspection report to each exclusive representative of mine workers who are or may be affected by the conditions in the written inspection report.~~

(4) ~~The operator shall also post a copy notice at the landing used by the workers stating what number of workers may be permitted to ride on the cage, or car, or cars at one time.”~~

Section 22. Repealer. Sections 50-70-101, 50-70-102, 50-70-103, 50-70-104, 50-70-105, 50-70-107, 50-70-108, 50-70-109, 50-70-111, 50-70-112, 50-70-113, 50-70-114, 50-70-115, 50-70-116, 50-70-117, 50-70-118, 50-71-101, 50-71-103, 50-71-104, 50-71-105, 50-71-106, 50-71-107, 50-71-108, 50-71-109, 50-71-110, 50-71-301, 50-71-302, 50-71-303, 50-71-311, 50-71-312, 50-71-313, 50-71-314, 50-71-315, 50-71-316, 50-71-321, 50-71-322, 50-71-323, 50-71-324, 50-71-325, 50-71-326, 50-71-327, 50-71-331, 50-71-332, 50-71-333, and 50-71-334, MCA, are repealed.

Section 23. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

Section 24. Codification instruction — directions to code commissioner. (1) [Sections 1 through 13] are intended to be codified as an integral part of Title 50, and the provisions of Title 50 apply to [sections 1 through 13].

(2) Section 50-71-102 is intended to be renumbered and codified as an integral part of Title 50, chapter 71, part 2.

Section 25. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 26. Effective date. [This act] is effective July 1, 2009.

Approved March 20, 2009

CHAPTER NO. 28

[HB 160]

AN ACT REVISING CAPTIVE INSURANCE LAWS; AUTHORIZING THE COMMISSIONER OF INSURANCE TO WAIVE THE RBC REPORT FOR

CAPTIVE RISK RETENTION GROUPS; CLARIFYING COLLECTION OF THE PREMIUM TAX; CHANGING THE CALCULATION OF THE TAX ON DIRECT PREMIUMS; REVISING INVESTMENT REQUIREMENTS FOR CAPTIVE INSURERS; EXPANDING THE SCOPE OF LAWS APPLICABLE TO CAPTIVE INSURANCE COMPANIES; AMENDING SECTIONS 33-2-1903, 33-28-102, 33-28-105, 33-28-107, 33-28-201, 33-28-202, AND 33-28-207, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 33-2-1903, MCA, is amended to read:

“33-2-1903. RBC reports. (1) ~~Each~~ *Except as provided in 33-28-107(4)(b),* each domestic insurer shall, on or before each March 1 filing date, prepare and submit to the commissioner a report of its RBC levels as of the end of the previous calendar year in a form and containing information as required by the RBC instructions. In addition, each domestic insurer shall file its RBC report:

(a) with the NAIC in accordance with the RBC instructions; and

(b) with the insurance commissioner in any state in which the insurer is authorized to do business if that insurance commissioner has notified the insurer of the request in writing, in which case the insurer shall file its RBC report not later than the later of:

(i) 15 days from the receipt of notice to file its RBC report with that state; or

(ii) the March 1 filing date.

(2) A life and disability insurer’s RBC must be determined in accordance with the formula set forth in the RBC instructions. The formula must take into account and may adjust for the covariance between:

(a) the risk with respect to the insurer’s assets;

(b) the risk of adverse insurance experience with respect to the insurer’s liabilities and obligations;

(c) the interest rate risk with respect to the insurer’s business; and

(d) all other business risks and other relevant risks as are set forth in the RBC instructions and determined in each case by applying the factors in the manner set forth in the RBC instructions.

(3) A property and casualty insurer’s RBC must be determined in accordance with the formula set forth in the RBC instructions. The formula shall take into account and may adjust for the covariance between:

(a) asset risk;

(b) credit risk;

(c) underwriting risk; and

(d) all other business risks and other relevant risks that are set forth in the RBC instructions and determined in each case by applying the factors in the manner set forth in the RBC instructions.

(4) An excess of capital over the amount produced by the risk-based capital requirements contained in this part and the formulas, schedules, and instructions referenced in 33-2-1906 through 33-2-1913 is desirable in the business of insurance. Accordingly, insurers should seek to maintain capital above the RBC levels required by this part. Additional capital is used and useful in the insurance business and helps to secure an insurer against various risks inherent in or affecting the business of insurance and not accounted for or only

partially measured by the risk-based capital requirements contained in this part.

(5) If a domestic insurer files an RBC report that in the judgment of the commissioner is inaccurate, the commissioner shall adjust the RBC report to correct the inaccuracy and shall notify the insurer of the adjustment. The notice must contain a statement of the reason for the adjustment. An RBC report so adjusted is referred to as an adjusted RBC report.”

Section 2. Section 33-28-102, MCA, is amended to read:

“33-28-102. Licensing — authority. (1) A captive insurance company, when permitted by its organizational document, may apply to the commissioner for a license to provide property insurance, casualty insurance, life insurance, disability income insurance, *surety insurance*, *marine insurance*, and health insurance coverage or a group health plan as defined in 33-22-140, except that:

(a) a pure captive insurance company may not insure any risks other than those of its parent and affiliated companies and controlled unaffiliated business entities;

(b) an industrial insured captive insurance company may not insure any risks other than those of the industrial insureds that comprise the industrial insured group and their affiliated companies;

(c) an association captive insurance company may not insure any risks other than those of the members or affiliated companies of members;

(d) a captive insurance company or a branch captive insurance company may not:

(i) provide personal lines of insurance, including but not limited to motor vehicle or homeowner’s insurance coverage or any component of those coverages;

(ii) accept or cede reinsurance except as provided in 33-28-203;

(iii) provide health insurance coverage or a group health plan unless the captive insurance company or branch captive insurance company is only providing health insurance coverage or a group health plan for the parent company and its affiliated companies; or

(iv) write workers’ compensation insurance on a direct basis; and

(e) a protected cell captive insurance company may not insure any risks other than those of its participant affiliated companies and controlled unaffiliated business entities.

(2) A captive insurance company may not write any insurance business unless:

(a) it first obtains from the commissioner a license authorizing it to do insurance business in this state;

(b) its board of directors, *board of managing members*, or a reciprocal insurer’s subscribers’ advisory committee holds at least one meeting each year in this state;

(c) it maintains its principal place of business in this state; and

(d) (i) it appoints a registered agent to accept service of process;

(ii) the name and contact information and any subsequent changes regarding the registered agent are filed with the commissioner; and

(iii) it agrees that whenever the registered agent cannot be found with reasonable diligence, the commissioner's office may act as an agent of the captive insurance company with respect to any action or proceeding and may be served in accordance with 33-1-603.

(3) (a) Before receiving a license, a captive insurance company shall:

(i) with respect to a captive insurance company formed as a ~~corporation~~ *business entity*:

(A) file with the commissioner a certified copy of its ~~charter and bylaws~~ *organizational documents*, a statement under oath of its ~~president and secretary~~ *an officer of the business entity* showing its financial condition, and any other statements or documents required by the commissioner; and

(B) submit to the commissioner for approval a description of the coverages, deductibles, coverage limits, and rates, together with any additional information that the commissioner may reasonably require;

(ii) with respect to a captive insurance company formed as a reciprocal insurer:

(A) file with the commissioner a certified copy of the power of attorney of its attorney-in-fact, a certified copy of its subscribers' agreement, a statement under oath of its attorney-in-fact showing its financial condition, and any other statements or documents required by the commissioner; and

(B) submit to the commissioner for approval a description of the coverages, deductibles, coverage limits, and rates, together with any additional information that the commissioner may reasonably require.

(b) In the event of any subsequent material change in any of the items in the description provided for in subsection (3)(a), the captive insurance company shall submit to the commissioner for approval an appropriate revision and may not offer any additional kinds of insurance until a revision of the description is approved by the commissioner. The captive insurance company shall inform the commissioner of any change in rates within 30 days of the adoption of the change.

(c) In addition to the information required by subsections (3)(a) and (3)(b), each applicant captive insurance company shall file with the commissioner evidence of the following:

(i) the amount and liquidity of its assets relative to the risks to be assumed;

(ii) the adequacy of the expertise, experience, and character of the person or persons who will manage it;

(iii) the overall soundness of its plan of operation;

(iv) the adequacy of the loss prevention programs of its parent, members, or industrial insureds as applicable; and

(v) any other factors considered relevant by the commissioner in ascertaining whether the proposed captive insurance company will be able to meet its policy obligations.

(d) In addition to the information required by this section, each applicant that is a protected cell captive insurance company shall file with the commissioner the following:

(i) a business plan demonstrating how the applicant will account for the loss and expense experience of each protected cell at a level of detail found to be

sufficient by the commissioner and how it will report the experience to the commissioner;

(ii) a statement acknowledging that all financial records of the protected cell captive insurance company, including records pertaining to any protected cells, must be made available for inspection or examination by the commissioner or the commissioner's designated agent;

(iii) all contracts or sample contracts between the protected cell captive insurance company and any participants; and

(iv) evidence that expenses will be allocated to each protected cell in a fair and equitable manner.

(e) Information submitted pursuant to this subsection (3) must remain confidential and may not be made public by the commissioner or an employee or agent of the commissioner without the written consent of the company, except that:

(i) the information may be discoverable by a party in a civil action or contested case to which the captive insurance company that submitted the information is a party, upon a showing by the party seeking to discover the information that the information sought is relevant to and necessary for the furtherance of the action or case, the information sought is unavailable from other nonconfidential sources, and a subpoena issued by a judicial or administrative officer of competent jurisdiction has been submitted to the commissioner;

(ii) the commissioner may, in the commissioner's discretion, disclose the information to a public officer having jurisdiction over the regulation of insurance in another state or to a public official of the federal government, as long as the public official agrees in writing to maintain the confidentiality of the information and the laws of the state in which the public official serves, if applicable, require the information to be and to remain confidential.

(4) (a) Each captive insurance company shall pay to the commissioner a nonrefundable fee of \$200 for the examining, investigating, and processing of its application for license, and the commissioner is authorized to retain legal, financial, and examination services from outside the department, the reasonable cost of which may be charged to the applicant.

(b) The provisions of Title 33, chapter 1, part 4, apply to examinations, investigations, and processing conducted under the authority of this section. In addition, each captive insurance company shall pay a license fee for the year of registration and a renewal fee for each subsequent year of \$300.

(5) If the commissioner is satisfied that the documents and statements that the applicant captive insurance company has filed comply with the provisions of this chapter and applicable provisions of Title 33, the commissioner may grant a license authorizing the company to do insurance business in this state. The license is effective until March 1 of each year and may be renewed upon proper compliance with this chapter."

Section 3. Section 33-28-105, MCA, is amended to read:

"33-28-105. Formation of captive insurance companies. (1) A captive insurance company must be formed or organized as a business entity as provided in this chapter.

(2) An association captive insurance company or an industrial insured captive insurance company may be:

(a) incorporated as a stock insurer with its capital divided into shares and held by the stockholders;

(b) incorporated as a mutual insurer without capital stock, the governing body of which is elected by the members of its association or associations; or

(c) organized as a reciprocal insurer under Title 33, chapter 5; or

(d) *organized as a limited liability company.*

(3) A captive insurance company incorporated or organized in this state ~~may not have less than three incorporators, at least one of whom must be a resident of this state~~ *must be incorporated or organized by at least one incorporator or organizer who is a resident of this state.*

(4) (a) In the case of a captive insurance company formed as a business entity and before the organizational documents are transmitted to the secretary of state, the organizers shall file a copy of the proposed organizational documents and a petition with the commissioner requesting the commissioner to issue a certificate that finds that the establishment and maintenance of the proposed business entity will promote the general good of the state. In reviewing the petition, the commissioner shall consider:

(i) the character, reputation, financial standing, and purposes of the organizers;

(ii) the character, reputation, financial responsibility, insurance experience, and business qualifications of any officers, ~~and~~ directors, *or managing members;* and

(iii) any other factors that the commissioner considers appropriate.

(b) If the commissioner does not issue a certificate or finds that the proposed organizational documents of the captive insurance company do not meet the requirements of the applicable laws, including but not limited to 33-2-112, the commissioner shall refuse to approve the draft of the organizational documents and shall return the draft to the proposed organizers, together with a written statement explaining the refusal.

(c) If the commissioner issues a certificate and approves the draft organizational documents, the commissioner shall forward the certificate and an approved draft of organizational documents to the proposed organizers. The organizers shall prepare two sets of the approved organizational documents and shall file one set with the secretary of state as required by the applicable law and one set with the commissioner.

(5) The capital stock of a captive insurance company incorporated as a stock insurer may be authorized with no par value.

(6) (a) At least one of the members of the board of directors of a captive insurance company must be a resident of this state.

(b) In the case of a captive insurance company formed as a limited liability company, at least one of the managers must be a resident of the state.

(c) In case of a reciprocal insurer, at least one of the members of the subscribers' advisory committee must be a resident of the state.

(7) (a) A captive insurance company formed as a corporation or another business entity has the privileges and is subject to the provisions of general corporation law or the laws governing other business entities, as well as the applicable provisions contained in this chapter.

(b) In the event of conflict between the provisions of general corporation law or the laws governing other business entities and this chapter, the provisions of this chapter control.

(8) (a) With respect to a captive insurance company formed as a reciprocal insurer, the organizers shall petition and request that the commissioner issue a certificate that finds that the establishment and maintenance of the proposed association will promote the general good of the state. In reviewing the petition, the commissioner shall consider:

(i) the character, reputation, financial standing, and purposes of the organizers;

(ii) the character, reputation, financial responsibility, insurance experience, and business qualifications of the attorney-in-fact; and

(iii) any other factors that the commissioner considers appropriate.

(b) The commissioner may either approve the petition and issue the certificate or reject the petition in a written statement of the reasons for the rejection.

(c) (i) A captive insurance company formed as a reciprocal insurer has the privileges and is subject to the provisions of Title 33, chapter 5, in addition to the applicable provisions of this chapter. If there is a conflict between Title 33, chapter 5, and this chapter, the provisions of this chapter control.

(ii) The subscribers' agreement or other organizing document of a captive insurance company formed as a reciprocal insurer may authorize a quorum of a subscribers' advisory committee to consist of at least one-third of the number of its members.

(d) A captive risk retention group has the privileges and is subject to the provisions of Title 33, chapter 11, and this chapter. If there is a conflict between Title 33, chapter 11, and this chapter, the provisions of this chapter prevail.

(9) Except as provided in 33-28-306, the provisions of Title 33, chapter 3, pertaining to mergers, consolidations, conversions, mutualizations, and voluntary dissolutions apply in determining the procedures to be followed by captive insurance companies in carrying out any of those transactions.

(10) (a) With respect to a branch captive insurance company, the foreign captive insurance company shall petition and request that the commissioner issue a certificate that finds that, after considering the character, reputation, financial responsibility, insurance experience, and business qualifications of the officers and directors of the foreign captive insurance company, the licensing and maintenance of the branch operation will promote the general good of the state. The foreign captive insurance company shall apply to the secretary of state for a certificate of authority to transact business in this state after the commissioner's certificate is issued.

(b) A branch captive insurance company established pursuant to the provisions of this chapter to write in this state only insurance or reinsurance of the employee benefit business of its parent and affiliated companies is subject to provisions of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001, et seq. In addition to the general provisions of this chapter, the provisions of this section apply to branch captive insurance companies.

(c) A branch captive insurance company may not do any insurance business in this state unless it maintains the principal place of business for its branch operations in this state."

Section 4. Section 33-28-107, MCA, is amended to read:

“33-28-107. Reports and statements. (1) A captive insurance company is not required to make an annual report except as provided in this section.

(2) (a) Except as provided in subsection (2)(b), on or before March 1 of each year, each captive insurance company shall submit to the commissioner a report of its financial condition in a form and manner as required by the commissioner, verified by oath of two of its executive officers.

(b) A pure captive insurance company, branch captive insurance company, or industrial insured captive company, excluding captive risk retention groups, may make written application for filing the required report on a fiscal yearend basis. If an alternative reporting date is granted:

(i) the required report is due 60 days after fiscal yearend; and

(ii) in order to provide sufficient information to support the premium tax return, a pure captive insurance company or industrial insured insurance company shall file a report acceptable to the commissioner prior to March 1 of each year for the prior calendar yearend.

(c) Each captive insurance company shall report using generally accepted accounting principles, unless the commissioner requires the use of statutory accounting principles, with any necessary or useful modifications or additions required by the commissioner. The commissioner may also require the report to be supplemented by additional information.

(d) On or before March 1 of each year, each branch captive insurance company shall submit to the commissioner a copy of all reports and statements required to be filed under the laws in which the foreign captive insurance company is formed, verified by oath of two of its executive officers. If the commissioner is satisfied that the annual report filed by the foreign captive insurance company in its domiciliary jurisdiction provides adequate information concerning the financial condition of the foreign captive insurance company, the commissioner may waive the requirement for completion of the captive annual statement for business written in the foreign jurisdiction.

(3) The commissioner shall consider financial statements filed pursuant to this section as confidential.

(4) (a) Captive risk retention groups shall file reports and statements in accordance with Title 33, chapter 2, part 7, except that a captive risk retention group:

(i) may file using generally accepted accounting principles; ~~and~~

(ii) ~~the~~ The filing may include letters of credit that are established, issued, or confirmed by a bank chartered in this state, a member of the federal reserve system, or a bank chartered by another state if that state-chartered bank is acceptable to the commissioner.

(b) *The commissioner may waive the RBC report required in 33-2-1903 for a captive risk retention group that files a report or statement pursuant to subsection (4)(a) or for a captive risk retention group that was formed in the last 2 years.*

~~(b)(c)~~ The filings in subsection (4)(a) are required on an annual and quarterly basis.”

Section 5. Section 33-28-201, MCA, is amended to read:

“33-28-201. Tax on premiums collected. (1) (a) Each captive insurance company shall pay to the commissioner, on or before March 1 of each year, a tax

on the direct premiums collected or contracted for on policies or contracts of insurance written by the captive insurance company during the year ending December 31, after deducting from the direct premiums subject to the tax the amounts paid to policyholders as return premiums, including dividends on unabsorbed premiums or premium deposits returned or credited to policyholders.

(b) The tax on direct premiums collected in this state must be calculated as follows:

- (i) 0.4% on the first \$20 million; and
- (ii) 0.3% on ~~the next \$20 million~~; *each subsequent dollar collected.*
- (iii) ~~0.2% on the next \$20 million~~; and
- (iv) ~~0.075% on each subsequent dollar collected.~~

(2) (a) Each captive insurance company shall pay to the commissioner on or before March 1 of each year a tax on assumed reinsurance premiums.

(b) A reinsurance tax does not apply to premiums for risks or portions of risks that are subject to taxation on a direct basis pursuant to subsection (1).

(c) A reinsurance premium tax is not payable in connection with the receipt of assets in exchange for the assumption of loss reserves and other liabilities of another insurer under common ownership and control if the transaction is part of a plan to discontinue the operations of the other insurer and if the intent of the parties to the transaction is to renew or maintain the business with the captive insurance company.

(d) The amount of the reinsurance tax must be calculated as follows:

- (i) 0.225% on the first \$20 million of assumed reinsurance premiums;
- (ii) 0.150% on the next \$20 million of assumed reinsurance premiums; and
- (iii) 0.050% on each subsequent dollar of assumed reinsurance premiums.

(3) (a) ~~If (i) Except as provided in subsection (3)(a)(ii), if~~ the aggregate taxes to be paid by a captive insurance company calculated under subsections (1) and (2) amount to less than \$5,000 in any year, the captive insurance company shall pay a tax of \$5,000 for that year.

(ii) In the calendar year in which a captive insurance company that is subject to the minimum tax is first licensed, the tax must be prorated on a quarterly basis as follows:

- (A) \$5,000 if licensed in the first quarter;*
- (B) \$3,750 if licensed in the second quarter;*
- (C) \$2,500 if licensed in the third quarter; and*
- (D) \$1,250 if licensed in the fourth quarter.*

(b) Aggregate taxes to be paid by a captive insurance company under this section may not exceed \$100,000 in any year.

(c) Each protected cell in a protected cell captive insurance company must be considered separately in determining the aggregate tax to be paid by the protected cell captive insurance company. If the protected cell captive insurance company insures any risks in addition to the protected cells, the determination of the aggregate tax to be paid by the protected cell captive insurance company must also include the premium on those risks.

(4) Two or more captive insurance companies under common ownership and control must be taxed as though they were a single captive insurance company.

(5) For the purposes of this section, “common ownership and control” means:

(a) in the case of stock corporations, the direct or indirect ownership of 80% or more of the outstanding voting stock of two or more corporations by the same shareholder or shareholders; and

(b) in the case of mutual insurers, the direct or indirect ownership of 80% or more of the surplus and the voting power of two or more insurers by the same member or members.

(6) Only the branch business of a branch captive insurance company is subject to taxation under the provisions of this section.

(7) The tax provided for in this section must be calculated on an annual basis notwithstanding policies or contracts of insurance or contracts of reinsurance issued on a multiyear basis. In the case of multiyear policies or contracts, the premium must be prorated for the purposes of determining the tax.”

Section 6. Section 33-28-202, MCA, is amended to read:

“33-28-202. Legal investments. (1) (a) An industrial insured captive insurance company, an association captive insurance company, and a captive risk retention group shall comply with the investment requirements contained in Title 33, chapter 12, and the rules promulgated in accordance with these provisions.

(b) The commissioner may approve the use of alternative reliable methods of valuation and rating.

(c) *When a captive insurance company’s admitted assets total less than \$5 million, the commissioner may approve an investment of up to 20% of admitted assets in rated credit instruments in any one investment that meets the requirements of 33-12-303(1)(c).*

(2) A pure captive insurance company is not subject to any restrictions on allowable investments, except that the commissioner may prohibit or limit any investment that threatens the solvency or liquidity of the company.

(3) Only a pure captive insurance company may make loans to its parent company or affiliates. Loans to a parent company or any affiliate may not be made without prior written approval of the commissioner and must be evidenced by a note in a form approved by the commissioner. Loans of minimum capital and surplus funds required by 33-28-104 are prohibited.”

Section 7. Section 33-28-207, MCA, is amended to read:

“33-28-207. Applicable laws. (1) The following apply to captive insurance companies:

(a) the definitions of *commissioner and department provided in 33-1-202*, property insurance provided in 33-1-210, casualty insurance provided in 33-1-206, life insurance provided in 33-1-208, health insurance coverage and group health plans provided in 33-22-140, and disability income insurance provided in 33-1-235;

(b) the limitation provided in 33-2-705 on the imposition of other taxes;

(c) the provisions relating to supervision, rehabilitation, and liquidation of insurance companies as provided for in Title 33, chapter 2, part 13; ~~and~~

(d) the provisions of 33-1-603, *33-3-431*, 33-18-201, 33-18-203, 33-18-205, and 33-18-242; *and*

(e) *the provisions relating to dissolution and liquidation in Title 33, chapter 3, part 6.*

(2) This chapter may not be construed as exempting a captive insurance company, its parent, or affiliated companies from compliance with the laws governing workers' compensation insurance.

(3) A captive insurance company or branch captive insurance company that writes health insurance coverage or group health plans as defined in 33-22-140 shall comply with applicable state and federal laws.

(4) Except as expressly provided in this chapter, the provisions of Title 33 do not apply to captive insurance companies."

Section 8. Effective date. [This act] is effective July 1, 2009.

Approved March 20, 2009

CHAPTER NO. 29

[HB 181]

AN ACT AUTHORIZING COUNTY WATER OR SEWER DISTRICTS TO USE ALTERNATIVE PROJECT DELIVERY CONTRACTS; AMENDING SECTION 18-2-501, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 18-2-501, MCA, is amended to read:

"18-2-501. Definitions. As used in this part, unless the context clearly requires otherwise, the following definitions apply:

(1) "Alternative project delivery contract" means a construction management contract, a general contractor construction management contract, or a design-build contract.

(2) "Construction management contract" means a contract in which the contractor acts as the public owner's construction manager and provides leadership and administration for the project, from planning and design, in cooperation with the designers and the project owners, to project startup and construction completion.

(3) "Contractor" has the meaning provided in 18-4-123.

(4) "Design-build contract" means a contract in which the designer-builder assumes the responsibility and the risk for architectural or engineering design and construction delivery under a single contract with the owner.

(5) "General contractor construction management contract" means a contract in which the general contractor, in addition to providing the preconstruction, budgeting, and scheduling services, procures necessary construction services, equipment, supplies, and materials through competitive bidding contracts with subcontractors and suppliers to construct the project.

(6) "Governing body" means:

(a) the legislative authority of:

(~~a~~)(i) a municipality, county, or consolidated city-county established pursuant to Title 7, chapter 1, 2, or 3;

(~~b~~)(ii) a school district established pursuant to Title 20; or

(~~e~~)(iii) an airport authority established pursuant to Title 67, chapter 11; or

(b) the board of directors of a county water or sewer district established pursuant to Title 7, chapter 13, parts 22 and 23.

(7) "Project" means any construction or any improvement of the land, a building, or another improvement that is suitable for use as a state or local governmental facility.

(8) "Publish" means publication of notice as provided for in 7-1-2121, 7-1-4127, 18-2-301, and 20-9-204.

(9) "State agency" has the meaning provided in 2-2-102, except that the department of transportation, provided for in 2-15-2501, is not considered a state agency."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved March 20, 2009

CHAPTER NO. 30

[HB 207]

AN ACT AMENDING THE DEFINITION OF "COMMUNITY RENEWABLE ENERGY PROJECT" UNDER THE MONTANA RENEWABLE POWER PRODUCTION AND RURAL ECONOMIC DEVELOPMENT ACT TO INCLUDE AN ELIGIBLE RENEWABLE RESOURCE THAT IS LESS THAN OR EQUAL TO 25 MEGAWATTS; AMENDING SECTIONS 69-3-2003 AND 90-3-1003, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 69-3-2003, MCA, is amended to read:

"69-3-2003. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Ancillary services" means services or tariff provisions related to generation and delivery of electric power other than simple generation, transmission, or distribution. Ancillary services related to transmission services include energy losses, energy imbalances, scheduling and dispatching, load following, system protection, and reactive power.

(2) "Common ownership" means the same or substantially similar persons or entities that maintain a controlling interest in more than one community renewable energy project even if the ownership shares differ between two community renewable energy projects. Two community renewable energy projects may not be considered to be under common ownership simply because the same entity provided debt or equity or both debt and equity to both projects.

(3) "Community renewable energy project" means an eligible renewable resource that is interconnected on the utility side of the meter in which local owners have a controlling interest and that is less than or equal to 25 megawatts in total calculated nameplate capacity.

(4) "Competitive electricity supplier" means any person, corporation, or governmental entity that is selling electricity to small customers at retail rates in the state of Montana and that is not a public utility or cooperative.

(5) "Compliance year" means each calendar year beginning January 1 and ending December 31, starting in 2008, for which compliance with this part must be demonstrated.

(6) "Cooperative utility" means:

(a) a utility qualifying as an electric cooperative pursuant to Title 35, chapter 18; or

(b) an existing municipal electric utility as of May 2, 1997.

(7) "Eligible renewable resource" means a facility either located within Montana or delivering electricity from another state into Montana that commences commercial operation after January 1, 2005, and that produces electricity from one or more of the following sources:

- (a) wind;
- (b) solar;
- (c) geothermal;

(d) water power, in the case of a hydroelectric project that does not require a new appropriation, diversion, or impoundment of water and that has a nameplate rating of 10 megawatts or less;

- (e) landfill or farm-based methane gas;
- (f) gas produced during the treatment of wastewater;

(g) low-emission, nontoxic biomass based on dedicated energy crops, animal wastes, or solid organic fuels from wood, forest, or field residues, except that the term does not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chroma-arsenic;

(h) hydrogen derived from any of the sources in this subsection (7) for use in fuel cells; and

(i) the renewable energy fraction from the sources identified in subsections (7)(a) through (7)(h) of electricity production from a multiple-fuel process with fossil fuels.

(8) "Local owners" means:

- (a) Montana residents or entities composed of Montana residents;
- (b) Montana small businesses;
- (c) Montana nonprofit organizations;
- (d) Montana-based tribal councils;
- (e) Montana political subdivisions or local governments;
- (f) Montana-based cooperatives other than cooperative utilities; or

(g) any combination of the individuals or entities listed in subsections (8)(a) through (8)(f).

(9) "Public utility" means any electric utility regulated by the commission pursuant to Title 69, chapter 3, on January 1, 2005, including the public utility's successors or assignees.

(10) "Renewable energy credit" means a tradable certificate of proof of 1 megawatt hour of electricity generated by an eligible renewable resource that is tracked and verified by the commission and includes all of the environmental attributes associated with that 1 megawatt-hour unit of electricity production.

(11) "Small customer" means a retail customer that has an individual load with an average monthly demand of less than 5,000 kilowatts.

(12) "Total calculated nameplate capacity" means the calculation of total nameplate capacity of the community renewable energy project and other eligible renewable resources that are:

- (a) located within 5 miles of the project;
- (b) constructed within the same 12-month period; and
- (c) under common ownership."

Section 2. Section 90-3-1003, MCA, is amended to read:

“90-3-1003. Research and commercialization account — use. (1) The research and commercialization account provided for in 90-3-1002 is statutorily appropriated, as provided in 17-7-502, to the board of research and commercialization technology, provided for in 2-15-1819, for the purposes provided in this section.

(2) The establishment of the account in 90-3-1002 is intended to enhance the economic growth opportunities for Montana and constitute a public purpose.

(3) The account may be used only for:

(a) loans that are to be used for research and commercialization projects to be conducted at research and commercialization centers located in Montana;

(b) grants that are to be used for production agriculture research and commercialization projects, clean coal research and development projects, or renewable resource research and development projects to be conducted at research and commercialization centers located in Montana;

(c) matching funds for grants from nonstate sources that are to be used for research and commercialization projects to be conducted at research and commercialization centers located in Montana; or

(d) administrative costs that are incurred by the board in carrying out the provisions of this part.

(4) At least 20% of the account funds approved for research and commercialization projects must be directed toward projects that enhance production agriculture.

(5) (a) At least 30% of the account funds approved for research and commercialization projects must be directed toward projects that enhance clean coal research and development or renewable resource research and development.

(b) If the board is not in receipt of a qualified application for a project to enhance clean coal research and development or renewable resource research and development, subsection (5)(a) does not apply.

(6) An applicant for a grant shall provide matching funds from nonstate sources equal to 25% of total project costs. The requirement to provide matching funds is a qualifier, but not a criterion, for approval of a grant.

(7) The board shall establish policies, procedures, and criteria that achieve the objectives in its research and commercialization strategic plan for the awarding of grants and loans. The criteria must include:

(a) the project’s potential to diversify or add value to a traditional basic industry of the state’s economy;

(b) whether the project shows promise for enhancing technology-based sectors of Montana’s economy or promise for commercial development of discoveries;

(c) whether the project employs or otherwise takes advantage of existing research and commercialization strengths within the state’s public university and private research establishment;

(d) whether the project involves a realistic and achievable research project design;

(e) whether the project develops or employs an innovative technology;

(f) verification that the project activity is located within the state;

(g) whether the project's research team possesses sufficient expertise in the appropriate technology area to complete the research objective of the project;

(h) verification that the project was awarded based on its scientific merits, following review by a recognized federal agency, philanthropic foundation, or other private funding source; and

(i) whether the project includes research opportunities for students.

(8) The board shall direct the state treasurer to distribute funds for approved projects. Unallocated interest and earnings from the account must be retained in the account. Repayments of loans and any agreements authorizing the board to take a financial right to licensing or royalty fees paid in connection with the transfer of technology from a research and commercialization center to another nonstate organization or ownership of corporate stock in a private sector organization must be deposited in the account.

(9) The board shall refer grant applications to external peer review groups. The board shall compile a list of persons willing to serve on peer review groups for purposes of this section. The peer review group shall review the application and make a recommendation to the board as to whether the application for a grant should be approved. The board shall review the recommendation of the peer review group and either approve or deny a grant application.

(10) The board shall identify whether a grant or loan is to be used for basic research, applied research, or some combination of both. For the purposes of this section, "applied research" means research that is conducted to attain a specific benefit or solve a practical problem and "basic research" means research that is conducted to uncover the basic function or mechanism of a scientific question.

(11) For the purposes of this section:

(a) "clean coal research and development" means research and development of projects that would advance the efficiency, environmental performance, and cost-competitiveness of using coal as an energy source well beyond the current level of technology used in commercial service;

(b) "renewable resource research and development" means research and development that would advance:

(i) the use of any of the sources of energy listed in ~~69-3-2003(6)~~ 69-3-2003(7) to produce electricity; and

(ii) the efficiency, environmental performance, and cost-competitiveness of using renewable resources as an energy source well beyond the current level of technology used in commercial service."

Section 3. Effective date. [This act] is effective on passage and approval.

Approved March 20, 2009

CHAPTER NO. 31

[HB 208]

AN ACT EXTENDING A DEADLINE FOR PUBLIC UTILITIES TO COMPLY WITH THE COMMUNITY RENEWABLE ENERGY REQUIREMENTS OF THE RENEWABLE PORTFOLIO STANDARD; AND AMENDING SECTION 69-3-2004, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 69-3-2004, MCA, is amended to read:

“69-3-2004. Renewable resource standard — administrative penalty — waiver. (1) Except as provided in 69-3-2007 and subsections (11) and (12) of this section, a graduated renewable energy standard is established for public utilities and competitive electricity suppliers as provided in subsections (2) through (4) of this section.

(2) In each compliance year beginning January 1, 2008, through December 31, 2009, each public utility and competitive electricity supplier shall procure a minimum of 5% of its retail sales of electrical energy in Montana from eligible renewable resources.

(3) (a) In each compliance year beginning January 1, 2010, through December 31, 2014, each public utility and competitive electricity supplier shall procure a minimum of 10% of its retail sales of electrical energy in Montana from eligible renewable resources.

(b) *As Beginning January 1, 2012, as* part of their compliance with subsection (3)(a), public utilities shall purchase both the renewable energy credits and the electricity output from community renewable energy projects that total at least 50 megawatts in nameplate capacity.

(c) Public utilities shall proportionately allocate the purchase required under subsection (3)(b) based on each public utility’s retail sales of electrical energy in Montana in the calendar year ~~2009~~ 2011.

(4) (a) In the compliance year beginning January 1, 2015, and in each succeeding compliance year, each public utility and competitive electricity supplier shall procure a minimum of 15% of its retail sales of electrical energy in Montana from eligible renewable resources.

(b) (i) As part of their compliance with subsection (4)(a), public utilities shall purchase both the renewable energy credits and the electricity output from community renewable energy projects that total at least 75 megawatts in nameplate capacity.

(ii) In meeting the standard in subsection (4)(b)(i), a public utility may include purchases made under subsection (3)(b).

(c) Public utilities shall proportionately allocate the purchase required under subsection (4)(b) based on each public utility’s retail sales of electrical energy in Montana in the calendar year 2014.

(5) (a) In complying with the standards required under subsections (2) through (4), a public utility or competitive electricity supplier shall, for any given compliance year, calculate its procurement requirement based on the public utility’s or competitive electricity supplier’s previous year’s sales of electrical energy to retail customers in Montana.

(b) The standard in subsections (2) through (4) must be calculated on a delivered-energy basis after accounting for any line losses.

(6) A public utility or competitive electricity supplier has until 3 months following the end of each compliance year to purchase renewable energy credits for that compliance year.

(7) (a) In order to meet the standard established in subsections (2) through (4), a public utility or competitive electricity supplier may only use:

(i) electricity from an eligible renewable resource in which the associated renewable energy credits have not been sold separately;

(ii) renewable energy credits created by an eligible renewable resource purchased separately from the associated electricity; or

(iii) any combination of subsections (7)(a)(i) and (7)(a)(ii).

(b) A public utility or competitive electricity supplier may not resell renewable energy credits and count those sold credits against the public utility's or the competitive electricity supplier's obligation to meet the standards established in subsections (2) through (4).

(c) Renewable energy credits sold through a voluntary service such as the one provided for in 69-8-210(2) may not be applied against a public utility's or competitive electricity supplier's obligation to meet the standards established in subsections (2) through (4).

(8) Nothing in this part limits a public utility or competitive electricity supplier from exceeding the standards established in subsections (2) through (4).

(9) If a public utility or competitive electricity supplier exceeds a standard established in subsections (2) through (4) in any compliance year, the public utility or competitive electricity supplier may carry forward the amount by which the standard was exceeded to comply with the standard in either or both of the 2 subsequent compliance years. The carryforward may not be double-counted.

(10) Except as provided in subsections (11) and (12), if a public utility or competitive electricity supplier is unable to meet the standards established in subsections (2) through (4) in any compliance year, that public utility or competitive electricity supplier shall pay an administrative penalty, assessed by the commission, of \$10 for each megawatt hour of renewable energy credits that the public utility or competitive electricity supplier failed to procure. A public utility may not recover this penalty in electricity rates. Money generated from these penalties must be deposited in the universal low-income energy assistance fund established in 69-8-412(1)(a).

(11) A public utility or competitive electricity supplier may petition the commission for a short-term waiver from full compliance with the standards in subsections (2) through (4) and the penalties levied under subsection (10). The petition must demonstrate that the:

(a) public utility or competitive electricity supplier has undertaken all reasonable steps to procure renewable energy credits under long-term contract, but full compliance cannot be achieved either because renewable energy credits cannot be procured or for other legitimate reasons that are outside the control of the public utility or competitive electricity supplier; or

(b) integration of additional eligible renewable resources into the electrical grid will clearly and demonstrably jeopardize the reliability of the electrical system and that the public utility or competitive electricity supplier has undertaken all reasonable steps to mitigate the reliability concerns.

(12) (a) Retail sales made by a competitive electricity supplier according to prices, terms, and conditions of a written contract executed prior to April 25, 2007, are exempt from the standards in subsections (2) through (4).

(b) The exemption provided for in subsection (12)(a) is terminated upon modification after April 25, 2007, of the prices, terms, or conditions in a written contract."

Approved March 20, 2009

CHAPTER NO. 32

[HB 296]

AN ACT INCLUDING TRIBAL FISH AND GAME WARDENS AS EX OFFICIO WARDENS WHEN A COOPERATIVE AGREEMENT EXISTS; AMENDING SECTION 87-1-503, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 87-1-503, MCA, is amended to read:

“87-1-503. Ex officio wardens. (1) *The following are ex officio wardens:*

- (a) ~~All~~ all sheriffs and their deputies;
- (b) all constables;
- (c) all peace officers of the state or any subdivision of the state;
- (d) the executive director and investigators of the board of outfitters;
- (e) all state forest officers;

(f) as authorized by cooperative agreement, any officers of the United States forest service, agents of the United States fish and wildlife service, and peace officers of the bureau of land management, national park service, and corps of engineers that are assigned to duty in this state;

(g) *as authorized by cooperative agreement, tribal fish and game wardens;*

(h) former fish and game wardens; and

(i) field personnel of the department as *may be appointed by the director* ~~may appoint.~~

(2) ~~are ex~~ *Ex officio wardens; serve without pay, except that the department may, in its discretion, allow travel expenses as provided for in 2-18-501 through 2-18-503, which, if allowed, travel expenses must be paid upon proper vouchers from the state fish and game funds.*

(3) *Ex officio wardens have the same powers with reference to the enforcement of the fish and game laws of this state and the laws relating to parks and outdoor recreation contained in Title 23, chapters 1 and 2, except chapter 2, part 7, as regularly appointed wardens, and it is their duty to assist, whenever possible, in the enforcement of those laws.”*

Section 2. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

Section 3. Effective date. [This act] is effective on passage and approval.

Approved March 20, 2009

CHAPTER NO. 33

[SB 23]

AN ACT CLARIFYING AND SEPARATING REVENUE STREAMS TO THE OIL, GAS, AND COAL NATURAL RESOURCE ACCOUNT; SPECIFICALLY EARMARKING THE COAL TAX DISTRIBUTION FOR THE COAL BOARD TO BE USED FOR LOCAL IMPACT GRANTS; AMENDING SECTIONS 15-35-108, 15-36-304, 15-36-331, 15-36-332, AND 90-6-1001, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-35-108, MCA, is amended to read:

“15-35-108. (Temporary) Disposal of severance taxes. Severance taxes collected under this chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:

(1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX, section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under 17-6-203(6) and invested by the board of investments as provided by law.

(2) The amount of 12% of coal severance tax collections is allocated to the long-range building program account established in 17-7-205.

(3) The amount of 5.46% must be credited to an account in the state special revenue fund to be allocated by the legislature for provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking, conservation districts, and the Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account. Money may not be transferred from this account to another account other than the general fund. Any unreserved fund balance at the end of each fiscal year must be deposited in the general fund.

(4) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses, must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102.

(5) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable resource loan debt service fund.

(6) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other cultural and aesthetic projects.

(7) The amount of 2.9% must be credited to the ~~oil, gas, and~~ coal natural resource account established in 90-6-1001(2).

(8) After the allocations are made under subsections (2) through (7), \$250,000 for the fiscal year must be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.

(9) (a) Subject to subsection (9)(b), all other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state.

(b) The interest income from \$140 million of the coal severance tax permanent fund that is deposited in the general fund is statutorily appropriated, as provided in 17-7-502, on an annual basis as follows:

(i) \$65,000 to the cooperative development center;

(ii) \$1.25 million for the growth through agriculture program provided for in Title 90, chapter 9;

(iii) \$3.65 million to the research and commercialization state special revenue account created in 90-3-1002;

(iv) to the department of commerce:

(A) \$125,000 for a small business development center;

(B) \$50,000 for a small business innovative research program;

(C) \$425,000 for certified regional development corporations;

(D) \$200,000 for the Montana manufacturing extension center at Montana state university-Bozeman; and

(E) \$300,000 for export trade enhancement. (Terminates June 30, 2010—sec. 6, Ch. 481, L. 2003.)

15-35-108. (Effective July 1, 2010) **Disposal of severance taxes.** Severance taxes collected under this chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:

(1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX, section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under 17-6-203(6) and invested by the board of investments as provided by law.

(2) The amount of 12% of coal severance tax collections is allocated to the long-range building program account established in 17-7-205.

(3) The amount of 5.46% must be credited to an account in the state special revenue fund to be allocated by the legislature for provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking, conservation districts, and the Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account. Money may not be transferred from this account to another account other than the general fund. Any unreserved fund balance at the end of each fiscal year must be deposited in the general fund.

(4) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses, must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102.

(5) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable resource loan debt service fund.

(6) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other cultural and aesthetic projects.

(7) The amount of 2.9% must be credited to the ~~oil, gas, and~~ coal natural resource account established in 90-6-1001(2).

(8) After the allocations are made under subsections (2) through (7), \$250,000 for the fiscal year must be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.

(9) All other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state.”

Section 2. Section 15-36-304, MCA, is amended to read:

“15-36-304. Production tax rates imposed on oil and natural gas — exemption. (1) The production of oil and natural gas is taxed as provided in this section. The tax is distributed as provided in 15-36-331 and 15-36-332.

(2) Natural gas is taxed on the gross taxable value of production based on the type of well and type of production according to the following schedule for working interest and nonworking interest owners:

	Working Interest	Nonworking Interest
(a) (i) first 12 months of qualifying production	0.5%	14.8%
(ii) after 12 months:		
(A) pre-1999 wells	14.8%	14.8%
(B) post-1999 wells	9%	14.8%
(b) stripper natural gas pre-1999 wells	11%	14.8%
(c) horizontally completed well production:		
(i) first 18 months of qualifying production	0.5%	14.8%
(ii) after 18 months	9%	14.8%

(3) The reduced tax rates under subsection (2)(a)(i) on production for the first 12 months of natural gas production from a well begins following the last day of the calendar month immediately preceding the month in which natural gas is placed in a natural gas distribution system, provided that notification has been given to the department.

(4) The reduced tax rate under subsection (2)(c)(i) on production from a horizontally completed well for the first 18 months of production begins following the last day of the calendar month immediately preceding the month in which natural gas is placed in a natural gas distribution system, provided that notification has been given to the department.

(5) Oil is taxed on the gross taxable value of production based on the type of well and type of production according to the following schedule for working interest and nonworking interest owners:

	Working Interest	Nonworking Interest
(a) primary recovery production:		
(i) first 12 months of qualifying production	0.5%	14.8%
(ii) after 12 months:		
(A) pre-1999 wells	12.5%	14.8%
(B) post-1999 wells	9%	14.8%
(b) stripper oil production:		
(i) first 1 through 10 barrels a day production	5.5%	14.8%
(ii) more than 10 barrels a day production	9.0%	14.8%
(c) (i) stripper well exemption production	0.5%	14.8%
(ii) stripper well bonus production	6.0%	14.8%
(d) horizontally completed well production:		
(i) first 18 months of qualifying production	0.5%	14.8%
(ii) after 18 months:		
(A) pre-1999 wells	12.5%	14.8%

(B) post-1999 wells	9%	14.8%
(e) incremental production:		
(i) new or expanded secondary recovery production	8.5%	14.8%
(ii) new or expanded tertiary production	5.8%	14.8%
(f) horizontally recompleted well:		
(i) first 18 months	5.5%	14.8%
(ii) after 18 months:		
(A) pre-1999 wells	12.5%	14.8%
(B) post-1999 wells	9%	14.8%

(6) (a) The reduced tax rates under subsection (5)(a)(i) for the first 12 months of oil production from a well begins following the last day of the calendar month immediately preceding the month in which oil is pumped or flows, provided that notification has been given to the department.

(b) (i) The reduced tax rates under subsection (5)(d)(i) on oil production from a horizontally completed well for the first 18 months of production begins following the last day of the calendar month immediately preceding the month in which oil is pumped or flows if the well has been certified as a horizontally completed well to the department by the board.

(ii) The reduced tax rate under subsection (5)(f)(i) on oil production from a horizontally recompleted well for the first 18 months of production begins following the last day of the calendar month immediately preceding the month in which oil is pumped or flows if the well has been certified as a horizontally recompleted well to the department by the board.

(c) Incremental production is taxed as provided in subsection (5)(e) only if the average price for each barrel of oil as reported in the Wall Street Journal for west Texas intermediate crude oil during a calendar quarter is less than \$30 a barrel. If the price of oil is equal to or greater than \$30 a barrel in a calendar quarter as determined in subsection (6)(d), then incremental production from pre-1999 wells and from post-1999 wells is taxed at the rate imposed on primary recovery production under subsections (5)(a)(ii)(A) and (5)(a)(ii)(B), respectively, for production occurring in that quarter, other than exempt stripper well production.

(d) (i) Stripper well exemption production is taxed as provided in subsection (5)(c)(i) only if the average price for a barrel of oil as reported in the Wall Street Journal for west Texas intermediate crude oil during a calendar quarter is less than \$38 a barrel. If the price of oil is equal to or greater than \$38 a barrel, there is no stripper well exemption tax rate and oil produced from a well that produces 3 barrels a day or less is taxed as stripper well bonus production.

(ii) Stripper well bonus production is subject to taxation as provided in subsection (5)(c)(ii) only if the average price for a barrel of oil as reported in the Wall Street Journal for west Texas intermediate crude oil during a calendar quarter is equal to or greater than \$38 a barrel.

(e) For the purposes of subsections (6)(c) and (6)(d), the average price for each barrel must be computed by dividing the sum of the daily price for west Texas intermediate crude oil as reported in the Wall Street Journal for the calendar quarter by the number of days on which the price was reported in the quarter.

(7) (a) The tax rates imposed under subsections (2) and (5) on working interest owners and nonworking interest owners must be adjusted to include the total of the privilege and license tax adopted by the board of oil and gas conservation pursuant to 82-11-131 and the derived rate for the oil, ~~and gas, and coal~~ natural resource *distribution* account as determined under subsection (7)(b).

(b) The total of the privilege and license tax and the tax for the oil, ~~and gas, and coal~~ natural resource *distribution* account established in 90-6-1001(1) may not exceed 0.3%. The base rate for the tax for oil, ~~and gas, and coal~~ natural resource *distribution* account funding is 0.08%, but when the rate adopted pursuant to 82-11-131 by the board of oil and gas conservation for the privilege and license tax:

(i) exceeds 0.22%, the rate for the tax to fund the oil, ~~and gas, and coal~~ natural resource *distribution* account is equal to the difference between the rate adopted by the board of oil and gas conservation and 0.3%; or

(ii) is less than 0.18%, the rate for the tax to fund the oil, ~~and gas, and coal~~ natural resource *distribution* account is equal to the difference between the rate adopted by the board of oil and gas conservation and 0.26%.

(c) The board of oil and gas conservation shall give the department at least 90 days' notice of any change in the rate adopted by the board. Any rate change of the tax to fund the oil, ~~and gas, and coal~~ natural resource *distribution* account is effective at the same time that the board of oil and gas conservation rate is effective.

(8) Any interest in production owned by the state or a local government is exempt from taxation under this section."

Section 3. Section 15-36-331, MCA, is amended to read:

"15-36-331. Distribution of taxes. (1) (a) For each calendar quarter, the department shall determine the amount of tax, late payment interest, and penalties collected under this part.

(b) For the purposes of distribution of oil and natural gas production taxes to county and school district taxing units under 15-36-332 and to the state, the department shall determine the amount of oil and natural gas production taxes paid on production in the taxing unit.

(2) (a) The amount of oil and natural gas production taxes collected for the privilege and license tax pursuant to 82-11-131 must be deposited, in accordance with the provisions of 17-2-124, in the state special revenue fund for the purpose of paying expenses of the board, as provided in 82-11-135.

(b) The amount of the tax *allocated in 15-36-304(7)(b)* for the oil, ~~and gas, and coal~~ natural resource *distribution* account established in 90-6-1001(1) must be deposited in the account.

(3) (a) For each tax year, the amount of oil and natural gas production taxes determined under subsection (1)(b) is allocated to each county according to the following schedule:

Big Horn	45.05%
Blaine	58.39%
Carbon	48.27%
Chouteau	58.14%
Custer	69.53%

Ch. 33	MONTANA SESSION LAWS 2009	214
Daniels		50.81%
Dawson		47.79%
Fallon		41.78%
Fergus		69.18%
Garfield		45.96%
Glacier		58.83%
Golden Valley		58.37%
Hill		64.51%
Liberty		57.94%
McCone		49.92%
Musselshell		48.64%
Petroleum		48.04%
Phillips		54.02%
Pondera		54.26%
Powder River		60.9%
Prairie		40.38%
Richland		47.47%
Roosevelt		45.71%
Rosebud		39.33%
Sheridan		47.99%
Stillwater		53.51%
Sweet Grass		61.24%
Teton		46.1%
Toole		57.61%
Valley		51.43%
Wibaux		49.16%
Yellowstone		46.74%
All other counties		50.15%

(b) The oil and natural gas production taxes allocated to each county must be deposited in the state special revenue fund and transferred to each county for distribution, as provided in 15-36-332.

(4) The department shall, in accordance with the provisions of 17-2-124, distribute the state portion of oil and natural gas production taxes remaining after the distributions pursuant to subsections (2) and (3) as follows:

(a) for each fiscal year through the fiscal year ending June 30, 2011, to be distributed as follows:

(i) 1.23% to the coal bed methane protection account established in 76-15-904;

(ii) 1.45% to the natural resources projects state special revenue account established in 15-38-302;

(iii) 1.45% to the natural resources operations state special revenue account established in 15-38-301;

(iv) 2.99% to the orphan share account established in 75-10-743;

(v) 2.65% to the state special revenue fund to be appropriated to the Montana university system for the purposes of the state tax levy as provided in 20-25-423; and

(vi) all remaining proceeds to the state general fund;

(b) for fiscal years beginning after June 30, 2011, to be distributed as follows:

(i) 2.16% to the natural resources projects state special revenue account established in 15-38-302;

(ii) 2.02% to the natural resources operations state special revenue account established in 15-38-301;

(iii) 2.95% to the orphan share account established in 75-10-743;

(iv) 2.65% to the state special revenue fund to be appropriated to the Montana university system for the purposes of the state tax levy as provided in 20-25-423; and

(v) all remaining proceeds to the state general fund.”

Section 4. Section 15-36-332, MCA, is amended to read:

“15-36-332. Distribution of taxes to taxing units — appropriation.

(1) (a) By the dates referred to in subsection (6), the department shall distribute oil and natural gas production taxes allocated under 15-36-331(3) to each eligible county.

(b) By the dates referred to in subsection (6), the department shall distribute the amount deposited in the oil; *and gas, and coal* natural resource *distribution* account under 15-36-331(2)(b) as provided in subsection (8) *of this section*.

(2) (a) Each county treasurer shall distribute the amount of oil and natural gas production taxes designated under subsection (1)(a), including the amounts referred to in subsection (2)(b), to the countywide elementary and high school retirement funds, countywide transportation funds, and eligible school districts according to the following schedule:

	Elementary Retirement	High School Retirement	Countywide Transportation	School Districts
Big Horn	14.81%	10.36%	2.99%	26.99%
Blaine	5.86%	2.31%	2.71%	24.73%
Carbon	3.6%	6.62%	1.31%	49.18%
Chouteau	8.1%	4.32%	3.11%	23.79%
Custer	6.9%	3.4%	1.19%	31.25%
Daniels	0	7.77%	3.92%	48.48%
Dawson	5.53%	2.5%	1.11%	35.6%
Fallon	0	7.63%	1.24%	42.58%
Fergus	7.88%	4.84%	2.08%	53.25%
Garfield	4.04%	3.13%	5.29%	26.19%
Glacier	11.2%	4.87%	3.01%	46.11%
Golden Valley	0	11.52%	2.77%	54.65%
Hill	6.7%	4.07%	1.59%	49.87%
Liberty	4.9%	4.56%	1.15%	35.22%
McCone	4.18%	3.19%	2.58%	43.21%
Musselshell	5.98%	4.07%	3.53%	32.17%

Petroleum	0	11.92%	4.59%	55.48%
Phillips	0.43%	6.6%	1.08%	41.29%
Pondera	6.96%	5.06%	1.94%	45.17%
Powder River	3.96%	2.97%	4.57%	22.25%
Prairie	0	8.88%	1.63%	36.9%
Richland	4.1%	3.92%	2.26%	43.77%
Roosevelt	9.93%	7.37%	2.74%	40.94%
Rosebud	3.87%	2.24%	1.05%	72.97%
Sheridan	0	3.39%	2.22%	47.63%
Stillwater	6.87%	4.86%	1.63%	41.16%
Sweet Grass	6.12%	6.5%	2.4%	37.22%
Teton	6.88%	8.19%	3.8%	29.43%
Toole	2.78%	4.78%	1.3%	43.56%
Valley	2.26%	12.61%	4.63%	41.11%
Wibaux	0	4.1%	0.77%	31.46%
Yellowstone	7.98%	4.56%	1.07%	52.77%
All other counties	3.81%	7.84%	1.81%	41.04%

(b) (i) The county treasurer shall distribute 9.8% of the Custer County share to the countywide community college district in Custer County.

(ii) The county treasurer shall distribute 14.5% of the Dawson County share to the countywide community college district in Dawson County.

(3) The remaining oil and natural gas production taxes for each county must be used for the exclusive use and benefit of the county, including districts within the county established by the county.

(4) (a) The county treasurer shall distribute oil and natural gas production taxes to school districts in each county referred to in subsection (2) as provided in subsections (4)(b) through (4)(d).

(b) The amount distributed to each K-12 district within the county is equal to oil and natural gas production taxes in the county multiplied by the ratio that oil and natural gas production taxes attributable to oil and natural gas production in the K-12 school district bear to total oil and natural gas production taxes attributable to total oil and natural gas production in the county and multiply that amount by the school district percentage figure for the county referred to in subsection (2)(a).

(c) For the amount to be distributed to each elementary school district and to each high school district under subsection (4)(d), the department shall first determine the amount of oil and natural gas taxes in the high school district that is attributable to oil and natural gas production in each elementary school district that is located in whole or in part within the exterior boundaries of a high school district and multiply that amount by the school district percentage figure for the county referred to in subsection (2)(a).

(d) (i) The amount distributed to each elementary school district that is located in whole or in part within the exterior boundaries of a high school district is equal to the amount determined in subsection (4)(c) multiplied by the ratio that the total mills of the elementary school district bear to the sum of the total

mills of the elementary school district and the total mills of the high school district.

(ii) The amount distributed to the high school district is equal to the amount determined in subsection (4)(c) multiplied by the ratio that the total mills of the high school district bear to the sum of the total mills of each elementary school district referred to in subsection (4)(c) and the total mills of the high school district.

(5) (a) Oil and natural gas production taxes calculated for each school district under subsections (4)(b) through (4)(d) must be distributed to each school district in the relative proportion of the mill levy for each fund.

(b) If a distribution under subsection (5)(a) exceeds the total budget for a school district fund, the board of trustees of an elementary or high school district may reallocate the excess to any budgeted fund of the school district.

(6) The department shall remit the amounts to be distributed in this section to the county treasurer by the following dates:

(a) On or before August 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending March 31 of the current year.

(b) On or before November 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending June 30 of the current year.

(c) On or before February 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending September 30 of the previous year.

(d) On or before May 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending December 31 of the previous year.

(7) The department shall provide to each county by May 31 of each year the amount of gross taxable value represented by all types of production taxed under 15-36-304 for the previous calendar year multiplied by 60%. The resulting value must be treated as taxable value for county classification purposes under 7-1-2111.

(8) The department shall distribute the funds received under 15-36-331(2)(b) to counties based on county oil and gas production. Of the distribution to a county, one-third must be distributed to the county government and two-thirds must be distributed to incorporated cities and towns within the county. If there is more than one incorporated city or town within the county, the city and town allocation must be distributed to the cities and towns based on their relative populations.

(9) The distributions to taxing units and to counties and incorporated cities and towns under this section are statutorily appropriated, as provided in 17-7-502, from the state special revenue fund."

Section 5. Section 90-6-1001, MCA, is amended to read:

"90-6-1001. Oil, gas, and coal natural resource account accounts. (1) There is an oil, ~~and gas, and coal~~ natural resource *distribution* account in the state special revenue fund. The collections allocated to the account from ~~15-35-108(7) and 15-36-331(2)(b)~~ 15-36-304(7)(b) must be deposited in the account *to be used as provided in 15-36-332(8) and (9).*

(2) *There is a coal natural resource account in the state special revenue fund. The collections allocated to the account from 15-35-108(7) must be deposited in the account. The money in the account is allocated to the coal board provided for in 2-15-1821 and may be used only for local impact grants provided for in 90-6-205 through 90-6-207 and costs related to the administration of the grant awards.*

Section 6. Effective date. [This act] is effective July 1, 2009.

Approved March 20, 2009

CHAPTER NO. 34

[SB 53]

AN ACT EXTENDING THE TRIAL PERIOD FOR HEARING AIDS AND RELATED DEVICES PURCHASED FROM TRAVELING VENDORS; AND AMENDING SECTIONS 37-16-102, 37-16-303, AND 37-16-304, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 37-16-102, MCA, is amended to read:

“37-16-102. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) “Board” means the board of hearing aid dispensers provided for in 2-15-1740.

(2) “Department” means the department of labor and industry provided for in Title 2, chapter 15, part 17.

(3) “Hearing aid” means an instrument or device designed for or represented as aiding or improving defective human hearing and parts, attachments, or accessories of the instrument or device.

(4) “License” means a regular or trainee license.

(5) “*Permanent place of business*” means the primary site in this state at which a person licensed under this chapter conducts testing and fitting of hearing aids and related devices and that is open to the public at least 5 days a week.

(6) “*Place of practice*” means either a permanent place of business or a location on record with the department at which a person licensed under this chapter makes occasional visits. A place of practice must be affiliated with a permanent place of business.

(~~5~~)7) “Practice of selling, dispensing, and fitting hearing aids” means the evaluation or measurement of the powers or range of human hearing by means of an audiometer and a visual examination of the ear and canal or by any other means devised and the consequent selection, adaption, sale, dispensing, or fitting of hearing aids intended to compensate for hearing loss, including eyeglass hearing aids and their fittings, and the making of an impression of the ear and the subsequent selection of a proper ear mold, but does not include batteries, cords, or accessories.”

Section 2. Section 37-16-303, MCA, is amended to read:

“37-16-303. Bill of sale — medical evaluation requirements — waiver. (1) Any person who practices the selling, fitting, or dispensing of hearing aids and related devices shall, upon the sale of a hearing aid or related device, deliver to the customer a bill of sale that must contain:

(a) the seller's signature and license number, ~~and~~ the name and address of the seller's permanent place of business, *and if different from the permanent place of business, the address of the place of practice at which the sale was concluded*;

(b) a description of the make and type of the hearing aid or related device furnished and the amount charged;

(c) any warranty or guaranty and the right to cancel, ~~and as well as the terms of the warranty or guaranty and the right to cancel~~;

(d) the condition of the hearing aid or related device and whether it is new, used, or reconditioned;

(e) a provision that maintenance service for the hearing aid or related device is available; and

(f) the following statement, in boldface, 12-point type: "If you have any questions regarding your consumer rights with respect to hearing aids and related devices, contact the state Board of Hearing Aid Dispensers." The statement must also list the current telephone number and address of the board's office.

(2) (a) Except as provided in subsection (2)(b), a hearing aid dispenser may not sell a hearing aid to a person unless the person has presented to the hearing aid dispenser a written statement signed by a licensed physician within the previous 6 months that states that the person's hearing loss has been medically evaluated and that there are no medical factors or conditions that render hearing aid use inadvisable as a treatment or remedy for hearing loss.

(b) If the prospective hearing aid purchaser is 18 years of age or older, the hearing aid dispenser may give that person the opportunity to waive the requirements of subsection (2)(a) in accordance with the disclosure, waiver form, and instructional brochure requirements of the U.S. food and drug administration regulations found at ~~42 CFR 801.420 and 42 CFR 801.421~~ *21 CFR 801.420 and 21 CFR 801.421*."

Section 3. Section 37-16-304, MCA, is amended to read:

"37-16-304. Right to cancel — return of hearing aid or related device — notice — refund — dispensing fee rules. (1) (a) ~~A~~ *Except as provided in subsection (1)(b), a purchaser of a hearing aid or related device may, for any reason, cancel the sale within 30 days of the date of delivery at a permanent place of business of the hearing aid or related device by providing written notice to the establishment that employed the licensed hearing aid dispenser at the time the hearing aid was purchased indicating the purchaser's intention not to be bound by the sale contract.*

(b) (i) *If a licensed hearing aid dispenser has provided a hearing test or a fitting consultation to a purchaser at a place of practice other than the dispenser's permanent place of business prior to or at the time the purchaser takes delivery of a hearing aid or related device, the purchaser may, for any reason, cancel the sale within 30 days from the date of the first postdelivery followup consultation conducted in person at the place of practice.*

(ii) *A purchaser subject to the provisions of subsection (1)(b)(i) may waive the extended trial period if, at the date of delivery, the purchaser was offered and declined in writing the followup consultation, in which case the 30-day period in subsection (1)(a) applies.*

(c) *The trial period in subsection (1)(a) or (1)(b) applies notwithstanding the provisions of Title 30, chapter 14, part 5.*

(2) (a) A purchaser canceling a sale under subsection (1) shall provide written notice indicating the purchaser's intention not to be bound by the sales contract. The notice must be sent to the address of the licensed hearing aid dispenser's permanent place of business at the time the hearing aid was purchased.

(b) The purchaser shall return or hold for the licensed hearing aid dispenser's disposal the hearing aid or related device in substantially the same condition as it was received by the purchaser.

~~(2)~~(3) (a) For the purpose of determining whether cancellation has occurred within ~~30 days of the date of delivery~~ the time specified in subsection (1), written notice:

~~(a)~~(i) given by mail is considered given on the date mailed; and

~~(b)~~(ii) delivered in person is considered given when delivered to the hearing aid dispenser's permanent place of business or place of practice.

(b) If the purchaser and the licensed hearing aid dispenser dispute the timing of a cancellation under the terms of subsection (1)(b), the dispenser shall provide documentation to the board that the dispenser provided written notice of the purchaser's entitlement to a postdelivery followup consultation at the place of practice and that the consultation either occurred or was waived by the purchaser in writing.

~~(3)~~(4) A licensed hearing aid dispenser shall refund to the purchaser the amount paid for a hearing aid or related device minus any authorized dispensing fee within 10 days of receipt of written notice of cancellation.

(5) If the board decides to authorize a dispensing fee, the form and manner of calculating a dispensing fee must be established by the board by rule. Dispensing fee rules adopted by the board may include but are not limited to consideration of business overhead and costs associated with initial hearing evaluations, consultations, fittings, and followup visits.

~~(4)~~(6) A licensed hearing aid dispenser may not sell a hearing aid in this state unless the ~~seller~~ dispenser provides the ~~buyer~~ purchaser with written notice of the ~~30-day~~ trial period, as provided in subsection (1), and a money-back guarantee.

~~(5)~~(7) If the hearing aid must be repaired, remade, or adjusted during the ~~30-day~~ trial period, the running of the ~~30-day~~ trial period must be suspended for each day that the hearing aid is not in the purchaser's possession. The provisions of this subsection may not be waived."

Approved March 20, 2009

CHAPTER NO. 35

[SB 72]

AN ACT REVISING LAWS RELATED TO PUBLIC SERVICE COMMISSION PERSONNEL; AMENDING SECTIONS 69-1-111, 69-1-112, AND 69-3-327, MCA; AND REPEALING SECTIONS 69-1-108 AND 69-1-109, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Commission recordkeeping and employment of personnel. (1) The commission shall keep a full and complete record of all its proceedings and preserve at the office of the commission all books, maps, documents, and papers entrusted to its care.

(2) The commission may appoint secretaries, stenographers, inspectors, experts, and other persons whenever determined necessary by the commission to perform its duties.

Section 2. Section 69-1-111, MCA, is amended to read:

“69-1-111. Reimbursement for expenses. The commission, ~~secretary,~~ and such clerks, experts, and persons as may be employed ~~and its staff shall be~~ *are* entitled to receive from the state their expenses while traveling on the business of the commission *reimbursement for travel expenses*, as provided for in 2-18-501 through 2-18-503. ~~Such expenditure shall~~ *Expenditures must* be sworn to by the person who incurred the expenses and be approved by the ~~chairman~~ *presiding officer* of the commission or ~~his~~ *the presiding officer's* designee.”

Section 3. Section 69-1-112, MCA, is amended to read:

“69-1-112. Prohibition on acceptance of favors from railroads. (1) A ~~public service commissioner or the secretary~~ *Public service commissioners or their staff* may not, directly or indirectly, solicit or request from or recommend to any railroad corporation or any officer, attorney, or agent thereof the appointment of any person to any place or position; ~~nor shall,~~ *and* any railroad corporation or its attorney or agent *may not* offer any place, appointment, or position or other consideration to such commissioners or ~~to any clerks or employees of the commission; their staff.~~ *neither shall the commissioners or Commissioners and their secretary, clerks, agents, employees, or experts staff may not* accept, receive, or request any pass from any railroad in this state, for themselves or for any other person, except as ~~herein~~ otherwise provided in 69-1-111, or any present, gift, or gratuity of any kind from any railroad corporation.

(2) ~~The A~~ request or acceptance by ~~them,~~ except as ~~herein~~ specified in 69-1-111, of any ~~such~~ place or position, pass, present, gift, or other gratuity ~~shall work a~~ *referred to in subsection (1) results in* forfeiture of the office of the commissioner, ~~secretary, clerk, agent, employee, or expert or the staff~~ requesting or accepting the same. ~~Any A~~ person violating any of the provisions of this section is guilty of a misdemeanor.”

Section 4. Section 69-3-327, MCA, is amended to read:

“69-3-327. Subpoena of witnesses. If any party ordered to appear before the commission as a witness ~~shall fail~~ *fails* to obey ~~such~~ *the* order, the commission or ~~any member or the secretary thereof~~ *its staff* may apply to the clerk of the nearest district court for a subpoena commanding the attendance of ~~said~~ *the* witness before the commission. It ~~shall be~~ *is* the duty of ~~such~~ *the* clerk to issue ~~such~~ *the* subpoena and of any peace officer to serve the ~~same~~ *subpoena*. Disobedience to ~~such~~ *the* subpoena ~~shall be deemed a~~ *is considered* contempt of court and ~~punished~~ *is punishable* accordingly.”

Section 5. Repealer. Sections 69-1-108 and 69-1-109, MCA, are repealed.

Section 6. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 69, chapter 1, part 1, and the provisions of Title 69, chapter 1, part 1, apply to [section 1].

Approved March 20, 2009

CHAPTER NO. 36

[SB 78]

AN ACT CLARIFYING THE MILL LEVY LIMIT FOR SOIL CONSERVATION DISTRICTS; AMENDING SECTION 76-15-515, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 76-15-515, MCA, is amended to read:

~~“76-15-515. Maximum regular~~ **Regular assessment.** ~~Except as provided in 76-15-531 and 76-15-532, the~~ *The regular assessment in any one 1 year may not exceed 1 1/2 mills on the dollar of total taxable valuation of real property within the district is subject to 15-10-420. The valuation must be determined according to the last assessment roll.”*

Section 2. Effective date. [This act] is effective on passage and approval.

Approved March 20, 2009

CHAPTER NO. 37

[SB 91]

AN ACT REVISING THE YOUTH COURT ACT BY REQUIRING A YOUTH TO BE REPRESENTED BY AN ATTORNEY AT A DETENTION HEARING UNLESS THE RIGHT TO AN ATTORNEY IS WAIVED AFTER CONSULTING WITH AN ATTORNEY; AND AMENDING SECTIONS 41-5-331 AND 41-5-333, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 41-5-331, MCA, is amended to read:

“41-5-331. Rights of youth taken into custody — questioning — waiver of rights. (1) When a youth is taken into custody for questioning upon a matter that could result in a petition alleging that the youth is either a delinquent youth or a youth in need of intervention, the following requirements must be met:

(a) The youth must be advised of the youth’s right against self-incrimination and the youth’s right to counsel.

(b) The investigating officer, probation officer, or person assigned to give notice shall immediately notify the parents, guardian, or legal custodian of the youth that the youth has been taken into custody, the reasons for taking the youth into custody, and where the youth is being held. If the parents, guardian, or legal custodian cannot be found through diligent efforts, a close relative or friend chosen by the youth must be notified.

(2) A youth may waive the rights listed in subsection (1) under the following situations:

(a) when the youth is 16 years of age or older, the youth may make an effective waiver, *subject to the provisions of 41-5-333(2)*;

(b) when the youth is under 16 years of age and the youth and the youth’s parent or guardian agree, they may make an effective waiver, *subject to the provisions of 41-5-333(2)*; or

(c) when the youth is under 16 years of age and the youth and the youth's parent or guardian do not agree, the youth may make an effective waiver only with advice of counsel."

Section 2. Section 41-5-333, MCA, is amended to read:

"41-5-333. Custody — hearing for probable cause — procedure. (1) At a probable cause hearing held pursuant to 41-5-332, the youth must be informed of the youth's constitutional rights and the youth's rights under this chapter.

(2) *A youth must be represented by counsel at a probable cause hearing unless the right to counsel is waived after consultation with an attorney prior to the hearing.*

~~(2)~~(3) A parent, guardian, or custodian of the youth may be held in contempt of court for failing to be present at or to participate in the probable cause hearing unless the parent, guardian, or custodian:

(a) cannot be located through diligent efforts of the investigating peace officer or peace officers; or

(b) is excused by the court for good cause.

~~(3)~~(4) At the probable cause hearing, a guardian ad litem may be appointed as provided in 41-5-1411."

Approved March 20, 2009

CHAPTER NO. 38

[SB 98]

AN ACT ADDING CERTAIN FOREST OR GRASSLAND HAZARDOUS FUELS REDUCTION PROJECTS AS AN ALLOWED PURPOSE FOR IMPOSING A PROPERTY TAX LEVY; AMENDING SECTION 7-6-2527, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 7-6-2527, MCA, is amended to read:

"7-6-2527. Taxation — public and governmental purposes. A county may impose a property tax levy for any public or governmental purpose not specifically prohibited by law. Public and governmental purposes include but are not limited to:

(1) district court purposes as provided in 7-6-2511;

(2) county-owned or county-operated health care facility purposes as provided in 7-6-2512;

(3) county law enforcement services and maintenance of county detention center purposes as provided in 7-6-2513 and search and rescue units as provided in 7-32-235;

(4) multijurisdictional service purposes as provided in 7-11-1106;

(5) transportation services for senior citizens and persons with disabilities as provided in 7-14-111;

(6) support for a port authority as provided in 7-14-1132;

(7) county road, bridge, and ferry purposes as provided in 7-14-2101, 7-14-2501, 7-14-2502, 7-14-2503, 7-14-2801, and 7-14-2807;

(8) recreational, educational, and other activities of the elderly as provided in 7-16-101;

(9) purposes of county fair activities, parks, cultural facilities, and any county-owned civic center, youth center, recreation center, or recreational complex as provided in 7-16-2102, 7-16-2109, and 7-21-3410;

(10) programs for the operation of licensed day-care centers and homes as provided in 7-16-2108 and 7-16-4114;

(11) support for a museum, facility for the arts and the humanities, collection of exhibits, or a museum district as provided in 7-16-2205;

(12) extension work in agriculture and home economics as provided in 7-21-3203;

(13) weed control and management purposes as provided in 7-22-2142;

(14) insect control programs as provided in 7-22-2306;

(15) fire control as provided in 7-33-2209;

(16) ambulance service as provided in 7-34-102;

(17) public health purposes as provided in 50-2-111 and 50-2-114;

(18) public assistance purposes as provided in 53-3-115;

(19) indigent assistance purposes as provided in 53-3-116;

(20) developmental disabilities facilities as provided in 53-20-208;

(21) mental health services as provided in 53-21-1010;

(22) airport purposes as provided in 67-10-402 and 67-11-302;

(23) purebred livestock shows and sales as provided in 81-8-504;

(24) economic development purposes as provided in 90-5-112; ~~and~~

(25) prevention programs, including programs that reduce substance abuse; *and*

(26) *forest or grassland hazardous fuels reduction projects in areas near homes and communities where wildland fire is a threat.*"

Section 2. Effective date. [This act] is effective on passage and approval.

Approved March 20, 2009

CHAPTER NO. 39

[SB 103]

AN ACT REQUIRING ALL PERSONS WHO ARE CONVICTED OF A SEXUAL OFFENSE AND WHO RECEIVE A SUSPENDED SENTENCE TO COMPLY WITH CERTAIN TERMS AND CONDITIONS DURING THE SUSPENDED PORTION OF THE SENTENCE; AMENDING SECTION 46-18-207, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 46-18-207, MCA, is amended to read:

"46-18-207. Sexual offender treatment. (1) Upon sentencing a person convicted of a sexual offense, as defined in 46-23-502, the court shall designate the offender as a level 1, 2, or 3 offender pursuant to 46-23-509.

(2) (a) Except as provided in subsection (2)(b), the court shall order an offender convicted of a sexual offense, as defined in 46-23-502, except an offense under 45-5-301 through 45-5-303, and sentenced to imprisonment in a state prison to:

(i) enroll in and successfully complete the educational phase of the prison's sexual offender treatment program;

(ii) if the person has been or will be designated as a level 3 offender pursuant to 46-23-509, enroll in and successfully complete the cognitive and behavioral phase of the prison's sexual offender treatment program; and

(iii) if the person is sentenced pursuant to 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(c), or 45-5-625(4) and is released on parole, remain in an outpatient sex offender treatment program for the remainder of the person's life.

(b) A person who has been sentenced to life imprisonment without possibility of release may not participate in treatment provided pursuant to this section.

(3) A person who has been ordered to enroll in and successfully complete a phase of a state prison's sexual offender treatment program is not eligible for parole unless that phase of the program has been successfully completed as certified by a sexual offender evaluator to the board of pardons and parole.

(4) (a) Except for an offender sentenced pursuant to 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(c), or 45-5-625(4), during an offender's term of commitment to the department of corrections or a state prison, the department may place the person in a residential sexual offender treatment program approved by the department under 53-1-203.

(b) If the person successfully completes a residential sexual offender treatment program approved by the department of corrections, the remainder of the term must be served on probation unless the department petitions the sentencing court to amend the original sentencing judgment.

(5) ~~If a person's sentence is suspended pursuant to subsection (4)(b), following a conviction for a sexual offense as defined in 46-23-502, any portion of a person's sentence is suspended, during the suspended portion of the sentence the person:~~

(a) shall abide by the standard conditions of probation established by the department of corrections;

(b) shall pay the costs of imprisonment, probation, and any sexual offender treatment if the person is financially able to pay those costs;

(c) may have no contact with the victim or the victim's immediate family unless approved by the victim or the victim's parent or guardian, the person's therapists, and the person's probation officer;

(d) shall comply with all requirements and conditions of sexual offender treatment as directed by the person's sex offender therapist;

(e) may not enter an establishment where alcoholic beverages are sold for consumption on the premises or where gambling takes place;

(f) may not consume alcoholic beverages;

(g) shall enter and remain in an aftercare program as directed by the person's probation officer;

(h) shall submit to random or routine drug and alcohol testing;

(i) may not possess pornographic material or access pornography through the internet; and

(j) at the discretion of the probation and parole officer, may be subject to electronic monitoring or continuous satellite monitoring.

(6) The sentencing of a sexual offender is subject to 46-18-202(2) and 46-18-219.

(7) The sentencing court may, upon petition by the department of corrections, modify a sentence of a sexual offender to impose any part of a sentence that was previously suspended.”

Section 2. Effective date. [This act] is effective on passage and approval.

Section 3. Applicability. [This act] applies to persons charged with a sexual offense, as defined in 46-23-502, on or after [the effective date of this act].

Approved March 20, 2009

CHAPTER NO. 40

[SB 140]

AN ACT REPEALING THE TERMINATION DATE OF THE DOMESTIC VIOLENCE FATALITY REVIEW COMMISSION; REPEALING SECTION 4, CHAPTER 81, LAWS OF 2003, CHAPTER 23, LAWS OF 2005, AND CHAPTER 185, LAWS OF 2007; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Repealer. Section 4, Chapter 81, Laws of 2003, Chapter 23, Laws of 2005, and Chapter 185, Laws of 2007, are repealed.

Section 2. Effective date. [This act] is effective on passage and approval.

Approved March 20, 2009

CHAPTER NO. 41

[SB 152]

AN ACT GENERALLY REVISING MOTOR VEHICLE REGISTRATION PROCEDURES AND PROVISIONS GOVERNING ELECTRONIC INDIVIDUAL DRIVING RECORDS; REVISING FILING OF SECURITY INTERESTS OR LIENS ON VEHICLES; REVISING DISPOSITION OF REVENUE COLLECTED FOR INSPECTION OF SALVAGE VEHICLES; ALLOWING THE DEPARTMENT OF JUSTICE TO ADOPT RULES GOVERNING ISSUANCE OF TEMPORARY REGISTRATION PERMITS; PROVIDING THAT REVENUE FROM CERTAIN VOLUNTARY DONATIONS MADE DURING MOTOR VEHICLE REGISTRATION BE FORWARDED BY THE COUNTY TREASURER TO THE DEPARTMENT OF JUSTICE; REVISING PROVISIONS GOVERNING REVOCATION OF GENERIC SPECIALTY LICENSE PLATE SPONSORSHIP; PROVIDING FOR TREATMENT OF DISHONORED INSTRUMENTS FOR PURPOSES OF COLLECTION AND REMITTANCE OF MOTOR VEHICLE FEES TO THE DEPARTMENT OF JUSTICE; REVISING CERTIFICATION AUTHORITY FOR ELECTRONIC INDIVIDUAL DRIVING RECORDS; AMENDING SECTIONS 61-3-103, 61-3-223, 61-3-224, 61-3-303, 61-3-474, 61-3-509,

61-5-208, AND 61-11-102, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 61-3-103, MCA, is amended to read:

“61-3-103. Filing of security interests — perfection — rights — procedure — fees. (1) (a) Except as provided in subsection (2), the department, its authorized agent, or a county treasurer shall, upon payment of the fee required by subsection (8), enter a voluntary security interest or lien against the electronic record of title for a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile upon receipt of a written acknowledgment *of a voluntary security interest or lien by the owner of a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* ~~owner of a voluntary security interest or lien~~ on a form *required prescribed* by the department. ~~The entry may be made if:~~

~~(i) the person is applying for a certificate of title and the manufacturer’s certificate of origin or a certificate of title is being surrendered; or~~

~~(ii) a transfer of ownership is not sought.~~

(b) After the voluntary security interest or lien has been entered on the electronic record of title for the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile, the department, its authorized agent, or a county treasurer shall issue a transaction summary receipt to the owner and, if requested, to the secured party or lienholder, showing the date that the security interest or lien was perfected.

(c) A voluntary security interest or lien is perfected on the date that the department, its authorized agent, or a county treasurer receives the written acknowledgment of the voluntary security interest or lien from the owner of the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile.

~~(d) Unless Except as provided in subsection (3), when a person applying for a certificate of title requests issuance of a certificate of title under 61-3-201, the department may not shall record a the voluntary security interest or lien on the face of a certificate of title.~~

(2) A security interest in a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile held as inventory by a dealer licensed under Title 23, chapter 2, part 5, 6, or 8, or chapter 4 of this title must be perfected in accordance with Title 30, chapter 9A.

(3) Whenever a security interest or lien is filed against the electronic record of title for a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile that is subject to two security interests previously perfected under this section and the applicant has requested issuance of a certificate of title under 61-3-201, the department shall endorse on the face of the certificate of title, “NOTICE. This vehicle is subject to additional security interests on file with the Department of Justice.” Other information regarding the additional security interests is not required to be endorsed on the certificate.

(4) Upon default under a chattel mortgage or conditional sales contract covering a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile, the mortgagee or vendor has the same remedies as in the case of other personal property. In case of attachment of motor vehicles, trailers, semitrailers, pole trailers, campers, motorboats,

personal watercraft, sailboats, or snowmobiles, all the provisions of 27-18-413, 27-18-414, and 27-18-804 are applicable except that deposits must be made with the department.

(5) A secured party or lienholder who has a perfected security interest in a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile and who fails to file a satisfaction of the security interest or lien within 21 days after receiving final payment is required to pay the department \$25 for each day that the secured party or lienholder fails to file the satisfaction.

(6) Within 24 hours after receiving notice of any involuntary liens or attachments against the record of any motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile registered in this state, the department shall mail to the owner or any secured party or lienholder of record a notice showing the name and address of the lien claimant, the amount of the lien, the date of execution of the lien, and, in the case of attachment, the full title of the court and the action and the names of the attorneys for the plaintiff and attaching creditor.

(7) (a) This section does not prevent a secured party or lienholder from assigning the secured party's or lienholder's interest in a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile, for which a certificate of title is issued under this chapter, to any other person without the consent of and without affecting the interest of the holder of the certificate of title.

(b) If a secured party assigns all or part of the party's interest in a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile for which a certificate of title is issued under this chapter, the secured party assigning the interest shall file a copy of the assignment with the department and the department shall record the assignment in the department's records.

(8) (a) A fee must be paid to the department to file any security interest or other lien against a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile. The fee covers the cost of entering and, upon the subsequent satisfaction or release, of removing the security interest or lien from the electronic record of title.

(b) Beginning January 1, 2002, and ending June 30, 2016, the fee is \$8. Of the \$8 fee, \$4 must be deposited in the state general fund in accordance with 15-1-504. The remaining \$4 must be forwarded to the state for deposit in the motor vehicle information technology system account provided for in 61-3-550.

(c) Beginning July 1, 2016, the fee is \$4 and must be deposited in the state general fund.

(9) (a) Until June 30, 2018, a fee of \$10 must be paid to the department by a vehicle owner if, following satisfaction or release of a security interest and its removal from the department's records, the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile owner requests issuance of a new certificate of title without the security interest or lien shown on the face of the title. Beginning July 1, 2018, the fee for a new certificate of title under this subsection is \$5.

(b) Until June 30, 2018, the \$10 fee must be deposited in the motor vehicle information technology system account provided for in 61-3-550.

(c) Beginning July 1, 2018, the \$5 fee must be deposited in the state general fund.”

Section 2. Section 61-3-223, MCA, is amended to read:

“61-3-223. Salvage vehicles. (1) A salvage vehicle for which a certificate of title is sought must be inspected for the vehicle identification number to authenticate the identity of the motor vehicle before an electronic record of title can be created or a certificate of title can be issued. The inspection does not attest to the roadworthiness or safety condition of the motor vehicle and must be performed by an authorized employee or an authorized agent of the department or by a peace officer designated by the department.

(2) The department may contract with a person or entity for use of a facility as a regional inspection site for salvage vehicles.

(3) The department shall collect an inspection fee of \$18.50 from the person requesting the inspection for each salvage vehicle inspected. The fees *fee* collected under this section must be ~~distributed as follows:~~

(a) ~~\$5 must be deposited in the state general fund; and~~

(b) ~~\$13.50 must be deposited in an account in the state special revenue fund to be appropriated only for the inspection of salvage vehicles.~~

(4) (a) A person authorized to inspect salvage vehicles may seize and hold a vehicle:

(i) if the person has probable cause to believe that the motor vehicle has been stolen;

(ii) on which a motor number or vehicle identification number has been defaced, altered, removed, covered, destroyed, or obliterated; or

(iii) that has a vehicle identification number that does not conform with the vehicle identification number on the certificate of title.

(b) A seized motor vehicle must be held until the identity of the motor vehicle is established and arrangements are made for its lawful disposition. A person authorized to inspect salvage vehicles may use any means necessary to identify a motor vehicle by its vehicle identification number or numbers.

(5) The department may not create an electronic record of title or issue a certificate of title for a salvage vehicle until the identity of the motor vehicle is established.

(6) The department may adopt rules for the inspection of salvage vehicles.”

Section 3. Section 61-3-224, MCA, is amended to read:

“61-3-224. Temporary registration permit — authority to adopt rules — issuance — placement — fees. (1) ~~(a) The department, an authorized agent, or a county treasurer may issue a temporary registration permit to:~~

~~(i) The department may adopt rules governing the issuance of temporary registration permits. The rules must specify the purposes for which a temporary registration permit may be issued, including but not limited to issuance to:~~

~~(a) a Montana resident who acquires a new or used motor vehicle, trailer, semitrailer, pole trailer, motorboat, sailboat that is 12 feet in length or longer, snowmobile, or off-highway vehicle for operation of the vehicle or vessel prior to titling and registration of the vehicle or vessel under this chapter;~~

~~(ii)(b) the owner of a salvage vehicle for moving or a vehicle requiring a state-assigned vehicle identification number in order to move the vehicle to and~~

from a designated inspection site prior to applying for a new certificate of title under *61-3-107 or 61-3-212*;

~~(iii)~~(c) the owner of a motor vehicle, trailer, semitrailer, or pole trailer registered in this state for operation of the vehicle while awaiting production and receipt of special or duplicate license plates ordered for the vehicle under this chapter;

~~(iv)~~(d) a nonresident of this state who acquires a motor vehicle, trailer, semitrailer, or pole trailer in this state for operation of the vehicle prior to its titling and registration under the laws of the nonresident's jurisdiction of residence;

~~(v)~~(e) a dealer licensed in another state who brings a motor vehicle or trailer designed and used to apply fertilizer to agricultural lands into the state for special demonstration in this state; or

~~(vi)~~(f) a financial institution located in Montana for a prospective purchaser to demonstrate a motor vehicle that the financial institution has obtained following repossession; or

(g) *an insurer or its agent to move a motor vehicle or trailer to auction following acquisition of the vehicle by the insurer as a result of the settlement of an insurance claim.*

(2) (a) *The department, an authorized agent, or a county treasurer may issue a temporary registration permit for any purpose authorized under the rules adopted by the department.*

(b) An authorized agent or a county treasurer may issue a temporary registration permit without use of the department-approved electronic interface only if authorized by the department.

~~(2)~~(3) A person, using a department-approved electronic interface, may issue a temporary registration permit for the specified purposes if the person is:

(a) ~~a Montana resident who acquires a new or used motor vehicle, trailer, semitrailer, pole trailer, motorboat, sailboat that is 12 feet in length or longer, snowmobile, or off-highway vehicle for operation of the vehicle or vessel prior to titling and registration of the vehicle or vessel under this chapter;~~

~~(b) the owner of a salvage vehicle for moving the vehicle to and from a designated inspection site prior to applying for a new certificate of title under 61-3-212;~~

~~(c) a nonresident of this state who acquires a motor vehicle, trailer, semitrailer, or pole trailer in this state for operation of the vehicle prior to its titling and registration under the laws of the nonresident's jurisdiction of residence; or~~

~~(d) a financial institution located in Montana that intends to allow a prospective purchaser to demonstrate a motor vehicle that the financial institution has obtained following repossession. any purpose authorized under the rules adopted by the department.~~

~~(3)~~(4) A temporary registration permit issued under this section must contain the following information:

(a) ~~a temporary plate number, registration receipt number, or transaction record number, as prescribed by the department;~~

(b) the expiration date of the temporary registration permit; and

(c) if required by the department, a description of the motor vehicle, trailer, semitrailer, pole trailer, motorboat, personal watercraft, sailboat, or snowmobile, including year, make, model, and vehicle identification number, the name of the person from whom ownership of the motor vehicle, trailer, semitrailer, pole trailer, motorboat, personal watercraft, sailboat, or snowmobile was transferred, the name, mailing address, and residence address of the person to whom ownership of the motor vehicle, trailer, semitrailer, pole trailer, motorboat, personal watercraft, sailboat, or snowmobile has been transferred, and the date of issuance.

(4)(5) A temporary registration permit for:

(a) a motor vehicle, trailer, semitrailer, or pole trailer must be plainly visible and firmly attached to the rear exterior of the vehicle where a license plate is required to be displayed; and

(b) a motorboat, a sailboat that is 12 feet in length or longer, a snowmobile, or an off-highway vehicle must be plainly visible and firmly attached to the vehicle or vessel.

(5)(6) (a) Except as provided in 61-3-431 and subsection (5)(b) (6)(b) of this section, a \$3 fee is imposed upon issuance of a temporary registration permit by the department, an authorized agent, or a county treasurer. The fee must be paid by the owner of the vehicle or vessel and collected by the department, the authorized agent, or a county treasurer when the vehicle is registered.

(b) Except as provided in 61-3-431, a fee of \$8 is imposed and must be paid upon issuance of a temporary registration permit by:

(i) the department, an authorized agent, or a county treasurer to a nonresident of this state who acquires a vehicle or vessel in this state; or

(ii) a person who issued a temporary registration permit using a department-approved electronic interface.

(6)(7) The fees imposed under this section, upon collection, must be forwarded to the state and deposited in the motor vehicle electronic commerce operating account provided for in 61-3-118.

(7)(8) If a temporary registration permit is issued under this section to a person to whom ownership of a vehicle or vessel has been transferred, the permitholder shall title and register the vehicle or vessel in this or another jurisdiction before the ownership of the vehicle or vessel may be transferred to another person.”

Section 4. Section 61-3-303, MCA, is amended to read:

“61-3-303. Original registration — process — fees. (1) Except as provided in 61-3-324, a Montana resident who owns a motor vehicle, trailer, semitrailer, or pole trailer operated or driven upon the public highways of this state shall register the motor vehicle, trailer, semitrailer, or pole trailer in the office of the county treasurer in the county where the owner is domiciled.

(2) Except as provided in subsection (3), the county treasurer shall register any vehicle for which:

(a) as of the date that the motor vehicle, trailer, semitrailer, or pole trailer is to be registered, the owner delivers an application for a certificate of title to the department, its authorized agent, or a county treasurer; or

(b) the county treasurer confirms that the department has an electronic record of title for the motor vehicle, trailer, semitrailer, or pole trailer as provided under 61-3-101.

(3) (a) A county treasurer may register a motor vehicle, trailer, semitrailer, or pole trailer for which a certificate of title and registration were issued in another jurisdiction and for which registration is required under 61-3-701 after the county treasurer examines the current out-of-jurisdiction registration certificate or receipt and receives payment of the fees required in 61-3-701. The county treasurer may ask the motor vehicle, trailer, semitrailer, or pole trailer owner to provide additional information, prescribed by the department, to ensure that the electronic record of registration maintained by the department is complete.

(b) A county treasurer may register a motor vehicle, trailer, semitrailer, or pole trailer for which the new owner cannot, due to circumstances beyond the new owner's control, surrender a previously assigned certificate of title. The new owner may submit an application for certificate of title, subject to the registration renewal limitations of 61-3-312.

(4) Upon registering a motor vehicle, trailer, semitrailer, or pole trailer for the first time in this state, the county treasurer shall:

(a) update the electronic record of title, if any, maintained for the vehicle by the department under 61-3-101;

(b) assign a registration period for the vehicle under 61-3-311;

(c) determine the vehicle's age, if required, under 61-3-501;

(d) determine the amount of fees, including local option taxes or fees, to be paid under subsection (5); and

(e) assign and issue license plates for the vehicle under 61-3-331.

(5) Unless otherwise provided by law, a person registering a motor vehicle shall pay to the county treasurer:

(a) the fees in lieu of tax or registration fees as required for:

(i) a light vehicle under 61-3-321 or 61-3-562, in addition to, if applicable, any local option tax or fee under 61-3-537 or 61-3-570;

(ii) a motor home under 61-3-321;

(iii) a travel trailer under 61-3-321;

(iv) a motorcycle or quadricycle under 61-3-321;

(v) a bus, a truck having a manufacturer's rated capacity of more than 1 ton, or a truck tractor under 61-3-321 and 61-3-529; or

(vi) a trailer under 61-3-321;

(b) a donation of \$1 or more if the person indicates that the person wishes to donate to promote awareness and education efforts for procurement of organ and tissue donations in Montana to favorably impact anatomical gifts; and

(c) a donation of \$1 or more if the person indicates that the person wishes to donate to promote education on, support for, and awareness of traumatic brain injury.

(6) The county treasurer may not issue a registration receipt or license plates for the motor vehicle, trailer, semitrailer, or pole trailer to the owner unless the owner makes the payments required by subsection (5).

(7) The department may make full and complete investigation of the registration status of the motor vehicle, trailer, semitrailer, or pole trailer. A person seeking to register a motor vehicle, trailer, semitrailer, or pole trailer

under this section shall provide additional information to support the registration to the department if requested.

(8) Revenue that accrues from the voluntary donation provided in subsection (5)(b) must be forwarded by the respective county treasurer to the department of revenue for deposit in the state special revenue fund to the credit of an account established by the department of public health and human services to support activities related to awareness and education efforts for procurement of organ and tissue donations for anatomical gifts.

(9) (a) Except as provided in subsection (9)(b), the fees in lieu of tax, taxes, and fees imposed on or collected from the registration of a travel trailer, motorcycle, or quadricycle or a trailer, semitrailer, or pole trailer that has a declared weight of less than 26,000 pounds are required to be paid only once during the time that the travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer is owned by the same person who registered the travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer. Once registered, a travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer is registered permanently unless ownership is transferred.

(b) Whenever ownership of a travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer is transferred, the new owner is required to register the travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer as if it were being registered for the first time, including paying all of the required fees in lieu of tax, taxes, and fees.

(10) Revenue that accrues from the voluntary donation provided in subsection (5)(c) must be forwarded by the respective county treasurer to the department of revenue for deposit in the state special revenue fund to the credit of the account established in 2-15-2218 to support activities related to education regarding prevention of traumatic brain injury.”

Section 5. Section 61-3-474, MCA, is amended to read:

“61-3-474. Responsibility for design of generic specialty license plates — numbering — rulemaking — approval — registration decal — listing of plate sponsors. (1) The department shall:

(a) design the background and general format of generic specialty license plates;

(b) in consultation with the department of corrections, determine which license plate processing system is the most efficient and versatile manufacturing method for the production of generic specialty license plates;

(c) use a numbering system for generic specialty license plates that is distinctive from the numbering system required under 61-3-332 or used for collegiate license plates;

(d) adopt rules that prescribe:

(i) the minimum and maximum number of characters that a generic specialty license plate may display;

(ii) the general placement of the sponsor’s name, identifying phrase, and graphic; and

(iii) any specifications or limitations on the use or choice of color or detail in the sponsor’s graphic design.

(2) All sponsor names, identifying phrases, and graphics intended for use on generic specialty license plates must be approved by the department prior to the manufacture of the plates.

(3) Upon the issuance of generic specialty license plates, a registration decal must be affixed to the license plates as provided in 61-3-332.

(4) The department shall maintain a list of the sponsors that have been approved to promote the sale and issuance of generic specialty license plates, the initial distribution date for sale of each sponsored generic specialty license plate, and the donation fee established by the sponsor for each sponsored generic specialty license plate. The department shall, upon request, make copies of this list available to interested members of the public.

(5) The department may, in its discretion, revoke its previous approval of a sponsor's generic specialty license plate sponsorship if:

(a) the sponsor fails to comply with the provisions of 61-3-472 through 61-3-481;

(b) fewer than 400 sets of a sponsor's generic specialty license plate have been sold or renewed in the 12-month period immediately preceding the third anniversary of the date of initial distribution of the sponsored generic specialty license plate; or

(c) the department has reliable information that the sponsor is no longer qualified for sponsorship under 61-3-472 through 61-3-481.

(6) (a) Upon revocation of a sponsor's generic specialty license plate sponsorship status, the issuance and sale of the sponsor's generic specialty license plates must be terminated ~~and a donation fee may not be charged or collected upon registration renewal of a motor vehicle displaying previously issued generic specialty license plates affiliated with that sponsor.~~

(b) A person who owns a motor vehicle displaying valid generic specialty license plates affiliated with a sponsor whose sponsorship status has been revoked may continue to display those generic specialty license plates on the person's motor vehicle ~~if the motor vehicle's registration is properly renewed in subsequent years and the plates remain legible until the motor vehicle's registration is renewed.~~

(c) Following revocation of a sponsor's sponsorship status, the department may not issue replacements or duplicates of generic specialty license plates affiliated with that sponsor ~~if the license plates are destroyed or mutilated.~~

Section 6. Section 61-3-509, MCA, is amended to read:

"61-3-509. Disposition of fees — responsibility for dishonored payments. (1) All registration fees imposed by 61-3-321 on light vehicles, motor homes, motorcycles, quadricycles, buses, motor vehicles having a manufacturer's rated capacity of more than 1 ton, and truck tractors for which a license is sought and an original application for title that includes a manufacturer's statement of origin is made must be remitted to the state as provided in 15-1-504 every 30 days. The payments must be deposited in the state general fund.

(2) (a) *The department, its authorized agent, or a county treasurer is responsible for pursuing remedies available under 27-1-717 or otherwise provided by law when a check, draft, converted check, electronic funds transfer, or order for the payment of money is dishonored:*

(i) *for lack of funds or credit;*

(ii) *because the issuer does not have an account with the entity from which the funds are to be drawn; or*

(iii) because the issuer stops payment with the intent to defraud the payee of the check or the payee named on the issued check, draft, converted check, electronic funds transfer, or order for the payment of money.

(b) Once fees have been remitted to the state under this section, adjustments may be made only for dishonored instruments if less than 1 year has elapsed from the date of remittance.”

Section 7. Section 61-5-208, MCA, is amended to read:

“61-5-208. Period of suspension or revocation — limitation on issuance of probationary license — notation on driver’s license. (1) The department may not suspend or revoke a driver’s license or privilege to drive a motor vehicle on the public highways, except as permitted by law.

(2) (a) Except as provided in 61-2-302, a person whose license or privilege to drive a motor vehicle on the public highways has been suspended or revoked may not have the license, endorsement, or privilege renewed or restored until the revocation or suspension period has been completed.

(b) When a person is convicted or forfeits bail or collateral not vacated for a first offense of operating or being in actual physical control of a motor vehicle while under the influence of alcohol or any drug or a combination of alcohol or drugs or for a first offense of operation of a motor vehicle by a person with alcohol concentration of 0.08 or more, the department shall, upon receiving a report of conviction or forfeiture of bail or collateral not vacated, suspend the driver’s license or driving privilege of the person for a period of 6 months. Upon receiving a report of a conviction or forfeiture of bail or collateral for a second, third, or subsequent offense within 5 years of the first offense, the department shall suspend the license or driving privilege of the person for a period of 1 year and may not issue a probationary license during the period of suspension. If the 1-year suspension period passes and the person has not completed a chemical dependency education course, treatment, or both, as ~~ordered by the sentencing court~~ *required under 61-8-732*, the license suspension remains in effect until the course, treatment, or both, are completed.

(c) For the purposes of subsection (2)(b), a person is considered to have committed a second, third, or subsequent offense if fewer than 5 years have passed between the date of an offense that resulted in a prior conviction and the date of the offense that resulted in the most recent conviction.

(3) (a) Except as provided in subsection (3)(b), the period of suspension or revocation for a person convicted of any offense that makes mandatory the suspension or revocation of the person’s driver’s license commences from the date ~~of conviction or forfeiture of bail~~ *of conviction or forfeiture of bail*.

(b) A suspension commences from the last day of the prior suspension or revocation period if the suspension is for a conviction of driving with a suspended or revoked license.

(4) If a person is convicted of a violation of 61-8-401 or 61-8-406 while operating a commercial motor vehicle, the department shall suspend the person’s driver’s license as provided in 61-8-802.

(5) (a) A driver’s license that is issued after a license revocation to a person described in subsection (5)(b) must be clearly marked with a notation that conveys the term of the person’s probation restrictions.

(b) The provisions of subsection (5)(a) apply to a license issued to a person for whom a court has reported a felony conviction under 61-8-731, the judgment for

which has as a condition of probation that the person may not operate a motor vehicle unless:

- (i) operation is authorized by the person's probation officer; or
- (ii) a motor vehicle operated by the person is equipped with an ignition interlock device."

Section 8. Section 61-11-102, MCA, is amended to read:

"61-11-102. Records to be kept by department. (1) Except as provided in subsection (6), the department shall create and maintain a central database of electronic files that includes an individual Montana driving record for each person:

- (a) who has been issued a Montana driver's license;
- (b) who does not have a driver's license from, or active driving record in, another jurisdiction and for whom the department receives a report of conviction of a traffic violation or an offense requiring suspension or revocation of the person's driver's license; and
- (c) whose driver's license or driving privileges have been suspended, revoked, canceled, or otherwise withdrawn by the department.

(2) (a) An individual Montana driving record maintained under this section must include:

- (i) personal information obtained from the application for a driver's license or a report of conviction;
- (ii) the person's driver's license number, license type, status, endorsements, restrictions, issue and expiration dates, and any suspensions, revocations, disqualifications, or cancellations that have been imposed against the person;
- (iii) all convictions reported to the department for the person; and
- (iv) traffic accidents in which the person was involved, except that a record of involvement in a traffic accident may not be entered on a licensee's record unless the licensee was convicted, as defined in 61-11-203, for an act causally related to the accident.

(b) If the department receives notice that a person has been disqualified by the federal motor carrier safety administration as an imminent hazard under 49 CFR 383.52, the department shall record the disqualification on the person's individual Montana driving record.

(c) The department shall retain records created under this section for a period of time that meets or exceeds the standards established under 49 CFR, part 384.

(3) The department is further authorized, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle of any offense under the motor vehicle laws of this state, to forward, by electronic or other means, a report of the conviction to the motor vehicle administrator in the state in which the person is a resident or licensed.

(4) The department may place on a computer storage device the information contained on original records or reproductions of original records made pursuant to this section. Signatures on records are not required to be placed on a computer storage device.

(5) (a) Except as provided in subsection (5)(b), a reproduction of the information placed on a computer storage device is an original of the record for all purposes and is admissible in evidence without further foundation in all

courts or administrative agencies when the reproduction of the information is signed by a named custodian of the record and the following certification appears on each page:

The individual named below, being a designated custodian of the driver records of the department of justice, motor vehicle division, certifies this document as a true reproduction, in accordance with 61-11-102(5), of the information contained in a computer storage device of the department of justice, motor vehicle division.

Signed: _____
(Print Full Name)

(b) An order, record, or paper generated from the department's central database of electronic files of individual Montana driving records may be certified electronically by the generating computer. The certification must be a certification of the order, record, or paper as it appeared on a specific date. ~~A court or the office of a clerk of court of this state that is electronically connected by a terminal device to the department's central database of electronic individual Montana driving records may receive and use as evidence without further foundation the computer-generated certified information obtained by the terminal device from the file. An authorized employee of a court of record of this state may certify in writing that an order, record, or paper was produced from a terminal device that is located in and under the control of the court and that is connected to the department's central database of electronic individual Montana driving records files and that the order, record, or paper was not altered in any way.~~

(c) *A court, an office of a clerk of court, or an attorney licensed to practice law in this state may receive and use a computer-generated individual Montana driving record as evidence without further foundation when:*

(i) *the individual Montana driving record is electronically transmitted from the department's central database of electronic individual Montana driving records to a department-authorized terminal device maintained by the court, the office of the clerk of court, or the attorney; and*

(ii) *the judge, an officer of the court, or the attorney certifies that the record was not altered in any way.*

(6) The department may remove any individual Montana driving record from the active database of electronic files maintained under this section if there has been no change in license status on or additional reports of conviction to the record in the immediately preceding 16 years. Any individual driving record removed must be retained elsewhere by the department as an inactive record in an electronic storage device that is searchable and retrievable."

Section 9. Effective date. [This act] is effective January 1, 2010.

Approved March 20, 2009

CHAPTER NO. 42

[SB 157]

AN ACT RESTRICTING TO MENTAL HEALTH PROFESSIONALS THOSE PERSONS WHO MAY OBJECT TO AND PREVENT THE USE OF TWO-WAY ELECTRONIC AUDIO-VIDEO COMMUNICATIONS IN INITIAL HEARINGS FOR CIVIL COMMITMENT; AND AMENDING SECTION 53-21-140, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 53-21-140, MCA, is amended to read:

“53-21-140. Use of two-way electronic audio-video communication.

(1) For purposes of this chapter, a hearing that is conducted by the use of two-way electronic audio-video communication, allowing all of the participants to be observed and heard by all present, is considered to be a hearing in open court.

(2) Whenever the law requires that a respondent or patient in any of the hearings provided for in subsection (3) be present before a court, this requirement may, in the discretion of the court, be satisfied either by the respondent's or patient's physical appearance before the court or by two-way electronic audio-video communication. The audio-video communication must operate so that the respondent or patient, the respondent's or patient's counsel, and the judge can see each other simultaneously and converse with each other, so that the respondent or patient and the respondent's or patient's counsel can communicate privately, and so that the respondent or patient and counsel are both present during the two-way electronic audio-video communication. A respondent or patient may request that counsel from the board be present, for consulting purposes only, if the respondent or patient is located at the state hospital.

(3) At the discretion of the court, the following hearings may be conducted through two-way electronic audio-video communication:

- (a) the initial hearing provided for in 53-21-122;
- (b) the detention hearing provided for in 53-21-124;
- (c) the trial or hearing on a petition provided for in 53-21-126;
- (d) a hearing on posttrial disposition as provided for in 53-21-127;
- (e) a hearing on the extension of a commitment period as provided for in 53-21-128;
- (f) a hearing on rehospitalization of a person conditionally released from an inpatient treatment facility as provided for in 53-21-197;
- (g) a hearing on an extension of the conditions of release as provided for in 53-21-198.

(4) This section does not abrogate a person's rights under 53-21-115, 53-21-116, or 53-21-117. A respondent or patient, the respondent's or patient's counsel, and a friend of respondent or patient, if any, must be informed of these rights prior to a hearing by two-way electronic audio-video communication in lieu of a hearing in person. A respondent or patient or the respondent's or patient's counsel and a friend of respondent or patient, acting together, may waive any of the rights, as provided under 53-21-119.

~~(5) If a respondent or patient, the respondent's or patient's counsel, or the professional person object to two-way electronic audio-video communication in lieu of a hearing in person, the court may not allow a two-way electronic audio-video communication.~~

(5) A two-way electronic audio-video communication may not be used:

(a) in an initial hearing provided for in 53-21-122 if the professional person objects; or

(b) in a hearing referred to in subsections (3)(b) through (3)(g) if a respondent or patient, the respondent's or patient's counsel, or the professional person objects."

Approved March 20, 2009

CHAPTER NO. 43

[SB 161]

AN ACT PROVIDING FOR A NOTICE ABOUT THE PRESENCE OF A CARBON MONOXIDE DETECTOR UPON THE SALE OF A RESIDENCE; REQUIRING A CARBON MONOXIDE DETECTOR IN DWELLING UNITS RENTED BY A LANDLORD; LIMITING LANDLORD LIABILITY FOR FAILURE OF A CARBON MONOXIDE DETECTOR; AND AMENDING SECTIONS 70-20-113 AND 70-24-303, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 70-20-113, MCA, is amended to read:

"70-20-113. Definitions—notice *Notice of presence of smoke and carbon monoxide detectors upon sale of dwelling — definitions.* ~~(1) In this section, the following definitions apply:~~

~~(a) "Dwelling" means a building or portion of a building, including a mobile home or housetrailer, that contains not more than two dwelling units.~~

~~(b) "Dwelling unit" means a building or portion of a building that contains living facilities with provision for sleeping, eating, cooking, and sanitation for not more than one family.~~

~~(c) "Smoke detector" means a device that detects visible or invisible particles or combustion.~~

~~(2)(1) Upon the sale or transfer of ownership of a dwelling not otherwise required to have a carbon monoxide detector and a smoke detector, the seller shall provide a written notice to the buyer in a buy-sell agreement or at the time of the sale to the buyer that the dwelling is equipped or is not equipped with a carbon monoxide detector and smoke detectors or other fire detection devices.~~

~~(3)(2) Neither the seller nor his, the seller's agent, nor the buyer's agent is liable in a civil action for failure to comply with, or for negligence in complying with, the requirements of this section subsection (1). Evidence of failure to comply with, or of negligence in complying with, this section subsection (1) is not admissible in a civil action.~~

~~(3) In this section, the following definitions apply:~~

~~(a) "Carbon monoxide detector" means a device that detects the presence of carbon monoxide and emits an alarm at elevated levels of carbon monoxide.~~

~~(b) "Dwelling" means a building or portion of a building, including a mobile home or housetrailer, that contains not more than two dwelling units.~~

~~(c) "Dwelling unit" means a building or portion of a building that contains living facilities with provision for sleeping, eating, cooking, and sanitation for not more than one family.~~

~~(d) "Smoke detector" means a device that detects visible or invisible particles or combustion."~~

Section 2. Section 70-24-303, MCA, is amended to read:

“70-24-303. Landlord to maintain premises — agreement that tenant perform duties — limitation of landlord’s liability for failure of smoke detector or carbon monoxide detector. (1) A landlord:

(a) shall comply with the requirements of applicable building and housing codes materially affecting health and safety in effect at the time of original construction in all dwelling units where construction is completed after July 1, 1977;

(b) may not knowingly allow any tenant or other person to engage in any activity on the premises that creates a reasonable potential that the premises may be damaged or destroyed or that neighboring tenants may be injured by any of the following:

(i) criminal production or manufacture of dangerous drugs, as prohibited by 45-9-110;

(ii) operation of an unlawful clandestine laboratory, as prohibited by 45-9-132; or

(iii) gang-related activities, as prohibited by Title 45, chapter 8, part 4;

(c) shall make repairs and do whatever is necessary to put and keep the premises in a fit and habitable condition;

(d) shall keep all common areas of the premises in a clean and safe condition;

(e) shall maintain in good and safe working order and condition all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, and other facilities and appliances, including elevators, supplied or required to be supplied by the landlord;

(f) shall, unless otherwise provided in a rental agreement, provide and maintain appropriate receptacles and conveniences for the removal of ashes, garbage, rubbish, and other waste incidental to the occupancy of the dwelling unit and arrange for their removal;

(g) shall supply running water and reasonable amounts of hot water at all times and reasonable heat between October 1 and May 1, except if the building that includes the dwelling unit is not required by law to be equipped for that purpose or the dwelling unit is so constructed that heat or hot water is generated by an installation within the exclusive control of the tenant; and

(h) shall install *in each dwelling unit under the landlord’s control an approved carbon monoxide detector, in accordance with rules adopted by the department of labor and industry, and an approved smoke detector*, in accordance with rules adopted by the department of justice, ~~an approved smoke detector in each dwelling unit under the landlord’s control~~. Upon commencement of a rental agreement, the landlord shall verify that the *carbon monoxide detector and the smoke detector in the dwelling unit* ~~is~~ *are* in good working order. The tenant shall maintain the *carbon monoxide detector and the smoke detector* in good working order during the tenant’s rental period. For the purposes of this subsection, an *approved carbon monoxide detector, as defined in 70-20-113, and an approved smoke detector, is a device that is capable of detecting visible or invisible particles of combustion and that bears, as defined in 70-20-113, bear* a label or other identification issued by an approved testing agency having a service for inspection of materials and workmanship at the factory during fabrication and assembly.

(2) If the duty imposed by subsection (1)(a) is greater than a duty imposed by subsections (1)(b) through (1)(h), a landlord’s duty must be determined by reference to subsection (1)(a).

(3) A landlord and tenant of a one-, two-, or three-family residence may agree in writing that the tenant perform the landlord's duties specified in subsections (1)(f) and (1)(g) and specified repairs, maintenance tasks, alteration, and remodeling but only if the transaction is entered into in good faith and not for the purpose of evading the obligations of the landlord.

(4) A landlord and tenant of a one-, two-, or three-family residence may agree that the tenant is to perform specified repairs, maintenance tasks, alterations, or remodeling only if:

(a) the agreement of the parties is entered into in good faith and not for the purpose of evading the obligations of the landlord and is set forth in a separate writing signed by the parties and supported by adequate consideration;

(b) the work is not necessary to cure noncompliance with subsection (1)(a); and

(c) the agreement does not diminish the obligation of the landlord to other tenants in the premises.

(5) The landlord is not liable for damages caused as a result of the failure of the *carbon monoxide detector or the smoke detector* required under subsection (1)(h)."

Approved March 20, 2009

CHAPTER NO. 44

[SB 201]

AN ACT REVISING THE WATER COMPACT BETWEEN MONTANA AND THE CROW TRIBE TO PROVIDE FOR AN AMENDMENT TO THE ESCROW AGREEMENT TO ALLOW INTEREST INCOME TO BE DISPERSED TO THE CROW TRIBE FOR ECONOMIC DEVELOPMENT AND WATER AND SEWER INFRASTRUCTURE WITHIN THE CROW RESERVATION; AMENDING SECTIONS 85-20-901 AND 85-20-904, MCA; AND PROVIDING EFFECTIVE DATES AND A RETROACTIVE APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 85-20-901, MCA, is amended to read:

"85-20-901. Crow Tribe-Montana compact ratified. The compact entered into by the State of Montana and the Crow Tribe and filed with the Secretary of State of the State of Montana under the provisions of 85-2-702 on June 22, 1999, is ratified. The compact is as follows:

WATER RIGHTS COMPACT ENTERED INTO BY
THE STATE OF MONTANA,
THE CROW TRIBE,
AND THE UNITED STATES OF AMERICA

This Compact is entered into by and among the State of Montana, the Crow Tribe, and the United States of America for the purpose of settling any and all existing water rights claims of or on behalf of the Crow Tribe of Indians in the State of Montana.

ARTICLE I - RECITALS

WHEREAS, in 1975, the United States, on behalf of the Crow Tribe, brought suit in the United States District Court for the District of Montana to obtain a

final determination of the Tribe's water rights, see, *U.S. v. Big Horn Low Line Canal Company, et al.*, No. CIV-75-34-BLG (filed April 17, 1975); and

WHEREAS, Congress consented to state court jurisdiction over the quantification of claims to water rights held by the United States of America in trust for the Tribe; see, "the McCarran Amendment", 43 U.S.C. 666(a)(1)(1952); *Colorado River Water Conservation Dist. v. United States*, 424 U.S. 800 (1976); *Arizona v. San Carlos Apache Tribe*, 463 U.S. 545 (1983); and

WHEREAS, the State of Montana initiated a general stream adjudication pursuant to the provisions of Chapter 697, Laws of Montana 1979, which includes Crow tribal water rights; and

WHEREAS, the United States has filed claims on behalf of the Crow Tribe in the general stream adjudication initiated by the State of Montana; and

WHEREAS, the lands and waters constituting the Crow Indian Reservation and Tribal Interests in the Ceded Strip were part of the area recognized as the territory of the Crow Indians under the Treaty of Fort Laramie of September 17, 1851 and also were part of the area set apart for the Crow Tribe under the Treaty of Fort Laramie of May 7, 1868; and

WHEREAS, for the purposes of this Compact, the priority date for the Tribal Water recognized is May 7, 1868, which is the senior water right on the water sources covered by this Compact; and

WHEREAS, the Montana Reserved Water Rights Compact Commission, under 85-2-702(1), MCA, is authorized to negotiate settlement of water rights claims filed by Indian tribes or on their behalf by the United States claiming reserved waters within the State of Montana; and

WHEREAS, the federal district court litigation was stayed in 1983 pending the outcome of Montana State court water adjudication proceedings, see, *Northern Cheyenne Tribe v. Adsit*, 721 F.2d 1187, 1189 (9th Cir. 1983); and

WHEREAS, the adjudication of Crow tribal water rights in the state court proceedings has been suspended while negotiations are proceeding to conclude a compact resolving all water rights claims of the Crow Tribe within the State of Montana; and

WHEREAS, the Crow Tribal Council, or its duly designated representatives, have authority to negotiate this Compact pursuant to Resolution No. 99-33; and

WHEREAS, the United States Attorney General, or a duly designated official of the United States Department of Justice, has authority to execute this Compact on behalf of the United States pursuant to the authority to settle litigation contained in 28 U.S.C. Sections 516-17 (1993); and

WHEREAS, the Secretary of the Interior, or a duly designated official of the United States Department of the Interior, has authority to execute this Compact on behalf of the United States Department of the Interior pursuant to 43 U.S.C. Section 1457 (1986, Supp. 1992), inter alia; and

WHEREAS, the Crow Tribe, the State of Montana, and the United States agree that the Tribal Water Right described in this Compact shall be in satisfaction of all the Tribe's water rights claims within the State of Montana; and

WHEREAS, it is in the best interest of all Parties that the water rights claims of the Crow Tribe be settled through agreement between and among the Tribe, the State of Montana, and the United States; and

WHEREAS, in settling the water rights claims of the Crow Tribe the Parties do not intend to alter or amend or to adopt or preclude any interpretation of the Yellowstone River Compact (Act of October 10, 1951, ch. 629, 65 Stat.663 (1951));

NOW THEREFORE, the Parties agree to enter into this Compact for the purpose of settling the water rights claims of the Crow Tribe within the State of Montana.

ARTICLE II - DEFINITIONS

The following definitions shall apply for purposes of this Compact:

1. "Acre-foot" or "AF" means the amount of water necessary to cover one acre to a depth of one foot and is equivalent to 43,560 cubic feet.
2. "Acre Feet Per Year" or "AFY" means the quantity of water to which the Tribe has a right each year measured in acre feet over a period of a year.
3. "Adverse Affect" or "Adversely Affect" means interference with or to interfere with the reasonable exercise of a water right.
4. "Bighorn River Basin" means Water Court Basin 43P, the mainstem of the Bighorn River and its tributaries (exclusive of the Little Bighorn River and its tributaries) within Montana to its confluence with the Yellowstone River, as depicted on the map attached as Appendix 2.
5. "Bighorn Lake" means the body of water impounded on the Bighorn River by Yellowtail Dam, Yellowtail Unit, Lower Bighorn Division, Pick-Sloan Missouri Program, Montana.
6. "Board" means the Crow - Montana Compact Board established by Section F, of Article IV of this Compact.
7. "Ceded Strip" means the area covered by Article III of the Act of April 27, 1904 (33 Stat.352), as depicted on the map attached as Appendix 5.
8. "Change in Use" as applied to the Tribal Water Right, means a change in the point of diversion, the place of use, the purpose of use, or the place or the means of storage.
9. "Clarks Fork Yellowstone River Basin" means Water Court Basin 43D, the mainstem of the Clarks Fork Yellowstone River and its tributaries from the Montana-Wyoming border to its confluence with the Yellowstone River, as depicted on the map attached as Appendix 2.
10. "Crow Irrigation Project" means the irrigation project authorized by the Act of March 3, 1891 (26 Stat. 989, 1040) managed by the United States, Department of the Interior, Bureau of Indian Affairs, as of the date this Compact has been ratified by the Montana legislature, consisting of the following project units: Agency, Big Horn, Forty Mile, Lodge Grass
 - 1, Lodge Grass
 - 2, Pryor, Reno, Soap Creek, and Upper Little Horn; and including land held in trust by the United States for the Tribe or a Tribal member within the Bozeman Trail and Two Leggins districts which are managed by private irrigation associations as of the date this Compact has been ratified by the Montana legislature.
11. "DNRC" means the Montana Department of Natural Resources and Conservation, or any successor agency.

12. "Effective Date" means the date on which the Compact is ratified by the Crow Tribal Council, by the Montana legislature, and by the Congress of the United States, whichever date is latest.

13. "Groundwater" means any water that is beneath the ground surface.

14. "Little Bighorn River Basin" means Water Court Basin 43O, the mainstem of the Little Bighorn River and its tributaries from the Montana-Wyoming border to its confluence with the Bighorn River, as depicted on the map attached as Appendix 2.

15. "Natural Flow" means water that would exist in the Bighorn River and its tributaries in the absence of human intervention.

16. "Parties" means the Tribe, the State, and the United States.

17. "Person" means an individual or any other entity, public or private, including the State, the Tribe, and the United States and all officers, agents, and departments of each of the above.

18. "Pryor Creek Basin" means Water Court Basin 43E, the mainstem of Pryor Creek and its tributaries from its headwaters to its confluence with the Yellowstone River, as depicted on the map attached as Appendix 2.

19. "Recognized Under State Law" when referring to a water right, means a water right arising under Montana law or a water right held by a nonmember of the Tribe on land not held in trust by the United States for the Tribe or a Tribal member.

20. "Release" means to discharge water from storage, or the discharge of water from storage.

21. "Reservation" means the Crow Indian Reservation consisting of the area as presently set apart for the Crow Tribe pursuant to the following Treaty and laws: Article 2 of the Fort Laramie Treaty of May 7, 1868 (15 Stat. 649); the Act of April 11, 1882 (22 Stat. 42); the Act of March 3, 1891 (26 Stat. 989); the Act of April 27, 1904 (33 Stat. 352); the Act of August 31, 1937 (50 Stat. 884); and, the Act of November 2, 1994 (108 Stat. 4636), as depicted on the map attached as Appendix 4.

22. "Rosebud Creek Basin" means Water Court Basin 42A, the mainstem of Rosebud Creek and its tributaries from its headwaters to its confluence with the Yellowstone River, as depicted on the map attached as Appendix 2.

23. "Secretary" means the Secretary of the United States Department of the Interior, or his or her duly authorized representative.

24. "Shoshone River Basin" means Water Court Basin 43N, the mainstem of the Shoshone River and its tributaries within Montana, as depicted on the map attached as Appendix 2.

25. "State" means the State of Montana and all officers, agents, departments, and political subdivisions thereof.

26. "Tongue River Basin" means Water Court Basin 42B, the mainstem of the Tongue River and its tributaries from the Montana-Wyoming border to above and including Hanging Woman Creek, as depicted on the map attached as Appendix 2.

27. "Transfer" as applied to the Tribal Water Right, means to authorize a person to use all or any part of the Tribal Water Right through a service contract, lease, or other similar agreement of limited duration.

28. "Tribal Water Resources Department" or "TWRD" means the Crow Tribal Water Resources Department, or any successor agency.

29. "Tribal Interests in the Ceded Strip" means all present and acquired interests in real property, including mineral interests, held in trust by the United States for the Tribe or Tribal members within the Ceded Strip, consisting of: Crow Indian allotments held in trust by the United States for the Tribe or Tribal members; interests restored to the Tribe pursuant to the Act of May 19, 1958 (72 Stat. 121), as modified by the Act of August 14, 1958 (72 Stat. 575); and other interests held in trust by the United States for the Tribe or Tribal members.

30. "Tribal Water Right" means the right of the Crow Tribe, including any Tribal member, to divert, use, or store water as described in Article III of this Compact.

31. "Tribe" means the Crow Tribe and all officers, agents, and departments thereof.

32. "United States" means the federal government and all officers, agencies, and departments thereof.

33. "Yellowstone River Basin between Bighorn River and Tongue River" means Water Court Basin 42KJ, the mainstem of the Yellowstone River and its tributaries between Bighorn River and Tongue River, as depicted on the map attached as Appendix 2.

34. "Yellowstone River Basin between Clarks Fork Yellowstone River and Bighorn River" means Water Court Basin 43Q, the mainstem of the Yellowstone River and its tributaries between Clarks Fork Yellowstone River and Bighorn River, as depicted on the map attached as Appendix 2.

ARTICLE III - TRIBAL WATER RIGHT

A. Basin 43P: Bighorn River.

1. Quantification - Source - Volume.

a. Natural Flow. The Tribe has a quantified water right to the Natural Flow of the Bighorn River for current uses developed as of the date this Compact has been ratified by the Montana legislature and new development within the Reservation of 500,000 AFY. The use of this right is subject to Sections A.6. and A.8.a., of Article III, and the terms and conditions of the streamflow and lake level management plan agreed to in accordance with Section A.7., of Article III.

(1). The Tribe has a right to divert or use or to authorize the diversion or use of water from the Natural Flow of the Bighorn River within the Reservation, subject to the terms and conditions in Section C., of Article IV.

(2). The Tribe may change the source of water from the Natural Flow of the Bighorn River to surface flow or storage of any tributary within the Bighorn River Basin within the Reservation or to Groundwater within the Bighorn River Basin within the Reservation, subject to the terms and conditions in Section C.2.a., of Article IV.

(3). The use of the Tribal Water Right on units of the Crow Irrigation Project that divert water from the Bighorn River as part of that project is a use of the Natural Flow Tribal Water Right set forth in Section A.1.a., of Article III, in the Bighorn River Basin, and the use of this water shall be subject to federal law.

b. Storage in Bighorn Lake.

(1). Subject to the approval of, and any terms and conditions specified by, Congress and to the terms and conditions of the streamflow and lake level

management plan agreed to in accordance with Section A.7., of Article III, the Tribe shall be entitled to an allocation of 300,000 AFY of water stored in Bighorn Lake. The Tribe and the State agree to seek as a part of that allocation the following:

(a). not more than 150,000 AFY of the allocation provided in Section A.1.b.(1)., of Article III may be used or diverted as authorized by the Tribe, subject to the terms and conditions in Section C., of Article IV; provided that, not more than 50,000 AFY may be used outside the Reservation subject to the terms and conditions in Section C.2.c., of Article IV. This storage allocation is in addition to the Natural Flow Tribal Water Right provided in Section A.1.a., of Article III.

(b). not less than 150,000 AFY of the allocation provided in Section A.1.b.(1) of Article III shall only be:

(i) managed so as to be available as a Release during low flow periods pursuant to streamflow and lake level management plan agreed to under Section A.7., of Article III; or

(ii) used for beneficial purposes including diversions for consumptive uses in years of excess Natural Flows and excess storage, if any, when unappropriated or unallocated water is available, and subject to the terms and conditions in Section C., of Article IV.

(2). All other water stored in Bighorn Lake, except for the 6,000 AFY currently allocated by contract to the Montana Power Company, or its successor-in-interest, and the 30,000 AFY allocated by Congress to the Northern Cheyenne Tribe, shall be used only for flood control, production of power, maintenance of instream flows, maintenance of lake levels and carryover storage, consistent with Section A.7., of Article III and federal law.

2. Priority Date.

a. Natural Flow. The priority date of the Natural Flow Tribal Water Right set forth in Section A.1.a., of Article III shall be May 7, 1868.

b. Storage. The priority date of the Tribal Water Right to waters stored in Bighorn Lake set forth in Section A.1.b.(1)., of Article III shall be the priority date of the water right held by the Bureau of Reclamation as decreed or to be decreed by the Montana Water Court pursuant to 85-2-234, MCA.

3. Period of Use. The period of use of this water right shall be from January 1 through December 31 of each year.

4. Points and Means of Diversion. Subject to the terms and conditions in Article IV, and except for the 50,000 AFY that may be used outside the Reservation as provided in Section A.1.b.(1).(a)., of Article III, the Tribe may divert or permit the diversion of this water right from any place and by any means within the Reservation for use within the Reservation, provided that, any diversion structure of the Tribal Water Right upstream of the Two Leggins diversion on the Bighorn River will be constructed to bypass streamflows established or modified pursuant to Section A.7., of Article III.

5. Purposes. Subject to the terms and conditions in Article IV, the Tribal Water Right may be used for any purpose within the Reservation allowed by Tribal and federal law.

6. Protection of Water Rights Recognized Under State Law.

a. Except as provided in Section G.2., of Article III, water rights Recognized Under State Law in the Bighorn River Basin with a priority date before this

Compact has been ratified by the Montana legislature or excepted rights that are provided in Section D.1., of Article IV, are protected from:

(1). an assertion of senior priority in the exercise of current uses of the Tribal Water Right developed as of the date this Compact has been ratified by the Montana legislature.

(2). new development of the Tribal Water Right after the date this Compact has been ratified by the Montana legislature. New development of the Tribal Water Right shall be exercised as junior in priority to water rights Recognized Under State Law in the Bighorn River Basin with a priority date before this Compact has been ratified by the Montana legislature or excepted rights that are provided in Section D.1., of Article IV.

b. The protection of water rights Recognized Under State Law set forth in Sections A.6.a.(1). and (2)., of Article III extends to: valid existing water rights as decreed or to be decreed by the Montana Water Court pursuant to 85-2-234, MCA; permits issued by DNRC; state water reservations issued by the Montana Board of Natural Resources and Conservation or DNRC (except for Water Reservation No. 1781-r (g)); water rights exempt from filing in the state adjudication pursuant to 85-2-222, MCA; and, water rights excepted from the permit process pursuant to 85-2-306, MCA. With the exception of rights exempt from filing in the state adjudication pursuant to 85-2-222, MCA, and rights excepted from the permit process pursuant to 85-2-306, MCA, a list of existing water rights as currently claimed and permits and reservations issued is attached as Appendix 3. Appendix 3 shall be modified by decrees resolving claims on the affected basin. Prior to issuance of the final decree, water rights protected shall be as recognized under state law, and all remedies available under state law shall be applicable. Appendix 3 may be modified due to clerical error or omission or to make Appendix 3 consistent with modifications in accordance with 85-2-237, 85-2-314, or 85-2-316(10) through (13), MCA.

c. Administration and distribution between State and Tribal water uses within the Reservation shall be as provided in Section A.4., of Article IV.

d. New development, Change in Use, or Transfer of the Tribal Water Right shall not Adversely Affect the exercise of water rights Recognized Under State Law in the Bighorn River Basin with a priority date before this Compact has been ratified by the Montana legislature or excepted rights that are provided in Section D.1., of Article IV. Measures to prevent Adverse Affect may include Release of water from Bighorn Lake.

e. Existing uses of the Tribal Water Right shall not be Adversely Affected by new development, Change in Use, or Transfer of the Tribal Water Right, except that the Tribe may allow Adverse Affect on uses of the Tribal Water Right on Tribally owned land.

7. Streamflow and Lake Level Management Plan. Pursuant to this Compact, the Tribe, the Secretary, and the State shall develop a streamflow and lake level management plan for the Bighorn River, from the Yellowtail Afterbay Dam to a point immediately upstream of the Two Leggins diversion, and for Bighorn Lake. The streamflow and lake level management plan shall be agreed to within one (1) year after this Compact has been ratified by the Montana legislature. If the streamflow and lake level management plan is not agreed to by the Tribe, the Secretary, or the State the provisions of Section A.4.d., of Article VII apply. The streamflow and lake level management plan is not required to be implemented until the Effective Date of this Compact. The streamflow and lake level management plan may be modified at any time with the consent of the

Tribe, the Secretary, and the State. The Montana legislature intends that the streamflow management plan should provide enforceable mechanisms that protect the long-term biological viability of the blue ribbon wild trout fishery on the Bighorn River from the Yellowtail Afterbay Dam to the Two Leggins diversion.

8. Basin Closure within the Bighorn River Basin.

a. In the Bighorn River Basin, DNRC shall not process or grant an application for an appropriation after this Compact has been ratified by the Montana legislature, provided that, in accordance with the terms and conditions in Section D.1., of Article IV, the DNRC may issue a certificate of water right or permit for use on fee land for:

(1). an appropriation of Groundwater by means of a well or developed spring with a maximum appropriation of 35 gallons per minute or less, not to exceed 10 acre-feet per year, unless the appropriation is a combined appropriation from the same source from two or more wells or developed springs exceeding the limitation.

(2). an appropriation of water for use by livestock if the maximum capacity of the impoundment or pit is less than 15 acre-feet and the appropriation is less than 30 acre-feet per year and is from a source other than a perennial flowing stream.

(3). temporary emergency appropriations as provided in 85-2-113(3), MCA.

b. The basin closure applies only to appropriations not excepted from the permit process, as provided in Section D.1., of Article IV, issued under state law and is not a limit on new development of the Tribal Water Right as set forth in this Compact.

c. The basin closure applies only to new appropriations not excepted from the permit process, as provided in Section D.1., of Article IV, and is not a limit on change of use or transfers of water rights Recognized Under State Law, subject to the terms and conditions in Section D.2., of Article IV.

B. Basin 430: Little Bighorn River.

1. Quantification - Source - Volume.

a. The Tribe has a water right for all surface flow, Groundwater, and storage within the Little Bighorn River Basin, except as provided for in Sections B.6., and B.7.a., of Article III, and except for water apportioned to Wyoming, if any, as determined by a court of competent jurisdiction or Congress. Development of the Tribal Water Right shall be subject to the terms and conditions in Section C., of Article IV.

b. The use of the Tribal Water Right on units of the Crow Irrigation Project that divert water in the Little Bighorn River Basin as part of that project is a use of the Tribal Water Right set forth in Section B.1.a., of Article III, and the use of this water shall be subject to federal law. Water stored in Willow Creek Reservoir also is a use of the Tribal Water Right.

2. Priority Date. The priority date of the Tribal Water Right set forth in Section B.1., of Article III shall be May 7, 1868.

3. Period of Use. The period of use of this water right shall be from January 1 through December 31 of each year.

4. Points and Means of Diversion. Subject to the terms and conditions in Article IV, the Tribe may divert or permit the diversion of the Tribal Water Right from any place and by any means within the Little Bighorn River Basin

within the Reservation for use within the Reservation or in connection with Tribal Interests in the Ceded Strip subject to the terms and conditions in Section F., of Article III and Section C.2.b., of Article IV.

5. Purposes. Subject to the terms and conditions in Article IV, the Tribal Water Right may be used within the Reservation for any purpose allowed by Tribal and federal law.

6. Protection of Water Rights Recognized Under State Law.

a. Except as provided in Section G.2., of Article III, water rights Recognized Under State Law in the Little Bighorn River Basin with a priority date before this Compact has been ratified by the Montana legislature or excepted rights that are provided in Section D.1., of Article IV, are protected from:

(1). an assertion of senior priority in the exercise of current uses of the Tribal Water Right developed as of the date this Compact has been ratified by the Montana legislature.

(2). new development of the Tribal Water Right after the date this Compact has been ratified by the Montana legislature. New development of the Tribal Water Right shall be exercised as junior in priority to water rights Recognized Under State Law in the Little Bighorn Basin with a priority date before this Compact has been ratified by the Montana legislature or excepted rights that are provided in Section D.1., of Article IV.

b. The protection of water rights Recognized Under State Law set forth in Sections B.6.a.(1). and (2)., of Article III extends to: valid existing water rights as decreed or to be decreed by the Montana Water Court pursuant to 85-2-234, MCA; permits issued by DNRC; state water reservations issued by the Montana Board of Natural Resources and Conservation or DNRC (except for Water Reservation No. 1781-r (g)); water rights exempt from filing in the state adjudication pursuant to 85-2-222, MCA; and, water rights excepted from the permit process pursuant to 85-2-306, MCA. With the exception of rights exempt from filing in the state adjudication pursuant to 85-2-222, MCA, and rights excepted from the permit process pursuant to 85-2-306, MCA, a list of existing water rights as currently claimed and permits and reservations issued is attached as Appendix 3. Appendix 3 shall be modified by decrees resolving claims on the affected basin. Prior to issuance of the final decree, water rights protected shall be as recognized under state law, and all remedies available under state law shall be applicable. Appendix 3 may be modified due to clerical error or omission or to make Appendix 3 consistent with modifications in accordance with 85-2-237, 85-2-314, or 85-2-316(10) through (13), MCA.

c. Administration and distribution between State and Tribal water uses within the Reservation shall be as provided in Section A.4., of Article IV.

d. New development, Change in Use, or Transfer of the Tribal Water Right shall not Adversely Affect the exercise of water rights Recognized Under State Law in the Little Bighorn River Basin with a priority date before this Compact has been ratified by the Montana legislature or excepted rights that are provided in Section D.1., of Article IV.

e. Existing uses of the Tribal Water Right shall not be Adversely Affected by new development, Change in Use, or Transfer of the Tribal Water Right, except that the Tribe may allow Adverse Affect on uses of the Tribal Water Right on Tribally owned land.

7. Basin Closure within the Little Bighorn River Basin.

a. In the Little Bighorn River Basin, DNRC shall not process or grant an application for an appropriation after this Compact has been ratified by the Montana legislature, provided that, in accordance with the terms and conditions in Section D.1., of Article IV, DNRC may issue a certificate of water right or permit for use on fee land for:

(1). an appropriation of Groundwater by means of a well or developed spring with a maximum appropriation of 35 gallons per minute or less, not to exceed 10 acre-feet per year, unless the appropriation is a combined appropriation from the same source from two or more wells or developed springs exceeding the limitation.

(2). an appropriation of water for use by livestock if the maximum capacity of the impoundment or pit is less than 15 acre-feet and the appropriation is less than 30 acre-feet per year and is from a source other than a perennial flowing stream.

(3). temporary emergency appropriations as provided in 85-2-113(3), MCA.

b. The basin closure applies only to new appropriations not excepted from the permit process, as provided in Section D.1., of Article IV, issued under state law and is not a limit on new development of the Tribal Water Right as set forth in this Compact.

c. The basin closure applies only to new appropriations not excepted from the permit process, as provided in Section D.1., of Article IV, and is not a limit on change of use or transfers of water rights Recognized Under State Law, subject to the terms and conditions in Section D.2., of Article IV.

C. Basin 43E: Pryor Creek.

1. Quantification - Source - Volume.

a. The Tribe has a water right for all surface flow, Groundwater, and storage within the Pryor Creek Basin within the Reservation, except as provided for in Sections C.6. and C.7.a., of Article III. Development of the Tribal Water Right shall be subject to the terms and conditions in Section C., of Article IV.

b. The use of the Tribal Water Right on units of the Crow Irrigation Project that divert water in the Pryor Creek Basin as part of that project is a use of the Tribal Water Right set forth in Section C.1.a., of Article III, and the use of this water shall be subject to federal law.

2. Priority Date. The priority date of the Tribal Water Right set forth in Section C.1., of Article III shall be May 7, 1868.

3. Period of Use. The period of use of this water right shall be from January 1 through December 31 of each year.

4. Points and Means of Diversion. Subject to the terms and conditions in Article IV, the Tribe may divert or permit the diversion of the Tribal Water Right from any place and by any means within the Pryor Creek Basin within the Reservation for use within the Reservation.

5. Purposes. Subject to the terms and conditions in Article IV, the Tribal Water Right may be used within the Reservation for any purpose allowed by Tribal and federal law.

6. Protection of Water Rights Recognized Under State Law.

a. Except as provided in Section G.2., of Article III, water rights Recognized Under State Law in the Pryor Creek Basin with a priority date before this Compact has been ratified by the Montana legislature or excepted rights that are provided in Section D.1., of Article IV, are protected from:

(1). an assertion of senior priority in the exercise of current uses of the Tribal Water Right developed as of the date this Compact has been ratified by the Montana legislature.

(2). new development of the Tribal Water Right after the date this Compact has been ratified by the Montana legislature. New development of the Tribal Water Right shall be exercised as junior in priority to water rights Recognized Under State Law in the Pryor Creek Basin with a priority date before this Compact has been ratified by the Montana legislature or excepted rights that are provided in Section D.1., of Article IV.

b. The protection of water rights Recognized Under State Law set forth in Sections C.6.a.(1). and (2)., of Article III extends to: valid existing water rights as decreed or to be decreed by the Montana Water Court pursuant to 85-2-234, MCA; permits issued by DNRC; state water reservations issued by the Montana Board of Natural Resources and Conservation or DNRC; water rights exempt from filing in the state adjudication pursuant to 85-2-222, MCA; and, water rights excepted from the permit process pursuant to 85-2-306, MCA. With the exception of rights exempt from filing in the state adjudication pursuant to 85-2-222, MCA, and rights excepted from the permit process pursuant to 85-2-306, MCA, a list of existing water rights as currently claimed and permits and reservations issued is attached as Appendix 3. Appendix 3 shall be modified by decrees resolving claims on the affected basin. Prior to issuance of the final decree, water rights protected shall be as recognized under state law, and all remedies available under state law shall be applicable. Appendix 3 may be modified due to clerical error or omission or to make Appendix 3 consistent with modifications in accordance with 85-2-237, 85-2-314, or 85-2-316(10) through (13), MCA.

c. Administration and distribution between State and Tribal water uses within the Reservation shall be as provided in Section A.4., of Article IV.

d. New development, Change in Use, or Transfer of the Tribal Water Right shall not Adversely Affect the exercise of water rights Recognized Under State Law in the Pryor Creek Basin with a priority date before this Compact has been ratified by the Montana legislature or excepted rights that are provided in Section D.1., of Article IV.

e. Existing uses of the Tribal Water Right shall not be Adversely Affected by new development, Change in Use, or Transfer of the Tribal Water Right, except that the Tribe may allow Adverse Affect on uses of the Tribal Water Right on Tribally owned land.

7. Basin Closure within the Pryor Creek Basin.

a. In the Pryor Creek Basin, DNRC shall not process or grant an application for an appropriation after this Compact has been ratified by the Montana legislature, provided that, in accordance with the terms and conditions in Section D.1., of Article IV, DNRC may issue a certificate of water right or permit for use on fee land for:

(1). an appropriation of Groundwater by means of a well or developed spring with a maximum appropriation of 35 gallons per minute or less, not to exceed 10 acre-feet per year, unless the appropriation is a combined appropriation from the same source from two or more wells or developed springs exceeding the limitation.

(2). an appropriation of water for use by livestock if the maximum capacity of the impoundment or pit is less than 15 acre-feet and the appropriation is less

than 30 acre-feet per year and is from a source other than a perennial flowing stream.

(3). temporary emergency appropriations as provided in 85-2-113(3), MCA.

b. The basin closure applies only to new appropriations not excepted from the permit process, as provided in Section D.1., of Article IV, issued under state law and is not a limit on new development of the Tribal Water Right as set forth in this Compact.

c. The basin closure applies only to new appropriations not excepted from the permit process, as provided in Section D.1., of Article IV, and is not a limit on change of use or transfers of water rights Recognized Under State Law, subject to the terms and conditions in Section D.2., of Article IV.

D. Basin 42A: Rosebud Creek.

1. Quantification - Source - Volume. The Tribe has a water right for all surface flow, Groundwater, and storage within the Rosebud Creek Basin within the Reservation, except as provided for in Sections D.6. and D.7., of Article III. Development of the Tribal Water Right shall be subject to the terms and conditions in Section C., of Article IV.

2. Priority Date. The priority date of the Tribal Water Right set forth in Section D.1., of Article III shall be May 7, 1868.

3. Period of Use. The period of use of this water right shall be from January 1 through December 31 of each year.

4. Points and Means of Diversion. Subject to the terms and conditions in Article IV, the Tribe may divert or permit the diversion of the Tribal Water Right from any place and by any means within the Rosebud Creek Basin for use within the Reservation.

5. Purposes. Subject to the terms and conditions in Article IV, the Tribal Water Right may be used within the Reservation for any purpose allowed by Tribal and federal law.

6. Protection of Water Rights Recognized Under State Law.

a. Within the Reservation. Except as provided in Section G.2., of Article III, water rights Recognized Under State Law in the Rosebud Creek Basin within the Reservation with a priority date before this Compact has been ratified by the Montana legislature or excepted rights that are provided in Section D.1., of Article IV, are protected from:

(1). an assertion of senior priority in the exercise of current uses of the Tribal Water Right developed as of the date this Compact has been ratified by the Montana legislature.

(2). new development of the Tribal Water Right after the date this Compact has been ratified by the Montana legislature. New development of the Tribal Water Right shall be exercised as junior in priority to water rights Recognized Under State Law in the Rosebud Creek Basin with a priority date before this Compact has been ratified by the Montana legislature or excepted rights that are provided in Section D.1., of Article IV.

b. The protection of water rights Recognized Under State Law set forth in Sections D.6.a.(1). and (2)., of Article III extends to: valid existing water rights as decreed or to be decreed by the Montana Water Court pursuant to 85-2-234, MCA; permits issued by DNRC; state water reservations issued by the Montana Board of Natural Resources and Conservation or DNRC; water rights exempt from filing in the state adjudication pursuant to 85-2-222, MCA; and, water

rights excepted from the permit process pursuant to 85-2-306, MCA. With the exception of rights exempt from filing in the state adjudication pursuant to 85-2-222, MCA, and rights excepted from the permit process pursuant to 85-2-306, MCA, a list of existing water rights as currently claimed and permits and reservations issued within the Reservation is attached as Appendix 3. Appendix 3 shall be modified by decrees resolving claims on the affected basin. Prior to issuance of the final decree, water rights protected shall be as recognized under state law, and all remedies available under state law shall be applicable. Appendix 3 may be modified due to clerical error or omission or to make Appendix 3 consistent with modifications in accordance with 85-2-237, 85-2-314, or 85-2-316(10) through (13), MCA.

c. Administration and distribution between State and Tribal water uses within the Reservation shall be as provided in Section A.4., of Article IV.

d. Outside the Reservation. Except as provided in Section G.2., of Article III, water rights Recognized Under State Law in the Rosebud Creek Basin outside the Reservation are protected from an assertion of senior priority in the exercise of the Crow Tribal Water Right to the same extent provided in the Northern Cheyenne - Montana Compact, Sections A.3.c.i. and ii., of Article II, 85-20-301, MCA. Protection from an assertion of senior priority in the exercise of the Crow Tribal Water Right for the Northern Cheyenne Tribal Water Right shall only be as provided in Section D.7., of Article III.

e. New development, Change in Use, or Transfer of the Tribal Water Right shall not Adversely Affect the exercise of water rights Recognized Under State Law in the Rosebud Creek Basin within the Reservation with a priority date before this Compact has been ratified by the Montana legislature or excepted rights that are provided in Section D.1., of Article IV, or outside the Reservation to the same extent provided in the Northern Cheyenne - Montana Compact, Section A.3.c.i. and ii., of Article II, 85-20-301, MCA.

f. Existing uses of the Tribal Water Right shall not be Adversely Affected by development, Change in Use, or Transfer of the Tribal Water Right, except that the Tribe may allow Adverse Affect of uses of the Tribal Water Right on Tribally owned land.

7. Protection of Northern Cheyenne Tribal Water Rights within the Northern Cheyenne Reservation.

a. Except as provided in Section G.2., of Article III, the Northern Cheyenne Tribal Water Right, recognized in the Northern Cheyenne - Montana Compact, Section A.3.a., of Article II, 85-20-301, MCA, is protected from an assertion of senior priority in the exercise of the Crow Tribal Water Right.

b. New development, Change in Use, or Transfer of the Crow Tribal Water Right shall not Adversely Affect the exercise of the Northern Cheyenne Tribal Water Right, recognized in the Northern Cheyenne - Montana Compact, Section A.3.a., of Article II, 85-20-301, MCA.

8. Basin Closure within the Rosebud Creek Basin within the Reservation.

a. In the Rosebud Creek Basin upstream from the point that Rosebud Creek or any tributary of Rosebud Creek leaves the Reservation, DNRC shall not process or grant an application for an appropriation after this Compact has been ratified by the Montana legislature, provided that, in accordance with the terms and conditions in Section D.1., of Article IV, DNRC may issue a certificate of water right or permit for use on fee land for:

(1). an appropriation of Groundwater by means of a well or developed spring with a maximum appropriation of 35 gallons per minute or less, not to exceed 10 acre-feet per year, unless the appropriation is a combined appropriation from the same source from two or more wells or developed springs exceeding the limitation.

(2). an appropriation of water for use by livestock if the maximum capacity of the impoundment or pit is less than 15 acre-feet and the appropriation is less than 30 acre-feet per year and is from a source other than a perennial flowing stream.

(3). temporary emergency appropriations as provided in 85-2-113(3), MCA.

b. The basin closure applies only to new appropriations not excepted from the permit process, as provided in Section D.1., of Article IV, issued under state law and is not a limit on new development of the Tribal Water Right as set forth in this Compact.

c. The basin closure applies only to new appropriations not excepted from the permit process, as provided in Section D.1., of Article IV, and is not a limit on change of use or transfers of water rights Recognized Under State Law, subject to the terms and conditions in Section D.2., of Article IV.

E. Youngs Creek drainage, Squirrel Creek drainage, Tanner Creek drainage, Dry Creek drainage, and Spring Creek drainage within Tongue River Basin; Sarpy Creek drainage within Yellowstone River Basin between Bighorn River and Tongue River; Cottonwood Creek drainage, Five Mile Creek drainage, and Bluewater Creek drainage within Clarks Fork Yellowstone River Basin; Sage Creek drainage within Shoshone River Basin; and, Fly Creek drainage, Blue Creek drainage, Dry Creek drainage, and Bitter Creek drainage within Yellowstone River Basin between Clarks Fork Yellowstone River and Bighorn River.

1. Quantification - Source - Volume. The Tribe has a water right for all surface flow, Groundwater, and storage within the Reservation within Youngs Creek drainage, Squirrel Creek drainage, Tanner Creek drainage, Dry Creek drainage, and Spring Creek drainage within Tongue River Basin; Sarpy Creek drainage within Yellowstone River Basin between Bighorn River and Tongue River; Cottonwood Creek drainage, Five Mile Creek drainage, and Bluewater Creek drainage within Clarks Fork Yellowstone River Basin; Sage Creek drainage within Shoshone River Basin; and, Fly Creek drainage, Blue Creek drainage, Dry Creek drainage, and Bitter Creek drainage within Yellowstone River Basin between Clarks Fork Yellowstone River and Bighorn River, except as provided in Sections E.6. and E.7.a., of Article III. Development of the Tribal Water Right shall be subject to the terms and conditions in Section C., Article IV.

2. Priority Date. The priority date of the Tribal Water Right set forth in Section E.1., of Article III shall be May 7, 1868.

3. Period of Use. The period of use of this water right shall be from January 1 through December 31 of each year.

4. Points and Means of Diversion. Subject to the terms and conditions in Article IV, the Tribe may divert or permit the diversion of the Tribal Water Right from any place and by any means within the drainages listed in Section E.1., of Article III within the Reservation for use within the Reservation.

5. Purposes. Subject to the terms and conditions in Article IV, the Tribal Water Right may be used for any purpose within the Reservation allowed by Tribal and federal law.

6. Protection of Water Rights Recognized Under State Law.

a. Except as provided in Section G.2., of Article III, water rights Recognized Under State Law in the drainages listed in Section E.1., of Article III, with a priority date before this Compact has been ratified by the Montana legislature or excepted rights that are provided in Section D.1., of Article IV, are protected from:

(1). an assertion of senior priority in the exercise of current uses of the Tribal Water Right developed as of the date this Compact has been ratified by the Montana legislature.

(2). new development of the Tribal Water Right after the date this Compact has been ratified by the Montana legislature. New development of the Tribal Water Right shall be exercised as junior in priority to water rights Recognized Under State Law in the drainages listed in Section E.1., of Article III with a priority date before this Compact has been ratified by the Montana legislature or excepted rights that are provided in Section D.1., of Article IV.

b. The protection of water rights Recognized Under State Law set forth in Sections E.6.a.(1). and (2)., of Article III extends only to: valid existing water rights as decreed or to be decreed by the Montana Water Court pursuant to 85-2-234, MCA; permits issued by DNRC; state water reservations issued by the Montana Board of Natural Resources and Conservation or DNRC; water rights exempt from filing in the state adjudication pursuant to 85-2-222, MCA; and, water rights excepted from the permit process pursuant to 85-2-306, MCA. With the exception of rights exempt from filing in the state adjudication pursuant to 85-2-222, MCA, and rights excepted from the permit process pursuant to 85-2-306, MCA, a list of existing water rights as currently claimed and permits and reservations issued is attached as Appendix 3. Appendix 3 shall be modified by decrees resolving claims on the affected basins. Prior to issuance of the final decree, water rights protected shall be as recognized under state law, and all remedies available under state law shall be applicable. Appendix 3 may be modified due to clerical error or omission or to make Appendix 3 consistent with modifications in accordance with 85-2-237, 85-2-314, or 85-2-316(10) through (13), MCA.

c. Administration and distribution between State and Tribal water uses within the Reservation shall be as provided in Section A.4., of Article IV.

d. New development, Change in Use, or Transfer of the Tribal Water Right shall not Adversely Affect the exercise of water rights Recognized Under State Law in each drainage listed in Section E.1., of Article III, with a priority date before this Compact has been ratified by the Montana legislature or excepted rights that are provided in Section D.1., of Article IV.

e. Existing uses of the Tribal Water Right shall not be Adversely Affected by development, Change in Use, or Transfer of the Tribal Water Right, except that the Tribe may allow Adverse Affect of uses of the Tribal Water Right on Tribally owned land.

7. Basin Closure within the Reservation.

a. In the drainages listed in Section E.1., of Article III, upstream from the point that each stream or its tributaries leaves the Reservation, DNRC shall not process or grant an application for an appropriation after this Compact has been ratified by the Montana legislature, provided that, in accordance with the terms

and conditions in Section D.1., of Article IV, DNRC may issue a certificate of water right or permit for use on fee land for:

(1). an appropriation of Groundwater by means of a well or developed spring with a maximum appropriation of 35 gallons per minute or less, not to exceed 10 acre-feet per year, unless the appropriation is a combined appropriation from the same source from two or more wells or developed springs exceeding the limitation.

(2). an appropriation of water for use by livestock if the maximum capacity of the impoundment or pit is less than 15 acre-feet and the appropriation is less than 30 acre-feet per year and is from a source other than a perennial flowing stream.

(3). temporary emergency appropriations as provided in 85-2-113(3), MCA.

b. The basin closure applies only to new appropriations not excepted from the permit process, as provided in Section D.1., of Article IV, issued under state law and is not a limit on new development of the Tribal Water Right as set forth in this Compact.

c. The basin closure applies only to new appropriations not excepted from the permit process, as provided in Section D.1., of Article IV, and is not a limit on change of use or transfers of water rights Recognized Under State Law, subject to the terms and conditions in Section D.2., of Article IV.

F. Tribal Water Right in the Ceded Strip.

1. Quantification - Source - Volume.

a. Tribal Interests in the Ceded Strip. As part of the Tribal Water Right, the Tribe has a right to divert a total of 47,000 AFY from surface flow, Groundwater, or storage within the Ceded Strip from portions of the Sarpy Creek drainage and Yellowstone River within Yellowstone River Basin between Bighorn River and Tongue River; Fly Creek drainage and Yellowstone River within Yellowstone River Basin between Clarks Fork Yellowstone River and Bighorn River; Pryor Creek Basin; and Bighorn River Basin for use in connection with Tribal Interests in the Ceded Strip; and, water imported to the Ceded Strip from the Little Bighorn River Basin for use in connection with Tribal Interests in the Ceded Strip. Diversion and use shall be subject to the terms and conditions in Sections C.1.c. and C.1.d., of Article IV.

(1). This 47,000 AFY is in addition to the Tribal Water Right set forth in Sections A.1., B.1., C.1., and E.1., of Article III, except that any diversion of this right from surface flow, Groundwater, or storage within the Bighorn River Basin shall be deducted from the Tribal Water Right as set forth in Section A.1., of Article III.

(2). No more than 47,000 AFY may be diverted and used in connection with Tribal Interests in the Ceded Strip from all water sources, provided that:

(a). no more than 2,500 AFY from all water sources including the Yellowstone River may be diverted upstream from the confluence of the Bighorn River and the Yellowstone River.

(b). no more than 7,000 AF may be diverted from all sources including the Yellowstone River in any month, provided that, aggregate uses from all sources not exceed 47,000 AFY.

b. Use limited to within the Ceded Strip. The Tribal Water Right of 47,000 AFY for use in connection with Tribal Interests in the Ceded Strip shall be used only within the Ceded Strip and shall not be considered a Change in Use or Transfer outside the Reservation for purposes of Section C.2.c., of Article IV.

c. Any portion of the 50,000 AFY set forth in Section A.1.b.(1).(a.), of Article III which may be used outside the Reservation may also be used in connection with Tribal Interests in the Ceded Strip in addition to the Tribal Water Right of 47,000 AFY set forth in Section F.1.a., of Article III.

2. Priority Date. The priority date of the Tribal Water Right set forth in Section F.1.a., of Article III shall be May 7, 1868.

3. Period of Use. The period of use of this water right shall be from January 1 through December 31 of each year.

4. Points and Means of Diversion. Subject to the terms and conditions in Article IV, the Tribe may divert or permit the diversion of the Tribal Water Right from any place and by any means for use in connection with Tribal Interests in the Ceded Strip within the Ceded Strip.

5. Purposes. Subject to the terms and conditions in Article IV, the Tribal Water Right for use in connection with Tribal Interests in the Ceded Strip may be used for beneficial purposes allowed by Tribal, federal and state law.

6. Protection of Water Rights Recognized Under State Law.

a. Except as provided in Section G.2., of Article III, water rights Recognized Under State Law affected by the exercise of the Tribal Water Right in the Ceded Strip with a priority date before this Compact has been ratified by the Montana legislature or excepted rights that are provided in Section D.1., of Article IV, are protected from:

(1). an assertion of senior priority in the exercise of current uses of the Tribal Water Right developed as of the date this Compact has been ratified by the Montana legislature.

(2). new development of the Tribal Water Right after the date this Compact has been ratified by the Montana legislature. New development of the Tribal Water Right shall be exercised as junior in priority to water rights Recognized Under State Law with a priority date before this Compact has been ratified by the Montana legislature or excepted rights that are provided in Section D.1., of Article IV.

b. The protection of water rights Recognized Under State Law set forth in Sections F.6.a.(1). and (2)., of Article III extends to: valid existing water rights as decreed or to be decreed by the Montana Water Court pursuant to 85-2-234, MCA; permits issued by DNRC; state water reservations issued by the Montana Board of Natural Resources and Conservation or DNRC (except for Water Reservation Nos. 1781-r and 10006-r); water rights exempt from filing in the state adjudication pursuant to 85-2-222, MCA; and, water rights excepted from the permit process pursuant to 85-2-306, MCA. With the exception of rights exempt from filing in the state adjudication pursuant to 85-2-222, MCA, and rights excepted from the permit process pursuant to 85-2-306, MCA, a list of existing water rights as currently claimed and permits and reservations issued is attached as Appendix 3. Appendix 3 shall be modified by decrees resolving claims on the affected basins. Prior to issuance of the final decree, water rights protected shall be as recognized under state law, and all remedies available under state law shall be applicable. Appendix 3 may be modified due to clerical error or omission or to make Appendix 3 consistent with modifications in accordance with 85-2-237, 85-2-314, or 85-2-316(10) through (13), MCA.

c. New development, Change in Use, or Transfer of the Tribal Water Right shall not Adversely Affect the exercise of water rights Recognized Under State Law with a priority date before this Compact has been ratified by the Montana legislature or excepted rights that are provided in Section D.1., of Article IV.

d. Existing uses of the Tribal Water Right shall not be Adversely Affected by new development, Change in Use, or Transfer of the Tribal Water Right, except that the Tribe may allow Adverse Affect on uses of the Tribal Water Right on Tribally owned land.

G. Additional Rights to Water. As part of the water rights specifically set forth in Sections A., B., C., D., E., and F., of Article III, the Tribe has a right to water from the following sources:

1. Appurtenant Water Rights. For land within the Reservation acquired after the Effective Date of this Compact, the Tribe has the right to the use of any water right acquired as an appurtenance to the land. At such time that the acquired land is transferred to trust status, the water right appurtenant to the land acquired shall become part of and not in addition to the Tribal Water Right quantified in this Compact with a May 7, 1868 priority date, provided that, the acquired water right shall retain any protections set forth in this Compact. The Tribe shall notify DNRC of any acquisition of water in the Tribe's annual report and shall identify the water right acquired, as set forth in Section E.1., of Article IV. Any water right acquired shall be added as decreed by the Montana Water Court to the list of current uses of the Tribal Water Right as provided in Section E.2., of Article IV.

2. Exempt Rights.

a. Religious or cultural uses of the Tribal Water Right by Crow Tribal members within the Reservation in de minimis amounts shall be allowed without prior review by DNRC.

b. In accordance with the terms and conditions in Section C.1., of Article IV, TWRD may authorize development of the Tribal Water Right for:

(1). an appropriation of Groundwater by means of a well or developed spring with a maximum appropriation of 35 gallons per minute or less, not to exceed 10 acre-feet per year, unless the appropriation is a combined appropriation from the same source from two or more wells or developed springs exceeding the limitation.

(2). an appropriation of water for use by livestock if the maximum capacity of the impoundment or pit is less than 15 acre-feet and the appropriation is less than 30 acre-feet per year and is from a source other than a perennial flowing stream.

(3). temporary emergency appropriations necessary to protect lives or property.

c. Uses of the Tribal Water Right provided for in Sections G.2.a. and G.2.b., of Article III, are not subject to protection of water rights Recognized Under State Law provided in Sections A.6., B.6., C.6., D.6., D.7., E.6., and F.6., of Article III, or streamflows established or modified pursuant to Section A.7., of Article III.

H. Proposed Decree. For purposes of entry in the Montana Water Court, the proposed decree of the Tribal Water Right set forth in Article III is attached as Appendix 1. If there are differences between Appendix 1 and the Final Decree, the Final Decree shall control.

ARTICLE IV - IMPLEMENTATION OF TRIBAL WATER RIGHT

A. General Provisions.

1. Trust Status of Tribal Water Right. The Tribal Water Right shall be held in trust by the United States.

2. Tribal Water Right: Administration.

a. Subject to the limitations imposed by this Compact and federal law, the use of the Tribal Water Right shall be administered by the Tribe through TWRD within the Reservation, in the Ceded Strip, and outside the Reservation. Disputes, not within the jurisdiction of the Compact Board set forth in F.4., of Article IV, concerning use of the Tribal Water Right in the Ceded Strip and outside the Reservation which raise issues concerning the application of state or federal law shall be resolved in a court of competent jurisdiction. Those disputes concerning use of the Tribal Water Right in the Ceded Strip and outside the Reservation which do not raise issues concerning the application of state or federal law shall be within the exclusive jurisdiction of the Tribe. Subject to the limitations imposed by this Compact, the Tribe shall have the final and exclusive jurisdiction to resolve all disputes concerning the Tribal Water Right between holders of water rights under the Tribal Water Right. TWRD shall develop policies and procedures for monitoring water use, diversions, and maintaining records of water use and development consistent with this Compact. The current water use and diversions and new development shall be identified by location and quantity.

b. Administration and enforcement of the Tribal Water Right shall be pursuant to a Tribal water code, which shall be developed and adopted by the Tribe within two (2) years following the Effective Date of this Compact pursuant to any requirements set forth in the Constitution of the Crow Tribe. Pending the adoption of the Tribal water code, the administration and enforcement of the Tribal Water Right shall be by the Secretary of the Interior.

c. The Tribe shall not administer any water right Recognized Under State Law.

d. Administration, operation and maintenance, and delivery of the Tribal Water Right on the Crow Irrigation Project shall be conducted by the United States Department of the Interior, Bureau of Indian Affairs, in accordance with applicable federal laws. Portions of the Project within the Bozeman Trail and Two Leggins Districts shall be administered in accordance with applicable law.

3. Water Rights Recognized Under State Law: Administration.

a. The State shall administer and enforce all water rights Recognized Under State Law to the use of surface flows, Groundwater, and storage within or outside the Reservation. The State shall have the final and exclusive jurisdiction to resolve all disputes between holders of water rights Recognized Under State Law.

b. The State shall not administer or enforce any part of the Tribal Water Right.

c. For water rights Recognized Under State Law, if any, utilizing water delivered by the Crow Irrigation Project, administration and distribution of such water shall be conducted by the United States Department of the Interior, Bureau of Indian Affairs, in accordance with applicable federal laws.

4. Distribution of Water Between the Parties. When water availability is insufficient to satisfy all water rights under the Tribal Water Right and all water rights Recognized Under State Law within the Reservation, administration and distribution shall be as follows:

a. distribution between the water administered by the Tribe and the United States for current uses of the Tribal Water Right within the Reservation developed as of the date this Compact has been ratified by the Montana legislature and the water for water rights Recognized Under State Law within the Reservation with a priority date before this Compact has been ratified by the

Montana legislature shall be on an equitable basis in proportion to the amount of water required for Tribal water use as listed pursuant to Section E.2., of Article IV, and the amount of water required for water rights Recognized Under State Law, provided that, the Parties recognize that distribution may not be on a precise proportional basis due to the need to take into account the physical constraints of water delivery. Administration and distribution by the Tribe, the United States, and the State within their proportional shares shall be pursuant to Tribal, federal, and state law respectively, and shall be coordinated as necessary. This distribution shall not modify the right of a holder of a water right Recognized Under State Law to seek enforcement of such water right against other water rights Recognized Under State Law in priority without the agreement of the water right holder.

b. future development of the Tribal Water Right after this Compact has been ratified by the Montana legislature shall be enforced as junior in priority to the water rights subject to a proportional distribution as set forth in Section A.4.a., of Article IV.

c. nothing in Section A.4.a., of Article IV shall prevent water users from agreeing to an alternative water distribution plan on the basis of individual water rights pursuant to applicable state, Tribal, or federal law.

5. Subsequent Federal or State Law. Administration under Sections A.2.d., A.3.a. and A.3.c., of Article IV shall be as set forth in this Compact except as may otherwise be determined by a court of competent jurisdiction or established by Congress.

B. Use of the Tribal Water Right.

1. Persons Entitled to Use the Tribal Water Right. The Tribal Water Right may be used by the Tribe, Tribal members, or Persons authorized by the Tribe, provided that, the Tribe may not limit or deprive Indians residing on the Reservation or in the Ceded Strip of any right, pursuant to 25 U.S.C. . 381, to a just and equal portion of the Tribal Water Right set forth in Article III.

2. Effect of Non-Use of the Tribal Water Right. State law doctrines relating to the use of water rights, including but not limited to relinquishment, forfeiture or abandonment, do not apply to the Tribal Water Right. Thus, non-use of all or any of the Tribal Water Right described in Article III shall not constitute a relinquishment, forfeiture or abandonment of such rights.

C. Tribal Water Right: New Development, Change in Use, or Transfer.

1. New Development of Surface Flow, Groundwater, or Storage of the Tribal Water Right.

a. New Development of Surface Flow, Groundwater, or Storage Within the Reservation. After the Effective Date of this Compact, the Tribe may develop or authorize new development of surface flow, Groundwater, or storage of the Tribal Water Right within the Reservation; provided that, such development shall not Adversely Affect a water right Recognized Under State Law with a priority date before this Compact has been ratified by the Montana legislature or excepted rights that are provided in Section D.1., of Article IV.

b. Prerequisite Administrative Procedure within the Reservation. The following procedure for determining whether new development of surface flow, Groundwater, or storage of the Tribal Water Right within the Reservation will have an Adverse Affect on water rights Recognized Under State Law shall be followed prior to seeking relief from the Compact Board:

(1). Application for new development of a surface flow, Groundwater, or storage use within the Reservation shall be made to TWRD.

(2). TWRD shall review the application and make a determination of whether the new development will have an Adverse Affect on water rights Recognized Under State Law with a priority date before this Compact has been ratified by the Montana legislature or excepted rights that are provided in Section D.1., of Article IV. Upon request by TWRD, DNRC shall provide information on state water rights as recorded in the DNRC database to TWRD.

(3). If TWRD determines that the new development will have an Adverse Affect on a water right Recognized Under State Law with a priority date before this Compact has been ratified by the Montana legislature or excepted rights that are provided in Section D.1., of Article IV, TWRD shall deny the application. If TWRD determines that the new development will not have an Adverse Affect on a water right Recognized Under State Law with a priority date before this Compact has been ratified by the Montana legislature or excepted rights that are provided in Section D.1., of Article IV, TWRD shall forward the application with its determination to DNRC.

(4). If, based upon the evidence, DNRC agrees with TWRD's determination, DNRC shall notify TWRD. If, however, based upon the evidence, DNRC cannot agree with TWRD's determination, DNRC shall publish notice of the application once in a newspaper of general circulation in the area of the source and shall serve notice by first-class mail on any holder of a water right Recognized Under State Law who, according to the records of the DNRC, has a water right with a priority date before this Compact has been ratified by the Montana legislature or excepted rights that are provided in Section D.1., of Article IV, and may be affected by the proposed development. DNRC shall notify TWRD within ninety (90) days of DNRC's determination.

(5). DNRC and TWRD should attempt to resolve any disagreement on TWRD's determination of no Adverse Affect on a cooperative basis. If DNRC or a holder of a water right Recognized Under State Law with a priority date before this Compact has been ratified by the Montana legislature or excepted rights that are provided in Section D.1., of Article IV, disagree with the determination of no Adverse Affect, DNRC or the water right holder may seek relief from the Compact Board.

(6). In any proceeding concerning the effect of new Groundwater development of the Tribal Water Right within the Reservation either before TWRD, DNRC, or before the Compact Board, the following shall apply:

(a). Wells Less than 100 Feet: For new Groundwater wells to be completed at a depth beneath the surface of less than 100 feet, the applicant shall bear the burden of showing no Adverse Affect to a water right Recognized Under State Law with a priority date before this Compact has been ratified by the Montana legislature or excepted rights that are provided in Section D.1., of Article IV.

(b). 100 Feet or Deeper Wells: For new Groundwater wells to be completed at a depth beneath the surface of 100 feet or deeper, the owner of a water right Recognized Under State Law with a priority date before this Compact has been ratified by the Montana legislature or excepted rights that are provided in Section D.1., of Article IV, shall bear the burden of showing Adverse Affect to the water right.

(7). In any proceeding concerning the effect of new storage development of the Tribal Water Right within the Reservation either before TWRD, DNRC, or before the Compact Board, the following shall apply:

(a). Storage Over 50 AF: For new storage facilities with a planned constructed capacity of more than 50 AF, the applicant shall bear the burden of

showing no Adverse Affect to a water right Recognized Under State Law with a priority date before this Compact has been ratified by the Montana legislature or excepted rights that are provided in Section D.1., of Article IV.

(b). Storage 50 AF or Less: For new storage facilities with a planned constructed capacity of 50 AF or less, the owner of the water right Recognized Under State Law with a priority date before this Compact has been ratified by the Montana legislature or excepted rights that are provided in Section D.1., of Article IV, shall bear the burden of showing Adverse Affect to the water right.

c. New Development of Surface Flow, Groundwater, or Storage for Use in Connection with Tribal Interests in the Ceded Strip. After the Effective Date of this Compact, the Tribe may develop or authorize new development, from surface flow, Groundwater, or storage, of the Tribal Water Right as set forth in Section F., of Article III and subject to the terms and conditions in Section F.1., of Article III for use in connection with Tribal Interests in the Ceded Strip; provided that, such development shall not Adversely Affect a water right Recognized Under State Law with a priority date before this Compact has been ratified by the Montana legislature or excepted rights that are provided in Section D.1., of Article IV.

d. Prerequisite Administrative Procedure within the Ceded Strip. The following procedure for determining whether new development of surface flow, Groundwater, or storage of the Tribal Water Right for use in connection with Tribal Interests in the Ceded Strip will have an Adverse Affect on water rights Recognized Under State Law shall be followed prior to seeking relief from the Compact Board:

(1). Application for new development of surface flow, Groundwater, or storage of the Tribal Water Right for use in connection with Tribal Interests in the Ceded Strip shall be made to TWRD.

(2). TWRD shall review the application and make a determination of whether the new development will have an Adverse Affect on water rights Recognized Under State Law with a priority date before this Compact has been ratified by the Montana legislature or excepted rights that are provided in Section D.1., of Article IV or pursuant to 85-2-306, MCA. Upon request by TWRD, DNRC shall provide information on state water rights as recorded in the DNRC database to TWRD.

(3). If TWRD determines that the new development will have an Adverse Affect on a water right Recognized Under State Law with a priority date before this Compact has been ratified by the Montana legislature or excepted rights that are provided in Section D.1., of Article IV or pursuant to 85-2-306, MCA, TWRD shall deny the application. If TWRD determines that the new development will not have an Adverse Affect on a water right Recognized Under State Law with a priority date before this Compact has been ratified by the Montana legislature or excepted rights that are provided in Section D.1., of Article IV or pursuant to 85-2-306, MCA, TWRD shall forward the application with its determination to DNRC.

(4). If, based upon the evidence, DNRC agrees with TWRD's determination, DNRC shall notify TWRD. If, however, based upon the evidence, DNRC cannot agree with TWRD's determination, DNRC shall publish notice of the application once in a newspaper of general circulation in the area of the source and shall serve notice by first-class mail on any holder of a water right Recognized Under State Law who, according to the records of the department, has a water right with a priority date before this Compact has been ratified by the Montana

legislature or excepted rights that are provided in Section D.1., of Article IV or pursuant to 85-2-306, MCA, and may be affected by the proposed development. DNRC shall notify TWRD within ninety (90) days of DNRC's determination.

(5). DNRC and TWRD should attempt to resolve any disagreement on TWRD's determination of no Adverse Affect on a cooperative basis. If DNRC or a holder of a water right Recognized Under State Law with a priority date before this Compact has been ratified by the Montana legislature or excepted rights that are provided in Section D.1., of Article IV or pursuant to 85-2-306, MCA, disagree with the determination of no Adverse Affect, DNRC or the water right holder may seek relief from the Compact Board.

(6). In any proceeding concerning the effect of new Groundwater development of the Tribal Water Right for use in connection with Tribal Interests in the Ceded Strip either before TWRD, DNRC, or before the Compact Board, the following shall apply:

(a). Wells Less than 100 Feet: For new Groundwater wells to be completed at a depth beneath the surface of less than 100 feet, the applicant shall bear the burden of showing no Adverse Affect to a water right Recognized Under State Law with a priority date before this Compact has been ratified by the Montana legislature or exempt rights that are provided in Section D.1., of Article IV or pursuant to 85-2-306, MCA.

(b). 100 Feet or Deeper Wells: For new Groundwater wells to be completed at a depth beneath the surface of 100 feet or deeper, the owner of a water right Recognized Under State Law with a priority date before this Compact has been ratified by the Montana legislature or excepted rights that are provided in Section D.1., of Article IV or pursuant to 85-2-306, MCA, shall bear the burden of showing Adverse Affect to the water right.

(7). In any proceeding concerning the effect of new storage development of the Tribal Water Right for use in connection with Tribal Interests in the Ceded Strip either before TWRD, DNRC, or before the Compact Board, the following shall apply:

(a). Storage Over 50 AF: For new storage facilities with a planned constructed capacity of more than 50 AF, the applicant shall bear the burden of showing no Adverse Affect to a water right Recognized Under State Law with a priority date before this Compact has been ratified by the Montana legislature or excepted rights that are provided in Section D.1., of Article IV or pursuant to 85-2-306, MCA.

(b). Storage 50 AF or Less: For new storage facilities with a planned constructed capacity of 50 AF or less, the owner of the water right Recognized Under State Law with a priority date before this Compact has been ratified by the Montana legislature or excepted rights that are provided in Section D.1., of Article IV or pursuant to 85-2-306, MCA, shall bear the burden of showing Adverse Affect to the water right.

e. Groundwater Development of the Tribal Water Right Exempt from the Showing of No Adverse Affect. The following wells are exempt from the requirement of showing no Adverse Affect:

(1). Wells developed as of the date this Compact has been ratified by the Montana legislature are exempt from the burden to show no Adverse Affect. These wells may be replaced, repaired or rehabilitated to the original constructed capacity. A comprehensive list of wells developed as of the date this Compact has been ratified by the Montana legislature shall be kept on file in

TWRD offices as part of the requirement to list current uses of the Tribal Water Right in Section E.2., of Article IV.

(2). An authorized use of Groundwater by means of a well or developed spring with a maximum appropriation of 35 gallons per minute or less, not to exceed 10 acre-feet per year, unless the appropriation is a combined appropriation from the same source from two or more wells or developed springs exceeding the limitation.

f. Storage Development of the Tribal Water Right Exempt from the Showing of No Adverse Affect. The following storage facilities are exempt from the requirement of showing no Adverse Affect:

(1). Facilities storing the Tribal Water Right developed as of the date this Compact has been ratified by the Montana legislature are exempt from the burden to show no Adverse Affect. These storage facilities may be replaced, repaired or rehabilitated to the original constructed capacity. A comprehensive list of storage facilities developed as of the date this Compact has been ratified by the Montana legislature shall be kept on file in TWRD offices as part of the requirement to list current uses of the Tribal Water Right in Section E.2., of Article IV.

(2). An authorized use of water for use by livestock if the maximum capacity of the impoundment or pit is less than 15 acre-feet and the appropriation is less than 30 acre-feet per year and is from a source other than a perennial flowing stream.

2. Change in Use or Transfer of the Tribal Water Right.

a. Change in Use or Transfer of the Tribal Water Right Within the Reservation. Unless otherwise stated in this Compact, the Tribe may make or authorize a Change in Use or Transfer of a water right set forth in Article III of this Compact within the Reservation; provided that, such Change in Use or Transfer shall not Adversely Affect a water right Recognized Under State Law with a priority date before the date of the Change in Use or Transfer. Determination of Adverse Affect shall be made following the same procedure used for review of new surface flow, Groundwater, or storage development of the Tribal Water Right set forth in Sections C.1.a. and C.1.b., of Article IV.

b. Change in Use or Transfer of the Tribal Water Right Within the Ceded Strip. Unless otherwise stated in this Compact, the Tribe may make or authorize a Change in Use or Transfer of the Tribal Water Right set forth in Section F.1.a., of Article III within the Ceded Strip; provided that, such Change in Use or Transfer shall not Adversely Affect a water right Recognized Under State Law with a priority date before the date of the Change in Use or Transfer. Determination of Adverse Affect shall be made following the same procedure used for review of new surface flow, Groundwater, or storage development of the Tribal Water Right within the Ceded Strip set forth in Sections C.1.c. and C.1.d., of Article IV.

c. Change in Use or Transfer of the Tribal Water Right Outside the Reservation. Except as otherwise provided in this Compact, the Tribe, pursuant to federal law, may make or authorize a Change in Use or a Transfer of the Tribal Water Right for up to 50,000 acre-feet of water as provided in Section A.1.b.(1).(a), of Article III, for use outside the Reservation; provided that, any Transfer shall be for a term not to exceed 100 years, and may include provisions authorizing renewal for an additional term not to exceed 100 years; and provided that, no such Transfer shall be a permanent alienation of the water Transferred. Any Change in Use or Transfer of any such water right involving a

point of diversion or place of use located outside the Reservation shall be considered a use outside the Reservation, except as provided in Section F., of Article III and Section C.2.b., of Article IV; and, further provided that, any use of Tribal water rights described in this Compact outside the Reservation shall not be deemed to convert such rights to rights arising under state law, and non-use of such rights outside the Reservation shall not constitute a relinquishment, forfeiture, or abandonment of the rights. The Tribe may change the point of diversion or purpose or place of use of the Tribal Water Right back to the Reservation without reduction in the amount of water provided in the Compact.

(1). **Applicable Law.** No person may initiate a use, Change in Use, or Transfer of a Tribal water right set forth in this Compact outside the Reservation without first complying with applicable state law. Approval of an application for a use, Change in Use, or Transfer outside the Reservation by the State shall be conditioned on a valid Tribal authorization for such use, Change in Use, or Transfer by the Tribe. The applicant shall provide DNRC with proof of a valid Tribal authorization prior to initiating the use, Change in Use, or Transfer.

(2). **Diversion Facilities.** With respect to diversion or transportation facilities located outside the Reservation which are to be used in connection with the exercise of a water right set forth in this Compact, the Tribe or Persons using such water right shall apply for all permits, certificates, variances and other authorizations required by state laws regulating, conditioning or permitting the siting, construction, operation, alteration or use of any equipment, device, facility or associated facility proposed to use or transport water. A diversion or use of water in the exercise of such water right may be made only after all permits, certificates, variances or other authorizations applied for pursuant to this paragraph have been obtained.

D. Water Rights Recognized Under State Law: New Development, Change in Use, or Transfer.

1. **Limit on New Development.** DNRC shall not process or grant an application for an appropriation after this Compact has been ratified by the Montana legislature within the Reservation, and outside the Reservation in Bighorn River Basin and in Pryor Creek Basin, provided that, the Department may issue certificates of water right or permits for use on fee land for:

a. An appropriation of Groundwater by means of a well or developed spring with a maximum appropriation of 35 gallons per minute or less, not to exceed 10 acre-feet per year, unless the appropriation is a combined appropriation from the same source from two or more wells or developed springs exceeding the limitation.

b. An appropriation of water for use by livestock if the maximum capacity of the impoundment or pit is less than 15 acre-feet and the appropriation is less than 30 acre-feet per year and is from a source other than a perennial flowing stream.

c. Temporary emergency appropriations as provided in 85-2-113(3), MCA.

2. **Change in Use or Transfer of Water Rights Recognized Under State Law within the Reservation.** The State may authorize a change in use or transfer of a water right Recognized Under State Law within the Reservation in accordance with state law, provided that, such change or transfer shall not Adversely Affect a use of the Tribal Water Right existing at the time of the application for change in use or transfer.

a. Prerequisite Administrative Procedure. The following procedure for determining whether a change in use or transfer of a water right Recognized Under State Law within the Reservation will have an Adverse Affect on an existing water right developed or authorized prior to the date of application for change of use or transfer under the Tribal Water Right shall be followed prior to seeking relief from the Compact Board:

(1). Application for a change in use or transfer of a water right Recognized Under State Law within the Reservation shall be made to DNRC.

(2). DNRC shall review the application and make a determination of whether the change in use or transfer of a water right Recognized Under State Law within the Reservation will have an Adverse Affect on a water right developed or authorized under the Tribal Water Right. Upon request by DNRC, TWRD shall provide information on developed and authorized Tribal Water Rights as recorded by TWRD to DNRC.

(3). If DNRC determines that the change in use or transfer of a water right Recognized Under State Law within the Reservation will have an Adverse Affect on a water right developed or authorized under the Tribal Water Right, DNRC shall deny the application. If DNRC determines that the change in use or transfer of a water right Recognized Under State Law within the Reservation will not have an Adverse Affect on a water right developed or authorized under the Tribal Water Right, DNRC shall forward the application with its determination to TWRD.

(4). If, based upon the evidence, TWRD agrees with DNRC's determination, TWRD shall notify DNRC. If, however, based upon the evidence, TWRD cannot agree with DNRC's determination, TWRD shall publish notice of the application once in a newspaper of general circulation in the area of the source and shall serve notice by first-class mail on any Tribal Water Right holder who, according to the records of TWRD, has a water right developed or authorized before the application date and may be affected by the proposed change in use or transfer of a water right Recognized Under State Law within the Reservation. TWRD shall notify DNRC within ninety (90) days of TWRD's determination.

(5). TWRD and DNRC should attempt to resolve any disagreement on DNRC's determination of no Adverse Affect on a cooperative basis. If TWRD or a holder of a water right developed or authorized under the Tribal Water Right disagree with the determination of no Adverse Affect, TWRD or the Tribal Water Right holder may seek relief from the Compact Board.

E. Reporting Requirements.

1. On an annual basis DNRC shall provide the Tribe and the United States with a listing of all uses of surface flow, Groundwater, or storage for which a certificate of water right or permit has been issued or a change in use or transfer has been approved by DNRC within the Reservation, in the Ceded Strip, and in drainages affected by this Compact.

2. Within one (1) year after this Compact has been ratified by the Montana legislature, the TWRD and the United States shall provide the DNRC with a report listing all current uses of the Tribal Water Right, including uses by Tribal members, existing as of the date this Compact has been ratified by the Montana legislature. DNRC may request additional information from TWRD or the United States to assist in reviewing the report. DNRC must approve or disapprove of the listing of all current uses of the Tribal Water Right within six (6) months after receipt of the report.

3. On an annual basis TWRD shall provide the DNRC and the United States with a listing of all new development of the Tribal Water Right described in this Compact within the Reservation, in the Ceded Strip, and outside the Reservation, and of all Changes in Use or Transfers of water rights within and outside the reservation since the last report.

4. TWRD, DNRC, and the United States may agree to modify the reporting requirements set forth in Sections D.1. and D.3., of Article IV. Such modification is pursuant to, and shall not be deemed a modification of, this Compact.

5. All reporting to the United States under this subsection shall be made to the Billings Area Office of the Bureau of Indian Affairs.

F. Enforcement: Crow-Montana Compact Board.

1. Establishment of Board. There is hereby established the Crow-Montana Compact Board. The Board shall consist of three members: one member selected by the Governor of the State of Montana; one member appointed by the Crow Tribal Chairman; and one member selected by the other two members. All members shall be appointed within six (6) months of the Effective Date of this Compact and within thirty (30) days of the date any vacancy occurs. If an appointment is not timely made by the Governor, the Director of DNRC or his/her designee shall fill the State's position. If an appointment is not timely made by the Crow Tribal Chairman, the Director of TWRD or his/her designee shall fill the Tribe's position. Each member shall serve a five-year term and shall be eligible for reappointment. The initial term of each member shall be staggered with one member serving a five-year term, one a four-year term, and one a three-year term. The initial term of each member shall be chosen by lot. Expenses of the members appointed by the State and the Tribe shall be borne by the entity appointing the member. The expenses of the third member and all other expenses shall be borne equally by the Tribe and the State, subject to the availability of funds.

2. Membership. Should the two appointed members fail to agree on the selection of a third member within sixty (60) days of the date of appointment of the second member, or within thirty (30) days after any vacancy occurs, the following procedure shall be utilized:

a. Within five (5) days thereafter each member shall nominate three persons to serve as a member of the Board;

b. Within fifteen (15) days thereafter each member shall reject two of the persons nominated by the other member;

c. Within five (5) days thereafter, the remaining two nominees shall be submitted to the Dean of the University of Montana School of Law who shall select the third member from the two nominees.

3. Quorum and Vote Required. Two members of the Board shall constitute a quorum if reasonable notice of the time, place, and purpose of the meeting, hearing, or other proceeding has been provided in advance to the absent member. All Board decisions shall be by a majority of the Board, shall be in writing and, together with any dissenting opinions, shall be served on all parties in the proceeding before the Board, and on the Parties to this Compact.

4. Jurisdiction of the Board. The Crow-Montana Compact Board shall have jurisdiction to resolve controversies over the right to the use of water as between the Parties or holders of water rights developed or authorized under the Tribal Water Right and holders of water rights Recognized Under State Law. Such controversies shall include, but shall not be limited to, disputes as to the meaning of this Compact.

5. Prerequisite Administrative Procedures.

a. Any holder of a water right Recognized Under State Law concerned that a new development, Change in Use, or Transfer of the Tribal Water Right is inconsistent with the Compact shall first contact the Billings Regional Office of DNRC. If DNRC and TWRD are unable to resolve the issue in a manner acceptable to the water right holder within a reasonable time through discussion, DNRC or the water right holder may seek relief through the Compact Board. The Tribe agrees to allow DNRC reasonable access onto Tribal land or to assist DNRC in obtaining reasonable access onto the land of the Tribal Water Right holder to observe the challenged new development, Change in Use, or Transfer.

b. Any Tribal Water Right holder concerned that a new development, change in use, or transfer of water by a holder of a water right Recognized Under State Law is inconsistent with the Compact shall first contact TWRD. If TWRD and DNRC are unable to resolve the issue in a manner acceptable to the Tribal Water Right holder within a reasonable time through discussion, TWRD or the Tribal Water Right holder may seek relief through the Compact Board. DNRC agrees to assist TWRD in obtaining reasonable access onto the land of the holder of the water right Recognized Under State Law to observe the challenged development, change in use, or transfer.

c. TWRD and DNRC may jointly develop supplemental procedures as necessary or appropriate. Such supplemental procedures are pursuant to, and shall not be deemed a modification of, this Compact.

6. Powers and Duties. The Board shall hold hearings upon notice in proceedings before it and shall have the power to administer oaths, take evidence and issue subpoenas to compel attendance of witnesses or production of documents or other evidence, and to appoint technical experts. The Tribe and the State shall enforce the Board's subpoenas in the same manner as prescribed by the laws of the Tribe and the State for enforcing a subpoena issued by the courts of each respective sovereign in a civil action. The parties to the controversy may present evidence and cross examine any witnesses. The Board shall determine the controversy and grant any appropriate relief, including a temporary order; provided that, the Board shall have no power to award money damages, costs, or attorneys' fees. All decisions of the Board shall be by majority vote and in writing. The Board shall adopt necessary rules and regulations to carry out its responsibilities within six (6) months after its first meeting. All records of the Board shall be open to public inspection, except as otherwise ordered by the Board.

7. Review and Enforcement of Board Decisions.

a. Decisions by the Board shall be effective immediately, unless stayed by the Board. Unless otherwise provided by Congress, only the United States and parties to the proceedings before the Board may appeal any final decision by the Board to a court of competent jurisdiction within thirty (30) days of such decision. The hearing on appeal shall be a trial de novo. The notice of appeal shall be filed with the Board and served personally or by registered mail upon all parties to the proceeding before the Board.

b. Unless an appeal is filed within thirty (30) days of a final decision of the Board, as provided in Section F.7.a., of Article IV, any decision of the Board shall be recognized and enforced by any court of competent jurisdiction on petition of the Board, or any party before the Board in the proceeding in which the decision was made.

c. A court of competent jurisdiction in which a timely appeal is filed pursuant to Section F.7.a., of Article IV, or in which a petition to confirm or enforce is filed pursuant to Section F.7.b., of Article IV, may order such temporary or permanent relief as it considers just and proper.

d. An appeal may be taken from any decision of the court in which a timely appeal is filed pursuant to Section f.7.a., of Article IV, or in which a petition to confirm or enforce is filed pursuant to Section F.7.b., of Article IV, in the manner and to the same extent as from orders or judgments of the court in a civil action.

e. In any appeal or petition to confirm or enforce the Board's decision, the Board shall file with the court the record of the proceedings before the Board within sixty (60) days of filing of a notice of appeal.

8. Waiver of Immunity. The Tribe and the State hereby waive their respective immunities from suit, including any defense the State shall have under the Eleventh Amendment of the Constitution of the United States, in order to permit the resolution of disputes under this Compact by the Crow-Montana Compact Board, and the appeal or judicial enforcement of Board decisions as provided herein, except that such waivers of sovereign immunity by the Tribe or the State shall not extend to any action for money damages, costs, or attorneys' fees. The Parties agree that only Congress can waive the immunity of the United States. The participation of the United States in the proceedings of the Compact Board shall be as provided by Congress.

ARTICLE V - DISCLAIMERS AND RESERVATIONS

A. No Effect on Other Tribal Rights or Other Federal Reserved Water Rights.

1. Except as provided in Sections A.1.b.(2). and D.7., of Article III, the relationship between the Tribal Water Right described herein and any rights to water of any other Indian Tribe or its members, or of the United States on behalf of such Tribe or its members shall be determined by the rule of priority.

2. Nothing in this Compact may be construed or interpreted as a precedent to establish the nature, extent, or manner of administration of the rights to water of any other Indian tribes or their members outside of the Crow Reservation.

3. Nothing in this Compact is otherwise intended to affect or abrogate a right or claim of an Indian Tribe other than the Crow Tribe.

4. Except as otherwise provided herein and authorized by Congress, nothing in this Compact may be construed or interpreted in any manner to establish the nature, extent, or manner of administration of the reserved rights to water of any other federal agency or of any other federal lands. Such reserved rights will be subject to the rule of priority in their use.

B. General Disclaimer. Nothing in this Compact shall be so construed or interpreted:

1. As a precedent for the litigation of reserved water rights or the interpretation or administration of future compacts between the United States and the State, or the United States and any other state;

2. To preclude the acquisition or exercise of a right Recognized Under State Law to the use of water by any member of the Tribe outside the Reservation by purchase of such right or by acquisition of land, or by application to the State;

3. To determine the relative rights inter sese of Persons using water under the authority of the State or the Tribe;

4. To limit in any way the rights of the Parties or any other person to litigate any issues or questions not resolved by this Compact;

5. To authorize the taking of a water right which is vested under state or federal law;

6. To create or deny substantive rights through headings or captions used in this Compact;

7. To address or prejudice whether or how, in any interstate apportionment, the Tribe's water right shall be counted as part of the waters apportioned to the State;

8. To prohibit the Tribe, or the United States on behalf of the Tribe, from objecting in any general stream adjudication in Montana Water Court to any claims to water rights;

9. To constitute a waiver of sovereign immunity by the Tribe, State, or United States, except as is expressly set forth in this Compact;

10. Unless otherwise provided by Congress, to prevent the United States, as trustee for the Tribe or Tribal members, or the Tribe itself, from filing an action in any court of competent jurisdiction, to prevent any party from interfering with the enjoyment of the Tribal Water Right;

11. To impair, amend, or alter rights under existing state or federal law;

12. To affect or determine the applicability of any state or federal law, including, without limitation, environmental and public safety laws, on activities of the Tribe or Tribal members within the Reservation or in connection with Tribal Interests in the Ceded Strip;

13. To alter or amend any provision or to adopt or preclude any interpretation of the Yellowstone River Compact, Act of October 10, 1951, ch. 629, 65 Stat. 663 (1951);

14. To alter or abridge any right reserved to the Crow Tribe of Indians under Article 4 of the May 7, 1868 Treaty of Fort Laramie; or

15. To prejudice any right that Tribal members may have to secure a portion of the Tribal Water Right from the Tribe.

C. Rights Reserved. The Parties expressly reserve all rights not granted, recognized or relinquished in this Compact.

D. Obligations of United States Contingent.

1. Notwithstanding any other language in this Compact, except as authorized under other provisions of federal law, the obligations of the United States under this Compact shall be contingent on authorization by Congress.

2. The State and the Tribe recognize that this Compact has not been reviewed and approved by the United States or any agency thereof and ratification by the Montana legislature or ratification by the Tribal Council in no manner binds or restricts the discretion of the United States in the negotiation of all related matters, including but not limited to, coal severance tax, Section 2 of the Crow Allotment Act (41 Stat. 751), water rights, and State and Federal contribution or cost share.

E. Expenditures of Money Contingent. The expenditure or advance of any money or the performance of any work by the United States or the Tribe pursuant to this Compact which may require appropriation of money by Congress or allotment of funds shall be contingent on such appropriation or allotment being made.

ARTICLE VI - CONTRIBUTIONS TO SETTLEMENT

A. State Contribution to Settlement.

1. The State agrees to contribute the sum of \$15 million, in equal annual installments for a period of no more than fifteen years beginning July 1, 1999, to a fund for the use and benefit of the Tribe.

2. Payment of the State's contributions for the benefit of the Tribe is contingent on the final approval of this Compact by the Tribe and Congress, the final inclusion of the rights set forth in the Compact in decrees by the Montana Water Court and the expiration of the time for appeal from all orders effecting such inclusion or the affirmance of the decrees or orders on appeal, the provision of releases of claims as provided in Section A.4., of Article VI, and the fulfillment of any other conditions to the effectiveness of the Compact.

3. Until all conditions for payment are fulfilled, the State and the Tribe agree that any payments due shall be paid into an interest-bearing escrow account, to be held without distribution of principal or interest until all conditions for payment to the Tribe are satisfied, *except that the State and the Tribe may agree in writing that some portion of the interest earned on the funds in the escrow account may be disbursed to the Tribe before all conditions for payment are satisfied.*

4. The Tribe agrees that the State's contribution will be dedicated to economic development and water and sewer infrastructure within the Crow Reservation. The Tribe further agrees that the State's contributions as set forth in Section A.1., of Article VI and any other agreements that may be set forth in a separate coal severance tax settlement agreement between the State and Tribe should be considered as fully satisfying any cost-share obligation on the part of the State for this Compact. The Tribe further agrees that the State's contributions and agreements herein are full and adequate consideration for the Tribe's agreements as set forth in this Compact, and that the State's contributions, together with any other agreements that may be set forth in a separate coal severance tax settlement agreement between the State and the Tribe, are full and adequate consideration for the release of all claims by the Tribe and the United States in the civil action captioned Crow Tribe of Indians v. State of Montana, Cause No. CV-78-110-BLG-JDS (D. Mont.). The Tribe further agrees that in consideration of the State's contributions and other agreements set forth in a separate coal severance tax settlement agreement, the Tribe will provide releases of all claims, including any pleadings or proposed orders necessary to implement or otherwise give effect to the releases, in that action in a form acceptable to the Attorney General of the State.

B. Federal Legislation. The Tribe and the State agree to support federal legislation ratifying this Compact that will accomplish the following:

1. Bighorn Lake Water Supply. The State and the Tribe agree to support federal legislation that will provide an allocation of storage water in Bighorn Lake, as described in Section A.1.b., of Article III and which will reallocate the water in Bighorn Lake as set forth in Section A.1.b.(1).(b).(i)., of Article III. The priority date for the allocation shall be the date of the water right held by the Bureau of Reclamation as decreed or to be decreed by the Montana Water Court pursuant to 85-2-234, MCA. This allocation shall be held in trust for the Tribe by the United States and will be part of the Tribal Water Right.

2. Right to Participate in Future Projects to Import Water. The Tribe shall have the right to initiate or participate in any project to augment the water supply in the Basins listed in Sections B., C., D. and E., of Article III, by

transferring water from another drainage, and to have any such augmentation project deliver any entitlement of the Tribe to water to a point within the Reservation designated by the Tribe.

3. Federal Court Jurisdiction. That the federal courts shall have jurisdiction to enforce the provisions of this Compact and to hear appeals from and enforce decisions of the Compact Board in accordance with Section F.7., of Article IV.

C. Federal Contributions to Settlement. Federal contributions to settlement shall be as provided by Congress.

ARTICLE VII - FINALITY, SETTLEMENT OF CLAIMS, EFFECTIVENESS OF COMPACT, AND WAIVER OF CLAIMS

A. Ratification and Effectiveness of Compact.

1. This Compact shall become Effective on the date it is ratified by the Tribe, by the State, and by the Congress of the United States, whichever date is latest. Upon ratification of this Compact by the Tribe and by the State, whichever is later, the terms of this Compact may not be altered, voided, or modified in any respect without the consent of both the Tribe and the State. Once ratified by Congress, the Tribe, and the State, the Compact may not be modified without the consent of the Tribe, the State, and the United States.

2. Notwithstanding any other provision in this Compact, the Tribe reserves the right to withdraw as a Party to this Compact:

a. If Congress has not ratified this Compact within four (4) years from the date the Compact is ratified by the State;

b. If appropriations are not authorized by Congress within four (4) years of the date the Compact is ratified by the Tribe;

c. If the Tribe and the United States do not reach agreement on the federal contribution to settlement;

d. If appropriations are not made in the manner contemplated by the federal legislation ratifying the Compact; or

e. If the Tribe and the United States do not reach agreement on settlement of issues regarding Section 2 of the Crow Allotment Act (41 Stat.751).

3. The Tribe may exercise its right to withdraw by sending to the Governor of the State of Montana and to the Secretary of the Interior by certified mail a resolution of the Crow Tribal Council stating the Tribe's intent to withdraw and specifying a withdrawal date not sooner than thirty (30) days from the date of the resolution. On the date designated in the resolution for Tribal withdrawal, this Compact shall become null and void without further action by any Party, and the Parties agree to resume negotiation in good faith for quantification of the water rights of the Crow Tribe and entry of a decree in a court of competent jurisdiction.

4. Notwithstanding any other provision in this Compact, the State reserves the right to withdraw as a Party to this Compact:

a. If the Tribe and Congress have not ratified this Compact within five (5) years from the date the Compact is ratified by the State;

b. If Congress requires a state contribution to settlement that exceeds the contributions described in Section A., of Article VI;

c. If Congress resolves issues under Section 2 of the Crow Allotment Act (41 Stat. 751) in a manner Adversely Affecting water rights Recognized Under State Law;

d. If a streamflow and lake level management plan pursuant to Section A.7., of Article III is not agreed to within one (1) year after this Compact has been ratified by the Montana legislature or any extended deadline agreed to by the State, or if federal legislation is inconsistent with the streamflow and lake level management plan; or

e. If the Department of Natural Resources and Conservation does not approve the list of current uses of the Tribal Water Right pursuant to Section E.2., of Article IV.

5. The State may exercise its right to withdraw by sending to the Crow Tribal Chairman and to the Secretary of the Interior a letter delivered by certified mail from the Governor of the State of Montana stating the State's intent to withdraw and specifying a withdrawal date not sooner than thirty (30) days from the date of the letter. On the date designated in the letter for State withdrawal, this Compact shall become null and void without further action by any Party, and the Parties agree to resume negotiation in good faith for quantification of the water rights of the Crow Tribe and entry of a decree in a court of competent jurisdiction.

6. Notwithstanding any other provision in this Compact, the Department of the Interior reserves the right to refuse to support federal legislation ratifying this Compact.

7. The Parties understand and accept that federal financial contributions to the Compact may not be budgeted until October of the year following the year of enactment of the Compact.

B. Incorporation Into Decrees and Disposition of Federal Suit.

1. The Tribe, the State, and the United States agree to defend the provisions and purposes of this Compact including the quantification set forth in Article III, from all challenges and attacks in all proceedings pursuant to this Section B., of Article VII.

2. Within one hundred eighty (180) days of the date this Compact is ratified by the Crow Tribal Council, the State of Montana, and Congress, whichever is latest, the Tribe, the State, or the United States shall file, in the general stream adjudication initiated by the State of Montana, pursuant to the provisions of 85-2-702(3), MCA, a motion for entry of the proposed decree set forth in Appendix 1 as the decree of the water rights held by the United States in trust for the Crow Tribe. If the Montana Water Court does not approve the proposed decree submitted with the motion within three years following the filing of the motion, the Compact shall be voidable by agreement of the State and the Tribe. If the Montana Water Court approves the proposed decree within three years, but the decree is subsequently set aside by the Montana Water Court or on appeal, the Compact shall be voidable by agreement of the State and the Tribe. Any effect of the failure of approval or setting aside of the decree on the approval, ratification, and confirmation by the United States shall be as provided by Congress. The Parties understand and agree that the submission of this Compact to a state court or courts, as provided for in this Compact, is solely to comply with the provisions of 85-2-702(3), MCA, and does not expand the jurisdiction of the state court or expand in any manner the waiver of sovereign immunity of the United States in the McCarran Amendment, 43 U.S.C. 666, or other provision of federal law.

3. Consistent with 3-7-224, MCA, setting forth the jurisdiction of the chief water judge, for the purposes of 85-2-702(3), MCA, the review by the Montana Water Court shall be limited to Article III, and Appendix 1, and may extend to

other sections of the Compact only to the extent that they relate to the determination of existing water rights. The final decree shall consist of Article III as displayed in Appendix 1, and such other information as may be required by 85-2-234, MCA. Nevertheless, pursuant to 85-2-702(3), MCA, the terms of the entire Compact must be included in the preliminary decree without alteration for the purpose of notice.

4. Upon the issuance of a final decree by the Montana Water Court, or its successor, and the completion of any direct appeals therefrom, or upon the expiration of the time for filing any such appeal, the United States, the Tribe, and the State shall execute and file joint motions pursuant to Rule 41(a), Fed. R. Civ. P., to dismiss the Tribe's claims, and any claims made by the United States as trustee for the Tribe, in *U.S. v. Big Horn Low Line Canal Company, et al.*, No. CIV-75-34-BLG (filed April 17, 1975) (hereinafter referred to as "Low Line Canal") and such claims may only be refiled if the Tribe exercises its option to withdraw as a Party to the Compact pursuant to Section A.3., of Article VII. This Compact shall be filed as a consent decree in Low Line Canal only if, prior to the dismissal of Low Line Canal as provided in Section B., of Article VII, it is finally determined in a judgment binding upon the State of Montana that the state courts lack jurisdiction over, or that the state court proceedings are inadequate to adjudicate, some or all of the water rights asserted in Low Line Canal.

C. Settlement of Water Right Claims. The water rights and other rights confirmed to the Tribe in this Compact are in full and final satisfaction of the water right claims of the Tribe and the United States on behalf of the Tribe and its members, including federal reserved water rights claims based on *Winters v. United States*, 207 U.S. 564 (1908). In consideration of the rights confirmed to the Tribe in this Compact, and of performance by the State of Montana and the United States of all actions required by this Compact, including entry of a final order issuing the decree of the reserved water rights of the Tribe held in trust by the United States as quantified in the Compact and displayed in Appendix 1, the Tribe and the United States as trustee for the Tribe and Tribal members hereby waive, release, and relinquish any and all claims to water rights or to the use of water within the State of Montana existing on the date this Compact is ratified by the State, the Tribe, and Congress and conditional upon a final decree, whichever date is later.

D. Binding Effect. After the Effective Date of this Compact, its terms shall be binding:

1. Upon the State and any person or entity of any nature whatsoever using, claiming or in any manner asserting any right under the authority of the State to the use of water in the State of Montana; provided that, the validity of consent, ratification, or authorization by the State is to be determined by Montana law;

2. Upon the Tribe, Tribal members, and any person or entity of any nature whatsoever using, claiming or in any manner asserting any right to the use of the Tribe's water right, or any right arising under any doctrine of reserved or aboriginal water rights for the Tribe or a Tribal member, or any right arising under tribal law; provided that, the validity of consent, ratification or authorization by the Tribe is to be determined by tribal law; and

3. Upon the United States and any person or entity of any nature whatsoever using, claiming or in any manner asserting any right under the authority of the United States to the use of water in the State of Montana; provided that, the

validity of consent, ratification or authorization by the United States is to be determined by federal law.

E. Waiver of Claims or Objections.

1. After the Effective Date of this Compact, the Tribe, any individual claiming a right to use water based on or derived from the Tribe, and the United States on behalf of the Tribe or a Tribal member, shall be prohibited from objecting to, or bringing a claim against, the claim or holder of a right to use water based on the laws of the State of Montana, and any carriage, storage, or delivery facilities and rights of way associated therewith, based on the assertion that such right is invalid because 85-2-301(4), MCA, is invalid as applied to such right, or that such right is inconsistent with or otherwise impairs any right reserved by the Tribe under Article 4 of the May 7, 1868 Treaty of Fort Laramie. If and to the extent necessary to effectuate the intent of this paragraph the Tribe, any individual claiming a right to use water based on or derived from the Tribe, and the United States on behalf of the Tribe shall be deemed to have waived and relinquished any claims or objections they may have against a holder of a right to use water based on the laws of the State of Montana, and any carriage, storage, or delivery facilities and rights of way associated therewith, based on the aforementioned law and Treaty.

2. Waiver of claims by the Tribe against the United States shall be as provided by Congress.

ARTICLE VIII - LEGISLATION

The State and Tribe agree to seek enactment of any legislation necessary to effectuate the provisions and purposes of this Compact, and to defend the provisions and purposes of this Compact from all challenges and attacks; provided that, no provision of the Compact shall be modified as to substance except as may be provided herein.

IN WITNESS WHEREOF the representatives of the State of Montana, the Crow Tribe, and the United States have signed this Compact on the ____ day of ____, 19 ____.”

Section 2. Section 85-20-904, MCA, is amended to read:

“85-20-904. Payment of settlement funds into escrow — requirements for escrow agreement — notice from attorney general. (1) The department shall enter into an agreement with the Crow Tribe and, if necessary under federal or tribal law, the United States, selecting an escrow agent to hold any funds paid by the state prior to the time they become payable to the Crow Tribe under this section. When an escrow agent has been selected, the department shall negotiate the terms of an escrow agreement *and any changes to the agreement authorized by law* with the Crow Tribe, the escrow agent, and if necessary under federal or tribal law, the United States. The terms of the agreement must govern the holding of the funds paid pursuant to the settlement. The escrow agreement must provide that any costs and fees payable for the management of the escrow fund will be borne by the fund, that the funds placed in the escrow account will be invested and held at interest in trust for the Crow Tribe, and that, *except as provided in subsection (4)*, the contents of the fund will become payable to the order of the Crow Tribe only upon the occurrence of all of the following conditions:

(a) the compact has been approved by the Congress of the United States in a form satisfactory to the commission;

(b) the compact has been approved by the Crow Tribe in the manner provided by federal and tribal law, including approval of any tribal referendum presently or later required by federal or tribal law;

(c) the compact has been approved by the Montana water court for inclusion in the final decrees in all affected basins, and the order of approval has been affirmed on appeal or the time for appeal from the water court's approval has expired; and

(d) the Crow Tribe and the United States have furnished releases, pleadings, and proposed orders, in forms acceptable to the attorney general, with respect to all claims, including but not limited to claims for costs and attorney fees, asserted in the civil action captioned Crow Tribe of Indians v. State of Montana et al., Cause No. CV-78-110-BLG-JDS (D. Mont.), or any appeal pending in that action.

(2) Within 20 days after all conditions set forth in subsections (1)(a) through (1)(d) have been satisfied, the attorney general shall provide written notice of the satisfaction of the conditions to the escrow agent. The escrow agreement must provide that upon receipt of the written notice provided in this section, the escrow agent shall pay the funds in escrow to the order of the Crow Tribe. This section does not preclude the Crow Tribe from entering into an agreement with the escrow agent or any other entity for the holding of the funds in trust for the Crow Tribe for a period in excess of that provided in this section.

(3) The escrow agreement must provide that in the event the conditions set forth in subsection (1) do not occur within any time limits set in the compact, as those limits may be extended pursuant to the compact by agreement of the parties and the approval of the legislature, or if any party to the compact terminates the compact as provided in the compact prior to payment of the funds to the Crow Tribe as provided in subsection (2), ~~the contents of the escrow fund, including funds paid into the escrow fund by the state and any interest earned on principal and any interest remaining in the escrow fund;~~ will revert to the state.

(4) The escrow agreement must provide that interest earned on the escrow fund for each fiscal year, up to a maximum of \$650,000 in any fiscal year, must be paid to the Crow Tribe for its use for the purposes set forth in section VI.A.4 of the compact. Any interest in excess of \$650,000 in any fiscal year must remain in the escrow account to be managed as provided in subsection (1) and dispersed as provided in subsection (2) or (3)."

Section 3. Effective dates. (1) Except as provided in subsection (2), [this act] is effective on passage and approval.

(2) [Section 1] is effective upon signature of the parties as provided in 85-20-901.

Section 4. Retroactive applicability. [Section 2] applies retroactively, within the meaning of 1-2-109, to interest earned on or after July 1, 2008.

Approved March 20, 2009

CHAPTER NO. 45

[SB 215]

AN ACT REMOVING FROM THE ENUMERATION OF COUNTY CHARGES THE REFERENCE TO THE COUNTY'S RESPONSIBILITY FOR ONE-HALF

OF A COUNTY ATTORNEY'S SALARY; AND AMENDING SECTION 7-6-2426, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 7-6-2426, MCA, is amended to read:

"7-6-2426. Enumeration of county charges. (1) The following are county charges:

(a) charges incurred against the county by virtue of any provision of this title;

(b) ~~one-half of the salary of the county attorney and~~ all expenses necessarily incurred by the county attorney in criminal cases arising within the county, except as provided in subsection (2);

(c) the salary and actual expenses for traveling, when on official duty, allowed by law to sheriffs and the compensation allowed by law to constables for executing process on persons charged with criminal offenses;

(d) the board of prisoners confined in jail;

(e) the accounts of the coroner of the county for services that are provided by law;

(f) all charges and accounts for services rendered by any justice of the peace for services in the examination or trial of persons charged with crime as provided for by law;

(g) the necessary expenses incurred in the support of county hospitals and poorfarms and in the support of the indigent sick and the otherwise dependent poor whose support is chargeable to the county;

(h) the contingent expenses necessarily incurred for the use and benefit of the county;

(i) every other sum directed by law to be raised for any county purpose under the direction of the board of county commissioners or declared to be a county charge.

(2) The costs of subsection (1)(b) arising from the criminal prosecution of escape or of an offense committed in the state prison must be paid as provided in 53-30-110."

Approved March 20, 2009

CHAPTER NO. 46

[SB 252]

AN ACT REVISING THE CAPITOL COMPLEX MASTER PLAN ACT SO THAT THE STATE BUILDING NAMING PROVISIONS AND OTHER RESTRICTIONS DO NOT APPLY TO THE CLASSROOM BUILDING ON THE MONTANA LAW ENFORCEMENT ACADEMY CAMPUS IN HELENA; AMENDING SECTIONS 2-17-807 AND 2-17-808, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, Karl Ohs served the State of Montana honorably as a member of the Montana House of Representatives in 1995, 1997, and 1999 and as Lieutenant Governor from 2001 through 2004; and

WHEREAS, Karl Ohs is widely regarded for the role that he played in negotiating a peaceful resolution to a standoff with the Montana Freemen in 1996.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-17-807, MCA, is amended to read:

“2-17-807. Approval for displays and naming buildings, spaces, and rooms. (1) A state building, space, or room in the capitol complex may not be named after an individual or a bust, plaque, statue, memorial, monument, or art display may not be displayed on a long-term basis in the capitol complex or on the capitol complex grounds unless the building, space, or room name or display is approved by the legislature and complies with this part. The capitol building, including any future additions and expansions, may not be named after any person, as defined in 2-4-102.

(2) (a) Except as provided in subsections (2)(b) ~~and (2)(c)~~, *through (2)(d)*, a state building, space, or room in the capitol complex may not be named after an individual or a bust, plaque, statue, memorial, monument, or art display commemorating an individual may not be displayed on a long-term basis in the capitol complex unless the individual has been deceased for at least 10 years.

(b) The statue of Mike and Maureen Mansfield authorized in 2-17-808(1)(d)(iii) and the plaque commemorating President George H. W. Bush authorized in 2-17-808(2)(b)(ii) may continue to be displayed in the capitol complex.

(c) A public building within the capitol complex constructed with private funds after April 17, 2007, or a space or room constructed with private funds after April 17, 2007, in a public building, other than the capitol building, may bear a name designated by the benefactor of the building, space, or room if:

(i) the building, space, or room is to be owned by or used exclusively or primarily by the Montana historical society to store or display artifacts or other property owned by the Montana historical society; and

(ii) the building, space, or room and the designated name are approved by the council and by the board of the historical society, provided for in 2-15-1512.

(d) *The classroom building authorized in May 2007 to be built at the Montana law enforcement academy may be named after Karl Ohs, and a plaque and the Lou Peters award commemorating Karl Ohs may be displayed there.*

(3) A bust, plaque, statue, memorial, monument, or art display commemorating an event, including a military event, may not be displayed on a long-term basis in the capitol complex until 10 years after the end of the event.

(4) All busts, plaques, statues, memorials, monuments, or art displays authorized, but not installed within 5 years of authorization, must be reauthorized.

(5) The department of administration may review and approve the temporary display of a bust, plaque, statue, memorial, monument, or art display for up to 1 year in the capitol complex or on the capitol complex grounds.”

Section 2. Section 2-17-808, MCA, is amended to read:

“2-17-808. Placement of certain busts, plaques, statues, memorials, monuments, and art displays. (1) The following busts, plaques, statues, memorials, monuments, and art displays are to be placed for up to 50 years, subject to renewal, in the capitol:

(a) the busts of Thomas J. Walsh, Burton K. Wheeler, and Joseph Dixon;

(b) the plaques commemorating Theodore Brantley, Fred Whiteside, the first Montana volunteers who fought in the Spanish-American War, the

construction of the capitol from 1899 to 1902, the 1972 Montana constitutional convention, and the women legislators' centennial;

(c) the murals by Edgar S. Paxson, Ralph E. DeCamp, Charles M. Russell, Amedee Joullin, and F. Pedretti and sons;

(d) the statues of:

(i) Wilbur Fiske Sanders;

(ii) Jeannette Rankin; and

(iii) Mike and Maureen Mansfield;

(e) the Montana statehood centennial bell;

(f) the gallery of outstanding Montanans;

(g) the Montana constitutional exhibit; and

(h) the biographical descriptions of Montana's governors, to be placed near the portraits of the governors.

(2) The following busts, plaques, statues, memorials, monuments, and art displays are to be placed for up to 50 years, subject to renewal, on the grounds of the capitol:

(a) the statues of Thomas Francis Meagher and Lady Liberty;

(b) the plaques commemorating:

(i) Donald Nutter;

(ii) President George H. W. Bush; and

(iii) American prisoners of war and personnel of the United States armed services missing in action;

(c) two benches with plaques recognizing contributors to the 1997-2000 capitol restoration, repair, and renovation project;

(d) the Montana centennial square; and

(e) the monument of the ten commandments.

(3) The following busts, plaques, statues, memorials, monuments, and art displays are to be placed for up to 50 years, subject to renewal, on the capitol complex grounds:

(a) the statue by Robert Scriver entitled "symbol of the pros";

(b) the monuments to the liberty bell, the veterans' and pioneer memorial building—landscape beautification project, Montana veterans, and Pearl Harbor survivors and the peace pole;

(c) the sculptures of the herd bull and the eagle;

(d) the plaques commemorating the Montana national guard and Lewis and Clark; and

(e) the arrastra.

(4) The following busts, plaques, statues, memorials, monuments, and art displays are to be placed for up to 50 years, subject to renewal, in state buildings on the capitol complex:

(a) the paintings of Dr. W. F. Cogswell and the paintings entitled "burning bush", "dryland farmer", "farm girl", "the river rat", "top of the world", "angus #68", "the source", "the Bozeman trail", and "the Mullan road";

(b) the art displays known as "Montana workers—mining, ranching, and building", "copper city rodeo", "dancing cascade", "save a piece of the sky", and "night light";

(c) the plaque commemorating Walt Sullivan, the plaque of the Sam W. Mitchell building, and the plaque commemorating the original headquarters of the Montana highway patrol; ~~and~~

(d) the busts of Lee Metcalf and Sam W. Mitchell.; *and*

(e) *the plaque and Lou Peters award commemorating Karl Ohs.*

(5) The senate sculpture depicting the Lewis and Clark expedition is to be placed for up to 50 years, subject to renewal, on the west wall in the senate chambers.

(6) The council shall determine the specific placement of the items identified in subsections (1) through (4)."

Section 3. Effective date. [This act] is effective on passage and approval.

Approved March 20, 2009

CHAPTER NO. 47

[HB 61]

AN ACT REVISING CERTAIN PROVISIONS OF THE INFORMATION ACCESS MONTANA ACT; REPLACING THE INTERLIBRARY LOAN REIMBURSEMENT PROGRAM WITH A STATEWIDE INTERLIBRARY RESOURCE-SHARING PROGRAM; REPLACING THE STATE MULTILIBRARY CARD WITH A STATEWIDE LIBRARY ACCESS PROGRAM; AMENDING SECTIONS 22-1-301, 22-1-328, 22-1-329, AND 22-1-330, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 22-1-301, MCA, is amended to read:

"22-1-301. Definitions. Unless otherwise provided, the following definitions apply in this part:

(1) "City" means city or town.

(2) "Commission" means the state library commission.

(3) "Public library" means a library created under:

(a) 22-1-303 through 22-1-317 that provides library services to the public by means of central facilities, branch facilities, or bookmobiles; *or*

(b) *Title 7.*

(4) ~~"State multilibrary card" means a card that is issued to a Montana resident by a public library created under Title 7 or under 22-1-303 and that may be used for library services in every public library in the state."~~

Section 2. Section 22-1-328, MCA, is amended to read:

"22-1-328. State Statewide interlibrary loan resource-sharing program — reimbursement — eligibility. (1) ~~Each Montana library eligible for reimbursement under this section for participation in the statewide interlibrary loan program must be reimbursed according to the rules adopted by the commission.~~

~~(2) Libraries eligible for interlibrary loan reimbursement under this section include~~ *The commission shall establish a statewide interlibrary resource-sharing program. The purpose of the program is to administer funds appropriated by the legislature to support and facilitate resource-sharing among libraries in Montana, including but not limited to public libraries, public library*

districts, libraries operated by public schools or school districts, libraries operated by public colleges or universities, *tribal libraries*, libraries operated by public agencies for institutionalized persons, and libraries operated by nonprofit, private medical, educational, or research institutions.

~~(3) Notwithstanding subsections (1) and (2), the following types of interlibrary loans are not eligible for reimbursement:~~

~~(a) a loan between public school libraries located within the same public school district;~~

~~(b) a loan between an elementary school library and a high school library located within school districts with overlapping school district boundaries;~~

~~(c) a loan between libraries administered by a public or private, nonprofit college or university; and~~

~~(d) a loan between libraries administered by a public library.”~~

Section 3. Section 22-1-329, MCA, is amended to read:

“22-1-329. State multilibrary card *Statewide library access program.* The commission shall develop a *voluntary statewide library access program to allow Montana libraries to issue to residents a state multilibrary card as defined in 22-1-301 whereby a participating library may allow access to the library’s materials and services by patrons registered and in good standing with another library.*”

Section 4. Section 22-1-330, MCA, is amended to read:

“22-1-330. Commission rulemaking authority. The commission may adopt rules and procedures for:

(1) the distribution of state aid to public libraries and public library districts on a per capita and per square mile basis, *as provided in 22-1-327;*

~~(2) issuance of state multilibrary cards~~ *the statewide library access program provided for in 22-1-329;*

~~(3) reimbursement for interlibrary loan lending~~ *the statewide interlibrary resource-sharing program provided for in 22-1-328;*

(4) distribution of base grants provided for in 22-1-331; and

(5) the composition of the library federation board of trustees, as provided in 22-1-404.”

Section 5. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

Section 6. Effective date. [This act] is effective July 1, 2009.

Approved March 23, 2009

CHAPTER NO. 48

[HB 120]

AN ACT ALLOWING THE MONTANA TRANSPORTATION COMMISSION TO ACCEPT ELECTRONIC BID BONDS AS SECURITY FOR BIDS ON HIGHWAY CONSTRUCTION PROJECTS; AMENDING SECTIONS 18-2-303 AND 60-2-113, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 18-2-303, MCA, is amended to read:

“18-2-303. Construction bids — minimum requirements — effect of failure to comply. (1) Each bid communicated to a state agency for the construction of a building must contain or be accompanied by the following items that may not be waived by the state agency:

(a) bid security, as required by 18-2-302;

(b) the unit price for each item required to be bid by unit price; and

(c) the signature, *including an electronic signature allowed under 60-2-113*, of an individual authorized to submit the bid and authorized by that submission to agree to perform the contract if the bid is accepted. If the request for bid or other specifications provided by the state agency specify the individual required to submit the bid, the bid must comply with that requirement.

(2) The unit price must be expressly stated in the bid and may not have to be calculated by the state agency by dividing the total of the unit prices by the number of units specified or required.

(3) A bid that does not include the items required by subsection (1) as part of or along with the bid may not be accepted by the state agency.

(4) The following definitions apply to this section:

(a) “Building” has the meaning provided in 18-2-101.

(b) “Construction” has the meaning provided in 18-2-101.

(c) “State agency” means a department, board, commission, authority, or office of a branch of state government, including the board of regents and the Montana university system.

(d) “Unit price” means the price of lumber, concrete, earth, pipe, or other construction item, activity, or material for which the price is required by the request for bids to be bid on the basis of that item, a linear foot, square foot, square yard, cubic yard, activity an hour or other measurement of time, or other standard unit of measurement for that material, item, or activity.”

Section 2. Section 60-2-113, MCA, is amended to read:

“60-2-113. Bidder’s security — contractor’s bond. (1) (a) ~~Whenever~~ *Subject to subsection (1)(b), whenever* the commission calls for competitive bidding, each bidder shall meet all requirements of Title 18, chapter 1, part 2.

(b) *The commission may accept electronic bid bonds signed electronically or otherwise verified by the bidder and the surety.*

(2) ~~Every~~ *Each* contractor awarded a contract by the commission shall meet all requirements set forth in Title 18, chapter 2, part 2. ~~For the purposes of those sections with relation to contracts with the commission, a~~ *A contract shall is not considered to be completed until the commission, while formally convened, affirmatively accepts all of the work thereunder specified in the contract.”*

Section 3. Effective date. [This act] is effective on passage and approval.

Approved March 23, 2009

CHAPTER NO. 49

[HB 121]

AN ACT ADOPTING THE MOST RECENT APPLICABLE FEDERAL MILITARY LAWS AND REGULATIONS, FORMS, PRECEDENTS, AND USAGES, INCLUDING THE UNIFORM CODE OF MILITARY JUSTICE,

FOR USE IN THE MONTANA NATIONAL GUARD; AMENDING SECTION 10-1-104, MCA; AND PROVIDING AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 10-1-104, MCA, is amended to read:

“10-1-104. Federal regulations to govern. (1) Federal laws and regulations, forms, precedents, and usages relating to and governing the armed forces of the United States and the national guard, as in effect on October 1, 2007 2009, insofar as they are applicable and not inconsistent with the constitution and laws of this state or with a rule or regulation adopted pursuant to 10-1-105, apply to and govern the national guard of this state, including all members on active duty within the state as active duty guard/reserve (AGR) personnel under Title 32 of the United States Code.

(2) The Uniform Code of Military Justice, as in effect on October 1, 2007 2009, including the regulations, manuals, forms, precedents, and usages implementing, interpreting, and complementing the code, is adopted for use by the national guard of this state and applies, insofar as the code is not otherwise inconsistent with the constitution and laws of this state, including the regulations, manuals, forms, precedents, and usages implementing, interpreting, and complementing the constitution and laws of this state, or with a rule or regulation adopted pursuant to 10-1-105, to the greatest extent practicable to govern the national guard of this state, including all members on active duty within the state as active duty guard/reserve (AGR) personnel under Title 32 of the United States Code when the members are serving other than in a federal capacity under Title 10 of the United States Code.”

Section 2. Applicability. [This act] applies to events that occur and proceedings begun on and after October 1, 2009.

Approved March 23, 2009

CHAPTER NO. 50

[HB 159]

AN ACT CREATING THE PROPERTY AND CASUALTY ACTUARIAL OPINION ACT; REQUIRING CASUALTY AND PROPERTY INSURERS TO ANNUALLY SUBMIT AN ACTUARIAL OPINION SUMMARY; PROVIDING THAT THE STATEMENT OF ACTUARIAL OPINION IS A PUBLIC DOCUMENT; PROVIDING THAT ACTUARIAL REPORTS, WORK PAPERS, AND ACTUARIAL OPINION SUMMARIES RETAINED BY THE COMMISSIONER ARE TRADE SECRETS AND ARE PRIVILEGED AND MUST BE GIVEN CONFIDENTIAL TREATMENT; AND PROVIDING A DELAYED EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Short title. [Sections 1 through 3] may be cited as the “Property and Casualty Actuarial Opinion Act”.

Section 2. Actuarial opinion of reserves and supporting documentation. (1) Every property and casualty insurer doing business in this state, unless otherwise exempted by its domiciliary commissioner, shall annually submit the opinion of an appointed actuary entitled “Statement of Actuarial Opinion”. The insurer shall file this opinion in accordance with the appropriate NAIC property and casualty annual statement instructions.

(2) (a) Every property and casualty resident domestic insurer that is required to submit a statement of actuarial opinion shall annually submit an actuarial opinion summary written by the insurer's appointed actuary. This actuarial opinion summary must be filed in accordance with the appropriate NAIC property and casualty annual statement instructions and is considered to be a document supporting the actuarial opinion required in subsection (1).

(b) A foreign or alien authorized insurer shall provide to the commissioner the actuarial opinion summary upon request.

(3) (a) An actuarial report and its underlying work papers as required by the appropriate NAIC property and casualty annual statement instructions must be prepared to support each actuarial opinion.

(b) If the insurer fails to provide a supporting actuarial report or work papers at the request of the commissioner or the commissioner determines that the supporting actuarial report or work papers provided by the insurer are otherwise unacceptable to the commissioner, the commissioner may engage a qualified actuary at the expense of the insurer to review the opinion and basis for the opinion and prepare a supporting actuarial report or work papers.

(4) The appointed actuary is not liable for damages to any person, other than the insurer and the commissioner, for any act, error, omission, decision, or conduct with respect to the actuary's opinion except in cases of fraud or willful misconduct on the part of the appointed actuary.

(5) For the purposes of [sections 1 through 3], "actuarial report" means a document or presentation prepared as a formal means of conveying the actuary's professional conclusions and recommendations and communicating the methods and procedures used to reach the conclusions and recommendations, including any supporting documents.

Section 3. Confidentiality. (1) The statement of actuarial opinion must be provided with the annual statement in accordance with the appropriate NAIC property and casualty annual statement instructions and is a public writing, within the meaning of 2-6-101.

(2) (a) Actuarial reports, work papers, and actuarial opinion summaries retained by the commissioner are trade secrets and are privileged. The materials must be given confidential treatment, are not subject to subpoena, and are not subject to discovery, and the materials are not admissible in evidence in any private civil litigation.

(b) Subsection (2)(a) does not limit the commissioner's authority to release the documents to the actuarial board for counseling and discipline if the material is required for the board's professional disciplinary proceedings and if the board establishes procedures satisfactory to the commissioner to preserve the confidentiality of the documents.

(3) This section does not limit the commissioner's authority to use the actuarial reports, work papers, actuarial opinion summaries, or other information in furtherance of any regulatory or legal action brought as part of the commissioner's official duties.

(4) The commissioner and any person who receives actuarial reports, work papers, actuarial opinion summaries, or other information while acting under the authority of the commissioner may not testify in any private civil action concerning the documents or information subject to the provisions of subsection (2).

(5) To assist in the performance of the commissioner's duties, the commissioner may provide and receive documents and information pursuant to 33-1-311.

(6) A waiver of privilege or claim of confidentiality in the actuarial reports, work papers, or actuarial opinion summaries does not result from disclosure to the commissioner under this section or result from the exchange of documents and information authorized in subsections (2)(b) and (5).

Section 4. Codification instruction. [Sections 1 through 3] are intended to be codified as an integral part of Title 33, chapter 1, and the provisions of Title 33, chapter 1, apply to [sections 1 through 3].

Section 5. Effective date. [This act] is effective January 1, 2010.

Approved March 23, 2009

CHAPTER NO. 51

[HB 205]

AN ACT RELATING TO PETITIONS FOR POSTCONVICTION RELIEF; PROVIDING THAT NOTICE OF A PETITION MAY BE SENT TO THE ATTORNEY GENERAL AND COUNTY ATTORNEY RATHER THAN SERVED UPON THEM; SPECIFYING THAT THE ATTORNEY GENERAL DETERMINES THE RESPONSE TO A PETITION; AMENDING SECTION 46-21-201, MCA; AND PROVIDING AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 46-21-201, MCA, is amended to read:

"46-21-201. Proceedings on petition. (1) (a) Unless the petition and the files and records of the case conclusively show that the petitioner is not entitled to relief, the court shall cause notice of the petition to be ~~served upon~~ sent to the county attorney in the county in which the conviction took place and ~~upon~~ to the attorney general and order ~~them to file that~~ a responsive pleading to the petition be filed. *The attorney general shall determine whether the attorney general will respond to the petition and, if so, whether the attorney general will respond in addition to or in place of the county attorney.* Following its review of the responsive pleading, the court may dismiss the petition as a matter of law for failure to state a claim for relief or it may proceed to determine the issue.

(b) If the death sentence has been imposed, upon receipt of the response or responses to the petition, the court shall promptly hold a conference to determine a schedule for the expeditious resolution of the proceeding. The court shall issue a decision within 90 days after the hearing on the petition or, if there is no hearing, within 90 days after the filing of briefs as allowed by rule or by court order. If the decision is not issued during that period, a party may petition the supreme court for a writ of mandate or other appropriate writ or relief to compel the issuance of a decision.

(c) To the extent that they are applicable and are not inconsistent with this chapter, the rules of procedure governing civil proceedings apply to the proceeding.

(2) If the death sentence has not been imposed and a hearing is required or if the interests of justice require, the court shall order the office of state public defender, provided for in 47-1-201, to assign counsel for a petitioner who

qualifies for the assignment of counsel under Title 46, chapter 8, part 1, and the Montana Public Defender Act, Title 47, chapter 1.

(3) (a) Within 30 days after a conviction for which a death sentence was imposed becomes final, the sentencing court shall notify the sentenced person that if the person is indigent, as defined in 47-1-103, and wishes to file a petition under this chapter, the court will order the office of state public defender, provided for in 47-1-201, to assign counsel who meets the Montana supreme court's standards and the office of state public defender's standards for competency of assigned counsel in proceedings under this chapter for an indigent person sentenced to death.

(b) Within 75 days after a conviction for which a death sentence was imposed upon a person who wishes to file a petition under this chapter becomes final, the sentencing court shall:

(i) order the office of state public defender to assign counsel to represent the person pending a determination by the office of state public defender that the person is indigent, as defined in 47-1-103, and that the person either has accepted the offer of assigned counsel or is unable to competently decide whether to accept the offer of assigned counsel;

(ii) if the offer of assigned counsel is rejected by a person who understands the legal consequences of the rejection, enter findings of fact after a hearing, if the court determines that a hearing is necessary, stating that the person rejected the offer with an understanding of the legal consequences of the rejection; or

(iii) if the petitioner is determined not to be indigent, deny or rescind any order requiring the assignment of counsel.

(c) The office of state public defender may not assign counsel who has previously represented the person at any stage in the case unless the person and the counsel expressly agree to the assignment.

(d) If a petitioner entitled to counsel under this subsection (3) is determined not to be indigent but becomes indigent at any subsequent stage of the proceedings, the court shall order the assignment of counsel as provided in subsection (3)(b)(i).

(e) The expenses of counsel assigned pursuant to this subsection (3) must be paid by the office of state public defender.

(f) Violation of this subsection (3) is not a basis for a claim or relief under this chapter.

(4) The court, for good cause, may grant leave to either party to use the discovery procedures available in criminal or civil proceedings. Discovery procedures may be used only to the extent and in the manner that the court has ordered or to which the parties have agreed.

(5) The court may receive proof of affidavits, depositions, oral testimony, or other evidence. In its discretion, the court may order the petitioner brought before the court for the hearing.

(6) If the court finds in favor of the petitioner, it shall enter an appropriate order with respect to the judgment or sentence in the former proceedings and any supplementary orders as to reassignment, retrial, custody, bail, or discharge that may be necessary and proper. If the court finds for the prosecution, the petition must be dismissed."

Section 2. Applicability. [This act] applies to a petition for postconviction relief filed on or after October 1, 2009.

Approved March 23, 2009

CHAPTER NO. 52

[HB 242]

AN ACT REVISING LAWS RELATING TO JURORS AND JUROR FEES; REMOVING THE DUTY OF THE CLERK OF THE DISTRICT COURT TO KEEP A BOOK OF JURORS' WARRANTS; PROVIDING THAT JURORS ARE PAID BY COUNTY WARRANT; PROVIDING FOR THE PAYMENT OF JUROR MILEAGE FROM THE PLACE OF RESIDENCE TO THE COURT IN COURTS OF RECORD; AMENDING SECTIONS 3-5-510, 3-15-201, AND 3-15-204, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 3-5-510, MCA, is amended to read:

"3-5-510. Duties relating to jurors and witnesses. The clerk of the district court shall *keep a*:

(1) ~~keep a book called "Book of Jurors' Warrants", which must contain blank warrants as provided in 3-15-204;~~

(2)(1) ~~keep a~~ "Witness Book", which must contain blank warrants as provided in 3-5-511; *and*

(3)(2) ~~keep a~~ record of the attendance of all jurors and witnesses in criminal actions and compute the amount due them for mileage. The distance from any point to the ~~county seat court~~ must be determined by the shortest traveled route."

Section 2. Section 3-15-201, MCA, is amended to read:

"3-15-201. Fees in courts of record. (1) A grand or trial jury panel member must receive \$12 per day for attendance before any court of record and a mileage allowance, as provided in 2-18-503, for traveling each way between the member's residence and the ~~county seat court~~. Those jurors selected from the panel for a case must receive an additional \$13 a day while serving.

(2) A juror who is excused from attendance upon the juror's own motion on the first day of appearance in obedience to a notice or who has been summoned as a special juror and not sworn in the trial of the case ~~shall forfeit forfeits~~ per diem and mileage."

Section 3. Section 3-15-204, MCA, is amended to read:

"3-15-204. (Temporary) Duties of clerk as to jurors. (1) The clerk shall keep a record of the attendance of jurors and compute the amount due for mileage. The distance from any point to the ~~county seat court~~ must be determined by the shortest traveled route.

(2) ~~The clerk shall give to each A juror, at the time that the juror is excused from further service, a must receive payment by a county warrant signed by the clerk, in which must be stated that lists~~ the name of the juror, the number of days' attendance, the number of miles traveled, and the amount due.

(3) The state shall reimburse the clerk for the amount specified in the warrant as provided in 3-5-901 and 3-5-902.

3-15-204. (Effective on occurrence of contingency) **Duties of clerk as to jurors.** (1) The clerk shall keep a record of the attendance of jurors and compute the amount due for mileage. The distance from any point to the ~~county seat court~~ must be determined by the shortest traveled route.

(2) ~~The clerk shall give to each A juror, at the time that the juror is excused from further service, a must receive payment by a county warrant signed by the clerk, in which must be stated that lists~~ the name of the juror, the number of days' attendance, the number of miles traveled, and the amount due.

(3) The state shall reimburse the clerk for the amount specified in the warrant as provided in 3-5-901 and 3-5-902.

(4) The clerk of court for the county in which an asbestos-related claim is tried shall perform the functions required in subsections (1) through (3). The payment of costs incurred under this section must be made from the asbestos claims administration fund provided for in 3-20-104."

Section 4. Effective date. [This act] is effective July 1, 2009.

Approved March 23, 2009

CHAPTER NO. 53

[SB 35]

AN ACT REQUIRING THAT A SHERIFF DELIVERING A DEFENDANT TO A PLACE OF CONFINEMENT, COMMITMENT, OR EXECUTION SHALL ALSO DELIVER ALL INFORMATION IN THE SHERIFF'S POSSESSION REGARDING THE MENTAL AND PHYSICAL HEALTH OF THE DEFENDANT, INCLUDING HEALTH INFORMATION CONTAINED IN A PRESENTENCE INVESTIGATION REPORT; AND AMENDING SECTIONS 46-18-112 AND 46-19-101, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 46-18-112, MCA, is amended to read:

"46-18-112. Content of presentence investigation report. (1) Whenever an investigation is required, the probation officer shall promptly inquire into and report upon:

- (a) the defendant's characteristics, circumstances, needs, and potentialities;
- (b) the defendant's criminal record and social history;
- (c) the circumstances of the offense;
- (d) the time of the defendant's detention for the offenses charged;
- (e) the harm caused, as a result of the offense, to the victim, the victim's immediate family, and the community; and
- (f) the victim's pecuniary loss, if any. The officer shall make a reasonable effort to confer with the victim to ascertain whether the victim has sustained a pecuniary loss. If the victim is not available or declines to confer, the officer shall record that information in the report.

(2) All local and state mental and correctional institutions, courts, and law enforcement agencies shall furnish, upon request of the officer preparing a presentence investigation, the defendant's criminal record and other relevant information.

(3) The court may, in its discretion, require that the presentence investigation report include a physical and mental examination of the defendant.

(4) *Upon sentencing, the court shall forward to the sheriff all information contained in the presentence investigation report concerning the physical and mental health of the defendant, and the information must be delivered with the defendant as required in 46-19-101.*"

Section 2. Section 46-19-101, MCA, is amended to read:

"46-19-101. Commitment of defendant — transfer of information in possession of sheriff. (1) Upon oral pronouncement of a sentence imposing punishment of imprisonment, commitment to the department of corrections, placement in a prerelease center, community corrections facility, or other place of confinement, or death, the court shall commit the defendant to the custody of the sheriff, who shall deliver the defendant to the place of confinement, commitment, or execution and give that place an order, which must be signed by the sentencing judge on the date of oral pronouncement of sentence, stating that the defendant is sentenced to that place for imprisonment, commitment, placement, or execution, as the case may be. The order is authority for that place to hold the defendant pending receipt by that place of a copy of the written judgment.

(2) *When a sheriff delivers the defendant to the place of confinement, commitment, or execution, the sheriff shall deliver at the same time all information in the possession of the sheriff regarding the physical and mental health of the defendant, including health information contained in a presentence investigation report.*"

Approved March 20, 2009

CHAPTER NO. 54

[SB 256]

AN ACT PERMITTING ACCESS TO YOUTH COURT RECORDS FOR PURPOSES OF CONDUCTING EVALUATIONS OF OUT-OF-HOME PLACEMENTS, PROGRAMS, AND SERVICES; AMENDING SECTIONS 41-5-215 AND 41-5-216, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 41-5-215, MCA, is amended to read:

"41-5-215. Youth court and department records — notification of school. (1) Formal youth court records, including reports of preliminary inquiries, petitions, motions, other filed pleadings, court findings, verdicts, and orders and decrees on file with the clerk of court are public records and are open to public inspection until the records are sealed under 41-5-216.

(2) Social, medical, and psychological records, youth assessment materials, predispositional studies, and supervision records of probationers are open only to the following:

- (a) the youth court and its professional staff;
- (b) representatives of any agency providing supervision and having legal custody of a youth;
- (c) any other person, by order of the court, having a legitimate interest in the case or in the work of the court;

(d) any court and its probation and other professional staff or the attorney for a convicted party who had been a party to proceedings in the youth court when considering the sentence to be imposed upon the party;

(e) the county attorney;

(f) the youth who is the subject of the report or record, after emancipation or reaching the age of majority;

(g) a member of a county interdisciplinary child information team formed under 52-2-211 who is not listed in this subsection (2);

(h) members of a local interagency staffing group provided for in 52-2-203;

(i) persons allowed access to the reports referred to under 45-5-624(7); ~~and~~

(j) persons allowed access under 42-3-203; *and*

(k) *persons conducting evaluations as required in 41-5-2003.*

(3) (a) Notwithstanding the requirements of 20-5-321(1)(d) or (1)(e) and subject to the provisions of subsection (3)(b) of this section, the youth court shall notify the school district that the youth presently attends or the school district that the youth has applied to attend of a youth's suspected drug use or criminal activity if after an investigation has been completed:

(i) the youth has admitted the allegation or a petition has been filed with the youth court; and

(ii) a juvenile probation officer has reason to believe that a youth is currently involved with drug use or other criminal activity that has a bearing on the safety of children.

(b) Notification under subsection (3)(a) may not be given for status offenses.

(c) A school district may not refuse to accept the student if refusal violates the federal Individuals With Disabilities Education Act or the federal Americans With Disabilities Act of 1990.

(d) The administrative officials of the school district may enforce school disciplinary procedures that existed at the time of the admission or adjudication. The information may not be further disclosed and may not be made part of the student's permanent records.

(4) In all cases, a victim is entitled to all information concerning the identity and disposition of the youth, as provided in 41-5-1416.

(5) The school district may disclose, without consent, personally identifiable information from an education record of a pupil to the youth court and law enforcement authorities pertaining to violations of the Montana Youth Court Act or criminal laws by the pupil. The youth court or law enforcement authorities receiving the information shall certify in writing to the school district that the information will not be disclosed to any other party except as provided under state law without the prior consent of the parent or guardian of the pupil.

(6) Any part of records information secured from records listed in subsection (2), when presented to and used by the court in a proceeding under this chapter, must also be made available to the counsel for the parties to the proceedings."

Section 2. Section 41-5-216, MCA, is amended to read:

"41-5-216. Disposition of youth court, law enforcement, and department records — *sharing and access to records.* (1) Formal youth court records, law enforcement records, and department records that are not exempt from sealing under subsections (4) and (6) and that pertain to a youth

covered by this chapter must be physically sealed on the youth's 18th birthday. In those cases in which jurisdiction of the court or any agency is extended beyond the youth's 18th birthday, the records must be physically sealed upon termination of the extended jurisdiction.

(2) Except as provided in subsection (6), when the records pertaining to a youth pursuant to this section are sealed, an agency, other than the department, that has in its possession copies of the sealed records shall destroy the copies of the records. Anyone violating the provisions of this subsection is subject to contempt of court.

(3) Except as provided in subsection (6), this section does not prohibit the destruction of records with the consent of the youth court judge or county attorney after 10 years from the date of sealing.

(4) The requirements for sealed records in this section do not apply to medical records, fingerprints, DNA records, photographs, youth traffic records, records in any case in which the youth did not fulfill all requirements of the court's judgment or disposition, records referred to in 42-3-203, reports referred to in 45-5-624(7), or the information referred to in 46-23-508, in any instance in which the youth was required to register as a sexual offender pursuant to Title 46, chapter 23, part 5.

(5) After formal youth court records, law enforcement records, and department records are sealed, they are not open to inspection except, upon order of the youth court, for good cause, including when a youth commits a new offense, to:

(a) those persons and agencies listed in 41-5-215(2); and

(b) adult probation professional staff preparing a presentence report on a youth who has reached the age of majority.

(6) (a) When formal youth court records, law enforcement records, and department records are sealed under subsection (1), the electronic records of the management information system maintained by the department of public health and human services and by the department relating to the youth whose records are being sealed must be preserved for the express purpose of research and program evaluation as provided in subsection (6)(b).

(b) The department of public health and human services and the department shall disassociate the offense and disposition information from the name of the youth in the respective management information system. The offense and disposition information must be maintained separately and may be used only:

(i) for research and program evaluation authorized by the department of public health and human services or by the department and subject to any applicable laws; and

(ii) as provided in Title 5, chapter 13.

(7) (a) Informal youth court records for a youth for whom formal proceedings have been filed must be physically sealed on the youth's 18th birthday or, in those cases in which jurisdiction of the court or any agency is extended beyond the youth's 18th birthday, upon termination of the extended jurisdiction and may be inspected only pursuant to subsection (5).

(b) The informal youth court records may be maintained and inspected only by youth court personnel upon a new offense prior to the youth's 18th birthday.

(c) Except as provided in subsection (7)(a), when a youth becomes 18 years of age or when extended supervision ends and the youth was involved only in informal proceedings, informal youth court records that are in hard-copy form must be destroyed and any electronic records in the youth court management information system must disassociate the offense and disposition information from the name of the youth and may be used only for the following purposes:

(i) for research and program evaluation authorized by the office of the court administrator and subject to any applicable laws; and

(ii) as provided in Title 5, chapter 13.

(8) Nothing in this section prohibits the intra-agency use or information sharing of formal or informal youth court records within the juvenile probation management information system. Electronic records of the youth court may not be shared except as provided in 41-5-1524. If a person authorized under 41-5-215 is in need of a copy of a record that is in electronic form, the juvenile probation officer shall make only a physical copy of the record that is authorized and the person receiving the record shall destroy the record after it has fulfilled its purpose or as provided in subsection (2) of this section.

(9) This section does not prohibit the intra-agency use or information sharing of formal or informal youth court records within the department's youth management information system. Electronic records of the department's youth management information system may not be shared except as provided in subsection (5). If a person authorized under 41-5-215 is in need of a copy of a record that is in electronic form, the department shall make only a physical copy of the record that is authorized and the person receiving the record shall destroy the record after it has fulfilled its purpose or as provided in subsection (2) of this section.

(10) This section does not prohibit the sharing of formal or informal youth court records with a short-term detention center, a youth care facility, a youth assessment center, or a youth detention facility upon placement of a youth within the facility.

(11) *This section does not prohibit access to formal or informal youth court records, including electronic records, for purposes of conducting evaluations as required by 41-5-2003.*

Section 3. Effective date. [This act] is effective on passage and approval.

Approved March 23, 2009

CHAPTER NO. 55

[HB 27]

AN ACT ELIMINATING THE TERMINATION DATE FOR THE UNIVERSAL SYSTEM BENEFITS CHARGE RATES; CLARIFYING THE ENERGY AND TELECOMMUNICATIONS INTERIM COMMITTEE'S OVERSIGHT AUTHORITY OVER UNIVERSAL SYSTEM BENEFITS PROGRAMS; AMENDING SECTION 69-8-402, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 69-8-402, MCA, is amended to read:

“69-8-402. Universal system benefits programs. (1) Universal system benefits programs are established for the state of Montana to ensure continued

funding of and new expenditures for energy conservation, renewable resource projects and applications, and low-income energy assistance.

(2) Beginning January 1, 1999, 2.4% of each utility's annual retail sales revenue in Montana for the calendar year ending December 31, 1995, is established as the initial funding level for universal system benefits programs. To collect this amount of funds on an annualized basis in 1999, the commission shall establish rates for utilities subject to its jurisdiction and the governing boards of cooperatives shall establish rates for the cooperatives. ~~These universal system benefits charge rates must remain in effect through December 31, 2009.~~

(a) The recovery of all universal system benefits programs costs imposed pursuant to this section is authorized through the imposition of a universal system benefits charge assessed at the meter for each local utility system customer as provided in this section.

(b) A utility must receive credit toward annual funding requirements for the utility's internal programs or activities that qualify as universal system benefits programs, including those amortized or nonamortized portions of expenditures for the purchase of power that are for the acquisition or support of renewable energy, conservation-related activities, or low-income energy assistance, and for large customers' programs or activities as provided in subsection (7). The department of revenue shall review claimed credits of the utilities and large customers pursuant to 69-8-414.

(c) A utility at which the sale of power for final end use occurs is the utility that receives credit for the universal system benefits programs expenditure.

(d) A customer's utility shall collect universal system benefits funds less any allowable credits.

(e) For a utility to receive credit for low-income-related expenditures, the activity must have taken place in Montana.

(f) If a utility's or a large customer's credit for internal activities does not satisfy the annual funding provisions of subsection (2), then the utility shall make a payment to the universal system benefits fund established in 69-8-412 for any difference.

(3) Cooperative utilities may collectively pool their statewide credits to satisfy their annual funding requirements for universal system benefits programs and low-income energy assistance.

(4) A utility's transition plan must describe how the utility proposes to provide for universal system benefits programs, including the methodologies, such as cost-effectiveness and need determination, used to measure the utility's level of contribution to each program.

(5) A utility's minimum annual funding requirement for low-income energy and weatherization assistance is established at 17% of the utility's annual universal system benefits funding level and is inclusive within the overall universal system benefits funding level.

(a) A utility must receive credit toward the utility's low-income energy assistance annual funding requirement for the utility's internal low-income energy assistance programs or activities.

(b) If a utility's credit for internal activities does not satisfy its annual funding requirement, then the utility shall make a payment for any difference to the universal low-income energy assistance fund established in 69-8-412.

(6) An individual customer may not bear a disproportionate share of the local utility's funding requirements, and a sliding scale must be implemented to provide a more equitable distribution of program costs.

(7) (a) A large customer:

(i) shall pay a universal system benefits programs charge with respect to the large customer's qualifying load equal to the lesser of:

(A) \$500,000, less the large customer credits provided for in this subsection (7); or

(B) the product of 0.9 mills per kilowatt hour multiplied by the large customer's total kilowatt hour purchases, less large customer credits with respect to that qualifying load provided for in this subsection (7);

(ii) must receive credit toward that large customer's universal system benefits charge for internal expenditures and activities that qualify as a universal system benefits programs expenditure, and these internal expenditures must include but not be limited to:

(A) expenditures that result in a reduction in the consumption of electrical energy in the large customer's facility; and

(B) those amortized or nonamortized portions of expenditures for the purchase of power at retail or wholesale that are for the acquisition or support of renewable energy or conservation-related activities.

(b) Large customers making these expenditures must receive a credit against the large customer's universal system benefits charge, except that any of those amounts expended in a calendar year that exceed that large customer's universal system benefits charge for the calendar year must be used as a credit against those charges in future years until the total amount of those expenditures has been credited against that large customer's universal system benefits charges.

(8) (a) A public utility shall prepare and submit an annual summary report of the public utility's activities relating to all universal system benefits programs to the commission, the department of revenue, and the energy and telecommunications interim committee provided for in 5-5-230. A cooperative utility shall prepare and submit annual summary reports of activities to the cooperative utility's respective local governing body, the statewide cooperative utility office, and the energy and telecommunications interim committee. The statewide cooperative utility office shall prepare and submit an annual summary report of the activities of individual cooperative utilities, including a summary of the pooling of statewide credits, as provided in subsection (3), to the department of revenue and the energy and telecommunications interim committee. The annual report of a public utility or of the statewide cooperative utility office must include but is not limited to:

~~(a)~~(i) the types of internal utility and customer programs being used to satisfy the provisions of this chapter;

~~(b)~~(ii) the level of funding for those programs relative to the annual funding requirements prescribed in subsection (2); and

~~(c)~~(iii) any payments made to the statewide funds in the event that internal funding was below the prescribed annual funding requirements.

(b) *Before September 15 of the year preceding a legislative session, the energy and telecommunications interim committee shall review the universal system*

benefits programs and, if necessary, submit recommendations regarding these programs to the legislature.

(9) A utility or large customer filing for a credit shall develop and maintain appropriate documentation to support the utility's or the large customer's claim for the credit.

(10) (a) A large customer claiming credits for a calendar year shall submit an annual summary report of its universal system benefits programs activities and expenditures to the department of revenue and to the large customer's utility. The annual report of a large customer must identify each qualifying project or expenditure for which it has claimed a credit and the amount of the credit. Prior approval by the department of revenue or the utility is not required, except as provided in subsection (10)(b).

(b) If a large customer claims a credit that the department of revenue disallows in whole or in part, the large customer is financially responsible for the disallowance. A large customer and the large customer's utility may mutually agree that credits claimed by the large customer be first approved by the utility. If the utility approves the large customer credit, the utility may be financially responsible for any subsequent disallowance."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved March 25, 2009

CHAPTER NO. 56

[HB 37]

AN ACT GENDER NEUTRALIZING AND CONFORMING TITLES 10 THROUGH 90 OF THE MONTANA CODE ANNOTATED TO CURRENT BILL DRAFTING STANDARDS; AND AMENDING SECTIONS 10-1-201, 10-1-202, 10-1-206, 10-1-302, 10-1-405, 10-1-503, 10-1-601, 10-1-611, 10-1-804, 10-1-805, 10-1-806, 10-2-103, 10-2-105, 10-2-107, 10-3-101, 10-3-102, 10-3-112, 10-3-204, 10-3-302, 10-3-303, 10-3-313, 10-3-314, 10-3-501, 10-3-503, 10-3-505, 10-3-605, 10-3-607, 10-3-702, 10-3-1106, 13-1-114, 13-1-201, 13-2-112, 13-2-206, 13-2-221, 13-3-102, 13-3-103, 13-3-201, 13-3-211, 13-10-203, 13-10-305, 13-10-325, 13-10-501, 13-10-507, 13-10-602, 13-12-210, 13-13-118, 13-13-120, 13-13-225, 13-13-227, 13-13-602, 13-14-111, 13-14-211, 13-14-212, 13-15-201, 13-15-204, 13-15-205, 13-15-403, 13-15-404, 13-15-404, 13-15-502, 13-15-504, 13-15-505, 13-15-506, 13-16-101, 13-16-201, 13-16-203, 13-16-204, 13-16-211, 13-16-301, 13-16-302, 13-16-307, 13-16-415, 13-16-416, 13-16-417, 13-16-418, 13-16-419, 13-19-101, 13-19-203, 13-19-301, 13-19-302, 13-19-304, 13-19-305, 13-19-306, 13-19-307, 13-19-308, 13-19-310, 13-27-305, 13-27-306, 13-27-308, 13-27-404, 13-27-405, 13-27-503, 13-35-106, 13-35-201, 13-35-204, 13-35-209, 13-35-214, 13-35-215, 13-35-217, 13-35-218, 13-35-221, 13-35-301, 13-36-101, 13-36-102, 13-36-103, 13-36-104, 13-36-201, 13-36-202, 13-36-204, 13-36-205, 13-36-206, 13-36-207, 13-36-208, 13-36-209, 13-36-210, 13-36-211, 13-37-104, 13-37-105, 13-37-116, 13-37-119, 13-37-122, 13-37-125, 13-37-201, 13-37-202, 13-37-203, 13-37-204, 13-37-205, 13-37-206, 13-37-207, 13-37-208, 13-37-215, 13-37-217, 13-37-225, 13-37-228, 13-37-231, 13-38-101, 13-38-201, 13-38-202, 13-38-203, 13-38-205, 15-1-104, 15-1-204, 15-1-601, 15-1-603, 15-1-702, 15-1-705, 15-1-707, 15-2-101, 15-2-103, 15-2-104, 15-2-304, 15-6-225, 15-8-501, 15-8-502, 15-16-503, 15-17-318, 15-24-1101, 15-24-1201, 15-24-1206, 15-24-2403, 15-30-113, 15-30-129, 15-30-132, 15-30-134, 15-30-135, 15-30-143, 15-30-156, 15-30-173, 15-30-205, 15-30-206, 15-30-302, 15-30-307, 15-30-314, 15-30-331, 15-31-521,

15-31-523, 15-31-524, 15-31-551, 15-32-101, 15-32-103, 15-33-104, 15-35-104, 15-44-102, 15-59-105, 15-60-207, 15-70-232, 16-1-203, 16-1-204, 16-3-105, 16-3-212, 16-3-223, 16-3-231, 16-3-232, 16-3-233, 16-3-242, 16-3-302, 16-3-306, 16-3-406, 16-4-104, 16-4-108, 16-4-110, 16-4-201, 16-4-209, 16-6-105, 16-6-205, 16-6-207, 16-6-209, 16-6-309, 16-6-313, 16-10-203, 16-11-134, 17-1-103, 17-1-112, 17-1-131, 17-5-715, 17-5-927, 17-5-1516, 17-6-204, 17-6-213, 17-7-113, 17-8-104, 17-8-308, 18-1-402, 18-1-403, 18-2-204, 18-2-424, 18-5-204, 18-5-411, 18-11-105, 19-1-301, 19-1-702, 19-1-705, 19-2-904, 19-3-202, 19-9-302, 19-17-406, 19-18-106, 19-18-202, 19-18-502, 19-18-511, 19-18-514, 19-18-603, 19-18-604, 19-18-605, 19-18-607, 19-19-302, 19-19-303, 19-19-401, 19-19-402, 19-19-403, 19-19-404, 19-19-405, 19-19-406, 19-19-501, 19-19-502, 19-19-503, 19-19-505, 19-20-103, 19-20-301, 19-20-303, 19-20-304, 19-20-406, 19-21-211, 20-1-201, 20-1-202, 20-1-203, 20-1-211, 20-2-111, 20-2-112, 20-2-131, 20-3-101, 20-3-102, 20-3-105, 20-3-202, 20-3-203, 20-3-206, 20-3-208, 20-3-211, 20-3-308, 20-3-309, 20-3-310, 20-3-311, 20-3-344, 20-3-353, 20-3-354, 20-3-361, 20-4-101, 20-4-104, 20-4-106, 20-4-121, 20-4-132, 20-4-202, 20-4-304, 20-5-102, 20-5-103, 20-5-105, 20-5-106, 20-5-107, 20-5-111, 20-5-405, 20-5-406, 20-6-103, 20-6-605, 20-7-113, 20-7-116, 20-7-462, 20-7-463, 20-7-606, 20-7-607, 20-7-608, 20-8-108, 20-8-120, 20-9-207, 20-9-424, 20-9-436, 20-9-441, 20-9-442, 20-10-112, 20-10-121, 20-10-122, 20-10-123, 20-15-209, 20-15-219, 20-15-222, 20-15-224, 20-15-227, 20-15-228, 20-20-201, 20-20-301, 20-20-411, 20-20-417, 20-25-101, 20-25-226, 20-25-242, 20-25-306, 20-25-322, 20-25-323, 20-25-504, 20-25-511, 20-25-512, 20-25-513, 20-25-516, 20-25-603, 20-25-703, 20-25-801, 20-25-806, 20-31-301, 22-1-101, 22-1-308, 22-1-317, 22-1-506, 22-1-601, 22-2-103, 22-2-403, 22-2-406, 22-3-431, 22-3-432, 22-3-701, 22-3-805, 22-3-806, 23-2-301, 23-2-311, 23-2-321, 23-2-402, 23-2-503, 23-2-505, 23-2-527, 23-2-535, 23-5-131, 23-5-135, 23-5-155, 23-5-221, 23-5-409, 23-5-622, 23-7-212, 23-7-302, 23-7-307, 23-7-401, 25-1-401, 25-1-402, 25-1-1102, 25-2-125, 25-2-206, 25-3-206, 25-3-401, 25-3-402, 25-3-501, 25-3-602, 25-3-603, 25-4-101, 25-4-102, 25-4-203, 25-4-302, 25-4-401, 25-4-402, 25-4-403, 25-4-404, 25-4-502, 25-4-601, 25-4-602, 25-5-103, 25-5-202, 25-5-203, 25-5-301, 25-7-206, 25-7-209, 25-7-223, 25-7-301, 25-7-304, 25-7-403, 25-7-501, 25-7-503, 25-7-701, 25-7-702, 25-8-101, 25-8-103, 25-8-104, 25-9-103, 25-9-104, 25-9-204, 25-9-311, 25-9-404, 25-9-504, 25-9-507, 25-10-101, 25-10-102, 25-10-104, 25-10-107, 25-10-108, 25-10-201, 25-10-303, 25-10-402, 25-10-501, 25-10-503, 25-10-504, 25-10-711, 25-11-102, 25-13-103, 25-13-104, 25-13-105, 25-13-201, 25-13-205, 25-13-302, 25-13-304, 25-13-308, 25-13-405, 25-13-502, 25-13-506, 25-13-610, 25-13-614, 25-13-702, 25-13-704, 25-13-705, 25-13-706, 25-13-713, 25-13-801, 25-13-802, 25-13-803, 25-13-804, 25-13-806, 25-13-807, 25-13-808, 25-13-809, 25-13-810, 25-13-811, 25-13-821, 25-13-822, 25-13-823, 25-13-825, 25-14-102, 25-14-103, 25-14-104, 25-14-106, 25-14-108, 25-14-201, 25-14-204, 25-14-205, 25-14-302, 25-14-303, 25-14-304, 25-14-306, 25-14-307, 25-14-308, 25-14-309, 25-14-310, 25-14-311, 25-14-312, 25-15-102, 25-15-103, 25-15-104, 25-15-105, 25-15-106, 25-15-201, 25-15-202, 25-31-102, 25-31-405, 25-31-406, 25-31-512, 25-31-523, 25-31-705, 25-31-706, 25-31-707, 25-31-1002, 25-31-1111, 25-33-103, 25-33-104, 25-33-201, 25-33-202, 25-33-204, 25-33-305, 25-35-601, 25-35-603, 25-35-604, 25-35-605, 25-35-608, 25-35-702, 25-35-801, 25-35-802, 25-35-803, 25-35-804, 25-35-806, 26-1-106, 26-1-302, 26-1-303, 26-1-401, 26-1-402, 26-1-502, 26-1-601, 26-1-605, 26-1-623, 26-1-701, 26-1-803, 26-1-804, 26-1-805, 26-1-806, 26-1-807, 26-1-809, 26-1-810, 26-1-902, 26-1-903, 26-1-1011, 26-2-101, 26-2-102, 26-2-103, 26-2-104, 26-2-105, 26-2-106, 26-2-107, 26-2-201, 26-2-203, 26-2-301, 26-2-302, 26-2-303, 26-2-403, 26-2-404, 26-2-507, 26-2-509, 26-3-104, 26-3-203, 27-1-204, 27-1-210, 27-1-211, 27-1-223, 27-1-303, 27-1-308, 27-1-313, 27-1-315, 27-1-316, 27-1-320, 27-1-321, 27-1-402,

27-1-415, 27-1-416, 27-1-417, 27-1-421, 27-1-432, 27-1-433, 27-1-501, 27-1-511, 27-1-512, 27-1-513, 27-1-514, 27-1-515, 27-1-701, 27-1-711, 27-1-712, 27-1-713, 27-1-714, 27-1-715, 27-1-719, 27-1-731, 27-1-733, 27-1-802, 27-1-803, 27-1-813, 27-1-820, 27-1-1102, 27-1-1103, 27-2-210, 27-2-213, 27-2-402, 27-2-405, 27-2-407, 27-2-408, 27-5-211, 27-5-216, 27-5-217, 27-5-323, 27-6-202, 27-6-203, 27-6-301, 27-6-305, 27-6-404, 27-6-502, 27-6-503, 27-6-601, 27-6-604, 27-6-702, 27-9-102, 27-9-104, 27-12-103, 27-12-202, 27-12-203, 27-12-301, 27-12-305, 27-12-404, 27-12-503, 27-12-601, 27-12-604, 27-12-701, 27-15-101, 27-15-102, 27-16-102, 27-16-204, 27-16-205, 27-16-206, 27-16-207, 27-16-208, 27-16-209, 27-16-210, 27-16-402, 27-16-403, 27-16-404, 27-16-405, 27-16-406, 27-16-407, 27-16-501, 27-16-502, 27-16-503, 27-16-505, 27-16-601, 27-16-602, 27-16-604, 27-16-1002, 27-16-1003, 27-16-1004, 27-16-1005, 27-16-1006, 27-17-101, 27-17-102, 27-17-201, 27-17-203, 27-17-204, 27-17-205, 27-17-206, 27-17-301, 27-17-302, 27-17-303, 27-17-304, 27-17-306, 27-17-309, 27-17-310, 27-17-402, 27-18-102, 27-18-112, 27-18-202, 27-18-203, 27-18-204, 27-18-205, 27-18-207, 27-18-301, 27-18-303, 27-18-306, 27-18-401, 27-18-403, 27-18-405, 27-18-406, 27-18-407, 27-18-410, 27-18-412, 27-18-414, 27-18-501, 27-18-502, 27-18-503, 27-18-601, 27-18-602, 27-18-603, 27-18-604, 27-18-702, 27-18-713, 27-18-715, 27-18-721, 27-18-725, 27-18-726, 27-18-803, 27-18-902, 27-18-903, 27-18-904, 27-18-905, 27-18-906, 27-18-1502, 27-18-1503, 27-18-1504, 27-19-203, 27-19-315, 27-19-318, 27-20-102, 27-20-201, 27-20-203, 27-20-301, 27-20-302, 27-26-203, 27-26-303, 27-26-402, 27-27-103, 27-28-101, 27-28-103, 27-28-104, 27-28-205, 27-28-301, 27-28-302, 27-28-306, 27-28-307, 27-28-308, 27-28-401, 27-28-506, 27-30-203, 27-30-204, 27-30-302, 27-31-101, 27-32-101, 27-32-102, 27-32-301, 28-1-104, 28-1-201, 28-1-202, 28-1-303, 28-1-405, 28-1-406, 28-1-407, 28-1-502, 28-1-1101, 28-1-1104, 28-1-1105, 28-1-1106, 28-1-1112, 28-1-1113, 28-1-1204, 28-1-1206, 28-1-1211, 28-1-1212, 28-1-1221, 28-1-1224, 28-1-1302, 28-1-1303, 28-1-1304, 28-1-1504, 28-1-1602, 28-1-1603, 28-2-202, 28-2-203, 28-2-204, 28-2-205, 28-2-206, 28-2-405, 28-2-406, 28-2-407, 28-2-501, 28-2-502, 28-2-512, 28-2-702, 28-2-704, 28-2-708, 28-2-709, 28-2-801, 28-2-902, 28-2-903, 28-2-906, 28-2-1703, 28-2-1711, 28-2-1713, 28-3-306, 28-3-704, 28-10-105, 28-10-301, 28-10-302, 28-10-401, 28-10-402, 28-10-404, 28-10-405, 28-10-407, 28-10-408, 28-10-409, 28-10-501, 28-10-502, 28-10-601, 28-10-602, 28-10-603, 28-10-605, 28-10-606, 28-10-608, 28-10-609, 28-10-701, 28-10-702, 28-10-703, 28-10-801, 28-10-802, 28-11-103, 28-11-105, 28-11-108, 28-11-202, 28-11-203, 28-11-206, 28-11-211, 28-11-214, 28-11-304, 28-11-312, 28-11-316, 28-11-317, 28-11-401, 28-11-402, 28-11-411, 28-11-412, 28-11-414, 28-11-415, 28-11-416, 28-11-417, 28-11-418, 30-2-201, 30-2-304, 30-2-305, 30-2-308, 30-2-311, 30-2-312, 30-2-313, 30-2-316, 30-2-318, 30-2-319, 30-2-320, 30-2-324, 30-2-325, 30-2-401, 30-2-402, 30-2-403, 30-2-501, 30-2-504, 30-2-505, 30-2-507, 30-2-508, 30-2-509, 30-2-510, 30-2-602, 30-2-603, 30-2-604, 30-2-606, 30-2-607, 30-2-608, 30-2-609, 30-2-610, 30-2-611, 30-2-612, 30-2-613, 30-2-615, 30-2-616, 30-2-702, 30-2-704, 30-2-706, 30-2-707, 30-2-709, 30-2-711, 30-2-712, 30-2-714, 30-2-717, 30-2-718, 30-2-722, 30-2-723, 30-2A-103, 30-2A-108, 30-2A-109, 30-2A-220, 30-2A-221, 30-2A-310, 30-2A-401, 30-2A-405, 30-2A-504, 30-2A-507, 30-2A-511, 30-2A-513, 30-2A-531, 30-7-302, 30-10-204, 30-10-205, 30-10-208, 30-10-306, 30-10-307, 30-11-106, 30-11-109, 30-11-110, 30-11-111, 30-11-113, 30-11-114, 30-11-201, 30-11-202, 30-11-203, 30-11-205, 30-11-206, 30-11-207, 30-11-211, 30-11-213, 30-11-215, 30-11-220, 30-11-221, 30-11-223, 30-11-302, 30-11-502, 30-11-503, 30-11-504, 30-11-508, 30-11-510, 30-11-511, 30-11-512, 30-11-513, 30-11-514, 30-11-601, 30-11-602, 30-11-603, 30-11-604, 30-11-605, 30-11-606, 30-11-607, 30-11-703, 30-11-713, 30-11-806, 30-11-807, 30-12-202, 30-12-205, 30-12-211, 30-12-406, 30-12-504, 30-13-131, 30-13-133, 30-13-135, 30-13-216,

30-13-218, 30-14-112, 30-14-113, 30-14-114, 30-14-132, 30-14-203, 30-14-204, 30-14-213, 30-14-221, 30-14-303, 30-14-402, 30-14-504, 30-14-505, 30-14-507, 30-14-1112, 31-1-101, 31-1-108, 31-1-212, 31-1-222, 31-1-231, 31-1-232, 31-1-234, 31-1-236, 31-1-243, 31-1-304, 31-1-305, 31-1-402, 31-1-502, 31-2-102, 31-2-103, 31-2-104, 31-2-105, 31-2-201, 31-2-202, 31-2-203, 31-2-204, 31-2-205, 31-2-209, 31-2-210, 31-2-212, 31-2-214, 31-2-215, 31-2-220, 31-2-221, 31-2-224, 31-2-225, 31-2-229, 31-2-329, 31-2-333, 31-3-102, 31-3-113, 31-3-114, 31-3-121, 31-3-123, 31-3-131, 32-1-206, 32-1-403, 32-1-421, 32-1-451, 32-1-463, 32-1-466, 32-1-471, 32-1-474, 32-1-506, 32-1-510, 32-1-535, 32-1-807, 32-1-808, 32-1-903, 32-1-905, 32-1-906, 32-1-907, 32-1-908, 32-1-910, 32-2-108, 32-2-109, 32-2-209, 32-2-210, 32-2-212, 32-2-232, 32-2-233, 32-2-241, 32-2-245, 32-2-254, 32-2-255, 32-2-307, 32-2-401, 32-2-403, 32-2-404, 32-2-408, 32-2-409, 32-3-406, 32-3-407, 32-3-416, 32-3-418, 32-3-507, 32-3-605, 32-4-203, 32-4-205, 32-4-301, 32-5-304, 32-6-106, 32-6-302, 32-6-303, 32-7-103, 32-7-108, 33-1-211, 33-1-228, 33-1-302, 33-1-304, 33-1-312, 33-1-402, 33-1-502, 33-1-602, 33-1-603, 33-1-612, 33-1-613, 33-2-111, 33-2-112, 33-2-116, 33-2-120, 33-2-121, 33-2-127, 33-2-205, 33-2-208, 33-2-211, 33-2-214, 33-2-306, 33-2-308, 33-2-309, 33-2-310, 33-2-311, 33-2-503, 33-2-605, 33-2-606, 33-2-607, 33-2-612, 33-2-1104, 33-2-1105, 33-2-1106, 33-2-1120, 33-2-1122, 33-2-1206, 33-2-1211, 33-2-1212, 33-2-1310, 33-2-1321, 33-2-1323, 33-2-1333, 33-2-1334, 33-2-1341, 33-2-1344, 33-2-1345, 33-2-1347, 33-2-1348, 33-2-1352, 33-2-1353, 33-2-1355, 33-2-1357, 33-2-1358, 33-2-1360, 33-2-1362, 33-2-1364, 33-2-1365, 33-2-1366, 33-2-1367, 33-2-1368, 33-2-1369, 33-2-1370, 33-2-1372, 33-2-1374, 33-2-1377, 33-2-1379, 33-2-1380, 33-2-1381, 33-2-1382, 33-2-1383, 33-2-1385, 33-2-1387, 33-3-216, 33-3-217, 33-3-218, 33-3-301, 33-3-308, 33-3-309, 33-3-411, 33-3-412, 33-3-433, 33-3-436, 33-3-442, 33-3-443, 33-3-444, 33-3-447, 33-3-502, 33-3-602, 33-3-604, 33-4-302, 33-4-316, 33-4-402, 33-4-411, 33-4-506, 33-4-507, 33-4-508, 33-4-509, 33-5-202, 33-5-303, 33-5-403, 33-5-404, 33-5-405, 33-5-406, 33-5-407, 33-5-409, 33-5-412, 33-6-102, 33-6-401, 33-7-119, 33-7-120, 33-7-121, 33-7-208, 33-7-209, 33-7-216, 33-7-307, 33-7-411, 33-9-102, 33-10-108, 33-10-109, 33-10-115, 33-14-203, 33-14-204, 33-14-301, 33-14-302, 33-15-103, 33-15-201, 33-15-206, 33-15-327, 33-15-329, 33-15-402, 33-15-511, 33-15-512, 33-15-513, 33-15-514, 33-16-111, 33-16-112, 33-16-113, 33-16-114, 33-16-204, 33-16-206, 33-16-211, 33-16-223, 33-16-224, 33-16-305, 33-17-411, 33-17-513, 33-18-201, 33-18-203, 33-18-1003, 33-18-1004, 33-19-205, 33-20-117, 33-20-1002, 33-20-1103, 33-20-1105, 33-20-1208, 33-21-104, 33-21-111, 33-21-113, 33-21-204, 33-22-112, 33-22-125, 33-22-206, 33-22-208, 33-22-222, 33-22-224, 33-22-227, 33-22-502, 33-22-507, 33-22-510, 33-22-604, 33-22-1001, 33-22-1602, 33-23-201, 33-23-213, 33-23-216, 33-24-102, 33-25-216, 33-25-302, 33-25-401, 33-26-101, 33-26-107, 33-30-105, 33-30-303, 33-30-1002, 33-30-1005, 33-30-1006, 33-30-1009, 33-30-1102, 33-31-201, 33-31-221, 33-31-312, 33-31-402, 33-31-403, 33-31-404, 33-31-405, 35-1-418, 35-1-421, 35-1-423, 35-1-424, 35-1-428, 35-1-435, 35-1-443, 35-1-451, 35-1-452, 35-1-453, 35-1-458, 35-1-461, 35-1-464, 35-1-535, 35-1-828, 35-1-830, 35-1-831, 35-1-832, 35-1-836, 35-1-837, 35-1-941, 35-1-943, 35-1-1310, 35-2-416, 35-2-441, 35-2-447, 35-2-448, 35-2-449, 35-2-453, 35-2-510, 35-2-722, 35-2-727, 35-2-732, 35-2-831, 35-3-205, 35-3-206, 35-3-207, 35-4-403, 35-4-404, 35-9-201, 35-9-202, 35-9-203, 35-9-204, 35-9-205, 35-9-302, 35-9-503, 35-10-506, 35-11-201, 35-11-202, 35-12-504, 35-12-506, 35-12-804, 35-12-1002, 35-12-1006, 35-12-1102, 35-12-1103, 35-12-1105, 35-12-1203, 35-12-1404, 35-13-204, 35-13-205, 35-13-206, 35-13-207, 35-15-303, 35-15-403, 35-15-404, 35-15-505, 35-16-210, 35-16-211, 35-16-212, 35-16-302, 35-16-303, 35-16-304, 35-16-311, 35-16-314, 35-17-206, 35-17-303, 35-17-311, 35-17-313, 35-17-401, 35-17-505, 35-18-312, 35-18-314, 35-18-405, 35-18-501, 35-20-101, 35-20-102, 35-20-103,

35-20-208, 35-20-209, 35-20-216, 35-20-302, 35-20-304, 37-1-205, 37-2-102, 37-2-103, 37-2-106, 37-2-201, 37-2-303, 37-2-311, 37-2-312, 37-3-310, 37-3-321, 37-3-325, 37-3-326, 37-3-328, 37-4-322, 37-4-325, 37-4-501, 37-4-511, 37-6-103, 37-6-301, 37-7-506, 37-7-509, 37-9-201, 37-9-301, 37-9-312, 37-11-311, 37-12-324, 37-13-315, 37-14-307, 37-15-301, 37-16-103, 37-16-402, 37-17-301, 37-17-313, 37-18-102, 37-18-313, 37-18-501, 37-18-502, 37-19-201, 37-21-301, 37-22-401, 37-22-411, 37-23-301, 37-24-301, 37-25-302, 37-25-304, 37-26-401, 37-26-402, 37-29-405, 37-40-102, 37-40-301, 37-40-312, 37-42-201, 37-42-305, 37-43-102, 37-43-201, 37-43-302, 37-43-305, 37-43-306, 37-43-308, 37-50-403, 37-51-201, 37-51-323, 37-51-503, 37-51-504, 37-51-511, 37-53-102, 37-53-301, 37-53-305, 37-53-403, 37-54-412, 37-54-415, 37-54-416, 37-60-104, 37-60-401, 37-60-404, 37-61-201, 37-61-203, 37-61-207, 37-61-210, 37-61-214, 37-61-301, 37-61-309, 37-61-401, 37-61-402, 37-61-404, 37-61-405, 37-61-406, 37-61-407, 37-61-408, 37-61-412, 37-61-416, 37-61-417, 37-61-418, 37-61-420, 37-65-103, 37-65-301, 37-66-104, 37-66-105, 37-66-302, 37-66-303, 37-66-308, 37-68-103, 37-68-303, 37-68-314, 37-69-103, 37-69-303, 37-69-324, 37-72-203, 37-72-301, 39-1-103, 39-2-102, 39-2-303, 39-2-401, 39-2-402, 39-2-403, 39-2-404, 39-2-405, 39-2-406, 39-2-407, 39-2-408, 39-2-409, 39-2-410, 39-2-411, 39-2-501, 39-2-502, 39-2-601, 39-2-605, 39-2-606, 39-2-701, 39-2-702, 39-2-703, 39-2-704, 39-2-802, 39-2-803, 39-3-102, 39-3-103, 39-3-209, 39-3-210, 39-3-211, 39-3-214, 39-3-215, 39-3-404, 39-3-503, 39-3-506, 39-3-507, 39-3-508, 39-3-509, 39-3-511, 39-3-512, 39-3-513, 39-3-516, 39-3-517, 39-3-519, 39-4-101, 39-4-102, 39-4-103, 39-4-107, 39-4-110, 39-4-112, 39-29-111, 39-30-206, 39-30-207, 39-31-204, 39-31-305, 39-31-311, 39-31-401, 39-31-402, 39-31-404, 39-31-406, 39-32-102, 39-32-109, 39-33-101, 39-33-102, 39-33-103, 39-33-202, 39-34-103, 39-51-102, 39-51-206, 39-51-305, 39-51-309, 39-51-601, 39-51-1215, 39-51-1216, 39-51-1302, 39-51-1306, 39-51-2107, 39-51-2305, 39-51-2401, 39-51-2509, 39-51-3101, 39-51-3102, 39-51-3103, 39-51-3104, 39-51-3203, 39-71-411, 39-71-412, 39-71-509, 39-71-515, 39-71-518, 39-71-726, 39-71-2102, 39-71-2401, 39-71-2910, 39-71-2914, 39-73-102, 39-73-105, 39-73-108, 39-73-111, 40-1-201, 40-1-207, 40-1-312, 40-1-404, 40-2-103, 40-2-104, 40-2-107, 40-2-108, 40-2-109, 40-2-202, 40-2-203, 40-2-205, 40-2-206, 40-2-207, 40-2-210, 40-2-302, 40-3-113, 40-3-116, 40-3-124, 40-3-125, 40-4-131, 40-4-203, 40-4-207, 40-5-214, 40-6-104, 40-6-114, 40-6-202, 40-6-214, 40-6-217, 40-6-235, 40-6-236, 41-1-201, 41-1-202, 41-1-302, 41-1-303, 41-1-305, 41-1-306, 41-1-406, 41-1-407, 41-4-101, 41-5-105, 41-5-1404, 41-5-1411, 41-5-1901, 41-6-106, 42-2-216, 44-1-104, 44-1-201, 44-1-303, 44-1-503, 44-1-512, 44-1-513, 44-1-516, 44-1-611, 44-1-801, 44-1-803, 44-1-805, 44-1-808, 44-1-903, 44-1-910, 44-1-1103, 44-2-301, 44-2-313, 44-2-402, 44-3-213, 44-3-404, 44-4-111, 44-4-206, 44-4-903, 44-4-904, 44-5-215, 44-11-102, 44-11-201, 44-11-304, 44-12-102, 44-12-103, 44-12-204, 44-12-205, 45-2-202, 45-2-203, 45-2-212, 45-2-213, 45-2-301, 45-2-302, 45-2-303, 45-2-312, 45-3-102, 45-3-103, 45-3-104, 45-3-105, 45-3-106, 45-3-107, 45-3-108, 45-3-109, 45-4-101, 45-4-102, 45-4-103, 45-5-203, 45-5-204, 45-5-221, 45-5-301, 45-5-511, 45-5-604, 45-5-611, 45-5-612, 45-6-102, 45-6-201, 45-6-202, 45-6-204, 45-6-205, 45-6-302, 45-6-305, 45-6-308, 45-6-314, 45-6-315, 45-6-318, 45-6-319, 45-6-326, 45-6-327, 45-7-101, 45-7-103, 45-7-104, 45-7-201, 45-7-203, 45-7-204, 45-7-205, 45-7-206, 45-7-207, 45-7-301, 45-7-303, 45-7-304, 45-7-305, 45-7-308, 45-7-309, 45-7-401, 45-7-501, 45-8-101, 45-8-103, 45-8-104, 45-8-106, 45-8-111, 45-8-112, 45-8-113, 45-8-114, 45-8-115, 45-8-201, 45-8-203, 45-8-207, 45-8-210, 45-8-214, 45-8-215, 45-8-316, 45-8-325, 45-8-327, 45-8-331, 45-8-333, 45-8-334, 45-8-335, 45-8-336, 45-8-339, 45-8-340, 45-8-405, 45-9-104, 45-9-105, 45-9-106, 45-9-114, 45-9-115, 45-9-121, 45-9-127, 45-10-102, 45-10-105, 46-2-101, 46-4-101, 46-4-110, 46-4-111, 46-4-113, 46-4-202, 46-4-205, 46-4-207, 46-6-412, 46-7-101, 46-9-111,

46-9-203, 46-9-206, 46-9-301, 46-9-502, 46-11-301, 46-11-303, 46-11-313, 46-11-331, 46-11-332, 46-11-401, 46-12-104, 46-12-203, 46-16-603, 46-16-606, 46-17-302, 46-18-232, 46-18-233, 46-18-702, 46-18-703, 46-18-705, 46-19-203, 46-19-204, 46-19-301, 46-19-401, 46-20-204, 46-20-707, 46-22-103, 46-23-207, 46-23-316, 46-23-1022, 46-24-204, 46-30-101, 46-30-202, 46-30-211, 46-30-212, 46-30-213, 46-30-214, 46-30-215, 46-30-217, 46-30-218, 46-30-225, 46-30-226, 46-30-227, 46-30-228, 46-30-229, 46-30-301, 46-30-302, 46-30-303, 46-30-304, 46-30-305, 46-30-402, 46-30-403, 46-30-404, 46-30-405, 46-30-412, 46-31-101, 46-31-204, 49-1-101, 49-1-202, 49-2-202, 49-2-301, 49-2-310, 49-2-311, 49-3-209, 49-4-102, 49-4-502, 49-4-503, 49-4-504, 49-4-505, 49-4-508, 49-4-509, 50-2-120, 50-2-121, 50-2-122, 50-2-124, 50-5-212, 50-5-1105, 50-5-1106, 50-6-313, 50-6-317, 50-9-103, 50-15-108, 50-15-114, 50-15-302, 50-15-402, 50-16-522, 50-16-543, 50-16-544, 50-16-553, 50-17-112, 50-18-106, 50-20-106, 50-20-108, 50-21-104, 50-21-106, 50-23-102, 50-30-107, 50-30-204, 50-30-205, 50-30-301, 50-30-302, 50-30-305, 50-30-307, 50-31-108, 50-31-504, 50-31-507, 50-31-509, 50-32-302, 50-32-311, 50-32-401, 50-41-105, 50-42-105, 50-43-106, 50-50-215, 50-50-304, 50-50-402, 50-50-403, 50-51-107, 50-51-204, 50-51-215, 50-52-202, 50-52-209, 50-60-502, 50-60-515, 50-61-116, 50-62-104, 50-62-110, 50-63-403, 50-70-107, 50-70-115, 50-71-201, 50-71-203, 50-71-303, 50-71-325, 50-71-334, 50-72-204, 50-72-205, 50-73-102, 50-73-205, 50-73-207, 50-73-305, 50-73-307, 50-73-401, 50-73-404, 50-73-410, 50-73-411, 50-73-412, 50-73-413, 50-74-203, 50-74-214, 50-74-215, 50-74-217, 50-74-311, 50-76-101, 50-76-108, 50-77-102, 50-78-204, 50-78-305, 50-78-402, 50-79-501, 52-2-723, 52-3-602, 52-5-105, 52-5-114, 53-2-107, 53-5-901, 53-19-106, 53-19-110, 53-20-131, 53-20-145, 53-20-164, 53-20-209, 53-21-105, 53-21-114, 53-21-117, 53-21-118, 53-21-119, 53-21-125, 53-21-133, 53-21-141, 53-21-142, 53-21-146, 53-21-148, 53-21-163, 53-21-167, 53-21-168, 53-21-183, 53-21-187, 53-22-101, 53-22-105, 53-30-104, 53-30-142, 60-4-205, 60-5-111, 60-7-204, 60-11-201, 61-2-105, 61-2-106, 61-2-201, 61-2-204, 61-2-207, 61-4-106, 61-4-132, 61-4-209, 61-4-406, 61-5-116, 61-5-304, 61-5-401, 61-5-403, 61-6-103, 61-6-121, 61-6-131, 61-6-132, 61-6-136, 61-6-137, 61-6-138, 61-6-142, 61-6-201, 61-6-303, 61-7-104, 61-7-105, 61-7-107, 61-7-112, 61-8-107, 61-8-408, 61-8-604, 61-8-703, 61-8-723, 61-12-202, 61-12-301, 61-12-306, 61-12-307, 61-12-308, 61-12-314, 61-12-407, 67-1-211, 67-2-503, 67-3-102, 67-3-201, 67-11-104, 69-1-106, 69-1-107, 69-1-108, 69-1-111, 69-1-113, 69-1-222, 69-2-102, 69-2-203, 69-2-204, 69-3-106, 69-3-208, 69-3-326, 69-3-329, 69-3-703, 69-4-203, 69-4-353, 69-4-355, 69-4-1103, 69-11-101, 69-11-103, 69-11-104, 69-11-105, 69-11-106, 69-11-107, 69-11-108, 69-11-109, 69-11-121, 69-11-201, 69-11-203, 69-11-204, 69-11-206, 69-11-208, 69-11-209, 69-11-301, 69-11-302, 69-11-303, 69-11-304, 69-11-402, 69-11-403, 69-11-404, 69-11-405, 69-11-406, 69-11-408, 69-11-409, 69-11-411, 69-11-421, 69-11-424, 69-11-428, 69-11-429, 69-12-203, 69-12-401, 69-14-113, 69-14-131, 69-14-132, 69-14-134, 69-14-207, 69-14-208, 69-14-210, 69-14-211, 69-14-215, 69-14-238, 69-14-502, 69-14-505, 69-14-709, 69-14-710, 69-14-711, 69-14-901, 69-14-924, 69-14-932, 69-14-1002, 69-14-1003, 69-14-1005, 69-14-1006, 70-1-109, 70-1-303, 70-1-310, 70-1-510, 70-1-512, 70-1-518, 70-1-704, 70-2-102, 70-3-104, 70-3-202, 70-3-203, 70-4-102, 70-4-103, 70-4-202, 70-4-203, 70-4-204, 70-4-205, 70-4-206, 70-5-102, 70-5-103, 70-5-105, 70-5-106, 70-5-107, 70-6-102, 70-6-108, 70-6-201, 70-6-202, 70-6-203, 70-6-204, 70-6-205, 70-6-207, 70-6-208, 70-6-209, 70-6-210, 70-6-211, 70-6-213, 70-6-214, 70-6-303, 70-6-412, 70-6-420, 70-6-501, 70-6-502, 70-6-504, 70-6-505, 70-7-101, 70-7-102, 70-7-106, 70-7-107, 70-7-110, 70-7-111, 70-7-112, 70-7-203, 70-7-204, 70-8-201, 70-9-402, 70-9-403, 70-9-404, 70-9-405, 70-9-406, 70-9-502, 70-15-205, 70-15-210, 70-15-301, 70-15-303, 70-16-102, 70-16-104, 70-16-105, 70-16-106, 70-16-203, 70-16-204, 70-16-205, 70-16-207,

70-16-208, 70-16-209, 70-16-210, 70-17-205, 70-18-101, 70-18-102, 70-19-102, 70-19-202, 70-19-204, 70-19-301, 70-19-303, 70-19-304, 70-19-305, 70-19-401, 70-19-407, 70-19-412, 70-20-101, 70-20-102, 70-20-105, 70-20-108, 70-20-109, 70-20-113, 70-20-302, 70-20-303, 70-20-304, 70-20-311, 70-20-313, 70-20-314, 70-20-316, 70-20-402, 70-20-403, 70-21-210, 70-21-307, 70-22-104, 70-22-108, 70-22-110, 70-23-402, 70-23-502, 70-23-505, 70-23-506, 70-23-604, 70-23-605, 70-23-610, 70-23-611, 70-23-612, 70-23-613, 70-23-902, 70-24-204, 70-24-301, 70-24-304, 70-24-312, 70-24-322, 70-24-403, 70-24-405, 70-24-408, 70-24-409, 70-24-421, 70-25-101, 70-26-101, 70-26-102, 70-26-104, 70-26-105, 70-26-106, 70-26-108, 70-26-203, 70-26-204, 70-26-205, 70-26-206, 70-27-108, 70-27-110, 70-27-111, 70-27-203, 70-27-205, 70-27-207, 70-27-208, 70-27-210, 70-28-104, 70-28-106, 70-28-108, 70-28-110, 70-28-111, 70-28-112, 70-28-113, 70-28-201, 70-28-206, 70-28-209, 70-28-212, 70-28-213, 70-28-215, 70-28-303, 70-29-102, 70-29-105, 70-29-108, 70-29-201, 70-29-208, 70-29-209, 70-29-212, 70-29-216, 70-29-217, 70-29-219, 70-29-221, 70-29-304, 70-29-306, 70-29-307, 70-29-326, 70-29-327, 70-29-330, 70-31-302, 70-31-303, 70-31-304, 70-31-305, 70-32-103, 70-32-209, 70-32-210, 71-1-113, 71-1-204, 71-1-207, 71-1-209, 71-1-210, 71-1-211, 71-1-213, 71-1-229, 71-1-230, 71-1-231, 71-1-232, 71-1-234, 71-1-312, 71-1-315, 71-1-317, 71-1-318, 71-2-101, 71-2-106, 71-2-107, 71-2-108, 71-2-109, 71-2-110, 71-3-101, 71-3-107, 71-3-112, 71-3-115, 71-3-117, 71-3-118, 71-3-203, 71-3-301, 71-3-303, 71-3-304, 71-3-305, 71-3-401, 71-3-404, 71-3-523, 71-3-524, 71-3-525, 71-3-526, 71-3-533, 71-3-537, 71-3-541, 71-3-542, 71-3-601, 71-3-605, 71-3-608, 71-3-611, 71-3-612, 71-3-614, 71-3-616, 71-3-701, 71-3-703, 71-3-712, 71-3-801, 71-3-802, 71-3-1004, 71-3-1009, 71-3-1011, 71-3-1203, 71-3-1301, 71-3-1302, 71-3-1401, 71-3-1402, 71-3-1403, 71-3-1501, 71-3-1502, 71-3-1503, 71-3-1505, 72-1-111, 72-1-301, 72-1-302, 72-1-303, 72-2-903, 72-2-904, 72-2-905, 72-2-909, 72-3-101, 72-3-106, 72-3-112, 72-3-123, 72-3-201, 72-3-202, 72-3-204, 72-3-211, 72-3-214, 72-3-221, 72-3-223, 72-3-224, 72-3-225, 72-3-302, 72-3-304, 72-3-306, 72-3-308, 72-3-312, 72-3-313, 72-3-403, 72-3-404, 72-3-504, 72-3-511, 72-3-513, 72-3-514, 72-3-515, 72-3-516, 72-3-521, 72-3-522, 72-3-523, 72-3-525, 72-3-526, 72-3-527, 72-3-601, 72-3-602, 72-3-603, 72-3-604, 72-3-605, 72-3-606, 72-3-610, 72-3-611, 72-3-612, 72-3-614, 72-3-615, 72-3-616, 72-3-617, 72-3-621, 72-3-623, 72-3-632, 72-3-634, 72-3-703, 72-3-801, 72-3-803, 72-3-804, 72-3-805, 72-3-808, 72-3-811, 72-3-812, 72-3-814, 72-3-821, 72-3-902, 72-3-903, 72-3-906, 72-3-907, 72-3-911, 72-3-912, 72-3-915, 72-3-916, 72-3-918, 72-3-1003, 72-3-1005, 72-3-1012, 72-3-1014, 72-3-1015, 72-3-1102, 72-4-201, 72-4-202, 72-4-203, 72-4-306, 72-4-309, 72-4-311, 72-4-402, 72-5-101, 72-5-104, 72-5-202, 72-5-211, 72-5-213, 72-5-301, 72-5-312, 72-5-314, 72-5-316, 72-5-317, 72-5-318, 72-5-319, 72-5-320, 72-5-401, 72-5-402, 72-5-403, 72-5-404, 72-5-405, 72-5-406, 72-5-407, 72-5-409, 72-5-410, 72-5-411, 72-5-412, 72-5-413, 72-5-414, 72-5-415, 72-5-422, 72-5-423, 72-5-424, 72-5-425, 72-5-426, 72-5-427, 72-5-428, 72-5-429, 72-5-430, 72-5-431, 72-5-433, 72-5-434, 72-5-435, 72-5-436, 72-5-437, 72-5-439, 72-5-501, 72-5-502, 72-9-110, 72-12-401, 72-12-403, 72-12-404, 72-12-405, 72-12-407, 72-14-201, 72-14-202, 72-14-401, 72-14-402, 72-15-101, 72-15-102, 72-15-103, 72-15-105, 72-15-107, 72-15-109, 72-15-110, 72-15-201, 72-15-202, 72-15-203, 72-15-204, 72-15-205, 72-15-206, 72-15-207, 72-15-208, 72-15-210, 72-15-211, 72-15-213, 72-15-302, 72-15-303, 72-15-304, 72-16-501, 72-16-608, 72-16-609, 72-31-101, 72-31-102, 72-33-216, 72-33-217, 72-33-219, 72-33-306, 72-33-503, 72-34-130, 72-34-514, 72-34-515, 72-34-516, 72-35-313, 72-36-206, 75-1-312, 75-2-122, 75-2-123, 75-2-212, 75-2-411, 75-5-105, 75-5-306, 75-5-603, 75-5-641, 75-5-801, 75-7-205, 75-10-212, 75-10-214, 75-10-223, 75-10-233, 75-10-501, 75-10-940, 75-10-941, 75-16-104, 75-20-404, 75-20-405, 75-20-409, 75-20-411, 76-1-222, 76-2-221, 76-2-226, 76-2-227, 76-2-321, 76-2-326, 76-2-327,

76-3-303, 76-3-405, 76-4-110, 76-13-108, 76-13-413, 76-13-423, 76-14-105, 76-15-101, 76-15-312, 76-15-313, 76-15-315, 76-15-526, 76-15-604, 76-15-606, 76-15-710, 76-15-722, 76-15-723, 77-1-104, 77-1-111, 77-1-112, 77-1-114, 77-1-115, 77-1-201, 77-1-702, 77-1-801, 77-1-805, 77-1-806, 77-2-105, 77-2-315, 77-2-324, 77-2-329, 77-2-332, 77-2-333, 77-2-334, 77-2-335, 77-2-336, 77-3-102, 77-3-104, 77-3-115, 77-3-307, 77-3-409, 77-3-426, 77-4-108, 77-4-121, 77-4-128, 77-4-129, 77-6-108, 77-6-112, 77-6-115, 77-6-201, 77-6-209, 77-6-212, 77-6-401, 80-2-104, 80-2-202, 80-2-241, 80-2-243, 80-4-406, 80-4-424, 80-4-428, 80-4-430, 80-4-504, 80-4-506, 80-4-521, 80-4-522, 80-4-523, 80-4-524, 80-4-529, 80-4-530, 80-4-537, 80-4-539, 80-4-605, 80-6-102, 80-6-103, 80-6-104, 80-6-111, 80-6-1105, 80-7-505, 80-7-1104, 80-8-102, 80-8-103, 80-8-108, 80-8-202, 80-8-206, 80-8-208, 80-8-301, 80-8-303, 80-10-101, 80-10-201, 80-10-204, 80-10-211, 80-10-303, 80-10-503, 80-11-204, 80-11-305, 80-11-308, 80-11-311, 80-11-404, 80-11-405, 80-11-416, 80-12-202, 80-12-203, 80-12-211, 80-12-310, 80-15-218, 81-1-202, 81-1-301, 81-1-302, 81-2-101, 81-2-109, 81-2-112, 81-2-201, 81-2-204, 81-2-206, 81-2-208, 81-2-209, 81-2-303, 81-2-502, 81-2-602, 81-2-703, 81-3-106, 81-3-203, 81-3-204, 81-3-205, 81-3-214, 81-3-223, 81-3-231, 81-3-233, 81-4-104, 81-4-108, 81-4-207, 81-4-208, 81-4-212, 81-4-220, 81-4-308, 81-4-322, 81-4-326, 81-4-327, 81-4-405, 81-4-406, 81-4-410, 81-4-505, 81-4-506, 81-4-507, 81-4-508, 81-4-509, 81-4-512, 81-4-513, 81-4-603, 81-5-103, 81-6-102, 81-7-102, 81-7-115, 81-7-203, 81-7-204, 81-7-403, 81-7-501, 81-8-215, 81-8-232, 81-8-235, 81-8-251, 81-8-261, 81-8-263, 81-8-274, 81-8-278, 81-8-312, 81-8-315, 81-8-702, 81-8-704, 81-9-111, 81-9-112, 81-9-114, 81-9-218, 81-9-220, 81-9-230, 81-9-235, 81-9-313, 81-9-314, 81-9-315, 81-9-316, 81-9-402, 81-9-403, 81-20-204, 81-20-209, 81-21-102, 81-22-203, 81-22-205, 81-22-207, 81-22-402, 81-22-415, 81-23-201, 81-23-305, 81-23-403, 82-1-105, 82-1-108, 82-1-202, 82-1-203, 82-2-101, 82-2-102, 82-2-103, 82-2-105, 82-2-106, 82-2-107, 82-2-108, 82-2-109, 82-2-112, 82-2-114, 82-2-115, 82-2-203, 82-2-205, 82-2-401, 82-2-402, 82-2-405, 82-2-421, 82-4-142, 82-4-238, 82-4-355, 82-10-103, 82-10-401, 82-10-402, 82-10-506, 82-10-507, 82-11-103, 82-11-117, 82-11-141, 82-11-142, 82-11-151, 82-11-206, 82-11-209, 82-11-212, 82-11-303, 82-11-304, 82-11-305, 82-11-306, 82-15-204, 82-15-205, 85-1-622, 85-2-132, 85-2-134, 85-2-214, 85-2-218, 85-2-224, 85-2-234, 85-2-405, 85-2-412, 85-2-413, 85-2-416, 85-2-418, 85-2-804, 85-3-301, 85-3-411, 85-3-421, 85-5-102, 85-5-103, 85-5-104, 85-5-105, 85-5-108, 85-5-109, 85-5-110, 85-5-202, 85-5-302, 85-5-401, 85-5-402, 85-5-405, 85-5-406, 85-7-1504, 85-7-1506, 85-7-1507, 85-7-1508, 85-7-1615, 85-7-1618, 85-7-1703, 85-7-1811, 85-7-1901, 85-7-1912, 85-7-1924, 85-7-2017, 85-7-2027, 85-7-2114, 85-7-2115, 85-7-2116, 85-7-2133, 85-7-2153, 85-7-2166, 85-8-111, 85-8-115, 85-8-119, 85-8-121, 85-8-307, 85-8-308, 85-8-312, 85-8-314, 85-8-321, 85-8-345, 85-8-362, 85-8-364, 85-8-402, 85-8-403, 85-8-404, 85-8-612, 85-9-103, 85-9-304, 85-9-401, 85-9-402, 85-9-421, 85-9-502, 85-9-504, 85-9-628, 85-20-104, 85-20-105, 85-20-106, 87-1-204, 87-1-205, 87-1-206, 87-1-207, 87-1-208, 87-1-210, 87-1-225, 87-1-302, 87-1-402, 87-1-501, 87-1-511, 87-1-701, 87-1-704, 87-2-112, 87-2-203, 87-2-204, 87-2-602, 87-2-604, 87-2-1002, 87-3-123, 87-3-206, 87-3-221, 87-3-405, 87-3-506, 87-3-507, 87-4-301, 87-4-303, 87-4-602, 87-4-702, 87-4-703, 87-4-704, 87-4-705, 87-4-903, 87-4-904, 87-4-915, 87-4-1002, 87-4-1003, 87-5-108, 90-2-1111, 90-4-305, 90-4-309, 90-4-314, 90-4-317, 90-5-202, 90-6-120, 90-6-204, 90-6-303, AND 90-7-319, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 10-1-201, MCA, is amended to read:

“10-1-201. Officers. (1) The governor shall appoint all officers of the militia.

(2) Officers must be citizens of the United States.

(3) Before a person can be appointed an officer by the governor, ~~he shall~~ *the person must* be examined and adjudged qualified to be an officer by an examining board. The composition, appointment, and examination procedure of the board and the nature and scope of examinations ~~shall~~ *must* be prescribed by federal law or regulation or state regulations.

(4) Each officer shall hold office under ~~his~~ *the* appointment until ~~he~~ *the officer* is regularly appointed to another grade or office or until ~~he~~ *the officer* is regularly retired, discharged, dismissed, or placed in the reserve.”

Section 2. Section 10-1-202, MCA, is amended to read:

“10-1-202. Oath of office. (1) Except when a comparable oath is subscribed to under federal law or regulation, every officer shall take and subscribe to the following oath of office:

“I, ..., do solemnly swear that I will support and defend the constitution of the United States and the constitution of the state of Montana against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; and that I will obey the orders of the president of the United States and the governor of the state of Montana; that I make this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office of ... in the ... upon which I am about to enter, so help me God.”

(2) If an officer refuses or neglects to take the oath, ~~he shall be~~ *the officer is* considered to have resigned the office and a new appointment ~~shall~~ *must* be made.”

Section 3. Section 10-1-206, MCA, is amended to read:

“10-1-206. Examination as to fitness — board of examination. (1) The governor, when ~~he~~ *the governor* considers it necessary, may order an officer to appear before a board of examination. The board of examination ~~shall consist~~ *consists* of three officers, senior in rank to the officer whose fitness for service is under examination. The board may:

(a) inquire into the fitness for military service due to physical disability of an officer under 10-1-203(1)(b);

(b) inquire into the moral character, capacity, and professional fitness of an officer in order to make a recommendation under 10-1-205(2)(e).

(2) The board, under 10-1-203(1)(b), may recommend the retention of the officer being examined or ~~his~~ *recommend the officer's* retirement because of a physical inability to perform active service.

(3) The board, under 10-1-205(2)(e), may recommend the discharge and the vacating of ~~his~~ *the officer's* commission or warrant.

(4) The findings of the board become effective only upon the approval of the governor.”

Section 4. Section 10-1-302, MCA, is amended to read:

“10-1-302. Oath of enlistment. (1) Except when a comparable oath of enlistment is subscribed to under federal law or regulation, every person who enlists or reenlists shall take and subscribe to the following oath of enlistment:

“I hereby acknowledge to have voluntarily enlisted this ... day of ... in the ... of the United States and the state of Montana for a period of ... years under the conditions prescribed by law, unless sooner discharged by proper authority. And I do solemnly swear that I will bear true faith and allegiance to the United States of America and to the state of Montana, and that I will serve them

honestly and faithfully against all their enemies, and that I will obey the orders of the president of the United States, the governor of the state of Montana, and the officers appointed over me.”

(2) Any officer of the organized militia or any officer of the armed forces of the United States, detailed to duty with any component of the organized militia of this state, may administer the oath of enlistment to enlisted ~~men~~ *personnel*.”

Section 5. Section 10-1-405, MCA, is amended to read:

“10-1-405. Confinement of persons committed by military court. The keepers of a municipal or county jail shall receive a person committed to them by a military court and shall confine ~~him~~ *the person* in accordance with the direction of the court.”

Section 6. Section 10-1-503, MCA, is amended to read:

“10-1-503. Allowances for incidental expenses. Each commanding officer may receive an allowance for the incidental expenses of ~~his~~ *the* command.”

Section 7. Section 10-1-601, MCA, is amended to read:

“10-1-601. Actions against militia members — attorney’s attorney fees. When an action is commenced in a court against a member of the organized militia for an act done in ~~his~~ *an* official capacity in the discharge of ~~his~~ *the member’s* duty or for an alleged omission to do an act ~~which~~ *that* it was ~~his~~ *the member’s* duty to perform, the defendant ~~shall~~ *must* be defended by the attorney general at the expense of this state, but private counsel may be employed by the defendant.”

Section 8. Section 10-1-611, MCA, is amended to read:

“10-1-611. Authority of commanding officer to arrest. The commanding officer at any drill, parade, encampment, or other duty may order those under ~~his~~ *the commanding officer’s* command to perform any military duty ~~he~~ *the commanding officer* requires. The commanding officer may arrest, for the time of the drill, parade, encampment, or other duty, an officer or enlisted ~~man~~ *person* who disobeys the orders of ~~his~~ *a* superior officer.”

Section 9. Section 10-1-804, MCA, is amended to read:

“10-1-804. Bonus. A member is entitled to receive a bonus payment for each year of service for which ~~he~~ *the member* extends or reenlists. The bonus ~~shall~~ *must* be paid to each eligible member within 60 days following the successful completion of a year of service for which ~~he~~ *the member* extended or reenlisted. The secretary shall set the amount of the bonus based on the appropriation for that purpose.”

Section 10. Section 10-1-805, MCA, is amended to read:

“10-1-805. Eligibility. The bonus must be granted to a person who:

- (1) extends ~~his~~ *the person’s* original enlistment or reenlists in the Montana national guard;
- (2) holds a rank commensurate with a unit vacancy in accordance with the national guard bureau’s policy;
- (3) does not have 20 years of total service;
- (4) is not a civil service employee in a full-time capacity with the national guard, including but not limited to active duty for training or full-time training duty;

(5) is not eligible for any federally funded national guard bonus for the reenlistment or extension covered by this part; and

(6) attends 90% of the scheduled drills and annual training in the year for which the benefit is to be paid.”

Section 11. Section 10-1-806, MCA, is amended to read:

“10-1-806. Administration. (1) The secretary shall administer this part. ~~He~~ *The secretary* shall maintain records and make rules necessary for its administration.

(2) ~~He~~ *The secretary* shall determine the eligibility of members to receive the bonus and disburse a bonus payment upon a determination of eligibility.”

Section 12. Section 10-2-103, MCA, is amended to read:

“10-2-103. Seal — acknowledgments — officers. (1) The board may provide for a seal.

(2) The members and employees of the board may take acknowledgments, depositions, and administer oaths and affirmations in any matters connected with the affairs of the board or with the official duties of the members or employees of the board.

(3) The board shall select from its membership a ~~chairman~~ *presiding officer*, a ~~vice-chairman~~ *vice presiding officer*, and a secretary.”

Section 13. Section 10-2-105, MCA, is amended to read:

“10-2-105. Extra compensation for service forbidden. A member or employee of the board may not accept, receive, or charge any money or thing of value for the performance of any service rendered to any veteran or ~~his or her~~ *the veteran's* dependents, at any time or in any manner, other than the compensation allowed by law. A person who violates this section is guilty of a misdemeanor.”

Section 14. Section 10-2-107, MCA, is amended to read:

“10-2-107. Contracts for federal reimbursement funds. The governor of this state and the ~~chairman~~ *presiding officer* and secretary of the board may sign contracts with the federal government or any agency ~~thereof~~ *of the federal government* for the reimbursement of the board for any work ~~which~~ *that* the board may do for which any federal statute provides reimbursement to the states.”

Section 15. Section 10-3-101, MCA, is amended to read:

“10-3-101. Declaration of policy. Because of the existing and increasing possibility of the occurrence of disasters or emergencies of unprecedented size and destructiveness resulting from enemy attack, sabotage, or other hostile action and natural disasters and in order to provide for prompt and timely reaction to an emergency or disaster, to ~~insure~~ *ensure* that preparation of this state will be adequate to deal with disasters or emergencies, and generally to provide for the common defense and to protect the public peace, health, and safety and to preserve the lives and property of the people of this state, it is declared to be necessary to:

(1) authorize the creation of local or interjurisdictional organizations for disaster and emergency services in the political subdivisions of this state;

(2) reduce vulnerability of people and communities of this state to damage, injury, and loss of life and property resulting from natural or ~~man-made~~ *human-caused* disasters;

(3) provide a setting conducive to the rapid and orderly start of restoration and rehabilitation of persons and property affected by disasters;

(4) clarify and strengthen the roles of the governor, state agencies, and local governments in prevention of, preparation for, response to, and recovery from emergencies and disasters;

(5) authorize and provide for cooperation in disaster prevention, preparedness, response, and recovery;

(6) authorize and provide for coordination of activities relating to disaster prevention, preparedness, response, and recovery by agencies and officers of this state and similar state-local, interstate, federal-state, and foreign activities in which the state and its political subdivisions may participate;

(7) provide an emergency and disaster management system embodying all aspects of emergency or disaster prevention, preparedness, response, and recovery;

(8) assist in prevention of disasters caused or aggravated by inadequate planning for public and private facilities and land use;

(9) supplement, without in any way limiting, authority conferred by previous statutes of this state and increase the capability of the state, local, and interjurisdictional disaster and emergency services agencies to perform disaster and emergency services; and

(10) authorize the payment of extraordinary costs and the temporary hiring, with statutorily appropriated funds under 10-3-312, of professional and technical personnel to meet the state's responsibilities in providing assistance in the response to, recovery from, and mitigation of disasters in either state or federal emergency or disaster declarations."

Section 16. Section 10-3-102, MCA, is amended to read:

"10-3-102. Limitations. ~~Nothing in parts~~ *Parts* 1 through 4 of this chapter may *not* be construed to give any state, local, or interjurisdictional agency or public official authority to:

(1) interfere with the course or conduct of a labor dispute, except that actions otherwise authorized by parts 1 through 4 of this chapter or other laws may be taken when necessary to forestall or mitigate imminent or existing danger to public health or safety;

(2) interfere with dissemination of news or comment on public affairs; ~~but~~ *However*, any communications facility or organization, (including but not limited to radio and television stations, wire services, and newspapers), may be required to transmit or print public service messages furnishing information or instructions in connection with an emergency or disaster;

(3) affect the jurisdiction or responsibilities of police forces, firefighting forces, units of the armed forces of the United States, or ~~of any personnel thereof,~~ *of those entities* when on active duty; but state, local, and interjurisdictional disaster and emergency plans ~~shall~~ *must* place reliance upon the forces available for performance of functions related to emergencies and disasters; or

(4) limit, modify, or abridge the authority of the governor to proclaim martial law or exercise any other powers vested in ~~him~~ *the governor* under the constitution, statutes, or common law of this state independent of or in conjunction with any provisions of parts 1 through 4 of this chapter."

Section 17. Section 10-3-112, MCA, is amended to read:

“10-3-112. Employment requirements for personnel — political involvement of organizations prohibited. (1) A person may not be employed in any disaster and emergency services organization established under parts 1 through 4 of this chapter who advocates a change by force or violence in the constitutional form of the government of the United States or in this state or the overthrow of any government in the United States by force or violence or who has been convicted of or is under indictment or information charging any subversive act against the United States. Each person who is appointed to serve in an organization for disaster and emergency services shall, before entering upon ~~his~~ *the person’s* duties, take an oath, in writing, before a person authorized to administer oaths in this state, ~~which oath shall be that is~~ substantially as follows:

“I ..., swear (or affirm) that I will support and defend The Constitution of the United States and The Constitution of the State of Montana against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me, God.”

(2) An organization for disaster and emergency services established under this chapter may not participate in any form of political activity, nor may it be employed directly or indirectly for political purposes.”

Section 18. Section 10-3-204, MCA, is amended to read:

“10-3-204. Intergovernmental arrangements. (1) This state enacts into law and enters into the interstate mutual aid compact with all states, as defined ~~therein in the compact, which states that~~ have enacted or ~~shall hereafter~~ enact the compact in the form substantially contained in 10-3-207.

(2) The governor may enter into the compact with any state if ~~he~~ *the governor* finds that joint action with the state is desirable in meeting common intergovernmental problems of emergency and disaster planning, prevention, response, and recovery.

(3) ~~Nothing in subsections~~ *Subsections* (1) and (2) may *not* be construed to limit previous or future entry of this state into the interstate mutual aid compact.

(4) All interstate mutual aid compacts and other interstate agreements dealing with disaster and emergency services ~~shall~~ *must* be reviewed and made current at intervals not to exceed 4 years.

(5) If a person holds a license, certificate, or other permit issued by any state or political subdivision ~~thereof of a state~~ evidencing the meeting of qualifications for professional, mechanical, or other skills, the person may render aid involving that skill in this state to meet an emergency or disaster and this state shall give due recognition to the license, certificate, or other permit.

(6) When considered of mutual benefit, the governor may, subject to limitations of law, enter into intergovernmental arrangements with neighboring provinces of Canada for the purpose of exchanging disaster and emergency services.”

Section 19. Section 10-3-302, MCA, is amended to read:

“10-3-302. Declaration of emergency — effect and termination. (1) A state of emergency may be declared by the governor when ~~he~~ *the governor* determines that an emergency as defined in 10-3-103 exists.

(2) An executive order or proclamation of a state of emergency ~~shall activate~~ *activates* the emergency response and disaster preparation aspects of the state disaster and emergency plan and program applicable to the political subdivision or area and ~~be is~~ authority for the deployment and use of any forces to which the plans apply and for the distribution and use of any supplies, equipment, and materials and facilities assembled, stockpiled, or arranged to be made available pursuant to parts 1 through 4 of this chapter or any other provision of law pertaining to disasters and disaster-related emergencies.

(3) A state of emergency may not continue for longer than 20 days unless continuing conditions of the state of emergency exist, which ~~shall~~ *must* be determined by a declaration of an emergency by the president of the United States or by a declaration of the legislature by joint resolution of continuing conditions of the state of emergency.”

Section 20. Section 10-3-303, MCA, is amended to read:

“10-3-303. Declaration of disaster — effect and termination. (1) A state of disaster may be declared by the governor when ~~he~~ *the governor* determines that a disaster has occurred.

(2) An executive order or proclamation of a state of disaster ~~shall activate~~ *activates* the disaster response and recovery aspects of the state disaster and emergency plan and program applicable to the political subdivision or area and ~~be is~~ authority for the deployment and use of any forces to which the plans apply and for the distribution and use of any supplies, equipment, and materials and facilities assembled, stockpiled, or arranged to be made available pursuant to parts 1 through 4 of this chapter or any other provision of law pertaining to disaster and disaster-related emergencies.

(3) A state of disaster may not continue for longer than 30 days unless continuing conditions of the state of disaster exist, which ~~shall~~ *must* be determined by a declaration of a major disaster by the president of the United States or by the declaration of the legislature by joint resolution of continuing conditions of the state of disaster.

(4) The governor shall terminate a state of emergency or disaster when:

(a) the emergency or disaster has passed;

(b) the emergency or disaster has been dealt with to the extent that emergency or disaster conditions no longer exist; or

(c) at any time the legislature terminates the state of emergency or disaster by joint resolution. However, after termination of the state of emergency or disaster, disaster and emergency services required as a result of the emergency or disaster may continue.”

Section 21. Section 10-3-313, MCA, is amended to read:

“10-3-313. Temporary housing for disaster victims — site acquisition and preparation. (1) Whenever the governor has declared a state of emergency or state of disaster or the president has declared an emergency or a major disaster to exist in this state, the governor is authorized:

(a) to enter into purchase, lease, or other arrangements with any agency of the United States for temporary housing units to be occupied by emergency or disaster victims and to make ~~such~~ *the* units available to any political subdivision of the state;

(b) to assist any political subdivision of this state ~~which~~ *that* is the locus of temporary housing for emergency or disaster victims to acquire sites necessary

for ~~such~~ temporary housing and to do all things required to prepare ~~such~~ *the* site to receive and utilize temporary housing units by:

(i) advancing or lending funds available to the governor from any appropriation made for those purposes by the legislature or from any other source;

(ii) “passing through” funds made available for those purposes by any agency, public or private; or

(iii) becoming a copartner with the political subdivision for the execution and performance of any temporary housing project for emergency or disaster victims;

(c) under ~~such~~ regulations ~~as he shall prescribe~~ *that the governor prescribes*, to temporarily suspend or modify for not to exceed 60 days any *state laws or regulations relating to* public health, safety, zoning, or transportation, (within or across the state), ~~laws or regulations within this state~~ when by proclamation ~~he the governor~~ declares ~~such the~~ suspension or modification essential to provide temporary housing for emergency or disaster victims.

(2) Any political subdivision of this state is expressly authorized to acquire, temporarily or permanently, by purchase, lease, or otherwise, sites required for installation of temporary housing units for emergency or disaster victims and to enter into whatever arrangements, including purchase of temporary housing units and payment of transportation charges, ~~which that~~ are necessary to prepare or equip ~~such the~~ sites to utilize the housing units.

(3) ~~Nothing contained in parts~~ *Parts* 1 through 4 of this chapter shall *may* not be construed to limit the governor’s authority to apply for, administer, and expend any grants, gifts, or payments in aid of emergency or disaster prevention, preparedness, response, or recovery.”

Section 22. Section 10-3-314, MCA, is amended to read:

“10-3-314. Community disaster loans. Whenever, at the request of the governor, the president has declared a major disaster to exist in this state, the governor is authorized:

(1) upon ~~his~~ *the governor’s* determination that a political subdivision of the state will suffer a substantial loss of tax and other ~~revenues~~ *revenue* from an emergency or disaster and has demonstrated a need for financial assistance to perform its governmental functions, to apply to the federal government, on behalf of the political subdivision, for a loan. The proceeds are statutorily appropriated, as provided in 17-7-502, to the governor, who may receive and disburse the proceeds of any approved loan to any applicant political subdivision.

(2) to determine the amount needed by any applicant political subdivision to restore or resume its governmental functions and to certify the same to the federal government. However, ~~no~~ *the* application amount may *not* exceed 25% of the annual operating budget of the applicant for the fiscal year in which the emergency or disaster occurs.

(3) to recommend to the federal government, based upon ~~his~~ *the governor’s* review, the cancellation of all or any part of repayment when, in the first 3 full fiscal years following the emergency or disaster, the ~~revenues~~ *revenue* of the political subdivision ~~are~~ *is* insufficient to meet its operating expenses, including additional ~~emergency-~~ *emergency-related* or disaster-related expenses of ~~a~~ *the* political subdivision ~~operation character.~~”

Section 23. Section 10-3-501, MCA, is amended to read:

“10-3-501. Policy of state. (1) The legislature recognizes that an enemy attack upon the United States is a possibility; that such an attack might be of unprecedented size and destructiveness; that a considerable period of time may elapse after an enemy attack before federal operational control over the management of resources can be instituted; and that federal planning and activities with respect to postattack recovery and rehabilitation are predicated on the ability of the states and their political subdivisions to prepare for and respond promptly to the problems created by an enemy attack. Therefore, it is necessary to confer upon the governor and upon the executive heads of governing bodies of political subdivisions of this state the emergency powers provided for in this part.

(2) It is the purpose of this part and the policy of this state that all resource management functions of this state be coordinated to the maximum extent with the comparable functions of the federal government, of other states and localities, and of private agencies to the end that the most effective preparation and use may be made of available ~~manpower~~ *personnel*, resources, and facilities in an emergency.”

Section 24. Section 10-3-503, MCA, is amended to read:

“10-3-503. Governor’s powers and duties. (1) The governor has general direction and control of the emergency resources management within this state and all officers, boards, agencies, individuals, or groups established under the emergency resources management plan.

(2) In performing ~~his~~ duties under this part, the governor may cooperate with the federal government, with other states, and with private agencies in all matters pertaining to the emergency management of resources.

(3) In performing ~~his~~ duties under this part and to effect its policies and purpose, the governor may make, amend, and rescind the necessary orders and rules to carry out this part within the limits of authority conferred upon ~~him~~ *the governor*, with due consideration of the emergency resources management plans of the federal government.”

Section 25. Section 10-3-505, MCA, is amended to read:

“10-3-505. Proclamation of emergency — effect and termination. (1) Following an attack, ~~the governor~~, if ~~he~~ *the governor* finds ~~such~~ *that* action is necessary to deal with the danger to the public safety caused ~~thereby~~ *by the attack* or to aid in the postattack recovery or rehabilitation of the United States or any part ~~thereof~~ *of the United States*, ~~the governor~~ shall declare by proclamation the existence of a postattack recovery and rehabilitation emergency. ~~Any such~~ *A* proclamation ~~shall be~~ *is* ineffectual unless the legislature is then in session or the governor simultaneously issues an order convening the legislature in special session within 45 days.

(2) During the period when the proclamation issued under subsection (1) ~~of this section~~ is in force or during the continuance of any emergency declared by the president of the United States or the congress calling for postattack recovery and rehabilitation activities, subject to the limitations set forth in this part and in a manner consistent with any rules or orders and policy guidance issued by the federal government, the governor may issue, amend, and enforce rules and orders to:

(a) control, restrict, and regulate, by rationing, freezing, use of quotas, prohibitions on shipments, price fixing, allocation, or other means, the use, sale, or distribution of food, feed, fuel, clothing and other commodities, materials, goods, or services;

(b) prescribe and direct activities in connection with but not limited to use, conservation, salvage, and prevention of waste of materials, services, and facilities, including production, transportation, power, and communication facilities, training and supply of labor, utilization of industrial plants, health and medical care, nutrition, housing, including the use of existing and private facilities, rehabilitation, education, welfare, child care, recreation, consumer protection, and other essential civil needs; and

(c) take ~~such~~ other action as *that* may be necessary for the management of resources following an attack.

(3) All rules and orders issued under authority conferred by this part have the effect of law during the continuance of a proclamation or declaration of emergency as contemplated by this section when a copy of the rule or order is filed in the office of the secretary of state or, if issued by a local or area official, when filed in the office or offices of the county clerk and recorder. If, by reason of destruction or disruption attendant upon or resulting from attack, the filing requirements of this subsection cannot be met, public notice by ~~such~~ means as *that* may be available ~~shall~~ *must* be considered a complete and sufficient substitute. All existing laws, ordinances, rules, and orders inconsistent with the provisions of this part or any rule or order issued under the authority ~~thereof~~ ~~shall be of this part is~~ inoperative during the period of time and to the extent ~~such~~ *that* inconsistency exists.

(4) Any authority exercised under a proclamation of emergency contemplated by this section may be exercised with respect to the entire territory over which the governor or other official, as the case may be, has jurisdiction or to any specified part ~~thereof~~ *of the territory*.

(5) The governor's power and authority to issue a proclamation following an attack ~~shall~~ *must* be terminated by the passage of a joint resolution of the legislature or by declaration of the termination of the emergency by the president or by the congress; ~~however~~ *However*, the proclamation ~~shall~~ *must* terminate automatically 6 months after issuance and a similar proclamation may not be issued unless concurrence is given ~~thereto~~ by a joint resolution of the legislature."

Section 26. Section 10-3-605, MCA, is amended to read:

"10-3-605. Filling vacancy for city or town executive. ~~In the event that~~ *If* the executive head of any city or town is unavailable following an enemy attack to exercise the powers and discharge the duties of ~~his~~ office, then those members of the city or town council or commission available shall, by majority vote, choose a successor to act as the executive head of ~~such~~ *the* city or town."

Section 27. Section 10-3-607, MCA, is amended to read:

"10-3-607. Relocating seat of state government. If the seat of state government at Helena is rendered unsuitable for use in that capacity, the seat of state government may be moved to an alternate location within the boundaries of the state of Montana by proclamation of the governor. ~~He~~ *The governor* shall consider other Montana cities in order of their population in the last federal census, giving consideration to available communications, office space, and ~~such~~ other factors as ~~may seem to him~~ *considered* pertinent. ~~Such~~ *The* move of the seat of government ~~shall be~~ *is* effective until it is again moved by proclamation of the governor or action by the legislature."

Section 28. Section 10-3-702, MCA, is amended to read:

“10-3-702. Definitions. As used in this part, the following definitions apply:

(1) “Jurisdiction” means the jurisdiction of any law enforcement agency within Montana.

(2) “Tactical incident” means any situation in which it is reasonable to expect the possibility of the loss of life or the taking of a hostage unless extraordinary steps are taken. These situations may include but are not limited to:

- (a) a barricaded ~~gunman~~ *person with a gun*;
- (b) a person taken hostage;
- (c) arrests in extraordinary circumstances;
- (d) civil disorder;
- (e) terrorist activity;
- (f) protection of a dignitary; and
- (g) courtroom security in extraordinary circumstances.

(3) “Tactical team” means a small group of highly disciplined law enforcement officers trained to provide a quick and ready response to ~~high-risk~~ *high-risk* conditions and situations that go beyond the capabilities of normally trained and equipped officers. With specialized training, tactics, and equipment, this small group of officers provides a greater expectation of resolving incidents without loss of property, injury, or loss of life.”

Section 29. Section 10-3-1106, MCA, is amended to read:

“10-3-1106. Submission of agreement to attorney general. (1) As a condition precedent to an agreement becoming effective under this part, the agreement must be submitted to and receive the approval of the state attorney general.

(2) The attorney general shall approve an agreement submitted ~~to him~~ under this part unless ~~he~~ *the attorney general* finds that it is not in proper form, does not meet the requirements set forth in this part, or otherwise does not conform to the laws of Montana. If ~~he disapproves~~ an agreement, ~~he is disapproved,~~ *the attorney general* shall provide a detailed, written statement to the appropriate governing bodies of the fire protection services, emergency medical care providers, and local government subdivisions.

(3) If the attorney general does not disapprove an agreement within 60 days after its submission ~~to him~~, it is considered approved.”

Section 30. Section 13-1-114, MCA, is amended to read:

“13-1-114. Computation of elector’s age and term of residence. An elector’s age and the term of ~~his~~ *an elector’s* residence must be computed by including the day of election.”

Section 31. Section 13-1-201, MCA, is amended to read:

“13-1-201. Chief election officer. The secretary of state is the chief election officer of this state, and it is ~~his~~ *the secretary of state’s* responsibility to obtain and maintain uniformity in the application, operation, and interpretation of the election laws other than those in *Title 13*, chapters 35, 36, or 37 of ~~this title~~.”

Section 32. Section 13-2-112, MCA, is amended to read:

“13-2-112. Register of electors to be kept. Each election administrator shall keep an official register of electors in the manner ~~he~~ *that the administrator* considers most efficient. The original signed registration form for each elector ~~shall~~ *must* be filed alphabetically in a separate file for each precinct. Additional files and records may be established for convenience. The information recorded in the official register of electors and the design of the registration forms ~~shall~~ *must* be prescribed by the secretary of state.”

Section 33. Section 13-2-206, MCA, is amended to read:

“13-2-206. Citizenship requirements. A person ~~shall~~ *may* not be permitted to register until ~~he~~ *the person* attains United States citizenship.”

Section 34. Section 13-2-221, MCA, is amended to read:

“13-2-221. Agency-based registration. (1) Qualified individuals must be given the opportunity to register to vote when applying for or receiving services or assistance:

- (a) at an agency that provides public assistance;
- (b) at or through an agency that provides state-funded programs primarily engaged in providing services to persons with disabilities; or
- (c) at another agency designated by the secretary of state with the consent of the agency.

(2) Agency-based registration sites must:

- (a) distribute application for voter registration forms with each application for services or assistance; and
- (b) assist an applicant in completing an application for voter registration form; unless the applicant refuses assistance.

(3) The completed application for voter registration form must be transmitted by the agency to the election administrator of the county of the elector’s residence within the time period specified by 42 U.S.C. 1973gg, et seq.

(4) As used in this section, ~~the following definitions apply:~~

~~(a) “Agency” “agency” means a state agency as defined in 2-4-102(2)(a) or an office of a political subdivision.~~

~~(b) “Political subdivision” means a city, county, consolidated city-county government, or town.”~~

Section 35. Section 13-3-102, MCA, is amended to read:

“13-3-102. Change of precinct boundaries. (1) The county governing body may change the boundaries of precincts, but not within 100 days before any primary or between a general election and the primary for that election. When the changes are required to make precinct boundaries conform to legislative district boundaries following the adoption of a districting and apportionment plan under Article V, section 14, of the ~~1972~~ Montana constitution or other district boundaries changed by the districting and apportionment plan, the changing of precinct boundaries must be accomplished within 45 days of the filing of the final plan.

(2) All changes must be certified to the election administrator 3 days or less after the change is made.

(3) The officials responsible for preparing a districting and apportionment plan shall consider the problems of conforming present precinct boundaries to the new districts as well as existing boundaries of wards, school districts, and

other districts. The election administrator of counties involved in the plan ~~shall~~ *must* be consulted before adoption of the final plan.”

Section 36. Section 13-3-103, MCA, is amended to read:

“13-3-103. Certification of boundary changes. (1) Not more than 10 days after an order of the governing body has established or changed the boundaries of an election precinct, the governing body shall ~~cause to be prepared and delivered to the election administrator~~ *ensure that* a written legal description and a map showing the borders of all precincts and districts in which elections are held within the county *are prepared and delivered to the election administrator*.

(2) Not more than 10 days after school district or other election district boundaries have been changed, the governing body making the change shall certify any changes or alterations in the boundaries to the election administrator and deliver a written legal description and a map showing boundaries of the wards, school districts, or other election districts. The map must be sufficiently detailed to clearly identify the wards or districts and the territory included in each.”

Section 37. Section 13-3-201, MCA, is amended to read:

“13-3-201. Purpose. The purpose of this part is to promote the fundamental right to vote by improving access *to polling places* for individuals with disabilities and elderly individuals ~~to polling places~~. The provisions of this part acknowledge that, in certain cases, it may not be possible to locate a polling place that meets the standards for accessibility, either because an accessible polling place does not exist or, if it does, its location in the precinct would require undue travel for a majority of the electors. In those cases when an accessible polling place is not available, this part provides voters with disabilities and elderly voters an alternative means for casting a ballot on election day.”

Section 38. Section 13-3-211, MCA, is amended to read:

“13-3-211. Emergency exemption. (1) The secretary of state shall exempt a polling place from the requirements of this part if an emergency occurs within 10 days prior to an election. An emergency is considered to exist if a polling place becomes unavailable by reason of loss of lease, fire, snow, or natural disaster.

(2) If an emergency occurs, the election administrator in the county shall designate a new polling place in accordance with the procedure provided in 13-3-105. The new polling place ~~must be~~ *is* considered temporary and ~~must be~~ *is* exempt from the survey procedures established under 13-3-206. However, ~~such~~ *the* polling place may not be used in a subsequent election unless it is surveyed as required in 13-3-206.”

Section 39. Section 13-10-203, MCA, is amended to read:

“13-10-203. Indigent candidates. If an individual is unable to pay a filing fee, the filing officer shall accept the following documents in lieu of a filing fee:

(1) from a successful write-in candidate, a verified statement that ~~he~~ *the candidate* is unable to pay the filing fee;

(2) from a candidate for nomination, a verified statement that ~~he~~ *the candidate* is unable to pay the filing fee and a written petition for nomination as a candidate that meets the following requirements:

(a) *the petition* contains the name of the office to be filled and the candidate’s name and residence address;

(b) *the petition* contains signatures numbering 5% or more of the total vote cast for the successful candidate for the same office at the last general election;

(c) the signatures are those of electors residing within the political subdivision of the state in which the candidate petitions for nomination; and

(d) the signatures have been certified by the appropriate election administrator by the procedure provided in 13-27-303 and 13-27-304.”

Section 40. Section 13-10-305, MCA, is amended to read:

“13-10-305. Independent forfeits place on ballot. An individual who has filed as an independent candidate forfeits ~~his~~ *the individual's* place on the general election ballot as an independent candidate if ~~he~~ *the individual* accepts a write-in nomination for an office as provided in 13-10-204.”

Section 41. Section 13-10-325, MCA, is amended to read:

“13-10-325. Withdrawal from nomination. (1) A candidate for nomination or candidate for election to an office may withdraw from the election by sending a statement of withdrawal to the officer with whom ~~his~~ *the candidate's* declaration, petition, or acceptance of nomination was filed. The statement must contain all information necessary to identify the candidate and the office sought and the reason for withdrawal. ~~It shall~~ *The statement must* be sworn or affirmed before an officer empowered to administer oaths. A candidate may not withdraw later than 85 days before a general election or 75 days before a primary election.

(2) Filing fees paid by the candidate may not be refunded.”

Section 42. Section 13-10-501, MCA, is amended to read:

“13-10-501. Petition for nomination by independent candidates or political parties not eligible to participate in primary election. (1) Except as provided in 13-10-504, nominations for public office by an independent candidate or a political party ~~which~~ *that* does not meet the requirements of 13-10-601 may be made by a petition for nomination.

(2) The petition must contain the same information and the oath of the candidate required for a declaration for nomination.

(3) If a petition is filed by a political party, it must contain the party name and, in five words or less, the principle ~~which~~ *such that the* body represents.

(4) The form of the petition ~~shall~~ *must* be prescribed by the secretary of state, and ~~he~~ *the secretary of state* shall furnish sample copies to the election administrators and on request to any individual.

(5) Each sheet of a petition must contain signatures of electors residing in only one county.”

Section 43. Section 13-10-507, MCA, is amended to read:

“13-10-507. Independent candidates — association with political parties not allowed. (1) A person seeking office as an independent candidate may not be associated with a political party for 1 year prior to the submission of ~~his~~ *the person's* nomination petition.

(2) For the purposes of subsection (1), “associated with a political party” means having run for office as a partisan candidate or having held an office with a political party designation.”

Section 44. Section 13-10-602, MCA, is amended to read:

“13-10-602. Use of party name. (1) ~~Every~~ *A* political party and its regularly nominated candidates, members, and officers have the sole and

exclusive right to the use of the party name. ~~No~~ A candidate for office may *not* use any word of the name of any other political party or organization other than that by which ~~he~~ *the candidate* is nominated.

(2) An independent or nonpartisan candidate ~~shall~~ *may* not use any word of the name of any existing political party or organization in ~~his~~ *the* candidacy.”

Section 45. Section 13-12-210, MCA, is amended to read:

“13-12-210. Number of ballots to be provided for each precinct. (1) The election administrator shall provide each election precinct with sufficient ballots for the electors registered, plus an extra supply to cover spoiled ballots.

(2) The election administrator shall keep a record in ~~his~~ *the administrator’s* office showing the exact number of ballots that are delivered to the election judges of each precinct.”

Section 46. Section 13-13-118, MCA, is amended to read:

“13-13-118. Taking ballot to disabled elector. (1) The chief election judge may appoint two election judges who represent different political parties to take a ballot to an elector able to come to the premises where a polling place is located but unable to enter the polling place because of a disability. The elector may request assistance in marking ~~his~~ *the* ballot as provided in 13-13-119.

(2) The judges shall have the elector sign an oath form stating ~~he~~ *that the elector* is entitled to vote and shall write in the precinct register by the elector’s name “voted on the premises by oath” and sign their names.

(3) When the ballot or ballots are marked and folded, the judges shall immediately take them into the polling place and give them to the judge at the ballot box. The judge receiving the voted ballots shall distinctly announce ~~he~~ *that the judge* has “a ballot offered by (name), an elector physically unable to enter the room. Does anyone object to the reception of the ballot?” If ~~no~~ *an* objection is *not* heard, the judge shall remove the stub and place the ballot and stub in the proper boxes. Any challenge to the elector’s right to vote ~~shall~~ *must* be resolved as provided in Title 13, chapter 13, part 3.”

Section 47. Section 13-13-120, MCA, is amended to read:

“13-13-120. Poll watchers — announcement of elector’s name. The election judges shall permit one poll watcher from each political party to ~~station himself~~ *be stationed* close to the poll lists in a location that does not interfere with the election procedures. At the time when each elector signs ~~his~~ *the elector’s* name, one of the election judges shall pronounce the name loud enough to be heard by the poll watchers. A poll watcher who does not understand the pronunciation has the right to request that the judge repeat the name. Poll watchers ~~shall~~ *must* also be permitted to observe all of the vote counting procedures of the judges after the closing of the polls and all entries of the results of the elections.”

Section 48. Section 13-13-225, MCA, is amended to read:

“13-13-225. Special absentee election boards — members — appointment. (1) The election administrator shall designate and appoint a number of special absentee election boards as needed to serve in various places to deliver ballots to electors who are entitled to vote by absentee ballot as provided in 13-13-229.

(2) In a partisan election, each special absentee election board must consist of two members, one from each of the two political parties receiving the highest

number of votes in the state during the last preceding general election. Board members shall reside in the county in which they serve.

(3) A member of a special absentee election board may not be a candidate or a spouse, ascendant, descendant, brother, or sister of a candidate or of a candidate's spouse or the spouse of any one of these if the candidate's name appears on a ballot in the county."

Section 49. Section 13-13-227, MCA, is amended to read:

"13-13-227. Oath of board members. Before assuming any of ~~his~~ *the* responsibilities under this part, each member of a special absentee election board ~~must~~ *shall* take and subscribe the official oath in the same manner as prescribed for an election judge in 13-4-105."

Section 50. Section 13-13-602, MCA, is amended to read:

"13-13-602. Fail-safe and provisional voting by mail. (1) To ensure the election administrator has information sufficient to determine the elector's eligibility to vote, an elector voting by mail may enclose in the outer return envelope, together with the voted ballot in the secrecy envelope, a copy of a current and valid photo identification with the elector's name or a copy of a current utility bill, bank statement, paycheck, notice of confirmation of voter registration issued pursuant to 13-2-207, government check, or other government document that shows the elector's name and current address.

(2) ~~If~~ *The elector's ballot must be handled as a provisional ballot under 13-15-107 if:*

(a) a provisionally registered elector voting by mail does not enclose with the ballot the information described in subsection (1);

(b) if the information provided under subsection (1) is invalid or insufficient to verify the elector's eligibility; or

(c) if the elector's name does not appear on the precinct register, ~~the elector's ballot must be handled as a provisional ballot under 13-15-107.~~

Section 51. Section 13-14-111, MCA, is amended to read:

"13-14-111. Application of general laws. ~~Candidates~~ *Except as otherwise provided in this chapter, candidates* for nonpartisan offices, including judicial offices, ~~shall~~ *must* be nominated and elected according to the provisions of this title ~~except as otherwise provided in this chapter.~~

Section 52. Section 13-14-211, MCA, is amended to read:

"13-14-211. Judicial offices separate and independent offices for election purposes. (1) Each vacancy for justice of the supreme court is a separate and independent office for election purposes. The chief justice of the supreme court shall assign an individual number to the justices and certify these numbers to the office of the secretary of state.

(2) Each vacancy for judicial office in a district ~~which~~ *that* has more than one district judge is a separate and independent office for election purposes.

(3) Each vacancy for office in a county ~~which~~ *that* has more than one justice of the peace is a separate and independent office for election purposes."

Section 53. Section 13-14-212, MCA, is amended to read:

"13-14-212. Form of ballot on retention of certain incumbent judicial officers. (1) ~~If there is no candidate other than the incumbent~~ *is the only candidate* for the office of chief justice, supreme court justice, district court

judge, or justice of the peace, the name of the incumbent must be placed on the official ballot for the general election as follows:

Shall (insert title of officer) (insert name of the incumbent officer) of the (insert title of the court) of the state of Montana be retained in office for another term?

(2) Following the question, provision must be made, subject to rules adopted pursuant to 13-12-202, for a voter to indicate a “yes” or “no” vote.”

Section 54. Section 13-15-201, MCA, is amended to read:

“13-15-201. Preparation for count. (1) Subject to 13-10-311, to prepare for a manual or automatic count of ballots, the counting board or, if appointed, the absentee counting board shall take ballots out of the box to determine whether each ballot is single.

(2) An absentee ballot must be rejected and handled as provided in 13-15-108 if in the envelope ~~there is~~ *contains* more than one voted ballot for each election.

(3) The board shall count all ballots to ensure that the total number of ballots corresponds with the total number of names in the pollbook.

(4) If the board cannot reconcile the total number of ballots with the pollbook, the board shall submit to the election administrator a written report stating how many ballots were missing or in excess and any reason of which they are aware for the discrepancy. Each judge on the board shall sign the report.

(5) A ballot that is not marked as official is void and may not be counted unless all judges on the board agree that the marking is missing because of an error by election officials, in which case the ballot must be marked “unmarked by error” on the back and must be initialed by all judges.

(6) If two or more ballots are folded or stuck together to look like a single ballot, they must be laid aside until the count is complete. The counting board shall compare the count with the pollbooks, and if a majority believes that the ballots folded together were voted by one elector, the ballots must be rejected and handled as provided in 13-15-108, otherwise they must be counted.”

Section 55. Section 13-15-204, MCA, is amended to read:

“13-15-204. Signing and certifying pollbook. Immediately after the votes are counted and the ballots sealed up, the pollbook shall *must* be signed and certified to by the election judges in a form prescribed by the secretary of state.”

Section 56. Section 13-15-205, MCA, is amended to read:

“13-15-205. Items to be delivered to election administrator by election judges — disposition of other items. (1) Before they adjourn, the election judges shall enclose in a strong envelope or package, securely fastened:

- (a) the precinct register;
- (b) the list of individuals challenged;
- (c) the pollbook;
- (d) both of the tally sheets.

(2) The election judges shall enclose in a separate package or envelope, securely sealed, all unused ballots with the numbered stubs attached.

(3) The election judges shall enclose in a separate package or envelope, securely sealed, all ballots voted, including those not counted or allowed, and

detached stubs from all counted or rejected absentee ballots. This envelope ~~shall~~ *must* be endorsed on the outside "ballots voted". At the primary election the unvoted party ballots ~~shall~~ *must* be enclosed in a separate package or envelope, securely sealed, and marked on the outside "unvoted ballots".

(4) Each election judge shall write ~~his~~ *the judge's* name across all seals.

(5) The return form provided for in 13-15-101 ~~shall~~ *must* be returned with the items provided for in this section but may not be sealed in any of the packages.

(6) The envelopes or packages required by this section ~~shall~~ *must* be delivered to the election administrator by the chief election judge or another judge appointed by the chief judge in the manner ordered by the election administrator.

(7) The election administrator shall instruct the chief election judge in writing on the proper disposition of all other election materials and supplies."

Section 57. Section 13-15-403, MCA, is amended to read:

"13-15-403. Canvass to be public — nonessentials to be disregarded — petition for recount. (1) The canvass ~~shall~~ *must* be public. It ~~shall~~ *must* proceed by opening the returns, auditing the tally books or other records of votes cast, determining the vote for each individual and for and against each ballot issue from each precinct, compiling totals, and declaring or certifying the results.

(2) The board shall record all write-in votes shown in the returns from each precinct.

(3) The returns may not be rejected because of failure to show who administered the oath to the election judges, failure to complete all the certificates in a pollbook, or ~~because of~~ failure of any other act making up the returns that is not essential to determine for whom the votes were cast.

(4) If during a canvass the board finds an error in a precinct or precincts affecting the accuracy of vote totals, the board immediately may petition for a recount of the votes cast in the precinct or precincts, as provided in 13-16-201, or for an inspection of ballots, as provided in 13-16-420."

Section 58. Section 13-15-404, MCA, is amended to read:

"13-15-404. Information to be entered on record. (1) The secretary of the board shall prepare and file in the official records of ~~his~~ *the secretary's* office a report of the canvass ~~which~~ *that* lists:

(a) the total number of electors voting in each precinct, district, or portion of a district in the county and the total in the county;

(b) the name of each individual receiving votes and the office for which the votes were received;

(c) the number and title of each ballot issue;

(d) the votes by precinct, district, or portion of a district within the county for each individual and for and against each ballot issue;

(e) the total votes in the county for each individual and for and against each ballot issue; and

(f) for municipal elections, the total number of electors voting in each municipality and the votes by municipality for each individual and for and against each ballot issue.

(2) Write-in votes for an individual ~~shall~~ *must* be entered in the report in the same place as the votes for other individuals for the same office but ~~shall~~ *must* be identified as write-in votes.”

Section 59. Section 13-15-502, MCA, is amended to read:

“13-15-502. Composition and meeting of board of state canvassers. Within 20 days after the election, or sooner if the returns are all received, the state auditor, superintendent of public instruction, and attorney general shall meet as a board of state canvassers in the office of the secretary of state and determine the vote. The secretary of state shall serve as secretary of the board, keep minutes of the meeting of the board, and file them in the official records of ~~his~~ *the secretary of state’s* office.”

Section 60. Section 13-15-504, MCA, is amended to read:

“13-15-504. Governor to issue commissions. Upon receipt of the statements required by 13-15-507 and 13-37-127, the governor shall issue commissions to the individuals elected. If the governor has been elected to ~~succeed himself~~ *an additional term*, the secretary of state shall issue the commission.”

Section 61. Section 13-15-505, MCA, is amended to read:

“13-15-505. Canvass to be public — procedure. (1) The canvass ~~shall~~ *must* be public. It ~~shall~~ *must* proceed by opening the returns from each county, auditing the records from each county for errors, determining the vote for each individual and for and against each ballot issue in each county, compiling totals, and declaring and certifying the results.

(2) The board shall record all write-in votes shown in the returns received from each county.”

Section 62. Section 13-15-506, MCA, is amended to read:

“13-15-506. Report of the canvass. (1) The secretary of the board shall prepare and file in the official records of ~~his~~ *the secretary of state’s* office a report of the canvass ~~which~~ *that* lists:

(a) the total number of electors voting in each county and in each legislative house district and the total in the state;

(b) the name of each individual receiving votes and the office for which the votes were received;

(c) the number and title of each ballot issue; and

(d) the votes by county and legislative house district and the total votes for each individual and for and against each ballot issue.

(2) Write-in votes for an individual ~~shall~~ *must* be entered in the report in the same place as votes of other individuals for the same office but ~~shall~~ *must* be identified as write-in votes.”

Section 63. Section 13-16-101, MCA, is amended to read:

“13-16-101. County governing body as county recount board. (1) The county recount board ~~shall~~ *must* consist of three members.

(2) Three members of the governing body ~~shall~~ *must* be appointed by the ~~chairman~~ *presiding officer* if there are more than three members of the governing body.

(3) If three members of the governing body cannot attend when the board meets, any vacant ~~place~~ *shall position* *must* be filled by one or more county officers chosen by the remaining members of the governing body.

(4) If a member of the recount board is a candidate for an office or nomination for which votes are to be recounted, ~~he shall~~ *the member must* be disqualified.

(5) The election administrator is secretary of the recount board, and the board may hire any additional clerks as needed.

(6) The board may appoint county employees or hire clerks to assist as needed.”

Section 64. Section 13-16-201, MCA, is amended to read:

“13-16-201. Conditions under which recount to be conducted. (1) A recount must be conducted if:

(a) a candidate for *a precinct office or for* a county, municipal, or district office voted for in only one county, other than a legislator or a judge of the district court, ~~or a precinct office~~ is defeated by a margin not exceeding 1/4 of 1% of the total votes cast or by a margin not exceeding 10 votes, whichever is greater, and the defeated candidate, within 5 days after the official canvass, files with the election administrator a verified petition stating that the candidate believes that a recount will change the result and that a recount of the votes for the office or nomination should be conducted;

(b) a candidate for a congressional office, a state or district office voted on in more than one county, the legislature, or judge of the district court is defeated by a margin not exceeding 1/4 of 1% of the total votes cast for all candidates for the same position; and the defeated candidate, within 5 days after the official canvass, files a petition with the secretary of state as set forth in subsection (1)(a). The secretary of state shall immediately notify by certified mail each election administrator whose county includes any precincts that voted for the office, and a recount must be conducted in those precincts.

(c) a question submitted to the vote of the people of a county, municipality, or district within a county is decided by a margin not exceeding 1/4 of 1% of the total votes cast for and against the question and a petition as set forth in subsection (1)(a) is filed with the election administrator. This petition must be signed by not less than 10 electors of the jurisdiction and must be filed within 5 days after the official canvass.

(d) a question submitted to the vote of the people of the state is decided by a margin not exceeding 1/4 of 1% of the total votes cast for and against the question and a petition as set forth in subsection (1)(a) is filed with the secretary of state. This petition must be signed by not less than 100 electors of the state, representing at least five counties of the state, and must be filed within 5 days after the official canvass.

(e) a question submitted to the vote of the people of a multicounty district is decided by a margin not exceeding 1/4 of 1% of the total votes cast for and against the question and a petition as set forth in subsection (1)(a) is filed with the secretary of state. This petition must be signed by not less than 25 electors of the district, representing at least two counties, and must be filed within 5 days after the official canvass.

(f) if a canvassing board petitions for a recount as provided in 13-15-403.

(2) When a recount is required under subsection (1)(b), (1)(d), or (1)(e), the secretary of state shall immediately notify each election administrator by certified mail of the filing of the petition, and a recount must be conducted in all precincts in each affected county.”

Section 65. Section 13-16-203, MCA, is amended to read:

“13-16-203. Recount for tie votes. When a tie has been certified to the election administrator, as provided in 13-15-405(4), or the secretary of state, ~~he~~ *the administrator or the secretary of state* shall proceed as if a petition for a recount has been filed. If a tie exists after the recount, the tie ~~shall~~ *must* be resolved as provided by law.”

Section 66. Section 13-16-204, MCA, is amended to read:

“13-16-204. Meeting of recount board when recount requested. (1) Immediately upon receiving a petition for a recount or a notice from the secretary of state that a petition has been filed ~~with him~~, as provided in 13-16-201, the election administrator shall notify the members of the county recount board.

(2) The board shall convene at the usual meeting place of the governing body without undue delay but not later than 5 days after receiving notice from the election administrator.”

Section 67. Section 13-16-211, MCA, is amended to read:

“13-16-211. Recounts allowed if bond posted to cover all costs. (1) If a candidate for a public office is defeated by a margin exceeding 1/4 of 1% but not exceeding 1/2 of 1% of the total votes cast for all candidates for the same position, ~~he~~ *the candidate* may, within 5 days after the official canvass, file with the officer with whom ~~his~~ *the candidate's* declaration or petition for nomination was filed a petition stating that ~~he~~ *the candidate* believes a recount will change the result of the election.

(2) The unsuccessful candidate shall post a bond with the clerk and recorder of the county in which ~~he~~ *the candidate* resides. The bond must be in an amount set by the clerk and recorder sufficient to cover all costs of the recount incurred by each county in which a recount is sought, including loss of time of regular employees caused by absence from their regular duties.

(3) Upon the filing of a petition and posting of a bond under this section, the board of county canvassers in each county affected shall meet and recount the ballots specified in the petition.”

Section 68. Section 13-16-301, MCA, is amended to read:

“13-16-301. Application and court order for recount. (1) (a) Within 5 days after the canvass of election returns, an unsuccessful candidate for any public office at an election may apply to the district court of the county where the election was held for an order directing the county recount board to make a recount of the votes cast in any or all of the precincts. If the election was held in more than one county, the application ~~shall~~ *must* be made to the district court of the county where the candidate resides.

(b) Within 5 days after the canvass of election returns, an elector who was eligible to vote on the issue and who believes that there are grounds for a recount of the votes cast for and against a ballot issue may apply to the district court of the county where ~~he~~ *the elector* resides for an order directing the appropriate county recount board to make a recount of the votes cast in any or all of the precincts.

(2) The application ~~shall~~ *must* specify the grounds for a recount, and *it must* be verified by the applicant that the matters contained in it are true to the best of the applicant's knowledge, information, and belief.

(3) Within 5 days after filing of the application, the judge shall hear the application and determine its sufficiency.

(4) If the judge finds there is probable cause to believe that the votes cast for the applicant or the ballot issue were not correctly counted, ~~he~~ *the judge* shall order the appropriate county recount board to assemble within 5 days after the order is issued at a time and place fixed by the order. The board shall meet and recount the ballots as specified in the order.”

Section 69. Section 13-16-302, MCA, is amended to read:

“13-16-302. Service of copy of application — hearing. The candidate found to be elected as a result of the original or first canvass ~~shall~~ *must* be served with a copy of the application for recount. ~~He shall~~ *The candidate must* be given an opportunity to be heard and ~~shall~~ *must* be permitted to be present and to be represented at any recount ~~ordered.~~”

Section 70. Section 13-16-307, MCA, is amended to read:

“13-16-307. Expenses of court-ordered recount. (1) The court shall in its order determine the probable expense of making the recount, and the applicant or applicants asking for the recount shall deposit with the board the amount determined, in cash.

(2) If the recount shows that an applicant has been elected to office, the deposit of the applicant ~~shall~~ *must* be returned to ~~him~~ *the applicant*.

(3) If the recount shows that an applicant has not been elected and the expense of the recount is greater than the estimated cost, the applicant shall pay the excess; ~~but~~ *however*, if the expense is less than the cost, the difference ~~shall~~ *must* be refunded to the applicant.

(4) If the recount reverses the results of a ballot issue election, the deposit of the applicant ~~shall~~ *must* be returned to ~~him~~ *the applicant*.

(5) If the recount does not reverse the results of a ballot issue election and the expense of the recount is greater than the estimated cost, the applicant shall pay the excess; ~~but~~ *however*, if the expense is less than the cost, the difference ~~shall~~ *must* be refunded to the applicant.”

Section 71. Section 13-16-415, MCA, is amended to read:

“13-16-415. Recount totals. After a recount is completed, tally sheets ~~shall~~ *must* be compared and the correctness of all reports of votes cast *must be* ascertained. The totals for each candidate or on each issue ~~shall~~ *must* be compiled and checked for accuracy.”

Section 72. Section 13-16-416, MCA, is amended to read:

“13-16-416. Report of recount. (1) If the recount shows the votes for any candidate or on any ballot issue are more or less than the number shown upon the official returns, the secretary of the recount board shall prepare a corrected report ~~which~~ *that* states the number of votes ascertained by the recount.

(2) The recount board shall direct the secretary to enter the result of the election as determined by the recount in the board records.”

Section 73. Section 13-16-417, MCA, is amended to read:

“13-16-417. Sealing ballots and voting systems. (1) When a recount of paper ballots that was conducted using a voting system ~~has been~~ *is* finished, each ballot must again be sealed in the same package or envelope in the presence of the election administrator and the county recount board and must be delivered to the election administrator for custody.

(2) All voting systems must be secured as provided in rules adopted under 13-17-211.

(3) All other materials used in the recount that are required to be sealed must be resealed in the same manner and delivered to the election administrator for custody.”

Section 74. Section 13-16-418, MCA, is amended to read:

“13-16-418. Certification after recount. (1) Immediately after the recount, the county recount board shall certify the result.

(2) At least two members of the board shall sign the certificate, and it ~~shall~~ *must* be attested to under seal by the election administrator.

(3) The certificate ~~shall~~ *must* set forth in substance the proceedings of the board and the appearance of any candidates or representatives. The certificate ~~shall~~ *must* adequately designate:

(a) each precinct recounted;

(b) the vote of each precinct according to the official canvass previously made;

(c) the nomination, position, or question involved; and

(d) the correct vote of each precinct as determined by the recount.

(4) When the certificate relates to a recount for a congressional office, a state or district office voted on in more than one county, a legislative office, or an office of judge of the district court or a ballot issue voted on in more than one county, the certificate ~~shall~~ *must* be made in duplicate. One copy ~~shall~~ *must* be transmitted immediately to the secretary of state by certified mail.

(5) (a) If the recount relates to a county, municipal, or district office voted for in only one county, other than that of a legislator or a judge of the district court, or a precinct office or a ballot issue voted on in only one county, the county recount board shall immediately recanvass the returns as corrected by the certificate showing the result of the recount and make a corrected abstract of the votes.

(b) If the corrected abstract shows no change in the result, no further action ~~need be taken~~ *is needed*.

(c) If there is a change in the result, a new certificate of election or nomination ~~shall~~ *must* be issued to each candidate found to be elected or nominated and the first certificate is void. The individual receiving the second certificate ~~shall~~ *must* be elected or nominated to the office.”

Section 75. Section 13-16-419, MCA, is amended to read:

“13-16-419. Recount by board of state canvassers. (1) When the secretary of state receives certificates from all county recount boards, ~~he~~ *the secretary of state* shall file them, *shall* fix a time and place, as soon as possible, for reconvening the board of state canvassers, and shall notify the members.

(2) The board of state canvassers shall recanvass the official returns on the office, nomination, position, or question; as corrected by the certificates; and make a new and corrected abstract of the votes cast.

(3) (a) If the corrected abstract shows no change in the results, ~~no~~ further action ~~shall~~ *may not* be taken.

(b) If there is a change in the results, a new certificate of election or nomination ~~shall~~ *must* be issued in the same manner as the certificate of election or nomination was previously issued to each candidate elected or nominated.”

Section 76. Section 13-19-101, MCA, is amended to read:

“13-19-101. Statement of purpose. The purpose of this chapter is to provide the option of *and procedures for* conducting certain specified elections using a procedure called a “mail ballot election” and to provide the procedures ~~therefor as mail ballot elections~~. The provisions of this chapter recognize that sound public policy concerning the conduct of elections often requires the balancing of various elements of the public interest that are sometimes in conflict. Among these factors are the public’s interest in fair and accurate elections, the election of those who will govern or represent, and cost-effective administration of all functions of government, including the conduct of elections. The provisions of this chapter further recognize that when these and other factors are balanced, the conduct of elections by mail ballot is potentially the most desirable of the available options in certain circumstances.”

Section 77. Section 13-19-203, MCA, is amended to read:

“13-19-203. Initiation by election administrator. (1) Even if ~~no~~ a request has *not* been received from the governing body concerned, the election administrator may conduct any election authorized by 13-19-104 under this chapter if, ~~in his discretion,~~ *the election administrator determines* that ~~would be~~ *a mail ballot election is* the most economically and administratively feasible way of conducting the election in question.

(2) ~~If he~~ *the election administrator* decides to conduct an election pursuant to subsection (1), the election administrator shall prepare a written plan as provided in 13-19-205 and forward a copy to the governing body concerned, together with a written statement informing ~~it~~ *the governing body* of ~~his~~ *the* decision to conduct the election by mail ballot, ~~and~~ *the reasons therefor for the decision,* and the right of the governing body to object under 13-19-204.”

Section 78. Section 13-19-301, MCA, is amended to read:

“13-19-301. Voting mail ballots. (1) Upon receipt of ~~his~~ *a* ballot, the elector may vote by:

- (a) marking the ballot in the manner specified;
- (b) placing the marked ballot in the secrecy envelope, free of any identifying marks;
- (c) placing the secrecy envelope containing a single ballot in the return/verification envelope;
- (d) executing the affidavit printed on the return/verification envelope; and
- (e) returning the return/verification envelope with the secrecy envelope containing the ballot enclosed, as provided in 13-19-306.

(2) For the purpose of this chapter, an official ballot is voted when, after the requirements of 13-19-310 and 13-19-311 have been satisfied, the return/verification envelope has been opened by election officials and the secrecy envelope containing the ballot has been deposited in the official ballot box.”

Section 79. Section 13-19-302, MCA, is amended to read:

“13-19-302. Proportional voting. The election administrator shall provide a method for proportional voting in ~~his~~ *the administrator’s* written plan for an election conducted under this chapter that requires votes to be cast in proportion to ownership or any factor other than one vote per person.”

Section 80. Section 13-19-304, MCA, is amended to read:

“13-19-304. Voting by nonregistered electors. (1) For any election being conducted under this chapter by a political subdivision that allows individuals

to vote who are not registered electors, ~~such as~~ *the* individual may vote by appearing in person at the election administrator's office and demonstrating that ~~he~~ *the individual* possesses the qualifications ~~which that~~ entitle ~~him~~ *the individual* to vote.

(2) An individual complying with subsection (1) before official ballots are available may leave a card with the election administrator containing ~~his~~ *the individual's* signature and the address to which ~~his~~ *a* ballot is to be mailed. The signature provided must ~~then~~ be used for verification when the mail ballot is returned.

(3) An individual complying with subsection (1) after official ballots are available and before the close of the polls on election day must be permitted to vote at that time."

Section 81. Section 13-19-305, MCA, is amended to read:

"13-19-305. Replacement ballots — procedures. (1) An elector may obtain a replacement ballot as provided in this section if ~~his~~ *the original* ballot is destroyed, spoiled, lost, or not received by the elector.

(2) An elector seeking *or receiving* a replacement ballot shall sign a sworn statement stating that the *original* ballot was either destroyed, spoiled, lost, or not received and shall present the statement to the election administrator no later than 8 p.m. on election day.

(3) Upon receiving the sworn statement, the election administrator shall issue a replacement ballot to the elector. Each spoiled ballot must be returned before ~~a new one~~ *another ballot* may be issued.

(4) The election administrator shall designate ~~his~~ *the election administrator's* office or a central location in the political subdivision in which the election is conducted as the single location for obtaining a replacement ballot.

(5) A replacement ballot may also be issued pursuant to 13-19-313.

(6) The election administrator shall keep a record of each replacement ballot issued. If ~~he~~ *the election administrator* later determines that any elector to whom a replacement ballot has been issued has attempted to vote more than once, ~~he~~ *the election administrator* shall immediately notify the county attorney and the secretary of state of each instance."

Section 82. Section 13-19-306, MCA, is amended to read:

"13-19-306. Returning marked ballots — when — where. (1) After complying with 13-19-301, an elector or ~~his~~ *the elector's* designee may return ~~his~~ *the elector's* ballot on or before election day by either:

(a) depositing the return/verification envelope in the United States mail, with sufficient postage affixed; or

(b) returning it to any place of deposit designated by the election administrator pursuant to 13-19-307.

(2) In order to have ~~his~~ *the* ballot counted, each elector ~~must~~ *shall* return it ~~in such a manner so~~ that it is received prior to 8 p.m. on election day."

Section 83. Section 13-19-307, MCA, is amended to read:

"13-19-307. Places of deposit. (1) The election administrator shall designate ~~his~~ *the administrator's* office and may designate one or more places in the political subdivision in which the election is being conducted as places of deposit where ballots may be returned in person by the elector.

(2) Prior to election day, ballots may be returned to any designated place of deposit only during regular business hours.

(3) On election day, each location designated as a place of deposit must be open as provided in 13-1-106, and ballots may be returned during those hours.

(4) The election administrator may designate certain locations as election day places of deposit, and any *designated* location ~~so designated shall function~~ *functions* as a place of deposit only on election day.

(5) The election administrator shall provide each designated place of deposit with an official ballot transport box secured as provided by law.”

Section 84. Section 13-19-308, MCA, is amended to read:

“13-19-308. Disposition of ballots returned in person. Ballots returned by the elector in person must be processed as follows:

(1) If returned to the election administrator’s office directly, the ballot must be processed in the same manner provided for ballots returned by mail except that, while the elector is present, officials shall:

(a) verify the signature pursuant to 13-19-310;

(b) resolve any questions as to the validity of the ballot; and

(c) deposit the unopened secrecy envelope containing the ballot in the official ballot box.

(2) If returned to a place of deposit other than the election administrator’s office, the election official on location shall:

(a) keep a log of the names of all electors from whom ~~he~~ *the official* receives ballots and the names of the people who deliver the ballots;

(b) deposit the unopened return/verification envelope in the sealed ballot transport box provided for that purpose; and

(c) securely retain all ballots until they are transported to the election administrator’s office. The transport boxes must then be opened and the ballots disposed of in the same manner provided for ballots returned by mail.”

Section 85. Section 13-19-310, MCA, is amended to read:

“13-19-310. Signature verification — procedures. (1) The election administrator shall verify the signature of each elector by comparing the affidavit printed on the return/verification envelope to the signature on that elector’s registration card or signature card provided under 13-19-304.

(2) If the election administrator is convinced that the individual signing the affidavit is the same as the one whose name appears on the registration card, ~~he~~ *the administrator* shall proceed to validate the ballot.

(3) If the election administrator is not convinced that the individual signing the return/verification envelope is the same as the one whose name appears on the registration card, ~~he~~ *the administrator* may not validate the ballot but instead shall:

(a) give notice to the elector as provided in 13-19-313; and

(b) if the discrepancy is not rectified to the election administrator’s satisfaction, present the unopened envelope and the registration card to the canvassing board for a determination.”

Section 86. Section 13-27-305, MCA, is amended to read:

“13-27-305. Retention of copies by county official. The county official certifying the sheets or sections of a petition shall keep a copy of the sheets or

sections certified in the official files of ~~his~~ *the official's* office. The copies may be destroyed 3 months after the date of the election specified in the petition unless a court action is pending on the sufficiency of the petition."

Section 87. Section 13-27-306, MCA, is amended to read:

"13-27-306. Challenge to signatures by elector of county. A registered elector of a county having reason to believe that signatures on a petition that were not among those actually compared with signatures in the registration records of the county are not genuine may file a sworn statement or affirmation of ~~his~~ *the elector's* belief and a request for comparison of those signatures ~~he~~ *that the elector* believes are not genuine with the county official certifying the sheet or section of the petition. If any of the challenged signatures are not genuine, the county official ~~must~~ *shall* compare all signatures on that sheet or section and issue an amended certificate to the secretary of state, giving the correct number of valid signatures, on or before the deadline, as provided for in 13-27-104, for filing in the office of the secretary of state."

Section 88. Section 13-27-308, MCA, is amended to read:

"13-27-308. Certification of petition to governor. When sheets or sections of a petition for referendum, initiative, constitutional convention, or constitutional amendment containing a sufficient number of signatures have been filed with the secretary of state within the time required by the constitution or by law, ~~he~~ *the secretary of state* shall immediately certify to the governor that the completed petition has been officially filed."

Section 89. Section 13-27-404, MCA, is amended to read:

"13-27-404. Committee ~~chairman~~ *presiding officer.* The appointee of the president of the senate is the ~~chairman~~ *presiding officer* of any committee to which that officer makes an appointment. The appointing authority for other committees shall name a ~~chairman~~ *presiding officer* at the time the appointments are made."

Section 90. Section 13-27-405, MCA, is amended to read:

"13-27-405. Committee expenses. Each committee is entitled to receive funds for the preparation of arguments and expenses of members not to exceed \$100 for a three-member committee and \$200 for a five-member committee. Itemized claims for actual expenses incurred, approved by a majority of the committee, ~~shall~~ *must* be submitted to the secretary of state for payment from funds appropriated for that purpose."

Section 91. Section 13-27-503, MCA, is amended to read:

"13-27-503. Determination of result of election. The votes on ballot issues ~~shall~~ *must* be counted, canvassed, and returned by the regular boards of judges, clerks, and officers *in the same manner* as votes for candidates are counted, canvassed, and returned. The abstract of votes on ballot issues ~~shall~~ *must* be prepared and returned to the secretary of state in the manner provided by 13-15-501 for abstract of votes for state officers. The board of state canvassers shall proceed within 20 days after the election at which ~~such~~ ballot issues are voted upon and, at the same time as the votes for state officers are canvassed, canvass the votes given for each ballot issue. The secretary of state, as secretary of the board of state canvassers, shall prepare and file in ~~his~~ *the secretary of state's* office a statement of the canvass, giving the number and title of each issue, the whole number of votes cast in the state for and against each ballot issue, and the effective date of each ballot issue approved by a majority of those voting on the issue. The secretary of state shall transmit a certified copy of the statement of the canvass to the governor."

Section 92. Section 13-35-106, MCA, is amended to read:

“13-35-106. Ineligibility to hold office because of conviction. In addition to all other penalties prescribed by law:

(1) a candidate who is convicted of violating any provision of this title, except 13-35-207(9), is ineligible to be a candidate for any public office in the state of Montana until ~~his~~ final discharge from state supervision;

(2) a campaign treasurer who is convicted of violating any provision of this title, except 13-35-207(9), is ineligible to be a candidate for any public office or to hold the position of campaign treasurer in any campaign in the state of Montana until ~~his~~ final discharge from state supervision;

(3) if an elected official or a candidate is adjudicated to have violated any provision of this title, except 13-35-207(9), ~~he shall~~ *the individual must* be removed from nomination or office, as the case may be, even though ~~he the individual~~ was regularly nominated or elected.”

Section 93. Section 13-35-201, MCA, is amended to read:

“13-35-201. Electors and ballots. (1) An elector may not show the contents of ~~his~~ *the elector’s* ballot to anyone after it is marked. ~~No~~ An elector may *not* place any mark upon the ballot by which it may be identified as the one voted by ~~him~~ *the elector*.

(2) An elector may not receive a ballot from any person other than an election judge and may not vote any ballot except one received from an election judge. ~~No~~ A person other than an election judge may *not* deliver a ballot to an elector.

(3) ~~No~~ A person may *not* solicit an elector to show ~~his~~ *the elector’s* ballot after it is marked.

(4) An elector who does not vote a ballot delivered to ~~him~~ *the elector* shall, before leaving the polling place, return the ballot to an election judge.”

Section 94. Section 13-35-204, MCA, is amended to read:

“13-35-204. Official misconduct. A person charged with performance of any duty under the provisions of the election laws of this state is guilty of official misconduct and is punishable as provided in 45-7-401 whenever the person:

(1) knowingly neglects or refuses to perform that duty; or

(2) knowingly and fraudulently acts, in ~~his~~ *the person’s* official capacity, in contravention or violation of any provision of the election laws.”

Section 95. Section 13-35-209, MCA, is amended to read:

“13-35-209. Fraudulent registration. (1) ~~No~~ A person may *not* knowingly cause, procure, or allow ~~himself~~ *the person* to be registered in the official register of any election district of any county knowing ~~himself~~ *that the person is* not to be entitled to ~~such~~ *the* registration.

(2) ~~No~~ A person may ~~falsely personate~~ *not impersonate* another and cause the ~~impersonated~~ *person so personated* to be registered.

(3) When, on the trial of the person charged with any offense under the provisions of this section, it appears in evidence that the accused stands registered in the register of any county without being qualified for ~~such~~ registration, the court shall order ~~such~~ *the* registration canceled.”

Section 96. Section 13-35-214, MCA, is amended to read:

“13-35-214. Illegal influence of voters. ~~No~~ A person may *not*, directly or indirectly, by ~~himself~~ *individually* or by *through* any other person ~~on his behalf~~,

for any election, ~~to or for any person on behalf of any elector or to or for any person,~~ in order to induce any elector to vote or refrain from voting or to vote for or against any particular candidate, political party ticket, or ballot issue, ~~may:~~

(1) give, lend, agree to give or lend, offer, or promise any money, liquor, or valuable consideration or promise or endeavor to procure any money, liquor, or valuable consideration;

(2) promise to appoint another person or promise to secure or aid in securing the appointment, nomination, or election of another person to a public or private position or employment or to a position of honor, trust, or emolument, in order to aid or promote ~~his~~ *the candidate's* nomination or election, except that ~~he~~ *the candidate* may publicly announce or define ~~what is his~~ *the candidate's* choice or purpose in relation to an election in which ~~he~~ *the candidate* may be called to take part, if elected."

Section 97. Section 13-35-215, MCA, is amended to read:

"13-35-215. Illegal consideration for voting. ~~No~~ A person, directly or indirectly, ~~by himself individually or by through~~ any other person ~~in his behalf,~~ may *not*:

(1) before or during any election, for voting or agreeing to vote or for refraining or agreeing to refrain from voting at the election or for inducing another to do so:

(a) receive, agree, or contract for any money, gift, loan, liquor, valuable consideration, office, place, or employment for ~~himself~~ *the person* or any other person; or

(b) approach any candidate or agent or person representing or acting on behalf of any candidate and ask for or offer to agree or contract for any money, gift, loan, liquor, valuable consideration, office, place, or employment for ~~himself~~ *the person* or any other person;

(2) after an election, for having voted or refrained from voting or having induced any other person to vote or refrain from voting at the election:

(a) receive any money, gift, loan, valuable consideration, office, place, or employment; or

(b) approach any candidate or any agent or person representing or acting on behalf of any candidate and ask for or offer to receive any money, gift, loan, liquor, valuable consideration, office, place, or employment for ~~himself~~ *the person* or any other person."

Section 98. Section 13-35-217, MCA, is amended to read:

"13-35-217. Officers not to influence voter. ~~No~~ An officer, while acting in ~~his~~ *an* official capacity, may *not*, by menace, reward, or promise of reward, induce or attempt to induce any elector to cast a vote contrary to ~~his~~ *the elector's* original intention or desire."

Section 99. Section 13-35-218, MCA, is amended to read:

"13-35-218. Coercion or undue influence of voters. (1) ~~No~~ A person, directly or indirectly, ~~by himself individually or through~~ any other person ~~in his behalf,~~ in order to induce or compel a person to vote or refrain from voting for any candidate, the ticket of any political party, or any ballot issue before the people, may *not*:

(a) use or threaten to use any force, coercion, violence, restraint, or undue influence against any person; or

(b) inflict or threaten to inflict, ~~by himself~~ *individually* or *with* any other person, any temporal or spiritual injury, damage, harm, or loss upon or against any person.

(2) ~~No~~ A person who is a minister, preacher, priest, or other church officer or who is an officer of any corporation or organization, religious or otherwise, may *not*, other than by public speech or print, urge, persuade, or command any voter to vote or refrain from voting for or against any candidate, political party ticket, or ballot issue submitted to the people because of ~~his~~ *the person's* religious duty or the interest of any corporation, church, or other organization.

(3) ~~No~~ A person may *not*, by abduction, duress, or any fraudulent contrivance, impede or prevent the free exercise of the franchise by any voter at any election or ~~thereby~~ compel, induce, or prevail upon any elector to give or to refrain from giving ~~his~~ *the elector's* vote at any election.

(4) ~~No~~ A person may *not*, in any manner, interfere with a voter lawfully exercising ~~his~~ *the* right to vote at an election ~~so as~~ *in order* to prevent the election from being fairly held and lawfully conducted.

(5) ~~No~~ A person on election day may *not* obstruct the doors or entries of any polling place or engage in any solicitation of a voter within the room where votes are being cast or elsewhere in any manner ~~which~~ *that* in any way interferes with the election process or obstructs the access of voters to or from the polling place.”

Section 100. Section 13-35-221, MCA, is amended to read:

“13-35-221. Improper nominations. (1) ~~No~~ A person may *not* pay or promise valuable consideration to another, in any manner or form, for the purpose of inducing ~~him~~ *the other person* to be or to refrain from or to cease being a candidate, and ~~no~~ a person may *not* solicit or receive any payment or promise from another for ~~such~~ *that* purpose.

(2) ~~No~~ A person, in consideration of any gift, loan, offer, promise, or agreement, as mentioned in subsection (1), may *not*:

(a) ~~allow himself~~ to be nominated or refuse to ~~allow himself~~ to be nominated as a candidate at an election;

(b) become, ~~by himself~~ *individually* or in combination with any other person or persons, a candidate for the purpose of defeating the nomination or election of any other person, without a bona fide intent to obtain the office; or

(c) withdraw if ~~he~~ *the person* has been ~~so~~ nominated.

(3) Upon complaint made to any district court, the judge shall issue a writ of injunction restraining the officer whose duty it is to prepare official ballots for a nominating election from placing the name of a person ~~thereon~~ *on the ballot* as a candidate for nomination to any office if the judge is convinced that:

(a) the person has sought the nomination or seeks to have ~~his~~ *the person's* name presented to the voters as a candidate for nomination by any political party for any mercenary or venal consideration or motive; and

(b) ~~his~~ *the person's* candidacy for the nomination is not in good faith.”

Section 101. Section 13-35-301, MCA, is amended to read:

“13-35-301. Adoption of code of fair campaign practices. The following code of fair campaign practices is adopted by Montana:

“There are basic principles of decency, honesty, and fair play that every candidate for public office in the United States has a moral obligation to observe and uphold, in order that, after vigorously contested but fairly conducted

campaigns, our citizens may exercise their constitutional right to a free and untrammelled choice and the will of the people may be fully and clearly expressed on the issues before the country. Therefore:

I will conduct my campaign in the best American tradition, discussing the issues as I see them, presenting my record and policies with sincerity and frankness, and criticizing without fear or favor the record and policies of my opponent and ~~his my opponent's party which that~~ merit such criticism.

I will defend and uphold the right of every qualified American voter to full and equal participation in the electoral process.

I will conduct my campaign without the use of personal vilification, character defamation, whispering campaigns, libel, slander, or scurrilous attacks on my opposition or ~~his my opposition's~~ personal or family life.

I will not use campaign material of any sort ~~which that~~ misrepresents, distorts, or otherwise falsifies the facts, nor will I use malicious or unfounded accusations ~~which that~~ aim at creating or exploiting doubts, without justification, as to the loyalty and patriotism of my opposition.

I will not make any appeal to prejudice based on race, sex, creed, or national origin.

I will not undertake or condone any dishonest or unethical practice ~~which that~~ tends to corrupt or undermine our American system of free elections or ~~which that~~ hampers or prevents the full and free expression of the will of the voters.

Insofar as is possible, I will immediately and publicly repudiate support deriving from any individual or group ~~which that~~ resorts, on behalf of my candidacy or in opposition to that of my opponent, to the methods and tactics that I have pledged not to use or condone.”

Section 102. Section 13-36-101, MCA, is amended to read:

“13-36-101. Grounds for contest of nomination or election to public office. An elector may contest the right of any person to any nomination or election to public office for which the elector has the right to vote, ~~for any of the following causes if the elector believes that:~~

(1) ~~on the ground of~~ a deliberate, serious, and material violation of any provision of the law relating to nominations or elections *has occurred*;

(2) ~~whenever the person whose right is contested~~ was not, at the time of the election, eligible to ~~such be a candidate for the office~~;

(3) ~~on account of illegal votes were cast illegally or were counted or canvassed in~~ an erroneous or fraudulent ~~count or canvass of votes manner.~~”

Section 103. Section 13-36-102, MCA, is amended to read:

“13-36-102. Time for commencing contest. (1) Five days or less after a candidate has been certified as nominated, a person wishing to contest the nomination to any public office shall give notice in writing to the candidate whose nomination ~~he the person~~ intends to contest, briefly stating the cause for the contest. The contestant shall make application to the district court in the county where the contest is to be had. The judge shall then set the time for the hearing. The contestant shall serve notice 3 days before the hearing is scheduled. The notice ~~shall~~ *must* state the time and place of the hearing.

(2) Any action to contest the right of a candidate to be declared elected to an office or to annul and set aside ~~such the~~ election or to remove from or deprive any person of an office of which ~~he the person~~ is the incumbent for any offense

mentioned in this title must, unless a different time is stated, be commenced within 1 year after the day of election at which ~~such~~ *the* offense was committed.”

Section 104. Section 13-36-103, MCA, is amended to read:

“13-36-103. Court having jurisdiction of proceedings. An application for filing a statement, payment of a claim, or correction of an error or false recital in a filed statement or an action or proceeding to annul and set aside the election of any person declared elected to an office or to remove or deprive any person of ~~his~~ *the person’s* office for an offense mentioned in this title or any petition to excuse any person or candidate in accordance with the power of the court to excuse, as provided in 13-36-209, must be made or filed in the district court of the county in which the certificate, declaration, or acceptance of ~~his~~ *the person’s* nomination as a candidate for the office to which ~~he~~ *the person* is declared nominated or elected is filed or in which the incumbent resides.”

Section 105. Section 13-36-104, MCA, is amended to read:

“13-36-104. Nomination contests. In the case of nomination contests, the judge of the district court shall hear and determine the case and make all necessary orders for the trial of the case and carrying ~~his~~ *the* judgment into effect. The order of the judge ~~shall~~ *must* express the will of a majority of the legal voters of the political party, as indicated by their votes, disregarding technicalities or errors in spelling. Each party is entitled to subpoenas. The registrar shall issue a certificate to the person declared nominated by the court. The certificate ~~shall be~~ *is* conclusive evidence of the right of the person to hold the nomination.”

Section 106. Section 13-36-201, MCA, is amended to read:

“13-36-201. Contents of contest petition. Any petition contesting the right of any person to a nomination or election ~~shall~~ *must* set forth the name of every person whose election is contested and the grounds of the contest. The petition ~~shall~~ *may* not thereafter be amended, ~~except by leave of the~~ *unless the amendment is authorized by a court.*”

Section 107. Section 13-36-202, MCA, is amended to read:

“13-36-202. Reception of illegal votes — allegations and evidence. When the reception of illegal votes is alleged as a cause of contest, it ~~shall be~~ *is* sufficient to state generally that in one or more specified voting precincts illegal votes were given to the candidate whose nomination or election is contested ~~which that,~~ if taken from ~~him~~ *the candidate,* will reduce the number of ~~his~~ *the candidate’s* legal votes below the number of legal votes given to some other candidate for the same office. ~~No testimony shall~~ *Testimony may not* be received of any illegal votes unless the party contesting ~~such~~ *the* election delivers to the opposite party, at least 3 days before ~~such~~ trial, a written list of the number of illegal votes (and by whom given) ~~which he~~ *that the party* intends to prove ~~on~~ ~~such~~ *at* trial. This provision ~~shall~~ *may* not prevent the contestant from offering evidence of illegal votes not included in ~~such~~ *the* statement if ~~he~~ *the contestant* did not know and by reasonable diligence was unable to learn of ~~such~~ *the* additional illegal votes (and by whom they were given) before delivering ~~such~~ *the* written list.”

Section 108. Section 13-36-204, MCA, is amended to read:

“13-36-204. Bond required. Before any proceeding on the petition, the petitioner shall give bond to the state in ~~such~~ *a* sum ~~as~~ *that* the court may order, not exceeding \$2,000, with not less than two sureties, who shall justify in the manner required of sureties on bail bonds, conditioned to pay all costs,

disbursements, and attorney's attorney fees that may be awarded against ~~him the petitioner~~ if ~~he shall the petitioner does~~ not prevail."

Section 109. Section 13-36-205, MCA, is amended to read:

"13-36-205. Recovery of costs. In any contest, the prevailing party may recover ~~his the party's~~ costs, disbursements, and reasonable attorney's attorney fees. Costs, disbursements, and attorney's attorney fees in all such cases shall ~~must~~ be in the discretion of the court. ~~In case~~ If judgment is rendered against the petitioner, it shall ~~must~~ also be rendered against the sureties on the bond."

Section 110. Section 13-36-206, MCA, is amended to read:

"13-36-206. Notice of filing — prompt hearing. On the filing of ~~any such~~ a petition ~~under this part~~, the clerk shall immediately notify the judge of the court and issue a citation to the person whose nomination or office is contested, citing ~~him the person~~ to appear and answer not less than 3 or more than 7 days after the date of filing the petition. The court shall hear ~~said the~~ cause, and every ~~such the~~ contest shall ~~must~~ take precedence over all other business on the court docket and shall ~~must~~ be tried and disposed of with all convenient dispatch. The court shall ~~is~~ always ~~considered to be deemed~~ in session for the trial of ~~such~~ contest cases."

Section 111. Section 13-36-207, MCA, is amended to read:

"13-36-207. Hearing of contest. The petitioner (contestant) and the contestee may appear and produce evidence at the hearing, but no person other than the petitioner and contestee may be made a party to the proceedings on ~~such the~~ petition and no person other than the parties and their attorneys may be heard ~~thereon~~ except by order of the court. If more than one petition is pending or the election of more than one person is contested, the court may in its discretion order the cases to be heard together and may apportion the costs, disbursements, and attorney's attorney fees between ~~them the parties~~ and shall finally determine all questions of law and fact, except that the judge may ~~in his discretion~~ impanel a jury to decide on questions of fact. In the case of nominations or elections other than for federal congressional offices, the court shall immediately certify its decision to the governing body or official issuing certificates of nomination or election and the governing body or official shall ~~thereupon~~ issue certificates of nomination or election to the person or persons entitled ~~thereto to the certificates~~ by the court's decision. If judgment of ouster against a defendant is rendered, the nomination or office shall ~~must~~ be ~~by the judgment~~ declared vacant ~~by the judgment~~, except as provided in 13-36-212, and shall ~~thereupon must~~ be filled by a new election or by appointment as may be provided by law regarding vacancies in ~~such the~~ nomination or office."

Section 112. Section 13-36-208, MCA, is amended to read:

"13-36-208. Advancement of cases — dismissal — privileges of witnesses. Proceedings under this title shall ~~must~~ be advanced on the docket upon request of either party for speedy trial, but the court may postpone or continue the trial if necessary, and in case of ~~such a~~ continuance or postponement, the court may impose costs in its discretion as a condition ~~thereof of the continuance or postponement~~. ~~No A~~ petition may ~~not~~ be dismissed without the consent of the county attorney unless the ~~same the petition~~ is dismissed by the court. ~~No A~~ person may ~~not~~ be excused from testifying or producing papers or documents on the ground that ~~his the person's~~ testimony or the production of papers or documents will tend to ~~eliminate him; but no~~ incriminate the person. *However*, an admission, evidence, or paper made or advanced or produced by ~~such the~~ person or any evidence that is the direct result of ~~such the~~ evidence or

information that ~~he~~ *the person* may have ~~so~~ given may *not* be offered or used against ~~him~~ *the person* in any civil or criminal prosecution, except in a prosecution for perjury committed in ~~such~~ *the* testimony.”

Section 113. Section 13-36-209, MCA, is amended to read:

“13-36-209. Forfeiture of nomination or office for violation of law — when inappropriate. ~~If, upon~~ *Upon* the trial of any action or proceeding under the provisions of this title to contest the right of any person to be declared nominated or elected to any office or to annul or set aside ~~such~~ *a* nomination or election or to remove a person from ~~his~~ *the* office, *the nomination or election of the candidate is not by reason of the offense or omission complained of void and the candidate may not be removed from or deprived of office if under the circumstances it seems to the court to be unjust that the candidate forfeit a nomination or office or be deprived of any office of which the candidate is the incumbent. The decision of the court must be based upon the following:*

(1) it appears from the evidence that the offense complained of was not committed by the candidate or with ~~his~~ *the candidate's* knowledge or consent or was committed without ~~his~~ *the candidate's* sanction or connivance and that all reasonable means for preventing the commission of ~~such~~ *the* offense at ~~such~~ *the* election were taken by and on behalf of the candidate;

(2) ~~that~~ the offense or offenses complained of were trivial, unimportant, and limited in character and ~~that~~ in all other respects ~~his~~ *the candidate's* participation in the election was free from ~~such~~ offenses or illegal acts; or

(3) ~~that~~ any act or omission of the candidate arose from inadvertence or from accidental miscalculation or from some other reasonable cause of a like nature and in any case did not arise from any ~~want~~ *lack* of good faith; ~~and under the circumstances it seems to the court to be unjust that the candidate forfeit his nomination or office or be deprived of any office of which he is the incumbent, then the nomination or election of the candidate is not by reason of such offense or omission complained of void, nor may the candidate be removed from or deprived of his office.”~~

Section 114. Section 13-36-210, MCA, is amended to read:

“13-36-210. Punishment. If, upon the trial of any action or proceeding under the provisions of this title to contest the right of any person to be declared to be nominated to an office or elected to an office or to annul and set aside ~~such~~ *the* election or to remove any person from ~~his~~ *the* office, it appears that ~~such~~ *the* person was guilty of any corrupt practice, illegal act, or undue influence in or about ~~such~~ *the* nomination or election, ~~he shall~~ *the person must* be punished by being deprived of the nomination or office, ~~as the case may be,~~ and the vacancy ~~therein shall must~~ be filled in the manner provided by law. The only exceptions to this judgment ~~shall be~~ *are* those provided in 13-36-209. ~~Such~~ *The* judgment does not prevent the candidate or officer from being proceeded against by indictment or criminal information for any ~~such~~ act or acts.”

Section 115. Section 13-36-211, MCA, is amended to read:

“13-36-211. When nomination or election not to be vacated. ~~Nothing in the~~ *The* ground of contest specified in 13-36-101(3) ~~is to~~ *may not* be ~~so~~ construed as to authorize a nomination or election to be set aside on account of illegal votes, unless it ~~appear either~~ *appears*:

(1) that the candidate or nominee whose right is contested had knowledge of or connived ~~at such~~ *in the* illegal votes; or

(2) that the number of illegal votes given to the person whose right to the nomination or office is contested, if taken from ~~him~~ *the person*, would reduce the number of ~~his~~ legal votes *for the person* below the number of votes given to some other person for the same nomination or office, after deducting ~~therefrom~~ the illegal votes ~~which~~ *that* may be shown to have been given to ~~such~~ *the* other person.”

Section 116. Section 13-37-104, MCA, is amended to read:

“13-37-104. Vacancy. (1) If for any reason a vacancy occurs in the position of commissioner, a successor ~~shall~~ *must* be appointed within 30 days as provided in 13-37-102(1) to serve out the unexpired term. ~~Every~~ *Each* nomination ~~shall~~ *must* be confirmed by the senate, but a nomination made while the senate is not in session ~~shall~~ *be* effective as an appointment until the end of the next session.

(2) An individual who is selected to serve out the unexpired term of a preceding commissioner and who has served 3 years or more of an unexpired term is not eligible for reappointment.

(3) An individual who is selected to serve out the unexpired term of a preceding commissioner and who has served less than 3 years may be reappointed for a 6-year term as provided in 13-37-102(1).”

Section 117. Section 13-37-105, MCA, is amended to read:

“13-37-105. Impeachment and prosecution of commissioner. The commissioner may be removed from office by impeachment as provided in Title 5, chapter 5, part 4. ~~He~~ *The commissioner* may also be prosecuted by the appropriate county attorney for official misconduct as specified in 45-7-401.”

Section 118. Section 13-37-116, MCA, is amended to read:

“13-37-116. Exercise of powers. The commissioner may exercise all of the powers conferred upon ~~him~~ *the commissioner* by law in any jurisdiction or political subdivision of the state.”

Section 119. Section 13-37-119, MCA, is amended to read:

“13-37-119. Availability of information. (1) The commissioner shall make statements and other information filed with ~~his~~ *the commissioner's* office available for public inspection and copying during regular office hours and make copying facilities available free of charge or at a charge not to exceed *the* actual cost.

(2) The commissioner shall preserve statements and other information filed with ~~his~~ *the commissioner's* office for a period of 10 years from *the* date of receipt.

(3) The commissioner shall prepare and publish summaries of the statements received and ~~such~~ other reports ~~as he~~ *that the commissioner* considers appropriate.

(4) The commissioner shall provide for wide public dissemination of summaries and reports.”

Section 120. Section 13-37-122, MCA, is amended to read:

“13-37-122. Judicial review of orders of noncompliance. A candidate or political treasurer ~~aggrieved by the issuance~~ *who is the subject of* an order of noncompliance may seek judicial review in the district court of the county in which the candidate resides or the county in which the political committee has its headquarters. All petitions for judicial review filed pursuant to this section ~~shall~~ *must* be expeditiously reviewed by the appropriate district court.”

Section 121. Section 13-37-125, MCA, is amended to read:

“13-37-125. Powers of county attorney to investigate. (1) Nothing in chapter 35 of this title or this chapter prevents a county attorney from inspecting any records, accounts, or books ~~which~~ *that* must be kept pursuant to the provisions of chapter 35 of this title or this chapter that are held by a political committee or candidate involved in an election to be held within the county. However, the inspections must be conducted during reasonable office hours.

(2) A county attorney may:

- (a) administer oaths and affirmations;
- (b) subpoena witnesses and compel their attendance;
- (c) take evidence; and

(d) require the production of any books, correspondence, memoranda, bank account statements of a political committee or candidate, or other records ~~which~~ *that* are relevant or material for the purpose of conducting any investigation pursuant to the provisions of chapter 35 of this title or this chapter.”

Section 122. Section 13-37-201, MCA, is amended to read:

“13-37-201. Campaign treasurer. Except as provided in 13-37-206, each candidate and each political committee shall appoint one campaign treasurer and certify the full name and complete address of the campaign treasurer pursuant to this section. A candidate shall file the certification within 5 days after becoming a candidate. A political committee shall file the certification, which ~~shall~~ *must* include an organizational statement and ~~set forth~~ the name and address of all ~~other~~ officers, if any, within 5 days after it makes an expenditure or authorizes another person to make an expenditure on its behalf, whichever occurs first. The certification of a candidate or political committee ~~shall~~ *must* be filed with the commissioner and the appropriate election administrator as specified for the filing of reports in 13-37-225.”

Section 123. Section 13-37-202, MCA, is amended to read:

“13-37-202. Deputy campaign treasurers. (1) A campaign treasurer may appoint deputy campaign treasurers, but not more than one in each county in which the campaign is conducted. Each candidate and political committee shall certify the full name and complete address of the campaign treasurer and all deputy campaign treasurers with the office with whom the candidate or the political committee is required to file reports.

(2) Deputy campaign treasurers may exercise any of the powers and duties of a campaign treasurer as set forth in this chapter when specifically authorized in writing to do so by the campaign treasurer and the candidate, in the case of a candidate, or the campaign treasurer and the ~~chairman~~ *presiding officer* of the political committee, in the case of a political committee. The written authorization ~~shall~~ *must* be maintained as a part of the records required to be kept by the treasurer, as specified in 13-37-208.”

Section 124. Section 13-37-203, MCA, is amended to read:

“13-37-203. Qualifications of campaign and deputy campaign treasurers. Any campaign or deputy campaign treasurer appointed pursuant to 13-37-201 and 13-37-202 ~~shall~~ *must* be a registered voter in this state. An individual may be appointed and serve as a campaign treasurer of a candidate and a political committee or two or more candidates and political committees. A candidate may ~~appoint himself as his~~ *serve as the candidate's* own campaign or deputy campaign treasurer. ~~No~~ *An* individual may *not* serve as a campaign or

deputy campaign treasurer or perform any duty required of a campaign or deputy campaign treasurer of a candidate or political committee until ~~he~~ *the individual* has been designated and ~~his~~ *the individual's* name certified by the candidate or political committee.”

Section 125. Section 13-37-204, MCA, is amended to read:

“13-37-204. Removal of campaign and deputy campaign treasurers. A candidate or political committee may remove ~~his~~ *the candidate's* or ~~its~~ *committee's* campaign or deputy campaign treasurer. The removal of any treasurer or deputy treasurer ~~shall~~ *must* immediately be reported to the officer with whom the name of the campaign treasurer was originally filed. In case of death, resignation, or removal of ~~his~~ *the candidate's* or ~~its~~ *committee's* campaign treasurer before compliance with any obligation of a campaign treasurer under this chapter, the candidate or political committee shall appoint a successor and certify the name and address of the successor as specified in 13-37-201.”

Section 126. Section 13-37-205, MCA, is amended to read:

“13-37-205. Campaign depositories. Except as provided in 13-37-206, each candidate and each political committee shall designate one primary campaign depository for the purpose of depositing all contributions received and disbursing all expenditures made by the candidate or political committee. The candidate or political committee may also designate one secondary depository in each county in which an election is held and in which the candidate or committee participates. Deputy campaign treasurers may make deposits in and expenditures from secondary depositories when authorized to do so as provided in 13-37-202(2). Only a bank, credit union, savings and loan association, or building and loan association authorized to transact business in Montana may be designated as a campaign depository. The candidate or political committee shall file the name and address of each *designated* primary and secondary depository ~~so designated~~ at the same time and with the same officer with whom the candidate or committee files the name of ~~his~~ *the candidate's* or ~~its~~ *committee's* campaign treasurer pursuant to 13-37-201. ~~Nothing in this~~ *This* section ~~shall~~ *does not* prevent a political committee or candidate from having more than one campaign account in the same depository, but a candidate may not utilize ~~his~~ *the candidate's* regular or personal account in the depository as a campaign account.”

Section 127. Section 13-37-206, MCA, is amended to read:

“13-37-206. Exception for certain school districts and certain special districts. (1) The provisions of this part, except 13-37-217, do not apply to candidates for the office of trustee of a school district, their political campaigns, and political committees organized to support or oppose a school district issue when the school district is:

- (a) a first-class district located in a county having a population of less than 15,000;
- (b) a second- or third-class district; or
- (c) a county high school district having a student enrollment of less than 2,000.

(2) The provisions of this part, except 13-37-217, do not apply to candidates, *their political campaigns, and political committees organized to support or oppose an issue if the candidate is running for or the committee's issue involves* ~~for certain special district offices, their political campaigns, and political committees organized to support or oppose a special district issue.~~

~~(3) As used in this section, “special district” means a unit of local government authorized by law to perform a single function or a limited number of functions. The term includes including but is not limited to a conservation district, a weed management district, a fire district, a community college district, a hospital district, an irrigation district, a sewer district, a transportation district, or a water district. The term also includes or any district or other entity formed by interlocal agreement.”~~

Section 128. Section 13-37-207, MCA, is amended to read:

“13-37-207. Deposit of contributions — statement of campaign treasurer. (1) All funds received by the campaign treasurer or any deputy campaign treasurer of any candidate or political committee ~~shall~~ *must* be deposited prior to the end of the fifth business day following their receipt, (Sundays and holidays excluded), in a checking account, share draft account, share checking account, or negotiable order of withdrawal account in a campaign depository designated pursuant to 13-37-205.

(2) A statement showing the amount received from or provided by each person and the account in which the funds are deposited ~~shall~~ *must* be prepared by the campaign treasurer at the time the deposit is made. This statement along with the receipt form for cash contributions deposited at the same time and a deposit slip for the deposit ~~shall~~ *must* be kept by the treasurer as a part of ~~his~~ *the treasurer’s* records.”

Section 129. Section 13-37-208, MCA, is amended to read:

“13-37-208. Treasurer to keep records. (1) ~~(a) The~~ *Except as provided in subsection (1)(b),* the campaign treasurer of each candidate and each political committee shall keep detailed accounts ~~(current within not more than 10 days after the date of receiving a contribution or making an expenditure, except that accounts shall be current as of the 5th day before the date of filing of a report as specified in 13-37-226)~~ of all contributions received and all expenditures made by or on behalf of the candidate or political committee that are required to be set forth in a report filed under this chapter. *The accounts must be current within not more than 10 days after the date of receiving a contribution or making an expenditure.*

~~(b) The accounts described in subsection (1)(a) must be current as of the 5th day before the date of filing of a report as specified in 13-37-226.~~

(2) Accounts of a deputy campaign treasurer ~~shall~~ *must* be transferred to the treasurer of a candidate or political committee before the candidate or political committee finally closes its books or when the position of a deputy campaign treasurer becomes vacant and no successor is appointed.

(3) Accounts kept by a campaign treasurer of a candidate or political committee ~~shall~~ *must* be preserved by the campaign treasurer for a period coinciding with the term of office for which the person was a candidate or for a period of 4 years, whichever is longer.”

Section 130. Section 13-37-215, MCA, is amended to read:

“13-37-215. Petty cash funds allowed. (1) The campaign treasurer for each candidate or political committee is authorized to withdraw the following amount each week from the primary depository for the purpose of providing a petty cash fund for the candidate or political committee:

(a) for all statewide candidates and political committees filing reports pursuant to 13-37-226(1), \$100 per week; and

(b) for all other candidates and political committees, \$25 per week.

(2) The petty cash fund may be spent for office supplies, transportation expenses, postage stamps, and other necessities in an amount of less than \$25. Petty cash ~~shall~~ *may* not be used for the purchase of time, space, or services from any communications medium.”

Section 131. Section 13-37-217, MCA, is amended to read:

“13-37-217. Contributions in name of undisclosed principal. ~~No~~ A person may *not* make a contribution of ~~his~~ *the person’s* own money or of another person’s money to any other person in connection with any election in any other name than that of the person who in truth supplies ~~such~~ *the* money. ~~No~~ A person may *not* knowingly receive ~~such~~ a contribution or enter or cause the ~~same~~ contribution to be entered in ~~his~~ *the person’s* accounts or records in another name than that of the person by whom it was actually furnished.”

Section 132. Section 13-37-225, MCA, is amended to read:

“13-37-225. Reports of contributions and expenditures required. (1) Except as provided in 13-37-206, each candidate and political committee shall file periodic reports of contributions and expenditures made by or on the behalf of a candidate or political committee. All reports required by this chapter ~~shall~~ *must* be filed with the commissioner and with the election administrator of the county in which a candidate is a resident or the political committee has its headquarters. However, where residency within a district, county, city, or town is not a prerequisite for being a candidate, copies of all reports ~~shall~~ *must* be filed with the election administrator of the county in which the election is to be held or, if the election is to be held in more than one county, with the election administrator in the county that the commissioner specifies.

(2) In lieu of all contribution and expenditure reports required by this chapter, the commissioner shall accept copies of the reports filed by candidates for congress and president of the United States and their political committees pursuant to the requirements of federal law.”

Section 133. Section 13-37-228, MCA, is amended to read:

“13-37-228. Time periods covered by reports. Reports filed under 13-37-225 and 13-37-226 must be filed to cover the following time periods even though no contributions or expenditures may have been received or made during the period:

(1) The initial report must cover all contributions received or expenditures made by a candidate or political committee prior to the time that a person became a candidate or a political committee as defined in 13-1-101 until the fifth day before the date of filing of the appropriate initial report pursuant to ~~subsections (1) through (5) of 13-37-226(1) through (5).~~ Reports filed by political committees organized to support or oppose a statewide ballot issue must disclose all contributions received and expenditures made prior to the time an issue becomes a ballot issue by transmission of the petition to the proponent of the ballot issue or referral by the secretary of state, even if the issue subsequently fails to garner sufficient signatures to qualify for the ballot.

(2) Subsequent periodic reports must cover the period of time from the closing of the previous report to 5 days before the date of filing of a report pursuant to 13-37-226(1) through (5).

(3) Closing reports must cover the period of time from the last periodic report to the final closing of the books of the candidate or political committee. A candidate or political committee shall file a closing report following an election in which the candidate or political committee participates whenever all debts

and obligations are ~~extinguished~~ *satisfied* and ~~no~~ further contributions or expenditures will *not* be received or made ~~which that~~ relate to the campaign, unless the election is a primary election and the candidate or political committee will participate in the general election.”

Section 134. Section 13-37-231, MCA, is amended to read:

“13-37-231. Reports to be certified as true and correct. (1) A report required by this chapter to be filed by a candidate or political committee ~~shall~~ *must* be verified as true and correct by the oath or affirmation of the individual filing the report. The individual filing the report ~~shall~~ *must* be the candidate or an officer of a political committee who is on file as an officer of the committee with the commissioner.

(2) A copy of a report or statement filed by a candidate or political committee ~~shall~~ *must* be preserved by the individual filing it for a period coinciding with the term of office for which the person was a candidate or for a period of 4 years, whichever is longer.”

Section 135. Section 13-38-101, MCA, is amended to read:

“13-38-101. Powers of parties. Each political party ~~shall have power to~~ *may*:

- (1) make its own rules;
- (2) provide for and select its own offices;
- (3) call conventions and provide for the number and qualification of delegates;
- (4) adopt platforms;
- (5) provide for selection of delegates to national conventions;
- (6) provide for the nomination of presidential electors;
- (7) provide for the selection of national ~~committeemen and women~~ *committee representatives*;
- (8) make nominations to fill vacancies occurring among its candidates nominated for offices to be filled by the state at large or by any district consisting of more than one county where ~~such~~ *the* vacancies are caused by death, resignation, or removal from the electoral district;
- (9) perform all other functions inherent in ~~such an~~ *a party* organization.”

Section 136. Section 13-38-201, MCA, is amended to read:

“13-38-201. Election of ~~committeemen~~ *committee representatives* at primary. (1) Except as provided in subsection (4), each political party shall elect at each primary election one person of each sex to serve as ~~committeemen~~ *committee representatives* for each election precinct. The ~~committeemen~~ *committee representatives* must be residents and registered voters of the precinct.

(2) An elector may be placed in nomination for ~~committeeman~~ *committee representative* by a written statement, signed by the elector, notarized, and filed in the office of the registrar within the time for filing declarations naming candidates for nomination at the regular biennial primary election.

(3) Except as provided in subsection (4), the names of candidates for precinct ~~committeeman~~ *committee representative* of each political party must appear on the party ticket in the same manner as other candidates and are voted for in the same manner as other candidates.

(4) If only one person of each sex has been nominated to fill a precinct's positions, the election administrator may decline to include that precinct's election in the primary election. If a precinct's election is not held during the primary election pursuant to this subsection, the county governing body shall declare elected by acclamation the candidates nominated for that precinct's ~~committeemen~~ *committee representative* positions."

Section 137. Section 13-38-202, MCA, is amended to read:

"13-38-202. Committeemen Committee representatives as party representatives — county and city central committees. (1) Each ~~committeeman~~ *committee representative* shall represent ~~his~~ *the representative's* political party for the precinct in all ward or subdivision committees formed.

(2) The ~~committeemen~~ *committee representatives* in each precinct shall constitute the county central committee of the respective political parties.

(3) ~~Committeemen~~ *Committee representatives* who reside within the limits of a city are ex officio the city central committee of their respective political parties and have the power to make their own rules not inconsistent with those of the county central committee. However, the county central committee has the power to fill vacancies in the city central committee.

(4) Each precinct ~~committeeman~~ *committee representative* ~~has~~ *serves* a term of 2 years from the date of ~~his~~ election.

(5) If a vacancy occurs, the remaining members of the county committee may select a precinct resident to fill the vacancy."

Section 138. Section 13-38-203, MCA, is amended to read:

"13-38-203. Powers of county and city central committees — role of state central committee where no county central committee exists. (1) The county and city central committee may:

(a) make rules for the government of its political party in each county not inconsistent with any of the provisions of the election laws of this state or the rules of its state political party;

(b) elect two county members of the state central committee, one of ~~whom shall be a man and one of whom shall be a woman~~ *each gender*, elect the members of the congressional committee, and fill all vacancies and make rules in their jurisdiction.

(2) If there is no county central committee, the state central committee shall appoint a county central committee."

Section 139. Section 13-38-205, MCA, is amended to read:

"13-38-205. Organization and operation of committee. (1) The committee shall meet prior to the state convention of its political party and organize by electing a ~~chairman~~ *presiding officer* and one or more ~~vice chairmen~~ *vice presiding officers*. The ~~chairman~~ *gender of the presiding officer* ~~or first vice chairman shall~~ *and the vice presiding officer may not be a woman the same*. The committee shall elect a secretary and other officers as ~~are proper~~ *necessary*. It is not necessary for the officers to be precinct ~~committeemen~~ *committee representatives*.

(2) The committee may select managing or executive committees and authorize subcommittees to exercise all powers conferred upon the county, city, state, and congressional central committees by the election laws of this state.

(3) The ~~chairman~~ *presiding officer* of the county central committee shall call the central committee meeting and not less than 4 days before the date of the

central committee meeting shall publish the call in a newspaper published at the county seat and mail a copy of the call to each precinct ~~committeeman~~ *committee representative*. If party rules permit the use of a proxy, ~~no~~ a proxy may *not* be recognized unless *it is* held by an elector of the precinct of the ~~committeeman~~ *committee representative* executing it.

(4) The county ~~chairman~~ *presiding officer* of the party shall preside at the county convention. No person other than a duly elected or appointed ~~committeeman~~ *committee representative* or officer of the committee is entitled to participate in the proceedings of the committee.

(5) If a ~~committeeman~~ *committee representative* is absent, the convention may fill the vacancy by appointing some qualified elector of the party, resident in the precinct, to represent the precinct in the convention.

(6) The county convention shall elect delegates and alternate delegates to the state convention under rules of the state party. The ~~chairman~~ *presiding officer* and secretary of the county convention shall issue and sign certificates of election of the delegates.”

Section 140. Section 15-1-104, MCA, is amended to read:

“15-1-104. Treasurers to destroy certain tax records. The treasurer of each county, city, or town in the state of Montana may destroy all tax records in ~~his~~ *the treasurer’s* possession more than 30 years old.”

Section 141. Section 15-1-204, MCA, is amended to read:

“15-1-204. Consultation with governor. The department shall consult and confer with the governor of the state upon the subject of taxation, the administration of the laws relating thereto, and the progress of the work of the department and furnish the governor ~~such~~ *with* assistance ~~as he~~ *that the governor* may require.”

Section 142. Section 15-1-601, MCA, is amended to read:

“15-1-601. Compact adopted — text. The Multistate Tax Compact is ~~hereby~~ enacted into law and entered into with all jurisdictions legally joining ~~therein~~ *in the compact*, in the form substantially as set forth ~~herein below~~ *in this section*. Article VIII of the Multistate Tax Compact relating to interstate audits is specifically adopted.

Article I. Purposes

The purposes of this compact are to:

- (1) facilitate proper determination of state and local tax liability of multistate taxpayers, including the equitable apportionment of tax bases and settlement of apportionment disputes;
- (2) promote uniformity or compatibility in significant components of tax systems;
- (3) facilitate taxpayer convenience and compliance in the filing of tax returns and in other phases of tax administration;
- (4) avoid duplicative taxation.

Article II. Definitions

As used in this compact:

- (1) “state” means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States;

(2) "subdivision" means any government unit or special district of a state;

(3) "taxpayer" means any corporation, partnership, firm, association, governmental unit or agency, or person acting as a business entity in more than one state;

(4) "income tax" means a tax imposed on or measured by net income including any tax imposed on or measured by an amount arrived at by deducting expenses from gross income, one or more forms of which expenses are not specifically and directly related to particular transactions;

(5) "capital stock tax" means a tax measured in any way by the capital of a corporation considered in its entirety;

(6) "gross receipts tax" means a tax, other than a sales tax, which is imposed on or measured by the gross volume of business, in terms of gross receipts or in other terms, and in the determination of which no deduction is allowed which would constitute the tax an income tax;

(7) "sales tax" means a tax imposed with respect to the transfer for a consideration of ownership, possession, or custody of tangible personal property or the rendering of services measured by the price of the tangible personal property transferred or services rendered and which is required by state or local law to be separately stated from the sales price by the seller or which is customarily separately stated from the sales price but does not include a tax imposed exclusively on the sale of a specifically identified commodity or article or class of commodities or articles;

(8) "use tax" means a nonrecurring tax, other than a sales tax, which:

(a) is imposed on or with respect to the exercise or enjoyment of any right or power over tangible personal property incident to the ownership, possession, or custody of that property or the leasing of that property from another including any consumption, keeping, retention, or other use of tangible personal property; and

(b) is complementary to a sales tax;

(9) "tax" means an income tax, capital stock tax, gross receipts tax, sales tax, use tax, and any other tax which has a multistate impact, except that the provisions of Articles III, IV, and V of this compact shall apply only to the taxes specifically designated therein and the provisions of Article IX of this compact shall apply only in respect to determinations pursuant to Article IV.

Article III. Elements Of Income Tax Laws Taxpayer Option, State and Local Taxes

(1) Any taxpayer subject to an income tax whose income is subject to apportionment and allocation for tax purposes pursuant to the laws of a party state or pursuant to the laws of subdivisions in two or more party states may elect to apportion and allocate ~~his~~ *the taxpayer's* income in the manner provided by the laws of such state or by the laws of such states and subdivisions without reference to this compact or may elect to apportion and allocate in accordance with Article IV. This election for any tax year may be made in all party states or subdivisions thereof or in any one or more of the party states or subdivisions thereof without reference to the election made in the others. For the purposes of this subsection, taxes imposed by subdivisions shall be considered separately from state taxes and the apportionment and allocation also may be applied to the entire tax base. In no instance wherein Article IV is employed for all subdivisions of a state may the sum of all apportionments and allocations to subdivisions within a state be greater than the apportionment and allocation

that would be assignable to that state if the apportionment or allocation were being made with respect to a state income tax.

Taxpayer Option, Short Form

(2) Each party state or any subdivision thereof which imposes an income tax shall provide by law that any taxpayer required to file a return whose only activities within the taxing jurisdiction consist of sales and do not include owning or renting real estate or tangible personal property and whose dollar volume of gross sales made during the tax year within the state or subdivision, as the case may be, is not in excess of \$100,000 may elect to report and pay any tax due on the basis of a percentage of such volume and shall adopt rates which shall produce a tax which reasonably approximates the tax otherwise due. The multistate tax commission, not more than once in 5 years, may adjust the \$100,000 figure in order to reflect such changes as may occur in the real value of the dollar, and such adjusted figure, upon adoption by the commission, shall replace the \$100,000 figure specifically provided herein. Each party state and subdivision thereof may make the same election available to taxpayers additional to those specified in this subsection.

Coverage

(3) Nothing in this article relates to the reporting or payment of any tax other than an income tax.

Article IV. Division Of Income

(1) As used in this article, unless the context otherwise requires:

(a) "business income" means income arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitute integral parts of the taxpayer's regular trade or business operations;

(b) "commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed;

(c) "compensation" means wages, salaries, commissions, and any other form of remuneration paid to employees for personal services;

(d) "financial organization" means any bank, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, savings and loan association, credit union, cooperative bank, small loan company, sales finance company, investment company, or any type of insurance company;

(e) "nonbusiness income" means all income other than business income;

(f) "public utility" means any business entity:

(i) which owns or operates any plant, equipment, property, franchise, or license for the transmission of communications, transportation of goods or persons, except by pipeline, or the production, transmission, sale, delivery, or furnishing of electricity, water, or steam; and

(ii) whose rates of charges for goods or services have been established or approved by a federal, state, or local government or governmental agency;

(g) "sales" means all gross receipts of the taxpayer not allocated under subsections of this article;

(h) "state" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof;

(i) "this state" means the state in which the relevant tax return is filed or, in the case of application of this article to the apportionment and allocation of income for local tax purposes, the subdivision or local taxing district in which the relevant tax return is filed.

(2) Any taxpayer having income from business activity which is taxable both within and without this state, other than activity as a financial organization or public utility or the rendering of purely personal services by an individual, shall allocate and apportion ~~his~~ *the taxpayer's* net income as provided in this article. If a taxpayer has income from business activity as a public utility but derives the greater percentage of ~~his~~ *the taxpayer's* income from activities subject to this article, the taxpayer may elect to allocate and apportion ~~his~~ *the taxpayer's* entire net income as provided in this article.

(3) For purposes of allocation and apportionment of income under this article, a taxpayer is taxable in another state if:

(a) in that state ~~he~~ *the taxpayer* is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax; or

(b) that state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.

(4) Rents and royalties from real or tangible personal property, capital gains, interest, dividends, or patent or copyright royalties, to the extent that they constitute nonbusiness income, shall be allocated as provided in subsections (5) through (8) of this article.

(5) (a) Net rents and royalties from real property located in this state are allocable to this state.

(b) Net rents and royalties from tangible personal property are allocable to this state:

(i) if and to the extent that the property is utilized in this state; or

(ii) in their entirety if the taxpayer's commercial domicile is in this state and the taxpayer is not organized under the laws of or taxable in the state in which the property is utilized.

(c) The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the taxpayer, tangible personal property is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.

(6) (a) Capital gains and losses from sales of real property located in this state are allocable to this state.

(b) Capital gains and losses from sales of tangible personal property are allocable to this state if:

(i) the property had a situs in this state at the time of the sale; or

(ii) the taxpayer's commercial domicile is in this state and the taxpayer is not taxable in the state in which the property had a situs.

(c) Capital gains and losses from sales of intangible personal property are allocable to this state if the taxpayer's commercial domicile is in this state.

(7) Interest and dividends are allocable to this state if the taxpayer's commercial domicile is in this state.

(8) (a) Patent and copyright royalties are allocable to this state:

(i) if and to the extent that the patent or copyright is utilized by the payer in this state; or

(ii) if and to the extent that the patent or copyright is utilized by the payer in a state in which the taxpayer is not taxable and the taxpayer's commercial domicile is in this state.

(b) A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state or to the extent that a patented product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in the state in which the taxpayer's commercial domicile is located.

(c) A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in the state in which the taxpayer's commercial domicile is located.

(9) All business income shall be apportioned to this state by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor and the denominator of which is 3.

(10) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period.

(11) Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at eight times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals.

(12) The average value of property shall be determined by averaging the values at the beginning and ending of the tax period, but the tax administrator may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the taxpayer's property.

(13) The payroll factor is a fraction, the numerator of which is the total amount paid in this state during the tax period by the taxpayer for compensation and the denominator of which is the total compensation paid everywhere during the tax period.

(14) Compensation is paid in this state if:

(a) the individual's service is performed entirely within the state;

(b) the individual's service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state; or

(c) some of the service is performed in the state and:

(i) the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the state; or

(ii) the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

(15) The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the tax period and the denominator of which is the total sales of the taxpayer everywhere during the tax period.

(16) Sales of tangible personal property are in this state if:

(a) the property is delivered or shipped to a purchaser, other than the United States government, within this state regardless of the f.o.b. point or other conditions of the sale; or

(b) the property is shipped from an office, store, warehouse, factory, or other place of storage in this state and:

(i) the purchaser is the United States government; or

(ii) the taxpayer is not taxable in the state of the purchaser.

(17) Sales, other than sales of tangible personal property, are in this state if:

(a) the income-producing activity is performed in this state; or

(b) the income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

(18) If the allocation and apportionment provisions of this article do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for or the tax administrator may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

(a) separate accounting;

(b) the exclusion of any one or more of the factors;

(c) the inclusion of one or more additional factors which will fairly represent the taxpayer's business activity in this state; or

(d) the employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

Article V. Elements Of Sales And Use Tax Laws Tax Credit

(1) Each purchaser liable for a use tax on tangible personal property shall be entitled to full credit for the combined amount or amounts of legally imposed sales or use taxes paid by ~~him~~ *the purchaser* with respect to the same property to another state and any subdivision thereof. The credit shall be applied first against the amount of any use tax due the state, and any unused portion of the credit shall then be applied against the amount of any use tax due a subdivision.

Exemption Certificates — Vendors May Rely

(2) Whenever a vendor receives and accepts in good faith from a purchaser a resale or other exemption certificate or other written evidence of exemption authorized by the appropriate state or subdivision taxing authority, the vendor shall be relieved of liability for a sales or use tax with respect to the transaction.

Article VI. The Commission Organization and Management

(1) (a) The Multistate Tax Commission is hereby established. It shall be composed of one member from each party state who shall be the head of the state agency charged with the administration of the types of taxes to which this compact applies. If there is more than one such agency, the state shall provide by law for the selection of the commission member from the heads of the relevant

agencies. State law may provide that a member of the commission be represented by an alternate, but only if there is on file with the commission written notification of the designation and identity of the alternate. The attorney general of each party state or ~~his~~ *the attorney general's* designee or other counsel if the laws of the party state specifically provide, shall be entitled to attend the meetings of the commission but shall not vote. Such attorneys general, designees, or other counsel shall receive all notices of meetings required under subsection (1)(e) of this article.

(b) Each party state shall provide by law for the selection of representatives from its subdivisions affected by this compact to consult with the commission member from that state.

(c) Each member shall be entitled to one vote. The commission shall not act unless a majority of the members are present, and no action shall be binding unless approved by a majority of the total number of members.

(d) The commission shall adopt an official seal to be used as it may provide.

(e) The commission shall hold an annual meeting and such other regular meetings as its bylaws may provide and such special meetings as its executive committee may determine. The commission bylaws shall specify the dates of the annual and any other regular meetings and shall provide for the giving of notice of annual, regular, and special meetings. Notice of special meetings shall include the reasons therefor and an agenda of the items to be considered.

(f) The commission shall elect annually, from among its members, a ~~chairman~~ *presiding officer*, a ~~vice-chairman~~ *vice presiding officer*, and a treasurer. The commission shall appoint an executive director who shall serve at its pleasure, and it shall fix ~~his~~ *the executive director's* duties and compensation. The executive director shall be secretary of the commission. The commission shall make provision for the bonding of such of its officers and employees as it may deem appropriate.

(g) Irrespective of the civil service, personnel, or other merit system laws of any party state, the executive director shall appoint or discharge such personnel as may be necessary for the performance of the functions of the commission and shall fix their duties and compensation. The commission bylaws shall provide for personnel policies and programs.

(h) The commission may borrow, accept, or contract for the services of personnel from any state, the United States, or any other governmental entity.

(i) The commission may accept for any of its purposes and functions any and all donations and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any governmental entity and may utilize and dispose of the same.

(j) The commission may establish one or more offices for the transacting of its business.

(k) The commission shall adopt bylaws for the conduct of its business. The commission shall publish its bylaws in convenient form and shall file a copy of the bylaws and any amendments thereto with the appropriate agency or officer in each of the party states.

(l) The commission annually shall make to the governor and legislature of each party state a report covering its activities for the preceding year. Any donation or grant accepted by the commission or services borrowed shall be reported in the annual report of the commission and shall include the nature, amount, and conditions, if any, of the donation, gift, grant, or services borrowed

and the identity of the donor or lender. The commission may make additional reports as it may deem desirable.

Committees

(2) (a) To assist in the conduct of its business when the full commission is not meeting, the commission shall have an executive committee of seven members, including the ~~chairman~~ *presiding officer*, ~~vice-chairman~~ *vice presiding officer*, treasurer, and four other members elected annually by the commission. The executive committee, subject to the provisions of this compact and consistent with the policies of the commission, shall function as provided in the bylaws of the commission.

(b) The commission may establish advisory and technical committees, membership on which may include private persons and public officials, in furthering any of its activities. Such committees may consider any matter of concern to the commission, including problems of special interest to any party state and problems dealing with particular types of taxes.

(c) The commission may establish such additional committees as its bylaws may provide.

Powers

(3) In addition to powers conferred elsewhere in this compact, the commission shall have power to:

(a) study state and local tax systems and particular types of state and local taxes;

(b) develop and recommend proposals for an increase in uniformity or compatibility of state and local tax laws with a view toward encouraging the simplification and improvement of state and local tax law and administration;

(c) compile and publish information as in its judgment would assist the party states in implementation of the compact and taxpayers in complying with state and local tax laws;

(d) do all things necessary and incidental to the administration of its functions pursuant to this compact.

Finance

(4) (a) The commission shall submit to the governor or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that state for presentation to the legislature thereof.

(b) Each of the commission's budgets of estimated expenditures shall contain specific recommendations of the amounts to be appropriated by each of the party states. The total amount of appropriations requested under any such budget shall be apportioned among the party states as follows: one-tenth in equal shares and the remainder in proportion to the amount of revenue collected by each party state and its subdivisions from income taxes, capital stock taxes, gross receipts taxes, sales and use taxes. In determining such amounts, the commission shall employ such available public sources of information as, in its judgment, present the most equitable and accurate comparisons among the party states. Each of the commission's budgets of estimated expenditures and requests for appropriations shall indicate the sources used in obtaining information employed in applying the formula contained in this subsection.

(c) The commission shall not pledge the credit of any party state. The commission may meet any of its obligations in whole or in part with funds

available to it under subsection (1)(i) of this article, provided that the commission takes specific action setting aside such funds prior to incurring any obligation to be met in whole or in part in such manner. Except where the commission makes use of funds available to it under subsection (1)(i), the commission shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same.

(d) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the commission.

(e) The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any person authorized by the commission.

(f) Nothing contained in this article shall be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the commission.

Article VII. Uniform Regulations And Forms

(1) Whenever any two or more party states or subdivisions of party states have uniform or similar provisions of law relating to an income tax, capital stock tax, gross receipts tax, sales or use tax, the commission may adopt uniform regulations for any phase of the administration of such law, including assertion of jurisdiction to tax or prescribing uniform tax forms. The commission may also act with respect to the provisions of Article IV of this compact.

(2) Prior to the adoption of any regulation, the commission shall:

(a) as provided in its bylaws, hold at least one public hearing on due notice to all affected party states and subdivisions thereof and to all taxpayers and other persons who have made timely request of the commission for advance notice of its regulation-making proceedings;

(b) afford all affected party states and subdivisions and interested persons an opportunity to submit relevant written data and views, which shall be considered fully by the commission.

(3) The commission shall submit any regulations adopted by it to the appropriate officials of all party states and subdivisions to which they might apply. Each such state and subdivision shall consider any such regulation for adoption in accordance with its own laws and procedures.

Article VIII. Interstate Audits

(1) This article shall be in force only in those party states that specifically provide therefor by statute.

(2) Any party state or subdivision thereof desiring to make or participate in an audit of any accounts, books, papers, records, or other documents may request the commission to perform the audit on its behalf. In responding to the request, the commission shall have access to and may examine, at any reasonable time, such accounts, books, papers, records, and other documents and any relevant property or stock of merchandise. The commission may enter into agreements with party states or their subdivisions for assistance in performance of the audit. The commission shall make charges, to be paid by the state or local government or governments for which it performs the service, for

any audits performed by it in order to reimburse itself for the actual costs incurred in making the audit.

(3) The commission may require the attendance of any person within the state where it is conducting an audit or part thereof at a time and place fixed by it within such state for the purpose of giving testimony with respect to any account, book, paper, document, other record, property, or stock of merchandise being examined in connection with the audit. If the person is not within the jurisdiction, ~~he~~ *the person* may be required to attend for such purpose at any time and place fixed by the commission within the state of which ~~he~~ *the person* is a resident, provided that such state has adopted this article.

(4) The commission may apply to any court having power to issue compulsory process for orders in aid of its powers and responsibilities pursuant to this article, and any and all such courts shall have jurisdiction to issue such orders. Failure of any person to obey any such order shall be punishable as contempt of the issuing court. If the party or subject matter on account of which the commission seeks an order is within the jurisdiction of the court to which application is made, such application may be to a court in the state or subdivision on behalf of which the audit is being made or a court in the state in which the object of the order being sought is situated. The provisions of this subsection apply only to courts in a state that has adopted this article.

(5) The commission may decline to perform any audit requested if it finds that its available personnel or other resources are insufficient for the purpose or that, in the terms requested, the audit is impracticable of satisfactory performance. If the commission, on the basis of its experience, has reason to believe that an audit of a particular taxpayer, either at a particular time or on a particular schedule, would be of interest to a number of party states or their subdivisions, it may offer to make the audit or audits, the offer to be contingent on sufficient participation therein as determined by the commission.

(6) Information obtained by any audit pursuant to this article shall be confidential and available only for tax purposes to party states, their subdivisions, or the United States. Availability of information shall be in accordance with the laws of the states or subdivisions on whose account the commission performs the audit and only through the appropriate agencies or officers of such states or subdivisions. Nothing in this article shall be construed to require any taxpayer to keep records for any period not otherwise required by law.

(7) Other arrangements made or authorized pursuant to law for cooperative audit by or on behalf of the party states or any of their subdivisions are not superseded or invalidated by this article.

(8) In no event shall the commission make any charge against a taxpayer for an audit.

(9) As used in this article, "tax", in addition to the meaning ascribed to it in Article II, means any tax or license fee imposed in whole or in part for revenue purposes.

Article IX. Arbitration

(1) Whenever the commission finds a need for settling disputes concerning apportionments and allocations by arbitration, it may adopt a regulation placing this article in effect, notwithstanding the provisions of Article VII.

(2) The commission shall select and maintain an arbitration panel composed of officers and employees of state and local governments and private persons

who shall be knowledgeable and experienced in matters of tax law and administration.

(3) Whenever a taxpayer who has elected to employ Article IV or whenever the laws of the party state or subdivision thereof are substantially identical with the relevant provisions of Article IV, the taxpayer, by written notice to the commission and to each party state or subdivision thereof that would be affected, may secure arbitration of an apportionment or allocation if ~~he~~ *the taxpayer* is dissatisfied with the final administrative determination of the tax agency of the state or subdivision with respect thereto on the ground that it would subject ~~him~~ *the taxpayer* to double or multiple taxation by two or more party states or subdivisions thereof. Each party state and subdivision thereof hereby consents to the arbitration as provided herein and agrees to be bound thereby.

(4) The arbitration board shall be composed of one person selected by the taxpayer, one by the agency or agencies involved, and one member of the commission's arbitration panel. If the agencies involved are unable to agree on the person to be selected by them, such person shall be selected by lot from the total membership of the arbitration panel. The two persons selected for the board in the manner provided by the foregoing provisions of this subsection shall jointly select the third member of the board. If they are unable to agree on the selection, the third member shall be selected by lot from among the total membership of the arbitration panel. No member of a board selected by lot shall be qualified to serve if he is an officer or employee or is otherwise affiliated with any party to the arbitration proceeding. Residents within the jurisdiction of a party to the arbitration proceeding shall not constitute affiliation within the meaning of this subsection.

(5) The board may sit in any state or subdivision party to the proceeding, in the state of the taxpayer's incorporation, residence, or domicile, in any state where the taxpayer does business, or in any place that it finds most appropriate for gaining access to evidence relevant to the matter before it.

(6) The board shall give due notice of the times and places of its hearings. The parties shall be entitled to be heard, to present evidence, and to examine and cross-examine witnesses. The board shall act by majority vote.

(7) The board shall have power to administer oaths, take testimony, subpoena and require the attendance of witnesses and the production of accounts, books, papers, records, and other documents, and issue commissions to take testimony. Subpoenas may be signed by any member of the board. In case of failure to obey a subpoena and upon application by the board, any judge of a court of competent jurisdiction of the state in which the board is sitting or in which the person to whom the subpoena is directed may be found may make an order requiring compliance with the subpoenas, and the court may punish failure to obey the order as a contempt. The provisions of this subsection apply only in states that have adopted this article.

(8) Unless the parties otherwise agree, the expenses and other costs of the arbitration shall be assessed and allocated among the parties by the board in such manner as it may determine. The commission shall fix a schedule of compensation for members of arbitration boards and of other allowable expenses and costs. No officer or employee of a state or local government who serves as a member of a board shall be entitled to compensation therefor unless ~~he~~ *the member* is required on account of ~~his~~ *the* service to forego the regular compensation attaching to ~~his~~ *the member's* public employment, but any such board member shall be entitled to expenses.

(9) The board shall determine the disputed apportionment or allocation and any matters necessary thereto. The determinations of the board shall be final for purposes of making the apportionment or allocation, but for no other purpose.

(10) The board shall file with the commission and with each tax agency represented in the proceeding: the determination of the board, the board's written statement of its reasons therefor, the record of the board's proceedings, and any other documents required by the arbitration rules of the commission to be filed.

(11) The commission shall publish the determinations of boards, together with the statements of the reasons therefor.

(12) The commission shall adopt and publish rules of procedure and practice and shall file a copy of such rules and of any amendment thereto with the appropriate agency or officer in each of the party states.

(13) Nothing contained herein shall prevent at any time a written compromise of any matter or matters in dispute, if otherwise lawful, by the parties to the arbitration proceedings.

Article X. Entry Into Force And Withdrawal

(1) This compact shall enter into force when enacted into law by any seven states. Thereafter, this compact shall become effective as to any other state upon its enactment thereof. The commission shall arrange for notification of all party states whenever there is a new enactment of the compact.

(2) Any party state may withdraw from this compact by enacting a statute repealing the same. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

(3) No proceeding commenced before an arbitration board prior to the withdrawal of a state and to which the withdrawing state or any subdivision thereof is a party shall be discontinued or terminated by the withdrawal, nor shall the board thereby lose jurisdiction over any of the parties to the proceeding necessary to make a binding determination therein.

Article XI. Effect On Other Laws And Jurisdiction

Nothing in this compact shall be construed to:

(1) affect the power of any state or subdivision thereof to fix rates of taxation, except that a party state shall be obligated to implement Article III, subsection (2), of this compact;

(2) apply to any tax or fixed fee imposed for the registration of a motor vehicle or any tax on motor fuel, other than a sales tax; provided that the definition of "tax" in Article VIII, subsection (9), may apply for the purposes of that article and the commission's powers of study and recommendation pursuant to Article VI, subsection (3), may apply;

(3) withdraw or limit the jurisdiction of any state or local court or administrative officer or body with respect to any person, corporation, or other entity or subject matter, except to the extent that such jurisdiction is expressly conferred by or pursuant to this compact upon another agency or body;

(4) supersede or limit the jurisdiction of any court of the United States.

Article XII. Construction And Severability

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the

constitution of any state or of the United States or if the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.”

Section 143. Section 15-1-603, MCA, is amended to read:

“15-1-603. Alternate. The member representing this state on the multistate tax commission may be represented ~~thereon~~ by an alternate designated by ~~him~~ *the member*.”

Section 144. Section 15-1-702, MCA, is amended to read:

“15-1-702. Issuance of warrant. (1) If a tax administered and collected by the department is not paid within 30 days of the due date, the department may issue a notice to the taxpayer ~~notifying him~~ that unless payment is received within 30 days of the date of the notice a warrant for distraint may be issued. Thirty days after the date of the notice, the department may issue a warrant if payment is not received.

(2) Use of the procedure to issue a warrant under this section does not preclude use of the procedure under 15-1-703 if the department determines that it is appropriate to utilize 15-1-703.”

Section 145. Section 15-1-705, MCA, is amended to read:

“15-1-705. Review. (1) Except as provided in 15-1-707, a taxpayer has the right to a review of the tax liability pursuant to 15-1-211 prior to execution on a filed warrant for distraint.

(2) The department must provide notice of the right to review to the taxpayer. This notice may be given prior to the notice referred to in 15-1-702. If the taxpayer notified the department that ~~he~~ *the taxpayer* disagrees with an assessment as provided in 15-1-211, the warrant may not be executed upon until after the review process and any appeals are completed.”

Section 146. Section 15-1-707, MCA, is amended to read:

“15-1-707. Emergency execution upon warrant. (1) The department may execute upon a filed warrant for distraint without providing an opportunity for a hearing prior to execution if the department determines that the collection of the tax is jeopardized because of the delay imposed by the hearing requirement.

(2) When the provisions of this section are utilized, the department ~~must~~ *shall* notify the taxpayer and inform the taxpayer that ~~he~~ *the taxpayer* has a right to request a hearing to be held subsequent to execution. A hearing, if desired, must be requested in writing within 30 days of the date of the notice and, if requested, must be held as soon as possible. The commencement of a proceeding under 15-1-705 does not preclude the use of the provisions of this section if the department determines that ~~such~~ *the* action is appropriate.”

Section 147. Section 15-2-101, MCA, is amended to read:

“15-2-101. State tax appeal board — appointment of members — term of office. ~~On July 1, 1973, there shall be created There is a state tax appeal board which shall be composed of three members to be appointed by the governor for staggered terms by and with the advice and consent of the senate; provided, however~~ *However*, a member ~~so~~ appointed may serve until the next

regular session of the legislature without ~~such~~ *the* advice and consent of *the senate*. Each ~~succeeding~~ member shall hold ~~his~~ office for a term of 6 years and until ~~his~~ a successor shall be appointed and ~~shall have~~ qualified. ~~Any~~ A vacancy ~~shall must~~ be filled by the governor subject to confirmation by the senate during the next legislative session. Succeeding appointments, except when made to fill a vacancy, ~~shall must~~ be made on or before January 31 during the session of the legislature ~~next~~ preceding the commencement of the term for which the appointment is made.”

Section 148. Section 15-2-103, MCA, is amended to read:

“15-2-103. Organization, quorum, sessions. The members of the state tax appeal board shall, without delay, meet at the state capital, and the governor shall designate one of their members as ~~chairman~~ *presiding officer*. A majority of ~~said the board shall constitute~~ *constitutes* a quorum. ~~It shall be~~ *The board is* in continuous session and *must be* open for the transaction of business every day except Saturdays, Sundays, and legal holidays; and the sessions of ~~said the board shall must~~ stand and be ~~deemed considered~~ to be adjourned from day to day without formal entry ~~thereof~~ upon its records. The board may hold sessions or conduct hearings and investigations at other places than the capital when ~~deemed considered~~ necessary to facilitate the performance of its duties or to accommodate parties in interest.”

Section 149. Section 15-2-104, MCA, is amended to read:

“15-2-104. Employees — expenses — minutes — rules. The state tax appeal board may appoint a secretary and employ ~~such~~ other persons as experts, assistants, clerks, and stenographers as may be necessary to perform the duties that may be required of it. The total expenses of ~~such the board shall may~~ not exceed, in the aggregate during any fiscal year, the amount appropriated for the board for all purposes by the legislature for ~~such that~~ year. The secretary shall keep full and correct minutes of the transactions and proceedings of ~~said the board, shall have authority to and may~~ administer oaths and perform ~~such~~ other duties as may be required of ~~him~~. The board may ~~make all needful~~ *adopt* rules for the orderly and methodical performance of its duties as a tax appeal board and for conducting hearings and other proceedings before it.”

Section 150. Section 15-2-304, MCA, is amended to read:

“15-2-304. Petition for interlocutory adjudication. (1) (a) Either party, within 30 days of the filing of an answer to an appeal before the state tax appeal board, may file a petition for an interlocutory adjudication under 15-2-305. The petition may be filed with the district court:

- (i) in the first judicial district;
- (ii) in the county in which the taxable property is located; or
- (iii) in cases not involving property taxes, in the county where the taxpayer resides or has ~~his~~ *the taxpayer's* principal place of business in the state.

(b) The petition may raise any question involving procedure, the admissibility of evidence, or a substantive question of law raised by the pleadings within 30 days of filing an answer to the appeal with the state tax appeal board.

(c) A nonpetitioning party shall respond to the petition within 30 days after service of the petition. The response may raise any question not raised in the petition involving procedure, the admissibility of evidence, or a substantive question of law.

(2) After the 30-day period specified in subsection (1)(b) but before arguments have been heard, the parties to the proceeding may jointly petition a district court to make an interlocutory adjudication as provided under 15-2-305. A petition for an adjudication must be signed by each party to the proceeding.

(3) In a petition under subsection (1) or (2), one party must be designated as the petitioner and every other party must be designated a respondent. The court may in its discretion grant a petition if it appears that the issues presented involve procedure, the admissibility of evidence, or a substantive question of law and do not require the determination of questions of fact and that the controversy would be more expeditiously resolved by an adjudication. If the court grants a petition, it shall rule on all issues presented in the petition and the response, regardless of whether a ruling on less than all of the issues is dispositive of the case.”

Section 151. Section 15-6-225, MCA, is amended to read:

“15-6-225. Small electrical generation equipment exemption. (1) (a) Machinery and equipment used in a qualifying generation facility that has a nameplate capacity of less than 1 megawatt of electrical energy is *are* exempt from taxation for 5 years after the generation of electricity begins.

(b) To qualify for the exemption under this section, the generation facility must be powered by an alternative renewable energy source.

(2) For the purposes of this section:

(a) “alternative renewable energy source” means a form of energy or matter that is capable of being converted into forms of energy useful to ~~mankind~~ *humanity*, including electricity, and the technology necessary to make this conversion when the source is not exhaustible in terms of this planet and when the source or technology is not in general commercial use. The term includes but is not limited to:

- (i) solar energy;
- (ii) wind energy;
- (iii) geothermal energy;
- (iv) conversion of biomass;
- (v) fuel cells that do not require hydrocarbon fuel;
- (vi) small hydroelectric generators producing less than 1 megawatt; or
- (vii) methane from solid waste.

(b) “generation facility” includes any combination of a generator or generators, associated prime movers, and other associated machinery and equipment that are normally operated together to produce electric power, but does not include the owner’s business improvements and personal property.”

Section 152. Section 15-8-501, MCA, is amended to read:

“15-8-501. Assessment of unknown or absent owners. (1) If the owner or claimant of any property not listed by another person is absent or unknown, the department ~~must~~ *shall* make an estimate of the value of ~~such~~ *the* property.

(2) If the name of the absent owner is known to the department, the property must be assessed in ~~his~~ *the owner’s* name; *and*, if unknown, the property must be assessed to unknown owners.”

Section 153. Section 15-8-502, MCA, is amended to read:

“15-8-502. Representative status to be designated. When a person is assessed as agent, trustee, bailee, guardian, executor, or administrator, ~~his the person's~~ representative designation must be added to ~~his the person's~~ name and the assessment entered on a separate line from ~~his the person's~~ individual assessment.”

Section 154. Section 15-16-503, MCA, is amended to read:

“15-16-503. Collection by suit of personal property taxes when taxpayer moves to another county. If any person ~~removes~~ moves from one county to another after being assessed on personal property, the treasurer of the county in which ~~he the person~~ was assessed may sue for and collect the ~~same the~~ taxes in the name of the county where the assessment was made.”

Section 155. Section 15-17-318, MCA, is amended to read:

“15-17-318. Assignment of municipality's interest. (1) At any time after a parcel of land has been acquired by a municipality, as provided in 15-17-317, and has not been redeemed, the treasurer of the municipality shall assign all the rights of the municipality in the property to any person who pays:

- (a) the purchase price paid by the municipality;
- (b) the delinquent assessments;
- (c) interest on the purchase price and delinquent assessments at the rate of 5/6 of 1% a month; and
- (d) penalties and costs as provided by law.

(2) The treasurer of the municipality shall execute to ~~such the~~ person a certificate of sale for the parcel, which may be in substantially the form provided in 15-17-212 for the assignment of the interests of the county. If the certificate of sale becomes lost or accidentally destroyed by the assignee, the treasurer of the municipality shall issue a duplicate certificate to the assignee after the assignee delivers to the treasurer evidence satisfactory to ~~him the treasurer~~, including an affidavit of the assignee, that the certificate has been lost or destroyed.

(3) An assignment by a municipality under this section discharges the trust created under 15-17-317. The municipality may also discharge the trust created under 15-17-317 by paying into the improvement fund the amount of the delinquent assessments and interest accrued ~~thereon on the assessments.~~”

Section 156. Section 15-24-1101, MCA, is amended to read:

“15-24-1101. Federal property held under contract by private person subject to taxation. Real ~~and/or~~ or personal property of the United States or any department or agency ~~thereof of the United States~~ held under contract of sale, lease, or other interest or estate ~~therein in the property~~ by any person for ~~his the person's~~ exclusive use ~~shall be~~ is subject to assessment for ad valorem property taxation as provided in this part; ~~provided that~~ However, this part ~~shall~~ does not apply to real property held and in immediate use and occupation by this state or any county, municipal corporation, or political subdivision ~~therein in this state.~~”

Section 157. Section 15-24-1201, MCA, is amended to read:

“15-24-1201. State and other exempt property held under contract — when taxable. Property of the state of Montana or any department, agency, or subdivision ~~thereof of the state~~ or any other property not subject to ad valorem tax to the owner ~~thereof of the property~~ by reason of the legal status of the owner, held under contract of sale or lease with option to purchase with lease ~~moneys~~ money applicable to the purchase price by any person for ~~his the person's~~

exclusive use, ~~shall be~~ *is* subject to assessment to *the* purchaser or lessee for ad valorem property taxation.”

Section 158. Section 15-24-1206, MCA, is amended to read:

“15-24-1206. County suit for delinquent privilege tax. A tax due and unpaid under 15-24-1203 through 15-24-1205 ~~shall constitute~~ *constitutes* a debt due the county for and on behalf of the various taxing units concerned in the tax. If the tax imposed by 15-24-1203 through 15-24-1205 or any portion ~~thereof of~~ *the tax* is not paid at the time the ~~same tax~~ becomes delinquent, the county auditor may issue a warrant in the name of the county directed to the clerk of the district court in ~~his~~ *the clerk’s* county, and ~~thereupon~~ the clerk shall enter in the judgment docket, in the column for judgment debtors, the name of the delinquent taxpayer mentioned in the warrant and, in the appropriate columns, the amount of tax, penalties, interest, and other costs for which the warrant is issued and the date when ~~such the~~ warrant is filed, ~~and thereupon the~~ *The docketed* warrant ~~so docketed shall have~~ *has* the ~~force and~~ effect of a judgment ~~duly~~ rendered by a district court and docketed in the office of the clerk ~~thereof~~, and the county ~~shall have~~ *has* the same remedies against the possessor user as any other judgment docket.”

Section 159. Section 15-24-2403, MCA, is amended to read:

“15-24-2403. Expanding industry taxable value decrease — application — approval — reports. (1) ~~After December 31, 1991, an~~ *An* existing industry with qualifying property that represents an expansion of the industry is entitled to receive a decrease in the tax rate for class eight property if the property results in the hiring of full-time qualifying employees for each year in which the taxable value decrease is in effect.

(2) A person, firm, or other group seeking to qualify its property for the taxable value decrease under subsection (1) shall apply to the department of ~~revenue~~ on a form provided by the department. The application must include:

(a) the description of the personal property that may qualify for the taxable value decrease;

(b) the date on which the qualifying property is intended to be operational;

(c) the rate of pay and number of existing employees and new employees to be used in the operation of the qualifying property;

(d) a statement that the new employees are in addition to the existing workforce of the industry and the specific responsibilities of each new employee; and

(e) a statement that all the applicant’s taxes are paid in full.

(3) The department shall make an initial determination as to whether the industry qualifies for the taxable value decrease.

(4) (a) If the department determines that the property qualifies for a taxable value decrease, the governing body of the affected county, consolidated government, incorporated city or town, or school district shall give due notice as defined in 76-15-103 and hold a public hearing. Each governing body may either approve or disapprove the grant of taxable value decrease. A governing body may not grant approval for the project until all of the applicant’s taxes have been paid in full. Taxes paid under protest do not preclude approval.

(b) The resolution provided for in subsection (4)(a) must include the document that grants approval of the application that was submitted to the department by the taxpayer seeking the taxable value decrease.

(5) The tax reduction described in subsection (1) applies to:

(a) the number of mills levied and assessed by each governing body approving the benefit over which the governing body has sole discretion; and

(b) statewide levies if the governing body approving the tax reduction is a county, consolidated government, or incorporated city or town.

(6) The number of new employees used by the department to calculate the taxable value decrease in subsection (7) must be determined by the wages paid to qualifying employees. A qualifying employee paid the amount of the average wage as determined by the quarterly statistical report published by the department of labor and industry is considered one new employee. Qualifying employees are considered equivalent new employees if they are paid three-quarters of the average wage or more. The qualifying employee is the equivalent of a new employee in the same fraction that ~~his~~ *the qualifying employee's* wages are to the average wage, but a qualifying employee may not be considered more than two new employees.

(7) (a) Qualifying property is entitled to a decrease in the taxable rate of class eight property based upon a percentage difference between a possible low rate of 3% and a high rate of the existing class eight property tax rate. The reduced taxable value rate is determined by calculating the inverse of the number of equivalent new employees divided by the number of existing employees and multiplying the product of that calculation by the decimal equivalent of the tax rate for class eight property.

(b) For each year that the taxable value decrease is in effect, the taxpayer shall report by March 1 to the department, on forms prescribed by the department, the wages of and the number of qualifying employees that are used in the operation of the qualifying property for which the taxable value decrease was granted.”

Section 160. Section 15-30-113, MCA, is amended to read:

“15-30-113. General definition of dependent. (1) For purposes of 15-30-112, the term “dependent” means any of the following individuals over half of whose support, for the calendar year in which the ~~taxable~~ *tax* year of the taxpayer begins, was received from the taxpayer:

(a) a son or daughter of the taxpayer or a descendant of either;

(b) a stepson or stepdaughter of the taxpayer;

(c) a brother, sister, stepbrother, or stepsister of the taxpayer;

(d) the father or mother of the taxpayer or an ancestor of either;

(e) a stepfather or stepmother of the taxpayer;

(f) a son or daughter of a brother or sister of the taxpayer;

(g) a brother or sister of the father or mother of the taxpayer;

(h) a son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of the taxpayer;

(i) an individual who, for the ~~taxable~~ *tax* year of the taxpayer, has as ~~his~~ *the individual's* principal place of abode the home of the taxpayer and is a member of the taxpayer's household; or

(j) an individual who:

(i) is a descendant of a brother or sister of the father or mother of the taxpayer;

(ii) for the ~~taxable~~ *tax* year of the taxpayer received institutional care required by reason of a physical or mental disability; and

(iii) before receiving ~~such~~ *the* institutional care, was a member of the same household as the taxpayer.

(2) For purposes of 15-30-112 and this section:

(a) the terms “brother” and “sister” include a brother or sister by the half blood;

(b) in determining whether any of the relationships specified in this section exist, a legally adopted child of an individual ~~shall~~ *must* be treated as a child of ~~such~~ *the* individual by blood.”

Section 161. Section 15-30-129, MCA, is amended to read:

“15-30-129. Tax credit for providing disability insurance for employees. There is a credit against the taxes otherwise due under this chapter allowable to an employer for the amount of premiums for disability insurance paid by the employer for ~~his~~ *the employer’s* employees. The tax credit must be computed in accordance with the provisions of 15-31-132.”

Section 162. Section 15-30-132, MCA, is amended to read:

“15-30-132. Change from nonresident to resident or vice versa. If a taxpayer changes ~~his~~ status from that of resident to that of nonresident or from that of nonresident to that of resident during the ~~taxable~~ *tax* year, ~~he~~ *the taxpayer* shall file a return. If a resident obtains employment outside the state, income from ~~such~~ *the* employment is taxable in Montana.”

Section 163. Section 15-30-134, MCA, is amended to read:

“15-30-134. Determination of marital status. For purposes of this chapter:

(1) the determination of whether an individual is married ~~shall~~ *must* be made as of the close of ~~his~~ *taxable the individual’s* tax year, except that if ~~his~~ *the individual’s* spouse dies during ~~his~~ *taxable the individual’s* tax year, ~~such~~ *the* determination ~~shall~~ *must* be made as of the time of ~~such~~ death; and

(2) an individual legally separated from ~~his~~ *the individual’s* spouse under a decree of divorce or of separate maintenance ~~shall~~ *may* not be considered as married.”

Section 164. Section 15-30-135, MCA, is amended to read:

“15-30-135. Tax on beneficiaries or fiduciaries of estates or trusts. (1) A tax ~~shall~~ *must* be imposed upon either the fiduciaries or the beneficiaries of estates and trusts as ~~hereinafter~~ *provided in this section*, except to the extent ~~such~~ *that* estates and trusts ~~shall~~ *must* be held for educational, charitable, or religious purposes, ~~which~~ *The* tax ~~shall~~ *must* be levied, collected, and paid annually with respect to the income of estates or of any kind of property held in trust, including:

(a) income received by estates of deceased persons during the period of administration or settlement of the estate;

(b) income accumulated in trust for the benefit of unborn or unascertained persons or persons with contingent interests;

(c) income held for future distribution under the terms of the will or trust; and

(d) income ~~which~~ *that* is to be distributed to the beneficiaries periodically, whether or not at regular intervals, and the income collected by a guardian of a minor, to be held or distributed as the court may direct.

(2) The fiduciary ~~shall be~~ *is* responsible for making the return of income for the estate or trust for which ~~he~~ *the* ~~fiduciary~~ acts, whether the fiduciary or the beneficiaries are taxable with reference to the income of ~~such~~ *the* estate or trust. In cases under subsections ~~(a) and (d) of subsection (1)(a) and (1)(d)~~, the fiduciary shall include in the return a statement of each beneficiary's distributive share of net income, whether or not distributed before the close of the ~~taxable~~ *tax* year for which the return is made.

(3) In cases under subsections ~~(a), (b), and (c) of subsection (1) (1)(a), (1)(b), and (1)(c)~~, the tax ~~shall~~ *must* be imposed upon the fiduciary of the estate or trust with respect to the net income of the estate or trust and ~~shall~~ *must* be paid by the fiduciary. If the taxpayer's net income for the ~~taxable~~ *tax* year of the estate or trust is computed upon the basis of a period different from that upon the basis of which the net income of the estate or trust is computed, then ~~his~~ *the* ~~taxpayer's~~ distributive share of the net income of the estate or trust for any accounting period of ~~such~~ *the* estate or trust ending within the fiscal or calendar year ~~shall~~ *must* be computed upon the basis on which ~~such~~ *the* beneficiary's net income is computed. In ~~such~~ *those* cases, a beneficiary *who is* not a resident ~~shall~~ *must* be taxable with respect to ~~his~~ *the* ~~beneficiary's~~ income derived through ~~such~~ *the* estate or trust only to the extent provided in 15-30-131 for individuals other than residents.

(4) The fiduciary of a trust created by an employer as a part of a stock bonus, pension, or profit-sharing plan for the exclusive benefit of some or all of ~~his~~ *the* ~~employer's~~ employees, to which contributions are made by ~~such~~ *the* employer or employees, or both, for the purpose of distributing to ~~such~~ *the* employees the earnings and principal of the fund accumulated by the trust in accordance with ~~such~~ *the* plan, ~~shall~~ *are* not be taxable under this section, but any amount contributed to ~~such~~ *the* fund by the employer and all earnings of ~~such~~ *the* fund ~~shall~~ *must* be included in computing the income of the distributee in the year in which distributed or made available to ~~him~~ *the* ~~distributee~~.

(5) Where any part of the income of a trust other than a testamentary trust is or may be applied to the payment of premiums upon policies of insurance on the life of the grantor, (except policies of insurance irrevocably payable for the purposes and in the manner specified relating to the so-called "charitable contribution" deduction), or to the payment of premiums upon policies of life insurance under which the grantor is the beneficiary, ~~such~~ *the* part of the income of the trust ~~shall~~ *must* be included in computing the net income of the grantor."

Section 165. Section 15-30-143, MCA, is amended to read:

"15-30-143. Return of fiduciary. Every fiduciary, (except receivers appointed by authority of law in possession of only part of the property of a taxpayer), shall make a return for the individual or estate or trust from whom ~~he~~ *the* ~~fiduciary~~ acts. Fiduciaries required to make returns under this section ~~shall~~ *be* ~~are~~ subject to all the provisions of this chapter ~~which~~ *that* apply to taxpayers."

Section 166. Section 15-30-156, MCA, is amended to read:

"15-30-156. Deduction for contributions to child abuse and neglect prevention program. A taxpayer filing an individual income tax return who does not elect to take the standard deduction provided for in 15-30-122 may, in

computing net income, claim a deduction for the payment of a contribution to the child abuse and neglect prevention program as follows:

(1) If the taxpayer paid a contribution in the ~~taxable~~ tax year for which the return is filed, ~~he~~ *the taxpayer* may deduct the amount of the contribution paid during that year, unless the amount was deducted as provided in subsection (2).

(2) If the taxpayer encloses a check or other order to pay money as a contribution with the timely filing of a tax return, in accordance with 15-30-144, ~~he~~ *the taxpayer* may elect to take a deduction for the amount of the contribution and apply the deduction in the ~~taxable~~ tax year for which ~~he~~ *the taxpayer* is filing the return.”

Section 167. Section 15-30-173, MCA, is amended to read:

“15-30-173. Residential property tax credit for elderly — disallowance or adjustment of certain claims. (1) A claim is disallowed if the department finds that the claimant received title to ~~his~~ *the individual's* homestead primarily for the purpose of receiving benefits under 15-30-171 through 15-30-179.

(2) When the landlord and tenant have not dealt at arm's length and the department judges the gross rent charged to be excessive, the department may adjust the gross rent to a reasonable amount.”

Section 168. Section 15-30-205, MCA, is amended to read:

“15-30-205. Amount withheld considered as tax collected. All amounts deducted and withheld ~~shall~~ *must* be considered as a tax collected under the provisions of 15-30-201 through 15-30-209, and ~~no~~ *an* employee ~~shall~~ *does not* have any right of action against ~~his~~ *the* employer in respect to any ~~moneys~~ *so* money deducted and withheld from ~~his~~ *the* employee's wages and paid to the state in compliance or intended compliance with 15-30-201 through 15-30-209.”

Section 169. Section 15-30-206, MCA, is amended to read:

“15-30-206. Annual withholding statement. Every employer shall, prior to January 31 in each year, furnish to each employee a written statement showing the total wages paid by the employer to the employee during the preceding calendar year and showing the amount of the federal income tax deducted and withheld from ~~such~~ *the* wages and the amount of the tax deducted and withheld ~~therefrom~~ under the provisions of 15-30-201 through 15-30-209. ~~Said~~ *The* statement ~~shall~~ *must* contain ~~such~~ additional information and ~~shall~~ *must* be in ~~such~~ *the* form as ~~that~~ the department ~~shall~~ *prescribe* ~~prescribes~~, and a duplicate ~~thereof~~ *shall* of the statement *must* be filed by the employee with ~~his~~ *the* employee's state income tax return.”

Section 170. Section 15-30-302, MCA, is amended to read:

“15-30-302. Oaths administered by director of revenue and designated employees. The director and each employee designated by ~~him~~ *the* director may administer an oath to any person or take the acknowledgment of any person in respect to any report or return required by or pursuant to this chapter or by the rules of the department.”

Section 171. Section 15-30-307, MCA, is amended to read:

“15-30-307. Closing agreements. (1) The director of revenue or any person authorized in writing by ~~him~~ *the* director is authorized to enter into an agreement with any person relating to the liability of ~~such~~ *the* person in respect to the tax imposed by this chapter for any ~~taxable~~ tax period.

(2) ~~Any such~~ An agreement ~~shall be described in subsection (1) is~~ final and conclusive and, except upon a showing of fraud or malfeasance or misrepresentation of a material fact:

(a) the case may not be reopened as to matters agreed upon or the agreement modified by any officer, employee, or agent of this state; and

(b) in any suit, action, or proceeding under ~~such the~~ agreement or any determination, assessment, collection, payment, abatement, refund, or credit made in accordance ~~therewith~~ *with the agreement*, the agreement may not be annulled, modified, set aside, or disregarded.”

Section 172. Section 15-30-314, MCA, is amended to read:

“15-30-314. Stay of enforcement against military personnel. (1) ~~Any such~~ A person *described in 15-30-313* may, during ~~his the person’s~~ period of military service or within 6 months thereafter, apply to a court for relief in respect of any tax obligation or any tax liability incurred by ~~such the~~ person prior to ~~his the person’s~~ period of military service or in respect of any ~~such tax~~ obligation or liability, whether falling due prior to or during ~~his the person’s~~ period of military service. Any district court of the state after appropriate notice and hearing, unless in its opinion the ability of the applicant to comply with the terms of ~~such the~~ obligation or liability or to pay ~~such the~~ tax or assessment has not been materially affected by reason of ~~his the person’s~~ military service, may grant a stay of the enforcement ~~thereof~~ during the applicant’s period of military service and from the date of termination of ~~such the~~ period of military service or from the date of application, if made after ~~such the~~ service, for a period of time equal to the period of military service of the applicant or any part of ~~such that~~ period. *The stay is* subject to payment of the balance of principal and accumulated interest due and unpaid at the date of termination of ~~such the~~ period of military service or from the date of application, as the case may be, in equal periodic installments during ~~such the~~ extended period at ~~such the~~ rate of interest *as that* may be prescribed for ~~such the~~ tax obligation or tax liability or assessment if paid when due and subject to ~~such other terms as that~~ may be just.

(2) When ~~any a~~ court has granted a stay as provided in this section, ~~no a~~ fine or penalty ~~shall may not~~ accrue during the period the terms and conditions of ~~such the~~ stay are complied with by reason of the failure to comply with the terms or conditions of the tax obligation, tax liability, or assessment in respect of which ~~such the~~ stay was granted.”

Section 173. Section 15-30-331, MCA, is amended to read:

“15-30-331. Certified copies of tax returns to taxpayer — fee. (1) Certified copies of returns filed for income tax under 15-30-144 may be furnished by the department of ~~revenue~~ to the taxpayer or ~~his the taxpayer’s~~ ~~du~~ authorized representative upon payment of 50 cents for each page.

(2) All ~~moneys~~ money collected under this section ~~shall must~~ be required to reimburse the department for costs involved in the preparation of the copies. All ~~such moneys~~ money collected ~~shall go into~~ *must be deposited in* the general fund.

(3) The provisions of this section ~~shall~~ apply to all returns on file and all returns to be filed ~~hereafter~~.”

Section 174. Section 15-31-521, MCA, is amended to read:

“15-31-521. Closing agreements. (1) The director of revenue or any person authorized in writing by ~~him the director~~ is authorized to enter into an agreement with any taxpayer relating to the liability of ~~such the~~ taxpayer in respect to the tax imposed by this chapter for any taxable period.

(2) Any ~~such~~ agreement is final and conclusive, and except upon a showing of fraud or malfeasance or misrepresentation of a material fact:

(a) the case may not be reopened as to matters agreed upon or the agreement modified by any officer, employee, or agent of this state; and

(b) in any suit, action, or proceeding under ~~such~~ *the* agreement or any determination, assessment, collection, payment, abatement, refund, or credit made in accordance ~~therewith~~ *with the agreement*, the agreement may not be annulled, modified, set aside, or disregarded.”

Section 175. Section 15-31-523, MCA, is amended to read:

“15-31-523. Suspension or forfeiture on delinquency. (1) If a tax computed and levied ~~hereunder~~ *under this chapter* is not paid or if a return is not filed before 5 p.m. on the last day of the 11th month after the date of delinquency, the corporate powers, rights, and privileges of the delinquent taxpayer, if it ~~be is~~ a domestic corporation, ~~shall must~~ be suspended, and if the delinquent taxpayer ~~be is~~ a foreign corporation, it shall ~~thereupon~~ forfeit its rights to do intrastate business in this state. ~~Provided that if any~~ *If a* domestic corporation ~~shall fail~~ *fails* for a period of 5 consecutive years ~~to either to~~ file a return or to pay the corporation license tax, the department of ~~revenue~~ shall notify ~~such the~~ corporation by mail addressed to the latest address on file in its office that ~~such the~~ corporation will become dissolved if it fails to file all delinquent reports and pay all delinquent corporation license taxes within a period of 60 days ~~from and~~ after the mailing of ~~such the~~ notice. If ~~such the~~ delinquent reports are not made and all delinquent corporation licenses are not paid before the expiration of ~~said the~~ 60-day period, the department shall certify this fact to the secretary of state, and upon receipt of ~~such the~~ certificate, the corporation ~~shall must~~ be dissolved and the secretary of state shall indicate, by ~~his the~~ *the secretary of state's* records, ~~such the~~ dissolution.

(2) The department shall transmit the name of each ~~such~~ corporation *described in subsection (1)* to the secretary of state, who shall immediately record the ~~same transmission~~ in ~~such a~~ manner that it ~~may be is~~ available to the public. The suspension, forfeiture, or dissolution ~~herein~~ provided for ~~shall in this section become~~ *becomes* effective immediately when ~~such the~~ record is made, and the certificate of the secretary of state ~~shall be is~~ conclusive evidence of ~~such the~~ suspension, forfeiture, or dissolution.”

Section 176. Section 15-31-524, MCA, is amended to read:

“15-31-524. Reviver of corporation after suspension or forfeiture. ~~Any A~~ corporation ~~which that~~ has suffered the suspension or forfeiture referred to in the ~~preceding section 15-31-523~~ may be relieved ~~therefrom~~ upon making application ~~therefor~~ in writing supported by a certificate from the department of ~~revenue~~ showing that the required return has been made and filed ~~and/or and~~ that the tax and interest and penalties have been paid, for which the suspension or forfeiture occurred. Application for reviver may be made by any stockholder or creditor of the corporation or by a majority of the surviving trustees or directors; ~~and the same shall~~ *The application must* be filed with the secretary of state, ~~for which he shall receive and must be accompanied by~~ a filing and recording fee of \$15. ~~In case~~ *If* the application is made more than 1 year ~~from~~ after the date the suspension or forfeiture occurred, the applicant shall pay twice the amount of the tax and penalties due the state for the ~~taxable~~ *tax* year with respect to which the suspension or forfeiture occurred. Upon ~~such~~ payment, the secretary of state shall issue a certificate of reviver for which ~~he the secretary of state~~ shall collect a fee of \$15, and ~~thereupon upon~~ issuance of the

certificate, the applicant ~~shall be~~ *is* revived. The reviver ~~shall be~~ *is* without prejudice to any action, defense, or right ~~which that~~ has accrued by reason of the original suspension or forfeiture. The certificate of reviver ~~shall be~~ *is* prima facie evidence of the reviver. ~~Any~~ A certificate of reviver provided for in this section may be recorded in the office of the county clerk and recorder in any county of this state.”

Section 177. Section 15-31-551, MCA, is amended to read:

“15-31-551. Certified copies of corporation license tax returns to taxpayer — fee. Certified copies of returns filed for corporation license tax under 15-31-111 may be furnished by the department of revenue to the taxpayer or ~~his~~ *the taxpayer’s* duly authorized representative upon payment of 50 cents for each page.”

Section 178. Section 15-32-101, MCA, is amended to read:

“15-32-101. Purpose. The purpose of this part is to encourage the use of alternative energy sources and the conservation of energy through incentive programs. ~~Such~~ *The* incentives are to be made available to the energy user on a basis ~~which that~~ requires ~~him~~ *the energy user* to take the initiative in obtaining a particular incentive. This part allows but does not require a public utility to extend credit for energy conservation investments.”

Section 179. Section 15-32-103, MCA, is amended to read:

“15-32-103. Deduction for energy-conserving investments. (1) In addition to all other deductions from gross corporate income allowed in computing net income under chapter 31, part 1, a taxpayer may deduct a portion of ~~his~~ *the taxpayer’s* expenditure for a capital investment in a building for an energy conservation purpose, in accordance with the following schedule:

If the installation or investment is made in a residential building:	If the installation or investment is made in a building not used as a residence:
100% of first \$1,000 expended	100% of first \$2,000 expended
50% of next \$1,000 expended	50% of next \$2,000 expended
20% of next \$1,000 expended	20% of next \$2,000 expended
10% of next \$1,000 expended	10% of next \$2,000 expended

(2) This tax treatment is subject to approval of the department, as provided in 15-32-106, and may not be claimed for so much of the expenditure and capital investment as is financed by a state, federal, or private grant for energy conservation.”

Section 180. Section 15-33-104, MCA, is amended to read:

“15-33-104. Reporting — recordkeeping by the department. The ~~chairman~~ *presiding officer* or president of each small business investment company shall report on a form established by the department on a monthly basis the name of each investor, the amount of the investment made, and the date of investment.”

Section 181. Section 15-35-104, MCA, is amended to read:

“15-35-104. Quarterly statement and payment of tax. Each coal mine operator shall compute the severance tax due on each quarter-year’s worth of production on forms prescribed by the department. The statement ~~shall~~ *must* indicate the tonnage produced, the average Btu value of the production, the contract sales price received for the production, and ~~such~~ other information as *that* the department may require. Each coal mine operator shall provide a

statement of the tons of coal sold to each purchaser for the quarter. The completed form in duplicate, with the tax payment, ~~shall~~ *must* be delivered to the department not later than 30 days following the close of the quarter. The form ~~shall~~ *must* be signed by the operator if the operator is an individual or by an officer of the coal mine operator if the operator is a business entity. A person operating more than one coal mine in this state may include all of ~~his~~ *the person's* mines in one statement. The department may grant a reasonable extension of time for filing statements and payment of taxes due upon good cause shown ~~therefor~~.”

Section 182. Section 15-44-102, MCA, is amended to read:

“15-44-102. Definitions. For the purposes of this part, unless the context requires otherwise, the following definitions apply:

(1) “Culmination of mean annual increment” means the point of optimum net wood production on an acre of forest land.

(2) “Cultivated Christmas trees” means Christmas trees that are grown on land prepared by intensive cultivation and tilling, such as by plowing or turning over the soil, and on which all unwanted plant growth is controlled for the exclusive purpose of raising Christmas trees.

(3) “Department” means the department of revenue.

(4) “Forest” means forest land and the timber on the land.

(5) “Forest land” means contiguous land of 15 acres or more in one ownership that is capable of producing timber that can be harvested in commercial quantity and is producing timber unless the trees have been removed ~~by man~~ through harvest, including clearcuts, or by natural disaster, including but not limited to fire. Forest land includes land:

(a) that has not been converted to another use; and

(b) on which the annual net wood production equals or exceeds 25 cubic feet an acre at the culmination of mean annual increment.

(6) “Forest productivity value” means the value of forest land for assessment purposes, which value is determined only on the basis of its potential to produce timber, other forest products, and associated agricultural products through an income approach provided for in 15-44-103.

(7) “Harvest” means an activity related to the cutting or removal of timber for use or sale as a forest product.

(8) “Landowner” means an individual, corporation, association, company, firm, joint venture, syndicate, or trust.

(9) “Mean annual net wood production” means the average net usable volume of wood that 1 acre of forest land will grow in 1 year under average current and actual forest conditions and under current and reasonable management practices for each forest valuation zone established under 15-44-103.

(10) “Stumpage value” means the amount that timber would sell for under an arm’s-length transaction made in the ordinary course of business, expressed in terms of dollars per unit of measure.

(11) (a) “Timber” means all wood growth on privately owned land, mature or immature, alive or dead, standing or down, that is capable of furnishing raw material used in the manufacture of lumber or other forest products.

(b) The term does not include cultivated Christmas trees.”

Section 183. Section 15-59-105, MCA, is amended to read:

“15-59-105. Quarterly statement and payment of tax. (1) Each person ~~must~~ *shall*, within 30 days after the end of each quarter, make out on forms prescribed by the department of revenue, and deliver to the department a statement showing the total number of tons of cement or gypsum produced by ~~such the~~ person or used by ~~him the~~ person in the manufacture of the respective articles or products enumerated in 15-59-101(2) and 15-59-102 or imported by ~~such the~~ person into the state of Montana for sale or use during each month of ~~such the~~ quarter and during the whole quarter and ~~such~~ other information as *that* the department may require, together with the total amount due to the state as license taxes for ~~such the~~ quarter.

(2) ~~Such~~ *The* annual license tax as imposed by 15-59-102 ~~shall~~ *must* be paid in quarterly installments for the quarters ending, ~~respectively,~~ March 31, June 30, September 30, and December 31 of each year, and the amount of ~~such the~~ license tax due for each ~~such~~ quarter ~~shall~~ *must* be paid to the department within 30 days after the end of each ~~such~~ quarter and at the same time ~~such the~~ statement is delivered to the department.

(3) Any ~~such~~ person engaged in carrying on ~~such a~~ cement production business at more than one place or operating more than one factory or plant in this state may include all ~~thereof~~ *locations* in one statement.

(4) The department may grant a reasonable extension of time for filing statements and payment of taxes due upon good cause shown ~~therefor.~~”

Section 184. Section 15-60-207, MCA, is amended to read:

“15-60-207. (Temporary) Closing agreements. (1) The director of the department or any person authorized in writing by ~~him the~~ director is authorized to enter into an agreement with any facility relating to the liability of the facility in respect to the fees imposed by this chapter for any period.

(2) An agreement under this section is final and conclusive, and except upon a showing of fraud or malfeasance or misrepresentation of a material fact:

(a) the case may not be reopened as to matters agreed upon or the agreement modified by any officer, employee, or agent of this state; and

(b) in any suit, action, or proceeding under the agreement or any determination, assessment, collection, payment, abatement, refund, or credit made in accordance with the agreement, the agreement may not be annulled, modified, set aside, or disregarded. *(Void on occurrence of contingency—sec. 18, Ch. 746, L. 1991—see chapter compiler’s comment.)*”

Section 185. Section 15-70-232, MCA, is amended to read:

“15-70-232. Penalties. Any distributor or other person who fails, neglects, or refuses to make and file the statements required by this part in the manner or within the time provided or who ~~shall be~~ *is* delinquent in the payment of any license tax imposed by this part or who ~~shall make~~ *makes* any false statement with reference to ~~his the~~ distributor’s or person’s business or who ~~shall make~~ *makes* any false statement on any claim for refund or who violates any provision of the part ~~shall is~~, in addition to any other penalties imposed, ~~be deemed~~ guilty of a misdemeanor and upon conviction shall be fined in any amount not exceeding \$1,000 or ~~be~~ imprisoned in the county jail for not to exceed 6 months, or ~~shall be punished by the imposition of both such fine and imprisonment.~~”

Section 186. Section 16-1-203, MCA, is amended to read:

“16-1-203. Health professions exemption. A physician, dentist, veterinarian, or pharmacist, acting within the scope of ~~his~~ *the individual’s* professional responsibility and license to practice, who prescribes, prepares, or administers alcohol or substances containing alcohol and sells or charges a fee does not violate the prohibitions of this code.”

Section 187. Section 16-1-204, MCA, is amended to read:

“16-1-204. Licensed hospital or health care facility. Any person in charge of an institution regularly conducted as a licensed hospital or health care facility may administer alcoholic beverages purchased by ~~him~~ *the person* to any patient or inmate of the institution and may charge for the alcoholic beverages ~~so administered.~~”

Section 188. Section 16-3-105, MCA, is amended to read:

“16-3-105. Restrictions on alcoholic beverages in hotels. Except in the case of alcoholic beverages kept or consumed in premises for which a license has been granted under the law and ~~which~~ *that* form a part of a hotel, ~~no~~ *a person shall may not:*

(1) keep or consume alcoholic beverages in any part of a hotel other than a private guest room;

(2) keep or have any alcoholic beverage in any room in a hotel unless ~~he~~ *the person* is a bona fide guest of the hotel and is ~~duly~~ registered in the office of the hotel as an occupant of that room.”

Section 189. Section 16-3-212, MCA, is amended to read:

“16-3-212. Brewers’ or beer importers’ sales to wholesalers lawful. ~~It shall be lawful for any~~ A licensed brewer ~~to may~~ sell or deliver beer manufactured by ~~him~~ *the brewer* to any licensed wholesaler. ~~It shall be lawful for any~~ A licensed beer importer ~~to may~~ sell or deliver beer imported by ~~him~~ *the importer* to any licensed wholesaler.”

Section 190. Section 16-3-223, MCA, is amended to read:

“16-3-223. Transfer of wholesaler’s interest in business. A wholesaler ~~shall have the right to~~ *may* sell or transfer ~~his~~ *the* business or an interest in ~~his~~ *the* business to any person or to one or more members of ~~his~~ *the wholesaler’s* family or heirs or legatees, whether the wholesaler operates as an individual, a partnership, or corporation. ~~Provided, however~~ *However*, the consent of the brewer or beer importer in writing is required for ~~such~~ *the* transferee to continue as a wholesaler of ~~said~~ *the* brewer or beer importer; ~~which~~ *The* consent ~~shall~~ *must* consider the personal, financial, and managerial responsibilities and capabilities of ~~such~~ *the* transferee, and ~~which~~ *the* consent ~~shall may~~ not unreasonably be withheld.”

Section 191. Section 16-3-231, MCA, is amended to read:

“16-3-231. Monthly report of wholesaler. Every wholesaler licensed to do business in this state shall, on or before the 15th day of each month, in the manner and form ~~as shall be~~ prescribed by the department, make an exact return to the department of the amount of beer manufactured in this state sold and delivered by ~~him~~ *the wholesaler* and also of the amount of beer manufactured in places outside of the state sold and delivered by ~~him~~ *the wholesaler* during the previous month and of ~~his~~ *the wholesaler’s* inventory. The department ~~shall have the right~~ *may* at any time ~~to~~ make an examination of the wholesaler’s books and of ~~his~~ premises and otherwise check the accuracy of ~~such~~ *the* return or ~~to~~ check the alcoholic content of beer ~~which he may have~~ on hand.”

Section 192. Section 16-3-232, MCA, is amended to read:

“16-3-232. Beer sales by wholesaler. It shall be lawful for any A wholesaler to ~~may~~ sell and deliver beer purchased or acquired by ~~him the wholesaler~~ to a wholesaler, retailer, or ~~to a common carrier, holding and having a license licensed~~ under this code.”

Section 193. Section 16-3-233, MCA, is amended to read:

“16-3-233. Sales to public by wholesaler unlawful. It shall be unlawful for any A wholesaler to ~~may not~~ give, sell, deliver, or distribute any beer purchased or acquired by ~~him the wholesaler~~ to the public.”

Section 194. Section 16-3-242, MCA, is amended to read:

“16-3-242. Financial interest in retailers prohibited. No A brewer, beer importer, or wholesaler shall ~~may not~~ advance or loan money to or furnish money for or pay for or on behalf of any retailer any license or tax ~~which that~~ may be required to be paid for any retailer; ~~and no~~ A brewer, beer importer, or wholesaler shall ~~may not~~ be financially interested, either directly or indirectly, in the conduct or operation of the business of a retailer. A brewer, beer importer, or wholesaler shall ~~be deemed is considered~~ to have such a financial interest within the meaning of this section if:

(1) ~~such the~~ brewer, beer importer, or wholesaler owns or holds any interest in or a lien or mortgage against the retailer or ~~his the~~ retailer's premises;

(2) ~~such the~~ brewer, beer importer, or wholesaler is under any contract with a retailer concerning future purchases ~~and/or~~ or the sale of merchandise by one from or to the other; or

(3) any retailer holds an interest, as a stockholder or otherwise, in the business of the wholesaler.”

Section 195. Section 16-3-302, MCA, is amended to read:

“16-3-302. Sale by retailer for consumption on premises. (1) It is lawful for a licensed retailer to sell and serve beer, either on draught or in containers, to the public to be consumed on the premises of the retailer.

(2) It is lawful for a licensee who has an all-beverages license that ~~he the~~ licensee uses at a golf course to sell alcoholic beverages and for a licensee who has a golf course beer and wine license issued under 16-4-109 to sell beer and wine:

(a) in the building or other structural premises constituting the clubhouse or primary indoor recreational quarters of the golf course; and

(b) at any place within the boundaries of the golf course, from a portable satellite vehicle or other movable satellite device that is moved from place to place, whether inside or outside of a building or other structure.

(3) It is lawful to consume alcoholic beverages sold as provided in subsection (2) at any place within the boundaries of the golf course, whether inside or outside of a building or other structure.”

Section 196. Section 16-3-306, MCA, is amended to read:

“16-3-306. Proximity to churches and schools restricted. (1) Except as provided in subsections (2) through (4), ~~no a~~ retail license may ~~not~~ be issued pursuant to this code to any business or enterprise whose premises are within 600 feet of and on the same street as a building used exclusively as a church, synagogue, or other place of worship or as a school other than a commercially operated or postsecondary school. This distance shall ~~must~~ be measured in a

straight line from the center of the nearest entrance of the place of worship or school to the nearest entrance of the licensee's premises. This section is a limitation upon the department's licensing authority.

(2) However, the department may renew a license for any establishment located in violation of this section if the licensee does not relocate ~~his entrances~~ *an entrance* any closer than the existing entrances and if the establishment:

- (a) was located on the site before the place of worship or school opened; or
- (b) was located in a bona fide hotel, restaurant, or fraternal organization building at the site since January 1, 1937.

(3) Subsection (1) does not apply to licenses for the sale of beer, table wine, or both in the original package for off-premises consumption.

(4) Subsection (1) does not apply within the applicable jurisdiction of a local government that has supplanted the provisions of subsection (1) as provided in 16-3-309."

Section 197. Section 16-3-406, MCA, is amended to read:

"16-3-406. Financial interest in retailers prohibited. (1) ~~No~~ *A* winery or table wine distributor ~~shall may not~~ advance or loan money to, or furnish money for, or pay for or on behalf of any retailer; any license or tax ~~which that~~ may be required to be paid by any retailer, and ~~no~~ *a* winery or table wine distributor ~~shall may not~~ be financially interested, either directly or indirectly, in the conduct or operation of the business of a retailer.

(2) A winery or table wine distributor ~~shall be deemed is considered~~ to have ~~such~~ a financial interest if:

- (a) ~~such the~~ winery or table wine distributor owns or holds any interest in or a lien or mortgage against the retailer or ~~his the~~ *retailer's* premises; or
- (b) ~~such the~~ winery or table wine distributor is under any contract with a retailer concerning future purchases ~~and/or~~ *or the* sale of merchandise by one from or to the other; or
- (c) ~~such the~~ table wine distributor extends more than 7 days' credit to a retail licensee or furnishes to any retail licensee any furniture, fixtures, or equipment to be used in the dispensation or sale of table wine; or
- (d) any retailer holds an interest as a stockholder, or otherwise, in the business of the table wine distributor."

Section 198. Section 16-4-104, MCA, is amended to read:

"16-4-104. Beer retailer's license — application and issuance — check of alcoholic content by department. (1) Any person desiring to possess and have beer *for the purpose of retail* sale under the provisions of this code ~~for the purpose of selling it at retail~~ shall first apply to the department for a permit to do so and ~~tender submit~~ with ~~such the~~ application the license fee ~~provided for~~.

(2) Upon being satisfied, from ~~such the~~ application or otherwise, that the applicant is qualified ~~as provided~~, the department shall issue a license to ~~such the~~ person, ~~which~~ *The* license ~~shall must~~ at all times be prominently displayed in the place of business of the ~~applicant~~ *person*.

(3) If the department ~~shall find~~ *finds* that the applicant is not qualified, ~~no a~~ license ~~shall may not~~ be granted and the license fee ~~tendered shall must~~ be returned by the department.

(4) The department ~~shall have the right and is hereby given authority to make~~ *may*, at any time, ~~an examination of~~ *examine* the books of account ~~and the premises of any such licensed retailer and of his premises and otherwise check his the retailer's methods of conducting business and the alcoholic content of the beer kept by him for sale.~~

(5) A person may not sell beer at retail without a valid license issued under this code.”

Section 199. Section 16-4-108, MCA, is amended to read:

“16-4-108. Table wine distributor’s license. (1) Any person desiring to sell and distribute table wine at wholesale to retailers under the provisions of this code shall apply to the department of revenue for a license to do so and shall ~~tender submit~~ with ~~his the~~ application the annual license fee of \$400. ~~and the~~ *The* department may issue licenses to qualified applicants in accordance with the provisions of this code.

(2) All table wine distributors’ licenses issued in any year expire on June 30 ~~of that year~~ at midnight of ~~such year~~.

(3) ~~No~~ A license fee may *not* be imposed upon table wine distributors by a municipality or any other political subdivision of the state.

(4) The license ~~shall~~ *must* be at all times prominently displayed in the place of business of ~~such the~~ table wine distributor.

(5) An applicant ~~shall~~ *must* have a fixed place of business, sufficient capital, the facilities, storehouse, and receiving house or warehouse for the receiving, storage, handling, and moving of table wine in large and jobbing quantities for distribution and sale in original packages to other licensed table wine distributors or licensed retailers. Each table wine distributor is entitled to only one wholesale table wine license, which license ~~shall~~ *must* be issued for ~~his the~~ *distributor's* principal place of business in Montana. A duplicate license may be issued for one subwarehouse only in Montana for each table wine distributor’s license. The duplicate license ~~shall~~ *must* at all times be prominently displayed at ~~said the~~ subwarehouse. A table wine distributor may also hold a license to sell beer at wholesale but ~~shall~~ *may* not hold or have any interest, direct or indirect, in any license to sell beer, table wine, or liquor at retail.

(6) If the applicant is a foreign corporation, the corporation must be authorized to do business in Montana.

(7) As used in subsection (1), “distribute” has the meaning ~~given to it~~ *provided* in 16-3-218.”

Section 200. Section 16-4-110, MCA, is amended to read:

“16-4-110. Beer license for tribal alcoholic beverages licensee or enlisted ~~men's~~ *personnel*, noncommissioned officers’, or officers’ club.

(1) Upon application and qualification, the department shall issue a license to sell beer for consumption on the premises to:

(a) a tribal alcoholic beverages licensee who operates ~~such the~~ business within the exterior boundaries of a Montana Indian reservation under a tribal license issued prior to January 1, 1985;

(b) an enlisted ~~men's~~ *personnel*, noncommissioned officers’, or officers’ club located on a state or federal military reservation in Montana on May 13, 1985.

(2) A license issued under the provisions of subsection (1) is not subject to the quota limitations of 16-4-105.

(3) Upon application and approval by the department, a license issued under subsection (1)(a) may be transferred to another qualified applicant, but only to a location within the quota area and the exterior boundaries of the Montana Indian reservation for which the license was originally issued.

(4) A license issued under this section is subject to all statutes and rules governing licenses to sell beer at retail for on-premises consumption.”

Section 201. Section 16-4-201, MCA, is amended to read:

“16-4-201. All-beverages license quota. (1) Except as otherwise provided by law, a license to sell liquor, beer, and table wine at retail, an all-beverages license, in accordance with the provisions of this code and the rules of the department, may be issued to any person who is approved by the department as a fit and proper person to sell alcoholic beverages, except that the number of all-beverages licenses that the department may issue for premises situated within incorporated cities and incorporated towns and within a distance of 5 miles from the corporate limits of those cities and towns must be determined on the basis of population prescribed in 16-4-502 as follows:

(a) in incorporated towns of 500 inhabitants or less and within a distance of 5 miles from the corporate limits of the towns, not more than two retail licenses;

(b) in incorporated cities or incorporated towns of more than 500 inhabitants and not over 3,000 inhabitants and within a distance of 5 miles from the corporate limits of the cities and towns, three retail licenses for the first 1,000 inhabitants and one retail license for each additional 1,000 inhabitants;

(c) in incorporated cities of over 3,000 inhabitants and within a distance of 5 miles from the corporate limits of the cities, five retail licenses for the first 3,000 inhabitants and one retail license for each additional 1,500 inhabitants.

(2) The number of the inhabitants in cities and towns, exclusive of the number of inhabitants residing within a distance of 5 miles from the corporate limits of the cities or towns, governs the number of retail licenses that may be issued for use within the cities and towns and within a distance of 5 miles from the corporate limits of the cities or towns. If two or more incorporated municipalities are situated within a distance of 5 miles from each other, the total number of retail licenses that may be issued for use in both of the municipalities and within a distance of 5 miles from their respective corporate limits must be determined on the basis of the combined populations of both of the municipalities and may not exceed the limitations in subsection (1) or this subsection. The distance of 5 miles from the corporate limits of any incorporated city or incorporated town must be measured in a straight line from the nearest entrance of the premises proposed for licensing to the nearest corporate boundary of the city or town.

(3) Retail all-beverages licenses of issue on March 7, 1947, and all-beverages licenses issued under 16-4-209, ~~which~~ *that* are in excess of the limitations in subsections (1) and (2) ~~must be~~ *are* renewable, but new licenses may not be issued in violation of the limitations.

(4) The limitations in subsections (1) and (2) do not prevent the issuance of a nontransferable and nonassignable, (as to ownership only), retail license to an enlisted ~~men's~~ *personnel*, noncommissioned officers', or officers' club located on a state or federal military reservation on May 13, 1985, or to any post of a nationally chartered veterans' organization or any lodge of a recognized national fraternal organization if the veterans' or fraternal organization has been in existence for a period of 5 years or more prior to January 1, 1949.

(5) The number of retail all-beverages licenses that the department may issue for use at premises situated outside of any incorporated city or incorporated town and outside of the area within a distance of 5 miles from the corporate limits of a city or town may not be more than one license for each 750 population of the county after excluding the population of incorporated cities and incorporated towns in the county.

(6) An all-beverages license issued under subsection (5) that becomes located within 5 miles of an incorporated city or town because of annexation after April 15, 2005, may not be transferred to another location within the city quota area for 5 years from the date of annexation.”

Section 202. Section 16-4-209, MCA, is amended to read:

“16-4-209. All-beverages license for tribal alcoholic beverages licensee or enlisted men’s personnel, noncommissioned officers’, or officers’ club. (1) Upon application and qualification, the department shall issue an all-beverages license to:

(a) a tribal alcoholic beverages licensee who operates ~~such~~ *the* business within the exterior boundaries of a Montana Indian reservation under a tribal license issued prior to January 1, 1985;

(b) an enlisted ~~men’s personnel~~, noncommissioned officers’, or officers’ club located on a state or federal military reservation in Montana on May 13, 1985.

(2) A license issued under the provisions of subsection (1) is not subject to the quota limitations of 16-4-201.

(3) Upon application and approval by the department, a license issued under subsection (1)(a) may be transferred to another qualified applicant, but ~~such~~ *the* license may ~~only~~ be transferred *only* to a location within the quota area and the exterior boundaries of the Montana Indian reservation for which the license was originally issued.

(4) A license issued under this section is subject to all statutes and rules governing all-beverages licenses.”

Section 203. Section 16-6-105, MCA, is amended to read:

“16-6-105. Seizure and forfeiture of alcoholic beverage and conveyance. Whenever an investigator or any peace officer in making or attempting to make a search under and in pursuance of authority of law ~~shall find~~ *finds* in any motor vehicle, vessel, boat, canoe, or conveyance of any description an alcoholic beverage ~~which~~ *that* is unlawfully kept or had or kept or held for unlawful purposes contrary to the provisions of this code, ~~he~~ *the investigator or peace officer* may ~~forthwith~~ seize the alcoholic beverage and packages in which the ~~same~~ *is alcoholic beverage is* contained and the motor vehicle, vessel, boat, canoe, or conveyance in which the alcoholic beverage is found. Upon the conviction of the occupant or person in charge of the motor vehicle, vessel, boat, canoe, or conveyance, or of any other person, for having or keeping ~~such~~ *the* alcoholic beverages contrary to any of the provisions of this code in any ~~such~~ vehicle, vessel, boat, canoe, or conveyance, the court in which the ~~conviction of any such~~ person is ~~had~~ *convicted* may, in addition to the sentence imposed under authority of law, declare the alcoholic beverage or any part ~~thereof~~ *so* seized and the package in which the ~~same~~ *alcoholic beverage is* contained to be forfeited to the state of Montana. The court may in and by decree further declare the motor vehicle, vessel, boat, canoe, or conveyance seized to be forfeited to the state of Montana.”

Section 204. Section 16-6-205, MCA, is amended to read:

“16-6-205. Sufficiency of evidence. In any prosecution under this code for the sale or keeping for sale or other disposal of alcoholic beverages or the having, keeping, giving, purchasing, or consuming of alcoholic beverages, it ~~shall~~ *is* not be necessary that any witness ~~should depose~~ *testify* to the precise description or quantity of the alcoholic beverages sold, disposed of, kept, had, given, purchased, or consumed or the precise consideration, (if any), received ~~therefor for the alcoholic beverages.~~ *or to* *It is also unnecessary to testify* to the fact of the sale or other disposal having taken place with ~~his~~ *the witness's* participation or to ~~his~~ *the witness's* own personal or certain knowledge; ~~but~~ *However, a* conviction may be based upon circumstantial evidence reasonably tending to establish the guilt of the accused beyond a reasonable doubt.”

Section 205. Section 16-6-207, MCA, is amended to read:

“16-6-207. Analyst's report as prima facie evidence of contents. In any prosecution under this code or the rules ~~made thereunder~~ *adopted to implement this code*, production by a police officer, ~~police~~ *man*, constable, inspector, or peace officer of a certificate or report signed or purporting to be signed by a United States or state analyst as to the analysis or ingredients of any alcoholic beverage or other fluid or any preparation, compound, or substance, ~~such~~ *the* certificate or report ~~shall be~~ *is* prima facie evidence of the facts stated in ~~such~~ *the* certificate or report and of the authority of the person giving or making the ~~same~~ *certificate or report* without any proof of appointment or signature.”

Section 206. Section 16-6-209, MCA, is amended to read:

“16-6-209. Inferences of fact from evidence found. Upon the hearing of any charge of selling or purchasing an alcoholic beverage or of unlawfully having or keeping an alcoholic beverage contrary to any of the provisions of this code, the court trying the case ~~shall have the right to~~ *may* draw inferences of fact from the kind and quantity of alcoholic beverage found in the possession of the person accused or in any building, premises, vehicle, motorcar, automobile, vessel, boat, canoe, conveyance, or place occupied or controlled by ~~him~~ *the accused* and from the frequency with which the alcoholic beverage is received ~~thereat at or therein in~~ *or is removed therefrom from the location* and from the circumstances under which ~~it is~~ *the alcoholic beverage is* kept or dealt with.”

Section 207. Section 16-6-309, MCA, is amended to read:

“16-6-309. Alcoholic beverages administered to institution inmates. ~~No~~ *An* alcoholic beverage ~~shall~~ *may not* be administered by any person under 16-1-204 except to bona fide patients or inmates of the institution of which ~~he~~ *the* person is in charge, and every person in charge of an institution who administers alcoholic beverages in evasion or violation of this code ~~shall be~~ *is* guilty of an offense against this code.”

Section 208. Section 16-6-313, MCA, is amended to read:

“16-6-313. Injunction actions. An action to enjoin any nuisance defined in this code may be brought in the name of the state of Montana by the attorney general of the state or by any county attorney. ~~Such~~ *The* action ~~shall~~ *must* be brought and tried as an action in equity and may be brought in any court having jurisdiction to hear and determine equity cases. ~~If it is made to appear~~ *appears*, by affidavits or otherwise, to the satisfaction of the ~~court or judge~~ *in vacation* that ~~such~~ *the* nuisance exists, a temporary writ of injunction ~~shall forthwith issue~~ *must be issued* restraining the defendant from conducting or permitting the continuance of ~~such~~ *the* nuisance until the conclusion of the trial. If a temporary injunction is ~~prayed for~~ *sought*, the court may issue an order restraining the defendant and all other persons from removing or in any way

interfering with the fixtures or other things used in connection with the violation of this code constituting ~~such the~~ nuisance. ~~No A bond shall may not be~~ required in instituting ~~such the~~ proceedings. ~~It shall not be necessary for the~~ *The court is not required to find that* the property involved was being unlawfully used at the time of the hearing, but on finding that the material allegations of the petition are true, the court shall order that ~~no~~ alcoholic beverages ~~shall may not~~ be manufactured, sold, or bartered in ~~such the~~ room, house, building, boat, vehicle, structure, or place or any part ~~thereof of those locations~~. Upon judgment of the court ordering ~~such the~~ nuisance to be abated, the court may order that the room, house, building, ~~structure~~, boat, vehicle, ~~structure~~, or place ~~shall may not~~ be occupied or used for 1 year ~~thereafter~~. The court may, ~~in its discretion~~, permit ~~it the location~~ to be occupied or used if the owner, lessee, tenant, or occupant ~~thereof shall give~~ *gives* a bond with sufficient surety, to be approved by the court making the order, in the ~~penal and liquidated~~ sum of not less than \$500 or more than \$1,000, payable to the state of Montana and conditioned that alcoholic beverages will not ~~thereafter~~ be manufactured, sold, or bartered ~~therein or thereon at the location~~ and that ~~he the person~~ will pay all fines, costs, and damages that may be assessed for any violations of this code upon ~~said the~~ property.”

Section 209. Section 16-10-203, MCA, is amended to read:

“16-10-203. Sales to meet competition permitted. (1) (a) ~~Any A~~ retailer may advertise, offer to sell, or sell cigarettes at a price made in good faith to meet the price of a competitor who is selling the same article at cost to ~~him the~~ *the competitor* as a retailer as prescribed in this chapter.

(b) Any wholesaler may advertise, offer to sell, or sell cigarettes at a price made in good faith to meet the price of a competitor who is rendering the same type of service and is selling the same article at cost to ~~him the~~ *the competitor* as a wholesaler as prescribed in this chapter.

(c) The price of cigarettes advertised, offered for sale, or sold under the exceptions specified in 16-10-304 ~~shall may not~~ be considered the price of a competitor and ~~shall may not~~ be used as a basis for establishing prices below cost, ~~nor shall and~~ the price established at a ~~bankrupt~~ *bankruptcy* sale ~~may not~~ be considered the price of a competitor within the purview of this section.

(2) In the absence of proof of the “price of a competitor” under this section, the “lowest cost to the retailer” or the “lowest cost to the wholesaler”, ~~as the case may be~~, determined by any “cost survey” made pursuant to 16-10-303, may be considered to be the “price of a competitor” within the meaning of this section.”

Section 210. Section 16-11-134, MCA, is amended to read:

“16-11-134. Forged license stamp or insignia. ~~Every A~~ person who ~~shall make, alter, forge, or counterfeit makes, alters, forges, or counterfeits~~ any license stamp or insignia provided for in this law, ~~or who shall assist or be assists or is concerned therein in the creation of the stamp or insignia, or who shall have has~~ in ~~his the person's~~ possession any altered, forged, counterfeit, or spurious stamp, license, or insignia with intent to defraud the state is guilty of forgery.”

Section 211. Section 17-1-103, MCA, is amended to read:

“17-1-103. Assistance to legislature. (1) The department shall make all reports and submit all information and data the legislature requests and, when requested, attend all meetings of the appropriations committee of the house of representatives and of the finance and claims committee of the senate.

(2) The department shall, during the consideration of appropriation measures by the house and senate, devote ~~so~~ as much of its time as may be required by the ~~above-named~~ committees, under the direction of the ~~respective chairmen~~ *presiding officers* of the committees.”

Section 212. Section 17-1-112, MCA, is amended to read:

“17-1-112. Access to offices. The state treasurer ~~shall have~~ *has* full access to all offices of the state for inspection of ~~such~~ books, papers, and accounts ~~thereof as that~~ concern ~~his~~ *the state treasurer’s* duties.”

Section 213. Section 17-1-131, MCA, is amended to read:

“17-1-131. General duties of budget director. (1) The budget director in addition to the duties set forth in *Title 17*, chapter 7, ~~of this title~~ shall perform ~~such~~ other duties ~~as that~~ the governor as chief budget officer of the state may direct.

(2) ~~He~~ *The budget director* shall, as often as requested by the governor, prepare and furnish reports to the governor concerning appropriations made by the legislature and the receipts and disbursements made by any department, office, or institution of the state.

(3) The budget director ~~shall~~ *must* be available to all standing committees of the house of representatives and the senate concerned with appropriations, revenue, finance, and claims and shall furnish to ~~such~~ *the* committees any information required while ~~said~~ *the* committees are considering the budget.”

Section 214. Section 17-5-715, MCA, is amended to read:

“17-5-715. Signatures of board members. ~~In case~~ *If* any member of the board of examiners whose signature appears on bonds, notes, or coupons issued under this part ceases to be a member before the delivery of the bonds or notes, ~~his~~ *the member’s* signature is ~~nevertheless~~ valid and sufficient for all purposes, the same as if the member had remained in office until delivery.”

Section 215. Section 17-5-927, MCA, is amended to read:

“17-5-927. Signatures of board members. ~~In case~~ *If* any member of the board whose signature appears on bonds or coupons issued under this part ceases to be a member before the delivery of the bonds, ~~his~~ *the member’s* signature is ~~nevertheless~~ valid and sufficient for all purposes as if the member had remained in office until delivery.”

Section 216. Section 17-5-1516, MCA, is amended to read:

“17-5-1516. Maintenance of capital reserve account. (1) In order to ~~assure~~ *ensure* the maintenance of the capital reserve account, the ~~chairman~~ *presiding officer* of the board shall, on or before September 1 in each year preceding the convening of the legislature, deliver to the governor a certificate stating the sum, if any, required to restore the capital reserve account to the minimum capital reserve requirement. The governor shall include in the executive budget submitted to the legislature the sum required to restore the capital reserve account to the sum of minimum capital reserve requirement. All sums appropriated by the legislature ~~shall~~ *must* be deposited in the capital reserve account.

(2) All amounts appropriated to the board under this section constitute advances to the board and, subject to the rights of the holders of any bonds or notes of the board, must be repaid to the state general fund without interest from available operating ~~revenues~~ *revenue* of the board in excess of amounts

required for the payment of bonds, notes, or other obligations of the board, for maintenance of the capital reserve account, and for operating expenses.”

Section 217. Section 17-6-204, MCA, is amended to read:

“17-6-204. Investment of local government funds. (1) The governing body of any city, county, school district, or other local government unit or political subdivision ~~having that has~~ funds ~~which that~~ are available for investment and are not required by law or by any covenant or agreement with bondholders or others to be segregated and invested in a different manner may direct its treasurer to remit ~~such the~~ funds to the state treasurer for investment under the direction of the board of investments as part of the pooled investment fund.

(2) A separate account, designated by name and number for each ~~such~~ participant in the fund, ~~shall must~~ be kept to record individual transactions and totals of all investments belonging to each participant. A monthly report ~~shall must~~ be furnished to each participant having a beneficial interest in the pooled investment fund, showing the changes in investments made during the preceding month. Details of any investment transaction ~~shall must~~ be furnished to any participant upon request.

(3) The principal and accrued income, and any part ~~thereof of that amount~~, of each ~~and every~~ account maintained for a participant in the pooled investment fund ~~shall be is~~ subject to payment at any time from the fund upon request. Accumulated income ~~shall must~~ be remitted to each participant at least annually.

(4) ~~No~~ An order or warrant ~~shall may not~~ be issued upon any account for a larger amount than the principal and accrued income of the account to which it applies, ~~and if. If~~ any ~~such~~ order or warrant is issued, the participant receiving it shall reimburse the excess amount to the fund from any funds not otherwise appropriated, ~~and the. The~~ state treasurer ~~shall be is~~ liable under ~~his the~~ treasurer’s official bond for any amount not ~~so~~ reimbursed.”

Section 218. Section 17-6-213, MCA, is amended to read:

“17-6-213. Redemption of bonds before maturity. (1) The board of investments shall permit any school district, town, city, or county to pay and redeem one or more of its bonds held by the state for the credit of any fund under the investment administration of the board of investments at any time before maturity.

(2) In calculating the unpaid interest accrued on any bond or bonds at the time of payment and redemption, interest for a fractional month ~~shall must~~ be calculated and collected for a full month.

(3) Payment and redemption of bonds ~~shall must~~ be made at the office of the state treasurer unless the bonds by their own terms and provisions are made payable at some other place and payment at ~~his that~~ office would be disadvantageous to the redemptioner. When bonds have been ~~so~~ paid and redeemed, the state treasurer shall effectually cancel the bonds and the attached coupons by perforation or otherwise and mail ~~them~~ to the proper treasurer together with ~~his the~~ state treasurer’s receipt.

(4) This section does not authorize or permit any school district, town, city, or county to issue refunding bonds for the purpose of paying and redeeming any bond or bonds held by the state before the optional or redeemable date ~~therein stated of the bonds~~ or to grant the right to pay any ~~bond or~~ bonds held by the

state before the optional or redeemable date from the proceeds of refunding bonds.”

Section 219. Section 17-7-113, MCA, is amended to read:

“17-7-113. Inquiries and investigations by budget director. The budget director or ~~his~~ *the budget director’s* designated representative shall make ~~such~~ further inquiries and investigations ~~as he~~ *that the budget director* considers necessary as to any item included in the report and estimates furnished by any department, agency, or institution. In making ~~such~~ *the* investigations, ~~he shall~~ *the budget director* ~~be is~~ allowed ~~his~~ travel expenses, as provided for in 2-18-501 through 2-18-503, ~~as amended~~, in visiting any institution or department in the state.”

Section 220. Section 17-8-104, MCA, is amended to read:

“17-8-104. Civil penalties and remedies for violation. (1) (a) Any authority or member of a board of trustees or any person, officer, or employee violating the provisions of 17-8-103(1) is personally liable and the surety or sureties on ~~his~~ *that individual’s* bond ~~shall is~~ also be liable to the state for the amount of the excess ~~thus~~ unlawfully expended. An action under this subsection (1)(a) may be brought upon complaint of the attorney general, of the legislature by joint resolution, of the legislative finance committee, or of any taxpayer, filed in a district court of this state.

(b) Any authority or member of a board of trustees or any person, officer, or employee violating the provisions of 17-8-103(1) is guilty of misfeasance in office and ~~shall be~~ guilty of wrongdoing and ~~shall be is~~ subject to removal from office or from ~~such~~ employment. An action under this subsection (1)(b) may be brought upon complaint of the attorney general, the legislature by joint resolution, or any taxpayer, filed in a district court of this state.

(2) Complaints under subsections (1)(a) and (1)(b) may be combined in a single action.

(3) Remedies and penalties provided by this section may be pursued singly or in any combination.”

Section 221. Section 17-8-308, MCA, is amended to read:

“17-8-308. Payment of interest — land grant warrants. The interest on all land grant warrants ~~shall be is~~ payable on July 1 ~~next succeeding~~ *following* the date of issue and annually ~~thereafter~~ *after that date*. Whenever there is sufficient money in any of the land grant funds to pay outstanding warrants or interest ~~thereon on the warrants~~, the treasurer shall cause to be published a brief notice that ~~said the~~ warrants or the interest on particular warrants on which interest would be payable on July 1, describing them by numbers and names of funds, will be ~~forthwith~~ payable; ~~and on~~ *Upon* the presentation of any ~~such~~ warrants on or at any time after July 1, the treasurer shall pay the interest ~~thereon on the warrants~~, endorsing the date of payment and amount paid of each warrant, ~~and~~ returning the ~~same~~ *warrant* to the holder, ~~and he~~. *The treasurer* shall keep a register showing the dates and amounts of each interest payment on each warrant in each fund. If any warrants are called for payment, interest ~~thereon shall cease on the warrants ceases~~ on the date fixed in ~~said the~~ notice.”

Section 222. Section 18-1-402, MCA, is amended to read:

“18-1-402. Administrative procedures — exhaustion — time limitations. Whenever any contracting agency of the state of Montana provides a procedure for the settlement of any question or dispute arising between the contractor and ~~said the~~ agency, the contractor, before proceeding to

bring an action in court under the provisions of this part, ~~must~~ *shall* resort to ~~such the~~ procedure within the time specified in ~~his the~~ contract or, if ~~no a~~ time is *not* specified, within 90 days after the question or dispute has arisen, provided:

(1) ~~in the a case where in which~~ a settlement procedure is provided by ~~said the~~ contracting agency, all actions authorized ~~hereunder under this section~~ must be commenced within 1 year after a final decision has been rendered pursuant to ~~such the~~ settlement procedure; and

(2) ~~in the a case where no in which~~ a settlement procedure is *not* provided by ~~said the~~ contracting agency, the action must be commenced by the contractor within 1 year after the cause of action has arisen.”

Section 223. Section 18-1-403, MCA, is amended to read:

“18-1-403. Stipulations restricting enforcement void. Every stipulation or condition in a contract by which any party ~~thereto~~ is restricted from enforcing ~~his the party's~~ rights under the provisions of this part is void.”

Section 224. Section 18-2-204, MCA, is amended to read:

“18-2-204. Right of action on security — notice. (1) All persons mentioned in 18-2-201 have a right of action in their own name or names on any security furnished under the terms of this part for work done by the laborers or mechanics and for ~~provender~~ *food*, materials, supplies, provisions, or goods supplied and furnished in the work or the making of the improvements. The persons do not have any right of action on the security unless within 90 days after the completion of the contract with an acceptance of the work by the affirmative action of the board, council, commission, trustees, officer, or body acting for the state, county, or municipality or other public body, city, town, or district, the laborer, mechanic or subcontractor, or ~~materialman~~ *material supplier* or person claiming to have supplied ~~provender~~ *food*, materials, provisions, or goods for the ~~prosecution~~ *performance* of the work or the making of the improvement presents to and files with the board, council, commission, trustees, or body acting for the state, county, or municipality or other public body, city, town, or district a notice in writing in substance as follows:

“TO (here insert the name of the state, county, or municipality or other public body, city, town, or district):

NOTICE IS HEREBY GIVEN that the undersigned (here insert the name of the laborer, mechanic or subcontractor, or ~~materialman~~ *material supplier* or person claiming to have furnished labor, materials, or provisions for the contract or work) has a claim in the sum of dollars (here insert the amount) against the security taken from (here insert the name of the principal and name of the person providing the security) for the work of (here insert a brief mention or description of the work concerning which the security was taken). (Here to be signed)”

(2) The notice must be signed by the person or corporation making the claim or giving the notice. After being presented and filed, the notice is a public record open to inspection by any person.”

Section 225. Section 18-2-424, MCA, is amended to read:

“18-2-424. Enforcement. If a contractor or a subcontractor refuses to submit payroll records requested by the department pursuant to 18-2-423, the commissioner or ~~his the commissioner's~~ authorized representative may issue subpoenas compelling the production of those records.”

Section 226. Section 18-5-204, MCA, is amended to read:

“18-5-204. Department director — delegating powers. The director of the department may delegate to any employees of the state agency for surplus property ~~such~~ *the* power and authority ~~as he deems that the director considers~~ reasonable and proper for the effective administration of this part.”

Section 227. Section 18-5-411, MCA, is amended to read:

“18-5-411. Administration of vending facilities — state properties.

(1) The department of administration or any other department of state government that administers state property subject to this part shall transfer to the department the management and control of any vending facility that the department has determined is an appropriate facility for the purposes of this part and that the department has determined is needed for the purposes of this part.

~~(2) A lease or contract for the operation of a vending facility entered into prior to October 1, 1981, is not subject to this part while the lease or contract remains in effect. In addition, this part may not be interpreted to require or authorize the failure to renew any contract for a vending facility on state property in effect on October 1, 1981, if the contract contains a provision permitting the renewal of the contract for a specific term at the option of the vendor or the state or both. In any case where the department determines that a private vendor operating a vending facility on state property on October 1, 1981, who but for this part could reasonably be expected to renew his contract for the vending facility, would be subjected to economic hardship should the contract be allowed to expire at the end of its term, the department may agree to a one-time renewal of that vendor’s contract for the vending facility for a period not to exceed 4 years.~~

~~(3)(2)~~ (2) The department of administration or any other department of state government that administers state property subject to this part shall give reasonable notice to the department of the expiration or termination of any lease or contract in effect for a vending facility.

~~(4)(3)~~ (3) Upon receipt of the notice, the department shall give reasonable notice to the department of administration or other department of state government that sent the notice required in subsection ~~(3)~~ (2) stating that the department has determined that the vending facility is either appropriate and needed for the purposes of this part or that it is not.

~~(5)(4)~~ (4) A state agency administering state property shall consult with the department when planning for a new state building, planning for remodeling of or addition to an existing state building, or negotiating the lease of a building for state use; to determine what vending facilities might be appropriate for the site and plan for ~~such~~ *the* vending facilities.

~~(6)(5)~~ (5) The department shall administer those vending facilities ~~which~~ *that* are determined to be appropriate and necessary.”

Section 228. Section 18-11-105, MCA, is amended to read:

“18-11-105. Submission of agreement to attorney general. (1) As a condition precedent to an agreement made under this chapter becoming effective, it must have the approval of the attorney general of Montana.

(2) The attorney general shall approve an agreement submitted ~~to him~~ under this chapter unless ~~he~~ *the attorney general* finds it ~~that the agreement is~~ not in proper form, or does not meet the requirements set forth in this chapter, or otherwise does not conform to the laws of Montana. If ~~he~~ *the attorney general* disapproves an agreement, ~~he~~ *the attorney general* shall provide a detailed,

written statement to the governing bodies of the public agency and tribal government concerned, specifying the reasons for his disapproval.

(3) If the attorney general does not disapprove the agreement within 30 days after its submission to him, it shall *must* be considered approved by him.”

Section 229. Section 19-1-301, MCA, is amended to read:

“19-1-301. Authorization of referendum by governor. With respect to members of the public employees’, highway patrol officers’, judges’, and game wardens’ and peace officers’ retirement systems, the governor is empowered to authorize a referendum, and with respect to the employees of any political subdivision, he *the governor* shall authorize a referendum upon the request of the governing body of the subdivision.”

Section 230. Section 19-1-702, MCA, is amended to read:

“19-1-702. Contributions by state employees. (1) Every employee of the state whose services are covered by an agreement entered into under 19-1-401 and 19-1-402 shall *must* be required to pay, for the period of such coverage, contributions with respect to wages (as defined in 19-1-102) equal to the amount of employee tax which *that* would be imposed by the Federal Insurance Contributions Act if such *the* services constituted employment within the meaning of that act. Such *The liability shall arise arises* in consideration of the employee’s retention in the service of the state; or his entry upon such *into* service; after February 20, 1953.

(2) The contribution imposed by this section shall *must* be collected by deducting the amount of the contribution from wages as and when paid, but failure to make such *the* deduction shall *does* not relieve the employee from liability for such *the* contribution.

(3) If more or less than the correct amount of the contribution imposed by this section is paid or deducted with respect to any remuneration, proper adjustments or a refund if adjustment is impracticable shall *must* be made, without interest, in such *the* manner and at such times as *that* the state agency shall ~~prescribe~~ *prescribes*.”

Section 231. Section 19-1-705, MCA, is amended to read:

“19-1-705. Deduction of employee contribution by political subdivision. (1) Each political subdivision required to make payment under 19-1-704 shall, in consideration of the employee’s retention in or entry upon *into* employment after February 20, 1953, impose upon each of its employees, as to services which *that* are covered by an approved plan, a contribution with respect to his wages (as defined in 19-1-102), not exceeding the amount of the employee tax which *that* would be imposed by the Federal Insurance Contributions Act if such *the* services constituted employment within the meaning of that act and shall deduct the amount of such *the* contributions from his wages as and when paid.

(2) Contributions so collected partially discharge the liability of the political subdivision or instrumentality under 19-1-704. Failure to deduct the contribution does not relieve the employee or employer of liability ~~therefor~~ *for the contributions*.”

Section 232. Section 19-2-904, MCA, is amended to read:

“19-2-904. Withholding of group insurance premium from retirement benefit. A retiree who is a participant in an employee group insurance plan which *that* permits participation in the group plan following retirement may elect to have the monthly premium for such group insurance

withheld by the retirement system and paid directly by the system to the insurance carrier. In order to qualify for this withholding, a retiree must be a participant in a group insurance plan available to the employees of his the former employer. ~~No withholding~~ *Withholding* may not be made for any retiree covered by an individual insurance policy.”

Section 233. Section 19-3-202, MCA, is amended to read:

“19-3-202. Request by individual employee for employer to participate. Any employee who has ~~continuously been~~, for a *continuous* period of at least 2 years, *been* an employee of a municipal corporation, county, or other public agency of this state ~~which that~~ is not a contracting employer may advise the legislative body of his the employer, in writing, that he the employee wishes to participate in the retirement system. Within 30 days after receipt of ~~such the~~ written request, the legislative body shall ~~thereupon~~ adopt the resolution of intention and take ~~such~~ action as provided for in 19-3-201.”

Section 234. Section 19-9-302, MCA, is amended to read:

“19-9-302. Ineligibility for other retirement plans. ~~No~~ An active member is *not* eligible to be covered under any other mandatory retirement plan for police service to which an employer is required to contribute on his the member's behalf, except the Social Security Act, while he the member is eligible to be covered by this plan.”

Section 235. Section 19-17-406, MCA, is amended to read:

“19-17-406. Termination of pension when no surviving spouse or child. If a deceased volunteer firefighter leaves neither a surviving spouse nor a child under ~~the age of 18 years of age~~, his the firefighter's pension shall *must* terminate at the end of the month prior to the month in which his the death occurs.”

Section 236. Section 19-18-106, MCA, is amended to read:

“19-18-106. Transfer of money into fund by city treasurer. Whenever a fire department relief association has been formed and the treasurer of the association has furnished the bond required by 19-18-202, the city treasurer shall pay to the treasurer of the association all money held by the city treasurer to the credit of the disability and pension fund, taking a proper receipt ~~therefor for the payment.~~ *Thereafter, the* The city treasurer shall, as ~~moneys are~~ *money is* received by him for the credit of the fund or association, turn the ~~same money~~ over to the treasurer of the association, taking proper receipts ~~therefor for the payments.~~”

Section 237. Section 19-18-202, MCA, is amended to read:

“19-18-202. Treasurer's bond. ~~No~~ The treasurer of an association may *not* enter upon his the duties of office until he the treasurer has given the association a sufficient bond of not less than 50% of the amount of the cash funds and securities of the association for the faithful performance of his the treasurer's duties according to law. The amount of the bond shall *must* be approved by the association and may not exceed \$25,000. The bond shall *must* be paid for by the association. If the city or town treasurer has been elected ex officio treasurer of the association, his the official bond will cover the faithful discharge of his duties as ~~such the treasurer of the association.~~”

Section 238. Section 19-18-502, MCA, is amended to read:

“19-18-502. Refund of firefighter's contribution. A firefighter is entitled to a refund, in a lump sum and without interest, of all his monthly contributions to the fund, within 60 days after his permanent separation from

service in the fire department, except for separation by reason of retirement, death, or disability ~~which that~~ would otherwise qualify ~~him the firefighter~~ or ~~his the firefighter's~~ surviving spouse or children to receive benefits or an allowance from the association. A firefighter who is eligible to receive a partial service pension under 19-18-603 may either elect to take the refund provided for in this section or elect to receive the partial pension.”

Section 239. Section 19-18-511, MCA, is amended to read:

“19-18-511. Annual report of clerks of cities having fire departments. On or before April 1 annually, the clerk of every city having an organized fire department or a partly paid or volunteer department shall file with the commissioner of insurance of this state ~~his a~~ certificate stating ~~such that~~ fact, ~~the~~ *The certificate must include the system of water supply in use in such the fire department, the number of its organized companies, steam, hand, or other engines, hook-and-ladder trucks, hose-carts, and feet of hose in actual use, and such other facts as that the commissioner may require.*”

Section 240. Section 19-18-514, MCA, is amended to read:

“19-18-514. State treasurer to pay warrants. The state treasurer is ~~hereby authorized and directed shall~~, upon the presentation ~~to him~~ of a warrant drawn pursuant to this chapter, ~~to~~ pay to the treasurer of the city or town, out of ~~moneys~~ *money* in the state special revenue fund dedicated for ~~such that~~ purpose, the amount of ~~such the~~ warrant ~~specified~~, which amount ~~shall must~~ be paid by ~~said the~~ city treasurer to ~~said the~~ fire department relief association.”

Section 241. Section 19-18-603, MCA, is amended to read:

“19-18-603. Partial service pension. (1) A member of a fire department relief association is eligible to receive a partial service pension if ~~he the~~ member:

(a) has completed at least 10 years of active duty as a fully paid member of a fire department but has not both completed 20 years of service and ~~attained age 50~~ *reached 50 years of age* as an active firefighter;

(b) is permanently separated from service ~~on or after July 1, 1977~~;

(c) does not qualify for a disability pension under 19-18-604; and

(d) does not receive a refund of ~~his the~~ member's contributions under 19-18-502.

(2) The right to receive the pension vests upon the firefighter's permanent separation from service, but the payments may not commence until the date ~~he the~~ firefighter would have both reached ~~his 50th birthday~~ *50 years of age* and completed 20 years of service as a member of a fire department had ~~his the~~ member's active duty not been terminated.

(3) The pension ~~shall must~~ be paid out of the disability and pension fund and ~~shall must~~ consist of monthly payments in an amount equal to the number of years of the firefighter's service divided by the number of years of service the firefighter would have had if ~~he the~~ firefighter had remained in active duty as a member of a fire department until the date ~~he the~~ firefighter would have both ~~attained age 50~~ *reached 50 years of age* and completed 20 years of service, multiplied by one-half of the sum last received by the firefighter as a monthly compensation, excluding overtime and payments in lieu of sick leave and annual leave, for ~~his~~ services as an active member of the fire department.

(4) If the firefighter dies after ~~he the~~ firefighter is permanently separated from service and before ~~he the~~ firefighter both reaches ~~the age of~~ *50 years of age* and would have completed 20 years of service as an active member of a fire

department, the payments prescribed in subsection (3) ~~shall~~ *must* be made to the surviving spouse commencing on the date the firefighter would have both reached ~~his 50th birthday~~ *50 years of age* and completed 20 years of service as an active member of a fire department and terminating upon the surviving spouse's death or remarriage. If there is no surviving spouse or the surviving spouse dies or remarries and if the firefighter leaves one or more children who have not reached ~~the age of 18 years of age~~, the children ~~shall~~ *must* receive the payments until the youngest reaches ~~the age of 18 years of age~~.

(5) If the firefighter dies after ~~he~~ *both reaches the age of reaching 50 years of age and the date the firefighter* would have completed 20 years of service as an active member of a fire department, the payments ~~shall~~ *must* be made to the surviving spouse or children as provided in subsection (4).

(6) The pension escalation provisions of 19-18-602 do not apply to pensions received under this section.”

Section 242. Section 19-18-604, MCA, is amended to read:

“19-18-604. Disability pension. (1) Each association shall pay a disability pension, out of its disability and pension fund, to each of its members who has become disabled by reason of sickness or injury. The pension ~~shall~~ *must* be equal to one-half of the sum last received by the member as a monthly compensation, excluding overtime and payments in lieu of sick leave and annual leave, for ~~his~~ *the member's* services to the fire department of the city or town in which the association was formed.

(2) ~~Effective July 1, 1974, a~~ A member who completes 20 years of service and elects to serve additional years ~~shall~~ *must* receive the pension provided for in subsection (1) increased at the rate of 1% per year for each additional year of service completed, up to a maximum of 60% of the sum last received by the member as a monthly compensation, excluding overtime and payments in lieu of sick leave and annual leave, for ~~his~~ services as an active member of the fire department.

(3) The monthly pension paid to members ~~retiring on or after July 1, 1973,~~ must be at least one-half the regular monthly salary paid to a confirmed active firefighter of that city, as provided each year in the budget of that city. The monthly pension paid to a member retiring prior to July 1, 1974, must be at least \$200. In the case of volunteer firefighters, the disability pension may not exceed \$125 a month.”

Section 243. Section 19-18-605, MCA, is amended to read:

“19-18-605. Pensions to surviving spouses and children. (1) Each association shall pay, out of its disability and pension fund, a monthly pension to the surviving spouse or children of a deceased member of the association who on the date of ~~his~~ death was an active member of the fire department in the city or town in which the association was formed, who had elected to retire from active service in the fire department and receive a service pension as provided for by 19-18-602, or who, prior to death, had suffered a sickness or injury and was receiving or was qualified to receive a disability pension as provided by 19-18-604. The pension ~~shall~~ *must* be equal to one-half of the last month's salary received as a monthly compensation, excluding overtime and payments in lieu of sick leave and annual leave, by the deceased member for services rendered as an active member of the fire department in the city or town in which the association was formed.

(2) ~~Effective July 1, 1974, if~~ *If* the deceased member ~~had~~ completed 20 years of service and ~~had~~ elected to serve additional years, the pension provided for in

subsection (1) ~~shall~~ *must* be increased at the rate of 1% per year for each additional year of service completed, up to a maximum of 60% of the last month's salary received as a monthly compensation, excluding overtime and payments in lieu of sick leave and annual leave, by the deceased member for ~~his~~ services as an active member of the fire department.

(3) The monthly pension paid to the surviving spouse or children of an active member ~~who dies after July 1, 1973~~, or an active member who elects to retire ~~after July 1, 1973~~, must be at least one-half the regular monthly salary paid to a confirmed active firefighter of that city, as provided each year in the budget of that city. The monthly pension paid to the surviving spouse or children of an active member who died prior to July 1, 1974, or who elected to retire before July 1, 1974, must be at least \$200. In the case of a volunteer firefighter, the pension paid to a surviving spouse or children may not exceed the amount provided for a service pension for a volunteer firefighter under 19-18-602(3).

(4) A pension may be paid to the surviving spouse only ~~so~~ *as* long as ~~such~~ *the* spouse remains unmarried. A surviving spouse is not entitled to a pension under this section if the marriage was entered into after the firefighter ~~had~~ elected to retire from active service and ~~had begun~~ *began* to receive a service pension as provided for by 19-18-602 or if the marriage was entered into after the firefighter ~~had~~ qualified for and had begun to receive a disability pension as provided for by 19-18-604. The pension provided for in this section may not be paid to the children of deceased firefighters after they have attained ~~the age of~~ *18 years of age.*"

Section 244. Section 19-18-607, MCA, is amended to read:

"19-18-607. Payment of death benefits in absence of spouse or child. If a firefighter dies without leaving a surviving spouse or child, the association shall compute the total contributions made to the fund by the deceased member, and if the deceased member ~~had~~ designated a beneficiary in writing to the association, the association shall issue a warrant for the amount of the total contributions payable to that beneficiary. If the deceased member ~~had~~ *did* not ~~nominated~~ *nominate* a beneficiary, the contributions ~~shall~~ *must* be paid to ~~his~~ *the member's* estate."

Section 245. Section 19-19-302, MCA, is amended to read:

"19-19-302. Officer's contribution deducted from salary. The treasurer of an incorporated city ~~which~~ *that* has a police retirement fund shall retain from the monthly salary of each police officer on the active list a sum equal to 6% of ~~his~~ *the officer's* monthly compensation for ~~his~~ services as a police officer, exclusive of overtime and payments made in lieu of sick leave and annual leave. The monthly deduction from the salaries of police officers must be paid into the city's police retirement fund for the purpose of paying the salaries of police officers on the retired list."

Section 246. Section 19-19-303, MCA, is amended to read:

"19-19-303. Refund of officer's contribution. A police officer whose service with the city has been discontinued by other than death or placement upon the retired list ~~shall~~ *must* be entitled to the return ~~to him~~ of the amounts paid to the fund through deductions from ~~his~~ *the officer's* salary. If ~~he~~ *the officer* has 10 years or more of service, the amount paid ~~shall~~ *must* include regular interest on ~~such~~ *the* amounts. If ~~he~~ *the officer* has less than 10 years of service, ~~he~~ *shall* ~~the officer~~ *must* receive only the amount paid through ~~such~~ salary deductions, without interest."

Section 247. Section 19-19-401, MCA, is amended to read:

“19-19-401. Eligibility for service retirement. The following persons are eligible for the police retired list of a city and ~~shall~~ *may* retire as provided in this section:

(1) A person who is employed by any city as a police officer on July 1, 1975, is eligible for the police retired list when ~~he~~ *the person* has completed 20 years or more in the aggregate as a probationary officer, a regular officer, or a special officer of the police department, in any capacity or rank.

(2) A person who is first employed by a city as a police officer after July 1, 1975, is eligible for the police retired list when ~~he~~ *the person* has reached the age of 50 and has completed 20 years or more in the aggregate as a probationary officer, a regular officer, or a special officer of the police department, in any capacity or rank.”

Section 248. Section 19-19-402, MCA, is amended to read:

“19-19-402. Eligibility for disability retirement. When a police officer receives injuries or disabilities in the active discharge of ~~his~~ duties as a police officer, ~~which~~ *and the* injuries or disabilities are, in the opinion of the board of police commissioners or city council of the city or town, of ~~such a~~ character ~~as to impair his~~ *that impairs the officer's* ability to discharge ~~his~~ *the* duties ~~as of~~ an active police officer, ~~he~~ *shall the officer must* be placed on the retired list of the city or town.”

Section 249. Section 19-19-403, MCA, is amended to read:

“19-19-403. Option of officer to remain on active list. (1) A police officer who is eligible for the retired list under ~~subsection (1) or (2) of~~ 19-19-401(1) or (2) may transfer, as of the time ~~he~~ *the officer* becomes eligible, to the retired list or may elect to serve an additional 1 to 10 years as an active police officer.

(2) A police officer whose eligibility depends on 19-19-401(2) and who completes 20 years of service before reaching ~~the age of~~ *50 years of age* is considered to have elected to serve an additional year for each year between the completion of ~~his~~ *the officer's* 20th year of service and ~~his~~ 50th birthday, and ~~he~~ *shall the officer must* be paid the additional 1% for each ~~such~~ *year of those years.*”

Section 250. Section 19-19-404, MCA, is amended to read:

“19-19-404. Reinstatement to retired list. An applicant for reinstatement under the provisions of 7-32-4110 may be reinstated and ~~passed into the~~ *added to the* retired list of police officers ~~so as to~~ *and may* enjoy all the benefits, pensions, and rights ~~which~~ *that* accrue to police officers placed on the retired list in ~~said~~ *the* city or town. The pension benefits to be allowed to ~~such a~~ reinstated officer ~~shall~~ *must* be computed upon the basis of ~~his~~ *the officer's* last full year of active service on ~~said~~ *the* police force.”

Section 251. Section 19-19-405, MCA, is amended to read:

“19-19-405. Credit for military service. A police officer serving in the United States military in time of war or national emergency ~~shall~~ *must* be given credit in ~~his~~ *the officer's* police record for ~~such~~ *the* military service in the same manner as though ~~he~~ *the officer* were on active police duty.”

Section 252. Section 19-19-406, MCA, is amended to read:

“19-19-406. Election to qualify previous military service. (1) A member with 15 years or more of service as a police officer may, at any time prior to ~~his~~ retirement, make a written election with the board to qualify all or any portion of ~~his~~ *the member's* active service in the armed forces of the United States for the purpose of calculating retirement benefits, up to a maximum of 5

years, if ~~he~~ *the member* is not otherwise eligible to receive credit. To qualify this service, ~~he must~~ *the member shall* contribute to the account the actuarial cost of granting the service to be determined by the board based on ~~his~~ *the member's* compensation and normal contribution rate as of ~~his~~ *the member's* 16th year and as many succeeding years as are required to qualify this service, with interest from the date ~~he becomes eligible of eligibility~~ for this benefit to the date ~~he contributes of contribution~~. ~~He~~ *The member* may not qualify more of ~~his~~ military service than ~~he has~~ *the* service as a police officer in excess of 15 years. Military service purchased under this section may not be used in the determination of eligibility for a service retirement requiring a minimum of 20 years service.

(2) If a member has retired from active duty in the armed forces of the United States with normal service retirement benefits, ~~he~~ *the member* may not qualify ~~his~~ military service under subsection (1). However, a member who is serving or has served in the military reserves with the expectation of receiving a military service pension may qualify ~~his~~ *the member's* active military service under subsection (1) if ~~his~~ *the* active duty in the armed forces of the United States is not more than 25% of the total of all ~~his~~ years of military service, including reserve and active duty time."

Section 253. Section 19-19-501, MCA, is amended to read:

"19-19-501. Service retirement allowance. When a police officer is transferred from the active list to the retired list of a city, ~~he shall thereafter~~ *the officer must* receive monthly payments from the city's police retirement fund, as follows:

(1) A police officer who is eligible under 19-19-401(1) or (2) and does not elect to serve any additional years as an active police officer ~~shall~~ *must* receive a sum equal to one-half the base salary, excluding overtime and payments in lieu of sick leave and annual leave, ~~he that the officer~~ was receiving as an active officer computed on the highest salary received in any ~~one~~ 1 month during ~~his~~ *the* last year of active service.

(2) A police officer who is eligible after 20 years of service and who elects to serve additional years ~~shall~~ *must* receive the payment provided for in subsection (1) plus an additional 1% of ~~such~~ *the* payment ~~per~~ for each year of additional service, up to a maximum of 60% of the base salary, excluding overtime and payments in lieu of sick leave and annual leave, ~~he that the officer~~ was receiving as an active officer computed on the highest salary received in any ~~one~~ 1 month during ~~his~~ *the* last year of active service."

Section 254. Section 19-19-502, MCA, is amended to read:

"19-19-502. Disability retirement allowance. When a police officer is transferred from the active list to the retired list of a city, ~~he shall thereafter~~ *the officer must* receive monthly payments from the city's police retirement fund, as follows:

(1) A police officer who is eligible under 19-19-402 before completing 20 years of service ~~shall~~ *must* receive a sum equal to one-half the base salary, excluding overtime and payments in lieu of sick leave and annual leave, ~~he that the officer~~ was receiving as an active officer computed on the highest salary received in any ~~one~~ 1 month during ~~his~~ *the* last year of active service.

(2) A police officer who is placed on the retired list under 19-19-402 and who, at the time of ~~his~~ injury or disability, was eligible at ~~his~~ *the officer's* option to be placed on the retired list under 19-19-401(1) or (2) but had elected to serve additional years and was then serving ~~such~~ *the* additional years ~~shall~~ *must* be

paid for the additional years over ~~his~~ *the officer's* original eligibility at the rate prescribed in 19-19-501(2)."

Section 255. Section 19-19-503, MCA, is amended to read:

"19-19-503. Death benefits. (1) Upon the death of a police officer on the active list or retired list of a city, ~~his~~ *the officer's* surviving spouse, if there is one, ~~shall must~~, as long as ~~such~~ *the* spouse remains the surviving spouse, be paid from the city's police retirement fund a sum equal to one-half the base salary, excluding overtime and payments in lieu of sick leave and annual leave, ~~he~~ *that* ~~the officer~~ was receiving as an active officer computed on the highest salary received in any ~~one~~ 1 month during ~~his~~ *the* last year of active service.

(2) If the officer leaves one or more dependent minor children, upon ~~his~~ *the officer's* death if ~~he leaves~~ *there is* no surviving spouse or upon the death or remarriage of the surviving spouse, ~~his~~ *the* surviving dependent minor children, collectively if there is more than one, ~~shall must~~ receive the same monthly payments as a surviving spouse would receive, until they reach ~~the age of~~ 18 years *of age* or are married. The payments ~~shall must~~ be made to their duly appointed, qualified, and acting guardian for their use. If there is more than one ~~such~~ child, upon each child reaching ~~the age of~~ 18 years *of age* or marrying, the pro rata payments to that child ~~shall must~~ cease and ~~shall must~~ be made to the remaining children; until all the children have either reached ~~the age of~~ 18 years *of age* or are married."

Section 256. Section 19-19-505, MCA, is amended to read:

"19-19-505. Withholding of group insurance premium from retirement benefit. A retiree who is a participant in an employee group insurance plan ~~which~~ *that* permits participation in the group plan following retirement may elect to have the monthly premium for ~~such~~ group insurance withheld by the department of administration and paid directly by the department to the insurance carrier. In order to qualify for this withholding, a retiree must be a participant in a group insurance plan available to the employees of ~~his~~ *the* former employer. ~~No withholding~~ *Withholding* may *not* be made for any retiree covered by an individual insurance policy."

Section 257. Section 19-20-103, MCA, is amended to read:

"19-20-103. Implied consent of employee. A person who accepts employment for which membership is required is considered to have consented to membership and to the withholding of contributions from ~~his~~ *the person's* compensation."

Section 258. Section 19-20-301, MCA, is amended to read:

"19-20-301. Membership application. Whenever a person becomes a member of the retirement system as required by 19-20-302, ~~he~~ *the person* shall complete an application form prescribed by the retirement board."

Section 259. Section 19-20-303, MCA, is amended to read:

"19-20-303. Inactive membership. Any person's active membership in the retirement system ~~shall terminate~~ *terminates*, but ~~he~~ *shall be* ~~the person is~~ an inactive member, when *the person*:

(1) ~~he~~ ceases to be employed in a capacity that allows ~~his~~ membership and ~~he~~ *the person* has 5 or more years of creditable service in the retirement system;

(2) ~~he~~ ceases to be employed in a capacity that allows ~~his~~ membership and ~~he~~ *the person* has less than 5 years of creditable service in the retirement system, but ~~his~~ *the* loss of capacity to be a member was caused by a personal illness

determined by the retirement board to be a disability or was caused by service in the armed forces of the United States, which includes the army, navy, marine corps, air force, and coast guard, or by service in the American red cross or merchant marine during time of war; or

(3) ~~he~~ has 5 or more years of creditable service and ~~he~~ becomes a member of any other retirement or pension system supported wholly or in part by ~~moneys~~ *the money* of another government agency, except the federal social security retirement system, and the membership in the other retirement system would allow credit for the same employment service in two retirement systems. However, ~~no a person shall may not~~ be excluded from active membership solely because ~~he~~ *the person* is receiving or is eligible to receive retirement benefits from another retirement system.”

Section 260. Section 19-20-304, MCA, is amended to read:

“19-20-304. Membership termination. The active or inactive membership in the retirement system of any person terminates when *the person*:

- (1) ~~he~~ retires on a retirement allowance of the retirement system;
- (2) ~~he~~ dies;

(3) ~~he~~ withdraws ~~his~~ *the person's* accumulated contributions to the retirement system under the provisions of 19-20-603; or

(4) ~~he~~ ceases to be employed in a capacity that allows ~~his~~ membership, ~~he~~ has less than 5 years of creditable service in the retirement system, and ~~he~~ cannot qualify under the provisions of 19-20-303(2).”

Section 261. Section 19-20-406, MCA, is amended to read:

“19-20-406. Creditable service for prior service. A member who is retiring with at least 5 years of creditable service and who has been an active member for at least 5 consecutive school fiscal years may request creditable service for any employment service ~~he~~ rendered prior to September 1, 1937, for which ~~he~~ *the member* has not received a prior service certificate. In order to receive the creditable service, ~~he must~~ *the member shall* apply for it and provide certification of the prior service. The retirement board shall determine the amount of creditable service to be awarded, if any, and issue a prior service certificate.”

Section 262. Section 19-21-211, MCA, is amended to read:

“19-21-211. Payment of benefits. ~~No~~ A retirement, death, or other benefit may *not* be paid by the state or the board of regents under the optional retirement program. Benefits are payable to a participant and ~~his~~ *the participant's* beneficiaries only by the designated company or companies in accordance with the terms of the contracts.”

Section 263. Section 20-1-201, MCA, is amended to read:

“20-1-201. School officers not to act as agents. The superintendent of public instruction or members of ~~his~~ *the superintendent's* staff, county superintendent or members of ~~his~~ *the superintendent's* staff, trustee, or district employee ~~shall may~~ not act as an agent or solicitor in the sale or supply of goods or services to a district. ~~No such~~ *An enumerated* person ~~shall may not~~ assist or receive a reward from an agent or solicitor of goods or services for a district. Any ~~such~~ person violating this section ~~shall be deemed~~ *is* guilty of a misdemeanor and, if convicted by a court of competent jurisdiction, shall be fined not less than \$50 or more than \$200 and shall be liable to removal from ~~his~~ *the person's*

position. The penalties provided by this section ~~shall~~ *may* not be applicable if the charge and conviction are made under the provisions of 20-7-608.”

Section 264. Section 20-1-202, MCA, is amended to read:

“20-1-202. Oath of office. Any person elected or appointed to any public office authorized by this title shall take the oath of office before qualifying for and assuming the office. ~~In case~~ *If* an officer has a written appointment or commission, ~~his the officer’s~~ *the officer’s* oath ~~shall~~ *must* be endorsed ~~thereon on the appointment or commission,~~ otherwise ~~it the~~ *the* oath may be taken orally, and, in either case, it may, without charge or fee, be sworn to before an officer authorized to administer oaths for ~~such the~~ *the* public office.”

Section 265. Section 20-1-203, MCA, is amended to read:

“20-1-203. Delivering items to successor. Whenever any member of the trustees, superintendent, principal, or clerk of the district is replaced by election or otherwise, ~~he the person~~ shall immediately deliver all books, papers, and ~~moneys~~ *money* pertaining to the position to ~~his the person’s~~ *the person’s* successor. Any ~~such~~ person who ~~shall refuse~~ *refuses* to do so or who ~~shall willfully destroy knowingly destroys~~ any ~~such~~ material or ~~misappropriate~~ *misappropriates* any ~~moneys~~ *money* entrusted to ~~him the person~~ shall ~~be~~ *is* guilty of a misdemeanor and, if convicted by a court of competent jurisdiction, shall be fined not more than \$100.”

Section 266. Section 20-1-211, MCA, is amended to read:

“20-1-211. Expenses of officers or employees attending conventions — educational associations. (1) ~~After July 1, 1921, no~~ A school district officer or employee of any school district ~~shall~~ *may not* receive payment from any public funds for traveling expenses or other expenses of any sort or kind for attendance ~~upon~~ *at* any convention, meeting, or other gathering of public officers except for attendance ~~upon such~~ *at a* convention, meeting, or other gatherings ~~as said that~~ *the officer or employee may by virtue of his the office or employment find it necessary to attend.*

(2) The board of trustees of any county or district high school or of any school district may by resolution adopted by a majority of the entire board make their district a member of any state association of school districts or school district trustees or any other strictly educational association and authorize the payment of dues to ~~such the~~ *the* association and the necessary traveling expenses of employees or members of ~~said the~~ *the* board to attend meetings of ~~such the~~ *the* association or other meetings called for the express purpose of considering educational matters.”

Section 267. Section 20-2-111, MCA, is amended to read:

“20-2-111. Officers of boards — quorum. (1) The board of public education and the board of regents may each select a ~~chairman~~ *presiding officer* from among their appointed members.

(2) The executive secretary shall serve as secretary to the board of public education, and the commissioner of higher education serves as secretary to the board of regents.

(3) A majority of the appointed members of each board constitutes a quorum for the transaction of business.

(4) The executive secretary shall serve as a liaison between the board of public education and the superintendent of public instruction and shall carry out other ~~such~~ *the* duties as assigned by the board of public education.”

Section 268. Section 20-2-112, MCA, is amended to read:

“20-2-112. Quarterly meetings of boards — called meetings — notice of meetings. (1) The board of public education and the board of regents shall meet at least quarterly.

(2) Other meetings of either board may be called by the governor, by the ~~chairman~~ *presiding officer*, by the secretary, or by four appointed members.

(3) The secretary to each board shall mail notice to each member at least 7 days in advance of all meetings of the respective board.”

Section 269. Section 20-2-131, MCA, is amended to read:

“20-2-131. Commissioner of higher education — duties — compensation — staff. (1) The board of regents shall prescribe the duties of the commissioner of higher education and shall set ~~his~~ *the commissioner’s* compensation.

(2) The board of regents shall provide sufficient staff and office space to the commissioner for ~~him to carry~~ *carrying out his the commissioner’s* duties.”

Section 270. Section 20-3-101, MCA, is amended to read:

“20-3-101. Election and qualifications. (1) A superintendent of public instruction for the state of Montana ~~shall~~ *must* be elected by the qualified electors of the state at the general election preceding the expiration of the term of office of the incumbent.

(2) ~~Any~~ A person ~~shall be~~ *is* qualified to assume the office of superintendent of public instruction who:

(a) is 25 years of age or older at the time of ~~his~~ election;

(b) has resided within the state for the 2 years ~~next~~ preceding ~~his the~~ election;

(c) holds at least a bachelor’s degree from any unit of the Montana university system or from an institution recognized as equivalent by the board of public education for teacher certification purposes; and

(d) otherwise possesses the qualifications for ~~such~~ office ~~which~~ *that* are required by The Constitution of the State of Montana.”

Section 271. Section 20-3-102, MCA, is amended to read:

“20-3-102. Term, oath, and vacancy. (1) The superintendent of public instruction shall hold office at the seat of government for ~~the a~~ term of 4 years. ~~He~~ *The superintendent* shall assume office on the first Monday of January following ~~his~~ election and shall hold the office until ~~his a~~ successor has been elected and qualified. Any person elected as the superintendent of public instruction shall take the oath of a civil officer.

(2) If the office of superintendent of public instruction becomes vacant, it ~~shall~~ *must* be filled in the manner prescribed by The Constitution of the State of Montana.”

Section 272. Section 20-3-105, MCA, is amended to read:

“20-3-105. Administrative powers and duties. In administering the affairs of ~~his the~~ office, the superintendent of public instruction ~~shall have~~ *has* the power and it ~~shall be~~ *his is the superintendent’s* duty to:

(1) keep a record of ~~his~~ official acts and all documents applicable to the administration of the office, preserve all official reports submitted to ~~him~~ *the superintendent* for the period required by law, and surrender them to ~~his the~~ *superintendent’s* successor at the expiration of ~~his the~~ term;

(2) preserve all books, educational media, instructional equipment, and any other articles of educational interest and value ~~which~~ *that* come into ~~his~~ *the superintendent's* possession and surrender them to ~~his~~ *the superintendent's* successor at the expiration of ~~his~~ *the* term;

(3) cause the printing and distribution of all reports and forms necessary for the proper conduct of business by a district or school in the manner prescribed by the provisions of this title;

(4) provide and keep an official seal of the superintendent of public instruction by which ~~his~~ official acts ~~shall~~ *must* be authenticated;

(5) if ~~he deems~~ *considered* necessary, cause the printing of a complete and updated volume of the school laws of the state, which ~~shall~~ *must* be offered and sold at cost of the printing and shipping to any school official or other person;

(6) whenever a replacement volume is not printed under the provisions of subsection (5), cause the printing of a cumulative supplement to the most recent volume of school laws immediately after the conclusion of any session of the legislature at which new school laws or amendments to the school laws were adopted. It ~~shall~~ *must* be offered and sold at cost of the printing and shipping to any school official or other person.

(7) if ~~deemed~~ *considered* necessary, publish a biennial report of the superintendent of public instruction;

(8) counsel with and advise county superintendents on matters involving the welfare of the schools and, when requested, give a county superintendent a written answer to any question concerning school law;

(9) call an annual meeting of the county superintendents when ~~he deems it~~ *considered* advisable;

(10) as far as ~~he shall find it~~ practicable, address public assemblies on subjects pertaining to education in Montana; and

(11) faithfully work in all practical and possible ways for the welfare of the public schools of the state.”

Section 273. Section 20-3-202, MCA, is amended to read:

“20-3-202. Term, oath, and vacancy. (1) The county superintendent shall hold office for a term of 4 years. ~~He~~ *The county superintendent* shall assume office on the first Monday of January following ~~his~~ election and shall hold the office until ~~his~~ a successor has been elected and qualified.

(2) Any person elected as the county superintendent shall take the oath or affirmation of office and shall give an official bond, as required by law.

(3) If the office of county superintendent becomes vacant, the board of county commissioners shall appoint a replacement to fill the vacancy. ~~Such~~ *The* replacement shall serve until the next regular general election, when a person ~~shall~~ *must* be elected to serve the remainder of the initial term, if there ~~be~~ *is* any remaining term.”

Section 274. Section 20-3-203, MCA, is amended to read:

“20-3-203. Office costs and staff. (1) The board of county commissioners shall supply the county superintendent with suitable office space and office supplies. The county superintendent ~~shall~~ *must* be paid from the county general fund all necessary traveling expenses ~~that he~~ actually ~~incurs~~ *incurred* in discharging ~~his~~ duties, after ~~such~~ *the* expenses have been audited by the board of county commissioners.

(2) Upon the county superintendent's recommendation of a candidate, the board of county commissioners may appoint ~~such the~~ candidate to the position of chief deputy county superintendent. The commissioners also may appoint deputies and assistants for the county superintendent. The commissioners shall fix the salaries of the personnel prescribed by this section at 90% or less of the salary of the county superintendent."

Section 275. Section 20-3-206, MCA, is amended to read:

"20-3-206. Additional positions. In the capacity as county superintendent, the county superintendent shall also serve as:

(1) the ~~chairman~~ *presiding officer* of the county transportation committee, as prescribed by 20-10-131;

(2) an attendance officer for a district under the conditions prescribed by 20-5-104; and

(3) the clerk of a joint board of trustees under the conditions prescribed by 20-3-361."

Section 276. Section 20-3-208, MCA, is amended to read:

"20-3-208. Authority to request, accept, and disburse money. (1) A county superintendent may, with the advice and consent of the appropriate school boards, request and accept money made available from federal, state, or private sources for purposes of public education.

(2) Subject to applicable federal and state guidelines and, in the case of money received from private sources, subject to any guidelines fixed by the donor, a county superintendent may, ~~in his discretion~~, disburse money received under this section to one or more public elementary or high school districts according to their needs. The county superintendent shall supervise the ~~utilization~~ use of ~~such the~~ money with the approval of the appropriate school boards.

(3) The county superintendent may establish a fund, for which the county treasurer shall maintain a separate accounting, for the deposit of money received under this section."

Section 277. Section 20-3-211, MCA, is amended to read:

"20-3-211. Disqualification of county superintendent. A county superintendent may not hear or decide matters of controversy pursuant to 20-3-210 when:

(1) ~~he the county superintendent~~ is a party to or has an interest in the controversy;

(2) ~~he the county superintendent~~ is related to either party in the controversy by consanguinity or affinity within the sixth degree, computed according to the rules of law;

(3) either party to the controversy makes and files with the county superintendent of schools an affidavit that ~~he the party~~ has reason to believe and does believe that ~~he the party~~ cannot have a fair and impartial hearing before the county superintendent by reason of the bias or prejudice of the county superintendent; or

(4) the controversy involves the education or possible identification of a child with a disability."

Section 278. Section 20-3-308, MCA, is amended to read:

"20-3-308. Vacancy of trustee position. (1) ~~Any An~~ elected trustee position ~~shall be~~ *is* vacant whenever the incumbent:

- (a) dies;
 - (b) resigns;
 - (c) moves ~~his~~ *the trustee's* residence from the applicable district or from the nominating district in the case of an additional trustee in a high school district;
 - (d) is no longer a registered elector of the district under the provisions of 20-20-301;
 - (e) is absent from the district for 60 consecutive days;
 - (f) fails to attend three consecutive meetings of the trustees without a good excuse;
 - (g) has been removed under the provisions of 20-3-310; or
 - (h) ceases to have the capacity to hold office under any other provision of law.
- (2) A trustee position *is* also ~~shall be~~ vacant when an elected candidate fails to qualify under the provisions of 20-3-307."

Section 279. Section 20-3-309, MCA, is amended to read:

"20-3-309. Filling vacated trustee position — appointee qualification and term of office. (1) Whenever a trustee position becomes vacant in any district, the remaining members of the trustees shall declare ~~such~~ *the* position vacant and they shall appoint, in writing within 60 days, a competent person as a successor. The trustees shall notify the appointee and the county superintendent of ~~such~~ *the* appointment. If the trustees do not make the appointment within ~~such~~ *the* 60-day period, the county superintendent shall appoint, in writing, a competent person as a successor and notify ~~such~~ *the* person of ~~his~~ *the* appointment.

(2) ~~Any~~ A person who has been appointed to a trustee position shall qualify by completing and filing an oath of office with the county superintendent within 15 days after receiving notice of ~~his~~ appointment. Failure to file the oath of office ~~shall constitute~~ *constitutes* a continuation of the trustee position vacancy ~~which shall that must~~ be filled under the provisions of this section.

(3) ~~Any~~ A person assuming a trustee position under the provisions of this section shall serve until the next regular school election and ~~his~~ *until a* successor has qualified."

Section 280. Section 20-3-310, MCA, is amended to read:

"20-3-310. Trustee removal. Any trustee may be removed from ~~his~~ *the* trustee position by a court of competent jurisdiction under the law providing for the removal of elected civil officials. When charges are ~~preferred~~ *brought* against a trustee and good cause is shown, the board of county commissioners may suspend ~~such~~ *the* trustee from ~~his~~ *the* trustee position until the charges can be heard in the court of competent jurisdiction."

Section 281. Section 20-3-311, MCA, is amended to read:

"20-3-311. Trustee travel reimbursement and compensation of secretary for joint board. The members of the trustees of any district ~~shall~~ *may* not receive compensation for their services as trustees, except that the secretary of the trustees of a high school district operating a county high school or the secretary of a joint board of trustees may be compensated for ~~his~~ services as the secretary. The members of the trustees who reside over 3 miles from the trustees' meeting place ~~shall~~ *must* be reimbursed at the rate as provided in 2-18-503; for every mile necessarily traveled between their residence and the meeting place and return in attending the regular and special meetings of the

trustees, and all trustees ~~shall~~ *must* be similarly reimbursed for meetings called by the county superintendent. The travel reimbursement may be accumulated during the school fiscal year and paid at the end of the fiscal year, at the discretion of each trustee.”

Section 282. Section 20-3-344, MCA, is amended to read:

“20-3-344. Nomination of candidates by petition in first-class elementary district. Except as provided in 20-3-338, any 20 electors, qualified under the provisions of 20-20-301, of any first-class elementary district may nominate by petition as many trustee candidates as there are trustee positions subject to election at the ensuing election. The name of each person nominated for candidacy ~~shall~~ *must* be submitted to the clerk of the district not less than 40 days before the regular school election day at which ~~he~~ *the person* is to be a candidate. If there are different terms to be filled, the term for which each candidate is nominated ~~shall~~ *must* also be indicated. The election ~~shall~~ *must* be conducted with the ballot as specified in 20-3-306.”

Section 283. Section 20-3-353, MCA, is amended to read:

“20-3-353. Establishment and purpose of trustee nominating districts. (1) After the county superintendent has determined the number of additional trustee positions, ~~he~~ *the county superintendent* shall establish trustee nominating districts in that portion of the high school district without representation on the high school trustees. There ~~shall~~ *must* be one trustee nominating district for each additional trustee position, except the additional trustee-at-large. Unless it is impossible, the trustee nominating district boundaries ~~shall~~ *must* be coterminous with elementary district boundaries.

(2) The purpose of the trustee nominating district ~~shall be~~ *is* to establish a representative district for the nomination and election of a resident of ~~such~~ *the* district to be an additional member of the trustees of a high school district. The electors qualified to vote in the high school district under the provisions of 20-20-301 and who reside in the trustee nominating district ~~shall be~~ *are* the only electors who may vote for the additional trustee representing ~~such~~ *the* district. They *must* also ~~shall~~ be permitted to vote for a trustee position at large, if there is one, but *not* for ~~ne~~ *any* other high school trustee position.

(3) Any additional trustee position established under the provisions of this section ~~shall~~ *must* be filled in a manner prescribed under the provisions of 20-3-309. Each additional trustee position filled by appointment under this section ~~shall be~~ *is* subject to election at the next regular school election.”

Section 284. Section 20-3-354, MCA, is amended to read:

“20-3-354. Redetermination of additional trustee positions and subsequent adjustments. Whenever there is a revision of the taxable valuation of the high school district or the elementary districts within ~~it~~ *the high school district* or there is a reclassification of the elementary district ~~which~~ *that* has its trustees placed on the high school district board of trustees, the county superintendent shall redetermine the number of additional trustee positions for the high school district in accordance with 20-3-352. If there is a change in the allowable number of additional trustee positions, the county superintendent shall reestablish the trustee nominating districts in accordance with 20-3-353. If the number of additional trustee positions is less than the previous number of positions, the county superintendent shall designate which present additional positions are to terminate upon ~~his~~ *the* order reestablishing the trustee nominating districts. If the number of additional trustee positions is more than the previous number of positions, ~~such~~ *the* additional trustee positions ~~shall~~

must be filled in the manner prescribed under the provisions of 20-3-309. Each additional trustee position filled by appointment under this section ~~shall be is~~ subject to election at the next regular school election.”

Section 285. Section 20-3-361, MCA, is amended to read:

“20-3-361. Joint board of trustees organization and voting membership. (1) The board of trustees of two or more school districts may form a joint board of trustees for the purpose of coordinating any educational program or support service of the districts. A joint board of trustees may coordinate only those programs and services agreed to by the participating boards of trustees.

(2) When a joint board of trustees is formed, all of the members of the districts’ trustees ~~shall~~ *must* be members of the joint board of trustees and each member ~~shall~~ *must* have the right to participate in the meetings, but voting on matters considered by the joint board ~~shall be is~~ limited by the provisions of this section.

(3) At the first meeting of the joint board of trustees, ~~there shall be a chairman~~ *presiding officer* of the joint board of trustees *must be* selected from among the membership. A secretary of the joint board ~~shall~~ *must* be selected from the membership. The ~~chairman~~ *presiding officer*, when selected as a voting member, ~~shall~~ *may* not be disqualified from voting because of ~~his~~ *the* position of ~~chairman of the board~~. The secretary ~~shall~~ *may* not be a voting member except that ~~he~~ *the secretary* shall cast the deciding vote when three successive ballots have resulted in a tie vote of the joint board of trustees.

(4) The voting membership of the joint board of trustees ~~shall~~ *must* be equalized among the trustee membership of the participating districts. After the selection of the ~~chairman~~ *presiding officer* and the secretary, if necessary, the voting membership ~~shall be is~~:

(a) all of the membership of the board of trustees of the smallest class of district, according to 20-6-201 or 20-6-301, unless one of its members is selected as secretary, in which case ~~such~~ *that* member ~~shall~~ *may* not be a voting member; and

(b) the members of the board of trustees of the other district or districts who are selected by ~~such~~ *the* trustees as voting members of the joint board in a number equal to the number of voting members of the district as established under subsection (4)(a) ~~above~~. The names of the voting membership selected by the trustees ~~shall~~ *must* be submitted in writing to the secretary of the board and ~~shall be are~~ the only members of ~~such~~ *the* district’s trustees eligible to vote on joint board matters unless ~~such~~ *the* list is revised in writing by the trustees.

(5) Each voting member ~~shall be is~~ entitled to cast one vote, individually, upon every matter submitted to the joint board for a vote.

(6) A joint board ~~must~~ *shall* remain in existence for at least 1 school year and may not be dissolved until the end of a school year.”

Section 286. Section 20-4-101, MCA, is amended to read:

“20-4-101. System and definitions of teacher and specialist certification — student teacher exception. (1) In order to establish a uniform system of quality education and to ensure the maintenance of professional standards, a system of teacher and specialist certification ~~shall~~ *must* be established and maintained under the provisions of this title and ~~no a~~ person ~~shall~~ *may not* be permitted to teach in the public schools of the state until ~~he~~ *the person* has obtained a teacher ~~certificate~~ or specialist certificate or the district has obtained an emergency authorization of employment from the state.

(2) As used in this part, "teacher or specialist certificate" means a certificate issued or applied for under 20-4-106. The term "teacher or specialist" refers to a person certified under 20-4-106.

(3) The ~~above~~ certification requirement ~~shall~~ *does* not apply to a student teacher who is ~~hereby defined as~~ a student enrolled in an institution of higher learning approved by the board of regents of higher education for teacher training and who is jointly assigned by ~~such~~ *the* institution of higher learning and the governing board of a district or a public institution to perform practice teaching in a nonsalaried status under the direction of a regularly employed and certificated teacher.

(4) A student teacher, while serving ~~such a~~ nonsalaried internship under the supervision of a certificated teacher, ~~shall~~ *must* be accorded the same protection of the laws as that accorded a certificated teacher and shall, while acting as ~~such a~~ student teacher, comply with all rules of the governing board of the district or public institution and the applicable provisions of 20-4-301 relating to the duties of teachers."

Section 287. Section 20-4-104, MCA, is amended to read:

"20-4-104. Qualifications. (1) A person may be certified as a teacher when ~~he~~ *the person* satisfies the following qualifications. *The person:*

(a) ~~He~~ is 18 years of age or older;;

(b) ~~He~~ is of good moral and professional character;;

(c) ~~He~~ has completed the teacher education program of a unit of the Montana university system or an essentially equivalent program at an accredited institution of equal rank and standing as that of any unit of the Montana university system, and ~~his~~ *the* training is evidenced by at least a bachelor's degree and a certification of the completion of the teacher education program, except as provided for in 20-4-106(1)(d);; *and*

(d) ~~He~~ has subscribed to the following oath or affirmation before an officer authorized by law to administer oaths:

"I solemnly swear (or affirm) that I will support The Constitution of the United States of America and The Constitution of the State of Montana."

(2) Any person may be certified as a specialist when ~~he~~ *the person* satisfies the requirements of subsections (1)(a) and (1)(b) and the requirement for a specialist certificate provided in 20-4-106(2)."

Section 288. Section 20-4-106, MCA, is amended to read:

"20-4-106. Classifications of teacher and specialist certificates. (1) The superintendent of public instruction shall issue teacher certificates and the board of public education shall adopt teacher certification policies on the basis of the following classifications of teacher certificates:

(a) The class 1 professional certificate may be issued to an otherwise qualified applicant who has completed a teacher education program ~~which~~ *that* includes a bachelor's degree and a minimum of 1 year of study beyond ~~such~~ *the* degree in a unit of the Montana university system or an equivalent institution. The professional certificate may be endorsed for elementary instruction, *for* secondary instruction, or both, and for specified subject fields on the basis of the applicant's academic and professional training and according to the board of public education policy for teacher certification endorsement.

(b) The class 2 standard certificate may be issued to an otherwise qualified applicant who has completed a 4-year teacher education program and who has

been awarded a bachelor's degree by a unit of the Montana university system or an equivalent institution. The standard certificate may be endorsed for elementary instruction, *for* secondary instruction, or both, and for specified subject fields on the basis of the applicant's academic and professional training and according to the board of public education policy for teacher certification endorsement.

(c) The class 3 administrative and supervisory certificate may be issued to an otherwise qualified applicant who is eligible for a teacher certificate endorsed for teaching in the school or schools in which ~~he~~ *the applicant* would be an administrator or ~~he~~ would supervise. The applicant ~~also shall~~ *must also* possess the training and experience required by the policies of the board of public education for an endorsement as superintendent, principal, or supervisor.

(d) The class 4 vocational, recreational, or adult education certificate may be issued to an otherwise qualified applicant who has the qualifications of training and experience required by the United States office of education or the qualifications required by the special needs of the several vocational, recreational, or adult education fields and who can qualify under the policy of the board of public education for the issuance of this classification of teacher certification.

(e) The class 5 provisional certificate may be issued to an otherwise qualified applicant who can provide satisfactory evidence of ~~his~~ *the* intent to qualify in the future for a class 1 or a class 2 certificate and who has completed a 4-year college program or its equivalent and holds a bachelor's degree from a unit of the Montana university system or its equivalent. The provisional certificate may be endorsed for elementary instruction, *for* secondary instruction, or both, and for special subject fields on the basis of the applicant's academic and professional training and according to the board of public education policy for teacher or specialist certification endorsement.

(2) The superintendent of public instruction shall issue specialist certificates, and the board of public education shall adopt specialist certification policies. The specialist certificate may be issued to an otherwise qualified applicant who has the training, experience, and license required under the standards of the board of public education for the certification of a profession other than the teaching profession.

(3) For purposes of evaluating the qualifications of applicants for either teacher or specialist certificates, a year means the instructional period consisting of three quarters or two semesters or other terms ~~which~~ *that* are recognized as an academic year by any unit of the Montana university system or equivalent institution."

Section 289. Section 20-4-121, MCA, is amended to read:

"20-4-121. Interstate agreement on qualification of educational personnel. The interstate agreement on qualification of educational personnel is enacted into law and entered into with all jurisdictions legally joining therein in the form substantially as follows:

Article I. Purpose — Findings — Policy

(1) The states party to this agreement, desiring by common action to improve their respective school systems by utilizing the teacher or other professional educational person wherever educated, declare that it is the policy of each of them, on the basis of cooperation with one another, to take advantage of the preparation and experience of such persons wherever gained, thereby serving the best interests of society, of education, and of the teaching profession.

It is the purpose of this agreement to provide for the development and execution of such programs of cooperation as will facilitate the movement of teachers and other professional educational personnel among the states party to it and to authorize specific interstate educational personnel contracts to achieve that end.

(2) The party states find that included in the large movement of population among all sections of the nation are many qualified educational personnel who move for family and other personal reasons but who are hindered in using their professional skill and experience in their new locations. Variations from state to state in requirements for qualifying educational personnel discourage such personnel from taking the steps necessary to qualify in other states. As a consequence, a significant number of professionally prepared and experienced educators are lost to our school systems. Facilitating the employment of qualified educational personnel, without reference to their states of origin, can increase the available educational resources. Participation in this compact can increase the availability of educational ~~manpower~~ *personnel*.

Article II. Definitions

As used in this agreement and contracts made pursuant to it, unless the context clearly requires otherwise, the following definitions apply:

(1) "Educational personnel" means persons who must meet requirements pursuant to state law as a condition of employment in educational programs.

(2) "Designated state official" means the educational official of a state selected by that state to negotiate and enter into, on behalf of ~~his~~ *the official's* state, contracts pursuant to this agreement.

(3) "Accept" or any variant thereof means to recognize and give effect to one or more determinations of another state relating to the qualifications of educational personnel in lieu of making or requiring a like determination that would otherwise be required by or pursuant to the laws of a receiving state.

(4) "State" means a state, territory, or possession of the United States, the District of Columbia, or the commonwealth of Puerto Rico.

(5) "Originating state" means a state (and the subdivisions thereof, if any) whose determination that certain educational personnel are qualified to be employed for specific duties in schools is acceptable in accordance with the terms of a contract made pursuant to Article III.

(6) "Receiving state" means a state (and the subdivisions thereof) which accept educational personnel in accordance with the terms of a contract made pursuant to Article III.

Article III. Interstate Educational Personnel Contracts

(1) The designated state official of a party state may make one or more contracts on behalf of ~~his~~ *the designated state official's* state with one or more other party states providing for the acceptance of educational personnel. Any such contract for the period of its duration shall be applicable to and binding on the states whose designated state officials enter into it and the subdivisions of those states with the same force and effect as if incorporated in this agreement. A designated state official may enter into a contract pursuant to this article only with states in which ~~he~~ *the designated state official* finds that there are programs of education, certification standards, or other acceptable qualifications that assure preparation or qualification of educational personnel on a basis sufficiently comparable even though not identical to that prevailing in ~~his~~ *the designated state official's* own state.

(2) Any such contract shall provide for:

(a) its duration;

(b) the criteria to be applied by an originating state in qualifying educational personnel for acceptance by a receiving state;

(c) such waivers, substitutions, and conditional acceptance as shall aid the practical effectuation of the contract without sacrifice of basic educational standards; and

(d) any other necessary matters.

(3) No contract made pursuant to this agreement shall be for a term longer than 5 years, but any such contract may be renewed for like or lesser periods.

(4) Any contract dealing with acceptance of educational personnel on the basis of their having completed an educational program shall specify the earliest date or dates on which originating state approval of the program or programs involved can have occurred. No contract made pursuant to this agreement shall require acceptance by a receiving state of any persons qualified because of successful completion of a program prior to January 1, 1954.

(5) The certification or other acceptance of a person who has been accepted pursuant to the terms of a contract shall not be revoked or otherwise impaired because the contract has expired or been terminated. However, any certificate or other qualifying document may be revoked or suspended on any ground which would be sufficient for revocation or suspension of a certificate or other qualifying document initially granted or approved in the receiving state.

(6) A contract committee composed of the designated state officials of the contracting states or their representatives shall keep the contract under continuous review, study means of improving its administration, and report not less than once a year to the heads of the appropriate education agencies of the contracting states.

Article IV. Approved and Accepted Programs

(1) Nothing in this agreement shall be construed to repeal or otherwise modify any law or regulation of a party state relating to the approval of programs of educational preparation having effect solely on the qualification of educational personnel within that state.

(2) To the extent that contracts made pursuant to this agreement deal with the educational requirements for the proper qualification of educational personnel, acceptance of a program of educational preparation shall be in accordance with such procedures and requirements as may be provided in the applicable contract.

Article V. Interstate Cooperation

The party states agree that:

(1) they will, so far as practicable, prefer the making of multilateral contracts pursuant to Article III of this agreement; and

(2) they will facilitate and strengthen cooperation in interstate certification and other elements of educational personnel qualification and for this purpose shall cooperate with agencies, organizations, and associations interested in certification and other elements of educational personnel qualification.

Article VI. Agreement Evaluation

The designated state officials of any party states may meet from time to time as a group to evaluate progress under the agreement and to formulate recommendations for changes.

Article VII. Other Arrangements

Nothing in this agreement shall be construed to prevent or inhibit other arrangements or practices of any party state or states to facilitate the interchange of educational personnel.

Article VIII. Effect — Withdrawal

(1) This agreement shall become effective when enacted into law by two states. Thereafter it shall become effective as to any state upon its enactment of this agreement.

(2) Any party state may withdraw from this agreement by enacting a statute repealing the same, but no such withdrawal shall take effect until 1 year after the governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other party states.

(3) No withdrawal shall relieve the withdrawing state of any obligation imposed upon it by a contract to which it is a party. The duration of contracts and the methods and conditions of withdrawal therefrom shall be those specified in their terms.

Article IX. Construction — Severability

This agreement shall be liberally construed so as to effectuate the purpose thereof. The provisions of this agreement shall be severable and if any phrase, clause, sentence, or provision of this agreement is declared to be contrary to the constitution of any state or of the United States or the application thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this agreement and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this agreement is held to be contrary to the constitution of any state participating therein, the agreement shall remain in full force and effect as to the state affected as to all severable matters.”

Section 290. Section 20-4-132, MCA, is amended to read:

“20-4-132. Meetings — assistance. (1) The council shall meet quarterly and at other times as may be required for the proper conduct of the business of the council at the call of the ~~chairman~~ *presiding officer*.

(2) The council may adopt rules for the conduct of its business.

(3) The council shall keep a record of its proceedings.

(4) The council may request research, administrative, and clerical staff assistance from the board of public education.

(5) The council shall select a ~~chairman~~ *presiding officer* and a ~~vice-chairman~~ *vice presiding officer* from its appointed members.

(6) A quorum for a meeting is not less than four council members.

(7) Council members are entitled to travel expenses incurred for each day of attendance at council meetings or in the performance of any duty or service as a council member in accordance with 2-18-501 through 2-18-503.”

Section 291. Section 20-4-202, MCA, is amended to read:

“20-4-202. Teacher and specialist certification registration. (1) Any person employed as a teacher, specialist, principal, or district superintendent shall register ~~his~~ *the person's* certificate or the district shall register its emergency authorization of employment for a teacher with the county superintendent of the county ~~wherein he~~ *in which the person* is employed in order to validate ~~his~~ *the person's* employment status and permit payment under

~~his~~ *the* employment contract. If a teacher or specialist does not register ~~his~~ *the* ~~person's~~ certificate with the county superintendent within 60 calendar days after ~~he~~ *the person* begins to perform ~~his~~ services, ~~he~~ *the person* is not be eligible to receive any further compensation under ~~his~~ *the* contract of employment until ~~he~~ *the person* has registered ~~his~~ *the* certificate. After the schools of a district have been open for 60 calendar days in the current school fiscal year, the county superintendent shall notify each district of the county of each teacher or specialist who has registered ~~his~~ *a* current valid certificate, and the district shall ~~may~~ not pay any teacher who has not registered ~~his~~ *the person's* certificate until the county superintendent does notify the district of ~~such~~ *the* registration.

(2) A teacher or specialist employed by a joint district shall register ~~his~~ *the* ~~person's~~ certificate with the county superintendent of the county in which ~~he~~ *the person* is working. A teacher or specialist employed by a special education cooperative shall register ~~his~~ *the person's* certificate with the county superintendent of the county in which the special education cooperative is based.”

Section 292. Section 20-4-304, MCA, is amended to read:

“20-4-304. Attendance at instructional and professional development meetings. The trustees of a school district shall close the schools of the district for the annual instructional and professional development meetings of teachers’ organizations. A teacher may attend instructional and professional development meetings without loss of salary or attend other appropriate inservice training, ~~as~~ *that* may be prescribed by the trustees, without loss of salary. If a teacher does ~~neither~~ *not attend*, ~~he~~ *must the teacher* may not be paid.”

Section 293. Section 20-5-102, MCA, is amended to read:

“20-5-102. Compulsory enrollment and excuses. (1) Except as provided in subsection (2), any parent, guardian, or other person who is responsible for the care of any child who is 7 years of age or older prior to the first day of school in any school fiscal year shall cause the child to be instructed in the program prescribed by the board of public education pursuant to 20-7-111 until the later of the following dates:

- (a) the child’s 16th birthday; or
- (b) the date of completion of the work of the 8th grade.

(2) A parent, guardian, or other person shall enroll the child in the school assigned by the trustees of the district within the first week of the school term or when ~~he~~ *the parent, guardian, or person* establishes residence in the district unless the child is:

- (a) enrolled in a school of another district or state under any of the tuition provisions of this title;
- (b) provided with supervised correspondence study or supervised home study under the transportation provisions of this title;
- (c) excused from compulsory school attendance upon a determination by a district judge that attendance is not in the best interest of the child;
- (d) excused by the board of trustees upon a determination that attendance by a child who has attained the age of 16 is not in the best interest of the child and the school; or

(e) enrolled in a nonpublic or home school that complies with the provisions of 20-5-109. For the purposes of this subsection (2)(e), a home school is the instruction by a parent of ~~his~~ *the parent's* child, stepchild, or ward in ~~his~~ *the parent's* residence and a nonpublic school includes a parochial, church, religious, or private school."

Section 294. Section 20-5-103, MCA, is amended to read:

"20-5-103. Compulsory attendance and excuses. (1) Except as provided in subsection (2), any parent, guardian, or other person who is responsible for the care of any child who is 7 years of age or older prior to the first day of school in any school fiscal year shall cause the child to attend the school in which ~~he~~ *the child* is enrolled for the school term and each school day ~~therein~~ *in the term* prescribed by the trustees of the district until the later of the following dates:

(a) the child's 16th birthday; *or*

(b) the date of completion of the work of the 8th grade.

(2) The provisions of subsection (1) do not apply in the following cases:

(a) The child has been excused under one of the conditions specified in 20-5-102.

(b) The child is absent because of illness, bereavement, or other reason prescribed by the policies of the trustees.

(c) The child has been suspended or expelled under the provisions of 20-5-202."

Section 295. Section 20-5-105, MCA, is amended to read:

"20-5-105. Attendance officer — powers and duties. The attendance officer of ~~any a~~ district shall:

(1) *must* be vested with police powers, the authority to serve warrants, and the authority to enter places of employment of children in order to enforce the compulsory attendance provisions of this title;

(2) *shall* take into custody any child subject to compulsory attendance who is not excused under the provisions of this title and conduct ~~him~~ *the child* to the school in which ~~he~~ *the child* is or should be enrolled;

(3) *shall* do whatever else is required to investigate and enforce the compulsory attendance provisions of this title and the pupil attendance policies of the trustees;

(4) *shall* institute proceedings against any parent, guardian, or other person violating the compulsory attendance provisions of this title;

(5) *shall* keep a record of ~~his~~ transactions for the inspection and information of the trustees and make reports in the manner and to whomever the trustees designate; and

(6) *shall* perform any other duties prescribed by the trustees to preserve the morals and secure good conduct of the pupils of the district."

Section 296. Section 20-5-106, MCA, is amended to read:

"20-5-106. Truancy. (1) Whenever the attendance officer discovers a child truant from school or a child subject to compulsory attendance who is not enrolled in a school providing the required instruction and has not been excused under the provisions of this title, ~~he~~ *the officer* shall notify in writing the parent, guardian, or other person responsible for the care of the child that the continued truancy or nonenrollment of ~~his~~ *the child* ~~shall~~ *will* result in ~~his~~ *the person's* prosecution under the provisions of this section. If the child is not enrolled and in

attendance at a school or excused from school within 2 days after the receipt of the notice, the attendance officer shall file a complaint against ~~such~~ *the* person in a court of competent jurisdiction.

(2) If convicted, ~~such~~ *the* person shall be fined not less than \$5 or more than \$20. In the alternative, ~~he~~ *the person* may be required to give bond in the penal sum of \$100, with sureties, conditioned upon ~~his~~ *the person's* agreement to cause the enrollment of ~~his~~ *the* child within 2 days ~~thereafter~~ in a school providing the courses of instruction required by this title and to cause the child to attend that school for the remainder of the current school term. If a person refuses to pay a fine and costs or to give a bond as ordered by the court, ~~he~~ *the person* shall be imprisoned in the county jail for a term of not less than 10 days or more than 30 days."

Section 297. Section 20-5-107, MCA, is amended to read:

"20-5-107. Incapacitated and indigent child attendance. In lieu of the provisions of 20-5-106 and when an attendance officer is satisfied that a pupil or a child subject to compulsory attendance is not able to attend school because ~~he~~ *the child* does not have the physical capacity or ~~he~~ *the child* is absolutely required to work at home or elsewhere in order to *provide* support ~~himself~~ *for the child* or ~~his~~ *the child's* family, the attendance officer shall report the case to the authorities charged with the relief of the poor. ~~It shall be the duty of such~~ *The* welfare authorities ~~to~~ *shall* offer ~~such~~ relief ~~as that~~ will enable the child to attend school. If the parent, guardian, or other person who is responsible for the care of the child denies or neglects the assistance offered to enable the child to attend school, the child ~~shall~~ *must* be committed to a state institution, at the discretion of the court."

Section 298. Section 20-5-111, MCA, is amended to read:

"20-5-111. Responsibilities and rights of parent who provides home school. Subject to the provisions of 20-5-109, a parent has the authority to instruct ~~his~~ *the parent's* child, stepchild, or ward in a home school and is solely responsible for:

- (1) the educational philosophy of the home school;
- (2) the selection of instructional materials, curriculum, and textbooks;
- (3) the time, place, and method of instruction; and
- (4) the evaluation of the home school instruction."

Section 299. Section 20-5-405, MCA, is amended to read:

"20-5-405. Medical or religious exemption. (1) When a parent, guardian, or adult who has the responsibility for the care and custody of a minor seeking to attend school or the person seeking to attend school, if an adult, signs and files with the governing authority, prior to the commencement of attendance each school year, a notarized affidavit on a form prescribed by the department stating that immunization is contrary to the religious tenets and practices of the signer, immunization of the person seeking to attend the school may not be required prior to attendance at the school. The statement must be maintained as part of the person's immunization records. A person who falsely claims a religious exemption is subject to the penalty for false swearing provided in 45-7-202.

(2) When a parent, guardian, or adult who has the responsibility for the care and custody of a minor seeking to attend school, or the person seeking to attend school, if an adult, files with the governing authority a written statement signed by a physician licensed to practice medicine in any jurisdiction of the United

States or Canada stating that the physical condition of the person seeking to attend school or medical circumstances relating to ~~him~~ *the person* indicate that some or all of the required immunizations are not considered safe and indicating the specific nature and probable duration of the medical condition or circumstances ~~which~~ *that* contraindicate immunization, ~~he~~ *the person* is exempt from the requirements of this part to the extent indicated by the physician's statement. The statement must be maintained as part of the person's immunization records.

(3) Whenever there is good cause to believe that a person for whom an exemption has been filed under this section has a disease or has been exposed to a disease listed in 20-5-403 or will as the result of school attendance be exposed to ~~such~~ *the* disease, the person may be excluded from the school by the local health officer or the department until the excluding authority is satisfied that the person no longer risks contracting or transmitting that disease."

Section 300. Section 20-5-406, MCA, is amended to read:

"20-5-406. Immunization record. The governing authority of each school shall require written evidence of each pupil's immunization against the diseases listed in 20-5-403 and shall record the immunization of each pupil as part of ~~his~~ *the pupil's* permanent school record on a form prescribed by the department."

Section 301. Section 20-6-103, MCA, is amended to read:

"20-6-103. Permanent record of district boundaries. (1) The board of county commissioners shall maintain a permanent record ~~which~~ *that* plainly and definitely describes the boundaries of each district within the county. The county superintendent shall keep a transcript of the record in ~~his~~ *the superintendent's* office and ~~shall be~~ *is* responsible for keeping the record current.

(2) If the county superintendent determines that the boundaries of any elementary district or high school district are in conflict or are incorrectly described, ~~he~~ *the superintendent* shall change, harmonize, and describe ~~them~~ *the boundaries* accurately; and ~~he~~ shall make a report of ~~such~~ *the* boundary adjustments to the board of county commissioners. When the board of county commissioners approves a district boundary report submitted by the county superintendent, ~~such~~ *the* boundaries ~~shall be~~ *are* the legal boundaries and description of the district within the county. Whenever district boundaries are clarified under this section, the county superintendent shall supply the trustees of the district with the legal descriptions of the boundaries of their district."

Section 302. Section 20-6-605, MCA, is amended to read:

"20-6-605. Land acquired by conditional deed or at will or sufferance. Whenever, ~~after March 17, 1939,~~ the trustees acquire land by deed conditioned upon the use of the land for the conduct of school or related activities or whenever land has been used by the trustees at the will or sufferance of the land's owner or claimant and the district has constructed buildings or made other improvements on the land, the owner or claimant may repossess the land if it ceases to be used as specified by deed or, if not specified, for the conduct of school or related activities. However, the owner or claimant shall first notify the trustees in writing of ~~his~~ *the* intent to repossess the land, and the trustees shall ~~thereafter~~ have 1 year *after receipt* to remove any buildings or improvements placed ~~there~~ *upon the land* by the district. The trustees' failure to remove the buildings or improvements within that time ~~shall constitute~~ *constitutes* a forfeiture of ~~such~~ *the* buildings or improvements. Before the owner or claimant ~~shall have~~ *has* the right to give notice of repossession, the district's intention to

permanently cease using the land ~~shall~~ *must* have been established by resolution of the trustees and *a* vote of the district's electors."

Section 303. Section 20-7-113, MCA, is amended to read:

"20-7-113. Maintenance of curriculum guide file and publishing curriculum guides by superintendent of public instruction. The superintendent of public instruction shall collect and maintain a file of curriculum guides to be made available to districts for the use of schools in planning courses of instruction. ~~He~~ *The superintendent* may prepare, publish, and distribute curriculum guides for the use of schools in planning courses of instruction. ~~He~~ *The superintendent* may solicit the assistance of educators and other qualified persons in the preparation of curriculum guides."

Section 304. Section 20-7-116, MCA, is amended to read:

"20-7-116. Supervised correspondence study. The trustees of ~~any a~~ district may provide supervised correspondence study for a pupil when it is impossible for ~~him~~ *the pupil* to attend a school ~~due to~~ *because of* the isolation of ~~his~~ *the pupil's* residence or ~~his~~ *the pupils's* mental or physical incapacity. Supervision of the correspondence course ~~shall~~ *must* be provided by the district superintendent or the county superintendent if there is no district superintendent."

Section 305. Section 20-7-462, MCA, is amended to read:

"20-7-462. Responsibilities of surrogate parent. A person assigned as a surrogate parent shall represent the child with a disability in all decisionmaking processes concerning the child's education by:

(1) becoming thoroughly acquainted with the child's history and other information contained in school and other pertinent files, records, and reports relating to that child's educational needs;

(2) complying with state and federal law as to the confidentiality of all records and information to which ~~he~~ *the person* is privy pertaining to that child and using discretion in the necessary sharing of the information with appropriate people for the purpose of furthering the interests of the child;

(3) becoming familiar with the educational evaluation and placement for the child and by giving ~~his~~ approval or disapproval for the evaluation and placement and reviewing and evaluating special education programs pertaining to the child and ~~such~~ other programs ~~as~~ *that* may be available; and

(4) initiating any mediation, hearing, or appeal procedures necessary and seeking qualified legal assistance whenever ~~such~~ *the* assistance is in the best interest of the child."

Section 306. Section 20-7-463, MCA, is amended to read:

"20-7-463. Surrogate parent — immunity from liability — reimbursement. (1) A person appointed as a surrogate parent is exempt from liability for any act or omission performed by ~~him~~ *the person* in ~~his~~ *the* capacity as a surrogate parent except an act or omission ~~which~~ *that* is found to have been committed in a grossly negligent or malicious manner.

(2) A surrogate parent has the same protection and immunity in professional communications as a teacher.

(3) A surrogate parent must be reimbursed by the school district for all reasonable and necessary expenses incurred in the pursuit of ~~his~~ *the surrogate parent's* duties, as prescribed by rules adopted by the superintendent of public instruction."

Section 307. Section 20-7-606, MCA, is amended to read:

“20-7-606. Doing business without textbook dealer’s license — penalty. ~~Any~~ A textbook dealer who ~~shall sell~~ *sells* or ~~offer~~ *offers* for sale or adoption a textbook to any district or county superintendent without first obtaining a textbook license from the superintendent of public instruction shall be guilty of a misdemeanor. Upon conviction of ~~such~~ *the* misdemeanor, ~~he~~ *the person* shall be fined not less than \$500 or more than \$2,000.”

Section 308. Section 20-7-607, MCA, is amended to read:

“20-7-607. Restricting competition — penalty. At any time a licensed textbook dealer enters into any understanding, agreement, or combination to control textbook prices or otherwise restrict competition in the sale of textbooks, ~~he~~ *the dealer* shall forfeit ~~his~~ *the dealer’s* surety bond and ~~textbook dealer’s~~ license. The attorney general shall institute and prosecute legal proceedings for the forfeiture of the surety bond of ~~such~~ *the* licensed textbook dealer and for revocation of ~~his~~ *the* textbook dealer’s license.”

Section 309. Section 20-7-608, MCA, is amended to read:

“20-7-608. Offer or acceptance of emoluments or other inducements — penalty. (1) ~~No~~ A textbook dealer or ~~his~~ *the dealer’s* agent shall ~~may not~~ offer any emolument or other inducement to any trustee or school employee to influence the selection, adoption, or purchase of textbooks.

(2) ~~No~~ A trustee, county superintendent, or school employee shall ~~may not~~ accept any emolument or other inducement from a textbook dealer or agent of ~~such~~ *the* dealer for the use of ~~his~~ *the official’s or employee’s* influence in the selection, adoption, or purchase of textbooks.

(3) The violation of any provisions of this section shall ~~constitute~~ *is* a misdemeanor. In addition, any trustee, county superintendent, or school employee convicted of ~~such~~ *the* misdemeanor shall ~~must~~ be removed from ~~his~~ *the officer’s or employee’s* position.

(4) ~~Nothing in this~~ *This* section shall ~~may not~~ be construed to prevent the supplying of a necessary number of sample textbooks for the purpose of examination by school officials or school employees.”

Section 310. Section 20-8-108, MCA, is amended to read:

“20-8-108. Provisions for indigent students. ~~In all cases where~~ *If* a person to be sent to ~~said school~~ *the Montana school for the deaf and blind* is too poor to pay for necessary clothing and transportation, the judge of the district court of the district where ~~such~~ *the* person resides, upon application of any relative or friend or of any officer of the county where ~~said~~ *the* person resides, shall, if ~~he~~ *deem* ~~the judge considers~~ the person a proper subject, make an order to that effect. ~~which shall~~ *The order must* be certified by the clerk of the court to the superintendent of ~~said~~ *the* school, who shall then provide the necessary clothing and transportation at the expense of the county, and, upon ~~his~~ *the superintendent* rendering ~~his~~ proper accounts ~~therefor~~ *for the expenditures* quarter-annually, the county commissioners shall allow and pay the ~~same~~ *the accounts* out of the county treasury.”

Section 311. Section 20-8-120, MCA, is amended to read:

“20-8-120. Communications skills required of certain employees. (1) Each permanent employee of the school who works with deaf children or works for or with a fellow employee who is deaf ~~must~~ *shall* acquire acceptable total communications skills as prescribed by the board of public education by the end of ~~his~~ *the* first year of employment.

(2) Upon request to the board of public education by the superintendent, an exception to this requirement may be made for an employee not working directly with deaf children.”

Section 312. Section 20-9-207, MCA, is amended to read:

“20-9-207. Documentation of expenditures. (1) The expenditure of district ~~moneys~~ money, other than employee contract payments, may be authorized by the trustees when:

(a) payee-signed claims, ~~wherein~~ *in which* the payee attests to the accuracy of the claim and that ~~he~~ *the payee* has not received the claimed amount, have been issued to the district; or

(b) the payee has provided the district with an invoice or other document identifying the quantity and total cost per item included on the invoice.

(2) The intention of this section is to provide sufficient documentation for each expenditure of district ~~moneys~~ money.”

Section 313. Section 20-9-424, MCA, is amended to read:

“20-9-424. Validation of petition — election administrator’s certificate. (1) The petitioners for a school district bond election shall submit their petition to the county election administrator of the county where the school district is located for validation of the signatures on the petition. The county election administrator shall examine the petition and attach or endorse ~~thereon~~ *on the petition* a certificate ~~which shall~~ *that must* state:

(a) the total number of electors of the school district who are, at the time, qualified to vote under the provisions of 20-20-301;

(b) which and how many of the individuals whose names are subscribed to the petition possess the qualifications to vote on a bond proposition; and

(c) whether the number of qualified signers established in subsection (1)(b) is more or less than 20% of the total number of registered electors established in subsection (1)(a).

(2) After completing the examination, the county election administrator shall immediately send the petition and ~~his~~ certificate to the school district. The county election administrator ~~shall~~ *may* not receive compensation for the examination of school district bond petitions.”

Section 314. Section 20-9-436, MCA, is amended to read:

“20-9-436. County attorney to assist in the proceedings. The trustees of ~~any~~ *a* school district conducting bond proceedings shall prepare and maintain a transcript of their bond proceedings. It is a part of the official duties of the county attorney of every county of this state to advise and assist the trustees of each school district of ~~his~~ *the* county in its bond proceedings. Before any transcript of school district bond proceedings is sent to the board of investments, ~~he~~ *the county attorney* shall carefully examine ~~such~~ *the* transcript, and the transcript may not be sent until ~~he~~ *the county attorney* has attached ~~his~~ *an* opinion to the transcript that the proceedings are in full compliance with law. ~~The~~ *However, the* trustees of any school district, ~~however,~~ may, upon consent of the county attorney, employ any attorney licensed in Montana to assist the county attorney in the performance of ~~his~~ *these* duties.”

Section 315. Section 20-9-441, MCA, is amended to read:

“20-9-441. Redemption of bonds — investment of debt service fund moneys money. (1) Whenever there is a sufficient amount of money in any school district debt service fund available to pay and redeem one or more bonds

of ~~such the~~ school district held by the state of Montana, the county treasurer shall apply ~~such the~~ money in payment of as many of ~~such the~~ bonds as can be paid and redeemed. The county treasurer shall give notice not less than 30 days before the next interest due date to the board of investments that ~~on such interest due date such the~~ bonds will be paid *on the interest due date*. Before ~~such the~~ interest due date, the county treasurer shall remit to the state treasurer the amount of money that is necessary to pay the bonds that are being redeemed and the interest due on ~~such the~~ bonds. When the state treasurer receives ~~such the~~ payment, ~~he the treasurer~~ shall cancel ~~such the~~ bonds and any unpaid coupons of ~~such the~~ bonds and return the canceled bonds and coupons to the county treasurer.

(2) Whenever there is a sufficient amount of money in any school district debt service fund available to pay and redeem one or more optional bonds of ~~such the~~ school district not held by the state of Montana, not yet due but then redeemable or becoming redeemable on the next interest due date, the county treasurer shall apply ~~such the~~ available money in payment of as many of ~~such the~~ bonds as can be paid and redeemed. The county treasurer shall give notice to the holder of the bonds, if known ~~to him~~, or to any bank or financial institution at which the bonds are payable, at least 30 days before the next interest due date, that the bonds will be paid and redeemed on ~~such that~~ date. If the bonds are payable at some bank or financial institution, the county treasurer shall remit to the bank or financial institution, before ~~such the~~ interest due date, an amount sufficient to pay and redeem the bonds. If the bonds are not presented for payment and redemption on ~~such the~~ interest due date, the accrual of interest shall ~~cease ceases~~ on ~~such the~~ interest due date.

(3) Whenever there is money available in any school district debt service fund sufficient to pay and redeem one or more outstanding bonds not yet due or redeemable and not held by the state of Montana, the trustees of ~~such the~~ school district may direct the county treasurer to purchase ~~such the~~ bonds of the district if this can be done at not more than par and accrued interest or at ~~such a~~ reasonable premium ~~as that~~ the trustees may feel justified in paying, but ~~in no~~ ~~case not~~ exceeding 6%.

(4) Whenever the trustees cannot purchase outstanding bonds of the school district at a reasonable price, the available debt service fund money shall ~~must~~ be invested by the trustees under the provisions of 20-9-213(4). ~~Such The~~ investments shall ~~must~~ be sold in ample time before the debt service fund money is required for the payment of the bonds of the school district.”

Section 316. Section 20-9-442, MCA, is amended to read:

“20-9-442. Entries of payments and notification of school district.

The county treasurer shall make the necessary entries of all payments of interest and principal on ~~his the treasurer's~~ bond registration record and shall promptly notify the clerk of the school district when ~~such the~~ payments are made. The county treasurer also shall deliver the canceled coupons and bonds to the county clerk at the end of each month. The county clerk shall file ~~such the~~ canceled coupons and bonds in ~~his the clerk's~~ office.”

Section 317. Section 20-10-112, MCA, is amended to read:

“20-10-112. Duties of superintendent of public instruction. In order to have a uniform and equal provision of transportation by all districts in the state of Montana, the superintendent of public instruction shall:

(1) prescribe rules and forms for the implementation and administration of the transportation policies adopted by the board of public education;

(2) prescribe rules for the approval of school bus routing by the county transportation committee;

(3) prescribe the format of the contract for individual transportation and supply each county superintendent with a sufficient number of ~~such~~ contracts;

(4) prescribe rules for the approval of individual transportation contracts, including the increases of the schedule rates ~~due to~~ *because of* isolation under the policy of the board of public education, and provide a degree-of-isolation chart to school district trustees to serve as a guide;

(5) approve, disapprove, or adjust all school bus routing submitted by the county superintendent;

(6) approve, disapprove, or adjust all individual transportation contracts submitted by the county superintendent;

(7) prescribe rules for the consideration of controversies appealed to ~~him~~ *the superintendent* and rule on ~~such~~ *the* controversies; and

(8) disburse the state transportation reimbursement in accordance with the provisions of law and the transportation policies of the board of public education.”

Section 318. Section 20-10-121, MCA, is amended to read:

“20-10-121. Duty of trustees to provide transportation — types of transportation — bus riding time limitation. (1) The trustees of ~~any~~ *a* district may furnish transportation to an eligible transportee who attends a school of the district or has been granted permission to attend a school outside of the district. Whenever the trustees of a district provide transportation for ~~any~~ *an* eligible transportee, the trustees ~~must~~ *shall* provide all eligible transportees of the district with transportation. The trustees shall furnish transportation when directed to do so by the county transportation committee and ~~such~~ *when that* direction is upheld by the superintendent of public instruction.

(2) The tendering of a contract to the parent or guardian ~~whereby~~ *under which* the district would pay the parent or guardian for individually transporting the pupil or pupils ~~shall fulfill~~ *fulfills* the district’s obligation to furnish transportation for an eligible transportee. The parent or guardian of an eligible transportee may, ~~at his discretion,~~ provide transportation or arrange for transportation for ~~his~~ *the parent’s or guardian’s* child at ~~his~~ *the parent’s or guardian’s* own expense to any district willing to accept ~~his~~ *the* child.

(3) The type of transportation provided by a district may be:

(a) by a school bus; or

(b) by ~~such~~ individual transportation as:

(i) paying the parent or guardian for individually transporting the pupil;

(ii) paying board and room reimbursements;

(iii) providing supervised correspondence study; or

(iv) providing supervised home study.

(4) When the parent or guardian of an elementary pupil consents to a trip of over 1 hour, the trustees may require ~~such~~ *the* eligible transportee to ride a school bus for more than 1 hour ~~per~~ *each* trip.”

Section 319. Section 20-10-122, MCA, is amended to read:

“20-10-122. Discretionary provision of transportation and payment for this transportation. (1) The trustees of ~~any~~ *a* district ~~also~~ may provide

school bus transportation to any pupil of a public school who is not an eligible transportee of the district:

(a) on a school bus conveying eligible transportees when the ineligible transportee will not displace an eligible transportee from ~~such~~ *the* school bus because of the lack of seating capacity;

(b) on a school bus operated by the district for the sole purpose of providing transportation for ineligible transportees. ~~Such~~ *The* school bus ~~shall~~ *must* service those children living the greatest distance from the school to be attended.

(c) on a school bus operated for the purpose of relieving congestion in a school building or to avoid the necessity of erecting a new building or for any other reasons of economy or convenience.

(2) When the trustees of a district provide school bus transportation to an ineligible transportee under the conditions of subsection (1)(a) or (1)(b), the district may charge each ineligible transportee ~~his~~ *a* proportionate share, as determined by the trustees, of the cost of operating ~~such~~ *the* school bus. Money realized from ~~such~~ *the* payments ~~shall~~ *must* be deposited to the credit of the transportation fund.”

Section 320. Section 20-10-123, MCA, is amended to read:

“20-10-123. Provision of transportation for nonpublic school children. Any child attending a nonpublic school may ride a school bus when a permit to ride ~~such~~ *the* school bus is secured from the operating district by the parent or guardian of ~~such~~ *the* nonpublic school child and when there is seating capacity available on ~~such~~ *the* school bus. When a nonpublic school child rides a school bus, the operating district may charge ~~such~~ *the* child ~~his~~ *a* proportionate share, as determined by the trustees, of the cost of operating ~~such~~ *the* school bus. Money realized from ~~such~~ *the* payments ~~shall~~ *must* be deposited to the credit of the transportation fund.”

Section 321. Section 20-15-209, MCA, is amended to read:

“20-15-209. Determination of approval or disapproval of proposition — subsequent procedures if approved. (1) To carry, the proposal to organize the community college district must receive a majority of the total number of votes cast ~~thereon~~, and the coordinator of community college districts, from the results ~~so~~ certified and attested, shall determine whether the proposal has received the majority of the votes cast ~~thereon~~ for each county within the proposed district and shall certify the results to the regents. Approval for the organization of a new community college district ~~shall~~ *must* be granted at the discretion of the legislature acting upon the recommendation of the regents. ~~Should~~ *If* the certificate of the coordinator of community college districts ~~show~~ *shows* that the proposition to organize ~~such~~ *the* community college district has received a majority of the votes cast ~~thereon~~ in each county within the proposed district, the regents may make an order declaring the community college district organized and cause a copy ~~thereof~~ *of the order* to be recorded in the office of the county clerk and recorder in each county in which a portion of ~~such~~ *the* new district is located. If the proposition carries, the regents ~~also~~ shall determine which candidates have been elected trustees. ~~Should~~ *If* the proposition to organize the community college district ~~fail~~ *fails* to receive a majority of the votes cast ~~thereon~~, ~~no~~ *a* tabulation ~~shall~~ *may not* be made to determine the candidates elected trustees.

(2) Within 30 days of the date of the organization order, the regents shall set a date and call an organization meeting for the board of trustees of the

community college district and shall notify the ~~duly~~ elected trustees of their membership and of the organization meeting. ~~Such~~ *The* notification ~~shall~~ *must* designate a temporary ~~chairman~~ *presiding officer* and secretary for the purposes of organization.”

Section 322. Section 20-15-219, MCA, is amended to read:

“20-15-219. Qualifications for office of trustee — nominating petitions. (1) Any person who is qualified to vote in a community college district under the provisions of 20-20-301 is eligible for the office of community college trustee.

(2) Any five electors of a community college district qualified under the provisions of 20-20-301 may nominate as many trustee candidates as there are trustee positions subject to election at the ensuing election. A nominating petition containing the signatures of the five electors and the name of each person nominated for candidacy must be submitted to the election clerk designated by the board of trustees no less than 30 days before the regular school election day at which ~~he~~ *the person* is to be a candidate. If there are different terms to be filled, the term for which each candidate is nominated must also be indicated.”

Section 323. Section 20-15-222, MCA, is amended to read:

“20-15-222. Results of election — qualifying oath — term of office. (1) When the board of trustees of the community college district has received all the certified results of the election from the component elementary districts, the then-qualified members of the board of trustees of ~~such~~ *the* community college district shall tabulate the results ~~so~~ received, shall declare and certify the candidate or candidates receiving the greatest number of votes to be elected to the position or positions to be filled, and shall declare and certify the results of the votes cast on any proposition presented at ~~such~~ *the* election.

(2) (a) ~~No~~ A person who receives a certificate of election as a community college trustee may *not* assume the trustee position until ~~he~~ *the person* has qualified by taking an oath of office prescribed by the constitution of Montana at the next regularly scheduled meeting of the board of trustees after receipt of the certificate of election.

(b) If the elected person does not qualify in accordance with this requirement, another person must be appointed in a manner provided by 20-15-223 and shall serve until the next regular election.

(3) After a person has qualified for a trustee position, ~~he~~ *the person* shall hold ~~such~~ *the* position for the term of the position and until ~~his~~ *a* successor has been elected or appointed and has been qualified.”

Section 324. Section 20-15-224, MCA, is amended to read:

“20-15-224. Board of trustees — organization, meetings, quorum, mileage, and seal. (1) (a) The trustees of each community college district shall annually organize as a governing board of the community college district at the next regularly scheduled meeting after the regular election day and after the issuance of the election certificate to the newly elected trustees.

(b) In order to organize, the trustees of the community college district ~~shall~~ *must* be given notice by the coordinator of the time and place where the organization meeting will be held, and at ~~such~~ *the* meeting they shall choose one of their members as ~~chairman~~ *presiding officer* and as secretary. In addition, the trustees may employ or appoint a competent person who is not a member of the trustees as the clerk of the community college district.

(c) The ~~chairman~~ *presiding officer* and secretary of the trustees of the community college district shall serve until the next organization meeting. The ~~chairman~~ *presiding officer* shall preside at all meetings of the trustees in accordance with the customary rules of order. ~~He~~ *The presiding officer* shall perform the duties prescribed by this title and any other duties that normally pertain to ~~such~~ *the* office.

(2) The board of trustees of the community college shall hold monthly meetings within the community college district on ~~such~~ *the* day of the month the trustees may set. The ~~president~~ *presiding officer* and secretary of the board or a majority of the board may also call special meetings of the board of trustees at any time and place within the community college district if in ~~their~~ *its* judgment necessity requires ~~it.~~ *the meeting*. The secretary of the board shall give each member a 48-hour written notice of all special meetings.

(3) A majority of the board of trustees ~~shall constitute~~ *constitutes* a quorum for the transaction of business, except that ~~no a contract shall may not~~ be let, teacher employed or dismissed, or bill approved unless a majority of the total board membership ~~shall vote~~ *votes* in favor of ~~such~~ *the* action.

(4) A member of the board of trustees ~~shall~~ *must* receive mileage, as provided for in 2-18-503, for the distance necessarily traveled in going to and returning from the place of the meeting and ~~his~~ *the member's* place of residence each day that ~~such~~ *the* trip is actually made.

(5) The board shall keep a common seal with which to attest its official acts.”

Section 325. Section 20-15-227, MCA, is amended to read:

“20-15-227. Trustee removal procedure. (1) Any person may seek the removal of a community college trustee by filing a complaint with the board of county commissioners, containing charges based on one or more of the grounds cited in 20-15-228.

(2) If upon receiving ~~such~~ a complaint it appears that there is probable cause for removal, the board of county commissioners shall suspend ~~such~~ *the* trustee from ~~his~~ *the* trustee position until charges can be heard in the appropriate district court. The board of county commissioners shall then transmit the complaint, together with a statement of suspension, to the district court.”

Section 326. Section 20-15-228, MCA, is amended to read:

“20-15-228. Grounds for removal. A community college trustee may be removed ~~whenever he~~ *if the trustee*:

(1) moves ~~his~~ *the trustee's* residence from the applicable community college district;

(2) is no longer a registered elector of the community college district under the provisions of 20-20-301;

(3) is absent from the district 60 consecutive days;

(4) fails to attend three consecutive meetings of the trustees without reasonable cause;

(5) fails to perform responsibilities in accordance with 20-15-226; or

(6) ceases to have the capacity to hold office.”

Section 327. Section 20-20-201, MCA, is amended to read:

“20-20-201. Calling of school election. (1) At least 40 days before any school election, the trustees of ~~any a~~ district shall call ~~such~~ *the* school election by

resolution, stating the date and purpose of ~~such~~ *the* election, and shall conduct it in accordance with the procedures required by law, when:

- (a) an election must be held on the regular school election day;
- (b) in their discretion, the trustees order an election for a purpose authorized by law;
- (c) the county superintendent orders an election in accordance with the law authorizing ~~such~~ an order;
- (d) the board of public education orders an election in accordance with the law authorizing ~~such~~ an order;
- (e) the county commissioners order an election in accordance with the law authorizing ~~such~~ an order;
- (f) the board of trustees of a community college district orders an election in accordance with the law authorizing ~~such~~ an order, (in which case the community college district shall bear its share of the cost of ~~such~~ *the* election); or
- (g) a school election is required by law under any other circumstances.

(2) The resolution calling any school election ~~shall~~ *must* be transmitted to the county election administrator no later than 35 days before the election in order to enable ~~him~~ *the administrator* to close the registration and prepare the lists of registered electors as required by school election laws.”

Section 328. Section 20-20-301, MCA, is amended to read:

“20-20-301. Qualifications of elector. An individual is entitled to vote at school elections if ~~he~~ *the individual* has the qualifications set forth in 13-1-111 and is a resident of the school district or, in a school district that has been apportioned into single-member trustee districts according to 20-3-337, a resident of the trustee district.”

Section 329. Section 20-20-411, MCA, is amended to read:

“20-20-411. Conduct of election. Election judges shall conduct school elections in a manner that ensures a fair and unbiased determination of the matters put before the electorate and see that each elector has an adequate opportunity to cast ~~his~~ *the elector’s* vote.”

Section 330. Section 20-20-417, MCA, is amended to read:

“20-20-417. Request for county election administrator to conduct election. (1) By June 1 of each year, the trustees of ~~any~~ *a* district may request the county election administrator to conduct certain school elections during the ensuing school fiscal year.

(2) Whenever the county election administrator agrees to conduct a school election, ~~he~~ *the administrator* shall:

- (a) perform the duties imposed on the trustees and the clerk of the district for school elections in 20-20-203, 20-20-313, and 20-20-401;
- (b) conduct the election in accordance with the provisions of Title 13, chapters 13 and 15; and
- (c) deliver to the trustees, for the purpose of canvassing the vote, the certified tally sheets and other items as provided in 13-15-301.

(3) Whenever the trustees request the county election administrator to conduct a school election, the school district shall pay the costs of the election as provided in 13-1-302.”

Section 331. Section 20-25-101, MCA, is amended to read:

“20-25-101. Antidiscrimination. The Montana university system shall instruct ~~men and women~~ *all individuals* on equal terms.”

Section 332. Section 20-25-226, MCA, is amended to read:

“20-25-226. Assents to acts of congress. (1) (a) The state of Montana assents to the provisions of an act of congress entitled “An Act to Provide for an Increased Annual Appropriation for Agricultural Experiment Stations and Regulating the Expenditure Thereof”, approved March 16, 1906, and consents to receive the benefits ~~thereof~~ *of the act* in the manner and for the purposes intended and provided in the act.

(b) The agricultural experiment station ~~shall~~ *must* be the beneficiary of the funds in the act and shall use the funds only for the purposes ~~therein~~ *provided in the act*.

(c) The treasurer of Montana state university-Bozeman may receive all ~~moneys~~ *money* appropriated by the act, to be expended under the supervision of the regents in the manner designated in the act, and ~~shall~~ *must* receive, ~~and shall~~ hold, and account for the funds and make reports to the secretary of agriculture as required by the act.

(2) (a) The state accepts and assents to the terms and provisions of the act of congress approved May 8, 1914, entitled “An Act to Provide for Cooperative Agricultural Extension Work Between the Agricultural Colleges in the Several States Receiving the Benefits of an Act of Congress Approved July Second, Eighteen Hundred and Sixty-two, and of Acts Supplementary Thereto, and the United States Department of Agriculture”.

(b) The president of Montana state university-Bozeman may enter into all necessary agreements with the secretary of agriculture of the United States for the receipt and expenditure of all money paid under the provisions of ~~said~~ *the* act.

(c) ~~He~~ *The president* may receive and expend ~~such~~ *the* money in accordance with the provisions of ~~said~~ *the* act and any agreements ~~so~~ *made pursuant to the act*.”

Section 333. Section 20-25-242, MCA, is amended to read:

“20-25-242. Purpose of station. (1) It is the purpose of ~~this~~ *the Montana forest and conservation experiment* station to:

(a) study the forest and forest land resources of the state to the end that the state and its citizens may attain the highest economic and social benefits from the forest soils within the state and the influences and products flowing ~~therefrom~~ *from forests*;

(b) study the growth and the utilization of timber with special reference to their improvement and the widening of the markets available to the state;

(c) determine:

(i) the relationship between the forest and water conservation and waterflow regulation;

(ii) the relationship between the forest and pasturage for domestic livestock and wildlife;

(iii) the relationship between the forest and recreation; and

(iv) those other direct and indirect benefits that may be secured by the maintenance of or the establishment of forests or woodlands;

(d) study and develop the establishment of windbreaks, shelterbelts, and woodlots on the farms of the state that moisture may be conserved ~~thereby by~~ *windbreaks, shelterbelts, and woodlots* for the best production of agricultural crops and forage, for the prevention of soil wastage and erosion, to make the farm home more comfortable, and to produce forest material for the use of the farmer and the ~~stockman~~ *livestock producer*;

(e) study the findings of other agencies *so that the information thus obtained* may be used to improve the growth, management, and utilization of the timber within the state and to protect it against damage by fire, insects, disease, and other harmful agencies;

(f) collect, compile, and publish statistics relative to Montana forests and forestry and the influences flowing ~~therefrom~~ *from forests and forestry*;

(g) prepare and publish bulletins and reports, *along with the necessary illustrations and maps, so that the information collected by the station in forestry and in conservation may be made available for use; and distribute this information or material in such other ways as that* the board of regents may direct;

~~(g)~~(h) collect a library and bibliography of literature pertaining to or useful for the purpose of 20-25-241 through 20-25-245;

~~(h)~~(i) study logging, lumbering, and milling operations and other operations dealing with the products of forest soils with special reference to their improvement;

(j) investigate and make tests of forest products produced or that may be produced within the state *so that markets may be improved thereby*;

~~(i)~~(k) consider ~~such~~ other scientific and economic problems *as that*, in the judgment of the board of regents, are of value to the people of the state;

~~(j)~~(l) cooperate with the other departments of the university of Montana-Missoula, *with the departments of the state government when mutually beneficial, and with private individuals and agencies and cooperate with the United States government and its branches as a land-grant institution or otherwise in accordance with their regulations; and*

~~(k)~~(m) establish ~~such~~ field experiment stations *as that*, in the judgment of the board of regents, may be necessary.

(2) The board of regents may accept, for and in behalf of the state of Montana, ~~such~~ gifts of land or other donations *as that* may be made to the state for the purposes of 20-25-241 through 20-25-245."

Section 334. Section 20-25-306, MCA, is amended to read:

"20-25-306. Designation of holidays by board of regents. (1) The board of regents of higher education may designate the following business days as holidays for all employees of the university system in exchange for the same number of legal holidays enumerated in 1-1-216:

(a) the Friday following Thanksgiving;

(b) the Monday before Christmas Day or New Year's Day if either holiday falls on Tuesday; and

(c) the Friday after Christmas Day or New Year's Day if either holiday falls on Thursday.

(2) A full-time employee who is scheduled for a day off on a day that is designated as a holiday under subsection (1) is entitled to receive another day off

with pay during the same pay period of the designated holiday or as scheduled by the employee and ~~his~~ *the employee's* supervisor in addition to the employee's regularly scheduled days off ~~provided if~~ the employee is in a pay status on ~~his~~ *the* last regularly scheduled working day immediately before the holiday or on ~~his~~ *the* first regularly scheduled working day immediately after the holiday. Part-time employees receive pay for the designated holiday on a prorated basis according to rules adopted by the department of administration or appropriate administrative officer under 2-18-604."

Section 335. Section 20-25-322, MCA, is amended to read:

"20-25-322. Traffic citations — agreements with city or county. The president of each unit may ~~in his discretion~~ enter into an agreement with the city or county in which ~~his~~ *the* unit is located to authorize members of the unit's security department to issue citations for parking or moving traffic violations as defined by state or municipal laws ~~which~~ *that* occur within the boundaries of the campus or on streets or alleys contiguous ~~thereto~~ *to the campus*. All ~~such~~ citations ~~shall~~ *must* be considered within the jurisdiction of the appropriate local authority and ~~shall~~ *must* be handled in the same manner as citations issued by peace officers of ~~such~~ *the* local authority."

Section 336. Section 20-25-323, MCA, is amended to read:

"20-25-323. Control and direction of security department. The president of each unit ~~shall~~ *has* general control and direction of the security department of ~~his~~ *the* unit."

Section 337. Section 20-25-504, MCA, is amended to read:

"20-25-504. Evidence as to domiciliary intent — changes in status.

(1) To determine the domicile of a person, the units of the system shall apply the following rules:

(a) Nonpayment of Montana income tax by a person whose income is sufficient to be taxed is highly persuasive evidence of non-Montana domicile.

(b) A person ~~must~~ *shall* intend to establish a domicile in Montana.

(2) After registration, a student's classification for tuition and fee purposes remains unchanged in the absence of evidence to the contrary. A written statement of the evidence ~~shall~~ *must* be filed with the registering authority of the unit. Changes in classification ~~shall~~ *must* be in writing signed by the registering authority and ~~shall~~ take effect at the student's next registration.

(3) A minor shall qualify for a change in status only if ~~his~~ *the minor's* parents or the parent having legal custody or, if neither parent has legal custody, the parent with whom ~~he~~ *the minor* customarily resides or legal guardian or person having legal custody completes the requirements for establishing domicile ~~heretofore set forth~~.

(4) It is presumed a minor or adult registered as a full-time student at any unit is not qualified for a change in ~~his~~ *or his* ~~the person's~~ *the person's* dependent's classification for tuition and fee purposes unless ~~he~~ *the person* completes 12 continuous months of residence while not attending a unit of the system or other institution of higher learning or while serving in the armed forces.

(5) Any student whose request for classification as a resident student is denied has the right of appeal to the executive secretary of the Montana university system. Immediately upon rejection and at the request of the student, the registering authority shall forward a copy of ~~his~~ *the authority's* decision and a complete file on the student to the executive secretary. The executive secretary may accept other evidence of residence from either the

student, the registering authority, or other interested persons. Within 30 days of the receipt of the decision of the registering authority, the executive secretary shall determine the resident status of the student and shall notify the student and the registering authority of ~~his~~ *the* decision. The executive secretary's decision may be appealed to the regents if the regents agree to entertain ~~such~~ an appeal."

Section 338. Section 20-25-511, MCA, is amended to read:

"20-25-511. Student's right of privacy — legislative intent. It is the legislature's intent that an institution of the university system of Montana is obligated to respect a student's right of privacy. This obligation must be observed by establishing procedures to safeguard the institution's activities ~~which~~ *that* are necessary to protect the health, safety, and privacy of a person's residence and the privacy of ~~his~~ *the person's* records. Intrusions by peace officers and other officials exercising responsibility for law enforcement must be governed by standards and procedures no less stringent than those applicable to intrusions on private quarters outside the institutions. ~~Further, a~~ A student may not be subjected to discrimination ~~in the manner by the use of~~ covert records."

Section 339. Section 20-25-512, MCA, is amended to read:

"20-25-512. Contracts waiving right to privacy prohibited. A university or college facility may not require a student to sign any contract ~~which~~ *that* would waive ~~his or her~~ *the student's* right to privacy and due process of law."

Section 340. Section 20-25-513, MCA, is amended to read:

"20-25-513. Written notice required for entry to student's room — emergency. An authorized official of the university or college may not enter the room of a student located at ~~such an~~ institution unless ~~he~~ *the official* has given the student a notice in writing. An emergency such as a fire or a call for help or ~~where~~ *when* there is probable cause to believe the occupant needs assistance is the only exception to the written notice requirement. In ~~such~~ an emergency, evidence of a crime obtained as a result of ~~such the~~ emergency entry ~~shall~~ *may* not be admissible in any court of law unless due process of law has been satisfied in obtaining ~~such the~~ evidence."

Section 341. Section 20-25-516, MCA, is amended to read:

"20-25-516. Academic records to be kept separate — student's right to examine records. (1) Academic records ~~shall~~ *must* be kept separate from disciplinary and all other records. Academic transcripts ~~shall~~ *may* contain only information of *an* academic nature.

(2) A student ~~shall~~ *have* ~~has~~ the right to examine all written summaries, descriptions, statements, or reports of *an* academic or disciplinary nature ~~which~~ *that* may have been compiled upon ~~him or her~~ *the student*."

Section 342. Section 20-25-603, MCA, is amended to read:

"20-25-603. Teacher instruction — course required of education students. All units of the Montana university system and all private colleges and universities in Montana that offer any degree in education shall require that any person who receives any degree in education from that unit, private college, or private university ~~after December 31, 1972,~~ must have successfully completed a course in health education to include drug and alcohol education and abuse prior to being awarded ~~his~~ *the* degree."

Section 343. Section 20-25-703, MCA, is amended to read:

“20-25-703. Limitation on use of funds. ~~No less than~~ *At least* 70% of the funds allocated to the program ~~shall~~ *must* be used to provide job opportunities for students with demonstrated financial need. The remainder of the funds allocated to this program may be used to provide job opportunities on a basis other than financial need. ~~Such~~ *The* other bases include but are not limited to:

(1) laboratory, teaching, and tutorial assistantships requiring particular skills; and

(2) cases in which a student’s family cannot demonstrate financial need but in which the student has a desire to contribute toward ~~his~~ *the student’s* education through employment.”

Section 344. Section 20-25-801, MCA, is amended to read:

“20-25-801. Western Regional Higher Education Compact approved. The legislature of the state of Montana hereby approves, ratifies, and adopts the Western Regional Higher Education Compact approved by the western governors conference meeting at Denver, Colorado, on November 10, 1950, which compact is as follows:

WESTERN REGIONAL HIGHER EDUCATION COMPACT

ARTICLE I

(1) WHEREAS, the future of this nation and of the western states is dependent upon the quality of the education of its youth; and

(2) WHEREAS, many of the western states individually do not have sufficient numbers of potential students to warrant the establishment and maintenance within their borders of adequate facilities in all of the essential fields of technical, professional, and graduate training, nor do all of the states have the financial ability to furnish within their borders institutions capable of providing acceptable standards of training in all of the fields mentioned above; and

(3) WHEREAS, it is believed that the western states, or groups of such states within the region, cooperatively can provide acceptable and efficient educational facilities to meet the needs of the region and of the students thereof;

(4) NOW, THEREFORE, the states of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming and the territories of Alaska and Hawaii do hereby covenant and agree as follows:

ARTICLE II

Each of the compacting states and territories pledges to each of the other compacting states and territories faithful cooperation in carrying out all the purposes of this compact.

ARTICLE III

The compacting states and territories hereby create the western interstate commission for higher education, hereinafter called the commission. Said commission shall be a body corporate of each compacting state and territory and an agency thereof. The commission shall have all the powers and duties set forth herein, including the power to sue and be sued and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states and territories.

ARTICLE IV

(1) The commission shall consist of three resident members from each compacting state or territory. At all times one commissioner from each

compacting state or territory shall be an educator engaged in the field of higher education in the state or territory from which ~~he~~ *the educator* is appointed.

(2) The commissioners from each state and territory shall be appointed by the governor thereof as provided by law in such state or territory. Any commissioner may be removed or suspended from office as provided by the law of the state or territory from which ~~he shall have been~~ *the commissioner* is appointed.

(3) The terms of each commissioner shall be 4 years; provided, however, that the first three commissioners shall be appointed as follows: one for 2 years, one for 3 years, and one for 4 years. Each commissioner shall hold office until ~~his~~ *a* successor shall be appointed and qualified. If any office becomes vacant for any reason, the governor shall appoint a commissioner to fill the office for the remainder of the unexpired term.

ARTICLE V

(1) Any business transacted at any meeting of the commission must be by affirmative vote of a majority of the whole number of compacting states and territories.

(2) One or more commissioners from a majority of the compacting states and territories shall constitute a quorum for the transaction of business.

(3) Each compacting state and territory represented at any meeting of the commission is entitled to one vote.

ARTICLE VI

(1) The commission shall elect from its number a ~~chairman~~ *presiding officer* and a ~~vice-chairman~~ *vice presiding officer* and may appoint and, at its pleasure, dismiss or remove such officers, agents, and employees as may be required to carry out the purpose of this compact and shall fix and determine their duties, qualifications, and compensation, having due regard for the importance of the responsibilities involved.

(2) The commissioners shall serve without compensation but shall be reimbursed for their actual and necessary expenses from the funds of the commission.

ARTICLE VII

(1) The commission shall adopt a seal and bylaws and shall adopt and promulgate rules and regulations for its management and control.

(2) The commission may elect such committees as it deems necessary for the carrying out of its functions.

(3) The commission shall establish and maintain an office within one of the compacting states for the transaction of its business and may meet at any time but in any event must meet at least once a year. The ~~chairman~~ *presiding officer* may call such additional meetings and upon the request of a majority of the commissioners of three or more compacting states or territories shall call additional meetings.

(4) The commission shall submit a budget to the governor of each compacting state and territory at such time and for such period as may be required.

(5) The commission shall, after negotiations with interested institutions, determine the cost of providing the facilities for graduate and professional education for use in its contractual agreements throughout the region.

(6) On or before January 15 of each year, the commission shall submit to the governors and legislatures of the compacting states and territories a report of its activities for the preceding calendar year.

(7) The commission shall keep accurate books of account, showing in full its receipts and disbursements, and said books of account shall be open at any reasonable time for inspection by the governor of any compacting state or territory or his *the governor's* designated representative. The commission shall not be subject to the audit and accounting procedure of any of the compacting states or territories. The commission shall provide for an independent annual audit.

ARTICLE VIII

(1) It shall be the duty of the commission to enter into such contractual agreements with any institutions in the region offering graduate or professional education and with any of the compacting states or territories as may be required in the judgment of the commission to provide adequate service and facilities of graduate and professional education for the citizens of the respective compacting states or territories. The commission shall first endeavor to provide adequate services and facilities in the fields of dentistry, medicine, public health, and veterinary medicine and may undertake similar activities in other professional and graduate fields.

(2) For this purpose the commission may enter into contractual agreements:

(a) with the governing authority of any educational institution in the region or with any compacting state or territory to provide such graduate or professional educational services upon terms and conditions to be agreed upon between contracting parties; and

(b) with the governing authority of any educational institution in the region or with any compacting state or territory to assist in the placement of graduate or professional students in educational institutions in the region providing the desired services and facilities, upon such terms and conditions as the commission may prescribe.

(3) It shall be the duty of the commission to undertake studies of needs for professional and graduate educational facilities in the region, the resources for meeting such needs, and the long-range effects of the compact on higher education and from time to time to prepare comprehensive reports on such research for presentation to the western governors' conference and to the legislatures of the compacting states and territories. In conducting such studies, the commission may confer with any national or regional planning body which may be established. The commission shall draft and recommend to the governors of the various compacting states and territories uniform legislation dealing with problems of higher education in the region.

(4) For the purpose of this compact the word "region" shall be construed to mean the geographical limits of the several compacting states and territories.

ARTICLE IX

The operating costs of the commission shall be apportioned equally among the compacting states and territories.

ARTICLE X

This compact shall become operative and binding immediately as to those states and territories adopting it whenever five or more of the states or territories of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming, Alaska, and Hawaii have duly

adopted it prior to July 1, 1953. This compact shall become effective as to any additional states or territories adopting thereafter at the time of such adoption.

ARTICLE XI

This compact may be terminated at any time by consent of a majority of the compacting states or territories. Consent shall be manifested by passage and signature in the usual manner of legislation expressing such consent by the legislature and governor of such terminating state. Any state or territory may at any time withdraw from this compact by means of appropriate legislation to that end. Such withdrawal shall not become effective until 2 years after written notice thereof by the governor of the withdrawing state or territory, accompanied by a certified copy of the requisite legislative action, is received by the commission. Such withdrawal shall not relieve the withdrawing state or territory from its obligations hereunder accruing prior to the effective date of withdrawal. The withdrawing state or territory may rescind its action of withdrawal at any time within the 2-year period. Thereafter, the withdrawing state or territory may be reinstated by application to and the approval by a majority vote of the commission.

ARTICLE XII

(1) If any compacting state or territory shall at any time default in the performance of any of its obligations assumed or imposed in accordance with the provisions of this compact, all rights, privileges, and benefits conferred by this compact or agreements hereunder shall be suspended from the effective date of such default as fixed by the commission.

(2) Unless such default shall be remedied within a period of 2 years following the effective date of such default, this compact may be terminated with respect to such defaulting state or territory by affirmative vote of three-fourths of the other member states or territories.

(3) Any such defaulting state may be reinstated by:

(a) performing all acts and obligations upon which it has heretofore defaulted; and

(b) application to and the approval by a majority vote of the commission.”

Section 345. Section 20-25-806, MCA, is amended to read:

“20-25-806. Appointment of commissioners to the western interstate commission for higher education. (1) In making the appointments of commissioners provided for in 20-25-801, the governor shall appoint three members as follows:

(a) one member who is an educator engaged in the field of higher education in Montana;

(b) one member who is engaged in a professional occupation; and

(c) one member who is a legislator.

(2) The term of each commissioner is 4 years as provided in the compact. The legislator appointed shall serve until the expiration of ~~his~~ *the term of* appointment, even though ~~his~~ *the* legislative term may have ended.”

Section 346. Section 20-31-301, MCA, is amended to read:

“20-31-301. Organization — procedural rules — compensation of members. (1) The members of the fire services advisory council shall elect a ~~chairman~~ *presiding officer*, a ~~vice-chairman~~ *vice presiding officer*, and ~~such~~

other officers considered advisable by the council. The terms of the officers ~~shall~~ *must* be established by the council.

(2) The council shall adopt rules governing its procedures, subject to approval of the board of regents.

(3) Members of the council ~~shall~~ *must* receive compensation under 2-18-501 through 2-18-503.”

Section 347. Section 22-1-101, MCA, is amended to read:

“22-1-101. State library commission established. (1) There is a state library commission.

(2) This commission is composed of the following members:

(a) the state superintendent of public instruction or ~~his~~ *the superintendent’s* designee;

(b) five persons appointed by the governor, who shall serve staggered terms of 3 years; and

(c) a librarian appointed by the commissioner of higher education from one of the six units of the Montana university system, who shall serve a term of 3 years.

(3) The commission shall annually elect a ~~chairman~~ *presiding officer* from its membership.

(4) The members of ~~said~~ *the* commission ~~shall~~ *must* be compensated and receive travel expenses as provided for in 2-15-124.”

Section 348. Section 22-1-308, MCA, is amended to read:

“22-1-308. Public library — board of trustees. (1) Upon the establishment of a public library under the provisions of this part, the mayor, with the advice and consent of the city council or city commissioners, shall appoint a board of trustees for the city library and the ~~chairman~~ *presiding officer* of the board of county commissioners, with the advice and consent of ~~said~~ *the* board, shall appoint a board of trustees for the county library.

(2) The library board ~~shall~~ *must* consist of five trustees. Not more than one member of the governing body ~~shall~~ *may* be, at any one time, a member of ~~such~~ *the* board.

(3) Trustees shall serve without compensation, but their actual and necessary expenses incurred in the performance of their official duties may be paid from library funds.

(4) Trustees shall hold their office for 5 years from the date of appointment and until their successors are appointed. Initially, appointments ~~shall~~ *must* be made for 1-, 2-, 3-, 4-, and 5-year terms. Annually thereafter, there ~~shall~~ *must* be appointed before July 1 of each year, in the same manner as the original appointments for a 5-year term, a trustee to take the place of the retiring trustee. Trustees ~~shall~~ *may not* serve ~~no~~ more than two full terms in succession.

(5) Following ~~such~~ *the* appointments, in July of each year, the trustees shall meet and elect a ~~chairman~~ *presiding officer* and ~~such~~ other officers ~~as that~~ they ~~deem~~ *consider* necessary, for 1-year terms. Vacancies in the board of trustees ~~shall~~ *must* be filled for the unexpired term in the same manner as original appointments.”

Section 349. Section 22-1-317, MCA, is amended to read:

“22-1-317. City-county library — board of trustees. (1) A joint city-county library ~~shall~~ *must* be governed by a board of trustees composed of

five members chosen as specified in the contract, with terms not to exceed 5 years.

(2) Trustees ~~shall~~ *may not* serve ~~no~~ more than two full terms in succession.

(3) Trustees shall serve without compensation, but their actual and necessary expenses incurred in the performance of their official duties may be paid from library funds.

(4) Trustees shall meet and elect a ~~chairman~~ *a presiding officer* and ~~such~~ other officers ~~as that~~ they consider necessary, for 1-year terms.

(5) The board of trustees ~~shall have~~ *has* the same powers and duties as the board of trustees of a city library or a county library.”

Section 350. Section 22-1-506, MCA, is amended to read:

“22-1-506. Liability for injury to books or failure to return. Every A person who defaces, tears, or otherwise injures any book or other work or who fails to return any book taken by ~~him~~ *the person* is liable to the state in three times the value ~~of the book thereof~~ if ~~such~~ *the* book is not replaced by a new one or another book of identical title, in good order and condition; ~~and no~~ A statute of limitations ~~shall may not~~ ever be effective against the claim of the state under this section.”

Section 351. Section 22-1-601, MCA, is amended to read:

“22-1-601. Library compact. The Interstate Library Compact is ~~hereby~~ approved, enacted into law, and entered into by the state of Montana; ~~which~~ *The* compact is in full as follows:

INTERSTATE LIBRARY COMPACT

Article I. Policy and Purpose

Because the desire for the services provided by libraries transcends governmental boundaries and can most effectively be satisfied by giving such services to communities and people regardless of jurisdictional lines, it is the policy of the states party to this compact to cooperate and share their responsibilities; to authorize cooperation and sharing with respect to those types of library facilities and services which can be more economically or efficiently developed and maintained on a cooperative basis; and to authorize cooperation and sharing among localities, states, and others in providing joint or cooperative library services in areas where the distribution of population or of existing and potential library resources make the provision of library service on an interstate basis the most effective way of providing adequate and efficient service.

Article II. Definitions

As used in this compact:

(1) “public library agency” means any unit or agency of local or state government operating or having power to operate a library;

(2) “private library agency” means any nongovernmental entity which operates or assumes a legal obligation to operate a library;

(3) “library agreement” means a contract establishing an interstate library district pursuant to this compact or providing for the joint or cooperative furnishing of library services.

Article III. Interstate Library Districts

(1) Any one or more public library agencies in a party state in cooperation with any public library agency or agencies in one or more other party states may

establish and maintain an interstate library district. Subject to the provisions of this compact and any other laws of the party states which pursuant hereto remain applicable, such district may establish, maintain, and operate some or all of the library facilities and services for the area concerned in accordance with the terms of a library agreement therefor. Any private library agency or agencies within an interstate library district may cooperate therewith, assume duties, responsibilities, and obligations thereto, and receive benefits therefrom as provided in any library agreement to which such agency or agencies become party.

(2) Within an interstate library district, and as provided by a library agreement, the performance of library functions may be undertaken on a joint or cooperative basis or may be undertaken by means of one or more arrangements between or among public or private library agencies for the extension of library privileges to the use of facilities or services operated or rendered by one or more of the individual library agencies.

(3) If a library agreement provides for joint establishment, maintenance, or operation of library facilities or services by an interstate library district, such district shall have power to do any one or more of the following in accordance with such library agreement:

(a) undertake, administer, and participate in programs or arrangements for:

(i) securing, lending, or servicing books and other publications, any other materials suitable to be kept or made available by libraries, or library equipment; or

(ii) for the dissemination of information about libraries, the value and significance of particular items therein, and the use thereof;

(b) accept for any of its purposes under this compact any and all donations and grants of money, equipment, supplies, materials, and services (conditional or otherwise) from any state or the United States or any subdivision or agency thereof or interstate agency or from any institution, person, firm, or corporation and receive, utilize, and dispose of the same;

(c) operate mobile library units or equipment for the purpose of rendering bookmobile service within the district;

(d) employ professional, technical, clerical, and other personnel and fix terms of employment, compensation, and other appropriate benefits; and where desirable, provide for the in-service training of such personnel;

(e) sue and be sued in any court of competent jurisdiction;

(f) acquire, hold, and dispose of any real or personal property or any interest or interests therein as may be appropriate to the rendering of library service;

(g) construct, maintain, and operate a library, including any appropriate branches thereof;

(h) do such other things as may be incidental to or appropriate for the carrying out of any of the foregoing powers.

Article IV. Interstate Library Districts, Governing Board

(1) An interstate library district which establishes, maintains, or operates any facilities or services in its own right shall have a governing board which shall direct the affairs of the district and act for it in all matters relating to its business. Each participating public library agency in the district shall be represented on the governing board which shall be organized and conduct its

business in accordance with provision therefor in the library agreement. But in no event shall a governing board meet less often than twice a year.

(2) Any private library agency or agencies party to a library agreement establishing an interstate library district may be represented on or advise with the governing board of the district in such manner as the library agreement may provide.

Article V. State Library Agency Cooperation

Any two or more state library agencies of two or more of the party states may undertake and conduct joint or cooperative library programs, render joint or cooperative library services, and enter into and perform arrangements for the cooperative or joint acquisition, use, housing, and disposition of items or collections of materials which, by reason of expense, rarity, specialized nature, or infrequency of demand therefor would be appropriate for central collection and shared use. Any such programs, services, or arrangements may include provision for the exercise on a cooperative or joint basis of any power exercisable by an interstate library district, and an agreement embodying any such program, service, or arrangement shall contain provisions covering the subjects detailed in Article VI of this compact for interstate library agreements.

Article VI. Library Agreements

(1) In order to provide for any joint or cooperative undertaking pursuant to this compact, public and private library agencies may enter into library agreements. Any agreement executed pursuant to the provisions of this compact shall, as among the parties to the agreement:

- (a) detail the specific nature of the services, programs, facilities, arrangements, or properties to which it is applicable;
- (b) provide for the allocation of costs and other financial responsibilities;
- (c) specify the respective rights, duties, obligations, and liabilities of the parties;
- (d) set forth the terms and conditions for duration, renewal, termination, abrogation, disposal of joint or common property, if any, and all other matters which may be appropriate to the proper effectuation and performance of the agreement.

(2) No public or private library agency shall undertake to exercise, itself or jointly with any other library agency, by means of a library agreement, any power prohibited to such agency by the constitution or statutes of its state.

(3) No library agreement shall become effective until filed with the compact administrator of each state involved and approved in accordance with Article VII of this compact.

Article VII. Approval of Library Agreements

(1) Every library agreement made pursuant to this compact shall, prior to and as a condition precedent to its entry into force, be submitted to the attorney general of each state in which a public library agency party thereto is situated, who shall determine whether the agreement is in proper form and compatible with the laws of ~~his~~ *that* state. The attorneys general shall approve any agreement submitted to them unless they shall find that it does not meet the conditions set forth herein and shall detail in writing addressed to the governing bodies of the public library agencies concerned the specific respects in which the proposed agreement fails to meet the requirements of law. Failure to disapprove an agreement submitted hereunder within 90 days of its submission shall constitute approval thereof.

(2) In the event that a library agreement made pursuant to this compact shall deal in whole or in part with the provision of services or facilities with regard to which an officer or agency of the state government has constitutional or statutory powers of control, the agreement shall, as a condition precedent to its entry into force, be submitted to the state officer or agency having such power of control and shall be approved or disapproved by ~~him~~ *the officer* or it as to all matters within ~~his~~ *the officer's* or its jurisdiction in the same manner and subject to the same requirements governing the action of the attorneys general pursuant to paragraph (1) of this article. This requirement of submission and approval shall be in addition to and not in substitution for the requirement of submission to and approval by the attorneys general.

Article VIII. Other Laws Applicable

Nothing in this compact or in any library agreement shall be construed to supersede, alter, or otherwise impair any obligation imposed on any library by otherwise applicable law nor to authorize the transfer or disposition of any property held in trust by a library agency in a manner contrary to the terms of such trust.

Article IX. Appropriations and Aid

(1) Any public library agency party to a library agreement may appropriate funds to the interstate library district established thereby in the same manner and to the same extent as to a library wholly maintained by it and, subject to the laws of the state in which such public library agency is situated, may pledge its credit in support of an interstate library district established by the agreement.

(2) Subject to the provisions of the library agreement pursuant to which it functions and the laws of the states in which such district is situated, an interstate library district may claim and receive any state and federal aid which may be available to library agencies.

Article X. Compact Administrator

Each state shall designate a compact administrator with whom copies of all library agreements to which ~~his~~ *the administrator's* state or any public library agency thereof is party shall be filed. The administrator shall have such other powers as may be conferred upon ~~him~~ *the administrator* by the laws of ~~his~~ *that* state and may consult and cooperate with the compact administrators of other party states and take such steps as may effectuate the purposes of this compact. If the laws of a party state so provide, such state may designate one or more deputy compact administrators in addition to its compact administrator.

Article XI. Entry into Force and Withdrawal

(1) This compact shall enter into force and effect immediately upon its enactment into law by any two states. Thereafter, it shall enter into force and effect as to any other state upon the enactment thereof by such state.

(2) This compact shall continue in force with respect to a party state and remain binding upon such state until 6 months after such state has given notice to each other party state of the repeal thereof. Such withdrawal shall not be construed to relieve any party to a library agreement entered into pursuant to this compact from any obligation of that agreement prior to the end of its duration as provided therein.

Article XII. Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the

constitution of any party state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.”

Section 352. Section 22-2-103, MCA, is amended to read:

“22-2-103. Council membership — tenure — compensation. The term of office of each member is 5 years. The governor shall designate a ~~chairman~~ *presiding officer* and a ~~vice-chairman~~ *vice presiding officer* from the members of the council to serve in those capacities at the pleasure of the governor. The ~~chairman~~ *presiding officer* is the chief executive officer of the council. Each vacancy must be filled for the balance of the unexpired term in the same manner as the original appointment. The members of the council must be compensated and receive travel expenses as provided for in 2-15-124.”

Section 353. Section 22-2-403, MCA, is amended to read:

“22-2-403. Definitions. As used in this part, the following definitions apply:

(1) (a) “Artist” means a practitioner in the visual arts generally recognized by ~~his~~ *the practitioner’s* peers or critics as a professional who produces works of art.

(b) The term does not include the project architect, or any member of ~~his~~ *the architect’s* firm, of a new state building that is to have works of art under the provisions of this part.

(2) “New state building” means any structure to be built, remodeled, or renovated with money appropriated by the legislature that is, in the opinion of the architecture and engineering division of the department of administration, appropriate for the inclusion of works of art.

(3) (a) “Work of art” means any work of visual art, including but not limited to a drawing, painting, mural, fresco, sculpture, mosaic, photograph, work of calligraphy, work of graphic art (including an etching, lithograph, offset print, or silk screen), craft (including crafts in clay, textile, fiber, wood, metal, plastic, or glass), or mixed media (including a collage, assemblage, or any combination of art media).

(b) The term does not include environmental landscaping.”

Section 354. Section 22-2-406, MCA, is amended to read:

“22-2-406. Administration — selection of works of art. (1) The Montana arts council is primarily responsible for the administration of this part. The council ~~must~~ *shall*:

(a) submit its recommendations to the architecture and engineering division of the department of administration for inclusion in the report required by Title 17, chapter 7, part 2, concerning the appropriateness of any ~~such~~ building for the inclusion of works of art, a description of the types of works of art suggested for inclusion in the building, and the anticipated costs of acquisition, maintenance, and administrative expenses associated with the suggested works of art;

(b) appoint a three-member screening committee for each new state building to recommend artists to be commissioned or completed works of art to be purchased. The committee ~~must consist~~ *consists* of the project architect or ~~his~~

the architect's designee, a professional artist, and a representative from the user agency who is a resident of the community in which the new state building is to be constructed.

(c) select; commission the artist for; review the design, execution, and placement of; and finally accept all works of art. The Montana arts council ~~must~~ *shall* consult with the screening committee in fulfilling the requirements of this subsection (1)(c).

(d) assist in contract negotiations with artists who are selected;

(e) ensure that works of art acquired for display under the provisions of this part are displayed in ~~such~~ a manner that they are in public view;

(f) ensure that each work of art is properly maintained and may use the funds provided for in 22-2-404 or any other funds available for ~~such~~ maintenance; and

(g) maintain a close working relationship with the artist throughout each project.

(2) ~~No~~ A payment may *not* be made to any artist for works of art under this part without prior authorization of the Montana arts council."

Section 355. Section 22-3-431, MCA, is amended to read:

"22-3-431. Registration of heritage properties. (1) Any citizen of Montana may submit to the historic preservation officer for ~~his~~ consideration the necessary forms to nominate heritage properties to the register.

(2) (a) For private properties, the historic preservation officer shall notify the owner of the property and allow ~~him~~ *the owner* a reasonable period of time to concur or object to the nomination of the property for registration. If the owner of the property, or a majority of owners if the property has more than one owner, objects to registration, the historic preservation officer may not nominate the property unless the objection is withdrawn. If there are no ~~such~~ objections, the historic preservation officer may, upon approval by the preservation review board, nominate heritage properties to the register.

(b) The historic preservation officer and the preservation review board may review the nomination of property that was not nominated ~~due to~~ *because of* owner objection to determine whether the property is eligible for registration. If the historic preservation officer and the preservation review board determine that the property is eligible for registration, the preservation officer shall provide for the register information about the property for determination of registration eligibility.

(c) The historic preservation officer shall follow the procedures mandated by 36 CFR 60.6 relating to seeking property owner concurrence or objection to registration.

(3) For lands owned by the state, a county, or a municipality, the historic preservation officer may, upon approval by the preservation review board, nominate heritage properties to the register. The historic preservation officer shall notify the appropriate governmental agency and give public notice when any ~~such~~ governmental property is being considered for nomination. Unless agency or public objections are submitted in writing within 30 days after notification, the historic preservation officer shall complete the nominations. When an agency or any citizen of Montana submits written objections, the historic preservation officer shall consider the objections and may conduct a public hearing. If a hearing is held, it ~~shall~~ *must* be commenced within 30 days after the final date for submission of written objections. Within 60 days after

submission of the objections or after the public hearing, the historic preservation officer shall make a final decision on the proposed registration and prepare a statement responsive to the objections submitted.”

Section 356. Section 22-3-432, MCA, is amended to read:

“22-3-432. Antiquities permits. (1) ~~No~~ A person may *not* excavate, remove, or restore any heritage property or paleontological remains on lands owned by the state without first obtaining an antiquities permit from the historic preservation officer.

(2) Antiquities permits are to be granted only after careful consideration of the application for a permit and after consultation with the appropriate state agency. Permits are subject to strict compliance with the following guidelines:

(a) Antiquities permits may be granted only for work to be undertaken by reputable museums, universities, colleges, or other historical, scientific, or educational institutions, societies, or persons with a view toward dissemination of knowledge about cultural properties, provided ~~no such~~ a permit may *not* be granted unless the historic preservation officer is satisfied that the applicant possesses the necessary qualifications to guarantee the proper excavation of those sites and objects that may add substantially to ~~man's~~ knowledge about Montana and its antiquities.

(b) The antiquities permit must specify that a summary report of ~~such~~ the investigations, containing relevant maps, documents, drawings, and photographs, *must* be submitted to the historic preservation officer. The historic preservation officer shall determine the appropriate time period allowable between all work undertaken and submission of the summary report.

(3) All heritage property and paleontological remains collected under an antiquities permit are the permanent property of the state and must be deposited in museums or other institutions within the state or loaned to qualified institutions outside the state, unless otherwise provided for in the antiquities permit.

(4) An antiquities permit is not a substitution for any other type of permit that a state agency may require for other purposes.”

Section 357. Section 22-3-701, MCA, is amended to read:

“22-3-701. Creation of law enforcement officers’ memorial. The memorial in the Montana law enforcement museum, located in the old Montana state prison, Deer Lodge, Montana, which is dedicated to the ~~men and women individuals~~ who have served their communities and the state of Montana as law enforcement officers and have been killed or died in the line of duty, is designated as this state’s official law enforcement officers’ memorial.”

Section 358. Section 22-3-805, MCA, is amended to read:

“22-3-805. Discovery — reporting requirements — field review. (1) A person who by archaeological excavation or by agricultural, mining, construction, or other ground-disturbing activity discovers human skeletal remains, a burial site, or burial material shall immediately notify the county coroner. Failure to notify the county coroner subjects a person to the penalty provided in 22-3-808.

(2) Upon discovery of human skeletal remains, a burial site, or burial material, excavation or further disturbance must cease until the coroner has determined whether the remains are subject to the provisions of Title 46, chapter 4, or any other related provisions of law concerning the investigation of the circumstances, manner, and cause of death or whether a forensic

examination of the human skeletal remains, burial site, or burial material is necessary. The coroner shall make ~~his~~ a determination within 2 working days from the time the person responsible for the excavation notifies ~~him~~ *the coroner* of the discovery or recognition of the remains. If the coroner cannot make the determination within 2 working days, ~~he~~ *the coroner* shall notify a member of the board of the reason for and the approximate length of the delay. The coroner shall take all reasonable steps to make ~~his~~ a determination without removing or causing further disturbance of the remains.

(3) If a forensic examination, action under Title 46, chapter 4, or action under any other related provisions of law concerning the investigation of the circumstances, manner, and cause of death is necessary and yields evidence of criminal activity, the evidence may be seized by the coroner or law enforcement agency with jurisdiction for use in a criminal proceeding as provided by law.

(4) If the coroner determines that the remains are not subject to the provisions of Title 46, chapter 4, or any other provisions of law concerning the investigation of the circumstances, manner, and cause of death and that a forensic examination is not necessary, ~~he~~ *the coroner* shall telephone the state historic preservation officer within 24 hours. Within 24 hours of notification, the state historic preservation officer shall contact either the landowner and the board or the landowner and the board member representing the nearest reservation and notify them of the discovery of human skeletal remains, a burial site, or burial material.

(5) If the state historic preservation officer cannot be contacted, the coroner shall notify a member of the board or the law enforcement agency of the nearest reservation within 24 hours. The board or the agency shall immediately notify the landowner and the board member representing that reservation.

(6) Within 36 hours after the board receives notification of a discovery of human skeletal remains, a burial site, or burial material, the board shall designate representatives to conduct, with the permission of the landowner, an initial field review. If the field review cannot be completed within the next 36 hours, the board's representatives shall negotiate with the landowner or ~~his~~ *the landowner's* representative for a reasonable time extension to complete the review. The field review must include:

(a) a determination of whether the site can be preserved;

(b) negotiation with the landowner concerning onsite reburial or disinterment and reburial; and

(c) a recommendation, including a timeframe, concerning final treatment or disposition of the human skeletal remains or burial material.

(7) If the board's representatives fail to make a recommendation or if the landowner and the board cannot agree and mediation fails to provide, within 40 days after notification to the board, a resolution acceptable to the landowner and the board, the human skeletal remains and burial materials must be removed and control is vested in the board. The board shall give control of the remains or materials in the following priority to:

(a) the descendants, if identifiable;

(b) the tribe or other cultural group that has the closest cultural affiliation with the human skeletal remains or burial materials;

(c) the tribe or other cultural group recognized as having aboriginally or historically occupied the area where the remains or materials were discovered

if, upon notification by the board, the tribe or cultural group states a claim for the remains or materials; or

(d) if unclaimed by any tribe or cultural group, the board, which shall determine the appropriate disposition and oversee the reinterment of the remains and materials.

(8) For purposes of this section, “cultural group” means a present-day group or organization that has a relationship of shared group identity ~~which~~ *that* can be reasonably traced historically or prehistorically to an identifiable earlier group or organization.”

Section 359. Section 22-3-806, MCA, is amended to read:

“22-3-806. Scientific analysis — permit required. (1) Although onsite reburial is preferred, the board may, upon petition by a person seeking permission to perform scientific analysis, grant a permit for the scientific removal and analysis of human skeletal remains and burial material upon proof and determination by the board that the analysis is scientifically justifiable. A petition for a permit must include:

(a) payment of the nonrefundable application fee provided for in 22-3-804; and

(b) a brief narrative describing the methodology to be used, the timeframe needed to complete the scientific study, and any other information specifically requested by the board relating to the proposed study.

(2) The methodology proposed must be reviewed by the state historic preservation officer or ~~his~~ *the officer’s* designated representative and the physical anthropologist on the board, and a recommendation must be made to the full board. Once approved by the board, any change in methodology or in the timeframe must be approved by the board before the original timeframe expires. The timeframe for scientific study may not exceed 12 months from the date of issuance of the permit.

(3) A permit for scientific analysis issued by the board is subject to terms, conditions, and procedures prescribed by the board and must include the condition that a permittee shall pay all costs of excavation, study, and disposition.

(4) The board shall either issue or deny a permit within 30 working days from the date of the permit petition. If the board denies a permit upon a finding that scientific analysis is not justifiable, the board shall provide the applicant with a written statement outlining the grounds for its finding. The applicant may appeal the decision of the board under the provisions of Title 2, chapter 4, part 6, of the Montana Administrative Procedure Act.

(5) The board may suspend or revoke a permit pursuant to the Montana Administrative Procedure Act upon a finding that the permittee has violated any provision of this part or any term, condition, or procedure of a permit issued by the board.

(6) The provisions of this section do not apply to a forensic examination by the county coroner, action under Title 46, chapter 4, or action under any other related provisions of law concerning the investigation of the circumstances, manner, and cause of death.”

Section 360. Section 23-2-301, MCA, is amended to read:

“23-2-301. Definitions. For purposes of this part, the following definitions apply:

(1) "Barrier" means an artificial obstruction located in or over a water body, restricting passage on or through the water, ~~which~~ *that* totally or effectively obstructs the recreational use of the surface water at the time of use. A barrier may include but is not limited to a bridge or fence or any other ~~manmade~~ *artificial* obstacle to the natural flow of water.

(2) "Class I waters" means surface waters, other than lakes, that:

(a) lie within the officially recorded federal government survey meander lines ~~thereof~~ *of the waters*;

(b) flow over lands that have been judicially determined to be owned by the state by reason of application of the federal navigability test for state streambed ownership;

(c) are or have been capable of supporting the following commercial activities: log floating, transportation of furs and skins, shipping, commercial guiding using multiperson watercraft, public transportation, or the transportation of merchandise, as these activities have been defined by published judicial opinion as of April 19, 1985; or

(d) are or have been capable of supporting commercial activity within the meaning of the federal navigability test for state streambed ownership.

(3) "Class II waters" means all surface waters that are not class I waters, except lakes.

(4) "Commission" means the fish, wildlife, and parks commission provided for in 2-15-3402.

(5) "Department" means the department of fish, wildlife, and parks provided for in 2-15-3401.

(6) "Diverted away from a natural water body" means a diversion of surface water through a ~~manmade~~ *constructed* water conveyance system, including but not limited to:

(a) an irrigation or drainage canal or ditch;

(b) an industrial, municipal, or domestic water system, excluding the lake, stream, or reservoir from which the system obtains water;

(c) a flood control channel; or

(d) a hydropower inlet and discharge facility.

(7) "Lake" means a body of water where the surface water is retained by either natural or artificial means and the natural flow of water is substantially impeded.

(8) "Occupied dwelling" means a building used for a human dwelling at least once a year.

(9) "Ordinary high-water mark" means the line that water impresses on land by covering it for sufficient periods to cause physical characteristics that distinguish the area below the line from the area above it. Characteristics of the area below the line include, when appropriate, but are not limited to deprivation of the soil of substantially all terrestrial vegetation and destruction of its agricultural vegetative value. A flood plain adjacent to surface waters is not considered to lie within the surface waters' high-water marks.

(10) "Recreational use" means with respect to surface waters: fishing, hunting, swimming, floating in small craft or other flotation devices, boating in motorized craft unless otherwise prohibited or regulated by law, or craft

propelled by oar or paddle, other water-related pleasure activities, and related unavoidable or incidental uses.

(11) "Supervisors" means the board of supervisors of a soil conservation district, the directors of a grazing district, or the board of county commissioners if a request pursuant to 23-2-311(3)(b) is not within the boundaries of a conservation district or if the request is refused by the board of supervisors of a soil conservation district or the directors of a grazing district.

(12) "Surface water" means, for the purpose of determining the public's access for recreational use, a natural water body, its bed, and its banks up to the ordinary high-water mark."

Section 361. Section 23-2-311, MCA, is amended to read:

"23-2-311. Right to portage — establishment of portage route. (1) A member of the public making recreational use of surface waters may, above the ordinary high-water mark, portage around barriers in the least intrusive manner possible, avoiding damage to the landowner's land and violation of ~~his~~ *the landowner's* rights.

(2) A landowner may create barriers across streams for purposes of land or water management or to establish land ownership as otherwise provided by law. If a landowner erects a structure ~~which~~ *that* does not interfere with the public's use of the surface waters, the public may not go above the ordinary high-water mark to portage around the structure.

(3) (a) A portage route around or over a barrier may be established to avoid damage to the landowner's land and violation of ~~his~~ *the landowner's* rights, as well as to provide a reasonable and safe route for the recreational user of the surface waters.

(b) A portage route may be established when either a landowner or a member of the recreating public submits a request to the supervisors that ~~such~~ a route be established.

(c) Within 45 days of the receipt of a request, the supervisors shall, in consultation with the landowner and a representative of the department, examine and investigate the barrier and the adjoining land to determine a reasonable and safe portage route.

(d) Within 45 days of the examination of the site, the supervisors shall make a written finding of the most appropriate portage route.

(e) The cost of establishing the portage route around artificial barriers must be borne by the involved landowner, except for the construction of notification signs of ~~such~~ *the* route, which is the responsibility of the department. The cost of establishing a portage route around artificial barriers not owned by the landowner on whose land the portage route will be placed must be borne by the department.

(f) Once the route is established, the department has the exclusive responsibility ~~thereafter~~ to maintain the portage route at reasonable times agreeable to the landowner. The department shall post notices on the stream of the existence of the portage route and the public's obligation to use it as the exclusive means around a barrier.

(g) If either the landowner or *the* recreationist disagrees with the route described in subsection (3)(e), ~~he~~ *the person* may petition the district court to name a three-member arbitration panel. The panel must consist of an affected landowner, a member of an affected recreational group, and a member selected

by the two other members of the arbitration panel. The arbitration panel may accept, reject, or modify the supervisors' finding under subsection (3)(d).

(h) The determination of the arbitration panel is binding upon the landowner and upon all parties that use the water for which the portage is provided. Costs of the arbitration panel, computed as for jurors' fees under 3-15-201, ~~shall~~ *must* be borne by the contesting party or parties; ~~and~~ *All* other parties shall bear their own costs.

(i) The determination of the arbitration panel may be appealed within 30 days to the district court.

(j) Once a portage route is established, the public shall use the portage route as the exclusive means to portage around or over the barrier.

(4) ~~Nothing contained in this~~ *This part addresses does not address* the issue of natural barriers or portage around ~~said~~ *the* barriers, and ~~nothing contained in this part makes such~~ *does not make the* portage lawful or unlawful."

Section 362. Section 23-2-321, MCA, is amended to read:

"23-2-321. Restriction on liability of landowner and supervisor. (1) A person who makes recreational use of surface waters flowing over or through land in the possession or under the control of another, pursuant to 23-2-302, or land while portaging around or over barriers or while portaging or using portage routes, pursuant to 23-2-311, is owed no duty by a landowner, ~~his~~ *the landowner's* agent, or ~~his~~ *the landowner's* tenant other than that provided in subsection (2).

(2) A landowner, ~~his~~ *the landowner's* agent, or tenant is liable to a person making recreational use of waters or land described in subsection (1) only for an act or omission that constitutes willful or wanton misconduct.

(3) ~~No~~ A supervisor or any member of the arbitration panel who participates in a decision regarding the placement of a portage route is *not* liable to ~~any~~ *a* person who is injured or whose property is damaged because of placement or use of the portage route except for an act or omission that constitutes willful and wanton misconduct."

Section 363. Section 23-2-402, MCA, is amended to read:

"23-2-402. Purpose — intent. (1) The purpose of this part is to:

(a) provide continued recreational and commercial use and enjoyment of the Smith River waterway, consistent with the river's capacity;

(b) seek ways to minimize conflicts between river users and private landowners; and

(c) protect the integrity of the river's water and canyon resources for future generations.

(2) The intent of this part is to interpret and implement this part in a manner consistent with the statement of purpose for the state park system in 23-1-101.

(3) ~~Nothing in this~~ *This part may not be construed in any way to restrict a* landowner's access to or use of ~~his~~ *the landowner's* land, improvements, water rights, or adjacent waterways."

Section 364. Section 23-2-503, MCA, is amended to read:

"23-2-503. Boat liveries. (1) The owner of a boat livery shall cause to be kept a record of the name and address of the person or persons hiring any vessel ~~which~~ *that* is permitted by ~~him~~ *the owner* to be operated, the identification

number of ~~such~~ *the* vessel, the departure date and time, and the expected time of return. The record ~~shall~~ *must* be preserved for at least 6 months.

(2) ~~Neither the~~ *The* owner of a boat livery ~~nor his or the owner's~~ agent or employee ~~shall may not~~ permit any motorboat or any vessel permitted by ~~him~~ *the owner* to be operated as a motorboat or vessel to depart from ~~his~~ *the owner's* premises unless it ~~shall have~~ *has* been provided, either by owner or renter, with the equipment required pursuant to 23-2-521 and any rules made pursuant ~~thereto to that section.~~

Section 365. Section 23-2-505, MCA, is amended to read:

"23-2-505. Owner's civil liability. The owner of a vessel ~~shall be~~ *is* liable for any injury or damage occasioned by the negligent operation of ~~such~~ *the* vessel, whether ~~such~~ *the* negligence consists of a violation of the provisions of the statutes of this state or neglecting to observe ~~such~~ ordinary care and ~~such~~ operation ~~as that~~ the rules of the common law require. ~~The~~ *However, the* owner ~~shall is~~ not be liable, ~~however,~~ unless ~~such~~ *the* vessel is being used with ~~his or her~~ *the owner's* express or implied consent. It ~~shall must~~ be presumed that ~~such~~ *the* vessel is being operated with the knowledge and consent of the owner if, at the time of the injury or damage, it is under the control of ~~his or her~~ *the owner's* spouse, father, mother, brother, sister, son, daughter, or other immediate member of the owner's family. ~~Nothing contained herein shall~~ *This section may not* be construed to relieve any other person from any liability ~~which he that the person would otherwise have,~~ *but nothing contained herein shall* *However, this section may not* be construed to authorize or permit any recovery in excess of injury or damage actually incurred."

Section 366. Section 23-2-527, MCA, is amended to read:

"23-2-527. Collisions, accidents, and casualties. (1) The operator of a vessel involved in a collision, accident, or other casualty, so far as ~~he~~ *the operator* can do so without serious danger to ~~his~~ *the operator's* own vessel, crew, and passengers (~~if any~~), shall render to other persons affected by the collision, accident, or other casualty ~~such~~ assistance ~~as that~~ may be practicable and ~~as that~~ may be necessary in order to save them from or minimize any danger caused by the collision, accident, or other casualty. ~~and~~ *The operator shall* give ~~his~~ *the operator's* name, address, and identification of ~~his~~ *the operator's* vessel in writing to any person injured and to the owner or person in control of any property damaged in the collision, accident, or other casualty.

(2) The department shall prepare and distribute to each sheriff's office and each game warden of this state a standardized accident report form. ~~Any~~ *A* person involved in a collision, accident, or other casualty involving a death, disappearance, personal injury, or property damage in excess of \$100 shall immediately report ~~such~~ *the* collision, accident, or other casualty to the sheriff's office or game warden of the county in which the collision, accident, or casualty occurred and fill out a standardized accident report form.

(3) A sheriff advised of a collision, accident, or other casualty reported under this part shall:

(a) conduct an appropriate investigation of ~~such~~ *the* collision, accident, or other casualty; and

(b) prepare and submit a report of the results of the investigation, together with the completed standardized accident report forms, to the department."

Section 367. Section 23-2-535, MCA, is amended to read:

“23-2-535. Alcohol concentration standards — evidence admissible — administration of tests. (1) The inferences contained in 61-8-401(4) apply to any criminal action or proceeding arising out of acts alleged to have been committed in violation of 23-2-523(2).

(2) Evidence of any measured amount or detected presence of alcohol in a person at the time of the act alleged, as shown by analysis of the person’s blood, breath, or urine, and any other competent evidence bearing on the question of whether the person was under the influence of alcohol, drugs, or a combination of the two at the time of the act alleged is admissible in any criminal action or proceeding arising out of acts alleged to have been committed in violation of 23-2-523(2).

(3) If a person charged with violation of 23-2-523(2) refuses to submit to a test of ~~his~~ *the person’s* blood, breath, or urine for the purpose of determining any measured amount or detected presence of alcohol, none will be given, but proof of refusal is admissible in any criminal action or proceeding arising out of acts alleged to have been committed in violation of 23-2-523(2).

(4) The provisions relating to administration of tests provided in 61-8-405 and the definition of alcohol concentration provided in 61-8-407 apply to any testing done to a person charged with violation of 23-2-523(2).

(5) As used in 23-2-523(2), the term “under the influence” ~~shall have~~ *has* the meaning provided in 61-8-401(3).”

Section 368. Section 23-5-131, MCA, is amended to read:

“23-5-131. Losses at illegal gambling may be recovered in civil action. A person, or ~~his~~ *the person’s* dependent or guardian, who, by playing or betting at an illegal gambling device or illegal gambling enterprise, loses money, property, or any other thing of value and pays and delivers it to another person connected with the operation or conduct of the illegal gambling device or illegal gambling enterprise, within 1 year following ~~his~~ *the person’s* loss, may:

- (1) bring a civil action in a court of competent jurisdiction to recover the loss;
- (2) recover the costs of the civil action and exemplary damages of no less than \$500 and no more than \$5,000; and
- (3) join as a defendant any person having an interest in the illegal gambling device or illegal gambling enterprise.”

Section 369. Section 23-5-135, MCA, is amended to read:

“23-5-135. Discharge of defendant. (1) A person against whom a civil action is brought, as provided in 23-5-131, may move to have the action against ~~him~~ *the person* dismissed if ~~he~~ *the person* has repaid to the person who suffered the loss or ~~his~~ *that person’s* dependent the gambling loss, the costs of bringing the civil action, and the exemplary damages agreed upon by the parties or assessed by the court.

(2) A civil action brought to recover gambling losses does not bar or interfere with another proceeding or action, whether criminal, civil, or administrative, that may be brought under the laws of the state.”

Section 370. Section 23-5-155, MCA, is amended to read:

“23-5-155. Counterfeiting or defacing documents — penalty. (1) A person commits the offense of counterfeiting or defacing a document when ~~he~~ *the person* purposely or knowingly counterfeits, alters, or wrongfully displays a seal, decal, license, identification number or device, or other document issued by the department.

(2) A person convicted of the offense of counterfeiting or defacing a document is guilty of a felony and must be punished in accordance with 23-5-162.”

Section 371. Section 23-5-221, MCA, is amended to read:

“23-5-221. Definition. As used in this part, “Calcutta pool” means a form of auction pool conducted by an organization authorized by the department. The Calcutta pool must be an auction pool in which:

- (1) a person’s wager is equal to ~~his~~ *the person’s* bid;
- (2) the proceeds from the pool, minus administrative costs and prizes paid, are contributed to a charitable or nonprofit corporation, association, or cause;
- (3) the rules of the pool are publicly posted;
- (4) no more than one wager for each competitor is allowed;
- (5) at least 50% of the total pool is paid out in prizes;
- (6) persons may not bid or wager money on any elementary school or high school sports event; and
- (7) the underlying event has more than two entrants.”

Section 372. Section 23-5-409, MCA, is amended to read:

“23-5-409. Bingo and keno tax — records — distribution — statement and payment. (1) A licensee who has received a permit to operate bingo or keno games shall pay to the department a tax of 1% of the gross proceeds from the operation of each live bingo and keno game operated on ~~his~~ *the licensee’s* premises.

(2) A licensee shall keep a record of gross proceeds in the form the department requires. At all times during the business hours of the licensee, the records must be available for inspection by the department.

(3) A licensee shall annually complete and deliver to the department a statement showing the total gross proceeds for each live keno or bingo game operated by ~~him~~ *the licensee* and the total amount due as live bingo or keno tax for the preceding year. This statement must contain any other relevant information required by the department.

(4) The department shall forward the tax collected under subsection (3) to the treasurer of the county or the clerk, finance officer, or treasurer of the city or town in which the licensed game is located for deposit to the county or municipal treasury. A county is not entitled to proceeds from taxes on live bingo or keno games located in incorporated cities and towns within the county. The tax collected under subsection (3) is statutorily appropriated to the department, as provided in 17-7-502, for deposit to the county or municipal treasury.”

Section 373. Section 23-5-622, MCA, is amended to read:

“23-5-622. Tampering with video gambling machine — penalty. (1) A person commits the offense of tampering with a video gambling machine if ~~he~~ *the person* purposely or knowingly manipulates or attempts or conspires to manipulate the outcome or payoff of a video gambling machine by physical tampering or other interference with the proper functioning of the machine.

(2) A violation of this section is a felony and must be punished in accordance with 23-5-162.”

Section 374. Section 23-7-212, MCA, is amended to read:

“23-7-212. Assistant director for security — qualifications — duties — compensation. (1) The director shall appoint an assistant director for security, who serves at the pleasure of the director.

(2) The assistant director for security must be qualified by training and experience, have at least 5 years of law enforcement experience, and be knowledgeable and experienced in computer security.

(3) The assistant director for security shall:

(a) *must* be responsible for a security division to ~~assure~~ *ensure* security, honesty, fairness, and integrity in the operation and administration of the lottery, including but not limited to an examination of the background of all prospective employees, ticket or chance sales agents, lottery vendors, and lottery contractors. The security division is designated a law enforcement agency for the purpose of administering this chapter.

(b) *shall* in conjunction with the director, confer with the attorney general or ~~his~~ *the attorney general's* designee to promote and ensure security, honesty, fairness, and integrity of the operation and administration of the lottery; and

(c) *shall*, in conjunction with the director, report any alleged violation of law to the attorney general, the legislative auditor, and any other appropriate law enforcement authority for further investigation and action.

(4) The salary of the assistant director for security is equal to 90% of the salary of the director of the lottery.”

Section 375. Section 23-7-302, MCA, is amended to read:

“23-7-302. Sales restrictions. (1) The price of each lottery game ticket or chance must be clearly stated ~~thereon~~ *on the ticket or chance*. The price of a lottery game chance vended by a machine or electronic device must be clearly stated on the machine or device.

(2) Tickets and chances may not be sold to or purchased by persons under 18 years of age.

(3) Tickets and chances may be purchased only with cash or a check and may not be purchased on credit.

(4) Tickets and chances may not be sold to or purchased by commissioners, the director, ~~his~~ *the director's* staff, gaming suppliers doing business with the state lottery, suppliers' officers and employees, employees of any firm auditing or investigating the state lottery, governmental employees auditing or investigating the state lottery, or members of their households.

(5) The names of elected officials may not appear on any ticket or chance.”

Section 376. Section 23-7-307, MCA, is amended to read:

“23-7-307. Conflict of interest. ~~No~~ *A* commissioner, director, assistant director, state lottery employee, licensed ticket or chance sales agent, or member of ~~his~~ *a listed person's* household may *not* have a financial interest in any gaming supplier or any contract between the state lottery and a gaming supplier or accept any gift or thing of value from a gaming supplier.”

Section 377. Section 23-7-401, MCA, is amended to read:

“23-7-401. State lottery fund. There is a fund of the enterprise fund type, as defined in 17-2-102, to be known as the state lottery fund. The gross revenue from the state lottery, consisting of money from the sale of lottery tickets and chances, ticket or chance sales agent license fees, unclaimed prizes, or any other source, must be deposited in the fund, except that, at the discretion of the

director, money for prizes paid immediately by a sales agent and money equaling the sales agent's commission may be drawn by a sales agent from ~~his~~ *the agent's* gross revenue before depositing ~~his~~ *the* gross revenue with the state lottery."

Section 378. Section 25-1-401, MCA, is amended to read:

"25-1-401. Deposit of money in lieu of undertaking. In all cases ~~where~~ *in which* an undertaking or bond with sureties is required by the provisions of this code, the plaintiff or defendant may deposit with the clerk of the court, ~~or~~ justice of the peace, or city judge, as ~~the case may be~~ *appropriate*, a sum of money equal to the amount required by the undertaking or bond, which ~~shall~~ *must* be taken as security in the place ~~thereof of the undertaking or bond~~. At any time, ~~such~~ *the* deposit may be withdrawn by the party making it upon giving the undertaking with sufficient sureties as required by law, approved by the clerk, ~~or~~ justice, or judge, upon notice to the adverse party or ~~his~~ *the adverse party's* attorney, who may object to the sufficiency of the sureties in the same manner as though the undertaking were filed in the first instance."

Section 379. Section 25-1-402, MCA, is amended to read:

"25-1-402. Governmental entities not required to give security. In any civil action or proceeding ~~wherein~~ *in which* the state, a county, or a municipal corporation or any officer in ~~his~~ *the officer's* official capacity on behalf of the state or a county, city, or town is a party plaintiff or defendant, ~~no~~ a bond, undertaking, or security ~~can~~ *may not* be required of the state, county, municipal corporation, or town or any officer ~~thereof of those entities~~; ~~but~~ *however*, on complying with the other provisions of this code, the state, county, municipal corporation, or town or any officer ~~thereof~~ acting in ~~his~~ *the officer's* official capacity has the same rights, remedies, and benefits as if the bond, undertaking, or security were given and approved as required by this code. The board of trustees of any school district is entitled to the benefit of this section."

Section 380. Section 25-1-1102, MCA, is amended to read:

"25-1-1102. Contents of registration certificate. The certificate of registration of a process server must contain the following statements:

- (1) the name, age, address, and telephone number of the registrant;
- (2) that the registrant has not been convicted of a felony;
- (3) that the registrant has been a resident of this state for a period of 1 year immediately preceding the filing of the certificate; and
- (4) that the registrant will perform ~~his~~ *the* duties as a process server in compliance with the provisions of law governing the service of process in this state."

Section 381. Section 25-2-125, MCA, is amended to read:

"25-2-125. Against public officers or their agents. The proper place of trial for an action against a public officer or person specially appointed to execute ~~his~~ *the officer's* duties for an act done by ~~him~~ *the officer or person* in virtue of ~~his~~ *the* office or against a person who, by ~~his~~ *the officer's or person's* command or in ~~his~~ *the officer's or person's* aid, does anything ~~touching~~ *relating to* the duties of ~~such~~ *the* officer is the county where the cause or some part ~~thereof of the cause of action~~ arose."

Section 382. Section 25-2-206, MCA, is amended to read:

"25-2-206. Judgment affecting real property to be transmitted. When an action or proceeding affecting the title to or possession of real estate has been

brought in or transferred to any court of a county other than the county in which the real estate or some portion of ~~it~~ *the real estate* is situated, the clerk of ~~such the~~ court ~~must shall~~, after final judgment ~~therein in the action~~, certify under ~~his the~~ clerk's seal of office and transmit to the corresponding court of the county in which the real estate affected by the action is situated a copy of the judgment. The clerk receiving ~~such the~~ copy ~~must shall~~ file, docket, and record the judgment in the record of the court, briefly designating it as a judgment transferred from court (naming the proper court)."

Section 383. Section 25-3-206, MCA, is amended to read:

"25-3-206. Execution by elisor. (1) Process or orders in an action or proceeding may be executed by a person residing in the county, designated by the court or a judge ~~thereof~~, and denominated an elisor, in the following cases:

- (a) The sheriff and coroner are both parties.
- (b) Either of these officers is a party, and the process is against the other.
- (c) Either of these officers is a party, and there is a vacancy in the office of the other.
- (d) It appears by affidavit to the satisfaction of the court in which the proceeding is pending or the judge ~~thereof~~ that both of these officers are disqualified or, by reason of any bias, prejudice, or other cause, would not act promptly or impartially.

(2) When process is delivered to an elisor, ~~he must the elisor shall~~ execute and return ~~it the process~~ in the same manner ~~as that~~ the sheriff is required to execute similar process. The court or judge may at any time on ~~its the court's or judge's~~ own motion appoint an elisor."

Section 384. Section 25-3-401, MCA, is amended to read:

"25-3-401. Notice requirements after appearance of defendant. A defendant appears in an action when ~~he the defendant~~ answers, files a motion, or gives the plaintiff written notice of ~~his~~ appearance or when an attorney gives notice of appearance for ~~him the defendant~~ or has ~~such the~~ appearance entered in open court. After appearance, a defendant or ~~his the defendant's~~ attorney is entitled to notice of all subsequent proceedings of which notice is required to be given."

Section 385. Section 25-3-402, MCA, is amended to read:

"25-3-402. Persons to be served. Subject to the provisions of Rule 5(b), M.R.Civ.P., whenever a plaintiff or a defendant who has appeared resides out of this state and has no attorney in the action or proceeding, service may be made on the clerk of court for ~~him that party~~. ~~But~~ *However*, in all cases ~~where in which~~ a party has an attorney in the action or proceeding, the service of papers, when required, must be upon the attorney instead of the party, except of subpoenas, writs, and other process issued in the suit and papers to bring ~~him the party~~ into contempt, unless the court orders otherwise."

Section 386. Section 25-3-501, MCA, is amended to read:

"25-3-501. Service of telephonic telegraphic or telegraphic telephonic copy. (1) Any summons, writ, or order in ~~any a~~ civil action or proceeding and all other papers requiring service may be transmitted by telegraph or telephone for ~~such~~ service in any place; ~~and the~~ *The* telegraphic or telephonic copy of ~~such the~~ writ, order, or paper ~~so~~ transmitted may be served or executed by the officer or person to whom it is sent for that purpose and returned by ~~him the officer or person~~, if any return ~~be requisite is required~~, in the same

manner and with the same force and effect in all respects as the original thereof might be delivered to him; and the officer or person. *The officer or person* serving or executing the ~~same writ, order, or paper~~ has the same authority and is subject to the same liabilities as if the copy were the original.

(2) The original, when a writ or order, must also be filed in the court from which it was issued, and a certified copy ~~thereof of the writ or order~~ must be preserved in the telegraph or telephone office from which it is sent. In sending ~~it the writ or order~~, either the original or certified copy may be used by the operator for that purpose. Whenever any document to be sent by telegraph or telephone bears a seal, either private or official, it is not necessary for the operator, in sending the ~~same document~~, to telegraph or telephone a description of the seal or any words or device ~~thereon on the seal~~, but the ~~same seal~~ may be expressed in the telegraphic or telephonic copy by the letters "L.S." or by the word "seal."

Section 387. Section 25-3-602, MCA, is amended to read:

"25-3-602. Operation of vehicle considered consent to service on secretary of state. The acceptance by a nonresident of the rights and privileges conferred by the laws of this state to use the highways, roads, and streets of the state and its political subdivisions, as evidenced by ~~his the nonresident~~ operating a motor vehicle ~~thereon on the highways, roads, and streets~~, ~~shall be deemed is considered~~ equivalent to and construed to be an appointment by ~~such the~~ nonresident of the secretary of state of the state of Montana to be ~~his the nonresident's~~ true and lawful attorney upon whom may be served all lawful summonses and processes against ~~him the nonresident~~ growing out of any accident, collision, or liability in which ~~said the~~ nonresident may be involved while operating a motor vehicle upon ~~such the~~ highways, roads, and streets; ~~and said~~ The acceptance or operation ~~shall be is~~ a signification of ~~his the nonresident's~~ agreement that any summons or process against ~~him which the nonresident that is so served shall be on the secretary of state is~~ of the same legal force and validity as if served on ~~him the nonresident~~ personally within the state of Montana."

Section 388. Section 25-3-603, MCA, is amended to read:

"25-3-603. Operation of vehicle by agent. The operation by any person, ~~by himself individually or his by the person's~~ agent, of any motor vehicle, whether registered or unregistered and with or without a license to operate, on any public way in this state ~~shall be deemed is considered~~ equivalent to an appointment by ~~such the~~ person of the secretary of state or ~~his successor in office~~ to be ~~his the person's~~ true and lawful attorney upon whom may be served all lawful processes in any action or proceeding against ~~him the person~~ growing out of an accident or collision in which ~~he the person or his the person's~~ agent may be involved while operating a motor vehicle on any public way in this state; ~~and such~~ The operation ~~shall be is~~ a signification of an agreement by ~~such the~~ person that any ~~such~~ process against ~~him which the person that is served upon the secretary of state or his successor in office shall be is~~ of the same force and validity as if served upon ~~him the person~~ personally. This section ~~shall does~~ not apply in case of any cause of action, for the service of process in which provision is made by 25-3-602, ~~nor shall and it does not~~ authorize service of process upon any person who may with due diligence be found and personally served with process within the state of Montana."

Section 389. Section 25-4-101, MCA, is amended to read:

"25-4-101. Motions and orders — where made. (1) Motions must be made in the county in which the action is brought or in any adjoining county in

the same district. In ~~ease of~~ the absence of the judge of the district from ~~his the~~ district or in an action pending in which ~~such the~~ judge is disqualified to act, ~~such a~~ motion may be made before the judge of any adjoining district unless there is another judge in the same district who is not disqualified to act, ~~in which~~ *In that case, such a motion shall must* be made before another judge in the same district.

(2) Orders made out of court may be made by the judge of the court in any part of the state.”

Section 390. Section 25-4-102, MCA, is amended to read:

“25-4-102. Transfer when judge unable to hear motion or return of order. When a notice of motion is given or an order to show cause is made returnable before a judge out of court and, at the time fixed for the motion or on the return day of the order, the judge is unable to hear the parties, the matter may be transferred by ~~his the judge’s~~ order to some other judge.”

Section 391. Section 25-4-203, MCA, is amended to read:

“25-4-203. Verification of pleadings. (1) In any case in which an affidavit of verification is required, except as otherwise specifically provided, ~~such the~~ affidavit of verification must be to the effect that the pleading is true to the knowledge of the deponent, except as to the matters ~~therein~~ stated *in the affidavit* on information and belief, and that as to those ~~he the deponent~~ believes it to be true. ~~Such~~ *The* verification must be made by the party or, if there are several parties united in interest or pleading, by one at least of ~~such the~~ parties acquainted with the facts if ~~such the~~ party is in the county and capable of making the affidavit. The verification may also be made by the agent or attorney of the party if the party is absent from the county where the attorney resides or is from any other cause unable to verify the pleading, and in ~~such that~~ case, the verification must state that the deponent is the agent or attorney of the party, the reason why ~~such the~~ verification is made by ~~such the~~ agent or attorney, and that the matters stated in the pleadings are true to the best knowledge, information, and belief of ~~such the~~ agent or attorney.

(2) When a corporation is a party, the verification may be made by any officer ~~thereof of the corporation~~ and must state what *the office of the officer* he is and that the matters stated ~~therein in the verification~~ are true to the best knowledge, information, and belief of ~~such the~~ officer. If there is no officer of the corporation within the county, the verification may be made by ~~its the corporation’s~~ attorney.”

Section 392. Section 25-4-302, MCA, is amended to read:

“25-4-302. Pleading an account. It is not necessary for a party to set forth in a pleading the items of an account ~~therein~~ alleged *in the pleading*, but ~~he the party must shall~~ deliver to the adverse party, within 5 days or ~~such further~~ *additional time as that* the court may allow or may be agreed to by the parties, after a demand ~~thereof~~ in writing, a copy of the account or be precluded from giving evidence ~~thereof of the account~~. The court or judge ~~thereof~~ may order a further account when the one delivered is too general or is defective in any particular.”

Section 393. Section 25-4-401, MCA, is amended to read:

“25-4-401. Counterclaim by person sued in representative capacity. In an action against an executor, ~~or~~ administrator, or other person sued in a representative capacity, the defendant may set forth as a counterclaim a demand belonging to the decedent or other person whom ~~he the executor,~~

administrator, or person represents ~~where~~ *when* the person so represented would have been entitled to set forth the ~~same~~ *counterclaim* in an action against ~~him~~ *the person.*”

Section 394. Section 25-4-402, MCA, is amended to read:

“25-4-402. Counterclaim against person suing in representative capacity. In an action brought by an executor or administrator in ~~his~~ *a* representative capacity, a demand against the decedent belonging at the time of ~~his~~ *the decedent’s* death to the defendant may be set forth by the defendant as a counterclaim as if the action had been brought by the decedent in ~~his~~ *the decedent’s* lifetime. ~~and if~~ *If* a balance is found to be due to the defendant, judgment must be rendered ~~therefor~~ *for the balance* against the plaintiff in ~~his~~ *the* representative capacity. Execution can be issued upon ~~such a~~ *the* judgment only in a case ~~where~~ *in which* it could be issued upon a judgment in an action against the executor or administrator.”

Section 395. Section 25-4-403, MCA, is amended to read:

“25-4-403. Counterclaim in action on contract. A counterclaim on a contract is subject to the following rules:

(1) Except as otherwise provided by the Uniform Commercial Code, if the action is founded upon a contract ~~which~~ *that* has been assigned by the party ~~thereto~~ *to the contract*, a demand existing against the party ~~thereto~~ *to the contract* or an assignee of the contract at the time of the assignment ~~thereof~~ and belonging to the defendant, in good faith, before notice of the assignment must be allowed as a counterclaim to the amount of the plaintiff’s demand if it might have been ~~so~~ allowed against the party or the assignee while the contract belonged to ~~him~~ *the party or the assignee.*

(2) If the plaintiff is a trustee for another or if the action is in the name of the plaintiff who has no actual interest in the contract upon which it is founded, a demand against the plaintiff ~~shall~~ *may* not be allowed as a counterclaim, but so much of a demand existing against the person whom ~~he~~ *the plaintiff* represents or for whose benefit the action is brought as will satisfy the plaintiff’s demand must be allowed as a counterclaim if it might have been ~~so~~ allowed in an action brought by the person beneficially interested.”

Section 396. Section 25-4-404, MCA, is amended to read:

“25-4-404. Cross-claim to be asserted in answer. ~~Where~~ *When* the judgment may determine the ultimate rights of two or more defendants as between themselves, a defendant who requires ~~such~~ a determination ~~must~~ *shall* demand it in ~~his~~ *the* answer. The controversy between the defendants ~~must~~ *may* not delay a judgment to which the plaintiff is entitled unless the court otherwise directs.”

Section 397. Section 25-4-502, MCA, is amended to read:

“25-4-502. No postponement when expected evidence admitted. The court may also require the moving party to state, upon affidavit, the evidence ~~which he~~ *that the party* expects to obtain, and if the adverse party ~~thereupon~~ admits that ~~such~~ *the* evidence would be given and that it be considered as actually given on the trial or offered and overruled as improper, the trial ~~shall~~ *may* not be postponed.”

Section 398. Section 25-4-601, MCA, is amended to read:

“25-4-601. Procedure when answer admits part of plaintiff’s claim. ~~Where~~ *When* the answer of the defendant, expressly or by not denying, admits a part of the plaintiff’s claim to be just, the court, upon the plaintiff’s motion, may,

in its discretion, order that the action be severed, that a judgment be entered for the plaintiff for the part so admitted, and, if the plaintiff so elects, that the action be continued with like effect as *with regard* to the subsequent proceedings as if it had been originally brought for the remainder of the claim. The order must prescribe the time and manner of the plaintiff's election. If the plaintiff elects to continue the action, ~~his~~ *the plaintiff's* right to costs upon the judgment is the same as if it were taken in an action brought for only that part of the claim. If the plaintiff does not elect to continue the action, costs must be awarded as upon final judgment in any other case."

Section 399. Section 25-4-602, MCA, is amended to read:

"25-4-602. Judgment for excess when plaintiff admits counterclaim. In an action upon contract ~~where~~ *when* the complaint demands judgment for a sum of money only, if the defendant by ~~his~~ *the* answer does not deny the plaintiff's claim but sets up a counterclaim amounting to less than the plaintiff's claim, the plaintiff, upon filing with the clerk an admission of the counterclaim, may take judgment for the excess, as upon a default for want of an answer."

Section 400. Section 25-5-103, MCA, is amended to read:

"25-5-103. Suing a party by a fictitious name. When the plaintiff is ignorant of ~~does not know~~ the name of the defendant, ~~such~~ *the* defendant may be designated in any pleading or proceeding by any name; ~~and when his~~ *When the defendant's* true name is discovered, the pleadings or proceedings may be amended accordingly."

Section 401. Section 25-5-202, MCA, is amended to read:

"25-5-202. Who may defend when spouse sued. If a husband and wife be ~~are~~ sued together, each spouse may defend for ~~his or her~~ *the spouse's* own right, and if the other spouse ~~neglect~~ *fails* to defend, the spouse who does choose to defend may defend for the other spouse's right also."

Section 402. Section 25-5-203, MCA, is amended to read:

"25-5-203. Defendants — adverse claims to real property. In an action brought by a person out of possession of real property to determine an adverse claim of an interest or estate ~~therein in the property~~, the person making ~~such~~ *the* adverse claim and the persons in possession may be joined as defendants, and if the judgment ~~be is~~ for the plaintiff, ~~he~~ *the plaintiff* may have a writ for the possession of the premises as against the defendants in the action against whom the judgment has passed."

Section 403. Section 25-5-301, MCA, is amended to read:

"25-5-301. Appointment of guardian. When a guardian ad litem is appointed by the court, ~~he~~ *the guardian ad litem* must be appointed as follows:

(1) when the minor is plaintiff, upon the application of the minor if ~~he be of the age of the minor is~~ 14 years of age or, if under that age, upon the application of a relative or friend of the minor;

(2) when the minor is defendant, upon the application of the minor if ~~he be of the age of the minor is~~ 14 years of age and ~~apply~~ *applies* within 10 days after the service of the summons or, if under that age or if ~~he~~ *the minor* neglects so to apply, upon the application of a relative or friend of the minor or of any other party to the action;

(3) when an insane or incompetent person is party to an action or proceeding, upon the application of a relative or friend of ~~such~~ *the* insane or incompetent person or of any other party to the action or proceeding."

Section 404. Section 25-7-206, MCA, is amended to read:

“25-7-206. Procedure when insufficient number attend. (1) If a sufficient number of jurors ~~duly~~ drawn and notified do not attend to form a jury, the judge or the jury commissioner, pursuant to an order of the court to be entered in the minutes, shall, in the presence of two witnesses, draw a sufficient number of ballots from the box to complete the jury. The sheriff shall notify the persons thus drawn to attend immediately or at a time fixed by court. If for any reason a sufficient number of jurors to try the issue is not obtained from the persons notified, the court may make or order further drawings until a sufficient number is obtained.

(2) Each person ~~so~~ notified ~~must~~ *shall* attend at the time required by the notice and, unless excused by the court or set aside, ~~must~~ *shall* serve as a juror upon the trial. For a neglect or refusal to do so, ~~he~~ *the person* may be fined in the same manner as any other trial juror regularly drawn and notified. ~~He~~ *The person* is subject to the same exceptions and challenges as any other trial juror.”

Section 405. Section 25-7-209, MCA, is amended to read:

“25-7-209. Ballots of jurors not sworn. The ballot with the name of a juror who is absent when ~~his~~ *the juror's* name is drawn or called or is set aside or excused from serving on that trial must be again returned to the box containing the undrawn ballots as soon as the jury is sworn.”

Section 406. Section 25-7-223, MCA, is amended to read:

“25-7-223. Challenges to jurors for cause. Challenges for cause may be taken on one or more of the following grounds:

(1) a want of any of the qualifications prescribed by this code to render a person competent as a juror;

(2) being the spouse of or related to a party by consanguinity or affinity within the sixth degree;

(3) standing in the relation of guardian and ward, debtor and creditor, employer and employee, or principal and agent to either party or being a partner in business with either party or surety on any bond or obligation for either party. However, a challenge for cause may not be taken because of debtor and creditor relation when the same arises solely:

(a) by reason of current bills of gas, water, electricity, or telephone; or

(b) because a prospective juror is a depositor of funds with a bank, savings and loan institution, credit union, or similar financial institution.

(4) having served as a juror or been a witness on a previous trial between the same parties for the same cause of action;

(5) interest on the part of the juror in the event of the action or in the main question involved in the action, except ~~his~~ *the juror's* interest as a member or citizen of a municipal corporation;

(6) having an unqualified opinion or belief as to the merits of the action;

(7) the existence of a state of mind in the juror evincing enmity against or bias in favor of either party.”

Section 407. Section 25-7-301, MCA, is amended to read:

“25-7-301. Order of trial. When the jury has been sworn, the trial ~~shall~~ *must* proceed in the following order unless the court, for good cause and special reason, otherwise directs:

(1) The party who has the burden of proof may briefly state ~~his~~ *the party's* case and the evidence by which ~~he~~ *the party* expects to sustain it.

(2) The adverse party may then, or at the opening of ~~his~~ *the adverse party's* case, briefly state ~~his~~ *the* defense and the evidence ~~he~~ *that the adverse party* expects to offer in support of it.

(3) The party who has the burden of proof shall first produce ~~his~~ *the party's* evidence, *and* the adverse party ~~will~~ *shall* then produce ~~his~~ *the adverse party's* evidence.

(4) The parties ~~will~~ *shall* then be confined to rebutting evidence unless the court, for good reasons in furtherance of justice, permits them to offer evidence in their original case.

(5) When the instructions have been passed upon and settled by the court and before the arguments of counsel to the jury have begun, the court shall charge the jury in writing, giving in ~~such~~ *the* charge only ~~such~~ *the* instructions ~~as~~ *that* are passed upon and settled at ~~such~~ *the* settlement. In charging the jury, the court shall give to ~~it~~ *the jury* all matters of law ~~which~~ *that* the court thinks necessary for the jury's information in rendering a verdict.

(6) When the jury has been charged, unless the case is submitted to the jury on either side or on both sides without argument, the party upon whom rests the burden of proof ~~must~~ *shall* commence and may conclude the argument. If several defendants having several defenses appear by different counsel, the court ~~must~~ *shall* determine their relative order in the evidence and argument. Counsel, in arguing the case to the jury, may argue and comment upon the law of the case as given in the instructions of the court, as well as upon the evidence in the case."

Section 408. Section 25-7-304, MCA, is amended to read:

"25-7-304. Procedure when a juror becomes sick. If, after the impaneling of the jury and before verdict, a juror becomes sick ~~so as to be~~ *and is* unable to perform ~~his~~ *the juror's* duty, the court may order ~~him~~ *the juror* to be discharged. In that case, subject to the provisions of Rule 47(c), M.R.Civ.P., the trial may proceed with the other jurors or another juror may be sworn and the trial may begin anew or the jury may be discharged and a new jury ~~then or~~ *afterward* impaneled."

Section 409. Section 25-7-403, MCA, is amended to read:

"25-7-403. Conduct of jury after case submitted to it. When the case is finally submitted to the jury, it may decide in court or retire for deliberation. If the jurors retire, they must be kept together in some convenient place, under charge of an officer, until at least two-thirds of them agree upon a verdict or are discharged by the court. Unless by order of the court, the officer having ~~them~~ *the jurors* under ~~his~~ *the officer's* charge ~~must~~ *may* not ~~suffer~~ *allow* any communication to be made to ~~them~~ *the jurors* ~~or~~ *and the officer may not* make any ~~himself~~ *communication*, except to ask ~~them~~ *the jurors* if they or two-thirds of them are agreed upon a verdict; ~~and he must~~ *The officer may* not, before ~~their~~ *the jurors'* verdict is rendered, communicate to any person the state of their deliberations or the verdict agreed upon."

Section 410. Section 25-7-501, MCA, is amended to read:

"25-7-501. Return of verdict — polling the jury. (1) When the jurors or two-thirds of them have agreed upon a verdict, they must be conducted into court, their names *must be* called by the clerk, and the verdict *must be* rendered by ~~their foreman~~ *the lead juror*. The verdict must be in writing and signed by the

~~foreman~~ *lead juror* and must be read by the clerk to the jury, and the inquiry made whether it is ~~their~~ *the jury's* verdict.

(2) Either party may require the jury to be polled, which is done by the court or clerk asking each juror if it is ~~his~~ *the juror's* verdict. If upon ~~such~~ *the* inquiry or polling more than one-third of the jurors disagree ~~thereto~~ *to the verdict*, the jury must be sent out again, but if ~~no such~~ disagreement ~~be~~ *is not* expressed, the verdict is complete and the jury discharged from the case."

Section 411. Section 25-7-503, MCA, is amended to read:

"25-7-503. Content of verdict — action for recovery of personal property. In an action for the recovery of specific personal property, if the property has not been delivered to the plaintiff or *if* the defendant, by ~~his~~ *the defendant's* answer, ~~claim~~ *claims* a return ~~thereof~~ *of the property*, the jury, if ~~its~~ *the* verdict ~~be~~ *is* in favor of the plaintiff or ~~if,~~ *being* ~~the verdict is~~ *in* favor of the defendant, ~~it~~ *and the jury* also finds that ~~he~~ *the defendant* is entitled to a return ~~thereof~~ *of the property*, shall find the value of the property. ~~But~~ *However*, failure to find all the facts mentioned in this section ~~shall~~ *may* not invalidate the verdict). ~~and~~ *The* jury may at the same time assess the damages, if ~~they~~ *damages* are claimed in the complaint or answer, ~~which~~ *that* the prevailing party has sustained by reason of the taking or detention of ~~such~~ *the* property."

Section 412. Section 25-7-701, MCA, is amended to read:

"25-7-701. Oath of referee. ~~Every~~ *Each* referee, before acting as ~~such~~, shall take and subscribe an oath or affirmation before some authorized officer, which ~~shall~~ *must* be filed with the clerk of the court ~~by which he is~~ *that* appointed ~~the referee~~, that ~~he~~ *the referee* will honestly, impartially, and faithfully perform the duties of referee in the action or matter referred to ~~him~~ *the referee*, as required by law, to the best of ~~his~~ *the referee's* knowledge and ability."

Section 413. Section 25-7-702, MCA, is amended to read:

"25-7-702. Grounds for objection to appointment of referee. Either party may object to the appointment of any person as referee on the same grounds that ~~he~~ *the party* might object to ~~him~~ *the person* as a trial juror, as provided in 25-7-223."

Section 414. Section 25-8-101, MCA, is amended to read:

"25-8-101. When court may order deposit or delivery. When it is admitted by the pleading or shown upon the examination of a party that ~~he~~ *the party* has in ~~his~~ *the party's* possession or under ~~his~~ *the party's* control any money or other thing capable of delivery ~~which that~~, being the subject of the litigation, is held by ~~him~~ *the party* as trustee for another party or ~~which that~~ belongs or is due to another party, the court may order the ~~same money or thing~~, upon motion, to be deposited in court or delivered to ~~such~~ *the* party upon ~~such~~ conditions as ~~that~~ may be just, subject to the further direction of the court."

Section 415. Section 25-8-103, MCA, is amended to read:

"25-8-103. With whom money deposited. (1) Whenever ~~moneys~~ *are* money ~~is~~ paid into or deposited in court, the ~~same~~ *shall* money ~~must~~ be delivered to the clerk in person or to ~~such of his~~ *the clerk's* deputies ~~as shall be~~ *who are* specially authorized by ~~his~~ *the deputy's* appointment in writing to receive the ~~same money~~. ~~He must~~ *The clerk or deputy shall*, unless otherwise directed by law, deposit ~~it~~ *the* money with the county treasurer to be held by ~~him~~ *the treasurer* subject to the order of the court.

(2) ~~Such~~ *The* appointment ~~shall~~ *must* be filed with the county treasurer, who shall exhibit it and give to each person ~~applying~~ *asking* for the

~~same appointment~~ a certified copy of the ~~same appointment~~. ~~It shall~~ *The appointment is* be in force until a revocation in writing is filed with the county treasurer, who shall ~~thereupon upon receipt~~ write "revoked" in ink across the face of the appointment."

Section 416. Section 25-8-104, MCA, is amended to read:

"25-8-104. Safekeeping of deposit by county treasurer. The treasurer shall keep each fund distinct and open an account ~~with each~~ *for each fund*. For the safekeeping of the money deposited with the treasurer, ~~his~~ *the treasurer's* official bond ~~shall be~~ *is* security."

Section 417. Section 25-9-103, MCA, is amended to read:

"25-9-103. Death of party after verdict, — no lien. If a party ~~die~~ *dies* after a verdict or decision upon any issue of fact and before judgment, the court may nevertheless render judgment ~~thereon~~. ~~Such a~~ *The* judgment is not a lien on the real property of the deceased party but is payable in the course of administration on ~~his~~ *the deceased party's* estate."

Section 418. Section 25-9-104, MCA, is amended to read:

"25-9-104. Procedure after judgment on an issue of law. On a judgment for the plaintiff upon an issue of law, ~~he~~ *the plaintiff* may proceed in the manner prescribed by Rule 55(a) and (b), M.R.Civ.P., upon the failure of the defendant to answer. If judgment ~~be~~ *is* for the defendant upon an issue of law and the taking of an account or the proof of any fact ~~be~~ *is* necessary to enable the court to complete the judgment, a reference may be ordered, as provided in Rule 55(b)."

Section 419. Section 25-9-204, MCA, is amended to read:

"25-9-204. Clerk to include interest in judgment. The clerk ~~must~~ *shall* include in the judgment entered up by ~~him~~ *the clerk* any interest on the verdict or decision of the court, from the time it was rendered or made."

Section 420. Section 25-9-311, MCA, is amended to read:

"25-9-311. Entry of satisfaction of judgment in docket. Satisfaction of a judgment may be entered in the clerk's docket upon an execution returned satisfied or upon an acknowledgment of satisfaction filed with the clerk, made in the manner of an acknowledgment of a conveyance of real property by the judgment creditor or by ~~his~~ *the judgment creditor's* endorsement on the face or on the margin of the record of the judgment or by ~~his~~ *the judgment creditor's* attorney unless a revocation of ~~his~~ *the attorney's* authority is filed. Whenever a judgment is satisfied in fact otherwise than upon an execution, the party or attorney ~~must~~ *shall* give ~~such~~ *the* acknowledgment or make ~~such~~ *the* endorsement, and upon motion, the court may compel ~~it~~ *the acknowledgment or endorsement* or may order the entry of satisfaction to be made without ~~it~~ *the acknowledgment or endorsement*."

Section 421. Section 25-9-404, MCA, is amended to read:

"25-9-404. Payment of attorney fees. A judgment must order payment of attorney fees and litigation expenses separately from an order for periodic payments of future damages. The attorney fees and expenses must be paid either in a lump sum or by periodic payments pursuant to an agreement entered into between the claimant and ~~his~~ *the claimant's* attorney. An agreement for the immediate lump-sum payment of that portion of the attorney fees incurred to recover future damages to be paid by periodic payments must be calculated on the basis of the present value of the future damages."

Section 422. Section 25-9-504, MCA, is amended to read:

“25-9-504. Notice of filing. (1) At the time of the filing of the foreign judgment, the judgment creditor or ~~his~~ *the judgment creditor’s* attorney shall file with the clerk of the court an affidavit setting forth the name and last-known post-office address of the judgment debtor and the judgment creditor. The affidavit must also include a statement that the foreign judgment is valid and enforceable, and the extent to which it has been satisfied.

(2) Promptly upon filing the foreign judgment and affidavit, the judgment creditor or someone on ~~his~~ *the judgment creditor’s* behalf shall mail notice of the filing of the judgment and affidavit, attaching a copy of each to the notice, to the judgment debtor and to ~~his~~ *the judgment debtor’s* attorney of record, if any, each at ~~his~~ *the person’s* last-known address, by certified mail, return receipt requested. The notice must include the name and post-office address of the judgment creditor and the judgment creditor’s attorney, if any, in this state. The judgment creditor shall file with the clerk of the court an affidavit setting forth the date upon which the notice was mailed.

(3) The proceeds of an execution may not be distributed to the judgment creditor earlier than 30 days after the date of mailing the notice of filing.”

Section 423. Section 25-9-507, MCA, is amended to read:

“25-9-507. Optional procedure. The right of a judgment creditor to bring an action to enforce ~~his~~ *the judgment creditor’s* judgment instead of proceeding under this part remains unimpaired.”

Section 424. Section 25-10-101, MCA, is amended to read:

“25-10-101. When costs allowed, of course, to plaintiff. Costs are allowed, of course, to the plaintiff upon a judgment in ~~his~~ *the plaintiff’s* favor in the following cases:

(1) in an action for the recovery of real property or damages ~~thereto~~ *to real property*;

(2) in an action to recover the possession of personal property ~~where~~ *when* the value of the property exceeds \$50; ~~such,~~ *with the value shall be* determined by the jury, court, or referee by whom the action is tried;

(3) in an action for the recovery of money or damages, exclusive of interest, when plaintiff recovers over \$50;

(4) in a special proceeding;

(5) in an action ~~which~~ *that* involves the title or possession or right of possession of real estate; ~~or~~

(6) *in an action that involves* the legality of any tax, impost, assessment, toll, or municipal fine; ~~or~~

(7) *in quo warranto* proceedings;

~~(6)~~(8) in an action to foreclose a lien or pledge, to prevent or abate a nuisance, or for an injunction; or

~~(7)~~(9) in an action for property damage arising out of the ownership, maintenance, or use of a motor vehicle if ~~he~~ *the plaintiff* is entitled to ~~attorney’s~~ *attorney fees* under 25-10-303.”

Section 425. Section 25-10-102, MCA, is amended to read:

“25-10-102. When costs allowed, of course, to defendant. Costs must be allowed, of course, to the defendant upon a judgment in ~~his~~ *the defendant’s* favor in the actions mentioned in 25-10-101.”

Section 426. Section 25-10-104, MCA, is amended to read:

“25-10-104. When costs of appeal discretionary. (1) In the following cases, the costs of appeal are in the discretion of the court:

- (a) when a new trial is ordered;
- (b) when a judgment is modified.

(2) In all other cases, the successful party shall recover from the other party ~~his~~ *the successful party’s* costs.”

Section 427. Section 25-10-107, MCA, is amended to read:

“25-10-107. Costs when tender was made before commencement of action. When, in an action for the recovery of money only, the defendant alleges in ~~his~~ *the* answer that before the commencement of the action ~~he~~ *the defendant* tendered to the plaintiff the full amount to which ~~he~~ *the plaintiff* was entitled and ~~thereupon~~ deposits in court for *the* plaintiff the amount ~~so~~ tendered and the allegation ~~be~~ *is* found to be true, the plaintiff cannot recover costs but ~~must~~ *shall* pay costs to the defendant.”

Section 428. Section 25-10-108, MCA, is amended to read:

“25-10-108. Imposing costs on party acting as representative. In an action prosecuted or defended by an executor, administrator, trustee of an express trust, or person expressly authorized by statute, costs may be recovered as in an action by and against a person prosecuting or defending in ~~his~~ *the person’s* own right; ~~but such~~ *However, the* costs must, by the judgment, be made chargeable only upon the estate, fund, or party represented unless the court directs the ~~same~~ *costs* to be paid by the plaintiff or defendant personally for mismanagement or bad faith in the action or defense.”

Section 429. Section 25-10-201, MCA, is amended to read:

“25-10-201. Costs generally allowable. A party to whom costs are awarded in an action is entitled to include in ~~his~~ *the party’s* bill of costs ~~his~~ *the party’s* necessary disbursements, as follows:

- (1) the legal fees of witnesses, including mileage, or referees and other officers;
- (2) the expenses of taking depositions;
- (3) the legal fees for publication when publication is directed;
- (4) the legal fees paid for filing and recording papers and certified copies ~~thereof~~ *of papers* necessarily used in the action or on the trial;
- (5) the legal fees paid stenographers for per diem or for copies;
- (6) the reasonable expenses of printing papers for a hearing when required by a rule of court;
- (7) the reasonable expenses of making transcript for the supreme court;
- (8) the reasonable expenses for making a map or maps if required and necessary to be used on trial or hearing; and
- (9) ~~such~~ other reasonable and necessary expenses ~~as~~ *that* are taxable according to the course and practice of the court or by express provision of law.”

Section 430. Section 25-10-303, MCA, is amended to read:

“25-10-303. Attorney’s Attorney fees — motor vehicle claim. In an action involving solely the recovery of property damages arising out of the ownership, maintenance, or use of a motor vehicle, in which the plaintiff secures a judgment equal to or greater than the amount of damages claimed by the

plaintiff in ~~his~~ *the plaintiff's* last written offer to the defendant or ~~his~~ *the defendant's* agent prior to the filing of the cause of action, the court shall allow plaintiff's reasonable ~~attorney's fee~~ *attorney fees*, which ~~shall must~~ be fixed by the court, notwithstanding any agreement between the parties to the contrary. If the defendant or ~~his~~ *the defendant's* agent fails to make any offer within 15 days of the date requested to do so by the plaintiff, the plaintiff may file the cause of action and, if successful in the action, ~~shall be is~~ entitled to ~~his~~ reasonable ~~attorney's fee~~ *attorney fees* under this ~~provision~~ *section*."

Section 431. Section 25-10-402, MCA, is amended to read:

"25-10-402. No charge for copies furnished by party. In all cases where in which copies of pleadings, affidavits, or other papers are to be served, ~~neither~~ the sheriff ~~nor~~ or clerk ~~shall may not~~ charge or receive a fee for making ~~such the~~ copies when the ~~same~~ *copies* are furnished to ~~such officer~~ *the sheriff or clerk* by the party to the action or ~~his~~ *the party's* attorney."

Section 432. Section 25-10-501, MCA, is amended to read:

"25-10-501. Bill of costs. The party in whose favor judgment is rendered and who claims ~~his~~ *the party's* costs ~~must shall~~ deliver to the clerk and serve upon the adverse party, within 5 days after the verdict or notice of the decision of the court or referee or, if the entry of the judgment on the verdict or decision ~~be is~~ stayed, then before ~~such the~~ entry is made, a memorandum of the items of ~~his~~ *the party's* costs and necessary disbursements in the action or proceeding; ~~which~~ *The* memorandum must be verified by the oath of the party, ~~his~~ *the party's* attorney or agent, or the clerk of ~~his~~ *the party's* attorney, stating that to the best of ~~his~~ *the person's* knowledge and belief, the items are correct and that the disbursements have been necessarily incurred in the action or proceeding."

Section 433. Section 25-10-503, MCA, is amended to read:

"25-10-503. How costs on appeal claimed. Whenever costs are awarded to a party by an appellate court, if ~~he~~ *the party* claims ~~such the~~ costs, ~~he must the~~ *party shall*, within 30 days after the remittitur is filed with the clerk ~~below in the~~ *original proceeding*, deliver to ~~such the~~ clerk a memorandum of ~~his~~ *the party's* costs, verified as prescribed in 25-10-501, and ~~thereafter he then the~~ *party* may have an execution ~~therefor~~ *for the costs* as upon a judgment."

Section 434. Section 25-10-504, MCA, is amended to read:

"25-10-504. Clerk to include costs in judgment. The clerk ~~must shall~~ include in the judgment entered ~~up~~ by ~~him~~ *the clerk* the costs, if the ~~same~~ *costs* have been taxed or ascertained; ~~and he must~~ *The clerk shall*, within 2 days after the ~~same~~ *costs* are taxed or ascertained, if not included in the judgment, insert the ~~same~~ *costs* in a blank left in the judgment for that purpose and ~~must shall~~ make a similar insertion of the costs in the copies and docket of the judgment."

Section 435. Section 25-10-711, MCA, is amended to read:

"25-10-711. Award of costs against governmental entity when suit or defense is frivolous or pursued in bad faith. (1) In any civil action brought by or against the state, a political subdivision, or an agency of the state or a political subdivision, the opposing party, whether plaintiff or defendant, is entitled to the costs enumerated in 25-10-201 and reasonable ~~attorney's~~ *attorney fees* as determined by the court if:

(a) ~~he~~ *the opposing party* prevails against the state, political subdivision, or agency; and

(b) the court finds that the claim or defense of the state, political subdivision, or agency that brought or defended the action was frivolous or pursued in bad faith.

(2) Costs may be granted pursuant to subsection (1) notwithstanding any other provision of the law to the contrary.”

Section 436. Section 25-11-102, MCA, is amended to read:

“25-11-102. Grounds for new trial. The former verdict or other decision may be vacated and a new trial granted on the application of the party aggrieved for any of the following causes materially affecting the substantial rights of ~~such~~ *the party*:

(1) irregularity in the proceedings of the court, jury, or adverse party or any order of the court or abuse of discretion by which either party was prevented from having a fair trial;

(2) misconduct of the jury. Whenever any one or more of the jurors have been induced to assent to any general or special verdict or to a finding on any question submitted to them by the court by a resort to the determination of chance, ~~such~~ *the* misconduct may be proved by the affidavit of any one of the jurors.

(3) accident or surprise ~~which~~ *that* ordinary prudence could not have guarded against;

(4) newly discovered evidence material for the party making the application ~~which he~~ *that the party* could not, with reasonable diligence, have discovered and produced at the trial;

(5) excessive damages appearing to have been given under the influence of passion or prejudice;

(6) insufficiency of the evidence to justify the verdict or other decision or that it is against law;

(7) error in law occurring at the trial and excepted to by the party making the application.”

Section 437. Section 25-13-103, MCA, is amended to read:

“25-13-103. Execution after death of a party. Notwithstanding the death of a party after the judgment, execution ~~thereon~~ *on the judgment* may be issued or it may be enforced as follows:

(1) In case of the death of the judgment creditor, it may be enforced upon the application of ~~his~~ *the creditor's* executor, ~~or~~ administrator, or successor in interest.

(2) In case of the death of the judgment debtor, if the judgment ~~be is~~ for the recovery of real or personal property or the enforcement of a lien ~~thereon~~ *on the property*, execution may be issued with the same effect as if ~~he~~ *the debtor* were still living.”

Section 438. Section 25-13-104, MCA, is amended to read:

“25-13-104. Compelling contribution or repayment — joint debtor, — surety. (1) When property liable to an execution against several persons is sold ~~thereon~~ *upon execution* and more than a due proportion of the judgment is satisfied out of the proceeds of the sale of property of one of them or one of them pays, without a sale, more than ~~his~~ *the person's* proportion, ~~he~~ *the person* may compel contribution from the others; ~~and when~~ *When* a judgment is against several *persons* and is upon an obligation of one of them as surety for another and the surety pays the amount or any part ~~thereof~~ *of the amount*, either by sale

of ~~his~~ *the surety's* property or before sale, ~~he~~ *the surety* may compel repayment from the principal.

(2) In ~~such~~ *the case described in subsection (1)*, the person ~~so~~ paying or contributing is entitled to the benefit of the judgment to enforce contribution or repayment if, within 10 days after ~~his~~ *the person's* payment, ~~he~~ *file the person files* with the clerk of the court where judgment was rendered notice of ~~his~~ payment and *a* claim to contribution or repayment. Upon the filing of ~~such~~ *the* notice, the clerk ~~must shall~~ make an entry ~~thereof of the notice~~ in the margin of the docket."

Section 439. Section 25-13-105, MCA, is amended to read:

"25-13-105. Compelling repayment — surety on appeal. Whenever any surety on an undertaking on appeal, executed to stay proceedings upon a money judgment, pays the judgment, either with or without action, after its affirmation by the appellate court, ~~he~~ *the surety* is substituted to the rights of the judgment creditor and is entitled to control, enforce, and satisfy ~~such~~ *the* judgment in all respects as if ~~he~~ *the surety* had recovered the ~~same~~ *judgment*."

Section 440. Section 25-13-201, MCA, is amended to read:

"25-13-201. Judgments for money or the possession of property. When the judgment is for money or the possession of real or personal property, the ~~same~~ *judgment* may be enforced by a writ of execution; ~~and if~~ *If* the judgment ~~direct~~ *directs* that the defendant be arrested, the execution may issue against the person of the judgment debtor after the return of an execution against ~~his~~ *the judgment debtor's* property unsatisfied in whole or in part."

Section 441. Section 25-13-205, MCA, is amended to read:

"25-13-205. Judgments against county or county officer. When a judgment is rendered against the county or against any county officer in an action prosecuted against ~~him~~ *the officer* in ~~his~~ *the officer's* name of office, when the ~~same~~ *judgment* is to be paid by the county, ~~no~~ execution ~~must~~ *may not* issue upon the judgment, but the ~~same~~ *judgment* must be paid *in the same manner* as other county charges. When ~~so~~ collected, the ~~same~~ *judgment* must be paid by the county treasurer to the proper person to whom the ~~same~~ *judgment* is ~~adjudged~~ *issued*, upon the delivery of a proper voucher ~~therefor~~ *for payment*."

Section 442. Section 25-13-302, MCA, is amended to read:

"25-13-302. Execution against principal debtor before surety. Upon the rendition of any judgment, if it ~~shall be~~ *is* shown that one or more of the defendants against whom the judgment is to be rendered are principal debtors and others of the ~~said~~ defendants are sureties of ~~such~~ *the* principal debtor, the court may order the judgment ~~so~~ to state; *that fact.* ~~and upon~~ *Upon* the issuance of an execution upon ~~such~~ *the* judgment, ~~it shall~~ *the execution must* direct the sheriff or levying officer to make the amount due ~~thereon~~ *on the judgment* out of the goods and chattels, lands, and tenements of the principal debtor or debtors or, if sufficient ~~thereof~~ *amount* cannot be found within ~~his~~ *the principal judgment debtor's* county to satisfy the ~~same~~ *judgment*, to levy and make the ~~same~~ *execution* out of the property, personal or real, of the judgment debtor who was surety."

Section 443. Section 25-13-304, MCA, is amended to read:

"25-13-304. Execution against property of judgment debtor. If the writ ~~be~~ *is* against the property of the judgment debtor, ~~it shall~~ *the writ must* require the sheriff or levying officer to satisfy the judgment, with interest, out of

the personal property of ~~such~~ *the* debtor and, if sufficient personal property cannot be found, out of ~~his~~ *the debtor's* real property as provided in 25-13-305."

Section 444. Section 25-13-308, MCA, is amended to read:

"25-13-308. Execution against person of judgment debtor. If the writ ~~be is~~ against the person of the judgment debtor, it must require the sheriff to arrest ~~such~~ *the* debtor and commit ~~him~~ *the debtor* to the jail of the county until ~~he~~ *pay the debtor pays* the judgment, with interest, or ~~be is~~ discharged, according to law."

Section 445. Section 25-13-405, MCA, is amended to read:

"25-13-405. Clerk to record returned execution when levy on real property. If any real estate ~~be is~~ levied upon, the clerk ~~must~~ *shall* record the execution and the return ~~thereto~~ *of the execution* at large and certify the ~~same~~ *execution and return under his hand* as true copies in a book to be called the "execution book", which must be indexed, with the names of the plaintiffs and defendants in execution alphabetically arranged, and kept open at all times during office hours for the inspection of the public, without charge. It is evidence of the contents of the originals whenever they or any part ~~thereof~~ *of the originals* may be destroyed or mutilated."

Section 446. Section 25-13-502, MCA, is amended to read:

"25-13-502. Debts owed to judgment debtor. After the issuing of an execution against property and before its return, ~~any a~~ person indebted to the judgment debtor may pay to the sheriff the amount of ~~his~~ *the person's* debt or ~~so~~ *as much thereof of the debt* as ~~may be is~~ necessary to satisfy the execution; ~~and~~ *the* The sheriff's receipt is sufficient discharge for the amount ~~so~~ paid."

Section 447. Section 25-13-506, MCA, is amended to read:

"25-13-506. Duty of secured party. (1) The secured party under any security agreement of record ~~shall is required~~, upon 15 days' notice in writing served upon ~~him~~ *the party* in person by any creditor of the debtor seeking to satisfy a judgment of ~~such~~ *the* creditor against the debtor, ~~be required~~ to make and file in the office of the county clerk and recorder or other filing officer with whom the financing statement covering the security agreement is filed an affidavit showing the amount of the indebtedness then actually due and owing to the secured party; ~~and such~~ *The* affidavit ~~shall must~~ state the amount of the original obligation for which the security agreement was given as security, all additional advancement of money or property on the principal obligation since the date of the execution of the security agreement, all payments of ~~whatsoever~~ *kind*, whether on principal or interest, made by the debtor to the date of the execution of ~~such~~ *the* affidavit by the secured party, and the balance then remaining due and unpaid to the secured party. If within 15 days from the service of any ~~such~~ demand in writing on the secured party by any creditor of the debtor; the secured party ~~shall fail fails, refuse refuses, or neglect neglects~~ to file the affidavit ~~herein required~~, the security agreement ~~shall be is~~ of no ~~force or~~ effect as against ~~such~~ *the* creditor upon the seizure of any ~~such~~ personal property on execution.

(2) ~~In the event~~ *If* the amount shown to be due is paid to the county treasurer, ~~or to a filing officer, as aforesaid,~~ or to the secured party in satisfaction of the security agreement by any execution creditor against the debtor, the secured party ~~shall be is~~ required to surrender to the county treasurer or ~~such~~ *the* filing officer the security agreement and any note or other evidence of indebtedness secured ~~thereby,~~ *by the agreement note, or other evidence of indebtedness.* ~~which~~ *The* security agreement or other evidence of

indebtedness shall *must* be delivered by the secured party, county treasurer, or filing officer to the execution creditor.”

Section 448. Section 25-13-610, MCA, is amended to read:

“25-13-610. Tracing exempt personal property. (1) If money or other property exempt under 25-13-608 and 25-13-609 has been sold or has been lost, damaged, or destroyed and the judgment debtor has been indemnified for ~~it~~ *the property*, ~~he~~ *the debtor* is entitled for 6 months to an exemption of proceeds that are traceable, ~~(for example, such as in a bank or savings account).~~

(2) Earnings exempt under 25-13-614 remain exempt for 45 days after receipt by and while in the possession of the judgment debtor in a form into which the exempt earnings are traceable ~~(for example, in a bank or savings account).~~

(3) Proceeds are traceable under this section by application of the principles of first-in first-out, last-in first-out, or any other reasonable basis for tracing selected by the judgment debtor.”

Section 449. Section 25-13-614, MCA, is amended to read:

“25-13-614. Earnings of judgment debtor. (1) Earnings of a judgment debtor that are not subject to garnishment, as provided in this section, are exempt.

(2) Except as provided in subsections (3) and (4), the maximum part of the aggregate disposable earnings of a judgment debtor for any workweek that is subjected to garnishment may not exceed the lesser of:

(a) the amount by which ~~his~~ *the debtor's* disposable earnings for the week exceed 30 times the federal minimum hourly wage in effect at the time the earnings are payable; or

(b) 25% of ~~his~~ *the debtor's* disposable earnings for that week.

(3) The restrictions of subsection (2) do not apply in the case of an order or judgment for the maintenance or support of any person, issued by a court of competent jurisdiction or pursuant to an administrative procedure that is established by state law, affords substantial due process, and is subject to judicial review.

(4) (a) The maximum part of the aggregate disposable earnings of a judgment debtor for any workweek that is subject to garnishment to enforce an order described in subsection (3) may not exceed:

(i) 50% of the judgment debtor's disposable earnings for that week if ~~he~~ *the debtor* is supporting ~~his~~ *the debtor's* spouse or dependent child, ~~(other than a spouse or child for whom the order is issued);~~ or

(ii) 60% of the judgment debtor's disposable earnings for that week if ~~he~~ *the debtor* is not supporting a spouse or dependent child described in subsection (4)(a)(i).

(b) However, the amount stated in subsection (4)(a)(i) may be 55% and the amount stated in subsection (4)(a)(ii) may be 65% if ~~such~~ *the* earnings are being garnished to enforce an order for maintenance or support for a period prior to the 12-week period that ends with the beginning of ~~such~~ *the* workweek.

(5) For the purposes of this section, the definitions of earnings, disposable earnings, and garnishment are as set forth in 15 U.S.C. 1672.”

Section 450. Section 25-13-702, MCA, is amended to read:

“25-13-702. Penalty for selling without notice or destruction of notice. An officer selling without the notice prescribed by 25-13-701 forfeits \$500 to the aggrieved party in addition to ~~his~~ *the party's* actual damages; ~~and a~~ A person willfully taking down or defacing the notice posted, if done before the sale or satisfaction of the judgment, (if the judgment ~~be~~ *is* satisfied before sale), forfeits \$500.”

Section 451. Section 25-13-704, MCA, is amended to read:

“25-13-704. Conduct of sale. (1) All sales of property under execution must be made at auction to the highest bidder, between the hours of 9 a.m. and 5 p.m. After sufficient property has been sold to satisfy the execution, no more *property can* ~~may~~ be sold. ~~Neither the~~ *The* officer holding the execution ~~nor his or the officer's~~ deputy ~~can~~ *may not* become a purchaser or be interested in any purchase at ~~such~~ *the* sale.

(2) When the sale is of personal property capable of manual delivery, it must be within view of those who attend the sale and *must* be sold in ~~such~~ parcels as *that* are likely to bring the highest price; ~~and when~~ *When* the sale is of real property consisting of several known lots or parcels, ~~they~~ *the lots or parcels* must be sold separately, or when a portion of ~~such~~ *the* real property is claimed by a third person and ~~he~~ *the person* requires it to be sold separately, ~~such~~ *that* portion must be ~~thus~~ sold *separately*. The judgment debtor, if present at the sale, may also direct the order in which property, real or personal, ~~shall~~ *must* be sold when ~~such~~ *the* property consists of several known lots or parcels or of articles ~~which~~ *that* can be sold to advantage separately, and the sheriff ~~must~~ *shall* follow ~~such~~ *the* directions.”

Section 452. Section 25-13-705, MCA, is amended to read:

“25-13-705. Procedure when purchaser refuses to pay. If a purchaser refuses to pay the amount bid by ~~him~~ *the purchaser* for the property ~~struck off~~ sold to ~~him~~ *the purchaser* at a sale under execution, the officer may again sell the property at any time to the highest bidder, and if any loss ~~be~~ *is* occasioned ~~thereby~~ *by the subsequent sale*, the officer may recover the amount of ~~such~~ *the* loss, with costs, from the bidder ~~so~~ refusing *to pay*, in any court of competent jurisdiction; ~~and the~~ *The* person refusing to pay the costs ~~which~~ *that* have accrued by reason of ~~his~~ *the unpaid* bid ~~shall be deemed~~ *is* guilty of contempt of court and *may be* punished accordingly.”

Section 453. Section 25-13-706, MCA, is amended to read:

“25-13-706. Rejection of subsequent bids after refusal to pay. When a purchaser refuses to pay, the officer may, ~~in his discretion,~~ *thereafter* reject any subsequent bid of ~~such~~ *that* purchaser.”

Section 454. Section 25-13-713, MCA, is amended to read:

“25-13-713. Procedure when sale invalidated, — revival of judgment. (1) If the purchaser of real property sold on execution or ~~his~~ *the purchaser's* successor in interest ~~be~~ *is* evicted ~~therefrom~~ *in consequence from the property* because of irregularities in the proceedings concerning the sale or of the reversal or discharge of the judgment, ~~he~~ *the purchaser* may recover the price paid, with interest, from the judgment creditor.

(2) If the purchaser of property at a sheriff's sale or ~~his~~ *the purchaser's* successor in interest ~~fail~~ *fails* to recover possession ~~in consequence~~ *because of* irregularity in the proceedings concerning the sale or because the property sold was not subject to execution and sale, the court having jurisdiction ~~thereof~~ shall, on petition of ~~such~~ *the* party in interest or ~~his~~ *the party's* attorney, revive the

original judgment for the amount paid by ~~such~~ *the* purchaser at the sale, with interest ~~thereon on the judgment~~ from the time of payment at the same rate that the original judgment bore. When so revived, the ~~said~~ judgment ~~shall have~~ *has* the same effect as an original judgment of the ~~said~~ court of that date, bearing interest as ~~aforsaid; and any provided in this subsection.~~ *Any other or after-acquired property, rents, issues, or profits of the said debtor shall be liable is subject to levy and sale under execution in satisfaction of such the debt, but no* *However*, property of ~~such the~~ debtor sold bona fide before the filing of ~~such the~~ petition ~~shall be~~ *is not* subject to the lien of ~~said the~~ judgment. The notice of the filing of ~~such the~~ petition ~~shall must~~ be made by filing a notice ~~thereof~~ in the office of the county clerk where ~~such the~~ property ~~may be is~~ situated, and ~~said the~~ judgment ~~shall must~~ be revived in the name of the original plaintiff or plaintiffs for the use of ~~said the~~ petitioner, the party in interest.”

Section 455. Section 25-13-801, MCA, is amended to read:

“25-13-801. Who may redeem — definition. (1) Property sold subject to redemption, as provided by 25-13-710, or any part sold separately may be redeemed in the manner ~~hereinafter~~ *provided in this part* by the following persons or their successors in interest:

(a) the judgment debtor, the judgment debtor’s spouse, or ~~his the judgment debtor’s~~ successor in interest in the whole or any part of the property and, if the judgment debtor or successor ~~be is~~ a corporation, a stockholder ~~thereof of the corporation;~~

(b) a creditor having a lien by judgment, mortgage, or attachment on the property sold or on some share or part ~~thereof of the property~~ subsequent to that on which the property is sold. If a corporation ~~be such is the~~ creditor, then any stockholder ~~thereof of the corporation~~ may redeem.

(2) The persons mentioned in subsection (1)(b) ~~of this section~~ are, in this part, termed “redemptioners”.”

Section 456. Section 25-13-802, MCA, is amended to read:

“25-13-802. Time for redemption — amount to be paid. The judgment debtor or redemptioner may redeem the property from the purchaser any time within 1 year after the sale on paying the purchaser:

(1) the amount of ~~his the~~ purchase with interest at a rate established by the judgment in the action that led to the execution sale, up to the time of redemption;

(2) the amount of any assessment or taxes ~~which that~~ the purchaser may have paid ~~thereon on the property~~ after purchase and interest on ~~such that~~ amount;

(3) the amount of any repairs, maintenance expenses, or other expenditures that the purchaser may reasonably have made after purchase for the maintenance of the property, with interest on the amounts from the date of expenditure; and

(4) if the purchaser is also a creditor having a prior lien to that of the redemptioner other than the judgment under which ~~such the~~ purchase was made, the amount of ~~such the~~ lien with interest.”

Section 457. Section 25-13-803, MCA, is amended to read:

“25-13-803. Subsequent redemptions — when permitted; — amount paid. (1) If property ~~be so is~~ redeemed by a redemptioner, another redemptioner may, within 60 days after the last redemption, again redeem ~~it the~~ *property* from

the last redemptioner on paying the sum on ~~such~~ *the* last redemption with interest ~~thereon~~ at the rate established by the judgment in the action that led to the execution sale, the amount of any assessment or taxes ~~which~~ *that* the last redemptioner may have paid ~~thereon on the property~~ after the redemption by ~~him~~ *the last redemptioner* with ~~like~~ interest *at the same rate* on ~~such~~ *that* amount, and the amount of any liens held by the ~~said~~ last redemptioner prior to ~~his~~ *the last redemptioner's* own lien, with interest; ~~but~~ *However*, the judgment under which the property was ~~so~~ sold need not be ~~so~~ paid as a lien. The property may be again, and as often as any redemptioner is ~~so~~ disposed, redeemed from any previous redemptioner, within 60 days after the last redemption, ~~on~~ *by* paying the sum paid on the last previous redemption with interest ~~thereon on the sum~~ at the rate established by the judgment in the action that led to the execution sale, the amount of any assessment or taxes ~~which~~ *that* the last previous redemptioner paid after the redemption by ~~him~~ *the last previous redemptioner* with ~~like~~ interest ~~thereon at the same rate~~, and the amount of any liens, other than the judgment under which the property was sold, held by the last redemptioner previous to ~~his~~ *the last redemptioner's* own lien, with ~~like~~ interest *at the same rate*.

(2) If the judgment debtor or the judgment debtor's spouse redeem, the judgment debtor or the spouse ~~must~~ *shall* make the same payments ~~as that are~~ required to effect a redemption by a redemptioner."

Section 458. Section 25-13-804, MCA, is amended to read:

"25-13-804. Redemption by stockholder or corporation. (1) If a stockholder of a corporation redeems, the corporation, within 1 year after the date of sale, may redeem by paying to the redemptioner or the sheriff for ~~his~~ *the stockholder's* benefit the amount paid to effect the redemption, with interest ~~thereon on that amount~~ at the rate established by the judgment in the action that led to the execution sale from the date of redemption until the date of ~~such~~ payment, together with any taxes or assessments that may have been paid by the redemptioner, with ~~like~~ interest ~~thereon at the same rate on the amount of the payment~~.

(2) When a stockholder redeems, any other stockholder or stockholders may, at any time after ~~such~~ *the* redemption and within 60 days after the expiration of 1 year from the date of sale, contribute to the redemption by paying to the redeeming stockholder or depositing with the sheriff for ~~his~~ *the redeeming stockholder's* benefit a sum ~~which~~ *that* bears the same proportion to the amount necessary to redeem ~~which~~ *that* the number of shares owned by ~~such~~ *the* contributing stockholder or stockholders bears to the number of shares of ~~such~~ *the* corporation outstanding, with interest on ~~such~~ *the* sum from the date of redemption until the date of contribution at the rate established by the judgment in the action that led to the execution sale, together with a ~~like~~ *similar* proportion of the taxes or assessments paid by ~~such~~ *the* redeeming stockholder, with ~~like~~ interest ~~thereon; at the same rate~~. ~~and if~~ *If* the corporation does not redeem the property within the time and in the manner and form as ~~aforsaid~~ *described in this section*, the ~~said~~ redeeming and contributing stockholders ~~shall~~ *be* entitled to receive a sheriff's deed for ~~such~~ *the* property ~~so~~ redeemed and shall succeed to the ~~said~~ property as tenants in common in ~~such~~ *the* proportions, respectively, ~~as that~~ they shall respectively pay or contribute to ~~such~~ *the* redemption ~~as aforsaid~~. The redeeming or contributing stockholder shall, in all cases when applying to redeem or contribute ~~as aforsaid~~, present an affidavit setting forth the number of shares of stock owned by ~~him~~ *the stockholder* and, to

the best of ~~his~~ *the stockholder's* knowledge, the number of shares of stock of the corporation outstanding.”

Section 459. Section 25-13-806, MCA, is amended to read:

“25-13-806. Notice of redemption, liens, and taxes and assessments paid. Written notice of redemption must be given to the sheriff and a duplicate filed with the county clerk, and if any taxes or assessments are paid by the redemptioner or if ~~he~~ *the redemptioner* has or acquired any liens other than that upon which the redemption was made, notice ~~thereof~~ must in ~~like the same~~ manner be given to the sheriff and filed with the county clerk, ~~and if such~~ *If the* notice ~~be is~~ not filed, the property may be redeemed without paying ~~such~~ *the* tax, assessments, or lien.”

Section 460. Section 25-13-807, MCA, is amended to read:

“25-13-807. Papers redemptioner must produce. A redemptioner ~~must~~ *shall* produce, to the officer or person from whom ~~he~~ *the redemptioner* seeks to redeem, and serve with ~~his~~ *the* notice to the sheriff:

(1) *(a)* a copy of the docket of the judgment under which ~~he~~ *the redemptioner* claims the right to redeem, certified by the clerk of the court or by the clerk of the district court in the county where the judgment is docketed;

(b) ~~or if he redeem~~ upon a mortgage or other lien, a note of the record ~~thereof~~ *of the mortgage or lien*, certified by the county clerk; or

(c) if upon an attachment, a copy of the affidavit of attachment, certified by the clerk of the district court;

(2) a copy of any assignment necessary to establish ~~his~~ *the redemptioner's* claim, verified by the affidavit of ~~himself~~ *the redemptioner* or of a subscribing witness ~~thereto~~;

(3) an affidavit by ~~himself~~ *the redemptioner* or ~~his~~ *the redemptioner's* agent showing the amount then actually due upon the lien.”

Section 461. Section 25-13-808, MCA, is amended to read:

“25-13-808. To whom redemption money paid. The payment mentioned in 25-13-802 through 25-13-806 may be made to the purchaser or redemptioner, as the case may be, or for ~~him~~ *the petitioner or redemptioner* to the officer who made the sale or, ~~in case his~~ *if the officer's* term of office has expired, to ~~his~~ *the* successor in office.”

Section 462. Section 25-13-809, MCA, is amended to read:

“25-13-809. Effect of redemption by debtor or debtor's spouse — certificate of redemption. (1) If the debtor ~~redeem~~ *redeems*, the effect of the sale is terminated and the debtor is restored to ~~his~~ *the debtor's* own estate. If the spouse ~~redeem~~ *redeems*, ~~such~~ *the* spouse ~~shall~~ *must* become the owner of the debtor spouse's interest, subject to any liens ~~thereon~~ *on the property* at the time of the execution sale.

(2) Upon a redemption by a debtor or the debtor's spouse, the person to whom the payment was made ~~must~~ *shall* execute and deliver to ~~him~~ *the debtor* or ~~her~~ *the judgment debtor's spouse* a certificate of redemption, acknowledged or proved before an officer authorized to take acknowledgments of conveyances of real property. ~~Such~~ *The* certificate must be filed and recorded in the office of the county clerk of the county in which the property is situated, and the county clerk ~~must~~ *shall* note the record ~~thereof~~ *of the certificate of redemption* in the margin of the record of the certificate of sale.”

Section 463. Section 25-13-810, MCA, is amended to read:

“25-13-810. When purchaser entitled to conveyance. If ~~no~~ a redemption ~~be~~ *is not* made within 1 year after the sale, the purchaser or ~~his~~ *the purchaser's* assignee is entitled to a conveyance; ~~or if so~~ *If* redeemed, whenever 60 days have elapsed and no other redemption has been made and notice ~~thereof~~ *of redemption* is given and the time for redemption has expired, the last redemptioner or ~~his~~ *the redemptioner's* assignee is entitled to a sheriff's deed; ~~but in~~ *In* all cases, the judgment debtor ~~shall have~~ *has* the entire period of 1 year from the date of the sale to redeem the property.”

Section 464. Section 25-13-811, MCA, is amended to read:

“25-13-811. Who to execute conveyance. In all cases when, under the provisions of this chapter, a purchaser of property at execution sale ~~shall be~~ *is* entitled to a conveyance of the ~~same~~ *property*, ~~such~~ *the* conveyance ~~shall~~ *must* be executed to ~~him~~ *the purchaser* by the officer who made the sale if ~~he~~ *the officer* is still ~~be~~ *is* in office, but ~~in the case~~ *if* the officer who made ~~such~~ *the* sale is not in office at the time the purchaser may be entitled to ~~such~~ *the* conveyance, then the conveyance ~~shall~~ *must* be executed by ~~his~~ *the officer's* successor in office.”

Section 465. Section 25-13-821, MCA, is amended to read:

“25-13-821. Possession of lands during redemption period. The purchaser of ~~lands~~ *land* at execution sales is not entitled to the possession ~~thereof~~ *of the land* as against the execution debtor during the period of redemption allowed by law while ~~said~~ *the* execution debtor personally occupies the land as a home for ~~himself~~ *the debtor* and ~~his~~ *the debtor's* family. The intention ~~hereof~~ *being of this section* is to ~~insure~~ *ensure* to ~~such~~ *the* debtor the possession of ~~his~~ *the debtor's* land during the year of redemption.”

Section 466. Section 25-13-822, MCA, is amended to read:

“25-13-822. Rents and profits during redemption period; — accounting. (1) The purchaser, from the time of the sale until a redemption, and a redemptioner, from the time of ~~his~~ *the redemptioner's* redemption until another redemption, are entitled to receive from the tenant in possession the rents of the property sold or the value of the use and occupation ~~thereof~~ *of the property*. ~~But~~ *However*, when any rents or profits have been received by the judgment creditor or purchaser or ~~his~~ *the creditor's* or ~~their~~ *purchaser's* assigns from the property ~~thus~~ *sold* preceding ~~such~~ *the* redemption, the amount of ~~such~~ *the* rents and profits ~~shall~~ *must* be a credit upon the redemption money to be paid. Any payments made under 25-13-802(2) and (3) must be subtracted from the credit for rents and profits.

(2) If the redemptioner or judgment debtor, before the expiration of the time allowed for ~~such~~ *redemption*, demands in writing of ~~such~~ *the* purchaser or creditor or ~~his~~ *the purchaser's* or *creditor's* assigns a written and verified statement of the amount of ~~such~~ *the* rents and profits ~~thus~~ *received*, the period for redemption is extended 5 days after ~~such~~ *the* sworn statement is given by ~~such~~ *the* purchaser or ~~his~~ *the purchaser's* assigns to ~~such~~ *the* redemptioner or debtor. If ~~such~~ *the* purchaser or ~~his~~ *the purchaser's* assigns ~~shall~~, for a period of 1 month from and after ~~such~~ *the* demand, ~~fail~~ *fails* or ~~refuse~~ *refuses* to give ~~such~~ *the* statement, ~~such~~ *the* redemptioner or debtor may bring an action in any court of competent jurisdiction to compel an accounting and disclosure of ~~such~~ *the* rents and profits, and until 15 days from and after the final determination of ~~such~~ *the* action, the right of redemption is extended to ~~such~~ *the* redemptioner or debtor.”

Section 467. Section 25-13-823, MCA, is amended to read:

“25-13-823. Restraint of waste during redemption period. Until the expiration of the time allowed for redemption, the court may restrain the commission of waste on the property, by order granted with or without notice, on the application of the purchaser or the judgment creditor. ~~But~~ *However*, it is not waste for the person in possession of the property at the time of sale or entitled to possession afterward, during the period allowed for redemption, to continue to use ~~it~~ *the property* in the same manner in which it was previously used, to use it in the ordinary course of husbandry, to make the necessary repairs of buildings ~~thereon on the property~~, or to use wood or timber on the property ~~therefor for the repair of buildings on the property~~, ~~or~~ for the repair of fences, or for fuel for ~~his the person's family while he the person occupies the property.~~”

Section 468. Section 25-13-825, MCA, is amended to read:

“25-13-825. Damages for injury to property after sale and before conveyance. When real property has been sold on execution, the purchaser ~~thereof~~ or any person who may have succeeded to ~~his the purchaser's~~ interest may, after ~~his the purchaser's~~ estate becomes absolute, recover damages for injury to the property by the tenant in possession after sale and before possession is delivered under the conveyance.”

Section 469. Section 25-14-102, MCA, is amended to read:

“25-14-102. Procedure when debtor withholding property from execution;— arrest. (1) After the issuing of an execution against property and upon proof, by affidavit of a party or otherwise, to the satisfaction of a judge of the court that any judgment debtor has property ~~which he~~ *that the judgment debtor* unjustly refuses to apply toward the satisfaction of the judgment, ~~such the judge may~~, by an order, require the judgment debtor to appear at a specified time and place before ~~such the judge~~ or a referee appointed by ~~him the judge~~ to answer concerning the ~~same; refusal. and such proceedings~~ *Proceedings* may ~~thereupon~~ be had for the application of the property of the judgment debtor toward the satisfaction of the judgment ~~as that~~ are provided ~~for~~ upon the return of an execution.

(2) Instead of the order requiring the attendance of the judgment debtor, the judge may, upon affidavit of the judgment creditor or ~~his the judgment creditor's~~ agent or attorney, if it ~~appear~~ *appears* to ~~him the judge~~ that there is danger of the debtor absconding, order the sheriff to arrest the debtor and bring ~~him the debtor~~ before ~~such the judge~~. Upon being brought before the judge, ~~he the judgement debtor~~ may be ordered to enter into an undertaking with sufficient surety that ~~he the judgment debtor~~ will attend from time to time before the judge or referee, as may be directed during the pendency of proceedings and until the final determination ~~thereof of the proceedings~~, and will not in the meantime dispose of any portion of ~~his the judgment debtor's~~ property ~~that is~~ not exempt from execution. In default of entering into ~~such the~~ undertaking, ~~he the judgment debtor~~ may be committed to prison.”

Section 470. Section 25-14-103, MCA, is amended to read:

“25-14-103. Debtors of judgment debtor and those holding his debtor's property to answer. After the issuing or return of an execution against property of the judgment debtor or of any one of several debtors in the same judgment; or upon proof, by affidavit or otherwise, to the satisfaction of the judge that any person or corporation has property of ~~such the judgment debtor~~ or is indebted to ~~him the judgment debtor~~ in an amount exceeding \$50, the judge may, by an order, require ~~such the~~ person or corporation or any officer or member ~~thereof of the corporation~~ to appear at a specified time and place before

him *the judge* or a referee appointed by him *the judge* and answer concerning the same debt.”

Section 471. Section 25-14-104, MCA, is amended to read:

“25-14-104. Procedure when debt to or ownership of judgment debtor denied. If it ~~appear~~ *appears* that a person or corporation alleged to have property of the judgment debtor or to be indebted to him *the judgment debtor* claims an interest in the property adverse to him *the judgment debtor* or denies the debt, the court or judge may authorize, by an order made to that effect, the judgment creditor to institute an action against ~~such the~~ *the* person or corporation for the recovery of ~~such the~~ *the* interest or debt; ~~and the~~ *The* court or judge may, by order, forbid a transfer or other disposition of ~~such the~~ *the* interest or debt until an action can be commenced and prosecuted to judgment. ~~Such The~~ *The* order may be modified or vacated by the judge granting the ~~same order~~ *order* or the court in which the action is brought, at any time, upon ~~such terms as that may be~~ *are just*.”

Section 472. Section 25-14-106, MCA, is amended to read:

“25-14-106. Immunity of witnesses to criminal proceedings. A party or witness examined in proceedings authorized by parts 1 and 2 of this chapter is not excused from answering a question on the ground that ~~his the party's or witness's~~ *his the party's or witness's* examination will tend to convict him *the party or witness* of the commission of a fraud or to prove that ~~he the party or witness~~ *he the party or witness* has been a party or privy to or knowing of a conveyance, assignment, transfer, or other disposition of property for any purpose or that ~~he the party or witness~~ *he the party or witness* or any other person claims to be entitled, as against the judgment creditor or a receiver appointed or to be appointed in the proceedings, to hold property derived from or through the judgment debtor or to be discharged from the payment of a debt ~~which that~~ *which that* was due to the judgment debtor or to a person in ~~his the judgment debtor's~~ *his the judgment debtor's* behalf. ~~But~~ *However*, an answer cannot be used as evidence against the person ~~so~~ *answering* in a criminal action or criminal proceeding.”

Section 473. Section 25-14-108, MCA, is amended to read:

“25-14-108. Contempt to disobey referee's orders. If any person, party, or witness ~~disobey~~ *disobeys* an order of the referee, properly made in the proceedings before him *the referee* under parts 1 and 2 of this chapter, ~~he the person, party, or witness~~ *he the person, party, or witness* may be punished by the court or judge ordering the reference for a contempt.”

Section 474. Section 25-14-201, MCA, is amended to read:

“25-14-201. Appointment of receiver — notice. At any time after making an order requiring the judgment debtor or any other person to attend and be examined, as prescribed in parts 1 and 2 of this chapter, the judge may make an order appointing a receiver of the property of the judgment debtor. At least 2 days' notice of the application for the order appointing a receiver must be given personally to the judgment debtor unless the judge is satisfied that ~~he the judgment debtor~~ *he the judgment debtor* cannot, with reasonable diligence, be found within the state, in which case the order must recite that fact and may dispense with notice or direct notice to be given in any manner ~~which that~~ *which that* the judge thinks proper. ~~But~~ *However*, ~~where when~~ *where when* the order to attend and be examined has been served upon the judgment debtor, a receiver may be appointed upon the return day ~~thereof of the service~~ *thereof of the service* or at the close of the examination without further notice to him *the judgment debtor*.”

Section 475. Section 25-14-204, MCA, is amended to read:

“25-14-204. When property vests in receiver. The property of the judgment debtor is vested in a receiver who has ~~duly~~ qualified from the time of filing the order appointing ~~him~~ *the receiver*, subject to the following exceptions:

(1) Real property is vested in the receiver only from the time when the order is filed with the clerk of the court or a certified copy ~~thereof of the order~~, as the case may be, is filed with the clerk of the county where it is situated.

(2) ~~Where~~ *When* the judgment debtor, at the time when the order is filed, resides in another county of the state, ~~his~~ *the judgment debtor's* personal property is vested in the receiver only from the time when a copy of the order, certified by the clerk in whose office it is filed, is filed with the clerk of the district court of the county where ~~he~~ *the judgment debtor* resides.”

Section 476. Section 25-14-205, MCA, is amended to read:

“25-14-205. Relation back of receiver's title. (1) ~~Where~~ *When* the receiver's title to personal property has become vested, as prescribed in 25-14-204, it also extends back by relation for the benefit of the judgment creditor in whose behalf the proceedings were instituted, as follows:

(a) ~~Where~~ *When* an order requiring the judgment debtor to attend and be examined has been served before the appointment of a receiver or the judgment debtor has been brought before the judge on arrest, the receiver's title extends back so as to include the personal property of the judgment debtor at the time of the service of the order or ~~his~~ *the judgment debtor's* arrest.

(b) ~~Where~~ *When* an order has not been served or ~~no~~ *an arrest has not been made*, as specified in subsection (1)(a), but an order has been made requiring a person to attend and be examined concerning property belonging or a debt due to the judgment debtor, the receiver's title extends to the personal property belonging to the judgment debtor ~~which~~ *that* was in the hands or under the control of the person or corporation ~~thus~~ required to attend at the time of the service of the order and to a debt then due ~~him~~ *the judgment debtor* from that person or corporation.

(c) In every other case, ~~where~~ *when* notice of the application for the appointment of the receiver was given to the judgment debtor, the receiver's title extends to the personal property of the judgment debtor at the time when the notice was served, either personally or by complying with the requirements of an order prescribing a substitute for personal service.

(2) ~~Where~~ *When* the case is within two or more of subsections (1)(a) through (1)(c) ~~of this section~~, the rule most favorable to the judgment creditor must be adopted.

(3) ~~But this~~ *This* section does not affect the title of a purchaser in good faith, without notice, and for a valuable consideration or the payment of a debt in good faith and without notice.”

Section 477. Section 25-14-302, MCA, is amended to read:

“25-14-302. Notice of application for discharge. ~~Such~~ A person, *referred to in 25-14-301*, ~~must~~ *shall* cause a *written* notice ~~in writing~~ to be given to the plaintiff or ~~his~~ *the plaintiff's* agent or attorney that at a certain time and place ~~he~~ *the person* will apply to a judge of the district court of the county in which ~~such~~ *the person* may be confined for the purpose of obtaining a discharge from ~~his~~ imprisonment.”

Section 478. Section 25-14-303, MCA, is amended to read:

“25-14-303. Service of notice. ~~Such~~ *The notice specified in 25-14-302* must be served upon the plaintiff or ~~his~~ *the plaintiff’s* agent or attorney ~~1 day~~ at least *1 day* before the hearing of the application. If the plaintiff ~~be~~ *is* not a resident of the county and *does not* have ~~no~~ *an* agent or attorney in the county, ~~no such~~ *the* notice will *not* be served.”

Section 479. Section 25-14-304, MCA, is amended to read:

“25-14-304. Hearing on application. At the time and place specified in the notice *described in 25-14-302*, ~~such~~ *the* person must be taken before the judge, who ~~must shall~~ examine ~~him~~ *the person* under oath concerning ~~his~~ *the* person’s estate, ~~and~~ property, and effects, the disposal ~~thereof~~ *of the estate, property, and effects*, and ~~his~~ *the person’s* ability to pay the judgment for which ~~he~~ *the person* is committed; ~~and such.~~ *The* judge may also hear any other legal or pertinent evidence that may be produced by the debtor or the creditor.”

Section 480. Section 25-14-306, MCA, is amended to read:

“25-14-306. Prisoner to take oath. If, upon the examination, the judge is satisfied that the prisoner is entitled to ~~his~~ discharge, ~~he~~ *the judge* ~~must shall~~ administer to ~~him~~ *the prisoner* the following oath: “I, ..., do solemnly swear that I have not any ~~estate~~ *property*, real or personal, ~~to~~ *in* the amount of \$50, except ~~such as~~ *property that* is by law exempted from being taken in execution; and that I have not any other ~~estate~~ *property* now conveyed or concealed or in any way disposed of with design to secure the ~~same~~ *property* to my use or to hinder, delay, or defraud my creditors; so help me God.”

Section 481. Section 25-14-307, MCA, is amended to read:

“25-14-307. Order of discharge. After administering the oath *in 25-14-306*, the judge ~~must shall~~ issue an order that the prisoner be discharged from custody, and the officer, upon the service of ~~such~~ *the* order, ~~must shall~~ discharge the prisoner ~~forthwith~~ if ~~he~~ *be* ~~the prisoner is not~~ imprisoned for ~~no~~ *other* ~~another~~ cause.”

Section 482. Section 25-14-308, MCA, is amended to read:

“25-14-308. Reapplication for discharge. If ~~such~~ *the* judge does not discharge the prisoner, ~~he~~ *the prisoner* may apply for ~~his~~ discharge at the end of every succeeding 10 days in the same manner as ~~above~~ provided *in this part*, and the same proceedings must ~~thereupon~~ be had *upon the application*.”

Section 483. Section 25-14-309, MCA, is amended to read:

“25-14-309. Effect of discharge. The prisoner, after being ~~so~~ discharged, is forever exempt from arrest or imprisonment for the same debt unless ~~he~~ *be* ~~the prisoner is~~ convicted of having willfully sworn falsely upon ~~his~~ examination before the judge or in taking the oath ~~before~~ prescribed *in 25-14-306*.”

Section 484. Section 25-14-310, MCA, is amended to read:

“25-14-310. Judgment unaffected. The judgment against ~~any a~~ prisoner who is discharged remains in full force against any estate ~~which~~ *that* may then or at any time afterward belong to ~~him~~ *the prisoner*, and the plaintiff may take out a new execution against the goods and estate of the prisoner in ~~like~~ *the same* manner as if ~~he~~ *the prisoner* had never been committed.”

Section 485. Section 25-14-311, MCA, is amended to read:

“25-14-311. Discharge at instance of plaintiff. The plaintiff in the action may at any time order the prisoner to be discharged, and ~~he~~ *the prisoner* is not ~~thereafter~~ liable to imprisonment for the same cause of action.”

Section 486. Section 25-14-312, MCA, is amended to read:

“25-14-312. Discharge upon failure of plaintiff to advance money for support of prisoner. Whenever a prisoner is committed to jail on an execution issued on a judgment recovered in a civil action, the creditor or ~~his~~ *the creditor's* agent or attorney ~~must~~ *shall* advance to the jailer, on ~~such~~ *the* commitment, sufficient money for the support of the prisoner for 1 week and ~~must~~ *shall* make the ~~like~~ *same* advance for every successive week of ~~his~~ imprisonment, and in case of failure to do so, the jailer ~~must~~ *forthwith shall* discharge ~~such~~ *the* prisoner from custody, and ~~such~~ *the* discharge has the same effect as if made by order of the creditor.”

Section 487. Section 25-15-102, MCA, is amended to read:

“25-15-102. Content and service of summons. The summons, as provided in 25-15-101, must describe the judgment and require the person summoned to show cause why ~~he~~ *the person* should not be bound by it and must be served in the same manner and returnable within the same time as the original summons.”

Section 488. Section 25-15-103, MCA, is amended to read:

“25-15-103. Affidavit to accompany summons — new complaint unnecessary. The summons must be accompanied by an affidavit of the plaintiff or ~~his~~ *the plaintiff's* agent, representative, or attorney that the judgment or some part ~~thereof~~ *of the judgment* remains unsatisfied and must specify the amount due ~~thereon~~. It is not necessary to file a new complaint.”

Section 489. Section 25-15-104, MCA, is amended to read:

“25-15-104. Answer — time for filing; — contents. Upon ~~such~~ *the* summons, the defendant may answer within the time specified ~~therein~~ *in the summons*, denying the judgment or setting up any defense ~~which~~ *that* may have arisen subsequently; or ~~he~~ *the defendant* may deny ~~his~~ liability on the obligation upon which the judgment was recovered, except a discharge from ~~such~~ liability ~~by~~ *because of* the statute of limitations.”

Section 490. Section 25-15-105, MCA, is amended to read:

“25-15-105. What constitute the pleadings. If the defendant in ~~his~~ *the* answer ~~deny~~ *denies* the judgment or ~~set up~~ *provides* any defense ~~which~~ *that* may have arisen subsequently, the summons, with the affidavit ~~annexed~~ *attached*, and the answer constitute the written allegations in the case; ~~if he deny his~~ *If the defendant denies* liability on the obligation upon which the judgment was recovered, a copy of the original complaint and judgment, the summons, with the affidavit ~~annexed~~ *attached*, and the answer constitute ~~such~~ *the* written allegations.”

Section 491. Section 25-15-106, MCA, is amended to read:

“25-15-106. Trial of issues — limit on verdict. The issues formed may be tried as in other cases; ~~but~~ *However*, when the defendant denies in ~~his~~ *the* answer any liability on the obligation upon which the judgment was rendered, if a verdict ~~be~~ *is* found against ~~him~~ *the defendant*, ~~it~~ *must* ~~the judgment may not be~~ *for not exceeding in excess of* the amount remaining unsatisfied on ~~such~~ *the* original judgment, with interest ~~thereon~~ *on that amount*.”

Section 492. Section 25-15-201, MCA, is amended to read:

“25-15-201. Discharge of one joint debtor. Any joint debtor, including a partner, may compromise with a creditor, and a discharge to ~~him~~ *the joint debtor* by ~~such~~ *the* creditor is as effectual as if made to all debtors, but ~~such~~ *the* discharge does not relieve the other joint debtors. Any creditor can release a

judgment in ~~his~~ *the creditor's* favor against any one or more joint debtors, and ~~such~~ *the* release does not discharge the others."

Section 493. Section 25-15-202, MCA, is amended to read:

"25-15-202. Effect of discharge — right of contribution. Except as provided in 27-1-703, the discharge of a joint debtor operates as a payment to the creditor equal to the proportionate interest of the debtor discharged, but the discharge of ~~such~~ *the* debtor does not prevent ~~his~~ *the* codebtors from enforcing the right of contribution ~~in case~~ *if* they are compelled to pay the whole of the debt."

Section 494. Section 25-31-102, MCA, is amended to read:

"25-31-102. Transfer to district court — dismissal. (1) If it appears from the answer of the defendant, verified by ~~his~~ oath, that the determination of the action will necessarily involve the question of title or possession to real property or the legality of any tax, impost, assessment, toll, or municipal fine, the justice ~~must~~ *shall* suspend all further proceedings in the action and certify the pleadings and, if any of the pleadings are oral, a transcript of the ~~same~~ *pleadings* from ~~his~~ *the* docket to the clerk of the district court of the county. From the time of the certification of ~~such~~ *the* pleadings or transcript to the clerk, the district court ~~shall have over the action~~ *has* the same jurisdiction ~~over the action~~ as if it had been commenced ~~therein~~ *in the district court*. When the action is certified to the district court, upon the answer of the defendant, ~~he~~ *must the defendant shall* file an undertaking, to be approved by the justice, to the effect that ~~he~~ *the defendant* will pay all costs that may be awarded against ~~him~~ *the defendant* on the trial in the district court.

(2) If it appears at any point in the proceedings in a justice's court that the determination of the action will involve the question of the state's liability to make a payment of money, the justice shall sever that issue and dismiss the action as to ~~it~~ *that issue*. If the issue is not severable, the justice shall dismiss the entire action."

Section 495. Section 25-31-405, MCA, is amended to read:

"25-31-405. Designating unknown person as defendant. ~~Where~~ *When* the plaintiff is ignorant of the name or part of the name of a defendant, that defendant may be designated in the summons and in any other process or proceeding in the action by a fictitious name or by ~~so~~ *as* much of ~~his~~ *the defendant's* name as is known, adding a description identifying the person intended. The person ~~so~~ designated must ~~thereupon~~ be regarded as a defendant in the action and as sufficiently described ~~therein~~ *in the action* for all purposes. When ~~his~~ *the defendant's* name or the remainder of ~~his~~ *the defendant's* name is known or becomes known, the justice before whom the action is pending ~~must~~ *shall* amend the proceedings already taken by the insertion of the true or full name in place of the fictitious name or part of a name, and all subsequent proceedings must be taken under the name ~~so~~ inserted."

Section 496. Section 25-31-406, MCA, is amended to read:

"25-31-406. Time for answer or appearance. The time specified in the summons for the appearance of the defendant must be as follows:

(1) if an order of arrest is endorsed upon the summons, immediately;

(2) in all other cases, the summons must provide that the defendant shall answer in writing, file the answer, and serve a copy upon the plaintiff or ~~his~~ *the plaintiff's* attorney within 20 days after service of the summons, exclusive of the day of service, and in case of ~~his~~ *the defendant's* failure to appear or answer,

judgment will be taken against ~~him~~ *the defendant* by default for the relief demanded in the complaint.”

Section 497. Section 25-31-512, MCA, is amended to read:

“25-31-512. Admission of genuineness of signatures. If the plaintiff ~~annex attaches~~ to ~~his~~ *the* complaint or ~~file files~~ with the justice at the time of issuing the summons a copy of the promissory note, bill of exchange, other obligation for the payment of money, or other instrument upon which the action is brought, the defendant ~~shall be deemed~~ *is considered* to admit the genuineness of all the signatures ~~thereto to the instrument~~ unless ~~he the defendant~~ specifically ~~deny the same~~ *denies the genuineness* in ~~his~~ *the* answer under oath. In case of a counterclaim, the same rule applies to the plaintiff.”

Section 498. Section 25-31-523, MCA, is amended to read:

“25-31-523. Variance. A variance between the proof on the trial and the allegations in pleading ~~shall must~~ be disregarded as immaterial unless the court ~~be is~~ satisfied that the adverse party has been misled to ~~his~~ *the party's* prejudice ~~thereby by the variance.~~”

Section 499. Section 25-31-705, MCA, is amended to read:

“25-31-705. Postponement upon application of a party — proof required. The trial may be postponed upon the application of either party for a period not exceeding 4 months. The party making the application ~~must shall~~ prove, by ~~his~~ *the party's* own oath or otherwise, that ~~he the party~~ cannot, for want of material testimony ~~which he that the party~~ expects to procure, safely proceed to trial and ~~must shall~~ show in what respect the testimony expected is material and that ~~he the party~~ has used due diligence to procure ~~it the testimony~~ and has been unable to do so.”

Section 500. Section 25-31-706, MCA, is amended to read:

“25-31-706. No postponement when expected evidence admitted. The court may require the party making the application to state, upon affidavit, the evidence ~~which he that the party~~ expects to obtain; and if the adverse party ~~thereupon admit admits~~ that ~~such the~~ evidence would be given and that it ~~be is~~ considered as actually given ~~on at~~ the trial or offered and overruled as improper, the trial ~~must may~~ not be postponed.”

Section 501. Section 25-31-707, MCA, is amended to read:

“25-31-707. Procedure when defendant under arrest. (1) If the application is on the part of the plaintiff and the defendant is under arrest, a postponement for more than 3 hours discharges the defendant from custody; ~~but~~ *However*, the action may proceed, ~~notwithstanding~~, and the defendant is subject to arrest on execution in the same manner as if ~~he the defendant~~ had not been discharged.

(2) If the application is on the part of a defendant under arrest, before it can be granted, ~~he must~~ *the defendant shall* execute an undertaking, with two or more sufficient sureties to be approved by and in a sum to be fixed by the justice, to the effect that ~~he the defendant~~ will ~~render himself be~~ amenable to the process of the court during the pendency of the action and to ~~such as the process that~~ may be issued to enforce the judgment ~~therein in the action~~; or that the sureties will pay to the plaintiff the amount of any judgment ~~which he that the plaintiff~~ may recover in the action, not exceeding the amount specified in the undertaking. On filing the undertaking specified in this subsection, the justice may order the defendant discharged from custody.”

Section 502. Section 25-31-1002, MCA, is amended to read:

“25-31-1002. How costs taxed. In a justice’s or city court, ~~no~~ a cost bill ~~need is not required to~~ be filed, but the justice or judge ~~must shall~~ tax the ~~same~~ costs and make an itemized statement of all the costs incurred by each party in ~~his~~ the docket.”

Section 503. Section 25-31-1111, MCA, is amended to read:

“25-31-1111. Collection of judgment against county or county officer. When a judgment is rendered against the county or against any county officer in an action prosecuted against ~~him~~ the officer in ~~his~~ the name of the office, when the ~~same~~ judgment is to be paid by the county, ~~no~~ an execution ~~must~~ may not issue upon the judgment, but the ~~same~~ judgment must be paid in the same manner as other county charges. When ~~so~~ collected, the ~~same~~ judgment must be paid by the county treasurer to the proper person to whom the ~~same~~ judgment is adjudged; upon the delivery of a proper voucher ~~therefor~~ for payment.”

Section 504. Section 25-33-103, MCA, is amended to read:

“25-33-103. How appeal taken. The appeal is taken by serving a copy of the notice of appeal on the adverse party or ~~his~~ the adverse party’s attorney and by filing the original notice of appeal with the justice or judge. The order of serving and filing is immaterial.”

Section 505. Section 25-33-104, MCA, is amended to read:

“25-33-104. Papers to be transmitted. Upon the filing of the notice of appeal and the undertaking when required by 25-33-201, 25-33-203, and 25-33-205, the justice or judge ~~must shall~~, within 10 days, upon the payment of the fees ~~therefor~~ for filing, transmit to the clerk of the district court a certified copy of ~~his~~ the docket, the pleadings, all notices, motions, and other papers filed in the cause, the notice of appeal, and the undertaking; ~~and the~~. The justice or judge may be compelled by the district court, by an order entered upon motion, to transmit ~~such~~ the papers and may be fined for neglect or refusal to transmit the ~~same~~ papers. A certified copy of ~~such~~ the order may be served on the justice or judge by the party or ~~his~~ the party’s attorney.”

Section 506. Section 25-33-201, MCA, is amended to read:

“25-33-201. Undertaking on appeal. (1) Except as provided in subsection (4), an appeal from a justice’s or city court is not effectual for any purpose unless an undertaking ~~be is~~ filed, with two or more sureties, in a sum equal to twice the amount of the judgment, including costs, when the judgment is for the payment of money. The undertaking must be conditioned, when the action is for the recovery of money, that the appellant will pay the amount of the judgment appealed from and all costs if the appeal ~~be is~~ withdrawn or dismissed or the amount of any judgment and all costs that may be recovered against ~~him~~ the appellant in the action in the district court.

(2) Except as provided in subsection (4), an appeal from a justice’s or city court is not effectual for any purpose unless an undertaking ~~be is~~ filed, with two or more sureties, in a sum equal to twice the value of the property, including costs, when the judgment is for the recovery of specific personal property. When the action is for the recovery of specific personal property, the undertaking must be conditioned that the appellant will pay the judgment and costs appealed from and obey the order of the court made ~~therein~~ in the action if the appeal ~~be is~~ withdrawn or dismissed or pay any judgment and costs that may be recovered against ~~him~~ the appellant in ~~said~~ the action in the district court and obey any order made by the court ~~therein~~ in the action.

(3) Except as provided in subsection (4), when the judgment appealed from directs the delivery of possession of real property, the execution of the ~~same judgment~~ cannot be stayed unless a written undertaking ~~be is~~ executed on the part of the appellant, with two or more sureties, to the effect that:

(a) during the possession of ~~such the~~ property by the appellant, ~~he the appellant~~ will not commit or suffer to be committed any waste ~~thereon on the property~~; and

(b) if the appeal ~~be is~~ dismissed or withdrawn or the judgment ~~is~~ affirmed or judgment ~~be is~~ recovered against ~~him the appellant~~ in the action in the district court, ~~he the appellant~~ will pay the value of the use and occupation of the property from the time of the appeal until the delivery of possession ~~thereof of the property~~ or ~~he the appellant~~ will pay any judgment and costs that may be recovered against ~~him the appellant~~ in ~~said the~~ action in the district court, not exceeding a sum to be fixed by the justice or judge of the court from which the appeal is to be taken, which sum must be specified in the undertaking.

(4) When the appealing party is determined by the court to be indigent, the district court shall waive the undertaking requirements of this section.”

Section 507. Section 25-33-202, MCA, is amended to read:

“25-33-202. Undertaking when prevailing party appeals. If the party in whose favor the judgment is rendered appeals, the undertaking must be in the sum of \$100 and conditioned that ~~he the party~~ will pay all costs that may be awarded against ~~him the party~~ and obey any order of court made in the action.”

Section 508. Section 25-33-204, MCA, is amended to read:

“25-33-204. Stay of execution when undertaking filed. If an execution ~~be is~~ issued, on the filing of the undertaking, the justice or judge ~~must shall~~ direct the officer to stay all proceedings on the ~~same execution~~. ~~Such~~ The officer ~~must shall~~, upon the payment of ~~his the officer's~~ fees for services rendered on the execution, ~~thereupon~~ relinquish all property levied upon and deliver the ~~same property~~ to the judgment debtor, together with all ~~moneys~~ money collected from sales or otherwise. If ~~his the officer's~~ fees on the execution ~~be are~~ not paid, the officer may retain ~~so as~~ much of the property or proceeds ~~thereof as of the property as~~ may be necessary to pay the ~~same fees~~.”

Section 509. Section 25-33-305, MCA, is amended to read:

“25-33-305. Costs when appeal unsuccessful. If the party appealing fails to reduce the judgment against ~~him the party~~ or to enlarge the judgment in ~~his the party's~~ favor appealed from \$10 or more or reverse the ~~same judgment~~ in the district court, ~~he shall the party may~~ not recover any costs of appeal.”

Section 510. Section 25-35-601, MCA, is amended to read:

“25-35-601. Commencement of action — assistance to claimant. (1) A small claims action is commenced whenever any person appears before a justice of the peace or ~~his the justice's~~ clerk and executes a sworn small claims complaint in substantially the same form as set forth in 25-35-602.

(2) The justice shall assist any claimant in preparing ~~his the~~ complaint or instruct ~~his the~~ clerk to provide ~~such the~~ assistance. The attorney general shall prepare a pamphlet explaining in plain language the procedures for prosecuting and defending a claim in small claims court and distribute copies of the pamphlet to each small claims court. The justice or ~~his the justice's~~ clerk shall give the plaintiff a copy when the plaintiff appears to execute ~~his a~~ complaint, and a copy must be attached to the order of the court/notice to defendant.”

Section 511. Section 25-35-603, MCA, is amended to read:

“25-35-603. Hearing date. The date for the appearance of the defendant to be set forth in the order ~~shall~~ *must* be determined by the justice of the peace or by ~~his the justice’s~~ clerk and may not be more than 40 or less than 10 days from the date of the order. Service of the order and a copy of the sworn complaint ~~shall~~ *must* be made upon the defendant not less than 5 days prior to the date set for ~~his the defendant’s~~ appearance by the order. If the order is not timely served, the plaintiff may have a new appearance date set by the justice of the peace or ~~his the justice’s~~ clerk and a new order issued and delivered to the sheriff, constable, or other process server. If necessary, repeated orders may be issued at any time within 1 year after the commencement of the action.”

Section 512. Section 25-35-604, MCA, is amended to read:

“25-35-604. Service on defendant — return. (1) The original of the order and notice ~~shall~~ *must* be shown to the defendant, and a copy of ~~it the order and notice~~ along with a copy of the sworn complaint ~~shall~~ *must* be served upon the defendant by the sheriff, constable, or other process server in the same manner provided by law for service of process in civil actions in justice’s court. The provisions of law relating to sheriff’s fees are applicable to this section.

(2) The sheriff, constable, or other process server shall, after effecting service, return the original order to the justice of the peace or ~~his the justice’s~~ clerk.”

Section 513. Section 25-35-605, MCA, is amended to read:

“25-35-605. Removal to justice’s court — effect of failure to remove.

(1) Any action commenced in small claims court may be removed to justice’s court by a defendant upon the filing of a notice of removal with the justice within 10 days of the service of the complaint and order. From the time of filing of the notice of removal, the court to which the action is removed has and exercises the same jurisdiction over it as though the action had been originally commenced in ~~such~~ *justice’s* court.

(2) Upon the filing of a notice of removal, the court shall give notice of that fact to all other parties to the action. All rules and statutes governing proceedings originally commenced in justice’s court, except rules of pleading but including rules and statutes governing appeals from justice’s court, are applicable to proceedings removed to justice’s court, except that a plaintiff is not required to replead unless the court so orders, and ~~no a fee shall~~ *may not* be required of a plaintiff for the filing of a complaint if a fee for filing was paid in small claims court.

(3) Failure to request removal within the time provided in subsection (1) constitutes a waiver by the defendant of ~~his the~~ right to a trial by jury and representation by an attorney, and the justice shall inform the defendant of ~~such that~~ fact prior to commencement of the hearing.”

Section 514. Section 25-35-608, MCA, is amended to read:

“25-35-608. Fees. (1) The clerk of the justice’s court shall collect a fee of:

(a) \$10 from the plaintiff upon the filing of the sworn complaint; and

(b) \$5 from the defendant upon ~~his the defendant’s~~ appearance and contesting of the complaint or execution of a counterclaim.

(2) The laws relating to paupers’ affidavits apply to actions before the small claims court.”

Section 515. Section 25-35-702, MCA, is amended to read:

“25-35-702. Witnesses — evidence — subpoena power. The plaintiff and the defendant may offer evidence in their behalf by witnesses appearing at ~~such~~ *the* hearing in the same manner as in other cases arising in justice’s court or by written evidence, and the judge may direct the production of evidence ~~as he~~ *that the judge* considers appropriate. The small claims court has the subpoena power granted to justices’ courts in all civil cases.”

Section 516. Section 25-35-801, MCA, is amended to read:

“25-35-801. Entry of judgment. Upon the conclusion of the case tried to the court, the justice shall make ~~his~~ findings and enter judgment.”

Section 517. Section 25-35-802, MCA, is amended to read:

“25-35-802. Costs. The prevailing party in an action before the small claims court is entitled to ~~his~~ *the party’s* costs.”

Section 518. Section 25-35-803, MCA, is amended to read:

“25-35-803. Appeal to district court — commencement and scope. (1) If either party is dissatisfied with the judgment of the small claims court, ~~he~~ *the party* may appeal to the district court of the county where the judgment was rendered. An appeal ~~shall~~ *must* be commenced by giving written notice to the small claims court and serving a copy of the notice of appeal on the adverse party within 10 days after entry of judgment.

(2) There may not be a trial de novo in the district court. The appeal ~~shall~~ *must* be limited to questions of law.”

Section 519. Section 25-35-804, MCA, is amended to read:

“25-35-804. Record on appeal. (1) Within 30 days of the notice, the entire record of the small claims court proceedings ~~shall~~ *must* be transmitted to the district court or the appeal ~~shall~~ *must* be dismissed. It is the duty of the appealing party to perfect the appeal.

(2) When notice of appeal is filed, the justice shall forward the electronic recording or transcript of the stenographic record of the proceedings to the district court, together with the original papers filed, certified by ~~him~~ *the justice* to be accurate and complete. When the record is transferred to the clerk of the district court, the justice shall notify the parties in writing.”

Section 520. Section 25-35-806, MCA, is amended to read:

“25-35-806. Attorney’s Attorney fees upon appeal or removal. (1) If the parties are represented by counsel on appeal, the court may grant the prevailing party ~~his~~ reasonable ~~attorney’s~~ *attorney* fees; in addition to costs.

(2) If a defendant removes a matter to justice’s court under the provisions of 25-35-605(1) but does not prevail in justice’s court, the court may grant the plaintiff ~~his~~ reasonable ~~attorney’s~~ *attorney* fees, if any.”

Section 521. Section 26-1-106, MCA, is amended to read:

“26-1-106. Explanation of alterations in a writing. The party producing a writing as genuine ~~which~~ *that* has been altered or appears to have been altered after its execution in a part material to the question in dispute ~~must~~ *shall* account for the appearance or alteration. ~~He~~ *The party* may show that the alteration was made by another without ~~his~~ *the party’s* concurrence, was made with the consent of the parties affected by ~~it~~ *the alteration*, or was otherwise properly or innocently made or that the alteration did not change the meaning or language of the instrument. If ~~he~~ *the party* does that, ~~he~~ *the party* may give the writing in evidence, but not otherwise.”

Section 522. Section 26-1-302, MCA, is amended to read:

“26-1-302. Witness presumed to speak the truth — how presumption rebutted. A witness is presumed to speak the truth. The jury or the court in the absence of a jury is the exclusive judge of ~~his~~ *a witness’s* credibility. This presumption may be controverted and overcome by any matter that has a tendency to disprove the truthfulness of a witness’s testimony; ~~such~~ *The* matters include but are not limited to:

- (1) the demeanor or manner of the witness while testifying;
- (2) the character of the witness’s testimony;
- (3) bias of the witness for or against any party involved in the case;
- (4) interest of the witness in the outcome of the litigation or other motive to testify falsely;
- (5) the witness’s character for truth, honesty, or integrity;
- (6) the extent of the witness’s capacity and opportunity to perceive or capacity to recollect or to communicate any matter about which ~~he~~ *the witness* testifies;
- (7) inconsistent statements of the witness;
- (8) an admission of untruthfulness by the witness;
- (9) other evidence contradicting the witness’s testimony.”

Section 523. Section 26-1-303, MCA, is amended to read:

“26-1-303. Instructions to jury on how to evaluate evidence. The jury is to be instructed by the court on all proper occasions that:

- (1) their power of judging the effect of evidence is not arbitrary but to be exercised with legal discretion and in subordination to the rules of evidence;
- (2) they are not bound to decide in conformity with the declarations of any number of witnesses ~~which~~ *that* do not produce conviction in their minds, against a less number or against a presumption or other evidence satisfying their minds;
- (3) a witness false in one part of ~~his~~ *the witness’s* testimony is to be distrusted in others;
- (4) the testimony of a person legally accountable for the acts of the accused ought to be viewed with distrust;
- (5) if weaker and less satisfactory evidence is offered and it appears that it is within the power of the party to offer stronger and more satisfactory evidence, the evidence offered should be viewed with distrust.”

Section 524. Section 26-1-401, MCA, is amended to read:

“26-1-401. Who has the burden of producing evidence. The initial burden of producing evidence as to a particular fact is on the party who would be defeated if no evidence were given on either side. Thereafter, the burden of producing evidence is on the party who would suffer a finding against ~~him~~ *that party* in the absence of further evidence.”

Section 525. Section 26-1-402, MCA, is amended to read:

“26-1-402. Who has the burden of persuasion. Except as otherwise provided by law, a party has the burden of persuasion as to each fact the existence or nonexistence of which is essential to the claim for relief or defense ~~he~~ *the party* is asserting.”

Section 526. Section 26-1-502, MCA, is amended to read:

“26-1-502. When an inference arises. An inference must be founded:

(1) on a fact legally proved; and

(2) on ~~such~~ a deduction from that fact ~~as that~~ is warranted by a consideration of the usual propensities or passions of ~~men~~ *people*, the particular propensities or passions of the person whose act is in question, the course of business, or the course of nature.”

Section 527. Section 26-1-601, MCA, is amended to read:

“26-1-601. List of conclusive presumptions. The following presumptions are conclusive:

(1) the truth of a declaration, act, or omission of a party, as against that party in any litigation arising out of ~~such~~ *the* declaration, act, or omission, whenever ~~he~~ *the party* has, by ~~such~~ *the* declaration, act, or omission, intentionally led another to believe a particular thing true and to act upon ~~such~~ *that* belief;

(2) that a tenant is not permitted to deny the title of ~~his~~ *the* landlord at the time of the commencement of the relation;

(3) the judgment or order of a court, which is declared by statute to be conclusive;

(4) any other presumption ~~which that~~, by statute, is expressly made conclusive.”

Section 528. Section 26-1-605, MCA, is amended to read:

“26-1-605. Entries in official books and records prima facie evidence. Entries in public or other official books or records made in the performance of ~~his~~ *the officer's* duty by a public officer of this state or any other person in the performance of a duty specially enjoined by law are prima facie evidence of the facts stated ~~therein~~ *in the book or record.*”

Section 529. Section 26-1-623, MCA, is amended to read:

“26-1-623. Presumption of authenticity of finding, report, or record. For the purposes of 26-1-622, any finding, report, or record or ~~duly~~ certified copy ~~thereof of a finding, report, or record~~ purporting to have been signed by ~~such~~ an officer or employee of the United States as ~~is~~ described in that section ~~shall is~~ prima facie ~~be deemed considered~~ to have been signed and issued by ~~such~~ *an* the officer or employee pursuant to law, and the person signing ~~same~~ *the finding, report, or record* ~~shall is~~ prima facie ~~be deemed considered~~ to have acted within the scope of ~~his~~ *the officer's or employee's* authority. If a copy purports to have been certified by a person authorized by law to certify the ~~same~~ *finding, report, or record*, ~~such~~ *the* certified copy ~~shall must~~ be prima facie evidence of ~~his~~ *the person's* authority ~~so to certify.~~”

Section 530. Section 26-1-701, MCA, is amended to read:

“26-1-701. Legislative policy. The legislature ~~hereby~~ declares that the health, welfare, and safety of the people of the state of Montana would be enhanced by the expeditious handling of liability claims. The legislature further declares that the handling of ~~such~~ *liability* claims would be expedited if voluntary payment by or on behalf of one person to or on behalf of a person who has sustained injury to ~~his~~ *that* person or damage to ~~his~~ *that person's* property could not be construed as an admission of fault or liability as to any claim arising out of the occurrence ~~which that~~ gave rise to ~~such~~ *the* injury or damage.”

Section 531. Section 26-1-803, MCA, is amended to read:

“26-1-803. Attorney-client privilege. (1) An attorney cannot, without the consent of ~~his~~ *the* client, be examined as to any communication made by the client to ~~him~~ *the attorney* or ~~his~~ *the* advice given to the client in the course of professional employment.

(2) A client cannot, except voluntarily, be examined as to any communication made by ~~him~~ *the client* to ~~his~~ *the client's* attorney or the advice given to ~~him~~ *the client* by ~~his~~ *the* attorney in the course of the attorney's professional employment.”

Section 532. Section 26-1-804, MCA, is amended to read:

“26-1-804. Confessions made to member of clergy. A ~~clergyman~~ *member of the clergy* or priest ~~cannot may not~~, without the consent of the person making the confession, be examined as to any confession made to ~~him~~ *the individual* in ~~his~~ *the individual's* professional character in the course of discipline enjoined by the church to which ~~he~~ *the individual* belongs.”

Section 533. Section 26-1-805, MCA, is amended to read:

“26-1-805. Doctor-patient privilege. Except as provided in Rule 35, Montana Rules of Civil Procedure, a licensed physician, surgeon, or dentist ~~cannot may not~~, without the consent of ~~his~~ *the* patient, be examined in a civil action as to any information acquired in attending the patient ~~which that~~ was necessary to enable ~~him~~ *the physician, surgeon, or dentist* to prescribe or act for the patient.”

Section 534. Section 26-1-806, MCA, is amended to read:

“26-1-806. Speech-language pathologist, audiologist-client privilege. A speech-language pathologist or audiologist ~~cannot may not~~, without the consent of ~~his~~ *the* client, be examined in a civil action as to any communication made by the client to ~~him~~ *the pathologist or audiologist*.”

Section 535. Section 26-1-807, MCA, is amended to read:

“26-1-807. Psychologist-client privilege. The confidential relations and communications between a psychologist and ~~his~~ *a* client ~~shall must~~ be placed on the same basis as provided by law for those between an attorney and ~~his~~ *a* client. Nothing in any act of the legislature ~~shall may~~ be construed to require ~~such the~~ privileged communications to be disclosed.”

Section 536. Section 26-1-809, MCA, is amended to read:

“26-1-809. Confidential communications by student to employee of educational institution. A counselor, psychologist, nurse, or teacher employed by ~~any an~~ educational institution ~~cannot may not~~ be examined as to communications made to ~~him~~ *the individual* in confidence by a ~~duly~~ registered student of ~~such the~~ institution. However, this provision ~~shall does~~ not apply ~~where when~~ consent has been given by the student, if not a minor, or, if ~~he~~ *the student* is a minor, by the student and ~~his~~ *the student's* parent or legal guardian.”

Section 537. Section 26-1-810, MCA, is amended to read:

“26-1-810. Confidential communications made to public officer. A public officer ~~cannot may not~~ be examined as to communications made to ~~him~~ *the officer* in official confidence when the public interests would suffer by the disclosure.”

Section 538. Section 26-1-902, MCA, is amended to read:

“26-1-902. Extent of privilege. (1) Without ~~his or its~~ *a person's* consent, ~~no~~ a person, including any newspaper, magazine, press association, news agency,

news service, radio station, television station, or community antenna television service or any person connected with or employed by any of these for the purpose of gathering, writing, editing, or disseminating news may *not* be examined as to or may *not* be required to disclose any information obtained or prepared or the source of that information in any legal proceeding if the information was gathered, received, or processed in the course of ~~his~~ *the person's* employment or ~~its~~ business.

(2) A person described in subsection (1) may not be adjudged in contempt by a judicial, legislative, administrative, or any other body having the power to issue subpoenas for refusing to disclose or produce the source of any information or for refusing to disclose any information obtained or prepared in gathering, receiving, or processing information in the course of ~~his or its~~ *the person's* business.”

Section 539. Section 26-1-903, MCA, is amended to read:

“26-1-903. Waiver of privilege. (1) Except as provided in subsection (2), dissemination in whole or in part does not constitute a waiver of provisions of 26-1-902.

(2) If the person claiming the privilege testifies, with or without having been subpoenaed or ordered to testify or produce the source, before a judicial, legislative, administrative, or other body having the power to issue subpoenas or judicially enforceable orders, ~~he~~ *the person* does not waive the provisions of 26-1-902 unless the person voluntarily agrees to waive the privilege or voluntarily discloses the source in the course of ~~his~~ *the person's* testimony. Except as provided in this subsection, the provisions of 26-1-902 may not be waived.”

Section 540. Section 26-1-1011, MCA, is amended to read:

“26-1-1011. Affidavit of printer or publisher as evidence of publication. Evidence of the publication of a document or notice required by law or by an order of a court or judge to be published in a newspaper may be given by the affidavit of the printer or publisher of the newspaper or ~~his foreman~~ *the printer's or publisher's supervisor* or principal clerk, annexed to a copy of the document or notice, specifying the times when and the paper in which the publication was made.”

Section 541. Section 26-2-101, MCA, is amended to read:

“26-2-101. Subpoena defined. The process by which the attendance of a witness is required is by a subpoena. ~~It~~ *A subpoena* is a writ or order directed to a person and requiring ~~his~~ *the person's* attendance at a particular time and place to testify as a witness. ~~It~~ *The subpoena* may also require ~~him~~ *the person* to bring with ~~him~~ *the person* any books, documents, or other things under ~~his~~ *the person's* control, ~~which he~~ *that the person* is bound by law to produce in evidence.”

Section 542. Section 26-2-102, MCA, is amended to read:

“26-2-102. Issuance of subpoena. The subpoena is issued as follows:

(1) To require attendance before a court or at the trial of an issue ~~therein in a court~~, it is issued under the seal of the court before which the attendance is required or in which the issue is pending.

(2) To require attendance out of the court before a judge, justice, or other officer authorized to administer oaths or take testimony in any matter under the laws of this state, it is issued by the judge, justice, or other officer before whom the attendance is required.

(3) To require attendance before a commissioner appointed to take testimony by a court of a foreign country, of the United States, of any other state in the United States, or of any other district or county within this state or before any officer ~~or officers~~ empowered by the laws of the United States to take testimony, it may be issued by any judge or justice of the peace in places within ~~his the judge's or justice's~~ respective jurisdiction, with ~~like the same~~ power to enforce attendance and, upon certificate of contumacy to ~~said the~~ court, to punish contempt of ~~his process as such that the~~ judge or justice could exercise if the subpoena directed the attendance of the witness before ~~his the judge's or justice's~~ court in a matter pending ~~therein in that court.~~"

Section 543. Section 26-2-103, MCA, is amended to read:

"26-2-103. Service of subpoena on concealed witness. If a witness is concealed in a building or vessel so as to prevent the service of a subpoena upon ~~him the witness~~, any court, ~~or~~ judge, or any officer issuing a subpoena may, upon proof by affidavit of the concealment and of the materiality of the witness, make an order that the sheriff of the county serve the subpoena, and the sheriff ~~must~~ *shall* serve it accordingly and, for that purpose, may break into the building or vessel where the witness is concealed."

Section 544. Section 26-2-104, MCA, is amended to read:

"26-2-104. Disobedience — how punished. Disobedience to a subpoena or a refusal to be sworn or to answer as a witness or to subscribe an affidavit or deposition, when required, may be punished as a contempt by the court issuing the subpoena or requiring the witness to be ~~so~~ sworn, to ~~so~~ answer, or to ~~so~~ subscribe; ~~and if~~ *If* the witness ~~be is~~ a party, ~~his the party's~~ complaint or answer may be stricken out."

Section 545. Section 26-2-105, MCA, is amended to read:

"26-2-105. Disobedience — civil damages. A witness disobeying a subpoena also forfeits to the party aggrieved the sum of \$100 and all damages ~~which he that the person~~ may sustain by the failure of the witness to attend; ~~which The~~ forfeiture and damages may be recovered in a civil action."

Section 546. Section 26-2-106, MCA, is amended to read:

"26-2-106. Warrant to arrest and bring in disobedient witness. In case of a failure of a witness to attend, the court or officer issuing the subpoena, upon proof of the service ~~thereof~~ and of the failure of the witness, may issue a warrant to the sheriff of the county to arrest the witness and bring ~~him the~~ *witness* before the court or officer where ~~his~~ attendance was required."

Section 547. Section 26-2-107, MCA, is amended to read:

"26-2-107. Contents of warrant — execution. ~~Every~~ *Each* warrant of commitment issued by a court or officer pursuant to this part must specify ~~therein~~, particularly, the cause of the commitment; ~~and if it be~~ *If the warrant is issued* for refusing to answer a question, ~~such the~~ question must be stated in the warrant. ~~Every~~ *Each* warrant to arrest or commit a witness pursuant to this part must be directed to the sheriff of the county where the witness may be and must be executed by ~~him the sheriff~~ in the same manner as process by the district court."

Section 548. Section 26-2-201, MCA, is amended to read:

"26-2-201. Court order to obtain deposition or attendance of prisoner. If the witness ~~be is~~ a prisoner confined in a jail or prison within this state, an order for ~~his the witness's~~ examination in the *jail or prison* upon

deposition or for ~~his~~ *the witness's* temporary removal and production before a court or officer for the purpose of being orally examined may be made as follows:

(1) by the court itself in which the action or special proceeding is pending unless it ~~be~~ *is* a justice's court;

(2) by a justice of the supreme court or a judge of the district court of the county where the action or proceeding is pending if pending before a justice's court or before a judge or other person out of court."

Section 549. Section 26-2-203, MCA, is amended to read:

"26-2-203. When production of witness may be required. If the witness ~~be~~ *is* imprisoned in the county where the action or proceeding is pending, ~~his~~ *the witness's* production may be required. In all other cases, ~~his~~ *the witness's* examination, when allowed, must be taken upon deposition."

Section 550. Section 26-2-301, MCA, is amended to read:

"26-2-301. Witness required to attend when subpoenaed. A witness served with a subpoena ~~must~~ *shall* attend at the time appointed, with any papers under ~~his~~ *the witness's* control required by the subpoena, and answer all pertinent and legal questions and, unless sooner discharged, ~~must~~ *shall* remain until the testimony is closed."

Section 551. Section 26-2-302, MCA, is amended to read:

"26-2-302. Witness required to answer questions. A witness ~~must~~ *shall* answer questions legal and pertinent to the matter in issue though ~~his~~ *the* answer may establish a claim against ~~himself~~; *the witness*. ~~but he need~~ *However, the witness is not required to* give an answer ~~which~~ *that* will have a tendency to subject ~~him~~ *the witness* to punishment for a felony, ~~nor need he or to~~ give an answer ~~which~~ *that* will have a direct tendency to degrade ~~his~~ *the witness's* character unless ~~it be~~ *the answer is* to the very fact in issue or to a fact from which the fact in issue would be presumed."

Section 552. Section 26-2-303, MCA, is amended to read:

"26-2-303. Person present required to testify. A person present in court or before a judicial officer may be required to testify in the same manner as if ~~he~~ *the person* were in attendance upon a subpoena issued by ~~such~~ *the* court or officer."

Section 553. Section 26-2-403, MCA, is amended to read:

"26-2-403. Arrest void — punishment and liability. The arrest of a witness contrary to 26-2-402 is void and, when willfully made, is a contempt of the court; ~~and the~~ *The* person making ~~it~~ *the* arrest is responsible to the witness arrested for double the amount of the damages ~~which~~ *that* may be assessed against ~~him~~ *the person* and is also liable to an action at the suit of the party serving the witness with a subpoena for the damages sustained by ~~him~~ *the party serving the witness* in consequence of the arrest."

Section 554. Section 26-2-404, MCA, is amended to read:

"26-2-404. Affidavit of arrested witness — exoneration of arresting officer. (1) An officer is not liable for making the arrest in ignorance of the facts creating the exoneration but is liable for any subsequent detention of the witness if ~~such~~ *the* witness claims the exemption and makes an affidavit stating that *the witness*:

(a) ~~he~~ has been served with a subpoena to attend as a witness before a court, officer, or other person, specifying the ~~same~~ *court, officer, or person*, the place of attendance, and the action or proceeding in which the subpoena was issued;

(b) ~~he~~ has not thus been served by ~~his~~ *the witness's* own procurement with the intention of avoiding arrest; and

(c) ~~he~~ is at the time going to the place of attendance, returning ~~therefrom~~ *from the place of attendance*, or remaining there in obedience to the subpoena.

(2) The affidavit may be taken by the officer and exonerates ~~him~~ *the officer* from liability for discharging the witness when arrested.”

Section 555. Section 26-2-507, MCA, is amended to read:

“26-2-507. Demand for advance payment of witness fees in civil action. No A witness ~~shall~~ *is not* be obliged to attend court or *appear* before a referee, officer authorized to take depositions, or commissioner, when subpoenaed, unless ~~his~~ *the witness's* mileage and fees for 1 day's attendance are tendered or paid to ~~him~~ *the witness* on ~~his~~ *demanding the same demand* or unless ~~his~~ *the* fees for attendance ~~thereafter~~ for each *succeeding* day are tendered or paid to ~~him~~ *the witness* on demand. The fees of witnesses paid may be taxed as costs against the losing party.”

Section 556. Section 26-2-509, MCA, is amended to read:

“26-2-509. Certificate of clerk to witness to obtain payment. The clerk of any court before which ~~any~~ *a* witness ~~shall have~~ *has* attended on behalf of the state or county in ~~any~~ *a* civil action ~~must~~ *shall* give to ~~such~~ *the* witness a certificate under seal of travel and attendance, ~~which shall entitle him that entitles the witness~~ to receive the amount ~~therein~~ *stated in the certificate* from the state or county treasurer.”

Section 557. Section 26-3-104, MCA, is amended to read:

“26-3-104. Principal bound when surety bound. Whenever, pursuant to 26-3-102, 26-3-103, 26-3-201, and 26-3-202, a party is bound by a record and ~~such~~ *the* party stands in the relation of a surety for another, the ~~latter~~ *other* person is also bound from the time that ~~he~~ *the* person has notice of the action or proceeding and an opportunity at the surety's request to join in the defense.”

Section 558. Section 26-3-203, MCA, is amended to read:

“26-3-203. Effect of judicial record of another state. The effect of a judicial record of ~~a~~ *another* state is the same in this state as in the state where it was made, except that it ~~can only~~ *may* be enforced ~~here in this state only~~ by an action or special proceeding. ~~and except that~~ *However*, the authority of a guardian, ~~or~~ *committee*, ~~or~~ *of an* executor, or administrator does not extend beyond the jurisdiction of the government under which ~~he~~ *the* guardian, *committee, executor, or administrator* was invested with ~~his~~ authority.”

Section 559. Section 27-1-204, MCA, is amended to read:

“27-1-204. Nominal damages when no appreciable detriment. When a breach of duty has caused no appreciable detriment to the party affected, ~~he~~ *the* party may yet recover nominal damages.”

Section 560. Section 27-1-210, MCA, is amended to read:

“27-1-210. Interest on torts. (1) Subject to subsection (2), in an action for recovery on an injury as defined in 27-1-106, a prevailing claimant is entitled to interest at a rate of 10% on any claim for damages awarded that are capable of being made certain by calculation, beginning from the date 30 days after the claimant presented a written statement to the opposing party or ~~his~~ *the* party's agent stating the claim and how the specific sum was calculated.

(2) The interest provisions of subsection (1) do not apply to damages not capable of being made certain by calculation, including but not limited to future damages until ~~such~~ *the* damages are incurred and damages for:

- (a) pain and suffering;
- (b) injury to credit, reputation, or financial standing;
- (c) mental anguish or suffering;
- (d) exemplary or punitive damages;
- (e) loss of established way of life;
- (f) loss of consortium; and
- (g) attorney fees.

(3) The jury is to be advised by the court that the court will determine the amount of prejudgment interest due, if any, on any judgment rendered.

(4) Any payment by a party of ~~any~~ *a* claim or interest ~~thereon~~ *on a claim* as set forth in subsection (1) ~~shall~~ *is not be* an admission of liability and ~~shall~~ *may* not be made known to the jury.”

Section 561. Section 27-1-211, MCA, is amended to read:

“27-1-211. Right to interest. ~~Every~~ *Each* person who is entitled to recover damages certain or capable of being made certain by calculation and the right to recover ~~which~~ *that* is vested in ~~him~~ *the person* upon a particular day is entitled also to recover interest ~~thereon~~ *on the damages* from that day except during ~~such~~ *the* time as ~~that~~ the debtor is prevented by law or by the act of the creditor from paying the debt.”

Section 562. Section 27-1-223, MCA, is amended to read:

“27-1-223. Damages for injuries or death inflicted in a duel. If ~~any~~ *a* person slays or permanently disables another person in a duel in this state, ~~he~~ *must* ~~the person~~ *shall* provide for the maintenance of the spouse and minor children of the person slain or permanently disabled in ~~such~~ *a* manner and at ~~such~~ *a* cost, either by aggregate compensation in damages to each or by a monthly, quarterly, or annual allowance, as ~~that~~ is determined by the court and ~~he~~ *the party* is liable for and ~~must~~ *shall* pay all debts of the person slain or permanently disabled.”

Section 563. Section 27-1-303, MCA, is amended to read:

“27-1-303. Limitation of damages for breach of obligation. ~~No~~ *A* person ~~can~~ *may not* recover a greater amount in damages for the breach of an obligation than ~~he~~ *the person* could have gained by the full performance ~~thereof~~ *of the obligation* on both sides unless a greater recovery is specified by statute.”

Section 564. Section 27-1-308, MCA, is amended to read:

“27-1-308. Collateral source reductions in actions arising from bodily injury or death — subrogation rights. (1) In an action arising from bodily injury or death when the total award against all defendants is in excess of \$50,000 and the plaintiff will be fully compensated for ~~his~~ *the plaintiff's* damages, exclusive of court costs and attorney fees, a plaintiff's recovery must be reduced by any amount paid or payable from a collateral source that does not have a subrogation right.

(2) Before an insurance policy payment is used to reduce an award under subsection (1), the following amounts must be deducted from the amount of the insurance policy payment:

(a) the amount the plaintiff paid for the 5 years prior to the date of injury;

(b) the amount the plaintiff paid from *the* date of injury to *the* date of judgment; and

(c) the present value of the amount the plaintiff is ~~thereafter~~ obligated to pay to keep the policy in force for the period for which any reduction of an award is made pursuant to subsection (3).

(3) The jury shall determine its award without consideration of any collateral sources. After the jury determines its award, reduction of the award must be made by the trial judge at a hearing and upon a separate submission of evidence relevant to the existence and amount of collateral sources. Evidence is admissible at the hearing to show that the plaintiff has been or may be reimbursed from a collateral source that does not have a subrogation right. If the trial judge finds that, at the time of hearing, it is not reasonably determinable whether or in what amount a benefit from ~~such~~ a collateral source will be payable, ~~he~~ *the judge* shall:

(a) order any person against whom an award was rendered and who claims a deduction under this section to make a deposit into court of the disputed amount, at interest; and

(b) reduce the award by the amount deposited. The amount deposited and any interest ~~thereon~~ *on that amount* are subject to the further order of the court, pursuant to the requirements of this section.

(4) Except for subrogation rights specifically granted by state or federal law, there is no right to subrogation for any amount paid or payable to a plaintiff from a collateral source if an award is reduced by that amount under subsection (1).”

Section 565. Section 27-1-313, MCA, is amended to read:

“27-1-313. Breach of warranty of agent’s authority. The detriment caused by the breach of a warranty of an agent’s authority is ~~deemed considered~~ to be the amount ~~which that~~ could have been recovered and collected from ~~his the~~ principal if the warranty had been complied with and the reasonable expenses of legal proceedings taken in good faith to enforce the act of the agent against ~~his the~~ principal.”

Section 566. Section 27-1-315, MCA, is amended to read:

“27-1-315. Breach of agreement to buy real property. The detriment caused by the breach of an agreement to purchase an estate in real property is ~~deemed considered~~ to be the excess, if any, of the amount ~~which that~~ would have been due to the seller under the contract over the value of the property to ~~him the~~ seller.”

Section 567. Section 27-1-316, MCA, is amended to read:

“27-1-316. Breach of covenants in grants of estates in real property.

(1) The detriment caused by the breach of a covenant of seisin, of right to convey, of warranty, or of quiet enjoyment in a grant of an estate in real property is ~~deemed considered~~ to be:

(a) the price paid to the grantor or, if the breach is partial only, ~~such the~~ proportion of the price ~~as that~~ the value of the property affected by the breach bore at the time of the grant to the value of the whole property;

(b) interest ~~thereon~~ *on the portion of the price* for the time during which the grantee derived no benefit from the property, not exceeding 5 years; *and*

(c) any expenses properly incurred by the covenantee in defending ~~his~~ possession.

(2) The detriment caused by the breach of a covenant against encumbrances in a grant of an estate in real property is ~~deemed~~ *considered* to be the amount ~~which that~~ has been actually expended by the covenantee in extinguishing either the principal or interest ~~thereof of the amount~~, not exceeding in the former case a proportion of the price paid to the grantor equivalent to the relative value at the time of the grant of the property affected by the breach as compared with the whole or, in the latter case, interest on a like amount.”

Section 568. Section 27-1-320, MCA, is amended to read:

“27-1-320. Conversion of personal property. (1) The detriment caused by the wrongful conversion of personal property is presumed to be:

(a) the value of the property at the time of its conversion with the interest from that time or, when the action has been prosecuted with reasonable diligence, the highest market value of the property at any time between the conversion and the verdict without interest, at the option of the injured party; and

(b) a fair compensation for the time and money properly expended in pursuit of the property.

(2) The presumption declared by subsection (1) cannot be ~~repelled~~ *rebutted* in favor of one whose possession was wrongful from the beginning by ~~his that~~ *person's* subsequent application of the property to the benefit of the owner without ~~such the~~ *the* owner's consent.”

Section 569. Section 27-1-321, MCA, is amended to read:

“27-1-321. Conversion of personal property — damages of lienholder. ~~One~~ *A person* having a mere lien on personal property cannot recover greater damages for ~~its the~~ *the property's* conversion, from ~~one a person~~ *having a right thereto to the property* superior to ~~his the~~ *the person holding the lien* after ~~his the~~ *the* lien is discharged, than the amount secured by the lien and the compensation allowed by 27-1-320(1) for the loss of time and expenses.”

Section 570. Section 27-1-402, MCA, is amended to read:

“27-1-402. How specific relief given. Specific relief is given by:

- (1) taking possession of a thing and delivering it to a claimant;
- (2) compelling the party ~~himself~~ to do that which ought to be done; or
- (3) declaring and determining the rights of parties otherwise than by an award of damages.”

Section 571. Section 27-1-415, MCA, is amended to read:

“27-1-415. Parties who cannot be compelled to perform. Specific performance cannot be enforced against a party to a contract in any of the following cases:

- (1) if ~~he the~~ *the party* has not received an adequate consideration for the contract;
- (2) if it is not, as to ~~him the~~ *the party*, just and reasonable;
- (3) if ~~his the~~ *the party's* assent was obtained by the misrepresentations, concealment, circumvention, or unfair practices of any party to whom performance would become due under the contract or by any promise of ~~such the~~ *the party which that* has not been substantially fulfilled; or
- (4) if ~~his the~~ *the party's* assent was given under the influence of mistake, misapprehension, or surprise, except that ~~where when~~ *when* the contract provides for compensation in case of mistake, a mistake within the scope of ~~such the~~ *the*

provision may be compensated for and the contract specifically enforced in other respects if proper to be so enforced.”

Section 572. Section 27-1-416, MCA, is amended to read:

“27-1-416. Parties who cannot obtain specific performance. Specific performance cannot be enforced in favor of a party who has not fully and fairly performed all the conditions precedent on ~~his~~ *that party’s* part to the obligation of the other party except ~~where his~~ *when the nonperforming party’s* failure to perform is only partial and either entirely immaterial or capable of being fully compensated, in which case specific performance may be compelled upon full compensation being made for the default.”

Section 573. Section 27-1-417, MCA, is amended to read:

“27-1-417. Specific performance by party who signed when other party did not sign contract. A party who has signed a written contract may be compelled specifically to perform ~~it~~ *the contract, even* though the other party has not signed ~~it~~ *the contract*, if the latter has performed or offers to perform ~~it~~ *the contract* ~~on his part~~ and the case is otherwise proper for enforcing specific performance.”

Section 574. Section 27-1-421, MCA, is amended to read:

“27-1-421. Compelling performance of successor in interest in title — obligations respecting real property. Whenever an obligation in respect to real property would be specifically enforced against a particular person, ~~it~~ *the obligation* may be in ~~like the same~~ manner enforced against any other person claiming under ~~him~~ *the particular person* by a title created subsequently to the obligation except a purchaser or encumbrancer in good faith and for value, and except that any ~~such other~~ person may ~~exonerate himself~~ *be exonerated* by conveying all ~~his~~ *of that person’s* estate to the person entitled to enforce the obligation.”

Section 575. Section 27-1-432, MCA, is amended to read:

“27-1-432. Judgment for delivery of personal property. A person entitled to the immediate possession of specific personal property may recover the ~~same property~~ in the manner provided by this code. ~~Any~~ A person having the possession or control of a particular article of personal property of which ~~he~~ *the person* is not the owner may be compelled specifically to deliver it to the person entitled to its immediate possession.”

Section 576. Section 27-1-433, MCA, is amended to read:

“27-1-433. Cancellation of written instrument. (1) A written instrument in respect to which there is a reasonable apprehension that if left outstanding it may cause serious injury to a person against whom it is void or voidable may, upon ~~his~~ *that person’s* application, be so adjudged and ordered to be delivered up or canceled.

(2) An instrument the invalidity of which is apparent upon its face or upon the face of another instrument ~~which~~ *that* is necessary to the use of the former *instrument* in evidence is not to be ~~deemed~~ *considered* capable of causing injury within the provisions of subsection (1).

(3) ~~Where~~ *When* an instrument is evidence of different rights or obligations, it may be canceled in part and allowed to stand for the residue.”

Section 577. Section 27-1-501, MCA, is amended to read:

“27-1-501. Survival of cause of action or defense — death or disability or transfer of interest. (1) An action, cause of action, or defense

does not abate because of the death or disability of a party or the transfer of any interest ~~therein in the action or defense~~, but whenever the cause of action or defense arose in favor of ~~such the party~~ prior to ~~his the party's~~ death or disability or transfer of interest ~~therein, it the action or defense~~ survives and may be maintained by ~~his the party's~~ representatives or successors in interest. If the action has not been begun or defense interposed, the action may be begun or defense interposed in the name of ~~his the party's~~ representatives or successors in interest. If the action has been begun or defense interposed, the action or proceeding may be continued as provided in Rule 25, M.R.Civ.P.

(2) Actions brought under ~~this section and 27-1-513~~ and *this section* must be combined in one legal action, and any element of damages may be recovered only once.”

Section 578. Section 27-1-511, MCA, is amended to read:

“27-1-511. Right of minor to bring civil action or other proceeding. A minor may enforce ~~his the minor's~~ rights by civil action or other legal proceedings in the same manner as a person of full age except that a guardian ~~must shall~~ conduct the ~~same the action or proceedings~~.”

Section 579. Section 27-1-512, MCA, is amended to read:

“27-1-512. Action by parent or guardian for injury to child or ward. Either parent may maintain an action for the injury to a minor child and a guardian for injury to a ward when ~~such the~~ injury is caused by the wrongful act or neglect of another. ~~Such The~~ action may be maintained against the person causing the injury or, if ~~such the~~ person ~~be is~~ employed by another person who is responsible for ~~his the causing person's~~ conduct, also against ~~such the~~ other responsible person.”

Section 580. Section 27-1-513, MCA, is amended to read:

“27-1-513. Action for wrongful death. When injuries to and the death of one person are caused by the wrongful act or neglect of another, the personal representative of the decedent's estate may maintain an action for damages against the person causing the death or, if ~~such the~~ person ~~be is~~ employed by another person who is responsible for ~~his the causing person's~~ conduct, then also against ~~such the~~ other responsible person.”

Section 581. Section 27-1-514, MCA, is amended to read:

“27-1-514. Who may sue for whose seduction. (1) The rights of personal relations forbid the seduction of a spouse, child, orphan, or servant.

(2) Either parent may prosecute as plaintiff for the seduction of the child and the guardian for the seduction of the ward, though the child or ward ~~be is~~ not living with or in the service of the plaintiff at the time of the seduction or afterwards and there ~~be is~~ no loss of service.

(3) An unmarried person may prosecute as plaintiff an action for ~~his or her~~ *the person's* own seduction and may recover ~~therein such~~ damages, pecuniary or exemplary, ~~as that~~ are assessed in ~~such the~~ person's favor.”

Section 582. Section 27-1-515, MCA, is amended to read:

“27-1-515. Protection of personal relations — abduction. The rights of personal relations forbid:

(1) the abduction of a parent from a child;

(2) the abduction or enticement of a wife from ~~her the wife's~~ husband or a husband from ~~his the husband's~~ wife, of a child from a parent or from a guardian entitled to ~~its the child's~~ custody, or of a servant from a master.”

Section 583. Section 27-1-701, MCA, is amended to read:

“27-1-701. Liability for negligence as well as willful acts. Except as otherwise provided by law, ~~everyone~~ *each person* is responsible not only for the results of ~~his the person’s~~ willful acts but also for an injury occasioned to another by ~~his the person’s~~ want of ordinary care or skill in the management of ~~his the person’s~~ property or person except so far as the ~~latter person~~ has willfully or by want of ordinary care brought the injury upon ~~himself the person.~~”

Section 584. Section 27-1-711, MCA, is amended to read:

“27-1-711. Liability of minor or person of unsound mind for own torts — exemplary damages. A minor or person of unsound mind is civilly liable for a wrong done by ~~him that person~~ but is not liable in exemplary damages unless at the time of the act ~~he the person~~ was capable of knowing that it was wrongful.”

Section 585. Section 27-1-712, MCA, is amended to read:

“27-1-712. Liability for damages for deceit. (1) One who willfully deceives another with intent to induce ~~him that person~~ to alter ~~his the person’s~~ position to ~~his the person’s~~ injury or risk is liable for any damage ~~which he thereby that the person~~ suffers.

(2) A deceit, within the meaning of subsection (1), is either:

(a) the suggestion as a fact of that which is not true by one who does not believe it to be true;

(b) the assertion as a fact of that which is not true by one who has no reasonable ground for believing it to be true;

(c) the suppression of a fact by one who is bound to disclose it or who gives information of other facts ~~which that~~ are likely to mislead for want of communication of that fact; or

(d) a promise made without any intention of performing it.

(3) One who practices a deceit with intent to defraud the public or a particular class of persons is ~~deemed considered~~ to have intended to defraud every individual in that class who is actually misled by the deceit.”

Section 586. Section 27-1-713, MCA, is amended to read:

“27-1-713. Duty to restore thing wrongfully acquired or retained. One who obtains a thing without the consent of its owner, by a consent ~~afterwards later~~ rescinded, or by an unlawful exaction ~~which that~~ the owner could not at the time prudently refuse ~~must shall~~ restore ~~it the thing~~ to the person from whom it was ~~thus~~ obtained unless ~~he the person~~ has acquired a title ~~thereto to the thing~~ superior to that of ~~such the~~ other person or unless the transaction was corrupt and unlawful on both sides. The restoration required by this section must be made without demand except where a thing is obtained by mutual mistake, in which case the party obtaining the thing is not bound to return it until ~~he the party~~ has notice of the mistake.”

Section 587. Section 27-1-714, MCA, is amended to read:

“27-1-714. Limits on liability for emergency care rendered at scene of accident or emergency. (1) Any person licensed as a physician and surgeon under the laws of the state of Montana, any volunteer firefighter or officer of any nonprofit volunteer fire company, or any other person who in good faith renders emergency care or assistance without compensation except as provided in subsection (2) at the scene of an emergency or accident is not liable for any civil damages for acts or omissions other than damages occasioned by gross

negligence or by willful or wanton acts or omissions by ~~such~~ *the* person in rendering ~~such~~ *the* emergency care or assistance.

(2) Subsection (1) includes a person properly trained under the laws of this state who operates an ambulance to and from the scene of an emergency or renders emergency medical treatment on a volunteer basis so long as the total reimbursement received for ~~such~~ *the* volunteer services does not exceed 25% of ~~his~~ *the person's* gross annual income or \$3,000 a calendar year, whichever is greater.

(3) If a nonprofit subscription fire company refuses to fight a fire on nonsubscriber property, ~~such~~ *the* refusal does not constitute gross negligence or a willful or wanton act or omission."

Section 588. Section 27-1-715, MCA, is amended to read:

"27-1-715. Liability of owner of vicious dog. (1) The owner of ~~any~~ *a* dog ~~which shall that~~ without provocation ~~bite any~~ *bites* a person while ~~such~~ *the* person is on or in a public place or lawfully on or in a private place, including the property of the owner of ~~such~~ *the* dog, located within an incorporated city or town ~~shall be~~ *is* liable for ~~such~~ damages ~~as that~~ may be suffered by the person bitten regardless of the former viciousness of ~~such~~ *the* dog or the owner's knowledge of ~~such~~ *the* viciousness.

(2) A person is lawfully upon the private property of ~~such~~ *the* owner within the meaning of this section when ~~he~~ *the person* is on ~~such~~ *the* property in the performance of any duty imposed upon ~~him~~ *the person* by the laws of this state or by the laws or postal regulations of the United States of America or when ~~he~~ *the person* is on ~~such~~ *the* property as an invitee or licensee of the person lawfully in possession of the property."

Section 589. Section 27-1-719, MCA, is amended to read:

"27-1-719. (Temporary) Liability of seller of product for physical harm to user or consumer. (1) As used in this section, "seller" means a manufacturer, wholesaler, or retailer.

(2) A person who sells a product in a defective condition unreasonably dangerous to a user or consumer or to the property of a user or consumer is liable for physical harm caused by the product to the ultimate user or consumer or to ~~his~~ *the user's or consumer's* property if:

- (a) the seller is engaged in the business of selling ~~such a~~ *the* product; and
- (b) the product is expected to and does reach the user or consumer without substantial change in the condition in which it is sold.

(3) The provisions of subsection (2) apply even if:

- (a) the seller exercised all possible care in the preparation and sale of ~~his~~ *the* product; and
- (b) the user or consumer did not buy the product from or enter into any contractual relation with the seller.

(4) Subsection (2)(b) does not apply to a claim for relief based upon improper product design.

(5) Except as provided in this subsection, contributory negligence is not a defense to the liability of a seller, based on strict liability in tort, for personal injury or property damage caused by a defectively manufactured or defectively designed product. A seller named as a defendant in an action based on strict liability in tort for damages to person or property caused by a defectively designed or defectively manufactured product may assert the following

affirmative defenses against the user or consumer, the legal representative of the user or consumer, or any person claiming damages by reason of injury to the user or consumer:

(a) The user or consumer of the product discovered the defect or the defect was open and obvious and the user or consumer unreasonably made use of the product and was injured by it.

(b) The product was unreasonably misused by the user or consumer and ~~such~~ *the* misuse caused or contributed to the injury.

(6) The affirmative defenses referred to in subsection (5) mitigate or bar recovery and must be applied in accordance with the principles of comparative negligence set forth in 27-1-702. (Terminates on occurrence of contingency—sec. 11(2), Ch. 429, L. 1997.)

27-1-719. (Effective on occurrence of contingency) **Liability of seller of product for physical harm to user or consumer.** (1) As used in this section, “seller” means a manufacturer, wholesaler, or retailer.

(2) A person who sells a product in a defective condition unreasonably dangerous to a user or consumer or to the property of a user or consumer is liable for physical harm caused by the product to the ultimate user or consumer or to the user’s or consumer’s property if:

(a) the seller is engaged in the business of selling ~~such a~~ *the* product; and

(b) the product is expected to and does reach the user or consumer without substantial change in the condition in which it is sold.

(3) The provisions of subsection (2) apply even if:

(a) the seller exercised all possible care in the preparation and sale of the product; and

(b) the user or consumer did not buy the product from or enter into any contractual relation with the seller.

(4) Subsection (2)(b) does not apply to a claim for relief based upon improper product design.

(5) Contributory fault is a defense to the liability of a seller, based on strict liability in tort, for personal injury or property damage caused by a defectively manufactured or defectively designed product. A seller named as a defendant in an action based on strict liability in tort for damages to a person or property caused by a defectively designed or defectively manufactured product may assert the following affirmative defenses against the user or consumer, the legal representative of the user or consumer, or any person claiming damages by reason of injury to the user or consumer:

(a) The user or consumer of the product discovered the defect or the defect was open and obvious and the user or consumer unreasonably made use of the product and was injured by it.

(b) The product was unreasonably misused by the user or consumer and the misuse caused or contributed to the injury.

(6) The affirmative defenses referred to in subsection (5) mitigate or bar recovery and must be applied in accordance with the principles of comparative fault set forth in 27-1-702 and 27-1-705.”

Section 590. Section 27-1-731, MCA, is amended to read:

“27-1-731. Individual immunity for and indemnification of ditch company employees — definitions. (1) As used in this section:

(a) "ditch company" means a private, not-for-profit irrigation ditch or water user cooperative, corporation, association, or organization;

(b) "employee" means a director, officer, or employee of a ditch company.

(2) An employee of a ditch company is not individually liable for actions and omissions within the course and scope of ~~his~~ *the employee's* employment or position, except as provided in subsection (6). The immunity granted by this subsection does not apply to the liability of a not-for-profit cooperative, corporation, association, or organization.

(3) Upon receiving service of a summons and complaint in an action against ~~him~~ *the employee*, the employee shall give written notice to ~~his~~ *the employee's* supervisor requesting that a defense to the action be provided by the ditch company. If the employee ~~has no~~ *does not have a* supervisor, ~~he~~ *the employee* shall give notice of the action to the attorney of the ditch company defending legal actions of that type. Except as provided in subsection (6), the ditch company shall offer a defense to the action on behalf of the employee. The defense may consist of a defense provided directly by the ditch company. The ditch company shall notify the employee, within 15 days after receipt of notice, whether a direct defense will be provided. If the ditch company refuses or is unable to provide a direct defense, the employee may retain other counsel. Except as provided in subsection (6), the ditch company shall pay all expenses relating to the retained defense and pay any judgment for damages entered in the action that may otherwise be payable under this section.

(4) The employee must be indemnified by the ditch company for any money judgments or legal expenses, including attorney fees either incurred by the employee or awarded to the claimant, or both, to which the employee may be subject as a result of the suit unless the employee's conduct falls within the exclusions provided in subsection (6).

(5) Recovery against a ditch company is a complete bar to any action or recovery of damages by the claimant, by reason of the same subject matter, against the employee whose negligence or wrongful act, error, or omission or other actionable conduct gave rise to the claim. In an action against a ditch company, the employee whose conduct gave rise to the suit is immune from liability by reasons of the same subject matter if the ditch company acknowledges or is bound by a judicial determination that the conduct upon which the claim is brought arises out of the course and scope of the employee's employment unless the claim constitutes an exclusion provided in subsections (6)(b) through (6)(d).

(6) The employee may not be defended or indemnified by the ditch company for any money judgments or legal expenses, including attorney fees, to which the employee may be subject as a result of the suit if a judicial determination is made that:

(a) the conduct upon which the claim is based constitutes oppression, fraud, or malice or for any other reason does not arise out of the course and scope of the employee's employment or position;

(b) the conduct of the employee is a criminal offense as defined in Title 45, chapters 4 through 7;

(c) the employee compromised or settled the claim without the consent of the ditch company; or

(d) the employee failed or refused to cooperate reasonably in the defense of the case.

(7) If ~~no~~ a judicial determination has *not* been made applying the exclusions provided in subsection (6), the ditch company may determine whether those exclusions apply. However, if there is a dispute as to whether the exclusions of subsection (6) apply and the ditch company concludes it should clarify its obligation to the employee arising under this section by commencing a declaratory judgment action or other legal action, the ditch company is obligated to provide a defense or assume the cost of the defense of the employee until a final judgment is rendered in ~~such~~ *the* action holding that the ditch company had no obligation to defend the employee. The ditch company has no obligation to provide a defense to the employee in a declaratory judgment action or other legal action brought against the employee by the ditch company under this subsection.”

Section 591. Section 27-1-733, MCA, is amended to read:

“27-1-733. Liability of nonprofit organizations and their employees for injuries suffered in sponsored rodeo and similar events. (1) ~~No~~ A nonprofit organization sponsoring a rodeo, cowboy polo, cutting horse, O-Mok-See, trail riding, horse packing, horse show, or jackpot roping event, or employee of the organization, is *not* liable for injuries suffered by a contestant as a result of ~~his~~ *the contestant’s* voluntary participation in the event except for injuries caused by a willful or wanton act of the sponsoring organization or its employees.

(2) For purposes of this section, a minor is considered to be in voluntary participation in an event if:

(a) ~~he~~ *the minor* has provided written consent to participate in the event; and

(b) the consent is approved by one of the minor’s parents or by ~~his~~ *the minor’s* legal guardian.”

Section 592. Section 27-1-802, MCA, is amended to read:

“27-1-802. Libel defined. Libel is a false and unprivileged publication by writing, printing, picture, effigy, or other fixed representation ~~to the eye which~~ *that* exposes any person to hatred, contempt, ridicule, or obloquy or ~~which~~ causes ~~him~~ *a person* to be shunned or avoided or ~~which~~ *that* has a tendency to injure ~~him~~ *a person* in ~~his~~ *the person’s* occupation.”

Section 593. Section 27-1-803, MCA, is amended to read:

“27-1-803. Slander defined. Slander is a false and unprivileged publication other than libel ~~which~~ *that*:

(1) charges any person with crime or with having been indicted, convicted, or punished for crime;

(2) imputes in ~~him~~ *a person* the present existence of an infectious, contagious, or loathsome disease;

(3) tends directly to injure ~~him~~ *a person* in respect to ~~his~~ *the person’s* office, profession, trade, or business, either by imputing to ~~him~~ *the person* general disqualification in those respects ~~which~~ *that* the office or other occupation peculiarly requires or by imputing something with reference to ~~his~~ *the person’s* office, profession, trade, or business that has a natural tendency to lessen its profit;

(4) imputes to ~~him~~ *a person* impotence or want of chastity; or

(5) by natural consequence causes actual damage.”

Section 594. Section 27-1-813, MCA, is amended to read:

“27-1-813. Liability of person broadcasting — liability of owner for broadcast prepared by station. Nothing in 27-1-811 or 27-1-812 may be construed to relieve any person broadcasting over a radio station from liability under the law of defamation or to relieve any person, firm, or corporation owning or operating a radio broadcasting station from liability under the law of defamation on account of any broadcast prepared or made by ~~such a~~ person, firm, or corporation or by any officer or employee ~~thereof of a radio station~~ in the course of his employment. Whenever ~~such~~ an owner or operator of a radio station is liable on account of a broadcast and two or more broadcasting stations were connected simultaneously or by transcription, film, metal tape, or other approved or adapted use for joint operation in the making of the broadcast, liability is limited solely to the person, firm, or corporation owning or operating the radio station ~~which that~~ originated the broadcast.”

Section 595. Section 27-1-820, MCA, is amended to read:

“27-1-820. Content of correction. To the extent that the true facts are, with reasonable diligence, ascertainable with definiteness and certainty, only a retraction constitutes a correction; otherwise the publication or broadcast of the defamed person’s statement of the true facts or so much ~~thereof as of the statement that~~ is not defamatory of another, scurrilous, or otherwise improper for publication or broadcast, published or broadcast as ~~his the defamed person’s~~ statement, constitutes a correction within the meaning of 27-1-818 through 27-1-821.”

Section 596. Section 27-1-1102, MCA, is amended to read:

“27-1-1102. Duty to warn of violent behavior. A mental health professional has a duty to warn of or take reasonable precautions to provide protection from violent behavior only if the patient has communicated to the mental health professional an actual threat of physical violence by specific means against a clearly identified or reasonably identifiable victim. The duty is discharged by a mental health professional if ~~he the mental health professional~~ has:

(1) made reasonable efforts to communicate the threat to the victim and notify the law enforcement agency closest to the patient’s or the victim’s residence of the threat of violence; and

(2) supplied a requesting law enforcement agency with any information ~~he the mental health professional~~ has concerning the threat of violence.”

Section 597. Section 27-1-1103, MCA, is amended to read:

“27-1-1103. Immunity from liability. (1) No monetary liability and no cause of action may arise against any mental health professional for failing to predict, warn of, or take precautions to provide protection from a patient’s threatened violent behavior unless ~~he the mental health professional~~ has a duty to warn of violent behavior, as provided in 27-1-1102.

(2) No monetary liability and no cause of action may arise against any mental health professional for disclosing confidential or privileged information in an effort to discharge a duty arising under 27-1-1102.”

Section 598. Section 27-2-210, MCA, is amended to read:

“27-2-210. Actions arising from the seizure or sale of property for taxes. (1) Within 1 year is the period prescribed for the commencement of an action against an officer or officer de facto:

(a) to recover any goods, wares, merchandise, or other property seized by ~~any such the officer in his the officer’s~~ official capacity as tax collector;

(b) to recover the price or value of any goods, wares, merchandise, or other personal property ~~so~~ seized;

(c) for damages for the seizure, detention, or sale of or injury to any goods, wares, merchandise, or other personal property seized; or

(d) for damages done to any person or property in making ~~any such a~~ seizure.

(2) The period prescribed for the commencement of an action to recover stock sold for a delinquent assessment is within 6 months.

(3) (a) An action against a county to recover a royalty interest in land acquired by the county by tax deed must be brought within 3 years after the commencement of commercial production of oil, gas, or other minerals from the land.

(b) Nothing contained in subsection (3)(a) ~~shall change~~ *changes* the nature of a royalty interest prior to actual production. The purpose of subsection (3)(a) is to place a limitation on actions seeking royalty interests reserved by the county, once production has commenced, without in any way affecting the validity of any claims a county may have prior to the commencement of production.”

Section 599. Section 27-2-213, MCA, is amended to read:

“27-2-213. Actions against banks. (1) Except as provided in subsection (2), there are no time limitations on the commencement of actions to recover money or other property deposited with any bank, banker, trust company, or savings and loan corporation, association, or society.

(2) Any action to obtain, set aside, or question in any manner any stated or settled account between any bank, banker, trust company, or savings and loan corporation, association, or society and any depositor with ~~such the~~ bank, banker, trust company, or savings and loan corporation, association, or society must be commenced within 5 years from the date of the statement of ~~such the~~ account. Any action based upon or arising from the payment by any bank, banker, trust company, or savings and loan corporation, association, or society of a forged, raised, or otherwise altered check, order, or promissory note out of the deposit, money, or property of the plaintiff must be commenced within 3 years from the day on which the plaintiff or ~~his the plaintiff's~~ agent, assignee, or personal representative was notified of ~~such~~ payment or received ~~such the~~ check, order, or note marked “paid”.”

Section 600. Section 27-2-402, MCA, is amended to read:

“27-2-402. When defendant is out of state. When the cause of action accrues against a person who is out of the state and cannot be served with process, the action may be commenced within the term ~~herein~~ limited *under this part* after ~~his the person's~~ return to the state; ~~and if~~ *If*, after the cause of action accrues, ~~he the person~~ departs from the state and cannot be served with process, the time of ~~his the person's~~ absence is not part of the time limited for the commencement of the action.”

Section 601. Section 27-2-405, MCA, is amended to read:

“27-2-405. When controversy submitted to arbitration. ~~Where~~ *When* the persons who might be adverse parties in an action have entered into a written agreement to submit to arbitration or to refer the cause of action or a controversy in which it might be available or have entered into a written submission ~~thereof of the cause or controversy~~ to arbitrators and, before an award or other determination ~~thereupon~~, the agreement or submission is revoked, so as to render it ineffectual, by the death of either party ~~thereto~~ or by the act of the person against whom the action might have been brought or the

execution thereof or the remedy upon an award or other determination thereunder is stayed by injunction or other order procured by him from a competent court or judge, the time which that has elapsed between the entering into the written submission or agreement and the revocation thereof of the submission or agreement or the expiration of the stay is not a part of the time limited for the commencement of the action.”

Section 602. Section 27-2-407, MCA, is amended to read:

“27-2-407. When action terminated or judgment reversed. If an action is commenced within the time limited therefor for the action and a judgment therein is reversed on appeal without awarding a new trial or the action is terminated in any other manner than by a voluntary discontinuance, a dismissal of the complaint for neglect to prosecute the action, or a final judgment upon the merits, the plaintiff or, if he the plaintiff dies and the cause of action survives, his the plaintiff’s representative may commence a new action for the same cause after the expiration of the time so limited and within 1 year after such a reversal or termination.”

Section 603. Section 27-2-408, MCA, is amended to read:

“27-2-408. Assertion of counterclaim. (1) A defendant is entitled to assert against a plaintiff, by pleading or amendment, any counterclaim arising out of the transaction or occurrence that is the subject matter of the plaintiff’s claim against him the defendant.

(2) The time period between the commencement and termination of an action is not part of the time limit for the commencement of an action by a defendant to recover for a counterclaim or to interpose it in that action or another action by the same plaintiff or a successor arising out of the same transaction or occurrence.”

Section 604. Section 27-5-211, MCA, is amended to read:

“27-5-211. Appointment of arbitrators. If the arbitration agreement provides a method of appointment of arbitrators, this method shall must be followed. If no a method is not provided, the agreed method fails or for any reason cannot be followed, or an appointed arbitrator fails or is unable to act and his the arbitrator’s successor has not been duly appointed, the district court on application of a party shall appoint one or more arbitrators. An arbitrator so appointed has all the powers of one specifically named in the agreement.”

Section 605. Section 27-5-216, MCA, is amended to read:

“27-5-216. Award. (1) The award must be in writing and signed by the arbitrators joining in the award. The arbitrators shall deliver a copy to each party personally by certified mail or as provided in the agreement.

(2) An award must be made within the time fixed by the agreement or, if no time is fixed, within such the time as that the district court orders on application of a party. The parties may extend the time, in writing, either before or after the expiration thereof of the time. A party waives the objection that an award was not made within the time required unless he the party notifies the arbitrators of his the party’s objection prior to the delivery of the award to him that party.”

Section 606. Section 27-5-217, MCA, is amended to read:

“27-5-217. Change of award by arbitrators. On the application of a party or, if an application to the court is pending under 27-5-311, 27-5-312, or 27-5-313, on submission to the arbitrators by the court under such conditions as that the court may order, the arbitrators may modify or correct the award upon the grounds stated in 27-5-313(1)(a) and (1)(c) or for the purpose of clarifying the

award. The application must be made within 20 days after delivery of the award to the applicant. Written notice ~~thereof shall~~ *must* be given immediately to the opposing party, stating that ~~he~~ *the opposing party* must serve ~~his~~ *the party's* objections ~~thereto to the award~~, if any, within 10 days from the notice. A modified or corrected award is subject to the provisions of 27-5-311 through 27-5-313."

Section 607. Section 27-5-323, MCA, is amended to read:

"27-5-323. Venue. An initial application must be made to the court of the county in which the agreement provides the arbitration hearing must be held or, if the hearing has been held, in the county in which it was held. Otherwise, the application must be made in the county where the adverse party resides or has a place of business or, if ~~he has no~~ *the adverse party does not have* a residence or place of business in this state, to the court of any county. All subsequent applications must be made to the court hearing the initial application unless the court otherwise directs. ~~No~~ *An* agreement concerning venue involving a resident of this state is *not* valid unless the agreement requires that arbitration occur within the state of Montana. This requirement may only be waived upon the advice of counsel as evidenced by counsel's signature ~~thereto on the agreement.~~"

Section 608. Section 27-6-202, MCA, is amended to read:

"27-6-202. Employment of staff and maintenance of offices. (1) The director, subject to the approval of the chief justice, may employ and fix the compensation for clerical and other assistants ~~as he~~ *that the director* considers necessary.

(2) The panel shall maintain adequate offices, in which its records ~~shall~~ *must* be kept and its official business transacted."

Section 609. Section 27-6-203, MCA, is amended to read:

"27-6-203. Compensation of panel and staff. (1) All members of the panel ~~shall~~ *must* be paid a salary in the amount of \$40 an hour, under guidelines promulgated by the Montana supreme court.

(2) All members of the panel, the director, and ~~his~~ *the director's* staff are entitled to travel expenses incurred while on the business of the panel, as provided in 2-18-501 through 2-18-503, but ~~such~~ *the* expenses ~~shall~~ *must* be approved by the director before payment is made."

Section 610. Section 27-6-301, MCA, is amended to read:

"27-6-301. How cases submitted. Claimants shall submit a case for the consideration of the panel prior to filing a complaint in any district court or other court sitting in Montana by addressing an application, in writing, signed by the claimant or ~~his~~ *the claimant's* attorney, to the director of the panel."

Section 611. Section 27-6-305, MCA, is amended to read:

"27-6-305. Service on health care provider. Upon receipt of an application for review, the director or ~~his~~ *the director's* delegate shall cause to be served a true copy of the application on the health care providers involved. Service ~~shall~~ *must* be effected by mailing a certified copy of the application to the health care provider at the provider's last-known address, postage prepaid, by certified mail, return receipt requested."

Section 612. Section 27-6-404, MCA, is amended to read:

"27-6-404. Disqualification of panel member. (1) ~~Any~~ *A* member ~~shall~~ *disqualify himself* ~~must be disqualified~~ from consideration of ~~any~~ *a* case in which, by virtue of ~~his~~ *the member's* circumstances, ~~he feels his presence~~ *the*

member believes that serving on the panel would be inappropriate, considering the purpose of the panel. The director may excuse a proposed panelist from serving.

(2) Whenever a party makes and files an affidavit that a panel member selected pursuant to this part cannot, according to the belief of the party making the affidavit, sit in review of the application with impartiality, that panel member may proceed no further. Another panel member must be selected by the health care provider's professional association or state licensing board or the state bar, as ~~the case may be~~ *appropriate*. A party may not disqualify more than three panel members in this manner in any single malpractice claim, and the affidavit must be filed within 15 days of the transmittal by the director, under 27-6-402, of the names of the panel members selected."

Section 613. Section 27-6-502, MCA, is amended to read:

"27-6-502. Conduct of hearing. (1) At the time set for hearing, the claimant submitting the case for review ~~shall~~ *must* be present and shall make a brief introduction of ~~his~~ *the* case, including a resume of the facts constituting the alleged professional malpractice ~~which he~~ *that the claimant* is prepared to prove. The health care provider against whom the claim is brought and ~~his~~ *the health care provider's* attorney may be present and may make an introductory statement of ~~his~~ *the health care provider's* case.

(2) Both parties may call witnesses to testify before the panel, ~~which~~ *and the* witnesses ~~shall~~ *must* be sworn. Medical texts, journals, studies, and other documentary evidence relied upon by either party may be offered and admitted if relevant. Written statements of facts by treating health care providers may be reviewed.

(3) The hearing ~~will~~ *must* be informal, and ~~no~~ *an* official transcript may *not* be made."

Section 614. Section 27-6-503, MCA, is amended to read:

"27-6-503. Conclusion of hearing — supplemental hearing. (1) At the conclusion of the hearing, the panel may take the case under advisement or may request that additional facts, records, witnesses, or other information be obtained and presented to it at a supplemental hearing, which ~~shall~~ *must* be set for a date and time certain, not longer than 30 days from the date of the original hearing unless the claimant or ~~his~~ *the claimant's* attorney consents in writing to a longer period.

(2) Any supplemental hearing ~~shall~~ *must* be held in the same manner as the original hearing, and the parties concerned and their attorneys may be present."

Section 615. Section 27-6-601, MCA, is amended to read:

"27-6-601. Selection of chairman *presiding officer*. At or prior to the time set for the hearing, the attorney members of the panel shall select a ~~chairman~~ *presiding officer* who ~~shall~~ *must* be an attorney and who shall preside over the panel deliberations."

Section 616. Section 27-6-604, MCA, is amended to read:

"27-6-604. Form and content of decision. The decision must in every case be signed for the panel by the ~~chairman~~ *presiding officer*, must contain only the conclusions reached by a majority of its members, and must list the number of members, if any, dissenting from the opinion. Upon request of any party, the majority shall briefly explain the reasoning and basis for the decision and the dissenters shall explain the reasoning and basis for disagreement. Each party

must be informed by the panel of the right to nonbinding mediation under 27-6-606.”

Section 617. Section 27-6-702, MCA, is amended to read:

“27-6-702. Tolling of statute of limitations. The running of the applicable limitation period related to a malpractice claim is tolled upon receipt by the director of the application for review as to all health care providers named in the application as parties to the panel proceeding and as to all other persons or entities named in the application as necessary or proper parties for any court action that might subsequently arise out of the same factual circumstances set forth in the application. The running of the applicable limitation period does not begin again until 30 days after either an order of dismissal, with or without prejudice against refile, is issued from the panel ~~chairman~~ *presiding officer*, or from the director upon the consent of the parties to the claim, or after the panel’s final decision, whichever occurs first, is entered in the permanent files of the panel and a copy is served upon the complainant or the complainant’s attorney if represented by counsel, by certified mail.”

Section 618. Section 27-9-102, MCA, is amended to read:

“27-9-102. Requirement of signed, verified statement by defendant. A statement in writing must be made, signed by the defendant, and verified by ~~his~~ *the defendant’s* oath to the following effect:

- (1) It must authorize the entry of judgment for a specified sum.
- (2) If it ~~be~~ *is* for money due or to become due, it must state concisely the facts out of which it arose and show that the sum confessed ~~therefor~~ is justly due or to become due.
- (3) If it ~~be~~ *is* for the purpose of securing the plaintiff against contingent liability, it must state concisely the facts constituting the liability and show that the sum confessed ~~therefor~~ does not exceed the ~~same~~ *contingent liability*.”

Section 619. Section 27-9-104, MCA, is amended to read:

“27-9-104. Filing and costs — justice’s court. In a justice’s court ~~which~~ *that* has authority to enter the judgment, the statement may be filed with the justice, who shall ~~thereupon~~ enter in ~~his~~ *the* docket a judgment of ~~his~~ *the justice’s* court for the amount confessed, with costs. If a transcript of ~~such~~ *the* judgment is filed with the clerk of the district court, a copy of the statement must be filed with it.”

Section 620. Section 27-12-103, MCA, is amended to read:

“27-12-103. Definitions. As used in this chapter, the following definitions apply:

- (1) “Chiropractic physician” means:
 - (a) for purposes of the annual assessment under 27-12-206, a person licensed to practice chiropractic under Title 37, chapter 12, who at the time of the assessment:
 - (i) has ~~his~~ *the individual’s* principal residence or place of chiropractic practice in the state of Montana;
 - (ii) is not employed full time by any federal agency or entity; and
 - (iii) is not fully retired from the practice of chiropractic; or
 - (b) for all other purposes, a person licensed to practice chiropractic under Title 37, chapter 12, who at the time of the occurrence of the incident giving rise to a malpractice claim:

(i) had ~~his~~ *the individual's* principal residence or place of chiropractic practice in the state of Montana and was not employed full time by any federal agency or entity; or

(ii) was a professional service corporation, partnership, or other business entity organized under the laws of a state to render chiropractic services and each of whose shareholders, partners, or owners were chiropractic physicians licensed to practice chiropractic under Title 37, chapter 12.

(2) "Director" means the director of the Montana chiropractic legal panel.

(3) "Malpractice claim" means any claim or potential claim against a chiropractic physician for chiropractic treatment, lack of chiropractic treatment, or alleged departure from accepted standards of chiropractic health care that proximately results in damage to the claimant; and includes but is not limited to a tort or contract claim or potential claim.

(4) "Panel" means the Montana chiropractic legal panel created in 27-12-104."

Section 621. Section 27-12-202, MCA, is amended to read:

"27-12-202. Employment of staff and maintenance of offices. (1) The director, subject to the approval of the chief justice, may employ and fix the compensation for clerical and other assistants ~~as he~~ *that the director* considers necessary.

(2) The panel shall maintain adequate offices, in which its records must be kept and official business transacted."

Section 622. Section 27-12-203, MCA, is amended to read:

"27-12-203. Compensation of panel members and staff. (1) Each member of the panel must be paid a salary of \$40 an hour, under guidelines promulgated by the Montana supreme court.

(2) Each member of the panel, the director, and ~~his~~ *the director's* staff are entitled to travel expenses incurred while on the business of the panel, as provided in 2-18-501 through 2-18-503. The director shall approve ~~such~~ *the* expenses before payment is made."

Section 623. Section 27-12-301, MCA, is amended to read:

"27-12-301. How cases submitted — no court action before application. A claimant shall submit a case for the consideration of the panel before filing a complaint in a court sitting in Montana by addressing an application in writing, signed by the claimant or ~~his~~ *the claimant's* attorney, to the director of the panel."

Section 624. Section 27-12-305, MCA, is amended to read:

"27-12-305. Service on chiropractic physician. Upon receipt of an application, the director or ~~his~~ *the director's* delegate shall serve a copy of the application on the chiropractic physician whose alleged malpractice caused the application to be filed. Service must be by mailing a certified copy of the application to the chiropractic physician at ~~his~~ *the chiropractic physician's* last-known address, postage prepaid, by certified mail, return receipt requested."

Section 625. Section 27-12-404, MCA, is amended to read:

"27-12-404. Disqualification of panel member. (1) A panel member or proposed member ~~shall disqualify himself~~ *must be disqualified* from consideration of a case in which, by virtue of ~~his~~ *the member's* circumstances,

he *the member* believes ~~his presence~~ *that serving* on the panel would be inappropriate, considering the purpose of the panel. The director may excuse a panel member or proposed member from serving.

(2) If a party files an affidavit stating that ~~he~~ *the party* believes a panel member cannot impartially sit in review of the application, that panel member is disqualified from consideration of the case. The affidavit must be filed within 15 days of the transmittal by the director, under 27-12-402, of the names of the panel members selected. A party may not disqualify more than three panel members. The entity that chose the disqualified member shall select another panel member.”

Section 626. Section 27-12-503, MCA, is amended to read:

“27-12-503. Conclusion of hearing — supplemental hearing. (1) At the conclusion of the hearing, the panel may take the case under advisement or may request that additional facts, records, witnesses, or other information be obtained and presented to it at a supplemental hearing. The supplemental hearing must be held at a date and time no more than 30 days from the date of the original hearing, unless the claimant or ~~his~~ *the claimant’s* attorney consents in writing to a longer period.

(2) A supplemental hearing must be held in the same manner as the original hearing, and the parties and their attorneys may be present.”

Section 627. Section 27-12-601, MCA, is amended to read:

“27-12-601. Selection of chairman presiding officer. At or prior to the time set for the hearing, the attorney members of the panel shall select a ~~chairman~~ *presiding officer*, who must be an attorney.”

Section 628. Section 27-12-604, MCA, is amended to read:

“27-12-604. Form and content of decision. (1) The decision must:

- (a) be in writing and signed by the ~~chairman~~ *presiding officer*;
- (b) contain only the conclusions reached by a majority of the panel; and
- (c) list the number of dissenting members, if any.

(2) The majority may briefly explain the reasoning and the basis for its decision, and the dissenters may likewise explain the reasons for disagreement.”

Section 629. Section 27-12-701, MCA, is amended to read:

“27-12-701. Tolling of statute of limitations. (1) Upon receipt of an application by the director, the running of an applicable limitation period in a malpractice claim is tolled as to each chiropractic physician named as a party and as to each other person or entity named as a necessary or proper party for a court action that might subsequently arise out of the factual circumstances set forth in the application.

(2) The running of the applicable limitation period in a malpractice claim does not begin again until:

(a) 30 days after an order of dismissal, with or without prejudice against refiling, is issued; or

(b) after the panel’s final decision is entered in the permanent files of the panel and a copy is served upon the complainant or ~~his~~ *the complainant’s* attorney.”

Section 630. Section 27-15-101, MCA, is amended to read:

“27-15-101. When plaintiff may be required to elect among arrest, injunction, and attachment. ~~Where~~ *When* an application for an order of arrest, injunction order, and writ of attachment or two of them is made in the same action against the same defendant and it satisfactorily appears that, under the particular circumstances of the case, two or all of them are not necessary for the plaintiff’s security, the court or judge may, in ~~its~~ *the court’s* or ~~his~~ *judge’s* discretion, require the plaintiff to elect between them.”

Section 631. Section 27-15-102, MCA, is amended to read:

“27-15-102. Availability of provisional remedies to defendant interposing counterclaim. Whenever the defendant interposes a counterclaim and ~~thereupon~~ demands an affirmative judgment against the plaintiff, ~~his~~ *the defendant’s* right to a provisional remedy is the same as it would be in an action brought by ~~him~~ *the defendant* against the plaintiff for the cause of action stated in the counterclaim and demanding the same judgment. For the purpose of applying to such a case the provisions of ~~chapters 15 through 20 of this title and chapter 8 of Title 25, chapter 8, and Title 27, chapters 15 through 20, to a case involving a counterclaim,~~ the defendant is considered the plaintiff, the plaintiff is considered the defendant, and the counterclaim ~~so~~ set forth in the answer is considered the complaint.”

Section 632. Section 27-16-102, MCA, is amended to read:

“27-16-102. When defendant may be arrested. The defendant may be arrested in the following cases:

(1) in an action for the recovery of money or damages on a cause of action arising upon contract, express or implied, when the defendant is about to depart from the state with intent to defraud ~~his~~ *the defendant’s* creditors;

(2) in an action for willful injury to person or character or to property ~~which~~ *that* the defendant knew belonged to another;

(3) in an action:

(a) for a fine or penalty or for money or property fraudulently misapplied or converted to ~~his~~ *the defendant’s* own use by a public officer, an officer of a corporation, or an attorney, factor, broker, agent, or clerk, in the course of ~~his~~ employment ~~as such~~, or by any other person in a fiduciary capacity;

(b) for misconduct or neglect in office or in a professional employment; or

(c) for a willful violation of duty;

(4) in an action to recover possession of personal property unjustly obtained, when the property or any part thereof has been concealed, removed, or disposed of so that it cannot be found or taken by the sheriff;

(5) when the defendant has been guilty of fraud in contracting the debt or incurring the obligation for which the action is brought or in concealing or disposing of the property for the taking, detention, or conversion of which the action is brought;

(6) when the defendant has removed or disposed of ~~his~~ *the defendant’s* property or is about to do so with intent to defraud ~~his~~ *the defendant’s* creditors.”

Section 633. Section 27-16-204, MCA, is amended to read:

“27-16-204. Plaintiff’s undertaking. Before making the order, the judge ~~must~~ *shall* require a written undertaking on the part of the plaintiff, with at least two sufficient sureties, to the effect that, if the defendant ~~reecover~~ *recovers* judgment or if the court ~~shall~~ finally ~~decide~~ *decides* that the plaintiff was not entitled to an order of arrest, the plaintiff will pay all costs and charges that may

be awarded to the defendant and all damages ~~which he~~ *that the defendant* may sustain by reason of the arrest, if the ~~same be~~ *arrest is* wrongful or without sufficient cause, not exceeding the sum specified in the undertaking, which ~~shall~~ *must* be at least \$500.”

Section 634. Section 27-16-205, MCA, is amended to read:

“27-16-205. Affidavits of sureties — filing of undertaking. Each of the sureties ~~must shall~~ annex to the undertaking an affidavit that ~~he~~ *the surety* is a resident and householder or freeholder within the state and worth double the sum specified in the undertaking, over and above all ~~his~~ *the surety’s* debts and liabilities, exclusive of property exempt from execution. The undertaking must be filed with the clerk of the court.”

Section 635. Section 27-16-206, MCA, is amended to read:

“27-16-206. Directions to sheriff in order. The order must require the sheriff of the county where the defendant may be found ~~forthwith~~ to arrest ~~him~~ *the defendant* and hold ~~him~~ *the defendant* to bail in a specified sum and to return the order at a time ~~therein mentioned~~ *specified in the order* to the clerk of the court in which the action is pending.”

Section 636. Section 27-16-207, MCA, is amended to read:

“27-16-207. Service of order and affidavit. The order of arrest, with a copy of the affidavit upon which it is made, must be delivered to the sheriff, who, upon arresting the defendant, shall deliver ~~him~~ *the defendant* a copy of the affidavit and also, if *the defendant* desires, a copy of the order of arrest.”

Section 637. Section 27-16-208, MCA, is amended to read:

“27-16-208. Execution of order — prepayment of expense by plaintiff. The sheriff ~~must shall~~ execute the order by arresting the defendant and keeping ~~him~~ *the defendant* in custody until discharged by law. ~~But~~ *However*, the sheriff is not bound to keep ~~such person~~ *the defendant* under arrest more than 24 hours unless the plaintiff ~~advance~~ *advances* each day the expense of keeping ~~such person, the defendant, which expense shall~~ *The expenses must* be taxed as costs in the action and ~~in no case shall~~ *may not* be a charge against the county.”

Section 638. Section 27-16-209, MCA, is amended to read:

“27-16-209. Liability of sheriff for escape or rescue. If after being arrested the defendant ~~escape~~ *escapes* or ~~be is~~ *is* rescued, the sheriff is liable as bail, but ~~he~~ *the sheriff* may ~~discharge himself~~ *be discharged* from ~~such~~ liability by the giving ~~and~~ justification of bail at any time before judgment.”

Section 639. Section 27-16-210, MCA, is amended to read:

“27-16-210. Recovery on sheriff’s official bond. If a judgment ~~be is~~ *is* recovered against the sheriff upon ~~his~~ *the sheriff’s* liability as bail and an execution ~~thereon~~ *be is* returned unsatisfied in whole or in part, the same proceeding may be had on ~~his~~ *the sheriff’s* official bond for the recovery of the whole or any deficiency as in other cases of delinquency.”

Section 640. Section 27-16-402, MCA, is amended to read:

“27-16-402. Form of undertaking for bail. The defendant may give bail by causing a written undertaking to be executed by two or more sufficient sureties, stating their places of residence and occupations, to the effect that they are bound in the amount mentioned in the order of arrest, that the defendant ~~shall must~~ at all times ~~render himself~~ *be* amenable to the process of the court during the pendency of the action and to ~~such as~~ *the orders that* may be issued to

enforce the judgment ~~therein in the action~~ or that they will pay to the plaintiff the amount of any judgment ~~which that~~ may be recovered in the action.”

Section 641. Section 27-16-403, MCA, is amended to read:

“27-16-403. Qualifications of sureties. The qualifications of bail ~~shall~~ *must* be as follows:

(1) Each of them must be a resident and householder or freeholder within the county.

(2) Each must be worth the amount specified in the order of arrest or the amount to which the order is reduced, as provided in this chapter, over and above all ~~his the bail's~~ debts and liabilities, exclusive of property exempt from execution; ~~but~~ *However*, the judge or clerk, on justification, may allow more than two sureties to justify severally, in amounts less than that expressed in the order, if the whole justification ~~be is~~ equivalent to that of two sufficient bail.”

Section 642. Section 27-16-404, MCA, is amended to read:

“27-16-404. Filing of order with return and undertaking — plaintiff's notice of nonacceptance. (1) Within the time limited for that purpose, the sheriff ~~must shall~~ file the order of arrest in the office of the clerk of the court in which the action is pending, with ~~his the~~ return endorsed ~~thereon on~~ *the order*, together with a copy of the undertaking of the bail. The *sheriff shall retain the* original undertaking ~~he must retain~~ in ~~his the sheriff's~~ possession until filed, as ~~herein~~ provided in *this section*.

(2) The plaintiff, within 10 days ~~thereafter after filing~~, may serve upon the sheriff a notice that ~~he the plaintiff~~ does not accept the bail, or ~~he shall be deemed the plaintiff is considered~~ to have accepted ~~them the bail~~ and the sheriff ~~shall be is~~ exonerated from liability. If ~~no~~ notice ~~be has not been~~ served within 10 days, the original undertaking must be filed with the clerk of the court.”

Section 643. Section 27-16-405, MCA, is amended to read:

“27-16-405. Notice of justification of sureties — new undertaking. Within 5 days after receipt of notice, the sheriff or defendant may give to the plaintiff or ~~his the plaintiff's~~ attorney notice of the justification of the same or other bail, (specifying the place of residence and occupation of the ~~latter~~) *attorney*, before a judge of the court or clerk ~~thereof of the court~~, at a specified time and place, ~~the time~~ not to be less than 5 or more than 10 days ~~thereafter after the notice of the justification~~, except ~~by~~ *with* consent of parties. ~~In case If~~ other bail is given, there ~~shall must~~ be a new undertaking.”

Section 644. Section 27-16-406, MCA, is amended to read:

“27-16-406. Procedure for justification. For the purpose of justification, each of the bail ~~must shall~~ attend before the judge or clerk at the time and place ~~mentioned specified~~ in the notice and may be examined on oath, on the part of the plaintiff, touching ~~his the bail's~~ sufficiency, in ~~such a manner as that~~ the judge or clerk, in ~~his the judge's or clerk's~~ discretion, may think proper. The examination ~~shall must~~ be reduced to writing and subscribed by the bail if required by the plaintiff.”

Section 645. Section 27-16-407, MCA, is amended to read:

“27-16-407. Acceptance of sufficiency of sureties by judge or clerk. If the judge or clerk ~~shall find finds~~ the bail sufficient, ~~he must the judge or clerk shall~~ annex the examination to the undertaking, endorse ~~his the~~ allowance ~~thereon on the examination~~, and cause them to be filed, and the sheriff ~~shall thereupon be is then~~ exonerated from liability.”

Section 646. Section 27-16-501, MCA, is amended to read:

“27-16-501. Surrender of defendant. At any time before judgment or within 10 days ~~thereafter~~ *after the judgment*, the bail may surrender the defendant in their exoneration or ~~he the defendant~~ may surrender ~~himself~~ to the sheriff of the county where ~~he the defendant~~ was arrested.”

Section 647. Section 27-16-502, MCA, is amended to read:

“27-16-502. Manner and time of surrender. For the purpose of surrendering the defendant, the bail, at any time or place before they are finally charged, may ~~themselves~~ arrest ~~him~~ *the defendant* or, by a written authority endorsed on a certified copy of the undertaking, may empower the sheriff to ~~do so~~ *arrest the defendant*.”

Section 648. Section 27-16-503, MCA, is amended to read:

“27-16-503. Exoneration of sureties. Upon arrest of the defendant by the sheriff or upon ~~his the defendant's~~ delivery to the sheriff by the bail or upon ~~his the defendant's~~ own surrender, the bail ~~shall must~~ be exonerated, ~~provided such if the arrest, delivery, or surrender take place before the expiration of 10 days after judgment;~~ ~~but~~ *However*, if ~~such the~~ arrest, delivery, or surrender ~~be is~~ not made within 10 days after the judgment, the bail ~~shall must~~ be finally charged on their undertaking and be bound to pay the amount of the judgment within 10 days ~~thereafter after the judgment~~.”

Section 649. Section 27-16-505, MCA, is amended to read:

“27-16-505. Other circumstances in which sureties exonerated. The bail must also be exonerated by the death of the defendant, ~~his the defendant's~~ imprisonment in the state ~~penitentiary or~~ prison, or ~~his the defendant's~~ legal discharge from the obligation to render ~~himself the defendant~~ amenable to the process.”

Section 650. Section 27-16-601, MCA, is amended to read:

“27-16-601. Deposit of money by defendant with sheriff. The defendant may, at the time of ~~his~~ arrest, instead of giving bail, deposit with the sheriff the amount mentioned in the order. ~~In case~~ *If* the amount of bail ~~be is~~ reduced, as provided in this chapter, the defendant may deposit ~~such the~~ amount instead of giving bail. In either case, the sheriff shall give the defendant a certificate of the deposit made, and the defendant ~~shall must~~ be discharged from custody.”

Section 651. Section 27-16-602, MCA, is amended to read:

“27-16-602. Sheriff to pay money into court — certificates of payment. The sheriff ~~must shall~~, immediately after the deposit, pay the ~~same amount~~ into court and take from the clerk receiving the ~~same amount~~ two certificates of ~~such~~ payment, one of which ~~he must the sheriff shall~~ deliver or transmit to the plaintiff or ~~his the plaintiff's~~ attorney and the other to the defendant. For any default in making ~~such the~~ payment, the same proceedings may be had on the official bond of the sheriff to collect the sum deposited as in other cases of delinquency.”

Section 652. Section 27-16-604, MCA, is amended to read:

“27-16-604. Disposition of deposited money after judgment. ~~Where~~ *If* money ~~shall have~~ been deposited, ~~if and~~ it remains on deposit at the time of recovery of a judgment in favor of the plaintiff, the clerk ~~must shall~~, under direction of the court, apply the ~~same money~~ in satisfaction ~~thereof of the judgment~~ and, after satisfying the judgment, refund the surplus, if any, to the

defendant. If the judgment ~~be is~~ in favor of the defendant, the clerk ~~must shall~~, under the direction of the court, refund ~~him~~ the whole sum deposited and remaining unapplied ~~to the defendant~~.”

Section 653. Section 27-16-1002, MCA, is amended to read:

“27-16-1002. Plaintiff’s affidavit and undertaking. Before an order of arrest can be made, the party applying ~~must shall~~ prove to the satisfaction of the justice, by the affidavit of ~~himself~~ ~~the party~~ or some other person, the facts upon which the application is founded. The plaintiff ~~must shall~~ also execute and deliver to the justice a written undertaking in the sum of \$300, with sufficient sureties, to the effect that the plaintiff will pay all costs that may be adjudged to the defendant and all damages ~~which he~~ ~~that the defendant~~ may sustain by reason of the arrest, if the ~~same~~ ~~be~~ ~~arrest is~~ wrongful or without sufficient cause, not exceeding the sum specified in the undertaking.”

Section 654. Section 27-16-1003, MCA, is amended to read:

“27-16-1003. Defendant to be taken before justice immediately. The defendant, immediately upon being arrested, must be taken to the office of the justice who made the order; ~~and if he~~ ~~If the justice~~ is absent or unable to try the action or if it appears to ~~him~~ ~~the justice~~ by the affidavit of defendant that ~~he~~ ~~the justice~~ is a material witness in the action, the officer ~~must shall~~ immediately take the defendant before another justice of the county, if there is another, and if not, then before a justice of an adjoining county, who ~~must shall~~ take jurisdiction of the action and proceed ~~thereon~~ as if the summons had been issued and the order of arrest made by ~~him~~ ~~that justice~~.”

Section 655. Section 27-16-1004, MCA, is amended to read:

“27-16-1004. Notice to plaintiff of arrest — officer’s certificate. The officer making the arrest ~~must shall~~ immediately give notice ~~thereof of the arrest~~ to the plaintiff or ~~his~~ ~~the plaintiff’s~~ attorney or agent and endorse on the summons and subscribe a certificate, stating the time of serving the ~~same~~ ~~summons~~ and the time of arrest and of ~~his~~ ~~the officer~~ giving notice to the plaintiff.”

Section 656. Section 27-16-1005, MCA, is amended to read:

“27-16-1005. Officer to detain defendant — expenses. The officer making the arrest ~~must shall~~ keep the defendant in custody until ~~he~~ ~~the defendant~~ is discharged by order of the justice. The officer ~~shall may~~ not be bound to keep ~~such person~~ ~~the defendant~~ under arrest more than 24 hours unless the plaintiff ~~advance~~ ~~pays~~ each day the expenses of keeping ~~such person~~ ~~the defendant~~, which expense ~~shall must~~ be taxed as costs in the action and ~~in no case shall may not~~ be a charge against the county.”

Section 657. Section 27-16-1006, MCA, is amended to read:

“27-16-1006. Defense against order of arrest. The defendant may file an answer, under oath, putting in issue the facts stated in the affidavit for the order of arrest, which may be tried by the court unless a jury is demanded; and the plaintiff ~~shall must~~ be held to establish ~~such the facts~~; ~~and if he fail to do so~~ ~~If the plaintiff fails to establish the facts~~, the order of arrest ~~shall must~~ be dismissed and the defendant may proceed upon the undertaking of the plaintiff for ~~his~~ damages occasioned by the arrest. The defendant may apply to the court to be discharged from arrest upon the ground of the insufficiency of the papers on which the order of arrest was granted.”

Section 658. Section 27-17-101, MCA, is amended to read:

“27-17-101. When plaintiff may claim delivery. The plaintiff in an action to recover possession of personal property may, at the time of issuing summons or at any time thereafter *after issuing summons and before answer*, claim the delivery of ~~such~~ *the* property to ~~him~~, as provided in this chapter.”

Section 659. Section 27-17-102, MCA, is amended to read:

“27-17-102. Claim and delivery in justice’s court. Parts 2, 3, and 4 of this chapter and Rule 55(b)(2), M.R.Civ.P., are applicable to ~~such a claim to recover personal property~~ when made in justices’ courts, *and the powers therein given in those statutes and rules and the duties imposed on sheriffs being are* extended to constables and the word “justice” *is* substituted for “judge”; ~~and the~~. The justice, instead of the plaintiff or ~~his~~ *the plaintiff’s* attorney, may, ~~in his discretion~~, by an endorsement in writing upon the affidavit, order the sheriff or constable to take the property mentioned in the affidavit.”

Section 660. Section 27-17-201, MCA, is amended to read:

“27-17-201. Plaintiff’s affidavit. When a delivery is claimed, an affidavit must be made by the person claiming the property or someone ~~in his~~ *on the person’s* behalf, stating:

(1) facts ~~which~~ *that* establish reasonable belief that the person claiming the property is the owner or is lawfully entitled to possession and that the seizure is necessary to prevent the removal or destruction of the property;

(2) that the property is wrongfully detained by the defendant;

(3) that the ~~same~~ *property* has not been taken for a tax, assessment, or fine, pursuant to statute, or seized under an execution or an attachment against the property of the person claiming the property or, if ~~so~~ seized, that it is by statute exempt from seizure; and

(4) a particular description of the property and the actual value of the property.”

Section 661. Section 27-17-203, MCA, is amended to read:

“27-17-203. Order from judge. The sheriff ~~shall~~ *may not* make ~~no~~ a seizure unless an order from a judge of the court having jurisdiction of the cause is attached to the affidavit. The judge may sign ~~such~~ an order if ~~he~~ *the judge* is satisfied of *either of the following*:

(1) that the party seeking possession of the property has made a prima facie showing of ~~his~~ *the* right to possession and the necessity for seizure at a show cause hearing before ~~him~~ *the judge* with at least 3 days’ notice to the person in possession of the property; ~~if such~~ *If the* person cannot be found for personal service, notice posted on the property and in three public places in the county where the property is located is sufficient service for this purpose; ~~or~~.

(2) that the delay caused by notice and a hearing would seriously impair the remedy sought by the party seeking possession. Evidence of ~~such~~ impairment must be presented in open court, and the court ~~must~~ *shall* set forth with specificity the reasons why ~~such~~ *the* delay would seriously impair the remedy sought by the person seeking possession.”

Section 662. Section 27-17-204, MCA, is amended to read:

“27-17-204. Endorsement requiring sheriff to take property. The plaintiff or ~~his~~ *the plaintiff’s* attorney may ~~thereupon~~, by an endorsement in writing upon the affidavit, require the sheriff of the county where the property claimed may be to take the ~~same~~ *property* from the defendant.”

Section 663. Section 27-17-205, MCA, is amended to read:

“27-17-205. Plaintiff’s undertaking — service and execution by sheriff. Upon receipt of the affidavit and notice with a written undertaking, executed by two or more sufficient sureties approved by the sheriff, to the effect that they are bound to the defendant in double the value of the property, as stated in the affidavit for the prosecution of the action, and for the return of the property to the defendant, if return ~~thereof~~ *be of the property is* adjudged, and for the payment to ~~him~~ *the defendant* of ~~such~~ *the sum as that* may from any cause be recovered against the plaintiff, the sheriff ~~must forthwith~~ *shall* take the property described in the affidavit, if it ~~be~~ *is* in the possession of the defendant or ~~his~~ *the defendant’s* agent, and retain it in ~~his~~ *the sheriff’s* custody. ~~He must~~ *The sheriff shall* also, without delay, serve on the defendant a copy of the affidavit, notice, and undertaking by delivering the ~~same papers~~ *to him the defendant* personally, if ~~he~~ *the defendant* can be found, or to ~~his~~ *the defendant’s* agent from whose possession the property is taken or, if neither can be found, by leaving ~~them~~ *the papers* at the usual place of abode of either with some person of suitable age and discretion or, if neither have any known place of abode, by putting ~~them~~ *the papers* in the nearest post office, directed to the defendant.”

Section 664. Section 27-17-206, MCA, is amended to read:

“27-17-206. Manner of seizure of concealed property. If the property or any part ~~thereof~~ *be of the property is* concealed in a building or enclosure, the sheriff shall publicly demand its delivery; ~~if it be~~ *If the property is* not delivered, ~~he~~ *the sheriff* shall cause the building or enclosure to be broken open and take the property into ~~his~~ *the sheriff’s* possession and, if necessary, ~~he~~ *the sheriff* may call to ~~his~~ *the sheriff’s* aid the power of the county.”

Section 665. Section 27-17-301, MCA, is amended to read:

“27-17-301. Duty of sheriff to keep and deliver property. When the sheriff ~~shall have~~ *has* taken property, as ~~provided~~ *provided* in this chapter ~~provided~~, ~~he~~ *the sheriff* shall keep ~~it~~ *the property* in a secure place and deliver it to the party entitled ~~thereto~~ *to the property* upon receiving ~~his~~ *the sheriff’s* lawful fees for taking and ~~his~~ *the necessary* expenses for keeping the ~~same~~ *property*.”

Section 666. Section 27-17-302, MCA, is amended to read:

“27-17-302. Sheriff’s return of execution. The sheriff shall file the notice, undertaking, and affidavit, with ~~his~~ *the sheriff’s* proceedings thereon, with the clerk of the court in which the action is pending within 20 days after taking the property mentioned ~~therein~~ *in the notice, undertaking, and affidavit*.”

Section 667. Section 27-17-303, MCA, is amended to read:

“27-17-303. Exception to plaintiff’s sureties — justification — liability of sheriff. The defendant may, within 2 days after service of a copy of the affidavit and undertaking, give notice to the sheriff that ~~he~~ *he* ~~excepts~~ *takes exception* to the sufficiency of the sureties. If ~~he~~ *the defendant* fails to do so, ~~he~~ *he* ~~shall be deemed~~ *the defendant is considered* to have waived all objections to ~~them~~ *the sureties*. When the defendant ~~excepts~~ *takes exception*, the sureties must justify on notice in like manner as upon bail on arrest; and the sheriff is responsible for the sufficiency of the sureties until the objection to them is waived, as ~~above~~ *provided in this section*, or until they justify. If the defendant ~~except~~ *takes exception* to the sureties, ~~he~~ *the defendant* cannot claim the property, as provided in 27-17-304.”

Section 668. Section 27-17-304, MCA, is amended to read:

“27-17-304. When defendant may require return of property — his undertaking. At any time before the delivery of the property to the plaintiff, the defendant may, if ~~he~~ *the defendant* does not ~~except~~ *take exception* to the sureties of the plaintiff, require the return ~~thereof of the property~~ upon giving to the sheriff a written undertaking, executed by two or more sufficient sureties, to the effect that they are bound in double the value of the property, as stated in the affidavit of the plaintiff, for the delivery ~~thereof of the property~~ to the plaintiff, if ~~such~~ *the* delivery ~~be is~~ adjudged, and for the payment to ~~him~~ *the plaintiff* of ~~such~~ *the* sum as ~~that~~ may, for any cause, be recovered against the defendant.”

Section 669. Section 27-17-306, MCA, is amended to read:

“27-17-306. Justification of defendant’s sureties — liability of sheriff. The defendant’s sureties, upon notice to the plaintiff of not less than 2 or more than 5 days, shall justify before the judge or clerk in the same manner as upon bail on arrest, and upon ~~such~~ *the* justification the sheriff ~~must~~ *shall* deliver the property to the defendant. The sheriff ~~shall~~ *must* be responsible for the defendant’s sureties until they justify or until the justification is completed or expressly waived and may retain the property until that time; ~~but~~ *However*, if ~~they~~ *the sureties* or others in their place fail to justify at the time or place appointed, ~~he~~ *the sheriff* shall deliver the property to the plaintiff.”

Section 670. Section 27-17-309, MCA, is amended to read:

“27-17-309. Claim of property by third person — plaintiff to indemnify sheriff. If the property taken ~~be is~~ claimed by any ~~other~~ person *other* than the defendant or ~~his~~ *the defendant’s* agent and ~~such~~ *the other* person ~~make~~ *makes* an affidavit of ~~his~~ *the person’s* title ~~thereto to the property~~ or right of the possession ~~thereof of the property~~, stating the grounds of ~~such~~ *the* right or title, and ~~serve~~ *serves* the ~~same~~ *affidavit* upon the sheriff, the sheriff ~~shall~~ *is* not ~~be~~ bound to keep the property or deliver it to the plaintiff unless the plaintiff, on demand of ~~him~~ *the plaintiff* or ~~his~~ *the plaintiff’s* agent, ~~indemnify~~ *indemnifies* the sheriff against ~~such~~ *the* claim by an undertaking by two sufficient sureties, accompanied by their affidavits that they are each worth double the value of the property, as specified in the affidavit of the plaintiff, over and above their debts and liabilities, exclusive of property exempt from execution, and are freeholders or householders in the county; ~~and no~~ *A* claim to ~~such~~ *the* property by any ~~other~~ person *other* than the defendant or ~~his~~ *the defendant’s* agent ~~shall be is~~ not valid against the sheriff unless ~~so~~ *made as provided in this section.*”

Section 671. Section 27-17-310, MCA, is amended to read:

“27-17-310. Answer of defendant claiming third person entitled to property. The defendant may, by answer, defend on the ground that a third person was entitled to the property, without connecting ~~himself~~ *the defendant* with the ~~latter’s~~ *third party’s* title.”

Section 672. Section 27-17-402, MCA, is amended to read:

“27-17-402. Duty to return property in good condition. In all cases when a judgment is rendered, in an action to recover the possession of personal property, for the return ~~thereof, of personal property~~ or its value ~~in case if~~ a return cannot be had, it is the duty of the party against whom ~~such~~ *the* judgment ~~shall be is~~ rendered to return the ~~same~~ *property* in as good condition as the ~~same~~ *property* was when possession ~~thereof~~ was taken by ~~him~~ *the party.*”

Section 673. Section 27-18-102, MCA, is amended to read:

“27-18-102. What property subject to attachment. (1) Except as provided in subsection (2), the rights or shares ~~which~~ *that* the defendant has in

the stock of any corporation or company, together with the interest and profits ~~thereon~~ *on the stock*, all debts due the defendant, and all other property in this state of the defendant not exempt from execution may be attached and, if judgment is recovered, sold to satisfy the judgment and execution. Property exempt from execution is exempt from attachment.

(2) In any action in which the amount sued for is \$10 or less, the wages and earnings of the debtor or defendant for ~~his~~ personal services rendered at any time within 30 days before the commencement of the action are exempt from attachment.”

Section 674. Section 27-18-112, MCA, is amended to read:

“27-18-112. Attachment book to be kept by county clerk. There must be kept in the office of the county clerk of each county a book called “attachment book”, in which must be entered by ~~such~~ *the* clerk, in alphabetical order, the names of all persons against whom any writ or notice of attachment has been filed in ~~his~~ *the clerk’s* office. There must also be entered in ~~said~~ *the* book the time ~~such~~ *the* writ or notice was filed. ~~Such~~ *The* entry must be made under an appropriate ~~head~~ *heading* for that purpose.”

Section 675. Section 27-18-202, MCA, is amended to read:

“27-18-202. Plaintiff’s affidavit. When attachment of a defendant’s property is sought, an affidavit must be made by the plaintiff or someone ~~in his~~ *on the plaintiff’s* behalf stating:

(1) facts ~~which~~ *that* show ~~that~~ the defendant is indebted to the plaintiff in the manner specified in 27-18-101(1);

(2) that the attachment is not sought to hinder, delay, or defraud any creditor of the defendant;

(3) facts creating a reasonable belief that the defendant:

(a) is leaving or about to leave this state taking with ~~him~~ *the defendant* property, money, or other effects ~~which~~ *that* might be subjected to payment of the debt;

(b) is disposing or about to dispose of ~~his~~ *the defendant’s* property ~~which~~ *that* would be subject to execution;

(c) has the power to dispose of or conceal or remove from the state property ~~which~~ *that* would be subject to execution; or

(d) is likely to suffer liens or encumbrances on ~~his~~ *the defendant’s* property ~~which~~ *that* would be subject to execution;

(4) a particular description and the actual value of the property to be attached.”

Section 676. Section 27-18-203, MCA, is amended to read:

“27-18-203. Affidavit requirements when debt not yet due. Actions may be commenced and writs of attachment issued upon any debt for the payment of money or specific property before the ~~same~~ ~~shall have~~ *debt has* become due when it ~~shall appear~~ *appears* by the affidavit, in addition to what is required in 27-18-202:

(1) that the defendant is leaving or is about to leave this state, taking with ~~him~~ *the defendant* property, ~~monneys~~ *money*, or other effects ~~which~~ *that* might be subjected to the payment of the debt, for the purpose of defrauding ~~his~~ *the defendant’s* creditors; or

(2) that the defendant is disposing of his property or is about to dispose of his property, subject to execution, for the purpose of defrauding his *the defendant's* creditors.”

Section 677. Section 27-18-204, MCA, is amended to read:

“27-18-204. Plaintiff’s undertaking. Before issuing the writ, the court ~~must~~ *shall* require a written undertaking on the part of the plaintiff, with two or more sufficient sureties to be approved by the court, in a sum not less than double the amount claimed by the plaintiff if ~~such~~ *the* amount ~~be is~~ \$1,000 or ~~under less~~ or, ~~in case if~~ the amount ~~so~~ claimed by plaintiff ~~shall exceed~~ *exceeds* \$1,000, then in a sum equal to ~~such~~ *the* amount. ~~In no case shall an~~ *An* undertaking ~~may not~~ be required ~~exceeding in an~~ amount ~~exceeding~~ the sum of \$20,000. The condition of ~~such~~ *the* undertaking ~~shall must~~ be to the effect that if the defendant recovers judgment or if the court finally decides that the plaintiff was not entitled to an attachment, the plaintiff ~~will~~ *shall* pay all costs that may be awarded to the defendant and all damages ~~he~~ *the defendant* may sustain by reason of the issuing of the attachment, not exceeding the sum specified in the undertaking.”

Section 678. Section 27-18-205, MCA, is amended to read:

“27-18-205. When judge may issue writ — notice. A judge of a court having jurisdiction of the cause may issue a writ of attachment when:

- (1) ~~he~~ *the judge* has received the affidavit described in 27-18-202;
- (2) ~~he~~ *the judge* has approved the undertaking required in 27-18-204; and
- (3) the party seeking attachment has made a prima facie showing:
 - (a) in the case of real property, of ~~his~~ *the* right to attachment and the necessity for seizure;
 - (b) in the case of personal property:
 - (i) of ~~his~~ *the* right to attachment and the necessity for seizure at a show cause hearing before the court with at least 3 days’ notice to the defendant; if the defendant cannot be found for personal service, notice ~~shall must~~ be posted on the property and in three public places in the county where the property is located; or
 - (ii) of ~~his~~ *the* right to attachment and the necessity for seizure and that the delay caused by notice and a hearing would seriously impair the remedy sought by the party seeking possession. Evidence of ~~such~~ *the* impairment must be presented in open court, and the court ~~must shall~~ set forth with specificity the reasons why ~~such~~ *the* delay would seriously impair the remedy sought by the person seeking attachment.”

Section 679. Section 27-18-207, MCA, is amended to read:

“27-18-207. Alias writs. Whenever a writ of attachment has been lost or whenever it ~~shall appear~~ *appears* from the sheriff’s return ~~thereof of the writ~~ that no property of the party or parties defendant has been levied upon or that the levy made is insufficient to satisfy the full amount of the plaintiff’s demand or if, for any reason, the levy of the original writ is void or ineffective, the clerk of the court, upon written demand of the plaintiff or ~~his~~ *the plaintiff’s* attorney, shall issue an alias writ in the same form as the original, ~~but no such~~ *However,* an alias writ ~~shall may not~~ be issued in an action after the commencement of the trial ~~thereof~~. ~~No~~ *A* new or additional affidavit or undertaking on attachment ~~shall may not~~ be required for the issuance of an alias writ. Alias writs of attachment may be issued to the sheriffs of different counties.”

Section 680. Section 27-18-301, MCA, is amended to read:

“27-18-301. Form and content of writ — defendant’s undertaking to prevent levy. (1) The writ must be directed to the sheriff of any county in which property of ~~such the~~ defendant may be *located* and must require ~~him the sheriff~~ to:

(a) attach and safely keep all the property of ~~such the~~ defendant within ~~his the sheriff’s~~ county, not exempt from attachment, or ~~so as much thereof of the property~~ as may be sufficient to satisfy the plaintiff’s demand, the amount of which must be stated in conformity with the complaint; or

(b) if the defendant gives ~~him the sheriff~~ security by the undertaking of at least two sufficient sureties, in an amount sufficient to satisfy ~~such the~~ demand, besides costs, or in an amount equal to the value of the property ~~which that~~ has been or is about to be attached, take ~~such the~~ undertaking.

(2) The undertaking must be to the plaintiff in the action and must be approved in writing on the back ~~thereof of the undertaking~~ by the plaintiff or ~~his the plaintiff’s~~ attorney or, upon their refusal, by the judge of the district court of the same county as the residence of the sheriff.”

Section 681. Section 27-18-303, MCA, is amended to read:

“27-18-303. Order of execution when several writs against same defendant. The sheriff ~~must shall~~ endorse upon each writ of attachment received by ~~him the sheriff~~ the time when the ~~same writ~~ was received, specifying the day, hour, and minute. The writ of attachment first placed in the hands of the sheriff must be executed first, and when there are several writs against the same defendant, they must be executed in the order in which they were received by the sheriff.”

Section 682. Section 27-18-306, MCA, is amended to read:

“27-18-306. Sheriff’s duty to execute. The sheriff to whom the writ is directed and delivered ~~must shall~~ execute the ~~same writ~~ without delay and, if the undertaking mentioned in 27-18-301 ~~be is~~ not given, as provided in part 4. ~~He The sheriff~~ may levy, from time to time and as often as is necessary, until the amount for which ~~it the writ~~ was issued has been secured. ~~In no case shall the The sheriff may not~~ attach more property than appears necessary to satisfy the plaintiff’s demand.”

Section 683. Section 27-18-401, MCA, is amended to read:

“27-18-401. Sheriff to take custody of books and evidences of title. The sheriff ~~must shall~~ take into ~~his~~ custody all books of account, vouchers, and other papers relating to the personal property attached and all evidences of the defendant’s title to the real property attached, which ~~he must the sheriff shall~~ safely keep.”

Section 684. Section 27-18-403, MCA, is amended to read:

“27-18-403. Real property in another’s name. Real property or an interest ~~therein in real property~~ belonging to the defendant and held by any other person or standing on the records of the county in the name of any other person must be attached by filing with the county clerk a copy of the writ, together with a description of the property and a notice that ~~such the~~ real property and any interest of the defendant ~~therein in the real property~~, held by or standing in the name of ~~such the~~ other person, (naming ~~him~~) *the person*, are attached. The county clerk ~~must shall~~ index ~~such the~~ attachment when filed in the names both of the defendant and of the person by whom the property is held or in whose name it stands on the record.”

Section 685. Section 27-18-405, MCA, is amended to read:

“27-18-405. Debts, credits, and personal property in control of third person or not capable of manual delivery. (1) Debts or credits and personal property not capable of manual delivery and personal property in the possession of a third person must be attached by leaving with the person owing ~~such the~~ debt or having in ~~his the person's~~ possession or under ~~his the person's~~ control ~~such the~~ credits and personal property or with ~~his the person's~~ agent a copy of the writ and a notice that the debts owing by ~~him the person~~ to the defendant or the credits and other personal property in ~~his the person's~~ possession or under ~~his the person's~~ control, belonging to the defendant, are attached in pursuance of ~~such the~~ writ.

(2) Upon receiving information in writing from the plaintiff or ~~his the plaintiff's~~ attorney that any person has in ~~his the person's~~ possession or under ~~his the person's~~ control any credits or other personal property belonging to the defendant or is owing any debt to the defendant, the sheriff ~~must~~ *shall* serve upon ~~such that~~ person a copy of the writ and a notice that ~~such the~~ credits or other property or debts, ~~as the case may be~~, are attached in pursuance of ~~said the~~ writ.

(3) Debts and credits attached may be collected by the sheriff if the ~~same~~ collection can be done without suit. The sheriff's receipt is a sufficient discharge for the amount paid.”

Section 686. Section 27-18-406, MCA, is amended to read:

“27-18-406. Money, credits, or other property in control of public officer or board. Money, credits, or other property belonging to or due and owing to another, in the possession of or under the control of a public officer or board, including all officers or boards of a county, municipal corporation, and school district or state board or state government, may be attached or garnished while in ~~such~~ possession or under ~~such~~ control by making service, as provided in this part, upon the clerk of the county or ~~chairman~~ *presiding officer* of the board of county commissioners, the city clerk or mayor of a municipal corporation, or the clerk of the board of school trustees or ~~chairman~~ *presiding officer* of ~~such the~~ board, ~~as the case may be of trustees.~~”

Section 687. Section 27-18-407, MCA, is amended to read:

“27-18-407. Liability of third persons controlling property or debts and served by sheriff. All persons having in their possession or under their control any credits or other personal property belonging to the defendant or owing any debts to the defendant at the time of service upon them of a copy of the writ and notice ~~shall must~~ be, unless ~~such the~~ property ~~be is~~ delivered ~~up~~ or transferred or ~~such the~~ debts ~~be are~~ paid to the sheriff, liable to the plaintiff for the amount of ~~such the~~ credits, property, or debts until the attachment ~~be is~~ discharged or any judgment recovered by ~~him be the plaintiff is~~ satisfied.”

Section 688. Section 27-18-410, MCA, is amended to read:

“27-18-410. Corporate stock — service on secretary of state. In addition to the method prescribed in 27-18-409 for attaching stock or shares or interest ~~therein in the stock~~ of any corporation or company, if the president or other head of the ~~same corporation or company~~ or the secretary, cashier, or other managing agent ~~thereof of the corporation or company~~ does not live *in* or cannot be found in Montana and an affidavit is filed in the office of the clerk of the court in which the action is pending setting forth that ~~such the~~ officer or agent does not live *in* or cannot be found in Montana, the clerk shall make an order directing the writ to be served upon the secretary of state of Montana or, in ~~his the~~

secretary of state's absence from his office, upon the deputy secretary of state. When ~~such~~ *the* order has been made, the writ of attachment shall *must* be served upon the secretary of state or deputy secretary of state by leaving with ~~him~~ *the secretary or the deputy* a copy of the writ and a notice that the stock or shares or interest ~~therein~~ *in the stock or shares* of ~~such~~ *the* corporation or company belonging to the defendant is attached in pursuance of the writ."

Section 689. Section 27-18-412, MCA, is amended to read:

"27-18-412. Interest of defendant in decedent's estate. The interest of a defendant in personal property belonging to the estate of a decedent, whether as heir, legatee, or devisee, may be attached by serving the personal representative of the decedent with a copy of the writ and a notice that ~~said~~ *the* interest is attached. ~~Such~~ *The* attachment shall *may* not impair the powers of the representative over the property for the purposes of administration. A copy of ~~said~~ *the* writ of attachment and of ~~said~~ *the* notice shall *must* also be filed in the office of the clerk of the court in which ~~said~~ *the* estate is being administered, and the personal representative shall report ~~such~~ *the* attachment to the court when any petition for distribution is filed; ~~and in~~ *In* the decree made upon ~~such~~ *the* petition, distribution shall *must* be ordered to ~~such~~ *the* heir, legatee, or devisee, but delivery of ~~such~~ *the* property shall *must* be ordered to the officer making the levy, subject to the claim of ~~such~~ *the* heir, legatee, or devisee or any person claiming under ~~him~~ *the heir, legatee, or devisee*. The property shall *may* not be delivered to the officer making the levy until the decree distributing ~~such~~ *the* interest has become final."

Section 690. Section 27-18-414, MCA, is amended to read:

"27-18-414. Duty of secured party. (1) The secured party under any security agreement of record shall, upon 15 days' notice in writing served upon ~~him~~ *the party* in person by any creditor of the debtor seeking to satisfy a demand of ~~such~~ *the* creditor against the debtor, *must* be required to make and file in the office of the county clerk and recorder or other filing officer with whom the financing statement covering the security agreement is filed an affidavit showing the amount of the indebtedness then actually due and owing to the secured party; ~~and such~~ *The* affidavit shall *must* state the amount of the original obligation for which the security agreement was given as security, all additional advancement of money or property on the principal obligation since the date of the execution of the security agreement, all payments of ~~whatsoever~~ *any* kind, whether on principal or interest, made by the debtor to the date of the execution of ~~such~~ *the* affidavit by the secured party, and the balance then remaining due and unpaid to the secured party. If, within 15 days from the service of any ~~such~~ demand in writing on the secured party by any creditor of the debtor, the secured party ~~shall fail~~ *fails, refuse* *refuses, or neglect* *neglects* to file the affidavit ~~herein~~ *required in this section*, the security agreement shall *be* ~~is~~ of no force or effect as against ~~such~~ *the* creditor upon the seizure of any ~~such~~ personal property on attachment.

(2) ~~In the event~~ *If* the amount shown to be due is paid to the county treasurer, ~~or~~ to a filing officer, ~~as aforesaid~~, or to the secured party in satisfaction of the security agreement by any attaching creditor against the debtor, the secured party shall *must* be required to surrender to the county treasurer or ~~such~~ *the* filing officer the security agreement and any note or other evidence of indebtedness secured ~~thereby~~ *by the security agreement, which and the* security agreement or other evidence of indebtedness shall *must* be delivered by the secured party, county treasurer, or filing officer to the attaching creditor."

Section 691. Section 27-18-501, MCA, is amended to read:

“27-18-501. Examination under oath of defendant or person controlling property or debts — order that property be delivered. Any person owing debts to the defendant or having in ~~his~~ *the person's* possession or under ~~his~~ *the person's* control any credits or other personal property belonging to the defendant may be required to attend before the court or judge or referee appointed by the court or judge and be examined on oath respecting the same. The defendant may also be required to attend for the purpose of giving information respecting ~~his~~ *the defendant's* property and may be examined on oath. The court or judge may, after ~~such~~ *the* examination, order personal property capable of manual delivery in the hands or under the control of ~~such~~ *the* person or of the defendant to be delivered to the sheriff on ~~such~~ terms ~~as that~~ may be just, having reference to any liens ~~thereon~~ *on* or claims against the ~~same~~ *property*, and a memorandum ~~to~~ *must* be given of all other personal property, containing the amount and description ~~thereof~~ *of the property*.”

Section 692. Section 27-18-502, MCA, is amended to read:

“27-18-502. Person holding property to give sheriff certificate of defendant's interest. Upon the application of a sheriff holding a writ of attachment, the president or other head of an association or corporation or the secretary, cashier, or managing agent ~~thereof~~ *of the association or corporation* or a debtor of the defendant or a person holding property, including a bond, promissory note, or other instrument for the payment of money, belonging to the defendant ~~must~~ *shall* furnish to the sheriff a certificate, under ~~his~~ *the person's* hand, specifying ~~his~~ *the person's* right to a number of shares of the defendant in the stock of the association or corporation, with all dividends declared or encumbrances ~~thereon~~ *on the stock*, or the amount, nature, and description of the property held for the benefit of the defendant or of the defendant's interest in property ~~so~~ held or of the debt or demand owing to the defendant, as the case requires.”

Section 693. Section 27-18-503, MCA, is amended to read:

“27-18-503. Order to person holding property to submit to examination under oath. If a person to whom application is made, as prescribed in 27-18-502, refuses to give ~~such~~ *a* certificate or if it is made to appear, by affidavit, to the satisfaction of the court or a judge ~~thereof~~, that there is reason to suspect that a certificate given by ~~him~~ *the person* is untrue or that it failed fully to set forth the facts required to be shown ~~thereby~~, the court or judge may make an order directing ~~him~~ *the person* to attend, at a specified time and at a place within the county to which the writ is issued, and submit to an examination under oath concerning the same. The order may, in the discretion of the court or judge, direct an appearance before a referee named ~~therein~~ *in the order*.”

Section 694. Section 27-18-601, MCA, is amended to read:

“27-18-601. Sheriff to retain nonperishable attached property and proceeds of sales. The proceeds and other property attached by the sheriff must be retained by ~~him~~ *the sheriff* to answer any judgment that may be recovered in the action unless sooner subjected to execution upon another judgment recovered previous to the issuing of the attachment.”

Section 695. Section 27-18-602, MCA, is amended to read:

“27-18-602. Claim of attached property by third person — plaintiff to indemnify sheriff. If personal property attached ~~be~~ *is* claimed by a third person, ~~he~~ *the person* shall give notice ~~thereof~~ to the sheriff and deliver to ~~him~~

the sheriff an affidavit, stating ~~his~~ *the person's* claim, ownership, and a description of the property; ~~and unless~~ *Unless* the plaintiff, within 10 days after receiving notice ~~thereof,~~ *gives* the sheriff a good and sufficient bond to indemnify ~~him~~ *the sheriff* against loss or damage by reason of ~~such~~ retaining ~~said~~ *the* property, the sheriff shall deliver the ~~same~~ *property* to ~~such~~ *the* person *making the claim.*"

Section 696. Section 27-18-603, MCA, is amended to read:

"27-18-603. Sheriff's inventory of attached property — cooperation of persons controlling credits or debts. (1) The sheriff ~~must~~ *shall* make a full inventory of the property attached and return the ~~same~~ *inventory* with the writ. When the sheriff has levied several writs of attachment on the same property, only one inventory must be made.

(2) To enable ~~him~~ *the sheriff* to make ~~such~~ *the* return as to debts and credits attached, ~~he~~ *must* *the sheriff shall* request, at the time of service, the person owing the debt or having the credit to give ~~him~~ *the sheriff* the memorandum, stating the amount and description of each *debt or credit,* ~~and if such~~ *If the* memorandum ~~be~~ *is* refused, the sheriff may apply upon 1 day's notice to the court or judge for an order to compel ~~such~~ *the* memorandum to be given. If the order ~~be~~ *is* granted, it ~~shall~~ *must* also direct the payment of costs of the motion by the person refusing."

Section 697. Section 27-18-604, MCA, is amended to read:

"27-18-604. Sheriff's return of writ. The sheriff ~~must~~ *shall* return the writ of attachment with the summons if issued at the same time, otherwise, within 20 days after ~~its~~ *the writ's* receipt, with a certificate of ~~his~~ *the sheriff's* proceedings endorsed ~~thereon~~ *on* or attached ~~thereto~~ *to the writ.*"

Section 698. Section 27-18-702, MCA, is amended to read:

"27-18-702. When writ quashed. At ~~such~~ *the* hearing the defendant may challenge the merit of the underlying action, the need for the prejudgment seizure of property, or both. The writ ~~shall~~ *must* be quashed if the court makes a preliminary finding that:

(1) the plaintiff cannot establish the prima facie validity of ~~his~~ *the plaintiff's* claim; or

(2) the plaintiff cannot establish by a preponderance of the evidence the need for the continued attachment of the defendant's property."

Section 699. Section 27-18-713, MCA, is amended to read:

"27-18-713. Decision of court. If upon ~~such~~ application it satisfactorily appears that the writ of attachment was improperly or irregularly issued, it must be discharged. But the court or judge may allow the plaintiff to amend ~~his~~ *the plaintiff's* affidavit or undertaking."

Section 700. Section 27-18-715, MCA, is amended to read:

"27-18-715. Exception to plaintiff's sureties. At any time within 30 days after the service of summons, the defendant may ~~except~~ *take exception* to the sufficiency of the sureties. If ~~he~~ *the defendant* fails to do so, ~~he is deemed~~ *the defendant is considered* to have waived all objections to ~~them~~ *the sureties.*"

Section 701. Section 27-18-721, MCA, is amended to read:

"27-18-721. Proceedings to release attachment. Whenever the defendant has appeared in the action, ~~he~~ *the defendant* may, upon reasonable notice to the plaintiff, apply to the court in which the action is pending or to the judge ~~thereof~~ for an order to discharge the attachment, wholly or in part; ~~and~~

~~upon~~ Upon the execution of the undertaking mentioned in 27-18-722, an order may be made releasing from the operation of the attachment any or all of the property attached; ~~and all~~ All of the property so released and all of the proceeds of the sale ~~thereof of the property~~ must be delivered to the defendant upon the justification of the sureties on the undertaking, if required by the plaintiff.”

Section 702. Section 27-18-725, MCA, is amended to read:

“27-18-725. Motion to vacate or modify writ or increase security. The defendant or a person who has acquired a lien upon or interest in ~~his the~~ *the defendant’s* property after it was attached may, at any time before the actual application of the attached property or the proceeds ~~thereof of the property~~ to the payment of a judgment recovered in the action, apply to vacate or modify the writ of attachment or to increase the security given by the plaintiff or for one or more of those forms of release together or in the alternative.”

Section 703. Section 27-18-726, MCA, is amended to read:

“27-18-726. Proceedings on motion. An application specified in 27-18-725 may be founded only upon:

(1) the papers upon which the writ was granted, in which case it must be made to the court or judge, with or without notice as the court or judge ~~deems~~ *considers* proper; or

(2) proof by affidavits on the part of the defendant or a person who has acquired a lien upon or interest in ~~his the~~ *the defendant’s* property after it was attached, in which case it must be made to the court or judge upon notice and may be opposed by new proof, by affidavit or other evidence on the part of the plaintiff, tending to sustain any grounds of attachment.”

Section 704. Section 27-18-803, MCA, is amended to read:

“27-18-803. Notice of application for order to sell. Application for the order ~~shall must~~ be upon ~~such~~ notice to the adverse party or ~~his the~~ *the party’s* attorney ~~as that~~ the court or judge, considering the nature and condition of the property, may direct. If it ~~shall appear~~ *appears* to the court or judge that the delay necessary to give notice would cause a material depreciation in the value of property, the order may be made without notice.”

Section 705. Section 27-18-902, MCA, is amended to read:

“27-18-902. Procedure when defendant recovers judgment. If the defendant ~~recoever~~ *recovers* judgment against the plaintiff, any undertaking received in the action, all of the proceeds of sales and money collected by the sheriff, and all the property attached remaining in the sheriff’s hands must be delivered to the defendant or ~~his the~~ *the defendant’s* agent; ~~the~~ *The* order of attachment ~~shall must~~ be discharged and the property released ~~therefrom from~~ *from attachment*.”

Section 706. Section 27-18-903, MCA, is amended to read:

“27-18-903. Judgment for plaintiff — disposition of attached property and proceeds of sales. If judgment ~~be is~~ *is* recovered by *the* plaintiff, the sheriff ~~must shall~~ satisfy the ~~same~~ *judgment* out of the property attached by ~~him which the sheriff that~~ *him* that has not been delivered to the defendant or claimant, as ~~hereinbefore~~ *provided in this part*, or subjected to execution on another judgment recovered ~~previous~~ *prior* to the issuing of the attachment, if it ~~be is~~ *is* sufficient for that purpose:

(1) by paying to the plaintiff the proceeds of all sales of perishable property or property ordered by the court or judge to be sold by ~~him the~~ *the sheriff*, or of any

debts or credits collected by ~~him~~ *the sheriff*, or ~~so as much thereof as shall be of the proceeds, debts, or credits that is~~ necessary to satisfy the judgment;

(2) if any balance ~~remain~~ *remains* due and an execution ~~shall have~~ *has* been issued on the judgment, by selling under the execution ~~so as much of the property, real or personal, as that~~ may be necessary to satisfy the balance, if *the sheriff retains enough property* for that purpose ~~remain in his hands~~. Notices of the sales must be given and the sales *must be* conducted as in other cases of sales on execution.”

Section 707. Section 27-18-904, MCA, is amended to read:

“27-18-904. Delivery of excess property and proceeds to defendant. Whenever the judgment ~~shall have~~ *has* been paid, the sheriff, upon reasonable demand, ~~must shall~~ deliver ~~over~~ to the defendant the attached property remaining in ~~his hands~~ *the sheriff’s possession* and any proceeds of property attached ~~unapplied that are not applied~~ on the judgment.”

Section 708. Section 27-18-905, MCA, is amended to read:

“27-18-905. Execution of balance due on judgment. If, after selling all property attached by ~~him~~ *the sheriff* remaining in ~~his hands~~ *the sheriff’s possession* and applying the proceeds, together with the proceeds of any debt or credit collected by ~~him~~ *sheriff*, deducting ~~his~~ *the sheriff’s* fee, to the payment of the judgment, any balance ~~shall must~~ remain due, *and the sheriff must shall* proceed to collect ~~such the~~ *balance in the same manner* as upon an execution in other cases.”

Section 709. Section 27-18-906, MCA, is amended to read:

“27-18-906. Procedure when execution returned unsatisfied. If the execution is returned unsatisfied, in whole or in part, the plaintiff may prosecute any undertaking given pursuant to 27-18-301 or 27-18-722 or ~~he~~ *the plaintiff* may proceed, as in other cases, upon the return of an execution.”

Section 710. Section 27-18-1502, MCA, is amended to read:

“27-18-1502. Plaintiff’s undertaking. Before issuing the writ, the justice ~~must shall~~ require a written undertaking in due form on the part of the plaintiff, with two or more sureties, in a sum of not less than \$50 or more than \$300, to the effect that if *the defendant recover recovers* judgment, the plaintiff will pay all costs that may be awarded to *the defendant* and all damages ~~which he~~ *that the defendant* may sustain by reason of the attachment, not exceeding the sum specified in the undertaking.”

Section 711. Section 27-18-1503, MCA, is amended to read:

“27-18-1503. Exception to sureties — justification. Within 2 days after or at any time before the service of the writ of attachment upon *the defendant*, ~~he~~ *the defendant* may ~~except~~ *take exception* to the sufficiency of the sureties, and if ~~he~~ *the defendant* fails to do so, ~~he is deemed~~ *the defendant is considered* to have waived all objections to ~~them~~ *the sureties*. When ~~excepted to~~ *an exception is taken*, the sureties ~~must shall~~, within 3 days after notice by the defendant of not less than 1 day, justify before the justice, and upon failure to justify or if others in their place fail to justify at the time and place appointed, the justice shall make an order vacating the writ of attachment.”

Section 712. Section 27-18-1504, MCA, is amended to read:

“27-18-1504. Form and content of writ — defendant’s undertaking to prevent levy. (1) The writ may be directed to the sheriff or any constable of the

county or the sheriff of any other county and must require ~~him~~ *the sheriff or constable* to:

(a) attach and safely keep all the property of the defendant in ~~his~~ *the* county, not exempt from attachment, or ~~so as much thereof of the property~~ as may be sufficient to satisfy the plaintiff's demand, the amount of which must be stated in conformity with the complaint; or

(b) if the defendant gives ~~him~~ security by the undertaking of two sufficient sureties in an amount sufficient to satisfy ~~such~~ *the* demand, besides costs, take ~~such~~ *the* undertaking.

(2) The undertaking must be to the plaintiff and must be approved in writing on the back ~~thereof of the undertaking~~ by the plaintiff or ~~his~~ *the plaintiff's* attorney or, upon their refusal, by the justice issuing the writ."

Section 713. Section 27-19-203, MCA, is amended to read:

"27-19-203. Preliminary injunction pending action by public service commission. When the public service commission is conducting an adjudicatory proceeding or formal investigation relating to continuation or interruption of service upon the motion of the consumer counsel or the interested person or ~~his~~ *the interested person's* legal representative, a district court may, upon the application of the consumer counsel or the interested person or ~~his~~ *the interested person's* legal representative, enter a restraining order against any person respondent in the adjudicatory proceeding or investigation. ~~Such a~~ *The* restraining order may prohibit the respondent and ~~his~~ *the respondent's* agents, employees, licensees, and assignees from acting in the manner complained of in the proceeding before the commission until the commission has rendered its decision in the matter. The restraining order may include an order to show cause why the order should not become an injunction for the duration of the proceeding before the commission."

Section 714. Section 27-19-315, MCA, is amended to read:

"27-19-315. When restraining order may be granted without notice. A temporary restraining order may be granted without written or oral notice to the adverse party or ~~his~~ *the party's* attorney only if:

(1) it clearly appears from specific facts shown by affidavit or by the verified complaint that a delay would cause immediate and irreparable injury to the applicant before the adverse party or ~~his~~ *the party's* attorney could be heard in opposition; and

(2) the applicant or the applicant's attorney certifies to the court in writing the efforts, if any, ~~which~~ *that* have been made to give notice and the reasons supporting ~~his~~ *the applicant's* claim that notice should not be required."

Section 715. Section 27-19-318, MCA, is amended to read:

"27-19-318. Application for injunction to be heard without delay. Whenever a temporary restraining order is granted without notice, the application for an injunction must be set for hearing at the earliest possible time and takes precedence over all matters except older matters of the same character. At the hearing the party who obtained the temporary restraining order shall proceed with the application for an injunction, or if ~~he~~ *the party* does not do so, the court or judge shall dissolve the temporary restraining order."

Section 716. Section 27-20-102, MCA, is amended to read:

"27-20-102. When and by whom receiver appointed. A receiver may be appointed by the court in which an action is pending ~~or by the judge thereof~~ *when the action is:*

- (1) ~~in an action~~ by a vendor to vacate a fraudulent purchase of property;
- (2) by a creditor to subject any property or fund to ~~his~~ *the creditor's* claim; ~~or~~
- (3) between partners or others jointly owning or interested in any property or fund, on the application of the plaintiff or of any party whose right to or interest in the property or fund or the proceeds ~~thereof of the property or fund~~ is probable, and ~~where~~ *when* it is shown that the property or fund is in danger of being lost, removed, or materially injured;
- (2)(4) ~~in an action~~ by a mortgagee for the foreclosure of ~~his~~ *the mortgagee's* mortgage and sale of the mortgaged property, ~~where and when it appears is shown~~ that the mortgaged property is in danger of being lost, removed, or materially injured or that the condition of the mortgage has not been performed and the property is probably insufficient to discharge the mortgage debt;
- (3)(5) after judgment, to carry the judgment into effect;
- (4)(6) after judgment, to dispose of the property according to the judgment or to preserve it during the pendency of an appeal; or
- (7) ~~in~~ *for* proceedings in aid of execution, when an execution has been returned unsatisfied or when the judgment debtor refuses to apply ~~his~~ *the judgment debtor's* property in satisfaction of the judgment;
- (5) ~~in all other cases where, before February 1, 1864, receivers have been appointed by the usages of courts of equity."~~

Section 717. Section 27-20-201, MCA, is amended to read:

"27-20-201. Notice of application for appointment before judgment.

Notice of an application for the appointment of a receiver in an action before judgment ~~therein in the action~~ must be given to the adverse party unless ~~he~~ *the party* has failed to appear in the action and the time limited for ~~his~~ *the party's* appearance has expired or unless it ~~shall appear~~ *appears* to the court that there is immediate danger that the property or fund will be removed beyond the jurisdiction of the court or lost, materially injured, destroyed, or unlawfully disposed of."

Section 718. Section 27-20-203, MCA, is amended to read:

"27-20-203. Security to cover damages caused by appointment upon ex parte application. If a receiver ~~be~~ *is* appointed upon an ex parte application, the court, before making the order, may require from the applicant an undertaking, with sufficient sureties, in an amount to be fixed by the court, to the effect that the applicant will pay to the defendant all damages ~~he~~ *the defendant* may sustain by reason of the appointment of ~~such~~ *the* receiver and the entry by ~~him~~ *the receiver* upon ~~his~~ *the receiver's* duties, ~~in case if~~ the applicant ~~shall have~~ *procured* ~~such~~ *the* appointment wrongfully, maliciously, or without sufficient cause; ~~and the~~ *The* court may, ~~in its discretion,~~ at any time after ~~said~~ *the* appointment, require an additional undertaking."

Section 719. Section 27-20-301, MCA, is amended to read:

"27-20-301. Oath and undertaking to faithfully discharge duties. Before ~~entering upon his~~ *beginning the* duties as receiver, the receiver must be sworn to perform ~~them~~ *the* duties faithfully and shall execute an undertaking, with one or more sureties approved by the court or judge, to ~~such~~ *the* person and in ~~such sum as an amount that~~ the court or judge may direct, to the effect that ~~he~~ *the receiver* will faithfully discharge the duties of receiver in the action and obey the orders of the court ~~therein in the action~~. The court may at any time direct ~~him~~ *the receiver* to give new bonds with new sureties with the ~~like same~~ effect."

Section 720. Section 27-20-302, MCA, is amended to read:

“27-20-302. Powers of receiver. The receiver has, under the control of the court, *the* power to:

- (1) bring and defend actions in ~~his~~ *the receiver’s* own name, as receiver;
- (2) take and keep possession of the property;
- (3) receive rents, collect debts, and compound for and compromise the ~~same~~ *rents and debts*;
- (4) make transfers; and
- (5) generally do ~~such~~ acts respecting the property ~~as~~ *that* the court may authorize.”

Section 721. Section 27-26-203, MCA, is amended to read:

“27-26-203. Form and content of writ. The writ may be either alternative or peremptory. The alternative writ must state generally the allegation against the party to whom it is directed and command ~~such~~ *the* party, immediately after the receipt of the writ or at some other specified time, to do the act required to be performed or to show cause before the court, at a specified time and place, why ~~he~~ *the party* has not done so. The peremptory writ must be in a similar form, except that the words requiring the party to show cause why ~~he~~ *the party* has not done as commanded must be omitted and a return day inserted.”

Section 722. Section 27-26-303, MCA, is amended to read:

“27-26-303. Jury trial. (1) If an answer is made ~~which~~ *that* raises a question as to a matter of fact essential to the determination of the motion and affecting the substantial rights of the parties, and upon the supposed truth of the allegation of which the application for the writ is based, the court or judge may, ~~in its or his discretion,~~ order the question to be tried before a jury and postpone the argument until the trial can be had. The question to be tried must be distinctly stated in the order for trial. The order may also direct the jury to assess any damages ~~which~~ *that* the applicant may have sustained if ~~it~~ *the jury* finds for ~~him~~ *the applicant*.

(2) If the proceeding is in the district court or before a district judge, the trial must take place as in other cases. If a jury is required in the supreme court, a jury must be drawn and selected from the jury box of Lewis and Clark County and the clerk of the district court of that county shall place the box in the custody of the clerk of the supreme court for that purpose. The conduct of the trial must be the same as in the district court, and the clerk of the supreme court has the same authority to issue process and enter orders and judgments as the district court clerk has in ~~like~~ *similar* cases.”

Section 723. Section 27-26-402, MCA, is amended to read:

“27-26-402. Judgment for applicant. If judgment is given for the applicant:

- (1) ~~he~~ *the applicant* may recover the damages ~~which~~ *he* ~~that~~ *the applicant* has sustained, as found by the jury or as determined by the court or referees, if a reference was ordered, together with costs;
- (2) an execution may issue for ~~such~~ *the* damages and costs; and
- (3) a peremptory mandate must be awarded without delay.”

Section 724. Section 27-27-103, MCA, is amended to read:

“27-27-103. Form and content of writ. The writ must be either alternative or peremptory. The alternative writ must state generally the

allegation against the party to whom it is directed and command ~~such the~~ party to desist or refrain from further proceedings in the action or matter specified ~~therein in the writ~~ until the further order of the court or judge from which it is issued and to show cause before ~~such the~~ court or judge, at a specified time and place, why ~~such the~~ party should not be absolutely restrained from any further proceedings in ~~such the~~ action or matter. The peremptory writ must be in a similar form, except that the words requiring the party to show cause why ~~he the~~ party should not be absolutely restrained, etc., must be omitted and a return day inserted.”

Section 725. Section 27-28-101, MCA, is amended to read:

“27-28-101. When proceeding may be instituted for unlawful assertion of authority. A civil action may be brought in the name of the state against:

- (1) a person who usurps, intrudes into, or unlawfully holds or exercises a public office, civil or military, or a franchise within this state or an office in a corporation created by the authority of this state;
- (2) a public officer, civil or military, who does or suffers an act ~~which that,~~ by the provisions of law, works a forfeiture of ~~his~~ office;
- (3) an association of persons who act as a corporation within this state without being legally incorporated.”

Section 726. Section 27-28-103, MCA, is amended to read:

“27-28-103. When attorney general required to commence an action. The attorney general shall commence an action:

- (1) when directed by the governor; and
- (2) when, upon complaint or otherwise, ~~he the~~ attorney general has good reason to believe that any case specified in 27-28-102 can be established by proof.”

Section 727. Section 27-28-104, MCA, is amended to read:

“27-28-104. Upon whose relation action brought — security for costs. ~~Such The~~ officer may, upon ~~his the~~ officer’s own relation, bring any ~~such~~ action, or ~~he the~~ officer may, on leave of the court or a judge ~~thereof~~ in vacation, bring the action upon the relation of another person; ~~and if~~ *If* the action ~~be is~~ brought under 27-28-101(1), ~~he may require~~ security for costs *may be required*, to be given as in other cases.”

Section 728. Section 27-28-205, MCA, is amended to read:

“27-28-205. Judgment — unlawful assertion of authority. When a defendant is found guilty of usurping, intruding into, or unlawfully holding or exercising an office, franchise, or privilege, judgment ~~shall must~~ be rendered that ~~such the~~ defendant be ousted and altogether excluded ~~therefrom from~~ *from the office, franchise, or privilege* and that the relator recover ~~his~~ costs.”

Section 729. Section 27-28-301, MCA, is amended to read:

“27-28-301. When action may be commenced — undertaking for security. A person claiming to be entitled to a public office unlawfully held and exercised by another, ~~by himself individually~~ or by an attorney ~~and counselor at law~~, may bring an action ~~therefor~~ *for the office* in the name of the state, as provided in this chapter. On filing the complaint, ~~such the~~ person shall enter into an undertaking, with two sufficient sureties to be approved by the judge or any judge of the court in which the action is brought, conditioned that ~~such the~~ person will pay any judgment for costs or damages recovered against ~~him the~~

person and all costs and expenses incurred in the prosecution of the action, ~~which~~ *The* undertaking ~~shall~~ *must* be filed with the clerk of the court.”

Section 730. Section 27-28-302, MCA, is amended to read:

“27-28-302. Contents of complaint. When the action is against a person for usurping an office, the complaint ~~shall~~ *must* set forth the name of the person who claims to be entitled ~~thereto to the office~~, with ~~an averment a statement of his the person’s right thereto to the office.~~”

Section 731. Section 27-28-306, MCA, is amended to read:

“27-28-306. Rights of prevailing party to take office and demand books and papers. If judgment ~~be is~~ rendered in favor of the person ~~averred~~ *alleged* to be entitled to an office, ~~he the person~~ may, after taking the oath of office and executing any official bond required by law, take upon ~~him the person~~ the execution of the office and ~~he the person~~ shall immediately ~~thereafter upon taking the office~~ demand of the defendant all the books and papers in ~~his the defendant’s~~ custody or within ~~his the defendant’s~~ power ~~appertaining~~ *pertaining* to the office from which ~~he the defendant~~ has been ousted.”

Section 732. Section 27-28-307, MCA, is amended to read:

“27-28-307. Refusal to turn over books and papers punishable as contempt. If ~~such the~~ defendant ~~refuse~~ *refuses* or ~~neglect~~ *neglects* to deliver over any ~~such~~ book or paper pursuant to ~~such the~~ demand in 27-28-306, ~~he shall be deemed the defendant is considered~~ guilty of a contempt of court and shall be fined ~~in any sum~~ *an amount* not exceeding \$10,000 and imprisoned in the jail of the county until ~~he the defendant~~ complies with the order of the court or is otherwise discharged by due course of law.”

Section 733. Section 27-28-308, MCA, is amended to read:

“27-28-308. Subsequent action for damages for usurpation. The person in whose favor judgment is rendered *under this part* may, at any time within 1 year after the date of ~~such the~~ judgment, bring an action against the party ousted and recover the damages ~~he~~ sustained by reason of ~~such the~~ usurpation.”

Section 734. Section 27-28-401, MCA, is amended to read:

“27-28-401. When judgment of ouster rendered. When the action is against a director of a corporation and the court finds that at ~~his the director’s~~ election either illegal votes were received or legal votes were rejected, or both, sufficient to change the result, judgment may be rendered that the defendant be ousted and of induction in favor of the person who was entitled to be declared elected at ~~such the~~ election.”

Section 735. Section 27-28-506, MCA, is amended to read:

“27-28-506. Refusal to deliver assets or papers to trustees — punishment for contempt, — liability. An officer of ~~such the~~ corporation who refuses or neglects to deliver over any ~~such~~ money or other things pursuant to ~~such the~~ demand ~~shall be deemed is considered~~ guilty of a contempt of court and shall be fined *an amount* not exceeding \$10,000 and imprisoned in the jail of the proper county until ~~he the officer~~ complies with the order of the court or is otherwise discharged by due course of law. ~~and he shall be~~ *The officer is* liable to the trustees for the value of all money or other things ~~so~~ refused or neglected to be surrendered, together with all damages that have been sustained by the stockholders and creditors of the corporation, or any of them, in consequence of ~~such the~~ neglect or refusal.”

Section 736. Section 27-30-203, MCA, is amended to read:

“27-30-203. When private person may maintain action for public nuisance. A private person may maintain an action for a public nuisance if it is specially injurious to ~~himself~~ *that person*, but not otherwise.”

Section 737. Section 27-30-204, MCA, is amended to read:

“27-30-204. Abatement of public nuisance by public body or officer or injured party. A public nuisance may be abated by any public body or officer authorized ~~thereto~~ by law. ~~Any~~ A person may abate a public nuisance ~~which~~ *that* is specially injurious to ~~him~~ *that person* by removing or, if necessary, destroying the thing that constitutes the ~~same~~ *nuisance* without committing a breach of the peace or doing unnecessary injury.”

Section 738. Section 27-30-302, MCA, is amended to read:

“27-30-302. Abatement of private nuisance by injured party. A person injured by a private nuisance may abate it by removing or, if necessary, destroying the thing ~~which~~ *that* constitutes the nuisance without committing a breach of the peace or doing unnecessary injury. ~~Where~~ *When* a private nuisance results from a mere omission of the wrongdoer and cannot be abated without entering upon ~~his~~ *the wrongdoer’s* land, reasonable notice must be given to ~~him~~ *the wrongdoer* before entering to abate ~~it~~ *the nuisance*.”

Section 739. Section 27-31-101, MCA, is amended to read:

“27-31-101. Petition for change of name of natural person. All applications for change of names must be made to the district court of the county where the person whose name is proposed to be changed resides, by petition signed by ~~such~~ *the* person and, if ~~such~~ *the* person is under 18 years of age, by one of the *person’s* parents, if living, or if both ~~be~~ *are* dead, then by the *person’s* guardian, and if there ~~be~~ *is* no guardian, then by some near relative or friend. The petition must specify the place of birth and residence of ~~such~~ *the* person, ~~his~~ *or her* *the person’s* present name, the name proposed, and the reason for ~~such~~ *the* change of name and must, if neither parent of ~~such~~ *the* person ~~be~~ *is* living, name as far as known to the petitioner the near relatives of ~~such~~ *the* person and their place of residence.”

Section 740. Section 27-32-101, MCA, is amended to read:

“27-32-101. Who may petition — where petition filed. For the purpose of having a judicial determination of the date of birth, any citizen of the United States, either natural born or naturalized, may file *a petition* with the clerk of the district court of the county of ~~his~~ *the citizen’s* residence ~~a petition~~.”

Section 741. Section 27-32-102, MCA, is amended to read:

“27-32-102. Contents of petition. (1) The petition must be duly verified by the petitioner. ~~and must contain the following:~~

(1) The petition must state:

(a) that the petitioner is a citizen of the United States;

(b) that ~~he~~ *the petitioner* has resided in the state of Montana for 1 year ~~last~~ *past preceding the commencement of the action* and in the county in which the action is brought for at least 90 days immediately preceding the commencement of the action;

(c) the place of ~~his~~ *the petitioner’s* birth;

(d) the names of ~~his~~ *the petitioner’s* parents, together with the place of the birth of each of ~~his~~ *parents* ~~parent~~ and their address, if they are living;

(e) the name and address of each of ~~his~~ *the petitioner's* brothers and sisters;

(f) if the address of either of the parents or of any of the brothers or sisters is not known, then their ~~last known~~ *last-known* place of address.

(2) If the petitioner was born outside of the United States, then the petition must state:

(a) whether ~~his~~ *the petitioner's* parents came to the United States and, if so, where they came and where they resided or reside;

(b) whether ~~they~~ *the petitioner's parents* or either of them were naturalized within the United States and, if so, when and where ~~such~~ *the* naturalization took place.”

Section 742. Section 27-32-301, MCA, is amended to read:

“**27-32-301. Judgment.** If the court ~~shall be~~ *is* satisfied by competent evidence of the sufficiency of the petition that the applicant is a citizen of the United States, that ~~he~~ *the applicant* has been a citizen of the state of Montana for 1 year ~~last past~~ *preceding the filing of the petition* and of the county for more than 90 days preceding the filing of the petition, and that the applicant's date of birth is proven, then the court shall render judgment accordingly and that judgment ~~shall~~ *must* constitute conclusive evidence of the date of the birth of the applicant.”

Section 743. Section 28-1-104, MCA, is amended to read:

“**28-1-104. Relief from forfeiture.** Whenever by the terms of an obligation a party ~~thereto~~ *to the obligation* incurs a forfeiture or a loss in the nature of a forfeiture by reason of ~~his~~ *the party's* failure to comply with its provisions, ~~he~~ *the party* may be relieved ~~therefrom~~ *from the obligation* upon making full compensation to the other party, except in case of a grossly negligent, willful, or fraudulent breach of duty.”

Section 744. Section 28-1-201, MCA, is amended to read:

“**28-1-201. General duty of care.** Every person is bound, without contract, to abstain from injuring the person or property of another or infringing upon any of ~~his~~ *another person's* rights.”

Section 745. Section 28-1-202, MCA, is amended to read:

“**28-1-202. Obligation of one who unilaterally decides to render service.** ~~One~~ *A person* who officiously and without the consent of the real or apparent owner of a thing takes it into ~~his~~ *the person's* possession for the purpose of rendering service about it must complete ~~such~~ *the* service and use ordinary care, diligence, and reasonable skill about the ~~same~~ *service*. ~~He~~ *The person* is not entitled to any compensation for ~~his~~ *the* service or expenses, except that ~~he~~ *the person* may deduct actual and necessary expenses incurred by ~~him~~ *the person* about ~~such~~ *the* service from any profits ~~which~~ *his* ~~that~~ *the* service has caused the thing to acquire for its owner and ~~must~~ *shall* account to the owner for the residue.”

Section 746. Section 28-1-303, MCA, is amended to read:

“**28-1-303. Right to contribution from joint debtors.** Except as provided in 27-1-703, a party to a joint or joint and several obligation who satisfies more than ~~his~~ *that party's* share of the claim against all may require a proportionate contribution from all the parties joined with ~~him~~ *that party*.”

Section 747. Section 28-1-405, MCA, is amended to read:

“28-1-405. Condition subsequent defined. A condition subsequent is one referring to a future event upon the happening of which the obligation becomes no longer binding upon the other party if ~~he~~ *the other party* chooses to ~~avail himself~~ *take advantage* of the condition.”

Section 748. Section 28-1-406, MCA, is amended to read:

“28-1-406. What conditions must be performed before requiring performance by another. Before ~~any~~ *a* party to an obligation can require another party to perform any act under it, ~~he~~ *the party shall* fulfill all conditions precedent ~~thereto~~ *to the act* imposed upon ~~himself~~ *that party* and must be able and offer to fulfill all *concurrent* conditions ~~concurrent~~ *so* imposed upon ~~him~~ *that party* on the like fulfillment by the other party, except as provided by 28-1-407.”

Section 749. Section 28-1-407, MCA, is amended to read:

“28-1-407. When prior performance of conditions excused. If a party to an obligation gives notice to another, before the latter is in default, that ~~he~~ *the party* will not perform the ~~same~~ *upon his part* obligation and does not retract ~~such~~ *the* notice before the time at which performance upon ~~his~~ *that party's* part is due, ~~such~~ *the* other party is entitled to enforce the obligation without previously performing or offering to perform any conditions upon ~~his~~ *the other party's* part in favor of the ~~former~~ *party giving notice*.”

Section 750. Section 28-1-502, MCA, is amended to read:

“28-1-502. How right of selection lost. If the party having the right of selection between alternative acts does not give notice of ~~his~~ *the* selection to the other party within the time, if any, fixed by the obligation for that purpose or, if ~~none~~ *a time* is ~~so~~ *not* fixed, before the time at which the obligation ought to be performed, the right of selection passes to the other party.”

Section 751. Section 28-1-1101, MCA, is amended to read:

“28-1-1101. Extinction of obligation by full performance. Full performance of an obligation by the party whose duty it is to perform it or by any other person on ~~his~~ *that party's* behalf and with ~~his~~ *that party's* assent, if accepted by the creditor, extinguishes it.”

Section 752. Section 28-1-1104, MCA, is amended to read:

“28-1-1104. Extinction when directions of creditor followed. If a creditor or any one of two or more joint creditors at any time directs the debtor to perform ~~his~~ *the debtor's* obligations in a particular manner, the obligation is extinguished by performance in that manner even though the creditor does not receive the benefit of ~~such~~ *the* performance.”

Section 753. Section 28-1-1105, MCA, is amended to read:

“28-1-1105. When partial performance extinguishes part of obligation. Partial performance of an indivisible obligation extinguishes a corresponding proportion ~~thereof~~ *of the obligation* if the benefit of ~~such~~ *the* performance is voluntarily retained by the creditor, but not otherwise. If ~~such~~ *the* partial performance is of such a nature that the creditor cannot avoid retaining it without injuring ~~his~~ *the creditor's* own property, ~~his~~ *the* retention thereof is not presumed to be voluntary.”

Section 754. Section 28-1-1106, MCA, is amended to read:

“28-1-1106. Application of performance when there are several obligations. Whenever a debtor under several obligations to another does an act by way of performance, in whole or in part, ~~which~~ *that* is equally applicable to

two or more of ~~such~~ *the* obligations, ~~such~~ *the* performance must be applied as follows:

(1) If, at the time of performance, the intention or desire of the debtor that ~~such~~ *the* performance should be applied to the extinction of any particular obligation is manifested to the creditor, it must be so applied.

(2) If no ~~such~~ intention or desire is then manifested, the creditor, within a reasonable time after ~~such~~ performance, may apply it toward the extinction of any obligation *the* performance of which was due to ~~him~~ *the creditor* from the debtor at the time of ~~such~~ *the* performance, except that if similar obligations were due to ~~him~~ *the creditor*, both individually and as a trustee, ~~he must~~ *the creditor shall*, unless otherwise directed by the debtor, apply the performance to the extinction of all ~~such~~ obligations in equal proportion. An application once made by the creditor cannot be rescinded without the consent of the debtor.

(3) If application is not made as prescribed in subsection (1) or (2) within the time prescribed, the performance must be applied to the extinction of obligations in the following order and, if there is more than one obligation of a particular class, to the extinction of all in that class, ratably:

- (a) first—interest due at the time of the performance;
- (b) second—principal due at that time;
- (c) third—the obligation earliest in date of maturity;
- (d) fourth—an obligation not secured by a lien or collateral undertaking;
- (e) fifth—an obligation secured by a lien or collateral undertaking.”

Section 755. Section 28-1-1112, MCA, is amended to read:

“28-1-1112. Objections to tender — waiver. The person to whom a tender is made ~~must~~ *shall* at the time specify any objection ~~he~~ *the person* may have to the money, instrument, or property or ~~he~~ *the person* must be ~~deemed~~ *considered* to have waived ~~it~~ *the objection*; ~~and if~~ *If* the objections ~~be~~ *are* to the amount of money, the terms of the instrument, or the amount or kind of property, ~~he must~~ *the person shall* specify the amount, terms, or kind ~~which~~ *he that the person* requires or be precluded from objecting afterward.”

Section 756. Section 28-1-1113, MCA, is amended to read:

“28-1-1113. Creditor’s retention of thing ~~which~~ ~~he~~ ~~that~~ ~~creditor~~ refuses to accept. If anything is given to a creditor by way of performance; ~~which~~ ~~he~~ ~~that~~ ~~the creditor~~ refuses to accept as ~~such~~ *performance*, ~~he~~ *the creditor* is not bound to return it without demand but, if ~~he~~ *the creditor* retains it, ~~he~~ *the creditor* is a gratuitous depository ~~thereof~~ *of the thing*.”

Section 757. Section 28-1-1204, MCA, is amended to read:

“28-1-1204. Who must make offer of performance. An offer of performance must be made by the debtor or by some person on ~~his~~ *the debtor’s* behalf and with ~~his~~ *the debtor’s* assent.”

Section 758. Section 28-1-1206, MCA, is amended to read:

“28-1-1206. Where offer may be made. In the absence of an express provision to the contrary, an offer of performance may be made, at the option of the debtor:

- (1) at any place appointed by the creditor;
- (2) wherever the person to whom the offer ought to be made can be found;

(3) if ~~such~~ *the* person cannot, with reasonable diligence, be found within the state and within a reasonable distance from ~~his~~ *the person's* residence or place of business or if ~~he~~ *the person* evades the debtor, then at ~~his~~ *the person's* residence or place of business if the ~~same~~ *residence or business* can, with reasonable diligence, be found within the state; or

(4) if this cannot be done, then at any place within this state.”

Section 759. Section 28-1-1211, MCA, is amended to read:

“28-1-1211. When offer may be conditional. (1) An offer of performance must be free from any conditions ~~which~~ *that* the creditor is not bound, ~~on his~~ *part*, to perform.

(2) When a debtor is entitled to the performance of a condition precedent to or concurrent with performance on ~~his~~ *the debtor's* part, ~~he~~ *the debtor* may make ~~his~~ *the* offer depend upon the due performance of ~~such~~ *the* condition.”

Section 760. Section 28-1-1212, MCA, is amended to read:

“28-1-1212. Objections to mode of offer — waiver. All objections to the mode of an offer of performance ~~which~~ *that* the creditor has an opportunity to state at the time to the person making the offer and ~~which~~ *that* could then be ~~obviated~~ *made unnecessary* by ~~such~~ *the* person are waived by the creditor if not then stated. If the objection is to the amount of money, the terms of the instrument, or the amount or kind of property offered, the creditor ~~must~~ *shall* specify the amount, terms, or kind ~~which~~ *he that the creditor* requires.”

Section 761. Section 28-1-1221, MCA, is amended to read:

“28-1-1221. Title to thing offered. The title to a thing duly offered in performance of an obligation passes to the creditor if the debtor at the time signifies ~~his~~ *the debtor's* intention to that effect.”

Section 762. Section 28-1-1224, MCA, is amended to read:

“28-1-1224. Custody of thing other than money. The person offering a thing other than money by way of performance ~~must~~ *shall*, if ~~he~~ *the person* means to treat it as belonging to the creditor, retain it as a depositary for hire until the creditor accepts it or until ~~he~~ *the person* has given reasonable notice to the creditor that ~~he~~ *the person* will retain it no longer and, if with reasonable diligence ~~he~~ *the person* can find a suitable depositary ~~therefor~~ *for the thing*, until ~~he~~ *the person* has deposited it with ~~such~~ *person the suitable* depositary.”

Section 763. Section 28-1-1302, MCA, is amended to read:

“28-1-1302. Effect when performance prevented by creditor. If the performance of an obligation ~~be~~ *is* prevented by the creditor, the debtor is entitled to all the benefits ~~which~~ *he that the debtor* would have obtained if ~~it~~ *the obligation* had been performed by both parties.”

Section 764. Section 28-1-1303, MCA, is amended to read:

“28-1-1303. Effect when performance prevented by other causes. If full performance of an obligation is prevented by any cause excusing performance other than the act of the creditor, the debtor is entitled to a ratable proportion of the consideration to which ~~he~~ *the debtor* would have been entitled upon full performance, according to the benefit ~~which~~ *that* the creditor receives from the actual performance.”

Section 765. Section 28-1-1304, MCA, is amended to read:

“28-1-1304. Effect of refusal to accept performance before offer. A refusal by a creditor to accept performance, made before an offer ~~thereof~~ *of*

performance, is equivalent to an offer and refusal unless, before performance is actually due, ~~he~~ *the creditor* gives notice to the debtor of ~~his~~ *the creditor's* willingness to accept ~~it~~ *performance*."

Section 766. Section 28-1-1504, MCA, is amended to read:

"28-1-1504. When acceptance of novation may be rescinded. When the obligation of a third person or an order upon ~~such~~ *the third* person is accepted in satisfaction, the creditor may rescind ~~such~~ *the* acceptance if:

(1) the debtor prevents ~~such~~ *the third* person from complying with the order or from fulfilling the obligation;

(2) at the time the obligation or order is received, ~~such~~ *the third* person is insolvent and the fact is unknown to the creditor; or

(3) before the creditor can, with reasonable diligence, present the order to the *third* person upon whom it is given, ~~he~~ *the third person* becomes insolvent."

Section 767. Section 28-1-1602, MCA, is amended to read:

"28-1-1602. What claims survive general release. A general release does not extend to claims ~~which~~ *that* the creditor does not know or suspect to exist in ~~his~~ *the creditor's* favor at the time of executing the release, which, if known by ~~him~~ *the creditor*, must have materially affected ~~his~~ *the creditor's* settlement with the debtor."

Section 768. Section 28-1-1603, MCA, is amended to read:

"28-1-1603. Effect of release of some but not all joint debtors. A release of one of two or more joint debtors does not extinguish the obligation of any of the others unless they are mere guarantors, nor does it affect their rights to contribution from ~~him~~ *the released debtor*."

Section 769. Section 28-2-202, MCA, is amended to read:

"28-2-202. Contracts of persons entirely without understanding. A person entirely without understanding has no power to make a contract of any kind, but ~~he~~ *the person* is liable for the reasonable value of things furnished to ~~him~~ *the person* necessary for ~~his~~ *the* support of the person or the support of ~~his~~ *the person's* family."

Section 770. Section 28-2-203, MCA, is amended to read:

"28-2-203. Contracts of persons with limited understanding. A conveyance or other contract of a person of unsound mind but not entirely without understanding, made before ~~his~~ *the person's* incapacity has been judicially determined, is subject to rescission as provided in part 17 of this chapter."

Section 771. Section 28-2-204, MCA, is amended to read:

"28-2-204. When person of unsound mind cannot disaffirm contract. A person of unsound mind cannot disaffirm a contract, otherwise valid, to pay the reasonable value of things necessary for ~~his~~ *the person's* support or that of ~~his~~ *the person's* family, entered into by ~~him~~ *the person* when not under the care of a parent or guardian able to provide for ~~him~~ *the person* or ~~them~~ *the person's* family."

Section 772. Section 28-2-205, MCA, is amended to read:

"28-2-205. When contract for benefit of third person may be enforced by ~~him~~ *third person*. A contract made expressly for the benefit of a third person may be enforced by ~~him~~ *the third person* at any time before the parties ~~thereto~~ *to the contract* rescind ~~it~~ *the contract*."

Section 773. Section 28-2-206, MCA, is amended to read:

“28-2-206. Assignment of nonnegotiable written contract. A nonnegotiable written contract for the payment of money or the delivery of personal property may be transferred by endorsement the same as a negotiable instrument. ~~Such~~ *The* endorsement transfers all the rights of the assignor under the contract to the assignee, subject to all equities and defenses existing in favor of the maker at the time of the endorsement or arising before notice of the assignment is received by ~~him~~ *the maker.*”

Section 774. Section 28-2-405, MCA, is amended to read:

“28-2-405. What constitutes actual fraud. Actual fraud, within the meaning of this part, consists in any of the following acts committed by a party to the contract or with ~~his~~ *the party's* connivance with intent to deceive another party ~~thereto~~ *to the contract* or to induce ~~him~~ *the other party* to enter into the contract:

- (1) the suggestion as a fact of that which is not true by one who does not believe it to be true;
- (2) the positive assertion, in a manner not warranted by the information of the person making it, of that which is not true, though ~~he~~ *the person* believes it to be true;
- (3) the suppression of that which is true by one having knowledge or belief of the fact;
- (4) a promise made without any intention of performing it; or
- (5) any other act fitted to deceive.”

Section 775. Section 28-2-406, MCA, is amended to read:

“28-2-406. What constitutes constructive fraud. Constructive fraud consists ~~in~~ *of*:

- (1) any breach of duty ~~which~~ *that*, without an actually fraudulent intent, gains an advantage to the person in fault or anyone claiming under ~~him~~ *the person in fault* by misleading another *person* to ~~his~~ *that person's* prejudice or to the prejudice of anyone claiming under ~~him~~ *that person*; or
- (2) any ~~such~~ act or omission as *that* the law especially declares to be fraudulent, without respect to actual fraud.”

Section 776. Section 28-2-407, MCA, is amended to read:

“28-2-407. What constitutes undue influence. Undue influence consists ~~in~~ *of*:

- (1) the use by one in whom a confidence is reposed by another *person* or who holds a real or apparent authority over ~~him~~ *the other person* of ~~such~~ *the* confidence or authority for the purpose of obtaining an unfair advantage over ~~him~~ *the other person*;
- (2) taking an unfair advantage of ~~another's~~ *another person's* weakness of mind; or
- (3) taking a grossly oppressive and unfair advantage of ~~another's~~ *another person's* necessities or distress.”

Section 777. Section 28-2-501, MCA, is amended to read:

“28-2-501. How consent is communicated. (1) Consent can be communicated with effect only by some act or omission of the party contracting

by which ~~he~~ *the party* intends to communicate it or ~~which that~~ necessarily tends to ~~such~~ *the* communication.

(2) If a proposal prescribes any conditions concerning the communication of its acceptance, the proposer is not bound unless ~~they~~ *the conditions* are conformed to; ~~but~~ *However*, in other cases, any reasonable and usual mode in conformity with subsection (1) may be adopted.”

Section 778. Section 28-2-502, MCA, is amended to read:

“28-2-502. When consent is considered fully communicated. Consent is considered to be fully communicated between the parties as soon as the party accepting a proposal has put ~~his~~ *that party’s* acceptance in the course of transmission to the proposer in conformity with 28-2-501.”

Section 779. Section 28-2-512, MCA, is amended to read:

“28-2-512. How proposal revoked. A proposal is revoked by:

(1) the communication of notice of revocation by the proposer to the other party in the manner prescribed by 28-2-501 and 28-2-502 before ~~his~~ *the other party’s* acceptance has been communicated to the ~~former~~ *proposer*;

(2) the lapse of the time prescribed in ~~such~~ *the* proposal for its acceptance or, if no time is ~~so~~ prescribed, the lapse of a reasonable time without communication of the acceptance;

(3) the failure of the acceptor to fulfill a condition precedent to acceptance; or

(4) the death or serious mental illness of the proposer.”

Section 780. Section 28-2-702, MCA, is amended to read:

“28-2-702. Contracts ~~which that~~ violate policy of the law — exemption from responsibility. All contracts ~~which that~~ have for their object, directly or indirectly, to exempt anyone from responsibility for ~~his~~ *the person’s* own fraud, for willful injury to the person or property of another, or for violation of law, whether willful or negligent, are against the policy of the law.”

Section 781. Section 28-2-704, MCA, is amended to read:

“28-2-704. Exception — sale of goodwill of business. (1) ~~One~~ *A person* who sells the goodwill of a business may agree with the buyer to refrain from carrying on a similar business within the areas provided in subsection (2) so long as the buyer or any person deriving title to the goodwill from ~~him~~ *the buyer* carries on a like business ~~therein~~ *in the described areas*.

(2) The agreement authorized in subsection (1) may apply in:

(a) the city where the principal office of the business is located;

(b) the county where the principal office of the business is located;

(c) a city in any county adjacent to the county in which the principal office of the business is located;

(d) any county adjacent to the county in which the principal office of the business is located; or

(e) any combination of the ~~foregoing~~ *areas in subsections (2)(a) through (2)(d)*.”

Section 782. Section 28-2-708, MCA, is amended to read:

“28-2-708. Restraints upon legal proceedings void. Every stipulation or condition in a contract by which any party ~~thereto~~ *to the contract* is restricted from enforcing ~~his~~ *the party’s* rights under the contract by the usual proceedings in the ordinary tribunals or ~~which that~~ limits the time within which ~~he~~ *the party*

may thus enforce his *the party's* rights is void. This section does not affect the validity of an agreement enforceable under Title 27, chapter 5.”

Section 783. Section 28-2-709, MCA, is amended to read:

“28-2-709. Illegality of agreement to allow another person to confess judgment, accept service of process, or accept default. (1) ~~No~~ A contract in writing by which any promise to pay money is created ~~shall may not~~ contain any provision either empowering any person to enter judgment by confession against any party to the contract or empowering any person as the agent of any party to the contract to either confess judgment, accept service of process, or consent on behalf of ~~such the party~~ to the entry of ~~his the party's~~ default in any proceeding in court upon ~~such the contract~~. ~~Every such~~ *The described* provision in ~~any such a contract shall be~~ is illegal and void and ~~shall be~~ is unenforceable in the courts of this state against any party to ~~such the contract~~.

(2) The term “contract”, as used in this section, ~~shall include~~ *includes* all writings executed contemporaneously with and constituting a part of the same transaction, whether ~~such the writings be~~ *are* negotiable or nonnegotiable in form.”

Section 784. Section 28-2-801, MCA, is amended to read:

“28-2-801. What constitutes good consideration. Any benefit conferred or agreed to be conferred upon the promisor by any other person, to which the promisor is not lawfully entitled, or any prejudice suffered or agreed to be suffered by ~~such the person~~, other than ~~such as he~~ *prejudice that the person* is at the time of consent lawfully bound to suffer, as an inducement to the promisor is a good consideration for a promise.”

Section 785. Section 28-2-902, MCA, is amended to read:

“28-2-902. Enforcement of contract not in writing through fraud. Where a contract ~~which that~~ is required by law to be in writing is prevented from being put into writing by the fraud of a party ~~thereto to the contract~~, any other party who is by ~~such the~~ fraud led to believe that ~~it the contract~~ is in writing and acts upon ~~such that~~ belief to ~~his the party's~~ prejudice may enforce it against the fraudulent party.”

Section 786. Section 28-2-903, MCA, is amended to read:

“28-2-903. What contracts must be in writing. (1) The following agreements are invalid unless the ~~same agreement~~ or some note or memorandum ~~thereof of the agreement~~ is in writing and subscribed by the party to be charged or ~~his the party's~~ agent:

(a) an agreement that by its terms is not to be performed within a year from the making ~~thereof of the agreement~~;

(b) a special promise to answer for the debt, default, or miscarriage of another, except in the cases provided for in 28-11-105;

(c) an agreement made upon consideration of marriage other than a mutual promise to marry;

(d) an agreement for the leasing for a longer period than 1 year or for the sale of real property or of an interest ~~therein in real property~~. ~~Such~~ *The* agreement, if made by an agent of the party sought to be charged, is invalid unless the authority of the agent is in writing and subscribed by the party sought to be charged.

(e) an agreement authorizing or employing an agent or broker to purchase or sell real estate for compensation or a commission.

(2) Evidence of an agreement described in subsections (1)(a) through (1)(d) is not admissible without the writing or secondary evidence of ~~its~~ *the writing's* contents.

(3) ~~No evidence~~ *Evidence* is not admissible to charge a person upon a representation as to the credit of a third person unless ~~such~~ *the* representation or some memorandum ~~thereof~~ *of the representation* is in writing and either subscribed by or in the handwriting of the party to be charged.

(4) Subsections (1) and (2) do not apply to agreements subject to the Uniform Commercial Code.”

Section 787. Section 28-2-906, MCA, is amended to read:

“28-2-906. When written contract takes effect. A contract in writing takes effect upon its delivery to the party in whose favor it is made or to ~~his~~ *the party's* agent.”

Section 788. Section 28-2-1703, MCA, is amended to read:

“28-2-1703. Extinction of executory obligations of contract by destruction, cancellation, or alteration. (1) The intentional destruction, cancellation, or material alteration of a written contract by a party entitled to any benefit under ~~it~~ *the contract* or with ~~his~~ *the party's* consent extinguishes all the executory obligations of the contract in ~~his~~ *that party's* favor against parties who do not consent to the act.

(2) ~~Where~~ *When* a contract is executed in duplicate, an alteration or destruction of one copy while the other exists is not within the provisions of subsection (1).”

Section 789. Section 28-2-1711, MCA, is amended to read:

“28-2-1711. When party may rescind. A party to a contract may rescind the ~~same~~ *contract* in the following cases only:

(1) if the consent of the party rescinding or of any party jointly contracting with ~~him~~ *the party rescinding* was given by mistake or obtained through duress, menace, fraud, or undue influence exercised by or with the connivance of the party as to whom ~~he~~ *the party* rescinds or of any other party to the contract jointly interested with ~~such~~ *the* party;

(2) if, through the fault of the party as to whom ~~he~~ *the other party* rescinds, the consideration for ~~his~~ *the* obligation *of the party at fault* fails in whole or in part;

(3) if ~~such~~ *the* consideration becomes entirely void from any cause;

(4) if ~~such~~ *the* consideration, before it is rendered to ~~him~~ *rescinding party*, fails in a material respect from any cause; or

(5) if all the other parties consent.”

Section 790. Section 28-2-1713, MCA, is amended to read:

“28-2-1713. How rescission accomplished. Rescission, when not effected by consent, can be accomplished only by the use on the part of the party rescinding of reasonable diligence to comply with the following rules:

(1) ~~He must~~ *The rescinding party shall* rescind promptly upon discovering the facts ~~which~~ *that* entitle ~~him~~ *the party* to rescind if ~~he~~ *the party* is free from duress, menace, undue influence, or disability and is aware of ~~his~~ *the* right to rescind.

(2) ~~He must~~ *The rescinding party shall* restore to the other party everything of value ~~which~~ *he that the rescinding party* has received from ~~him~~ *the other party*

under the contract or ~~must~~ shall offer to restore ~~the same everything of value,~~ upon condition that ~~such~~ the other party shall do likewise, unless the ~~latter~~ other party is unable or positively refuses to do so.”

Section 791. Section 28-3-306, MCA, is amended to read:

“28-3-306. Interpretation of terms that are ambiguous or were intended in a different sense by different parties. (1) If the terms of a promise are in any respect ambiguous or uncertain, ~~it~~ the promise must be interpreted in the sense in which the promisor believed, at the time of making it, that the promisee understood it.

(2) When the terms of an agreement have been intended in a different sense by different parties to ~~it~~ the agreement, that sense is to prevail against either party in which ~~he~~ the party supposed the other party understood it; ~~and when~~ If different constructions of a provision are otherwise equally proper, that construction is to be taken ~~which~~ that is most favorable to the party in whose favor the provision was made.”

Section 792. Section 28-3-704, MCA, is amended to read:

“28-3-704. Contractual right to attorney fees treated as reciprocal. Whenever, by virtue of the provisions of any contract or obligation in the nature of a contract made and entered into at any time after July 1, 1971, one party to ~~such~~ the contract or obligation has an express right to recover attorney fees from any other party to the contract or obligation in the event the party having that right ~~shall bring~~ brings an action upon the contract or obligation, then in any action on ~~such~~ the contract or obligation all parties to the contract or obligation ~~shall be deemed~~ are considered to have the same right to recover attorney fees and the prevailing party in any ~~such~~ action, whether by virtue of the express contractual right or by virtue of this section, ~~shall be~~ is entitled to recover ~~his~~ reasonable attorney fees from the losing party or parties.”

Section 793. Section 28-10-105, MCA, is amended to read:

“28-10-105. What acts agent may perform. (1) An agent may be authorized to do any acts ~~which his~~ that the principal might do, except those to which the ~~latter~~ principal is bound to give ~~his~~ personal attention.

(2) Every act ~~which that,~~ according to this code, may be done by or to any person may be done by or to the agent of ~~such~~ the person for that purpose unless a contrary intention clearly appears.”

Section 794. Section 28-10-301, MCA, is amended to read:

“28-10-301. Agent not to exceed actual authority. An agent ~~must~~ may not exceed the limits of ~~his~~ the agent’s actual authority as defined by ~~this chapter~~ and parts 5 and 6 of chapter 11 of Title 30, *chapter 11, parts 5 and 6, and this chapter.*”

Section 795. Section 28-10-302, MCA, is amended to read:

“28-10-302. Duty to keep principal informed. An agent ~~must~~ shall use ordinary diligence to keep ~~his~~ the agent’s principal informed of ~~his~~ the agent’s acts in the course of the agency.”

Section 796. Section 28-10-401, MCA, is amended to read:

“28-10-401. What authority agent has. An agent has ~~such~~ the authority as ~~that~~ the principal actually or ostensibly confers upon ~~him~~ the agent.”

Section 797. Section 28-10-402, MCA, is amended to read:

“28-10-402. Actual authority defined. Actual authority is ~~such as~~ *authority that* the principal intentionally confers upon the agent or intentionally or by want of ordinary care allows the agent to believe ~~himself to possess that the agent possesses.~~”

Section 798. Section 28-10-404, MCA, is amended to read:

“28-10-404. When and as to whom agent’s authority restricted. Every agent has ~~actually such the~~ authority as is defined *described by this chapter and parts 5 and 6 of chapter 11 of Title 30, chapter 11, parts 5 and 6, and this chapter* unless specially deprived ~~thereof of that~~ authority by ~~his the agent’s~~ principal and has even then ~~such the~~ *statutorily described* authority ostensibly except as to persons who have actual or constructive notice of the restriction upon ~~his the agent’s~~ authority.”

Section 799. Section 28-10-405, MCA, is amended to read:

“28-10-405. Implied powers of agent. An agent has authority to:

(1) do everything necessary and proper and usual, in the ordinary course of business, for effecting the purpose of ~~his the~~ agency; and

(2) make a representation respecting any matter of fact, except the terms of ~~his the agent’s~~ authority, upon which ~~his the~~ right to use ~~his the agent’s~~ authority depends and the truth of which cannot be determined by the use of reasonable diligence on the part of the person to whom the representation is made.”

Section 800. Section 28-10-407, MCA, is amended to read:

“28-10-407. Statutory exceptions to general authority. An authority expressed in general terms, however broad, does not authorize an agent to:

(1) act in ~~his the agent’s~~ own name unless it is the usual course of business to do so;

(2) define the scope of ~~his the~~ agency; or

(3) do any act ~~which that~~ a trustee is forbidden to do by Title 72, chapter 34.”

Section 801. Section 28-10-408, MCA, is amended to read:

“28-10-408. When agent may disobey instructions. An agent has power to disobey instructions in dealing with the subject of the agency in cases ~~where~~ *in which* it is clearly for the interest of ~~his the agent’s~~ principal that ~~he the agent~~ should do so and there is ~~not insufficient~~ time to communicate with the principal.”

Section 802. Section 28-10-409, MCA, is amended to read:

“28-10-409. No authority to defraud principal. An agent can never have authority, either actual or ostensible, to do an act ~~which that~~ is and is known or suspected by the person with whom ~~he the agent~~ deals to be a fraud upon the principal.”

Section 803. Section 28-10-501, MCA, is amended to read:

“28-10-501. When agent may delegate powers. An agent, unless specially forbidden by ~~his the~~ principal to do so, can delegate ~~his the agent’s~~ powers to another person in any of the following cases and in no others:

(1) when the act to be done is purely mechanical;

(2) when ~~it is such as~~ the agent cannot ~~himself~~ and the subagent can lawfully perform *the act*;

(3) when it is the usage of the place to delegate ~~such the~~ powers; or

(4) when ~~such the~~ delegation is specially authorized by the principal.”

Section 804. Section 28-10-502, MCA, is amended to read:

“28-10-502. Effect of unauthorized employment of subagent. If an agent employs a subagent without authority, the ~~former agent~~ is a principal and the ~~latter his subagent is the agent’s~~ agent and the principal of the ~~former agent~~ has no connection with the ~~latter subagent~~. A mere agent of an agent is not responsible as such to the principal of the ~~latter agent~~.”

Section 805. Section 28-10-601, MCA, is amended to read:

“28-10-601. Accrual of rights and liabilities to principal. An agent represents ~~his the agent’s~~ principal for all purposes within the scope of ~~his the agent’s~~ actual or ostensible authority, and all the rights and liabilities ~~which that~~ would accrue to the agent from transactions within ~~such that~~ limit, if ~~they the transactions~~ had been entered into on ~~his the agent’s~~ own account, accrue to the principal.”

Section 806. Section 28-10-602, MCA, is amended to read:

“28-10-602. Principal’s responsibility for agent’s negligence, omissions, and wrongs. (1) Unless required by or under the authority of law to employ that particular agent, a principal is responsible to third persons for the negligence of ~~his the principal’s~~ agent in the transaction of the business of the agency, including wrongful acts committed by ~~such the~~ agent in and as a part of the transaction of ~~such~~ business, and for ~~his the agent’s~~ willful omission to fulfill the obligations of the principal.

(2) A principal is *not* responsible for ~~no~~ other wrongs committed by ~~his the principal’s~~ agent ~~than~~ *except* those mentioned in subsection (1) unless ~~he the principal~~ has authorized or ratified ~~them the~~ acts, even though they are committed while the agent is engaged in ~~his the principal’s~~ service.”

Section 807. Section 28-10-603, MCA, is amended to read:

“28-10-603. When instrument binds principal. An instrument within the scope of ~~his an agent’s~~ authority by which an agent intends to bind ~~his the agent’s~~ principal does bind ~~him the principal~~ if ~~such that~~ intent is plainly inferable from the instrument itself.”

Section 808. Section 28-10-605, MCA, is amended to read:

“28-10-605. Extent to which principal bound when agent exceeds authority. When an agent exceeds ~~his the agent’s~~ authority, ~~his the agent’s~~ principal is bound by ~~his the agent’s~~ authorized acts only so far as ~~they the authorized acts~~ can be plainly separated from those ~~which that~~ are unauthorized.”

Section 809. Section 28-10-606, MCA, is amended to read:

“28-10-606. Extent to which principal bound by acts under ostensible authority. A principal is bound by acts of ~~his the principal’s~~ agent under a merely ostensible authority to those persons only who have in good faith and without ordinary negligence incurred a liability or parted with value upon the faith ~~thereof of the~~ authority.”

Section 810. Section 28-10-608, MCA, is amended to read:

“28-10-608. Rights of person who deals with agent without knowledge of agency. ~~One A~~ person who deals with an agent without knowing or having reason to believe that the agent acts as ~~such an agent~~ in the transaction may set off against any claim of the principal arising out of the ~~same transaction~~ all claims ~~which he that the person~~ might have set off against the agent before notice of the agency.”

Section 811. Section 28-10-609, MCA, is amended to read:

“28-10-609. Principal’s liability when agent given exclusive credit. If exclusive credit is given to an agent by the person dealing with ~~him~~ *the agent*, ~~his~~ *the agent’s* principal is exonerated by payment or other satisfaction made by ~~him~~ *the principal* to ~~his~~ *the* agent in good faith before receiving notice of the creditor’s election to hold ~~him~~ *the principal* responsible.”

Section 812. Section 28-10-701, MCA, is amended to read:

“28-10-701. Warranty of authority. ~~One~~ *A person* who assumes to act as an agent ~~thereby~~ warrants to all who deal with ~~him~~ *the person* in that capacity that ~~he~~ *the person* has the authority ~~which he~~ *that the person* assumes.”

Section 813. Section 28-10-702, MCA, is amended to read:

“28-10-702. When agent responsible to third persons as a principal. ~~One~~ *A person* who assumes to act as an agent is responsible to third persons as a principal for ~~his~~ acts in the course of ~~his~~ *the* agency in any of the following cases and in no other:

- (1) when, with ~~his~~ *the agent’s* consent, credit is given to ~~him~~ *agent* personally in a transaction;
- (2) when ~~he~~ *the agent* enters into a written contract in the name of ~~his~~ *the* principal without believing in good faith that ~~he~~ *the agent* has authority to do so; or
- (3) when ~~his~~ *the agent’s* acts are wrongful in their nature.”

Section 814. Section 28-10-703, MCA, is amended to read:

“28-10-703. Responsibility of agent when third person claims property received for principal. If an agent receives anything for the benefit of ~~his~~ *the agent’s* principal ~~to the possession of which~~ *that* another person is entitled ~~to possess, he must~~ *the agent shall*, on demand, surrender it to ~~such~~ *the* person, or so much of it as ~~he~~ *the agent* has under ~~his~~ *the agent’s* control at the time of demand, on being indemnified for any advance ~~which he~~ *that the agent* has made to ~~his~~ *the* principal, in good faith, on account of the ~~same~~ *advance*. ~~He~~ *The agent* is responsible ~~therefor~~ *for the thing of benefit* if, after ~~such~~ demand, ~~he~~ *the agent* delivers it to ~~his~~ *the* principal.”

Section 815. Section 28-10-801, MCA, is amended to read:

“28-10-801. Circumstances ~~which~~ *that* terminate ~~any~~ agency. An agency is terminated as to every person having notice ~~thereof~~ *of the termination* by:

- (1) the expiration of ~~its~~ *the agency’s* term;
- (2) the extinction of ~~its~~ *the agency’s* subject;
- (3) the death of the agent;
- (4) ~~his~~ *the agent’s* renunciation of the agency; or
- (5) the incapacity of the agent to act as ~~such~~ *an agent*.”

Section 816. Section 28-10-802, MCA, is amended to read:

“28-10-802. Circumstances ~~which~~ *that* terminate agency not coupled with ~~an~~ interest. Unless the power of the agent is coupled with an interest in the subject of the agency, ~~it~~ *the agency* is terminated as to every person having notice ~~thereof~~ *of the termination* by:

- (1) its revocation by the principal;
- (2) ~~his~~ *the principal’s* death; or

(3) ~~his~~ *the principal's* incapacity to contract.”

Section 817. Section 28-11-103, MCA, is amended to read:

“28-11-103. When separate consideration required. ~~Where~~ *When* a guaranty is entered into at the same time with the original obligation or with the acceptance of the ~~latter original obligation~~ by the ~~guarantee person making the guaranty~~ and forms with that *original* obligation a part of the consideration to ~~him~~ *the person*, no other consideration need exist. In all other cases, there must be a consideration distinct from that of the original obligation.”

Section 818. Section 28-11-105, MCA, is amended to read:

“28-11-105. When guaranty considered original obligation and need not be in writing. A promise to answer for the obligation of another in any of the following cases is ~~deemed considered~~ an original obligation of the promisor and need not be in writing:

(1) ~~where~~ *when* the promise is made by one who has received property of another upon an undertaking to apply ~~it~~ *the property* pursuant to ~~such~~ *the* promise or by one who has received a discharge from an obligation, in whole or in part, in consideration of ~~such~~ *the* promise;

(2) ~~where~~ *when* the creditor parts with value or enters into an obligation in consideration of the obligation in respect to which the promise is made, in terms or under circumstances ~~such as to~~ *that* render the party making the promise the principal debtor and the person in whose behalf ~~it~~ *the promise* is made ~~his~~ *the party's* surety;

(3) ~~where~~ *when* the promise, being for an antecedent obligation of another, is made upon a consideration:

(a) that the party receiving ~~it~~ *the promise* cancels the antecedent obligation, accepting the new promise as a substitute ~~therefor~~ *for the antecedent obligation*;

(b) that the party receiving ~~it~~ *the promise* releases the property of another from a levy; or

(c) beneficial to the promisor, whether moving from either party to the antecedent obligation or from another person;

(4) ~~where~~ *when* a factor undertakes to sell merchandise for a commission and guarantee the sale;

(5) ~~where~~ *when* the holder of an instrument for the payment of money upon which a third person is or may become liable to ~~him~~ *the holder* transfers ~~it~~ *the instrument* in payment of a precedent debt of ~~his~~ *the holder's* own or for a new consideration and in connection with ~~such~~ *the* transfer enters into a promise respecting ~~such~~ *the* instrument.”

Section 819. Section 28-11-108, MCA, is amended to read:

“28-11-108. Continuing guaranty — definition, — revocation. (1) A guaranty relating to a future liability of the principal under successive transactions ~~which~~ *that* either continue ~~his~~ *the principal's* liability or from time to time renew it after it has been satisfied is called a continuing guaranty.

(2) A continuing guaranty may be revoked at any time by the guarantor in respect to future transactions unless there is a continuing consideration as to ~~such~~ *the* transactions ~~which~~ *he* ~~that~~ *the guarantor* does not renounce.”

Section 820. Section 28-11-202, MCA, is amended to read:

“28-11-202. Liability under guaranty of incomplete contract. In a guaranty of a contract the terms of which are not then settled, it is implied that

its *the guaranty's* terms shall be such as will not expose the guarantor to greater risks than ~~he~~ *the guarantor* would incur under those terms ~~which~~ *that* are most common in similar contracts at the place where the principal contract is to be performed.”

Section 821. Section 28-11-203, MCA, is amended to read:

“28-11-203. Liability under guaranty of illegal contract or contract void against principal. A guarantor is not liable if the contract of the principal is unlawful, but ~~he~~ *the guarantor* is liable notwithstanding any mere personal disability of the principal, *even* though the disability ~~be such as to~~ *would* make the contract void against the principal.”

Section 822. Section 28-11-206, MCA, is amended to read:

“28-11-206. Liability upon guaranty of conditional obligation — notice of default. ~~Where one~~ *If a person* guarantees a conditional obligation, ~~his~~ *the person's* liability is commensurate with that of the principal and ~~he~~ *the person* is not entitled to notice of the default of the principal unless ~~he~~ *the person* is unable, by the exercise of reasonable diligence, to acquire information of ~~such~~ *the* default and the creditor has actual notice ~~thereof~~ *of the default*.”

Section 823. Section 28-11-211, MCA, is amended to read:

“28-11-211. When guarantor exonerated. (1) A guarantor is exonerated, except so far as ~~he~~ *the guarantor* may be indemnified by the principal, if by any act of the creditor without the consent of the guarantor the original obligation of the principal is altered in any respect or the remedies or rights of the creditor against the principal in respect ~~thereto~~ *to the original obligation* are in any way impaired or suspended.

(2) A promise by a creditor ~~which~~ *that* for any cause is void or voidable by ~~him~~ *the creditor* at ~~his~~ *the creditor's* option does not alter the obligation or suspend or impair the remedy within the meaning of subsection (1).”

Section 824. Section 28-11-214, MCA, is amended to read:

“28-11-214. Guarantor not exonerated by discharge of principal. A guarantor is not exonerated by the discharge of ~~his~~ *the guarantor's* principal by operation of law without the intervention or omission of the creditor.”

Section 825. Section 28-11-304, MCA, is amended to read:

“28-11-304. Indemnity extended to acts of agents. An agreement to indemnify against the acts of a certain person applies not only to ~~his~~ *the person's* acts and their consequences but also to those of ~~his~~ *the person's* agents.”

Section 826. Section 28-11-312, MCA, is amended to read:

“28-11-312. When person indemnifying entitled to reimbursement. ~~Where one~~ *If a person* at the request of another engages to answer in damages, whether liquidated or unliquidated, for any violation of duty on the part of the latter, ~~he~~ *the person* is entitled to be reimbursed in the same manner as a surety for whatever ~~he~~ *the person* may pay.”

Section 827. Section 28-11-316, MCA, is amended to read:

“28-11-316. Duty of person indemnifying to defend. The person indemnifying is bound, on request of the person indemnified, to defend actions or proceedings brought against the ~~latter~~ *person indemnified* in respect to the matters embraced by the indemnity, but the person indemnified has the right to conduct ~~such~~ defenses if ~~he~~ *the person indemnified* chooses to do so. If, after request, the person indemnifying neglects to defend the person indemnified, a recovery against the ~~latter~~ *person indemnified* suffered by ~~him~~ *the person*

indemnified in good faith is conclusive in his favor of *the person indemnified* against the ~~former person indemnifying.~~"

Section 828. Section 28-11-317, MCA, is amended to read:

"28-11-317. When judgment not conclusive against person indemnifying. (1) If the person indemnifying, whether ~~he~~ *the person* is a principal or a surety in the agreement, does not have reasonable notice of the action or proceeding against the person indemnified or is not allowed to control ~~his~~ *the person indemnified's* defense, judgment against the ~~latter person indemnified~~ is only presumptive evidence against the ~~former person indemnifying.~~

(2) A stipulation that a judgment against the person indemnified ~~shall be~~ is conclusive upon the person indemnifying is inapplicable if ~~he~~ *the person indemnifying* had a good defense upon the merits ~~which that~~ by want of ordinary care ~~he~~ *the person indemnified* failed to establish in the action."

Section 829. Section 28-11-401, MCA, is amended to read:

"28-11-401. Surety defined. A surety is one who, at the request of another *person* and for the purpose of securing to ~~him~~ *the other person* a benefit, becomes responsible for the performance by the ~~latter other person~~ of some act in favor of a third person or ~~hypothecates~~ *pledges* property as security ~~therefor~~ *for the performance.*"

Section 830. Section 28-11-402, MCA, is amended to read:

"28-11-402. When apparent principal may show he is a surety. ~~One~~ *A person* who appears to be a principal, whether by the terms of a written instrument or otherwise, may show that ~~he~~ *the person* is in fact a surety except as against persons who have acted on the faith of ~~his~~ *the person's* apparent character of principal."

Section 831. Section 28-11-411, MCA, is amended to read:

"28-11-411. Extent of surety's liability. A surety cannot be held beyond the express terms of ~~his~~ *the surety's* contract, and if ~~such~~ *the* contract prescribes a penalty for its breach, ~~he~~ *the surety* cannot in any case be liable for more than the penalty."

Section 832. Section 28-11-412, MCA, is amended to read:

"28-11-412. Exoneration of surety. A surety is exonerated:

(1) in like manner with a guarantor;

(2) to the extent to which ~~he~~ *the surety* is prejudiced by any act of the creditor ~~which that~~ would naturally prove injurious to the remedies of the surety or inconsistent with ~~his~~ *the surety's* rights or ~~which that~~ lessens ~~his~~ *the surety's* security; or

(3) to the extent to which ~~he~~ *the surety* is prejudiced by an omission of the creditor, when required by the surety, to do anything ~~which that~~ it is the creditor's duty to do."

Section 833. Section 28-11-414, MCA, is amended to read:

"28-11-414. Application to surety of rights of guarantor. A surety has all the right of a guarantor, whether ~~he~~ *the surety* becomes personally responsible or not."

Section 834. Section 28-11-415, MCA, is amended to read:

"28-11-415. Power of surety to compel principal to perform. A surety may compel ~~his~~ *the surety's* principal to perform the obligations when due."

Section 835. Section 28-11-416, MCA, is amended to read:

“28-11-416. When surety may require creditor to pursue remedy. A surety may require ~~his~~ *the surety’s* creditor to proceed against the principal or to pursue any other remedy in ~~his~~ *the surety’s* power ~~which that~~ the surety cannot ~~himself~~ pursue and ~~which that~~ would lighten ~~his~~ *the surety’s* burden, and if ~~in~~ ~~such case~~ the creditor neglects to do so, the surety is exonerated to the extent to which ~~he~~ *the surety* is ~~thereby~~ prejudiced.”

Section 836. Section 28-11-417, MCA, is amended to read:

“28-11-417. Surety’s right to reimbursement and contribution. (1) If a surety satisfies the principal obligation or any part ~~thereof~~ *of the principal obligation*, whether with or without legal proceedings, the principal is bound to reimburse what the surety has disbursed, including necessary costs and expenses, but the surety ~~has no~~ *does not have* a claim for reimbursement against other persons, *even* though they may have been benefited by ~~his~~ *the surety’s* act, except as prescribed by subsection (2).

(2) A surety, upon satisfying the obligation of the principal, is entitled to enforce every remedy ~~which that~~ the creditor then has against the principal to the extent of reimbursing what the surety has expended and also to require all ~~his~~ *cosureties* to contribute ~~thereto~~ *to the reimbursement* without regard to the order of time in which they became ~~such~~ *cosureties*.”

Section 837. Section 28-11-418, MCA, is amended to read:

“28-11-418. Surety entitled to benefit of security held by creditor or cosurety. A surety is entitled to the benefit of every security for the performance of the principal obligation held by the creditor or by a cosurety at the time of entering into the contract of suretyship or acquired by ~~him~~ *the creditor or cosurety* afterwards, whether the surety was aware of the security or not.”

Section 838. Section 30-2-201, MCA, is amended to read:

“30-2-201. Formal requirements — statute of frauds. (1) Except as otherwise provided in this section a contract for the sale of goods for the price of \$500 or more is not enforceable by way of action or defense unless there is some writing sufficient to indicate that a contract for sale has been made between the parties and signed by the party against whom enforcement is sought or by ~~his~~ *the party’s* authorized agent or broker. A writing is not insufficient because it omits or incorrectly states a term agreed upon but the contract is not enforceable under this ~~paragraph~~ *subsection* beyond the quantity of goods shown in ~~such~~ *the* writing.

(2) Between merchants if within a reasonable time a writing in confirmation of the contract and sufficient against the sender is received and the party receiving it has reason to know its contents, it satisfies the requirements of subsection (1) against ~~such~~ *the* party unless written notice of objection to its contents is given within 10 days after it is received.

(3) A contract which does not satisfy the requirements of subsection (1) but which is valid in other respects is enforceable:

(a) if the goods are to be specially manufactured for the buyer and are not suitable for sale to others in the ordinary course of the seller’s business and the seller, before notice of repudiation is received and under circumstances which reasonably indicate that the goods are for the buyer, has made either a substantial beginning of their manufacture or commitments for their procurement; or

(b) if the party against whom enforcement is sought admits in ~~his~~ *the party's* pleading, testimony, or otherwise in court that a contract for sale was made, but the contract is not enforceable under this provision beyond the quantity of goods admitted; or

(c) with respect to goods for which payment has been made and accepted or which have been received and accepted (30-2-606).”

Section 839. Section 30-2-304, MCA, is amended to read:

“30-2-304. Price payable in money, goods, realty, or otherwise. (1) The price can be made payable in money or otherwise. If it is payable in whole or in part in goods each party is a seller of the goods which ~~he~~ *that party* is to transfer.

(2) Even though all or part of the price is payable in an interest in realty the transfer of the goods and the seller's obligations with reference to them are subject to this chapter, but not the transfer of the interest in realty or the transferor's obligations in connection ~~therewith~~ *with the transfer.*”

Section 840. Section 30-2-305, MCA, is amended to read:

“30-2-305. Open price term. (1) The parties if they so intend can conclude a contract for sale even though the price is not settled. In such a case the price is a reasonable price at the time for delivery if:

(a) nothing is said as to price; or

(b) the price is left to be agreed by the parties and they fail to agree; or

(c) the price is to be fixed in terms of some agreed market or other standard as set or recorded by a third person or agency and it is not so set or recorded.

(2) A price to be fixed by the seller or by the buyer means a price ~~for him to fix~~ *to be fixed* in good faith.

(3) When a price left to be fixed otherwise than by agreement of the parties fails to be fixed through fault of one party the other may at ~~his~~ *the party's* option treat the contract as canceled or ~~himself~~ *the party may* fix a reasonable price.

(4) Where, however, the parties intend not to be bound unless the price be fixed or agreed and it is not fixed or agreed there is no contract. In such a case the buyer must return any goods already received or if unable so to do must pay their reasonable value at the time of delivery and the seller must return any portion of the price paid on account.”

Section 841. Section 30-2-308, MCA, is amended to read:

“30-2-308. Absence of specified place for delivery. Unless otherwise agreed:

(a) the place for delivery of goods is the seller's place of business or if ~~he has~~ none, ~~his~~ *the seller's* residence; but

(b) in a contract for sale of identified goods which to the knowledge of the parties at the time of contracting are in some other place, that place is the place for their delivery; and

(c) documents of title may be delivered through customary banking channels.”

Section 842. Section 30-2-311, MCA, is amended to read:

“30-2-311. Options and cooperation respecting performance. (1) An agreement for sale which is otherwise sufficiently definite (subsection (3) of 30-2-204) to be a contract is not made invalid by the fact that it leaves

particulars of performance to be specified by one of the parties. Any such specification must be made in good faith and within limits set by commercial reasonableness.

(2) Unless otherwise agreed specifications relating to assortment of the goods are at the buyer's option and except as otherwise provided in subsections (1)(c) and (3) of 30-2-319 specifications or arrangements relating to shipment are at the seller's option.

(3) Where ~~such~~ *the* specification would materially affect the other party's performance but is not seasonably made or where one party's cooperation is necessary to the agreed performance of the other but is not seasonably forthcoming, the other party in addition to all other remedies:

(a) is excused for any resulting delay in ~~his~~ *that party's* own performance; and

(b) may also either proceed to perform in any reasonable manner or after the time for a material part of ~~his~~ *that party's* own performance treat the failure to specify or to cooperate as a breach by failure to deliver or accept the goods."

Section 843. Section 30-2-312, MCA, is amended to read:

"30-2-312. Warranty of title and against infringement — buyer's obligation against infringement. (1) Subject to subsection (2) there is in a contract for sale a warranty by the seller that:

(a) the title conveyed shall be good, and its transfer rightful; and

(b) the goods shall be delivered free from any security interest or other lien or encumbrance of which the buyer at the time of contracting has no knowledge.

(2) A warranty under subsection (1) will be excluded or modified only by specific language or by circumstances which give the buyer reason to know that the person selling does not claim title ~~in himself~~ or that ~~he~~ *the seller* is purporting to sell only ~~such~~ *the* right or title as ~~he~~ *the seller* or a third person may have.

(3) Unless otherwise agreed a seller who is a merchant regularly dealing in goods of the kind warrants that the goods shall be delivered free of the rightful claim of any third person by way of infringement or the like but a buyer who furnishes specifications to the seller must hold the seller harmless against any such claim which arises out of compliance with the specifications."

Section 844. Section 30-2-313, MCA, is amended to read:

"30-2-313. Express warranties by affirmation, promise, description, sample. (1) Express warranties by the seller are created as follows:

(a) Any affirmation of fact or promise made by the seller to the buyer which relates to the goods and becomes part of the basis of the bargain creates an express warranty that the goods shall conform to the affirmation or promise.

(b) Any description of the goods which is made part of the basis of the bargain creates an express warranty that the goods shall conform to the description.

(c) Any sample or model which is made part of the basis of the bargain creates an express warranty that the whole of the goods shall conform to the sample or model.

(2) It is not necessary to the creation of an express warranty that the seller use formal words such as "warrant" or "guarantee" or that ~~he~~ *the seller* have a specific intention to make a warranty, but an affirmation merely of the value of

the goods or a statement purporting to be merely the seller's opinion or commendation of the goods does not create a warranty."

Section 845. Section 30-2-316, MCA, is amended to read:

"30-2-316. Exclusion or modification of warranties. (1) Words or conduct relevant to the creation of an express warranty and words or conduct tending to negate or limit warranty shall be construed wherever reasonable as consistent with each other; but subject to the provisions of this chapter on parol or extrinsic evidence (30-2-202) negation or limitation is inoperative to the extent that such construction is unreasonable.

(2) Subject to subsection (3), to exclude or modify the implied warranty of merchantability or any part of it the language must mention merchantability and in case of a writing must be conspicuous, and to exclude or modify any implied warranty of fitness the exclusion must be by a writing and conspicuous. Language to exclude all implied warranties of fitness is sufficient if it states, for example, that "There are no warranties which extend beyond the description on the face hereof."

(3) Notwithstanding subsection (2):

(a) unless the circumstances indicate otherwise, all implied warranties are excluded by expressions like "as is", "with all faults" or other language which in common understanding calls the buyer's attention to the exclusion of warranties and makes plain that there is no implied warranty;

(b) when the buyer before entering into the contract has examined the goods or the sample or model as fully as he desired or has refused to examine the goods there is no implied warranty with regard to defects which an examination ought in the circumstances to have revealed to ~~him~~ *the buyer*;

(c) an implied warranty can also be excluded or modified by course of dealing or course of performance or usage of trade;

(d) in sales of cattle, hogs, sheep, or horses, there are no implied warranties, as defined in this chapter, that the cattle, hogs, sheep, or horses are free from sickness or disease; and

(e) in sales of any seed for planting (including both botanical and vegetative types of seed, whether certified or not), there are no implied warranties, as defined in this chapter, that the seeds are free from disease, virus, or any kind of pathogenic organisms.

(4) Remedies for breach of warranty can be limited in accordance with the provisions of this chapter on liquidation or limitation of damages and on contractual modification of remedy (30-2-718 and 30-2-719)."

Section 846. Section 30-2-318, MCA, is amended to read:

"30-2-318. Third-party beneficiaries of warranties express or implied. A seller's warranty whether express or implied extends to any natural person who is in the family or household of ~~his~~ *the buyer* or who is a guest in ~~his~~ *the buyer's* home if it is reasonable to expect that ~~such~~ *the* person may use, consume or be affected by the goods and who is injured in person by breach of the warranty. A seller may not exclude or limit the operation of this section."

Section 847. Section 30-2-319, MCA, is amended to read:

"30-2-319. F.O.B. and F.A.S. terms. (1) Unless otherwise agreed the term F.O.B. (which means "free on board") at a named place, even though used only in connection with the stated price, is a delivery term under which:

(a) when the term is F.O.B. the place of shipment, the seller must at that place ship the goods in the manner provided in this chapter (30-2-504) and bear the expense and risk of putting them into the possession of the carrier; or

(b) when the term is F.O.B. the place of destination, the seller must at ~~his~~ *the seller's* own expense and risk transport the goods to that place and there tender delivery of them in the manner provided in this chapter (30-2-503);

(c) when under either subsection (1)(a) or (1)(b) the term is also F.O.B. vessel, car or other vehicle, the seller must in addition at ~~his~~ *the seller's* own expense and risk load the goods on board. If the term is F.O.B. vessel the buyer must name the vessel and in an appropriate case the seller must comply with the provisions of this chapter on the form of bill of lading (30-2-323).

(2) Unless otherwise agreed the term F.A.S. vessel (which means "free alongside") at a named port, even though used only in connection with the stated price, is a delivery term under which the seller must:

(a) at ~~his~~ *the seller's* own expense and risk deliver the goods alongside the vessel in the manner usual in that port or on a dock designated and provided by the buyer; and

(b) obtain and tender a receipt for the goods in exchange for which the carrier is under a duty to issue a bill of lading.

(3) Unless otherwise agreed in any case falling within subsection (1)(a) or (1)(c) or subsection (2) the buyer must seasonably give any needed instructions for making delivery, including when the term is F.A.S. or F.O.B. the loading berth of the vessel and in an appropriate case its name and sailing date. The seller may treat the failure of needed instructions as a failure of cooperation under this chapter (30-2-311). ~~He~~ *The seller* may also at ~~his~~ *the seller's* option move the goods in any reasonable manner preparatory to delivery or shipment.

(4) Under the term F.O.B. vessel or F.A.S. unless otherwise agreed the buyer must make payment against tender of the required documents and the seller may not tender nor the buyer demand delivery of the goods in substitution for the documents."

Section 848. Section 30-2-320, MCA, is amended to read:

"30-2-320. C.I.F. and C.&F. terms. (1) The term C.I.F. means that the price includes in a lump sum the cost of the goods and the insurance and freight to the named destination. The term C.&F. or C.F. means that the price ~~so~~ includes cost and freight to the named destination.

(2) Unless otherwise agreed and even though used only in connection with the stated price and destination, the term C.I.F. destination or its equivalent requires the seller at ~~his~~ *the seller's* own expense and risk to:

(a) put the goods into the possession of a carrier at the port for shipment and obtain a negotiable bill or bills of lading covering the entire transportation to the named destination; and

(b) load the goods and obtain a receipt from the carrier, (which may be contained in the bill of lading), showing that the freight has been paid or provided for; and

(c) obtain a policy or certificate of insurance, including any war risk insurance, of a kind and on terms then current at the port of shipment in the usual amount, in the currency of the contract, shown to cover the same goods covered by the bill of lading and providing for payment of loss to the order of the

buyer or for the account of whom it may concern; but the seller may add to the price the amount of the premium for any such war risk insurance; and

(d) prepare an invoice of the goods and procure any other documents required to effect shipment or to comply with the contract; and

(e) forward and tender with commercial promptness all the documents in due form and with any endorsement necessary to perfect the buyer's rights.

(3) Unless otherwise agreed the term C.&F. or its equivalent has the same effect and imposes upon the seller the same obligations and risks as a C.I.F. term except the obligation as to insurance.

(4) Under the term C.I.F. or C.&F. unless otherwise agreed the buyer must make payment against tender of the required documents and the seller may not tender nor the buyer demand delivery of the goods in substitution for the documents."

Section 849. Section 30-2-324, MCA, is amended to read:

"30-2-324. "No arrival, no sale" term. Under a term "no arrival, no sale" or terms of like meaning, unless otherwise agreed:

(a) the seller must properly ship conforming goods and if they arrive by any means ~~he~~ *the seller* must tender them on arrival but ~~he~~ *the seller* assumes no obligation that the goods will arrive unless ~~he~~ *the seller* has caused the nonarrival; and

(b) where without fault of the seller the goods are in part lost or have so deteriorated as no longer to conform to the contract or arrive after the contract time, the buyer may proceed as if there has been casualty to identified goods (30-2-613)."

Section 850. Section 30-2-325, MCA, is amended to read:

"30-2-325. "Letter of credit" term — "confirmed credit". (1) Failure of the buyer seasonably to furnish an agreed letter of credit is a breach of the contract for sale.

(2) The delivery to *the* seller of a proper letter of credit suspends the buyer's obligation to pay. If the letter of credit is dishonored, the seller may on reasonable notification to the buyer require payment directly from ~~him~~ *the buyer*.

(3) Unless otherwise agreed the term "letter of credit" or "banker's credit" in a contract for sale means an irrevocable credit issued by a financing agency of good repute and, where the shipment is overseas, of good international repute. The term "confirmed credit" means that the credit must also carry the direct obligation of such an agency which does business in the seller's financial market."

Section 851. Section 30-2-401, MCA, is amended to read:

"30-2-401. Passing of title — reservation for security — limited application of this section. Each provision of this chapter with regard to the rights, obligations and remedies of the seller, the buyer, purchasers or other third parties applies irrespective of title to the goods except where the provision refers to such title. Insofar as situations are not covered by the other provisions of this chapter and matters concerning title become material the following rules apply:

(1) Title to goods cannot pass under a contract for sale prior to their identification to the contract (30-2-501), and unless otherwise explicitly agreed the buyer acquires by their identification a special property as limited by this

code. Any retention or reservation by the seller of the title (property) in goods shipped or delivered to the buyer is limited in effect to a reservation of a security interest. Subject to these provisions and to the provisions of the Chapter on Secured Transactions (Chapter 9A), title to goods passes from the seller to the buyer in any manner and on any conditions explicitly agreed on by the parties.

(2) Unless otherwise explicitly agreed title passes to the buyer at the time and place at which the seller completes performance with reference to the delivery of the goods, despite any reservation of a security interest and even though a document of title is to be delivered at a different time or place; and in particular and despite any reservation of a security interest by the bill of lading:

(a) if the contract requires or authorizes the seller to send the goods to the buyer but does not require the seller to deliver them at destination, title passes to the buyer at the time and place of shipment; but

(b) if the contract requires delivery at destination, title passes on tender there.

(3) Unless otherwise explicitly agreed where delivery is to be made without moving the goods,

(a) if the seller is to deliver a tangible document of title, title passes at the time when and the place where the seller delivers such documents and if the seller is to deliver an electronic document of title, title passes when the seller delivers the document; or

(b) if the goods are at the time of contracting already identified and no documents of title are to be delivered, title passes at the time and place of contracting.

(4) For transactions involving interstate shipment of cattle or cattle being released from auction yards for interstate shipment the seller may issue a regular title or bill of sale, or give a conditional transfer of title or bill of sale. The conditional transfer of title or bill of sale is fully validated and the title passes when the following conditions are met:

(a) the bank on which the buyer's warrant, check, or draft was drawn notifies the seller, or ~~his~~ *the seller's* designated bank, that the instrument of payment has cleared the bank for payment; and

(b) a copy of the notification from the buyer's bank is attached to the conditional transfer of title or bill of sale.

(5) A rejection or other refusal by the buyer to receive or retain the goods, whether or not justified, or a justified revocation of acceptance reverts title to the goods in the seller. Such reversion occurs by operation of law and is not a "sale."

Section 852. Section 30-2-402, MCA, is amended to read:

"30-2-402. Rights of seller's creditors against sold goods. (1) Except as provided in subsections (2) and (3), rights of unsecured creditors of the seller with respect to goods which have been identified to a contract for sale are subject to the buyer's rights to recover the goods under this chapter (30-2-502 and 30-2-716).

(2) A creditor of the seller may treat a sale or an identification of goods to a contract for sale as void if as against ~~him~~ *the creditor* a retention of possession by the seller is fraudulent under any rule of law of the state where the goods are situated, except that retention of possession in good faith and current course of

trade by a merchant-seller for a commercially reasonable time after a sale or identification is not fraudulent.

(3) Nothing in this chapter shall be deemed to impair the rights of creditors of the seller:

(a) under the provisions of the Chapter on Secured Transactions (Chapter 9A); or

(b) where identification to the contract or delivery is made not in current course of trade but in satisfaction of or as security for a preexisting claim for money, security or the like and is made under circumstances which under any rule of law of the state where the goods are situated would apart from this chapter constitute the transaction a fraudulent transfer or voidable preference.”

Section 853. Section 30-2-403, MCA, is amended to read:

“30-2-403. Power to transfer — good faith purchase of goods — “entrusting”. (1) A purchaser of goods acquires all title which ~~his~~ *the purchaser’s* transferor had or had power to transfer except that a purchaser of a limited interest acquires rights only to the extent of the interest purchased. A person with voidable title has power to transfer a good title to a good faith purchaser for value. When goods have been delivered under a transaction of purchase the purchaser has ~~such~~ *the* power even though:

(a) the transferor was deceived as to the identity of the purchaser;

(b) the delivery was in exchange for a check which is later dishonored;

(c) it was agreed that the transaction was to be a “cash sale”; or

(d) the delivery was procured through fraud punishable as theft under the criminal law.

(2) Any entrusting of possession of goods to a merchant who deals in goods of that kind gives ~~him~~ *the merchant* power to transfer all rights of the entruster to a buyer in ordinary course of business.

(3) “Entrusting” includes any delivery and any acquiescence in retention of possession regardless of any condition expressed between the parties to the delivery or acquiescence and regardless of whether the procurement of the entrusting or the possessor’s disposition of the goods has been such as to constitute theft under the criminal law.

(4) The rights of other purchasers of goods and of lien creditors are governed by the chapters on secured transactions (chapter 9A) and documents of title (chapter 7).”

Section 854. Section 30-2-501, MCA, is amended to read:

“30-2-501. Insurable interest in goods — manner of identification of goods. (1) The buyer obtains a special property and an insurable interest in goods by identification of existing goods as goods to which the contract refers even though the goods so identified are nonconforming and ~~he~~ *the buyer* has an option to return or reject them. Such identification can be made at any time and in any manner explicitly agreed to by the parties. In the absence of explicit agreement identification occurs:

(a) when the contract is made if it is for the sale of goods already existing and identified;

(b) if the contract is for the sale of future goods other than those described in ~~paragraph (e)~~ *subsection (1)(c)*, when goods are shipped, marked or otherwise designated by the seller as goods to which the contract refers;

(c) when the crops are planted or otherwise become growing crops or the young are conceived if the contract is for the sale of unborn young to be born within 12 months after contracting or for the sale of crops to be harvested within 12 months or the next normal harvest season after contracting whichever is longer.

(2) The seller retains an insurable interest in goods so long as title to or any security interest in the goods remains in ~~him~~ *the seller* and where the identification is by the seller alone ~~he~~ *the seller* may until default or insolvency or notification to the buyer that the identification is final substitute other goods for those identified.

(3) Nothing in this section impairs any insurable interest recognized under any other statute or rule of law.”

Section 855. Section 30-2-504, MCA, is amended to read:

“30-2-504. Shipment by seller. Where the seller is required or authorized to send the goods to the buyer and the contract does not require ~~him~~ *the seller* to deliver them at a particular destination, then unless otherwise agreed ~~he~~ *the seller* must:

~~(a)~~(1) put the goods in the possession of such a carrier and make such a contract for their transportation as may be reasonable having regard to the nature of the goods and other circumstances of the case; and

~~(b)~~(2) obtain and promptly deliver or tender in due form any document necessary to enable the buyer to obtain possession of the goods or otherwise required by the agreement or by usage of trade; and

~~(e)~~(3) promptly notify the buyer of the shipment. Failure to notify the buyer under ~~paragraph (e)~~ *this subsection* or to make a proper contract under ~~paragraph (a)~~ *subsection (1)* is a ground for rejection only if material delay or loss ensues.”

Section 856. Section 30-2-505, MCA, is amended to read:

“30-2-505. Seller’s shipment under reservation. (1) Where the seller has identified goods to the contract by or before shipment:

(a) ~~his~~ *the seller’s* procurement of a negotiable bill of lading to ~~his~~ *the seller’s* own order or otherwise reserves in ~~him~~ *the seller* a security interest in the goods. ~~His~~ *The seller’s* procurement of the bill to the order of a financing agency or of the buyer indicates in addition only the seller’s expectation of transferring that interest to the person named.

(b) a nonnegotiable bill of lading to ~~himself~~ *the seller* or ~~his~~ *the seller’s* nominee reserves possession of the goods as security but except in a case of conditional delivery (subsection (2) of 30-2-507) a nonnegotiable bill of lading naming the buyer as consignee reserves no security interest even though the seller retains possession of the bill of lading.

(2) When shipment by the seller with reservation of a security interest is in violation of the contract for sale it constitutes an improper contract for transportation within the preceding section but impairs neither the rights given to the buyer by shipment and identification of the goods to the contract nor the seller’s powers as a holder of a negotiable document.”

Section 857. Section 30-2-507, MCA, is amended to read:

“30-2-507. Effect of seller’s tender — delivery on condition. (1) Tender of delivery is a condition to the buyer’s duty to accept the goods and, unless

otherwise agreed, to ~~his~~ *the buyer's* duty to pay for them. Tender entitles the seller to acceptance of the goods and to payment according to the contract.

(2) Where payment is due and demanded on the delivery to the buyer of goods or documents of title, ~~his~~ *the buyer's* right as against the seller to retain or dispose of them is conditional upon ~~his~~ *the buyer* making the payment due."

Section 858. Section 30-2-508, MCA, is amended to read:

"30-2-508. Cure by seller of improper tender or delivery — replacement. (1) Where any tender or delivery by the seller is rejected because nonconforming and the time for performance has not yet expired, the seller may seasonably notify the buyer of ~~his~~ *the seller's* intention to cure and may then within the contract time make a conforming delivery.

(2) Where the buyer rejects a nonconforming tender which the seller had reasonable grounds to believe would be acceptable with or without money allowance the seller may if ~~he~~ *the seller* seasonably notifies the buyer have a further reasonable time to substitute a conforming tender."

Section 859. Section 30-2-509, MCA, is amended to read:

"30-2-509. Risk of loss in the absence of breach. (1) Where the contract requires or authorizes the seller to ship the goods by carrier:

(a) if it does not require the seller to deliver them at a particular destination, the risk of loss passes to the buyer when the goods are delivered to the carrier even though the shipment is under reservation (30-2-505); but

(b) if it does require the seller to deliver them at a particular destination and the goods are there tendered while in the possession of the carrier, the risk of loss passes to the buyer when the goods are there so tendered as to enable the buyer to take delivery.

(2) Where the goods are held by a bailee to be delivered without being moved, the risk of loss passes to the buyer:

(a) on the buyer's receipt of possession or control of a negotiable document of title covering the goods; or

(b) on acknowledgment by the bailee of the buyer's right to possession of the goods; or

(c) after ~~his~~ *the buyer's* receipt of possession or control of a nonnegotiable document of title or other direction to deliver in a record, as provided in ~~subsection (4)(b) of 30-2-503(4)(b).~~

(3) In any case not within subsection (1) or (2), the risk of loss passes to the buyer on the buyer's receipt of the goods if the seller is a merchant; otherwise the risk passes to the buyer on tender of delivery.

(4) The provisions of this section are subject to contrary agreement of the parties and to the provisions of this chapter on sale on approval (30-2-327) and on effect of breach on risk of loss (30-2-510)."

Section 860. Section 30-2-510, MCA, is amended to read:

"30-2-510. Effect of breach on risk of loss. (1) Where a tender or delivery of goods so fails to conform to the contract as to give a right of rejection the risk of their loss remains on the seller until cure or acceptance.

(2) Where the buyer rightfully revokes acceptance ~~he~~ *the buyer* may to the extent of any deficiency in ~~his~~ *the buyer's* effective insurance coverage treat the risk of loss as having rested on the seller from the beginning.

(3) Where the buyer as to conforming goods already identified to the contract for sale repudiates or is otherwise in breach before risk of their loss has passed to ~~him~~ *the buyer*, the seller may to the extent of any deficiency in ~~his~~ *the seller's* effective insurance coverage treat the risk of loss as resting on the buyer for a commercially reasonable time."

Section 861. Section 30-2-602, MCA, is amended to read:

"30-2-602. Manner and effect of rightful rejection. (1) Rejection of goods must be within a reasonable time after their delivery or tender. It is ineffective unless the buyer seasonably notifies the seller.

(2) Subject to the provisions of the two following sections on rejected goods (30-2-603 and 30-2-604):

(a) after rejection any exercise of ownership by the buyer with respect to any commercial unit is wrongful as against the seller; and

(b) if the buyer has before rejection taken physical possession of goods in which ~~he~~ *the buyer* does not have a security interest under the provisions of this chapter (subsection (3) of 30-2-711), ~~he~~ *the buyer* is under a duty after rejection to hold them with reasonable care at the seller's disposition for a time sufficient to permit the seller to remove them; but

(c) the buyer has no further obligations with regard to goods rightfully rejected.

(3) The seller's rights with respect to goods wrongfully rejected are governed by the provisions of this chapter on seller's remedies in general (30-2-703)."

Section 862. Section 30-2-603, MCA, is amended to read:

"30-2-603. Merchant buyer's duties as to rightfully rejected goods.

(1) Subject to any security interest in the buyer (subsection (3) of 30-2-711), when the seller has no agent or place of business at the market of rejection a merchant buyer is under a duty after rejection of goods in ~~his~~ *the buyer's* possession or control to follow any reasonable instructions received from the seller with respect to the goods and in the absence of such instructions to make reasonable efforts to sell them for the seller's account if they are perishable or threaten to decline in value speedily. Instructions are not reasonable if on demand indemnity for expenses is not forthcoming.

(2) When the buyer sells goods under subsection (1), ~~he~~ *the buyer* is entitled to reimbursement from the seller or out of the proceeds for reasonable expenses of caring for and selling them, and if the expenses include no selling commission then to such commission as is usual in the trade or if there is none to a reasonable sum not exceeding 10% on the gross proceeds.

(3) In complying with this section the buyer is held only to good faith and good faith conduct hereunder is neither acceptance nor conversion nor the basis of an action for damages."

Section 863. Section 30-2-604, MCA, is amended to read:

"30-2-604. Buyer's options as to salvage of rightfully rejected goods.

Subject to the provisions of ~~the immediately preceding section 30-2-603~~ on perishables if the seller gives no instruction within a reasonable time after notification of rejection the buyer may store the rejected goods for the seller's account or reship them to ~~him~~ *the seller* or resell them for the seller's account with reimbursement as provided in ~~the preceding section 30-2-603~~. ~~Such~~ *The* action is not acceptance or conversion."

Section 864. Section 30-2-606, MCA, is amended to read:

“30-2-606. What constitutes acceptance of goods. (1) Acceptance of goods occurs when the buyer:

(a) after a reasonable opportunity to inspect the goods signifies to the seller that the goods are conforming or that ~~he~~ *the buyer* will take or retain them in spite of their nonconformity; or

(b) fails to make an effective rejection (subsection (1) of 30-2-602), but such acceptance does not occur until the buyer has had a reasonable opportunity to inspect them; or

(c) does any act inconsistent with the seller’s ownership; but if such act is wrongful as against the seller it is an acceptance only if ratified by ~~him~~ *the seller*.

(2) Acceptance of a part of any commercial unit is acceptance of that entire unit.”

Section 865. Section 30-2-607, MCA, is amended to read:

“30-2-607. Effect of acceptance — notice of breach — burden of establishing breach after acceptance — notice of claim or litigation to person answerable over. (1) The buyer must pay at the contract rate for any goods accepted.

(2) Acceptance of goods by the buyer precludes rejection of the goods accepted and if made with knowledge of a nonconformity cannot be revoked because of it unless the acceptance was on the reasonable assumption that the nonconformity would be seasonably cured but acceptance does not of itself impair any other remedy provided by this chapter for nonconformity.

(3) Where a tender has been accepted:

(a) the buyer must within a reasonable time after ~~he~~ *the buyer* discovers or should have discovered any breach notify the seller of breach or be barred from any remedy; and

(b) if the claim is one for infringement or the like (subsection (3) of 30-2-312) and the buyer is sued as a result of such a breach ~~he~~ *the buyer* must so notify the seller within a reasonable time after ~~he~~ *the buyer* receives notice of the litigation or be barred from any remedy over for liability established by the litigation.

(4) The burden is on the buyer to establish any breach with respect to the goods accepted.

(5) Where the buyer is sued for breach of a warranty or other obligation for which ~~his-seller~~ *another party* is answerable over:

(a) ~~he~~ *the buyer* may give ~~his-seller~~ *the other party* written notice of the litigation. If the notice states that the seller may come in and defend and that if the seller does not do so ~~he~~ *the other party* will be bound in any action against ~~him~~ *the other party* by ~~his~~ *the buyer* by any determination of fact common to the two litigations, then unless the ~~seller~~ *other party* after seasonable receipt of the notice does come in and defend ~~he~~ *the other party* is so bound.

(b) if the claim is one for infringement or the like (subsection (3) of 30-2-312) the original seller may demand in writing that ~~his~~ *its* buyer turn over to ~~him~~ *it* control of the litigation including settlement or else be barred from any remedy over and if ~~he~~ *it* also agrees to bear all expense and to satisfy any adverse judgment, then unless the buyer after seasonable receipt of the demand does turn over control the buyer is so barred.

(6) The provisions of subsections (3), (4) and (5) apply to any obligation of a buyer to hold the seller harmless against infringement or the like (subsection (3) of 30-2-312).”

Section 866. Section 30-2-608, MCA, is amended to read:

“30-2-608. Revocation of acceptance in whole or in part. (1) The buyer may revoke ~~his~~ acceptance of a lot or commercial unit whose nonconformity substantially impairs its value to ~~him~~ *the buyer* if ~~he~~ *the buyer* has accepted it:

(a) on the reasonable assumption that its nonconformity would be cured and it has not been seasonably cured; or

(b) without discovery of such nonconformity if ~~his~~ *the buyer's* acceptance was reasonably induced either by the difficulty of discovery before acceptance or by the seller's assurances.

(2) Revocation of acceptance must occur within a reasonable time after the buyer discovers or should have discovered the ground for it and before any substantial change in condition of the goods which is not caused by their own defects. It is not effective until the buyer notifies the seller of it.

(3) A buyer who so revokes has the same rights and duties with regard to the goods involved as if ~~he~~ *the buyer* had rejected them.”

Section 867. Section 30-2-609, MCA, is amended to read:

“30-2-609. Right to adequate assurance of performance. (1) A contract for sale imposes an obligation on each party that the other's expectation of receiving due performance will not be impaired. When reasonable grounds for insecurity arise with respect to the performance of either party the other may in writing demand adequate assurance of due performance and until ~~he~~ *the party* receives such assurance may if commercially reasonable suspend any performance for which ~~he~~ *the party* has not already received the agreed return.

(2) Between merchants the reasonableness of grounds for insecurity and the adequacy of any assurance offered shall be determined according to commercial standards.

(3) Acceptance of any improper delivery or payment does not prejudice the aggrieved party's right to demand adequate assurance of future performance.

(4) After receipt of a justified demand failure to provide within a reasonable time not exceeding 30 days such assurance of due performance as is adequate under the circumstances of the particular case is a repudiation of the contract.”

Section 868. Section 30-2-610, MCA, is amended to read:

“30-2-610. Anticipatory repudiation. When either party repudiates the contract with respect to a performance not yet due the loss of which will substantially impair the value of the contract to the other, the aggrieved party may:

~~(a)~~(1) for a commercially reasonable time await performance by the repudiating party; or

~~(b)~~(2) resort to any remedy for breach (30-2-703 or 30-2-711), even though ~~he~~ *the aggrieved party* has notified the repudiating party that ~~he~~ *it* would await the latter's performance and has urged retraction; and

~~(e)~~(3) in either case suspend ~~his own~~ performance or proceed in accordance with the provisions of this chapter on the seller's right to identify goods to the contract notwithstanding breach or to salvage unfinished goods (30-2-704).”

Section 869. Section 30-2-611, MCA, is amended to read:

“30-2-611. Retraction of anticipatory repudiation. (1) Until the repudiating party's next performance is due ~~he~~ *that party* can retract ~~his~~ *the* repudiation unless the aggrieved party has since the repudiation canceled or

materially changed his position or otherwise indicated that he ~~considers~~ the repudiation is final.

(2) Retraction may be by any method which clearly indicates to the aggrieved party that the repudiating party intends to perform, but must include any assurance justifiably demanded under the provisions of this chapter (30-2-609).

(3) Retraction reinstates the repudiating party's rights under the contract with due excuse and allowance to the aggrieved party for any delay occasioned by the repudiation."

Section 870. Section 30-2-612, MCA, is amended to read:

"30-2-612. "Installment contract" — breach. (1) An "installment contract" is one which requires or authorizes the delivery of goods in separate lots to be separately accepted, even though the contract contains a clause "each delivery is a separate contract" or its equivalent.

(2) The buyer may reject any installment which is nonconforming if the nonconformity substantially impairs the value of that installment and cannot be cured or if the nonconformity is a defect in the required documents; but if the nonconformity does not fall within subsection (3) and the seller gives adequate assurance of its cure the buyer must accept that installment.

(3) Whenever nonconformity or default with respect to one or more installments substantially impairs the value of the whole contract there is a breach of the whole. But the aggrieved party reinstates the contract if ~~he~~ *the party* accepts a nonconforming installment without seasonably notifying of cancellation or if ~~he~~ *the party* brings an action with respect only to past installments or demands performance as to future installments."

Section 871. Section 30-2-613, MCA, is amended to read:

"30-2-613. Casualty to identified goods. Where the contract requires for its performance goods identified when the contract is made, and the goods suffer casualty without fault of either party before the risk of loss passes to the buyer, or in a proper case under a "no arrival, no sale" term (30-2-324) then:

(a) if the loss is total the contract is avoided; and

(b) if the loss is partial or the goods have so deteriorated as no longer to conform to the contract the buyer may nevertheless demand inspection and at ~~his~~ *the buyer's* option either treat the contract as avoided or accept the goods with due allowance from the contract price for the deterioration or the deficiency in quantity but without further right against the seller."

Section 872. Section 30-2-615, MCA, is amended to read:

"30-2-615. Excuse by failure of presupposed conditions. Except so far as a seller may have assumed a greater obligation and subject to the preceding section on substituted performance:

~~(a)~~(1) Delay in delivery or nondelivery in whole or in part by a seller who complies with ~~paragraphs (b) and (c)~~ *subsections (2) and (3)* is not a breach of ~~his~~ *the seller's* duty under a contract for sale if performance as agreed has been made impracticable by the occurrence of a contingency the nonoccurrence of which was a basic assumption on which the contract was made or by compliance in good faith with any applicable foreign or domestic governmental regulation or order whether or not it later proves to be invalid.

~~(b)~~(2) Where the causes mentioned in ~~paragraph (a)~~ *subsection (1)* affect only a part of the seller's capacity to perform, ~~he~~ *the seller* must allocate

production and deliveries among his *its* customers but may at his *its* option include regular customers not then under contract as well as his *its* own requirements for further manufacture. He *The seller* may so allocate in any manner which is fair and reasonable.

(e)(3) The seller must notify the buyer seasonably that there will be delay or nondelivery and, when allocation is required under ~~paragraph (b)~~ subsection (2), of the estimated quota thus made available for the buyer.”

Section 873. Section 30-2-616, MCA, is amended to read:

“30-2-616. Procedure on notice claiming excuse. (1) Where the buyer receives notification of a material or indefinite delay or an allocation justified under the preceding section he *it* may by written notification to the seller as to any delivery concerned, and where the prospective deficiency substantially impairs the value of the whole contract under the provisions of this chapter relating to breach of installment contracts (30-2-612), then also as to the whole:

(a) terminate and thereby discharge any unexecuted portion of the contract; or

(b) modify the contract by agreeing to take his *its* available quota in substitution.

(2) If after receipt of such notification from the seller the buyer fails so to modify the contract within a reasonable time not exceeding 30 days the contract lapses with respect to any deliveries affected.

(3) The provisions of this section may not be negated by agreement except insofar as the seller has assumed a greater obligation under the preceding section.”

Section 874. Section 30-2-702, MCA, is amended to read:

“30-2-702. Seller’s remedies on discovery of buyer’s insolvency. (1) Where the seller discovers the buyer to be insolvent he *the seller* may refuse delivery except for cash including payment for all goods theretofore delivered under the contract, and stop delivery under this chapter (30-2-705).

(2) Where the seller discovers that the buyer has received goods on credit while insolvent he *the seller* may reclaim the goods upon demand made within 10 days after the receipt, but if misrepresentation of solvency has been made to the particular seller in writing within 3 months before delivery the 10-day limitation does not apply. Except as provided in this subsection the seller may not base a right to reclaim goods on the buyer’s fraudulent or innocent misrepresentation of solvency or of intent to pay.

(3) The seller’s right to reclaim under subsection (2) is subject to the rights of a buyer in ordinary course or other good faith purchaser under this chapter (30-2-403). Successful reclamation of goods excludes all other remedies with respect to them.”

Section 875. Section 30-2-704, MCA, is amended to read:

“30-2-704. Seller’s right to identify goods to the contract notwithstanding breach or to salvage unfinished goods. (1) An aggrieved seller under the preceding section may:

(a) identify to the contract conforming goods not already identified if at the time he *the seller* learned of the breach they are in his *the seller’s* possession or control;

(b) treat as the subject of resale goods which have demonstrably been intended for the particular contract even though those goods are unfinished.

(2) Where the goods are unfinished an aggrieved seller may in the exercise of reasonable commercial judgment for the purposes of avoiding loss and of effective realization either complete the manufacture and wholly identify the goods to the contract or cease manufacture and resell for scrap or salvage value or proceed in any other reasonable manner.”

Section 876. Section 30-2-706, MCA, is amended to read:

“30-2-706. Seller’s resale including contract for resale. (1) Under the conditions stated in 30-2-703 on seller’s remedies, the seller may resell the goods concerned or the undelivered balance thereof. Where the resale is made in good faith and in a commercially reasonable manner the seller may recover the difference between the resale price and the contract price together with any incidental damages allowed under the provisions of this chapter (30-2-710), but less expenses saved in consequence of the buyer’s breach.

(2) Except as otherwise provided in subsection (3) or unless otherwise agreed resale may be at public or private sale including sale by way of one or more contracts to sell or of identification to an existing contract of the seller. Sale may be as a unit or in parcels and at any time and place and on any terms but every aspect of the sale including the method, manner, time, place and terms must be commercially reasonable. The resale must be reasonably identified as referring to the broken contract, but it is not necessary that the goods be in existence or that any or all of them have been identified to the contract before the breach.

(3) Where the resale is at private sale the seller must give the buyer reasonable notification of his *an* intention to resell.

(4) Where the resale is at public sale:

(a) only identified goods can be sold except where there is a recognized market for a public sale of futures in goods of the kind; and

(b) it must be made at a usual place or market for public sale if one is reasonably available and except in the case of goods which are perishable or threaten to decline in value speedily the seller must give the buyer reasonable notice of the time and place of the resale; and

(c) if the goods are not to be within the view of those attending the sale the notification of sale must state the place where the goods are located and provide for their reasonable inspection by prospective bidders; and

(d) the seller may buy.

(5) A purchaser who buys in good faith at a resale takes the goods free of any rights of the original buyer even though the seller fails to comply with one or more of the requirements of this section.

(6) The seller is not accountable to the buyer for any profit made on any resale. A person in the position of a seller (30-2-707) or a buyer who has rightfully rejected or justifiably revoked acceptance must account for any excess over the amount of his *the buyer’s* security interest, as hereinafter defined (subsection (3) of 30-2-711).”

Section 877. Section 30-2-707, MCA, is amended to read:

“30-2-707. “Person in the position of a seller”. (1) A “person in the position of a seller” includes as against a principal an agent who has paid or become responsible for the price of goods on behalf of his *the* principal or anyone who otherwise holds a security interest or other right in goods similar to that of a seller.

(2) A person in the position of a seller may as provided in this chapter withhold or stop delivery (30-2-705) and resell (30-2-706) and recover incidental damages (30-2-710).”

Section 878. Section 30-2-709, MCA, is amended to read:

“30-2-709. Action for the price. (1) When the buyer fails to pay the price as it becomes due the seller may recover, together with any incidental damages under the next section, the price:

(a) of goods accepted or of conforming goods lost or damaged within a commercially reasonable time after risk of their loss has passed to the buyer; and

(b) of goods identified to the contract if the seller is unable after reasonable effort to resell them at a reasonable price or the circumstances reasonably indicate that such effort will be unavailing.

(2) Where the seller sues for the price ~~he~~ *the seller* must hold for the buyer any goods which have been identified to the contract and are still in ~~his~~ *the seller’s* control except that if resale becomes possible ~~he~~ *the seller* may resell them at any time prior to the collection of the judgment. The net proceeds of any such resale must be credited to the buyer and payment of the judgment entitles ~~him~~ *the buyer* to any goods not resold.

(3) After the buyer has wrongfully rejected or revoked acceptance of the goods or has failed to make a payment due or has repudiated (30-2-610), a seller who is held not entitled to the price under this section shall nevertheless be awarded damages for nonacceptance under the preceding section.”

Section 879. Section 30-2-711, MCA, is amended to read:

“30-2-711. Buyer’s remedies in general — buyer’s security interest in rejected goods. (1) Where the seller fails to make delivery or repudiates or the buyer rightfully rejects or justifiably revokes acceptance then with respect to any goods involved, and with respect to the whole if the breach goes to the whole contract (30-2-612), the buyer may cancel and whether or not ~~he~~ *the buyer* has done so may in addition to recovering so much of the price as has been paid:

(a) “cover” and have damages under the next section as to all the goods affected whether or not they have been identified to the contract; or

(b) recover damages for nondelivery as provided in this chapter (30-2-713).

(2) Where the seller fails to deliver or repudiates the buyer may also:

(a) if the goods have been identified recover them as provided in this chapter (30-2-502); or

(b) in a proper case obtain specific performance or recover the goods as provided in this chapter (30-2-716).

(3) On rightful rejection or justifiable revocation of acceptance a buyer has a security interest in goods in ~~his~~ *the buyer’s* possession or control for any payments made on their price and any expenses reasonably incurred in their inspection, receipt, transportation, care and custody and may hold such goods and resell them in like manner as an aggrieved seller (30-2-706).”

Section 880. Section 30-2-712, MCA, is amended to read:

“30-2-712. “Cover” — buyer’s procurement of substitute goods. (1) After a breach within the preceding section the buyer may “cover” by making in good faith and without unreasonable delay any reasonable purchase of or contract to purchase goods in substitution for those due from the seller.

(2) The buyer may recover from the seller as damages the difference between the cost of cover and the contract price together with any incidental or consequential damages as hereinafter defined (30-2-715), but less expenses saved in consequence of the seller's breach.

(3) Failure of the buyer to effect cover within this section does not bar ~~him~~ *the buyer* from any other remedy."

Section 881. Section 30-2-714, MCA, is amended to read:

"30-2-714. Buyer's damages for breach in regard to accepted goods.

(1) Where the buyer has accepted goods and given notification (subsection (3) of 30-2-607) ~~he~~ *the buyer* may recover as damages for any nonconformity of tender the loss resulting in the ordinary course of events from the seller's breach as determined in any manner which is reasonable.

(2) The measure of damages for breach of warranty is the difference at the time and place of acceptance between the value of the goods accepted and the value they would have had if they had been as warranted, unless special circumstances show proximate damages of a different amount.

(3) In a proper case any incidental and consequential damages under the next section may also be recovered."

Section 882. Section 30-2-717, MCA, is amended to read:

"30-2-717. Deduction of damages from the price. The buyer on notifying the seller of ~~his~~ *an* intention to do so may deduct all or any part of the damages resulting from any breach of contract from any part of the price still due under the same contract."

Section 883. Section 30-2-718, MCA, is amended to read:

"30-2-718. Liquidation or limitation of damages — deposits. (1) Damages for breach by either party may be liquidated in the agreement but only at an amount which is reasonable in the light of the anticipated or actual harm caused by the breach, the difficulties of proof of loss, and the inconvenience or nonfeasibility of otherwise obtaining an adequate remedy. A term fixing unreasonably large liquidated damages is void as a penalty.

(2) Where the seller justifiably withholds delivery of goods because of the buyer's breach, the buyer is entitled to restitution of any amount by which the sum of ~~his~~ *the buyer's* payments exceeds:

(a) the amount to which the seller is entitled by virtue of terms liquidating the seller's damages in accordance with subsection (1); or

(b) in the absence of such terms, 20% of the value of the total performance for which the buyer is obligated under the contract or \$500, whichever is smaller.

(3) The buyer's right to restitution under subsection (2) is subject to offset to the extent that the seller establishes:

(a) a right to recover damages under the provisions of this chapter other than subsection (1); and

(b) the amount or value of any benefits received by the buyer directly or indirectly by reason of the contract.

(4) Where a seller has received payment in goods their reasonable value or the proceeds of their resale shall be treated as payments for the purposes of subsection (2); but if the seller has notice of the buyer's breach before reselling goods received in part performance, ~~his~~ *the* resale is subject to the conditions laid down in this chapter on resale by an aggrieved seller (30-2-706)."

Section 884. Section 30-2-722, MCA, is amended to read:

“30-2-722. Who can sue third parties for injury to goods. Where a third party so deals with goods which have been identified to a contract for sale as to cause actionable injury to a party to that contract:

(a) a right of action against the third party is in either party to the contract for sale who has title to or a security interest or a special property or an insurable interest in the goods; and if the goods have been destroyed or converted a right of action is also in the party who either bore the risk of loss under the contract for sale or has since the injury assumed that risk as against the other;

(b) if at the time of the injury the party plaintiff did not bear the risk of loss as against the other party to the contract for sale and there is no arrangement between them for disposition of the recovery, ~~his~~ *the party plaintiff's* suit or settlement is, subject to ~~his~~ *its* own interest, as a fiduciary for the other party to the contract;

(c) either party may with the consent of the other sue for the benefit of whom it may concern.”

Section 885. Section 30-2-723, MCA, is amended to read:

“30-2-723. Proof of market price — time and place. (1) If an action based on anticipatory repudiation comes to trial before the time for performance with respect to some or all of the goods, any damages based on market price (30-2-708 or 30-2-713) shall be determined according to the price of such goods prevailing at the time when the aggrieved party learned of the repudiation.

(2) If evidence of a price prevailing at the times or places described in this chapter is not readily available the price prevailing within any reasonable time before or after the time described or at any other place which in commercial judgment or under usage of trade would serve as a reasonable substitute for the one described may be used, making any proper allowance for the cost of transporting the goods to or from such other place.

(3) Evidence of a relevant price prevailing at a time or place other than the one described in this chapter offered by one party is not admissible unless and until ~~he~~ *that party* has given the other party such notice as the court finds sufficient to prevent unfair surprise.”

Section 886. Section 30-2A-103, MCA, is amended to read:

“30-2A-103. Definitions and index of definitions. (1) In this chapter, unless the context otherwise requires, the following definitions apply:

(a) “Buyer in ordinary course of business” means a person, who in good faith and without knowledge that the sale to the buyer is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods, buys in ordinary course from a person in the business of selling goods of that kind, but the term does not include a pawnbroker. “Buying” may be for cash or by exchange of other property or on secured or unsecured credit and includes acquiring goods or documents of title under a preexisting contract for sale but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(b) “Cancellation” occurs when either party puts an end to the lease contract for default by the other party.

(c) “Commercial unit” means such a unit of goods as by commercial usage is a single whole for purposes of lease and division of which materially impairs its

character or value on the market or in use. A commercial unit may be a single article, as a machine; a set of articles, as a suite of furniture or a line of machinery; a quantity, as a gross or carload; or any other unit treated in use or in the relevant market as a single whole.

(d) "Conforming" goods or performance under a lease contract means goods or performance that is in accordance with the obligations under the lease contract.

(e) "Consumer lease" means a lease that a lessor regularly engaged in the business of leasing or selling makes to a lessee who is an individual and who takes under the lease primarily for a personal, family, or household purpose if the total payments to be made under the lease contract, excluding payments for options to renew or buy, do not exceed \$25,000.

(f) "Fault" means wrongful act, omission, breach, or default.

(g) "Finance lease" means a lease with respect to which:

(i) the lessor does not select, manufacture, or supply the goods;

(ii) the lessor acquires the goods or the right to possession and use of the goods in connection with the lease; and

(iii) one of the following occurs:

(A) the lessee receives a copy of the contract by which the lessor acquired the goods or the right to possession and use of the goods before signing the lease contract;

(B) the lessee's approval of the contract by which the lessor acquired the goods or the right to possession and use of the goods is a condition to effectiveness of the lease contract;

(C) the lessee, before signing the lease contract, receives an accurate and complete statement designating the promises and warranties, and any disclaimers of warranties, limitations or modifications of remedies, or liquidated damages, including those of a third party, such as the manufacturer of the goods, provided to the lessor by the person supplying the goods in connection with or as part of the contract by which the lessor acquired the goods or the right to possession and use of the goods; or

(D) if the lease is not a consumer lease, the lessor, before the lessee signs the lease contract, informs the lessee in writing:

(I) of the identity of the person supplying the goods to the lessor, unless the lessee has selected that person and directed the lessor to acquire the goods or the right to possession and use of the goods from that person;

(II) that the lessee is entitled under this chapter to the promises and warranties, including those of any third party, provided to the lessor by the person supplying the goods in connection with or as part of the contract by which the lessor acquired the goods or the right to possession and use of the goods; and

(III) that the lessee may communicate with the person supplying the goods to the lessor and receive an accurate and complete statement of those promises and warranties, including any disclaimers and limitations of them or of remedies.

(h) "Goods" means all things that are movable at the time of identification to the lease contract, or are fixtures (30-2A-309), but the term does not include money, documents, instruments, accounts, chattel paper, general intangibles, or minerals or the like, including oil and gas, before extraction. The term also includes the unborn young of animals.

(i) "Installment lease contract" means a lease contract that authorizes or requires the delivery of goods in separate lots to be separately accepted, even though the lease contract contains a clause "each delivery is a separate lease" or its equivalent.

(j) "Lease" means a transfer of the right to possession and use of goods for a term in return for consideration, but a sale, including a sale on approval or a sale or return, or retention or creation of a security interest is not a lease. Unless the context clearly indicates otherwise, the term includes a sublease.

(k) "Lease agreement" means the bargain, with respect to the lease, of the lessor and the lessee in fact as found in their language or by implication from other circumstances, including course of dealing or usage of trade or course of performance as provided in this chapter. Unless the context clearly indicates otherwise, the term includes a sublease agreement.

(l) "Lease contract" means the total legal obligation that results from the lease agreement as affected by this chapter and any other applicable rules of law. Unless the context clearly indicates otherwise, the term includes a sublease contract.

(m) "Leasehold interest" means the interest of the lessor or the lessee under a lease contract.

(n) "Lessee" means a person who acquires the right to possession and use of goods under a lease. Unless the context clearly indicates otherwise, the term includes a sublease.

(o) "Lessee in ordinary course of business" means a person, who in good faith and without knowledge that the lease to ~~him~~ *the person* is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods, leases in ordinary course from a person in the business of selling or leasing goods of that kind, but the term does not include a pawnbroker. "Leasing" may be for cash or by exchange of other property or on secured or unsecured credit and includes acquiring goods or documents of title under a preexisting lease contract but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(p) "Lessor" means a person who transfers the right to possession and use of goods under a lease. Unless the context clearly indicates otherwise, the term includes a sublessor.

(q) "Lessor's residual interest" means the lessor's interest in the goods after expiration, termination, or cancellation of the lease contract.

(r) "Lien" means a charge against or interest in goods to secure payment of a debt or performance of an obligation, but the term does not include a security interest.

(s) "Lot" means a parcel or a single article that is the subject matter of a separate lease or delivery, whether or not it is sufficient to perform the lease contract.

(t) "Merchant lessee" means a lessee that is a merchant with respect to goods of the kind subject to the lease.

(u) "Present value" means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate was not manifestly unreasonable at the time the transaction was entered into; otherwise, the discount is determined by a commercially reasonable rate that

takes into account the facts and circumstances of each case at the time the transaction was entered into.

(v) "Purchase" includes taking by sale, lease, mortgage, security interest, pledge, gift, or any other voluntary transaction creating an interest in goods.

(w) "Sublease" means a lease of goods the right to possession and use of which was acquired by the lessor as a lessee under an existing lease.

(x) "Supplier" means a person from whom a lessor buys or leases goods to be leased under a finance lease.

(y) "Supply contract" means a contract under which a lessor buys or leases goods to be leased.

(z) "Termination" occurs when either party pursuant to a power created by agreement or law puts an end to the lease contract otherwise than for default.

(2) Other definitions applying to this chapter and the sections in which they appear are:

(a) "Accessions". 30-2A-310(1).

(b) "Construction mortgage". 30-2A-309(1)(d).

(c) "Encumbrance". 30-2A-309(1)(e).

(d) "Fixtures". 30-2A-309(1)(a).

(e) "Fixture filing". 30-2A-309(1)(b).

(f) "Purchase money lease". 30-2A-309(1)(c).

(3) The following definitions in other chapters apply to this chapter:

(a) "Account". 30-9A-102(1)(b).

(b) "Between merchants". 30-2-104(3).

(c) "Buyer". 30-2-103(1)(a).

(d) "Chattel paper". 30-9A-102(1)(k).

(e) "Consumer goods". 30-9A-102(1)(w).

(f) "Document". 30-9A-102(1)(dd).

(g) "Entrusting". 30-2-403(3).

(h) "General intangible". 30-9A-102(1)(pp).

(i) "Good faith". 30-2-103(1)(b).

(j) "Instrument". 30-9A-102(1)(uu).

(k) "Merchant". 30-2-104(1).

(l) "Mortgage". 30-9A-102(1)(ccc).

(m) "Pursuant to commitment". 30-9A-102(1)(ppp).

(n) "Receipt". 30-2-103(1)(c).

(o) "Sale". 30-2-106(1).

(p) "Sale on approval". 30-2-326.

(q) "Sale or return". 30-2-326.

(r) "Seller". 30-2-103(1)(d).

(4) In addition, Title 30, chapter 1, contains general definitions and principles of construction and interpretation applicable throughout this chapter."

Section 887. Section 30-2A-108, MCA, is amended to read:

“30-2A-108. Unconscionability. (1) If the court as a matter of law finds a lease contract or any clause of a lease contract to have been unconscionable at the time it was made, the court may refuse to enforce the lease contract, it may enforce the remainder of the lease contract without the unconscionable clause, or it may so limit the application of any unconscionable clause as to avoid any unconscionable result.

(2) With respect to a consumer lease, if the court as a matter of law finds that a lease contract or any clause of a lease contract has been induced by unconscionable conduct or that unconscionable conduct has occurred in the collection of a claim arising from a lease contract, the court may grant appropriate relief.

(3) Before making a finding of unconscionability under subsection (1) or (2), the court, on its own motion or that of a party, shall afford the parties a reasonable opportunity to present evidence as to the setting, purpose, and effect of the lease contract or clause thereof or of the conduct.

(4) In an action in which the lessee claims unconscionability with respect to a consumer lease:

(a) if the court finds unconscionability under subsection (1) or (2), the court shall award reasonable attorney fees to the lessee;

(b) if the court does not find unconscionability and the lessee claiming unconscionability has brought or maintained an action ~~he~~ *the lessee* knew to be groundless, the court shall award reasonable attorney fees to the party against whom the claim is made;

(c) in determining attorney fees, the amount of the recovery on behalf of the claimant under subsections (1) and (2) is not controlling.”

Section 888. Section 30-2A-109, MCA, is amended to read:

“30-2A-109. Option to accelerate at will. (1) A term providing that one party or ~~his~~ *the party's* successor in interest may accelerate payment of performance or require collateral or additional collateral “at will” or “when ~~he~~ *the party* deems ~~himself~~ *itself* insecure” or in words of similar import must be construed to mean that ~~he~~ *the party* has power to do so only if ~~he~~ *the party* in good faith believes that the prospect of payment or performance is impaired.

(2) With respect to a consumer lease, the burden of establishing good faith under subsection (1) is on the party who exercised the power; otherwise the burden of establishing lack of good faith is on the party against whom the power has been exercised.”

Section 889. Section 30-2A-220, MCA, is amended to read:

“30-2A-220. Effect of default on risk of loss. (1) When risk of loss is to pass to the lessee and the time of passage is not stated:

(a) if a tender or delivery of goods so fails to conform to the lease contract as to give a right of rejection, the risk of their loss remains with the lessor or, in the case of a finance lease, the supplier until cure or acceptance.

(b) if the lessee rightfully revokes acceptance, ~~he~~ *the lessee*, to the extent of any deficiency in ~~his~~ *its* effective insurance coverage, may treat the risk of loss as having remained with the lessor from the beginning.

(2) Whether or not risk of loss is to pass to the lessee, if the lessee as to conforming goods already identified to a lease contract repudiates or is otherwise in default under the lease contract, the lessor or, in the case of a finance lease, the supplier, to the extent of any deficiency in ~~his~~ *its* effective

insurance coverage, may treat the risk of loss as resting on the lessee for a commercially reasonable time.”

Section 890. Section 30-2A-221, MCA, is amended to read:

“30-2A-221. Casualty to identified goods. If a lease contract requires goods identified when the lease contract is made and the goods suffer casualty without fault of the lessee, the lessor, or the supplier before delivery or if the goods suffer casualty before risk of loss passes to the lessee pursuant to the lease agreement or 30-2A-219, then:

(1) if the loss is total, the lease contract is avoided; and

(2) if the loss is partial or the goods have so deteriorated as to no longer conform to the lease contract, the lessee may nevertheless demand inspection and at ~~his~~ *the lessee’s* option either treat the lease contract as avoided or, except in a finance lease that is not a consumer lease, accept the goods with due allowance from the rent payable for the balance of the lease term for the deterioration or the deficiency in quantity but without further right against the lessor.”

Section 891. Section 30-2A-310, MCA, is amended to read:

“30-2A-310. Lessor’s and lessee’s rights when goods become accessions. (1) Goods are “accessions” when they are installed in or affixed to other goods.

(2) The interest of a lessor or a lessee under a lease contract entered into before the goods became accessions is superior to all interests in the whole except as stated in subsection (4).

(3) The interest of a lessor or a lessee under a lease contract entered into at the time or after the goods became accessions is superior to all subsequently acquired interests in the whole except as stated in subsection (4) but is subordinate to interests in the whole existing at the time the lease contract was made unless the holders of such interests in the whole have in writing consented to the lease or disclaimed an interest in the goods as part of the whole.

(4) The interest of a lessor or a lessee under a lease contract described in subsection (2) or (3) is subordinate to the interest of:

(a) a buyer in the ordinary course of business or a lessee in the ordinary course of business of any interest in the whole acquired after the goods became accessions; or

(b) a creditor with a security interest in the whole perfected before the lease contract was made to the extent that the creditor makes subsequent advances without knowledge of the lease contract.

(5) When under subsections (2) and (4) or (3) and (4) a lessor or a lessee of accessions holds an interest that is superior to all interests in the whole, the lessor or the lessee may, on default, expiration, termination, or cancellation of the lease contract by the other party but subject to the provisions of the lease contract and this chapter or if necessary to enforce ~~his~~ *the lessor’s or lessee’s* other rights and remedies under this chapter, remove the goods from the whole, free and clear of all interests in the whole, but ~~he~~ *the lessor or lessee* must reimburse any holder of an interest in the whole who is not the lessee and who has not otherwise agreed to the cost of repair of any physical injury but not for any diminution in value of the whole caused by the absence of the goods removed or by any necessity for replacing them. A person entitled to reimbursement may refuse permission to remove until the party seeking removal gives adequate security for the performance of this obligation.”

Section 892. Section 30-2A-401, MCA, is amended to read:

“30-2A-401. Insecurity — adequate assurance of performance. (1) A lease contract imposes an obligation on each party that the other’s expectation of receiving due performance will not be impaired.

(2) If reasonable grounds for insecurity arise with respect to the performance of either party, the insecure party may demand in writing adequate assurance of due performance. Until the insecure party receives that assurance, if commercially reasonable, the insecure party may suspend any performance for which ~~he~~ *the insecure party* has not already received the agreed return.

(3) A repudiation of the lease contract occurs if assurance of due performance adequate under the circumstances of the particular case is not provided to the insecure party within a reasonable time, not to exceed 30 days after receipt of a demand by the other party.

(4) Between merchants, the reasonableness of grounds for insecurity and the adequacy of any assurance offered must be determined according to commercial standards.

(5) Acceptance of any nonconforming delivery or payment does not prejudice the aggrieved party’s right to demand adequate assurance of future performance.”

Section 893. Section 30-2A-405, MCA, is amended to read:

“30-2A-405. Excused performance. Subject to 30-2A-404 on substituted performance, the following rules apply:

(1) Delay in delivery or nondelivery in whole or in part by a lessor or a supplier who complies with subsections (2) and (3) is not a default under the lease contract if performance as agreed has been made impracticable by the occurrence of a contingency the nonoccurrence of which was a basic assumption on which the lease contract was made or by compliance in good faith with any applicable foreign or domestic governmental regulation or order, whether or not the regulation or order later proves to be invalid.

(2) If the causes mentioned in subsection (1) affect only part of the lessor’s or the supplier’s capacity to perform, ~~he~~ *the lessor or supplier* shall allocate production and deliveries among ~~his~~ *the lessor’s or supplier’s* customers but at ~~his~~ *the lessor’s or supplier’s* option may include regular customers not then under contract for sale or lease as well as ~~his~~ *the lessor’s or supplier’s* own requirements for further manufacture. ~~He~~ *The lessor or supplier* may so allocate in any manner that is fair and reasonable.

(3) The lessor seasonably shall notify the lessee and, in the case of a finance lease, the supplier seasonably shall notify the lessor and the lessee, if known, that there will be delay or nondelivery and, if allocation is required under subsection (2), of the estimated quota thus made available for the lessee.”

Section 894. Section 30-2A-504, MCA, is amended to read:

“30-2A-504. Liquidation of damages. (1) Damages payable by either party for default or any other act or omission, including indemnity for loss or diminution of anticipated tax benefits or loss or damage to a lessor’s residual interest, may be liquidated in the lease agreement but only at an amount or by a formula that is reasonable in light of the then anticipated harm caused by the default or other act or omission.

(2) If the lease agreement provides for liquidation of damages and such provision does not comply with subsection (1) or if such provision is an exclusive or limited remedy that circumstances cause to fail of its essential purpose, remedy may be had as provided in this chapter.

(3) If the lessor justifiably withholds or stops delivery of goods because of the lessee's default or insolvency (30-2A-525 or 30-2A-526), the lessee is entitled to restitution of any amount by which the sum of ~~his~~ *the lessee's* payments exceeds:

(a) the amount to which the lessor is entitled by virtue of terms liquidating the lessor's damages in accordance with subsection (1); or

(b) in the absence of those terms, 20% of the then present value of the total rent the lessee was obligated to pay for the balance of the lease term or, in the case of a consumer lease, the lesser of such amount or \$500.

(4) A lessee's right to restitution under subsection (3) is subject to offset to the extent the lessor establishes:

(a) a right to recover damages under the provisions of this chapter other than subsection (1) of this section; and

(b) the amount or value of any benefits received by the lessee directly or indirectly by reason of the lease contract."

Section 895. Section 30-2A-507, MCA, is amended to read:

"30-2A-507. Proof of market rent — time and place. (1) Damages based on market rent (30-2A-519 or 30-2A-528) are determined according to the rent for the use of the goods concerned for a lease term identical to the remaining lease term of the original lease agreement and prevailing at the time of the default.

(2) If evidence of rent for the use of the goods concerned for a lease term identical to the remaining lease term of the original lease agreement and prevailing at the times or places described in this chapter is not readily available, the rent prevailing within any reasonable time before or after the time described or at any other place or for a different lease term that in commercial judgment or under usage of trade would serve as a reasonable substitute for the one described may be used, making any proper allowance for the difference, including the cost of transporting the goods to or from the other place.

(3) Evidence of a relevant rent prevailing at a time or place or for a lease term other than the one described in this chapter offered by one party is not admissible unless and until ~~he~~ *the party* has given the other party notice the court finds sufficient to prevent unfair surprise.

(4) If the prevailing rent or value of any goods regularly leased in any established market is in issue, reports in official publications or trade journals or in newspapers or periodicals of general circulation published as the reports of that market are admissible in evidence. The circumstances of the preparation of the report may be shown to affect its weight but not its admissibility."

Section 896. Section 30-2A-511, MCA, is amended to read:

"30-2A-511. Merchant lessee's duties as to rightfully rejected goods. (1) Subject to any security interest of a lessee (30-2A-508(5)), if a lessor or a supplier has no agent or place of business at the market of rejection, a merchant lessee, after rejection of goods in ~~his~~ *the lessee's* possession or control, shall follow any reasonable instructions received from the lessor or the supplier with respect to the goods. In the absence of those instructions, a merchant lessee shall

make reasonable efforts to sell, lease, or otherwise dispose of the goods for the lessor's account if they threaten to decline in value speedily. Instructions are not reasonable if on demand indemnity for expenses is not forthcoming.

(2) If a merchant lessee (subsection (1) of this section) or any other lessee (30-2A-512) disposes of goods, ~~he~~ *the lessee* is entitled to reimbursement either from the lessor or the supplier or out of the proceeds for reasonable expenses of caring for and disposing of the goods and, if the expenses include no disposition commission, to such commission as is usual in the trade or, if there is none, to a reasonable sum not exceeding 10% of the gross proceeds.

(3) In complying with 30-2A-512 or this section, the lessee is held only to good faith. Good faith conduct hereunder is neither acceptance or conversion nor the basis of an action for damages.

(4) A purchaser who purchases in good faith from a lessee pursuant to 30-2A-512 or this section takes the goods free of any rights of the lessor and the supplier even though the lessee fails to comply with one or more of the requirements of this chapter."

Section 897. Section 30-2A-513, MCA, is amended to read:

"30-2A-513. Cure by lessor of improper tender or delivery — replacement. (1) If any tender or delivery by the lessor or the supplier is rejected because it is nonconforming and the time for performance has not yet expired, the lessor or the supplier may seasonably notify the lessee of the lessor's or the supplier's intention to cure and may then make a conforming delivery within the time provided in the lease contract.

(2) If the lessee rejects a nonconforming tender that the lessor or the supplier had reasonable grounds to believe would be acceptable with or without money allowance, the lessor or the supplier may have a further reasonable time to substitute a conforming tender if ~~he~~ *the lessor or supplier* seasonably notifies the lessee."

Section 898. Section 30-2A-531, MCA, is amended to read:

"30-2A-531. Standing to sue third parties for injury to goods. (1) If a third party so deals with goods that have been identified to a lease contract as to cause actionable injury to a party to the lease contract:

- (a) the lessor has a right of action against the third party; and
- (b) the lessee also has a right of action against the third party if the lessee:
 - (i) has a security interest in the goods;
 - (ii) has an insurable interest in the goods; or
 - (iii) bears the risk of loss under the lease contract or has since the injury assumed that risk as against the lessor and the goods have been converted or destroyed.

(2) If at the time of the injury the party plaintiff did not bear the risk of loss as against the other party to the lease contract and there is no arrangement between them for disposition of the recovery, ~~his~~ *the party plaintiff's* suit or settlement, subject to ~~his~~ *the party plaintiff's* own interest, is as a fiduciary for the other party to the lease contract.

(3) Either party with the consent of the other may sue for the benefit of whom it may concern."

Section 899. Section 30-7-302, MCA, is amended to read:

“30-7-302. Through bills of lading and similar documents of title. (1)

The issuer of a through bill of lading or other document of title embodying an undertaking to be performed in part by persons acting as its agents or by a performing carrier is liable to any person entitled to recover on the document for any breach by the other person or the performing carrier of its obligation under the document. However, to the extent that the bill covers an undertaking to be performed overseas or in territory not contiguous to the continental United States or an undertaking including matters other than transportation, this liability for breach by the other person or the performing carrier may be varied by agreement of the parties.

(2) Where goods covered by a through bill of lading or other document embodying an undertaking to be performed in part by persons other than the issuer are received by ~~any such~~ *that person*, ~~he~~ *the person* is subject with respect to ~~his~~ *its* own performance while the goods are in ~~his~~ *its* possession to the obligation of the issuer. ~~His~~ *The person's* obligation is discharged by delivery of the goods to another ~~such~~ *person* pursuant to the document; and does not include liability for breach by any other ~~such persons~~ *person* or by the issuer.

(3) The issuer of a through bill of lading or other document of title described in subsection (1) is entitled to recover from the performing carrier, or other person in possession of the goods when the breach of the obligation under the document occurred:

(a) the amount it may be required to pay to any person entitled to recover on the document for the breach, as may be evidenced by any receipt, judgment, or transcript of judgment; and

(b) the amount of any expense reasonably incurred by the issuer in defending any action commenced by any person entitled to recover on the document for the breach.”

Section 900. Section 30-10-204, MCA, is amended to read:

“30-10-204. Registration by coordination. (1) Any security for which a registration statement has been filed under the Securities Act of 1933 or any securities for which filings have been made pursuant to regulation A or regulation E, and amendments ~~thereto~~ *to those regulations*, of the general rules and regulations of the United States securities and exchange commission, adopted pursuant to ~~subsection (b)~~ *of section 3(b)* of ~~said~~ *the* Securities Act of 1933, in connection with the same offering, may be registered by coordination. A registration statement under this section ~~shall~~ *must* contain the following information and be accompanied by the following documents, in addition to payment of the registration fee prescribed in 30-10-209:

(a) one copy of the prospectus or offering circular and letter of notification filed under the Securities Act of 1933 or the general rules and regulations ~~thereunder~~ *under that act*, together with all amendments ~~thereto~~ *to that act*;

(b) the amount of securities to be offered in this state;

(c) the states in which a registration statement or similar document in connection with the offering has been or is expected to be filed;

(d) any adverse order, judgment, or decree previously entered in connection with the offering by any court or the securities and exchange commission;

(e) if the commissioner by rule or otherwise requires, a copy of the articles of incorporation and bylaws (or their substantial equivalents) currently in effect, a copy of any agreements with or among underwriters, a copy of any indenture or

other instrument governing the issuance of the security to be registered, and a specimen or copy of the security;

(f) if the commissioner requests, any other information, or copies of any other documents, filed under the Securities Act of 1933;

(g) an undertaking to forward promptly all amendments to the federal registration statement or offering circular and letter of notification, other than an amendment ~~which~~ *that* merely delays the effective date;

(h) a consent to service of process meeting the requirements of 30-10-208; and

(i) ~~such~~ other information ~~as~~ *that* the commissioner may require.

(2) A registration statement by coordination under this section automatically becomes effective at the moment the federal registration statement or other filing becomes effective if all the following conditions are satisfied:

(a) no stop order is in effect and no proceeding is pending under 30-10-207;

(b) the registration statement has been on file with the commissioner for at least 10 business days; and

(c) a statement of the maximum and minimum proposed offering prices and the maximum underwriting discounts and commissions has been on file for 2 business days or ~~such a~~ shorter period ~~as~~ *that* the commissioner permits by rule or otherwise and the offering is made within those limitations.

(3) The registrant shall promptly notify the commissioner of the date and time when the federal registration statement or other filings became effective and the content of the price amendment, if any, and shall promptly file a posteffective amendment containing the information and documents in the price amendment. "Price amendment" means the final federal amendment ~~which~~ *that* includes a statement of the offering price, underwriting and selling discounts or commissions, amount of proceeds, conversion rates, call prices, and other matters dependent upon the offering price.

(4) Upon failure to receive the required notification and posteffective amendment with respect to the price amendment referred to in subsection (3) ~~of this section~~, the commissioner may enter a denial order, without notice or hearing, retroactively denying effectiveness to the registration statement or suspending its effectiveness until compliance with subsections (2) and (3) ~~of this section~~, if ~~he~~ *the commissioner* promptly notifies the registrant of the issuance of the order. If the registrant proves compliance with the requirements as to notice and posteffective amendment, the denial order is void as of the time of its entry. The commissioner may by rule or otherwise waive either or both of the conditions specified in subsections (2)(b) and (2)(c) ~~of this section~~. If the federal registration statement or other filing becomes effective before all these conditions are satisfied and they are not waived, the registration statement automatically becomes effective as soon as all conditions are satisfied. If the registrant advises the commissioner of the date when the federal registration statement or other filing is expected to become effective, the commissioner shall promptly advise the registrant whether all the conditions are satisfied and whether ~~he then~~ *the commissioner* contemplates the institution of a proceeding under 30-10-207; ~~but~~ *However*, this advice by the commissioner does not preclude the institution of ~~such~~ a proceeding at any time."

Section 901. Section 30-10-205, MCA, is amended to read:

“30-10-205. Registration by qualification. (1) Any security may be registered by qualification. A registration statement under this section ~~shall~~ *must* contain the following information and be accompanied by the following documents, in addition to payment of the registration fee prescribed in 30-10-209:

(a) with respect to the issuer and any significant subsidiary: its name, address, form of organization, the state or foreign jurisdiction and date of its organization, the general character and location of its business, and a description of its physical properties and equipment;

(b) with respect to every director and officer of the issuer or person occupying a similar status or performing similar functions: ~~his~~ *the person's* name, address, and principal occupation for the past 5 years, the amount of securities of the issuer held by ~~him~~ *the person* as of a specified date within 90 days of the filing of the registration statement, the remuneration paid to all ~~such~~ *listed* persons in the aggregate during the past 12 months and estimated to be paid during the next 12 months, directly or indirectly, by the issuer, ~~(together with all predecessors, parents, and subsidiaries);~~

(c) with respect to any person not named in subsection (1)(b) ~~of this section~~ owning of record, or beneficially if known, 10% or more of the outstanding shares of any class of equity security of the issuer: the information specified in subsection (1)(b) ~~of this section~~ other than ~~his~~ *the person's* occupation;

(d) with respect to every promoter not named in subsection (1)(b) ~~of this section~~, if the issuer was organized within the past 3 years: the information specified in subsection (1)(b) ~~of this section~~, any amount paid to ~~him~~ *the promoter* by the issuer within that period or intended to be paid to ~~him~~ *the promoter*, and the consideration for any ~~such~~ payment;

(e) the capitalization and long-term debt, ~~(on both a current and a pro forma basis),~~ of the issuer and any significant subsidiary, including a description of each security outstanding or being registered or otherwise offered, and a statement of the amount and kind of consideration, ~~(whether in the form of cash, physical assets, services, patents, goodwill, or anything else),~~ for which the issuer or any subsidiary has issued any of its securities within the past 2 years or is obligated to issue any of its securities;

(f) the kind and amount of securities to be offered; the amount to be offered in this state; the proposed offering price and any variation ~~therefrom~~ *from the offering price* at which any portion of the offering is to be made to any persons except as underwriting and selling discounts and commissions; the estimated aggregate underwriting and selling discounts, commissions, and other promotional fees, ~~(including separately cash, securities, or anything else of value to accrue to the underwriters in connection with the offering);~~ the estimated amounts of other selling expenses, and legal, engineering, and accounting expenses to be incurred by the issuer in connection with the offering; the name and address of every underwriter and every recipient of a promotional fee; a copy of any underwriting or selling group agreement pursuant to which the distribution is to be made, or the proposed form of any ~~such~~ agreement whose terms have not yet been determined; and a description of the plan of distribution of any securities ~~which~~ *that* are to be offered otherwise than through an underwriter;

(g) the estimated cash proceeds to be received by the issuer from the offering, the purposes for which the proceeds are to be used by the issuer, the amount to be used for each purpose, the amounts of any funds to be raised from other

sources to achieve the purposes stated and the sources of ~~any such~~ *the additional* funds, and, if any part of the proceeds is to be used to acquire any property, (including goodwill), otherwise than in the ordinary course of business, the names and addresses of the vendors and the purchase price;

(h) a description of any stock options or other security options outstanding or to be created in connection with the offering, together with the amount of any ~~such~~ options held or to be held by every person required to be named in subsection (1)(b), (1)(c), (1)(d), (1)(e), or (1)(g) and by any person who holds or will hold 10% or more in the aggregate of any ~~such~~ options;

(i) the states in which a registration statement or similar document in connection with the offering has been or is expected to be filed;

(j) any adverse order, judgment, or decree previously entered in connection with the offering by any court or the securities and exchange commission, a description of any pending litigation or proceeding to which the issuer is a party and ~~which that~~ materially affects its business or assets, (including any ~~such~~ litigation or proceeding known to be contemplated by governmental authorities);

(k) a copy of any prospectus or circular intended as of the effective date to be used in connection with the offering;

(l) a specimen or copy of the security being registered, a copy of the issuer's articles of incorporation and bylaws as currently in effect, and a copy of any indenture or other instrument covering the security to be registered;

(m) a signed or conformed copy of an opinion of counsel, if available, as to the legality of the security being registered;

(n) a balance sheet of the issuer as of a date within 4 months prior to the filing of the registration statement, a profit and loss statement and analysis of surplus for each of the 3 fiscal years preceding the date of the balance sheet and for any period between the close of the last fiscal year and the date of the balance sheet or for the period of the issuer's and any predecessor's existence if less than 3 years, and, if any part of the proceeds of the offering is to be applied to the purchase of any business, the same financial statements ~~which that~~ would be required if that business were the registrant;

(o) a consent to service of process meeting the requirements of 30-10-208; and

(p) ~~such~~ other information ~~as that~~ the commissioner may require.

(2) In the case of a nonissuer distribution, information may not be required under this section unless it is known to the person filing the registration statement or to the persons on whose behalf the distribution is to be made or can be furnished by them without unreasonable effort or expense.

(3) A registration statement by qualification under this section becomes effective when the commissioner so orders. The commissioner may require as a condition of registration under this section that a prospectus containing any designated part of the information specified in this section be sent or given to each person to whom an offer is made before or concurrently with:

(a) the first written offer made to ~~him~~ ~~(otherwise than the person,~~ by means ~~of other than~~ a public advertisement), by or for the account of the issuer or any other person on whose behalf the offering is being made or by any underwriter or broker-dealer who is offering part of an unsold allotment or subscription taken by ~~him~~ *the underwriter or broker-dealer* as a participant in the distribution;

(b) the confirmation of any sale made by or for the account of any such person;

(c) payment pursuant to any such sale; or

(d) delivery of the security pursuant to any such sale, whichever first occurs, but the commissioner shall accept for use under ~~any such~~ *the* requirement a current prospectus or offering circular regarding the same securities filed under the Securities Act of 1933 or regulations ~~thereunder~~ *implementing that act.*"

Section 902. Section 30-10-208, MCA, is amended to read:

"30-10-208. Consent to service of process — manner of service. (1) Every applicant for registration as a broker-dealer, investment adviser, salesperson, or investment adviser representative under parts 1 through 3 of this chapter and every issuer ~~which that~~ *proposes* to register and offer a security in this state through any person acting on an agency basis in the common-law sense shall file with the commissioner, in ~~such a form as he that the commissioner~~ *prescribes*, an irrevocable consent appointing the commissioner and ~~his the commissioner's~~ *successors* in office to be the attorney of the applicant to receive service of any lawful process in any noncriminal suit, action, or proceeding against the applicant or ~~its or his the applicant's~~ *successor, executor, or administrator which that* arises under parts 1 through 3 of this chapter or any rule or order ~~hereunder under parts 1 through 3 of this chapter~~ after the consent has been filed, with the same force and validity as if served personally on the person filing the consent.

(2) Service may be made by leaving a copy of the process in the office of the commissioner, but it is not effective unless:

(a) the plaintiff, who may be the commissioner, in a suit, action, or proceeding instituted by ~~him the plaintiff, forthwith~~ *sends timely* notice of the service and a copy of the process by certified or registered mail to the defendant or respondent at ~~its or his the defendant's or respondent's~~ *last address* on file with the commissioner; and

(b) the plaintiff's affidavit of compliance with this section is filed in the case on or before the return day of the process, if any, or within ~~such any~~ *further time as that* the court allows."

Section 903. Section 30-10-306, MCA, is amended to read:

"30-10-306. Criminal liabilities. (1) Any person who willfully violates any provision of parts 1 through 3 of this chapter except 30-10-302, who willfully violates any rule or order under parts 1 through 3 of this chapter, or who willfully violates 30-10-302 knowing the statement made to be false or misleading in any material respect shall upon conviction be fined not more than \$5,000 or imprisoned not more than 10 years, or both; ~~however~~ *However, in the event if* the person ~~so~~ *convicted* has been previously convicted of a felony in any way involving securities, imprisonment ~~hereunder~~ *for not less than 1 year shall be is* mandatory. ~~No~~ *An* indictment or information may *not* be returned under parts 1 through 3 of this chapter more than 8 years after the alleged violation; ~~however~~ *However, the time limitation period may be extended* allowing commencement of a prosecution within 1 year after the date the commissioner or other prosecuting officer becomes aware of the violation.

(2) The commissioner may refer ~~such~~ *evidence as that* may be available concerning violations of parts 1 through 3 of this chapter or of any rule or order ~~hereunder under parts 1 through 3 of this chapter~~ to the attorney general or the proper prosecuting attorney, who may in ~~his the prosecutor's~~ *discretion*, with or

without ~~such~~ a reference, institute the appropriate criminal proceedings under parts 1 through 3 of this chapter.

(3) ~~Nothing in parts~~ *Parts* 1 through 3 of this chapter ~~limits do not limit~~ the power of the state to punish any person for any conduct ~~which that~~ constitutes a crime.”

Section 904. Section 30-10-307, MCA, is amended to read:

“30-10-307. Civil liabilities — limitations on actions. (1) Any person who offers or sells a security in violation of 30-10-202 or offers or sells a security by means of fraud or misrepresentation is liable to the person buying the security from ~~him~~ *the offeror or seller*, who may sue either at law or in equity to recover the consideration paid for the security, together with interest at 10% ~~per annum~~ *a year* from the date of payment, costs, and reasonable attorneys’ fees, less the amount of any income received on the security, upon the tender of the security, or for damages if ~~he~~ *the buyer* no longer owns the security. Damages are the amount that would be recoverable upon a tender less:

- (a) the value of the security when the buyer disposed of it; and
- (b) interest at 10% ~~per annum~~ *a year* from the date of disposition.

(2) Every person who directly or indirectly controls a seller liable under subsection (1), every partner, officer, or director (or person occupying a similar status or performing similar functions) or employee of ~~such a~~ *the* seller, and every broker-dealer or salesperson who participates or materially aids in the sale is liable jointly and severally with and to the same extent as the seller if the nonseller knew, or in the exercise of reasonable care could have known, of the existence of the facts by reason of which the liability is alleged to exist. There ~~shall~~ *must* be contribution among the several *liable* persons ~~so liable~~.

(3) Any tender specified in this section may be made at any time before entry of judgment. A cause of action under this statute survives the death of any person who might have been a plaintiff or a defendant. ~~No~~ A person may *not* sue under this section *if*:

(a) if the buyer has received a written offer, at a time when ~~he~~ *the buyer* owned the security, to refund the consideration paid, together with interest at 10% ~~per annum~~ *a year* from the date of payment, less the amount of any income received on the security and ~~he~~ *the buyer* failed to accept the offer within 30 days of its receipt; or

(b) if the buyer has received a written offer at a time when ~~he~~ *the buyer* did not own the security in the amount that would be recoverable under subsection (1) upon a tender less:

- (i) the value of the security when the buyer disposed of it; and
- (ii) interest at 10% ~~per annum~~ *a year* from the date of disposition.

(4) ~~No~~ A person who has made or engaged in the performance of any contract in violation of any provision of parts 1 through 3 of this chapter or any rule or order ~~hereunder~~ *under parts 1 through 3 of this chapter* or who has acquired any purported right under ~~any such~~ *the* contract with knowledge of the facts by reason of which its making or performance was in violation may *not* base any suit on the contract. Any condition, stipulation, or provision binding any person acquiring any security to waive compliance with any provision of parts 1 through 3 of this chapter or any rule or order ~~hereunder~~ *adopted under parts 1 through 3 of this chapter* is void as against public policy and in the public interest.

(5) (a) ~~No~~ An action may *not* be maintained under this section to enforce any liability founded on a violation of 30-10-202 unless it is brought within 2 years after the violation occurs.

(b) ~~No~~ An action may *not* be maintained under this section to enforce any liability founded on fraud or misrepresentation unless it is brought within 2 years after discovery of the fraud or misrepresentation on which the liability is founded or after ~~such~~ *the* discovery should have been made by the exercise of reasonable diligence.

(c) ~~In no event may an~~ An action *may not* be maintained under this section to enforce any liability founded on fraud or misrepresentation unless it is brought within 5 years after the transaction on which the action is based.”

Section 905. Section 30-11-106, MCA, is amended to read:

“30-11-106. Agreement to sell and buy. An agreement to sell and buy is a contract by which ~~one~~ *a person* engages to transfer the title to a certain thing to another, who engages to accept the ~~same thing~~ *from him the seller* and to pay a price ~~therefor~~ *for the thing.*”

Section 906. Section 30-11-109, MCA, is amended to read:

“30-11-109. Usual ~~When usual common-law covenants required by such contracts, when.~~ An agreement on the part of a seller of real property to give the usual covenants binds ~~him~~ *the seller* to insert in the grant covenants of “seisin”, “quiet enjoyment”, “further assurance”, “general warranty”, and “against encumbrances.”

Section 907. Section 30-11-110, MCA, is amended to read:

“30-11-110. Form of covenants. The covenants mentioned in 30-11-109 must be in substance as follows:

“The party of the first part covenants with the party of the second part that the ~~former party of the first part~~ is now seized in fee simple of the property granted; that the ~~latter party of the second part~~ shall enjoy the ~~same property~~ without any lawful disturbance; that the ~~same property~~ is free from all encumbrances; that the party of the first part and all persons acquiring any interest in the ~~same property~~ through or for ~~him~~ *the party of the first part* will, on demand, execute and deliver to the party of the second part, at the expense of the ~~latter party of the second part~~, any further assurance of the ~~same property~~ that may be reasonably required; and that the party of the first part will warrant to the party of the second part all the ~~said~~ property against every person lawfully claiming the ~~same property.~~”

Section 908. Section 30-11-111, MCA, is amended to read:

“30-11-111. Contract for sale of real property. ~~No~~ An agreement for the sale of real property or of any interest ~~therein in real property~~ is *not* valid unless the ~~same agreement~~, or some note or memorandum ~~thereof of the agreement~~, ~~be~~ *is* in writing and subscribed by the party to be charged or ~~his~~ *the party's* agent ~~thereunto~~ authorized in writing; ~~but~~ *However*, this does not abridge the power of any court to compel the specific performance of any agreement for the sale of real property in case of part performance ~~thereof of the agreement.~~”

Section 909. Section 30-11-113, MCA, is amended to read:

“30-11-113. Sale equivalent to exchange. The provisions of the sections on sale apply to exchanges. Each party has the rights and obligations of a seller as to the thing ~~which he~~ *that the party* gives and of a buyer as to that which ~~he~~ *the party* takes.”

Section 910. Section 30-11-114, MCA, is amended to read:

“30-11-114. Warranty of money. On an exchange of money, each party ~~thereby~~ warrants the genuineness of the money given by ~~him~~ *the party*.”

Section 911. Section 30-11-201, MCA, is amended to read:

“30-11-201. When a seller must act as a depositary. After personal property has been sold and until the delivery is completed, the seller has the rights and obligations of a depositary for hire, except that ~~he~~ ~~must~~ *the seller shall* keep the property, without charge, until the buyer has had a reasonable opportunity to remove it.”

Section 912. Section 30-11-202, MCA, is amended to read:

“30-11-202. When seller may resell. If a buyer of personal property does not pay for it according to contract and it remains in the possession of the seller after payment is due, the seller may rescind the sale; or may enforce ~~his~~ *the seller’s* lien for the price; in the manner prescribed by the law on liens.”

Section 913. Section 30-11-203, MCA, is amended to read:

“30-11-203. Delivery on demand. ~~One~~ *A person* who sells personal property, whether it was in ~~his~~ *the person’s* possession at the time of sale or not, ~~must~~ *shall* put it into a condition fit for delivery and deliver it to the buyer within a reasonable time after demand, unless ~~he~~ *the person* has a lien ~~thereon~~ *on the property*.”

Section 914. Section 30-11-205, MCA, is amended to read:

“30-11-205. Expense of transportation. ~~One~~ *A person* who sells personal property ~~must~~ *shall* bring it to ~~his~~ *the person’s* own door or ~~other~~ *another* convenient place for its acceptance by the buyer, but further transportation is at the risk and expense of the buyer.”

Section 915. Section 30-11-206, MCA, is amended to read:

“30-11-206. Notice of election as to delivery. When either party to a contract of sale has an option as to the time, place, or manner of delivery, ~~he~~ ~~must~~ *the party shall* give the other party reasonable notice of ~~his~~ *the party’s* choice; ~~and if he~~ *If the party* does not give ~~such~~ notice within a reasonable time, ~~his~~ *the* right of option is waived.”

Section 916. Section 30-11-207, MCA, is amended to read:

“30-11-207. Transportation. If a seller agrees to send the thing sold to the buyer, ~~he~~ ~~must~~ *the seller shall* follow the directions of the ~~latter~~ *buyer* as to the manner of sending or it will be at ~~his~~ *the seller’s* own risk during its transportation. If ~~he~~ *the seller* follows ~~such~~ *the* directions or if, in the absence of special directions, ~~he~~ *the seller* uses ordinary care in forwarding the thing, it is at the risk of the buyer.”

Section 917. Section 30-11-211, MCA, is amended to read:

“30-11-211. Warranty of title to personal property. ~~One~~ *A person* who sells or agrees to sell personal property as ~~his~~ *the person’s* own ~~thereby~~ warrants that ~~he~~ *the person* has a good and unencumbered title ~~thereto~~ *to the property*.”

Section 918. Section 30-11-213, MCA, is amended to read:

“30-11-213. Warranty when seller knows that buyer relies on his seller’s statements. ~~One~~ *A person* who sells or agrees to sell personal property knowing that the buyer relies upon ~~his~~ *the person’s* advice or judgment ~~thereby~~ warrants to the buyer that neither the seller nor any agent employed by ~~him~~ *the seller* in the transaction knows the existence of any fact concerning the thing

sold ~~which that~~ would, to ~~his the~~ seller's knowledge, destroy the buyer's inducement to buy."

Section 919. Section 30-11-215, MCA, is amended to read:

"30-11-215. Manufacturer's warranty against latent defects. ~~One A~~ person who sells or agrees to sell an article of ~~his the~~ person's own manufacture ~~thereby~~ warrants ~~it the~~ article to be free from any latent defect, not disclosed to the buyer, arising from the process of manufacture and also that ~~neither he nor his the person or the person's agent in such the~~ manufacture has *not* knowingly used improper materials ~~therein in the manufacture.~~"

Section 920. Section 30-11-220, MCA, is amended to read:

"30-11-220. Warranty on sale of written instrument. ~~One A~~ person who sells or agrees to sell an instrument purporting to bind anyone to the performance of any act ~~thereby~~ warrants that ~~he has no the person does not have~~ knowledge of any facts ~~which that~~ tend to prove ~~it the~~ instrument worthless, such as the insolvency of any of the parties ~~thereto where when~~ that is material, the extinction of its obligations, or its invalidity for any cause."

Section 921. Section 30-11-221, MCA, is amended to read:

"30-11-221. Warranty on sale of goodwill. ~~One A~~ person who sells the goodwill of a business ~~thereby~~ warrants that ~~he the~~ person will not endeavor to draw off any of the customers."

Section 922. Section 30-11-223, MCA, is amended to read:

"30-11-223. Effect of general warranty. A general warranty does not extend to defects inconsistent ~~therewith with the warranty~~ of which the buyer was ~~then aware or which that~~ were ~~then~~ easily discernible by ~~him the~~ buyer without the exercise of peculiar skill, but ~~it the~~ warranty extends to all other defects."

Section 923. Section 30-11-302, MCA, is amended to read:

"30-11-302. Obligation to keep merchandise in full view. Any merchant ~~shall have~~ *has* the right to request any individual on ~~his the merchant's~~ premises to place or keep in full view any merchandise ~~such that the individual may have removed, or which that the merchant has reason to believe he the individual may have removed, from its place of display or elsewhere, whether for examination, purchase, or for any other purpose. No A merchant shall may not~~ be criminally or civilly liable for slander, false arrest, or otherwise on account of having made such a request."

Section 924. Section 30-11-502, MCA, is amended to read:

"30-11-502. Sale by auction. (1) In a sale by auction of goods by lot, each lot is the subject of a separate sale.

(2) A sale by auction is complete when the auctioneer ~~so~~ announces *the sale* by the fall of the hammer or other customary manner. ~~Where~~ *When* a bid is made while the hammer is falling in acceptance of a prior bid, the auctioneer may ~~in his discretion~~ reopen the bidding or declare the goods sold under the bid on which the hammer was falling.

(3) ~~Such a~~ *An* auction sale is with reserve unless the goods are in explicit terms put up without reserve. In an auction with reserve, the auctioneer may withdraw the goods at any time until ~~he the~~ auctioneer announces completion of the sale. In an auction without reserve, after the auctioneer calls for bids on an article or lot, that article or lot cannot be withdrawn unless ~~no a~~ bid is *not* made within a reasonable time. In either case a bidder may retract ~~his a~~ bid until the

auctioneer's announcement of completion of the sale, but a bidder's retraction does not revive any previous bid.

(4) If the auctioneer knowingly receives a bid on the seller's behalf or the seller makes or procures such a bid and notice has not been given that liberty for such the bidding is reserved, the buyer may at his option avoid the sale or take the goods at the price of the last good faith bid prior to the completion of the sale. This subsection does not apply to any bid at a forced sale."

Section 925. Section 30-11-503, MCA, is amended to read:

"30-11-503. Sale under written conditions. When a sale by auction is made upon written or printed conditions, those conditions cannot be modified by any oral declaration of the auctioneer except those for his the auctioneer's own protection."

Section 926. Section 30-11-504, MCA, is amended to read:

"30-11-504. Auctioneer's memorandum of sale. When property is sold by auction, an entry made by the auctioneer in his the sale book at the time of the sale specifying the name of the person for whom he the auctioneer sells, the thing sold, the price, the terms of sale, and the name of the buyer binds both the parties in the same manner as if made by themselves the parties."

Section 927. Section 30-11-508, MCA, is amended to read:

"30-11-508. Auctioneer — authority and bond. Any A citizen of this state may become an auctioneer and be authorized to sell real or personal property at public auction in any county in this state after giving a bond in accordance with the provisions of this part for the faithful performance of his the citizen's duties."

Section 928. Section 30-11-510, MCA, is amended to read:

"30-11-510. Bond and sureties — approval — filing. (1) Bond must be payable to the state, with one or more sureties, in the sum of \$5,000 and approved by the county clerk of the county in which the auctioneer resides and filed in his the clerk's office.

(2) If the auctioneer is not a resident, the bond shall must be filed with the county clerk of the county of this state in which he the auctioneer carries on his the auctioneer's principal auction business."

Section 929. Section 30-11-511, MCA, is amended to read:

"30-11-511. Auctioneers ex officio. (1) In any county without an auctioneer, the sheriff or a constable thereof is ex officio auctioneer and is permitted to sell any property at public auction.

(2) He The sheriff or constable is liable on his the sheriff's or constable's official bond for any delinquency as the ex officio auctioneer."

Section 930. Section 30-11-512, MCA, is amended to read:

"30-11-512. Assistant — who may act and when. (1) An auctioneer, in the event of inability to attend an auction by reason of sickness, the performance of a duty imposed upon him by law, or during a temporary absence from the city or county within which he the individual is auctioneer, may employ an agent or employee to hold the auction in his the auctioneer's name and behalf.

(2) The employee shall file with the county clerk of the county an affidavit swearing to faithfully perform the duties of auctioneer.

(3) An auctioneer may employ a crier at any sale, for whose acts he shall be the auctioneer is responsible."

Section 931. Section 30-11-513, MCA, is amended to read:

“30-11-513. Auctioneers to designate one place of business — partners. (1) An auctioneer shall designate in writing with the county clerk one place at which ~~he~~ *the auctioneer* will conduct auctions within any city.

(2) ~~He~~ *The auctioneer* shall designate in the same document ~~his any~~ partners, ~~if any~~, in the business.

(3) ~~He~~ *The auctioneer* may not offer goods for sale at a place other than that designated unless the goods are in their original packages, are bulky and usually sold in warehouses, or are usually sold on public streets.”

Section 932. Section 30-11-514, MCA, is amended to read:

“30-11-514. Penalty. A person convicted of violating a provision of this part shall be fined no more than \$500 or imprisoned in the county jail for a term not to exceed 6 months, or both. In addition ~~he~~ *the person* shall be liable for damages incurred by any aggrieved party by reason of ~~such~~ *the* violation.”

Section 933. Section 30-11-601, MCA, is amended to read:

“30-11-601. Factor defined. A factor is an agent who, in the pursuit of an independent calling, is employed by another *person* to sell property for ~~him~~ *that person* and is vested by the latter *person* with the possession or control of the property or authorized to receive payment ~~therefor~~ *for the property* from the purchaser.”

Section 934. Section 30-11-602, MCA, is amended to read:

“30-11-602. Obedience required from factor. A factor ~~must~~ *shall* obey the instructions of ~~his~~ *the factor's* principal to the same extent as any other employee, notwithstanding any advances ~~he~~ *the factor* may have made to ~~his~~ *the* principal upon the property consigned to ~~him~~ *the factor*, except that if the principal forbids ~~him~~ *the factor* to sell at the market price, ~~he~~ *the factor* may, nevertheless, sell for ~~his~~ *the factor's* reimbursement, after giving to ~~his~~ *the* principal reasonable notice of ~~his~~ *the factor's* intention to do so and of the time and place of sale, and proceeding in all respects as a pledgee.”

Section 935. Section 30-11-603, MCA, is amended to read:

“30-11-603. Sales on credit. A factor may sell property consigned to ~~him~~ *the factor* on ~~such~~ credit ~~as~~ *that* is usual but, having once agreed with the purchaser upon the terms of credit, may not extend ~~it~~ *the terms*.”

Section 936. Section 30-11-604, MCA, is amended to read:

“30-11-604. Liability of factor under guaranty commission. A factor who charges ~~his~~ *the* principal with a guaranty commission upon a sale ~~thereby~~ assumes absolutely to pay the price when it falls due as if it were a debt of ~~his~~ *the factor's* own and not as a mere guarantor for the purchaser. ~~He~~ *The factor* does not ~~thereby~~ assume any additional responsibility for the safety of ~~his~~ *the* remittance of the proceeds.”

Section 937. Section 30-11-605, MCA, is amended to read:

“30-11-605. Principal's consent needed to relieve factor from liability. A factor who receives property for sale under a general agreement or usage to guarantee the sales or the remittance of the proceeds cannot **relieve himself** *be relieved* from responsibility ~~therefor~~ *from the sale or remittance* without the consent of ~~his~~ *the factor's* principal.”

Section 938. Section 30-11-606, MCA, is amended to read:

“30-11-606. Authority of factor. In addition to the authority of agents in general, a factor has actual authority for ~~his~~ *the* principal, unless specially restricted, to:

- (1) insure property consigned to ~~him~~ *the factor* uninsured;
- (2) sell on credit anything entrusted to ~~him~~ *the factor* for sale, except ~~such~~ things ~~as that~~ it is contrary to usage to sell on credit, but not to pledge, mortgage, or barter the ~~same~~ things; and
- (3) delegate ~~his~~ *the factor's* authority to ~~his~~ *the factor's* partner or servant but not to any person in an independent employment.”

Section 939. Section 30-11-607, MCA, is amended to read:

“30-11-607. Ostensible authority. A factor has ostensible authority to deal with the property of ~~his~~ *the* principal as ~~his~~ *the factor's* own in transactions with persons not having notice of the actual ownership.”

Section 940. Section 30-11-703, MCA, is amended to read:

“30-11-703. Excepted inventory. The following inventory is not subject to the repurchase requirements of 30-11-702:

- (1) any repair part that has a limited storage life or is otherwise subject to deterioration, such as rubber items, gaskets, or wet-charge batteries;
- (2) any repair part that is in a broken or damaged package;
- (3) any single repair part that is priced as a set of two or more items;
- (4) any repair part that because of its condition is not resalable as a new part without repackaging or reconditioning;
- (5) any inventory for which the retailer is unable to furnish evidence satisfactory to the wholesaler, manufacturer, or distributor of title, free and clear of all claims, liens, and encumbrances;
- (6) any inventory the retailer desires to keep, if ~~he~~ *the retailer* has a contractual right to do so;
- (7) any inventory item other than a repair part that is not in essentially new, unused, undamaged, and complete condition;
- (8) any repair part that is not in new, unused, or undamaged condition;
- (9) any inventory item, other than a repair part, that has been stocked for 36 months or more prior to notice of termination of the contract;
- (10) any inventory that was ordered by the retailer after the date of notification of termination of the contract; and
- (11) any inventory that was acquired from any source other than the wholesaler, manufacturer, or distributor.”

Section 941. Section 30-11-713, MCA, is amended to read:

“30-11-713. Remedy as supplemental. (1) The provisions of this part are supplemental to any agreement between:

- (a) the retailer and wholesaler, manufacturer, or distributor governing the inventory; or
- (b) the wholesaler and manufacturer or distributor governing the inventory.

(2) The retailer or wholesaler may elect to pursue either ~~his~~ contract remedies or the remedy provided in 30-11-702. An election to pursue ~~his~~ contract remedies does not bar the retailer's or wholesaler's right to the remedy provided in 30-11-702 ~~as with regard~~ to any inventory not covered by contract.”

Section 942. Section 30-11-806, MCA, is amended to read:

“30-11-806. Procedure to determine right to succeed. (1) A designated family member or designated successor who receives notice of the grantor’s refusal to honor ~~his~~ *the family member’s or successor’s* succession to the ownership and operation of the dealership may, within the 60-day period provided for in 30-11-805, file with the department a verified complaint for a hearing and determination by the department on whether good cause exists for refusal and discontinuance.

(2) The grantor shall establish good cause for refusal to honor the succession to ownership.

(3) The franchise agreement must continue in effect until the final determination of the issues raised in the complaint.

(4) If the grantor prevails, the department shall include in its order approving the termination of the franchise agreement reasonable conditions affording the complainant an opportunity to receive fair and reasonable compensation for the value of the dealership.

(5) Any decision by the department may be reviewed pursuant to Title 2, chapter 4, part 7.”

Section 943. Section 30-11-807, MCA, is amended to read:

“30-11-807. Written designation of succession unaffected. Sections 30-11-804 through 30-11-809 do not preclude a dealer from designating any person as ~~his~~ *the dealer’s* successor by written instrument filed with the grantor.”

Section 944. Section 30-12-202, MCA, is amended to read:

“30-12-202. Specific powers and duties of department — rules. (1) The department shall adopt from time to time reasonable rules for the enforcement of parts 1 through 5, ~~which~~ *and the* rules have the effect of law. These rules may include:

(a) schedules of fees for testing and certification;

(b) standards of net weight, measure, or count and reasonable standards of fill for any commodity in package form;

(c) rules governing the technical and reporting procedures to be followed and the report and record forms and marks of approval and rejection to be used by the department in the discharge of its official duties;

(d) exemptions from the sealing or marking requirements of 30-12-209 with respect to weights and measures of a character or size that sealing or marking would be inappropriate, impracticable, or damaging to the apparatus involved; and

(e) rules governing the voluntary registration of ~~servicemen~~ *service providers* and service agencies.

(2) ~~These~~ *The* rules ~~shall~~ *described in subsection (1) must* include specifications, tolerances, and other technical requirements for weights and measures subject to inspection and testing under 30-12-205, designed to eliminate from use, without prejudice to apparatus that conforms as closely as practicable to the official standards, those:

(a) that are not accurate;

(b) that are not reasonably permanent in their adjustment or will not repeat their indications correctly; or

(c) that facilitate the perpetration of fraud.

(3) The specifications, tolerances, and other technical requirements for commercial weighing and measuring devices, together with amendments ~~thereto to the specifications~~, as recommended by the national institute of standards and technology and published in national institute of standards and technology Handbook 44 and supplements ~~thereto; to that handbook~~ or in any publication revising or superseding Handbook 44, are the specifications, tolerances, and other technical requirements for commercial weighing and measuring devices of this state, except ~~insofar~~ as specifically modified, amended, or rejected by a rule issued by the department.

(4) An apparatus is considered to be "correct" when it conforms to all applicable requirements adopted as specified in this section. Other apparatus are considered to be "incorrect".

Section 945. Section 30-12-205, MCA, is amended to read:

"30-12-205. General testing. (1) When not otherwise provided by law, the department may inspect and test ~~to ascertain if they are correct~~ all weights and measures kept, offered, or exposed for sale ~~to determine if they are correct~~.

(2) The department, within a 12-month period or less frequently if in accordance with a schedule issued by it, and as often as it considers necessary, shall inspect and test, to ascertain if they are correct, all weights and measures commercially used:

(a) in determining the weight, measurement, or count of commodities or things sold or offered or exposed for sale on the basis of weight, measure, or ~~of~~ count; or

(b) in computing the basic charge or payment for services rendered on the basis of weight, measure, or ~~of~~ count.

(3) With respect to single-service devices designed to be used commercially only once and to be then discarded and with respect to devices uniformly mass-produced, as by means of a mold or die, and not susceptible of individual adjustment, tests may be made on representative samples of the devices. The lots of which the samples are representative ~~shall~~ *must* be held to be correct or incorrect upon the basis of the results of the inspections and tests on the samples.

(4) An itinerant peddler or hawker using weights and measures shall register ~~his the peddler's or hawker's~~ name and address with the department, ~~in order so that his the peddler's or hawker's~~ equipment can be tested in accordance with the provisions of this law."

Section 946. Section 30-12-211, MCA, is amended to read:

"30-12-211. Duty of owners of incorrect apparatus. (1) Weights and measures that have been rejected under the authority of the department ~~shall~~ remain subject to the control of the department until suitable repair or disposition of them has been made as required by this section.

(2) The owner of rejected weights and measures shall correct them within 30 days or a longer period ~~as that~~ may be authorized by the department.

(3) ~~In place of this~~ *Instead of correction*, the owner may dispose of ~~them the~~ *weights and measures*, but only in a manner specifically authorized by the department.

(4) Weights and measures that have been rejected may not again be used commercially until they have been officially reexamined and found to be correct,

or until specific written permission for that use is issued by the department, or until the rejection tag has been removed and the rejected device *has been* repaired and placed in service by a person properly registered to perform those acts under a rule issued by the department for the registration of weights and measures ~~servicemen~~ *service providers* and service agencies.”

Section 947. Section 30-12-406, MCA, is amended to read:

“30-12-406. Bulk deliveries sold in terms of weight and delivered by vehicle. (1) When a vehicle delivers to an individual purchaser a commodity in bulk and the commodity is sold in terms of weight units, the delivery ~~shall~~ *must* be accompanied by a duplicate delivery ticket with the following information clearly stated in ink or by means of other indelible marking equipment and in clarity equal to type or printing:

- (a) the name and address of the vendor;
- (b) the name and address of the purchaser; and
- (c) the net weight of the delivery expressed in pounds.

(2) If the net weight is derived from determinations of gross and tare weights, the gross and tare weights *must* also ~~shall~~ be stated in terms of pounds. One of these tickets ~~shall~~ *must* be retained by the vendor, and the other ~~shall~~ *must* be delivered to the purchaser at the time of delivery of the commodity or ~~shall~~ *must* be surrendered on demand to the department. If the department desires to retain it as evidence, it shall issue a weight slip in place of the ticket for delivery to the purchaser. If the purchaser ~~himself~~ carries away ~~his~~ *the* purchase, the vendor ~~shall be~~ *is only* required ~~only~~ to give to the purchaser at the time of sale a delivery ticket stating the number of pounds of commodity delivered to ~~him~~ *the purchaser.*”

Section 948. Section 30-12-504, MCA, is amended to read:

“30-12-504. Offenses and penalties. (1) A person may not:

(a) use or possess for the purpose of using for a commercial purpose specified in 30-12-205, sell, offer or expose for sale or hire, or possess for the purpose of selling or hiring an incorrect weight or measure or any device or instrument used to or calculated to falsify any weight or measure;

(b) use or possess for the purpose of current use for a commercial purpose specified in 30-12-205 a weight or measure that does not bear a seal or mark specified in 30-12-209, unless that weight or measure has been exempted from testing by 30-12-205 or by a rule of the department issued under 30-12-202 or unless the device has been placed in service as provided by a rule of the department issued under 30-12-202. A person using weighing or measuring devices subject to parts 1 through 5 ~~must~~ *shall* report to the department, in writing, the number and location of the weighing or measuring device and ~~must~~ *shall* promptly report the installation of any new weighing or measuring device.

(c) dispose of a rejected or condemned weight or measure in a manner contrary to law or rule;

(d) remove from a weight or measure, contrary to law or rule, any tag, seal, or mark placed on it by the appropriate authority;

(e) sell or offer or expose for sale less than the quantity ~~he~~ *the person* represents of a commodity, thing, or service;

(f) take more than the quantity ~~he~~ *the person* represents of a commodity, thing, or service when, as buyer, ~~he~~ *the person* furnishes the weight or measure by means of which the amount of the commodity, thing, or service is determined;

(g) keep for the purpose of sale, advertise or offer or expose for sale, or sell a commodity, thing, or service in a condition or manner contrary to law or rule;

(h) use in retail trade, except in the preparation of packages put up in advance of sale and of medical prescriptions, a weight or measure that is not so positioned that its indications may be accurately read and the weighing or measuring operation observed from some position ~~which~~ *that* may reasonably be assumed by a customer;

(i) violate a provision of parts 1 through 5 or of the rules adopted under parts 1 through 5 for which a specific penalty is not prescribed.

(2) A person who violates, or who knowingly allows an employee or agent to violate, this section is guilty of a misdemeanor and upon a first conviction shall be fined not less than \$20 or more than \$200 or imprisoned for not more than 3 months or both fined and imprisoned. Upon a second or subsequent conviction, ~~he~~ *the person* shall be fined not less than \$50 or more than \$500 or imprisoned for not more than 1 year or both fined and imprisoned."

Section 949. Section 30-13-131, MCA, is amended to read:

"30-13-131. Product of the mind — ownership. The author of any product of the mind, whether it is an invention, a composition in letters or art, or a design, with or without delineation or other graphical representation, has an exclusive ownership ~~therein~~ *of the product* and in the representation or expression ~~thereof~~ *of the product that* continues ~~so~~ *as long as* the product and the representations or expressions ~~thereof~~ *of the product* made by ~~him~~ *the author* remain in ~~his~~ *the author's* possession."

Section 950. Section 30-13-133, MCA, is amended to read:

"30-13-133. Transfer. The owner of any product of the mind or of any representation or expression ~~thereof~~ *of a product of the mind* may transfer ~~his~~ *the owner's* interest in the ~~same~~ *product*."

Section 951. Section 30-13-135, MCA, is amended to read:

"30-13-135. Subsequent inventor or author. If the owner of a product of the mind does not make ~~it~~ *the product* public, any other person subsequently and originally producing the same thing has the same right ~~therein~~ *in the product* as the prior author, which is exclusive to the same extent against all persons except the prior author or those claiming under ~~him~~ *the prior author*."

Section 952. Section 30-13-216, MCA, is amended to read:

"30-13-216. Evidentiary effect of certificates and documents of secretary of state. All certificates issued by the secretary of state in accordance with the provisions of this part and all copies of documents filed in ~~his~~ *the secretary of state's* office in accordance with the provisions of this part when certified by ~~him~~ *shall the secretary of state* must be taken and received in all courts, public offices, and official bodies as prima facie evidence of the facts stated ~~therein~~ *in the certificate or document*."

Section 953. Section 30-13-218, MCA, is amended to read:

"30-13-218. Execution constituting affirmation — penalty — warning. (1) The execution of any document required to be filed with the secretary of state under this part constitutes an affirmation, under the penalties of false swearing, by each person executing the document that the facts stated ~~therein~~ *in the document* are true.

(2) The secretary of state shall provide for the printing of a warning to this effect on each form prescribed by ~~him~~ *the secretary of state* under this part."

Section 954. Section 30-14-112, MCA, is amended to read:

“30-14-112. Assurance of compliance. In the administration of this part, the department may accept an assurance of voluntary compliance with respect to any method, act, or practice considered to be ~~violative in violation of~~ this part from any person who has engaged or was about to engage in any ~~such~~ method, act, or practice. Any ~~such~~ assurance ~~shall~~ *must* be in writing and be filed with and subject to the approval of the district court of the county in which the alleged violator resides or has ~~his~~ *a* principal place of business or the district court of Lewis and Clark County. Assurance of voluntary compliance is not an admission of violation for any purpose. Matters ~~thus~~ closed may at any time be reopened by the department for further proceedings in the public interest, pursuant to 30-14-111.”

Section 955. Section 30-14-113, MCA, is amended to read:

“30-14-113. Investigative demand. (1) When it appears to the department that the person has engaged in, is engaging in, or is about to engage in any act or practice declared to be unlawful by this part or when the department believes it to be in the public interest that an investigation should be made to ascertain whether a person in fact has engaged in, is engaging in, or is about to engage in any act or practice declared to be unlawful by this part, the department may execute in writing and cause to be served upon any person who is believed to have information, documentary material, or physical evidence relevant to the alleged or suspected violation an investigative demand. ~~requiring~~

The demand requires ~~such~~ the person to furnish, under oath or otherwise, a report in writing setting forth the relevant facts and circumstances of which ~~he~~ the person has knowledge or to appear and testify or to produce relevant documentary material or physical evidence for examination, at ~~such~~ a reasonable time and place as may be stated in the investigative demand, concerning the advertisement, sale, or offering for sale of any goods or services or the conduct of any trade or commerce that is the subject matter of the investigation.

(2) At any time before the return date specified in an investigative demand or within 20 days after the demand has been served, whichever period is shorter, a petition to extend the return date or to modify or set aside the demand, stating good cause, may be filed in the district court of the county in which the person served with the demand resides or has ~~his~~ *a* principal place of business or in the district court of Lewis and Clark County.”

Section 956. Section 30-14-114, MCA, is amended to read:

“30-14-114. Department authority. To accomplish the objectives and to carry out the duties prescribed by this part, the department, in addition to other powers conferred upon it by this part, may issue subpoenas to any person, administer an oath or affirmation to any person, conduct hearings in aid of any investigation or inquiry, prescribe forms, and ~~promulgate~~ *adopt* rules as may be necessary, ~~which rules shall that~~ have the force of law; ~~provided that none of~~ *However,* the powers conferred by this part may *not* be used for the purpose of compelling any natural person to furnish testimony or evidence ~~which that~~ might tend to incriminate ~~him~~ *the person* or subject ~~him~~ *the person* to a penalty or forfeiture. Information obtained pursuant to the powers conferred by this part ~~shall~~ *may* not be made public or disclosed by the department or its employees beyond the extent necessary for law enforcement purposes in the public interest.”

Section 957. Section 30-14-132, MCA, is amended to read:

“30-14-132. Powers of receiver — proof of damages — jurisdiction.

(1) When a receiver is appointed by the court pursuant to this part, ~~he~~ *the receiver* has the power to sue for, collect, receive, and take into ~~his~~ possession all goods and chattels, rights and credits, moneys and effects, lands and tenements, books, records, documents, papers, choses in action, bills, notes, and property of every description derived by means of any practice declared to be illegal and prohibited by this part, including property with which ~~such~~ *the* property has been mingled if it cannot be identified in kind because of ~~such~~ *the* commingling, and to sell, convey, and assign the same and hold and dispose of the proceeds ~~thereof of the property~~ under the direction of the court.

(2) Any person who has suffered damages as a result of the use or employment of any unlawful practice and submits proof to the satisfaction of the court that ~~he~~ *the person* has in fact been damaged may participate with general creditors in the distribution of the assets to the extent ~~he~~ *the person* has sustained out-of-pocket losses.

(3) In the case of a partnership or business entity, the receiver shall settle the estate and distribute the assets under the direction of the court.

(4) The court has jurisdiction of all questions arising in the proceedings and may make orders and judgments as may be required.”

Section 958. Section 30-14-203, MCA, is amended to read:

“30-14-203. Persons responsible. Any person who, either as director, officer, or agent of any business or as agent of any person, assists or aids, directly or indirectly, in a violation of this part is responsible ~~therefor~~ *for the violation* equally with the person or business for whom or *for which* ~~he~~ *the person* acts.”

Section 959. Section 30-14-204, MCA, is amended to read:

“30-14-204. Proof of intent. In an injunction proceeding or in the prosecution of a person acting as an officer, director, or agent, it is sufficient to allege and prove the unlawful intent of the person or business for whom or *for which* ~~he~~ *the person* acts.”

Section 960. Section 30-14-213, MCA, is amended to read:

“30-14-213. Sales excepted. Sections 30-14-209, 30-14-210, and 30-14-212 do not apply to any sale made:

(1) in closing out in good faith the owner’s stock or any part ~~thereof of the stock~~ for the purpose of discontinuing ~~his~~ *the owner’s* trade in any article of commerce;

(2) of seasonal goods;

(3) in good faith of perishable goods to prevent loss to the vendor by spoilage or depreciation, provided notice is given to the public ~~thereof~~;

(4) when the goods are damaged or deteriorated in quality and notice is given to the public ~~thereof~~;

(5) by an officer acting under the orders of any court;

(6) in a good faith endeavor to meet the legal prices of a competitor selling the same article of commerce in the same locality or trade area; or

(7) to the state of Montana or any of its institutions.”

Section 961. Section 30-14-221, MCA, is amended to read:

“30-14-221. Investigations. (1) The department, for the purpose of conducting hearings and investigations ~~which that~~ in the opinion of the department are necessary and proper for the exercise of the powers vested in ~~it~~ *the department* by this part, shall at all reasonable times have access to any evidence concerning a person being investigated or proceeded against that relates to any matter under investigation or in question and the right to copy ~~such~~ *the* evidence. The department may issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under investigation or in question before the department or before its duly authorized agent conducting the investigation. An agent, duly authorized by the department for those purposes, may administer oaths and affirmations, examine witnesses, and receive evidence. The attendance of witnesses and the production of evidence may be required from any place in this state at any designated place of hearing.

(2) Upon application by the department in a case of ~~contumacy or~~ refusal to obey a subpoena issued to a person, a district court of this state, within the district where the inquiry is carried on or where a person guilty of ~~contumacy or~~ refusal to obey is found, resides, or transacts business, has jurisdiction to issue to that person an order requiring ~~him~~ *the person* to appear before the department or its duly authorized agent and to produce evidence if so ordered or to give testimony regarding the matter under investigation. Failure to obey the order of the court may be punished by the court as a contempt.

(3) A person may not be excused from attending and testifying or from producing books, records, correspondence, documents, or other evidence in obedience to the subpoena of the department on the ground that the testimony or evidence required of ~~him~~ *the person* may tend to incriminate ~~him~~ *the person* or subject ~~him~~ *the person* to a penalty or forfeiture; ~~but no~~ *However*, compelled testimony or evidence or any information directly or indirectly derived from ~~such~~ testimony or evidence may *not* be used against the witness in any criminal prosecution. ~~Nothing in this~~ *This section prohibits does not prohibit* the department from granting immunity from prosecution for or on account of any transaction, matter, or thing concerning which a witness is compelled to testify if the department determines, in its sole discretion, that the ends of justice would be served ~~thereby by granting immunity~~. Immunity may not extend to prosecution or punishment for false statements given pursuant to the subpoena.”

Section 962. Section 30-14-303, MCA, is amended to read:

“30-14-303. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) “Blind bidding” means bidding, negotiating, offering terms, making an invitation to bid, or agreeing to terms for the purpose of entering into a license agreement prior to a trade screening of the motion picture that is the subject of the agreement.

(2) “Distributor” means any person engaged in the business of renting, selling, or licensing motion pictures to exhibitors.

(3) “Exhibitor” means any person engaged in the business of operating a theater in this state.

(4) “License agreement” means any contract between a distributor and an exhibitor for the exhibition of a motion picture by the exhibitor in this state.

(5) “Market area” means either a city in Montana or a city in any of the 11 western states that prohibits blind bidding.

(6) "Theater" means any establishment in which motion pictures are exhibited regularly to the public for a charge.

(7) "Trade screening" means the showing of a motion picture by a distributor in the market area. ~~Such~~ *The* showing shall *must* be open to any exhibitor interested in exhibiting the motion picture, and ~~such the~~ exhibitor or ~~his the~~ *exhibitor's* buying agency ~~will~~ *must* be notified of ~~such the~~ trade screening."

Section 963. Section 30-14-402, MCA, is amended to read:

"30-14-402. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Improper means" includes theft, bribery, misrepresentation, breach or inducement of a breach of a duty to maintain secrecy, or espionage through electronic or other means.

(2) "Misappropriation" means:

(a) acquisition of a trade secret of another by a person who knows or has reason to know that the trade secret was acquired by improper means; or

(b) disclosure or use of a trade secret of another without express or implied consent by a person who:

(i) used improper means to acquire knowledge of the trade secret;

(ii) at the time of disclosure or use, knew or had reason to know that ~~his the~~ *person's* knowledge of the trade secret was:

(A) derived from or through a person who had ~~utilized~~ *used* improper means to acquire it;

(B) acquired under circumstances giving rise to a duty to maintain its secrecy or limit its use; or

(C) derived from or through a person who owed a duty to the person seeking relief to maintain its secrecy or limit its use; or

(iii) before a material change of ~~his the~~ *person's* position, knew or had reason to know that it was a trade secret and that knowledge of it had been acquired by accident or mistake.

(3) "Person" means a natural person, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.

(4) "Trade secret" means information or computer software, including a formula, pattern, compilation, program, device, method, technique, or process, that:

(a) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and

(b) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy."

Section 964. Section 30-14-504, MCA, is amended to read:

"30-14-504. Buyer's right to cancel — time allowed — notice — return of goods. (1) Except as provided in subsection (5), in addition to any right otherwise to revoke an offer, the buyer or any other person obligated for any part of the purchase price may cancel a personal solicitation sale until midnight of the third business day after the day on which the buyer has signed an agreement or offer to purchase relating to ~~such the~~ sale, provided that in the

case of a personal solicitation sale made by telephone, the buyer may cancel at any time prior to ~~his~~ *the buyer's* signing of an agreement or offer to purchase relating to ~~such~~ *the* sale.

(2) Cancellation occurs when written notice of cancellation is given to the seller.

(3) Notice of cancellation, if given by mail, is considered given when deposited in a mailbox properly addressed and postage prepaid.

(4) Notice of cancellation need not take the form prescribed and ~~shall be~~ *is* sufficient if it indicates the intention of the buyer not to be bound.

(5) A personal solicitation sale may not be canceled if, in the case of goods, the goods cannot be returned to the seller in substantially the same condition as when received by the buyer."

Section 965. Section 30-14-505, MCA, is amended to read:

"30-14-505. Notice of right to cancel. (1) The seller shall furnish the buyer a notice ~~which that~~ contains the statement set forth in subsection (1)(a) or a statement as prescribed by federal trade commission rule governing door-to-door sales and printed in capital and lowercase letters of not less than 10-point boldfaced type with the seller's name and business address and the statement set forth in subsection (1)(b):

(a) YOU MAY CANCEL THIS SALE WITHIN THREE BUSINESS DAYS.

If you decide within 3 days that you want to cancel the sale, tear off and mail the bottom of this card. To cancel, the card must be mailed BY CERTIFIED MAIL within 3 days after you sign the contract.

(date)

(b) CONTRACT CANCELED

I hereby cancel this sale.

(Buyer's signature)

(2) Until the seller has complied with this section, the buyer or any other person obligated for any part of the purchase price may cancel the personal solicitation sale by notifying the seller in any manner and by any means of ~~his~~ *the* intention to cancel; ~~provided, however~~ *However*, ~~that~~ failure to mail the cancellation by certified mail does not nullify the cancellation as long as the cancellation is mailed within the prescribed time period. The period prescribed by 30-14-504 ~~shall begin~~ *begins* to run from the time the seller complies with this section."

Section 966. Section 30-14-507, MCA, is amended to read:

"30-14-507. Redelivery of goods. (1) Except as provided by 30-14-506(4), within a reasonable time after a personal solicitation sale has been canceled or an offer to purchase revoked, the buyer upon demand shall tender to the seller any goods delivered by the seller pursuant to the sale but need not tender at any place other than ~~his~~ *the buyer's* residence. If the seller fails to demand possession of ~~such~~ *the* goods within a reasonable time after cancellation or revocation, the goods ~~shall~~ become the property of the buyer without obligation to pay for them. For the purpose of this section, 40 days ~~shall be~~ *is* presumed to be a reasonable time.

(2) The buyer shall take reasonable care of the goods in ~~his~~ *the buyer's* possession both before cancellation or revocation and for a reasonable time ~~thereafter~~ *after cancellation or revocation*, during which time the goods are

otherwise at the seller's risk, and ~~such~~ *the* goods must be returned in substantially the same condition as received."

Section 967. Section 30-14-1112, MCA, is amended to read:

"30-14-1112. Limitations on remedies. (1) A consumer may not bring an action under 30-14-1111 after the date on which ~~his~~ *the consumer's* obligations in connection with the agreement are scheduled to be finally performed.

(2) ~~No~~ A seller, lessor, or lender is *not* liable under 30-14-1111 if a good faith attempt is made to comply with requirements of 30-14-1103.

(3) Noncompliance with the requirements of 30-14-1103 does not make a consumer transaction void or voidable if it is otherwise legal, nor may a consumer raise noncompliance as a defense to an obligation to perform in connection with the transaction.

(4) In a class action brought under 30-14-1111, the seller, lessor, or lender is liable under 30-14-1111 for not more than \$10,000 plus actual damages.

(5) In any individual transaction, if there is more than one consumer who is party to a single-consumer contract, only one award of statutory damages may be made for that transaction.

(6) ~~No~~ A consumer may *not* bring an action under this part on a contract if the consumer was represented at the signing of the contract by an attorney.

(7) Punitive damages may not be assessed in an action brought under this part."

Section 968. Section 31-1-101, MCA, is amended to read:

"31-1-101. Loan of money — what constitutes. A loan of money is a contract by which ~~one~~ *a person* delivers a sum of money to another *person* and the ~~latter~~ *other person* agrees to return at a future time a sum equivalent to that which ~~he~~ *the other person* borrowed. A loan for mere use is governed by the law on loan for use."

Section 969. Section 31-1-108, MCA, is amended to read:

"31-1-108. Penalty for usury — action to recover excessive interest. (1) The taking, receiving, reserving, or charging a rate of interest greater than is allowed by 31-1-107 ~~shall~~ *must* be ~~deemed~~ *considered* a forfeiture of a sum double the amount of interest ~~which~~ *that* the note, bill, or other evidence of debt carries or ~~which~~ *that* has been agreed to be paid ~~thereon~~ *on the note, bill, or other evidence of debt*.

(2) When a greater rate of interest has been paid, the person by whom it has been paid, ~~his~~ *the person's* heirs, assigns, executors, or administrators may recover from the person, firm, or corporation taking, receiving, reserving, or charging ~~same~~ *interest* a sum double the amount of interest ~~so~~ paid, provided that ~~such~~ *the* action ~~shall~~ *must* be brought within 2 years after the payment of ~~said~~ *the* interest, and provided that, before any suit may be brought to recover ~~such~~ *the* usurious interest, the party bringing suit ~~must~~ *make* ~~makes~~ written demand for return of ~~said~~ *the* interest ~~so~~ paid."

Section 970. Section 31-1-212, MCA, is amended to read:

"31-1-212. Investigations and complaints. (1) The department may make those investigations it considers necessary, and to the extent necessary for this purpose, it may examine a licensee or any other person and may compel the production of relevant books, records, accounts, and documents.

(2) A retail buyer having reason to believe that this part relating to ~~his~~ *the buyer's* retail installment contract has been violated may file with the department a written complaint setting forth the details of the alleged violation, and the department, upon receipt of the complaint, may inspect the pertinent books, records, letters, and contracts of the licensee and retail seller involved."

Section 971. Section 31-1-222, MCA, is amended to read:

"31-1-222. Denial, suspension, or revocation of licenses. (1) Renewal of a license originally granted under 31-1-221 may be denied or a license may be suspended or revoked by the department on the following grounds:

- (a) material misstatement of fact in the application for license;
- (b) willful failure to comply with any provision of this part relating to retail installment contracts;
- (c) defrauding any retail buyer to the buyer's damage;
- (d) fraudulent misrepresentation, circumvention, or concealment by the licensee through subterfuge or device of any of the material particulars or the nature ~~thereof~~ *of those particulars* required to be stated or furnished to the retail buyer under this part.

(2) If a licensee is a partnership, association, or corporation, it is sufficient cause for the suspension or revocation of a license that any officer, director, or trustee of a licensed association or corporation or any member of a licensed partnership has acted or failed to act so as to provide cause for suspending or revoking a license to that party as an individual. Each licensee is responsible for the acts of ~~his~~ *the licensee's* employees while acting as ~~his~~ *the licensee's* agent; if the licensee after actual knowledge of the acts retained the benefits, proceeds, profits, or advantage accruing from the acts or otherwise ratified the acts.

(3) (a) A license may not be denied, suspended, or revoked except after hearing. The department shall give the licensee at least 10 days' written notice, in the form of an order to show cause, of the time and place of the hearing by certified mail addressed to the licensee's principal place of business in this state. The notice ~~shall~~ *must* contain the grounds of complaint against the licensee.

(b) An order suspending or revoking a license ~~shall~~ *must* recite the grounds upon which it is based. The order ~~shall~~ *must* be entered upon the records of the department and is not effective until 30 days after written notice has been forwarded by certified mail to the licensee at ~~his~~ *the licensee's* principal place of business.

(c) ~~No~~ *A* revocation, suspension, or surrender of a license ~~impairs~~ *does not impair* or ~~affects~~ *affect* the obligation of a lawful retail installment contract acquired previously by the licensee."

Section 972. Section 31-1-231, MCA, is amended to read:

"31-1-231. Requirements of retail installment contracts. (1) Each retail installment contract ~~shall~~ *must* be in writing, signed by both the buyer and the seller, and completed as to all essential provisions prior to the signing of the contract by the buyer. However, if a retail installment transaction is a sale of goods other than a motor vehicle where ~~no~~ title, lien, or other security interest is *not* retained or taken by the seller, then the retail installment contract ~~need is~~ *not required* to be contained in a single document. In ~~such~~ *that* case, if the contract is contained in more than one document, then one ~~such~~ document may be an original document executed by the retail buyer applicable to purchases of goods or services to be made by the retail buyer from time to time, and in ~~such~~ *that* case ~~such~~ *the* document, together with the sales slip, account book, or

other written statement relating to each purchase, ~~shall~~ *must* set forth all of the information required by this section and ~~shall constitute~~ *constitutes* the retail installment contract for each ~~such~~ purchase.

(2) The printed portion of the contract, other than instructions for completion, ~~shall~~ *must* be in at least 8-point type. The contract ~~shall~~ *must* contain the following notice in a size equal to at least 10-point bold type:

“1. Notice to the buyer. Do not sign this contract before you read it or if it contains any blank spaces.

2. You are entitled to an exact copy of the contract you sign.

3. Under the law, you have the right to pay off in advance the full amount due and to obtain a partial refund of the finance charge.”

(3) If the contract covers the sale of a motor vehicle, it ~~shall~~ *must* also contain, in a size equal to at least 10-point bold type, a specific statement that liability insurance coverage for bodily injury and property damage caused to others is not included if that is the case.

(4) The contract ~~shall~~ *must* contain the names of the seller and the buyer, the place of business of the seller, the residence or place of business of the buyer as specified by the buyer, and a description of the goods sold or services furnished or to be furnished and ~~shall~~ *must* clearly state and describe any collateral security taken for the buyer's obligation.

(5) The contract ~~shall~~ *must* contain the following items:

(a) the cash sale price of the goods or services;

(b) the amount of the buyer's downpayment and whether made in money or goods or partly in money and partly in goods, including a brief description of the goods traded in;

(c) the difference between items *in subsections* (5)(a) and (5)(b);

(d) the amount, if any, included for insurance and other benefits if a separate charge is made ~~therefor~~ *for insurance and other benefits*, specifying the types of coverage and benefits;

(e) the amount of official fees;

(f) the principal balance, which is the sum of items *in subsections* (5)(c) through (5)(e);

(g) the amount of the finance charge;

(h) the total amount of the time balance, stated as one sum in dollars and cents, which is the sum of items *in subsections* (5)(f) and (5)(g), payable in installments by the buyer to the seller;

(i) the number of installments;

(j) the amount of each installment; and

(k) the due date or period of installments.

(6) The items in subsection (5) need not be stated in the sequence or order set forth, and additional items may be included to explain the computations made in determining the amount to be paid by the buyer.

(7) ~~No~~ A retail installment contract may *not* be signed by any party ~~thereto~~ when it contains blank spaces to be filled in after it has been signed, except that if delivery of the goods is not made at the time of the execution of the contract, the identifying numbers or marks of the goods or similar information and the due date of the first installment may be inserted in the contract after its

execution. The buyer's written acknowledgment, conforming to the requirements of 31-1-232, of delivery of a copy of a contract ~~shall must~~, in any action or proceeding by or against a holder of the contract without knowledge to the contrary when ~~he~~ *the holder* purchases the contract, be conclusive proof:

(a) of ~~such~~ *the* delivery;

(b) that the contract when signed did not contain any blank spaces except as ~~herein~~ *provided in this subsection (7)*; and

(c) of compliance with 31-1-231 through 31-1-236.

(8) If a retail installment transaction is subject to the federal Truth in Lending Act, (15 U.S.C. 1601-1667e), the seller may, instead of complying with the requirements of subsections (2) through (7), comply with all ~~such~~ requirements of the federal law. A seller who complies with the federal requirements is subject only to the provisions of subsection (1) of this section."

Section 973. Section 31-1-232, MCA, is amended to read:

"31-1-232. Buyer's right of rescission. The seller shall deliver to the buyer or mail to ~~him~~ *the buyer* at ~~his~~ *the* address shown in the contract a copy of the contract, signed by the seller. Until the seller ~~does so~~ *delivers or mails the contract*, a buyer who has not received delivery of the goods or been furnished the services ~~shall have~~ *has* the right to rescind ~~his~~ *the* agreement and to receive a refund of all payments made and return of all goods traded in to the seller on account of or in contemplation of the contract or, if ~~such~~ *the* goods cannot be returned, the value ~~thereof~~ *of the goods*. Any acknowledgment by the buyer of delivery of a copy of the contract ~~shall must~~ be in a size equal to at least 10-point bold type and, if contained in the contract, ~~shall must~~ appear directly above the buyer's signature."

Section 974. Section 31-1-234, MCA, is amended to read:

"31-1-234. Transfer of equity — fee. A buyer may transfer ~~his~~ *the buyer's* equity in the goods at any time to another person upon agreement by the holder, but ~~in such event~~ the holder of the contract ~~shall be~~ *is* entitled to a transfer of equity fee ~~which shall~~ *that may* not exceed \$50."

Section 975. Section 31-1-236, MCA, is amended to read:

"31-1-236. Notice and receipt of payment. (1) Upon written request from the buyer, the holder of a retail installment contract shall give or forward to the buyer a written statement of the dates and amounts of payments and the total amount unpaid under ~~such~~ *the* contract. A buyer ~~shall must~~ be given a written receipt for any payment when made in cash.

(2) After payment of all sums for which the buyer is obligated under a contract and upon written demand made by the buyer, the holder shall deliver or mail to the buyer, at ~~his last known~~ *the buyer's last-known* address, one or more good and sufficient instruments to acknowledge payment in full and shall release all security in the goods or in any collateral security."

Section 976. Section 31-1-243, MCA, is amended to read:

"31-1-243. Refinancing retail installment contract. The holder of a contract, upon request by the buyer, may extend the scheduled due date of all or any part of any installment or installments or defer payment or payments or renew or restate the unpaid time balance of ~~such~~ *the* contract, the amount of the installments, and the time schedule ~~therefor~~ *for the installments* and may collect for ~~such~~ *the* extension, deferment, renewal, or restatement a refinance charge. The holder may compute the refinance charge on the unpaid time

balance to be extended, deferred, renewed, or restated by adding to ~~such the~~ unpaid time balance the cost for any insurance and other benefits incidental to the refinancing plus any accrued delinquency and collection charges, after deducting any refund ~~which that~~ may be due the buyer as for a prepayment pursuant to 31-1-242 at the rate of the finance charge specified in 31-1-241. If all unpaid installments are deferred for not more than 2 months, the holder may ~~at his election~~ charge and collect for ~~such the~~ deferral an amount equal to the difference between the refund required for prepayment in full under 31-1-242 as of the scheduled due date of the first deferred installment and the refund required for prepayment in full as of 1 month prior to ~~said the~~ date, times the number of months in which ~~no a~~ scheduled payment is *not* made.”

Section 977. Section 31-1-304, MCA, is amended to read:

“31-1-304. Restrictions upon assignment of wages or salary. ~~No~~ An assignment of ~~his or her~~ wages or salary by any employee or wage earner to any wage broker for ~~his or her the employee's or wage earner's~~ benefit ~~shall be is not~~ valid or enforceable, ~~nor shall any and an~~ employer or debtor *may not* recognize or honor ~~such the~~ assignment for any purpose whatever; unless ~~it be the assignment is~~ for a fixed and definite part or all of the wages or salary ~~theretofore earned.~~”

Section 978. Section 31-1-305, MCA, is amended to read:

“31-1-305. Interest on loans — amount and computation. ~~No~~ A wage broker ~~shall may not~~ ask, demand, or receive, either as compensation or interest or in any other manner, directly or indirectly, any compensation or interest for the use of money advanced or loaned by ~~him the wage broker~~ to any employee or wage earner in excess of 12% ~~per annum a year.~~ ~~Said~~ The compensation or rate of interest ~~shall must~~ be computed upon the amount actually advanced to and received by the employee or wage earner and ~~shall must~~ include all commissions or compensation whatsoever to the wage broker or any other person for making or procuring ~~said the~~ loan.”

Section 979. Section 31-1-402, MCA, is amended to read:

“31-1-402. Pawnbroker to keep register. (1) Every pawnbroker or junk dealer ~~must shall~~ keep a register, in which must be entered a description of every article pawned to ~~him~~ or purchased by ~~him the pawnbroker or junk dealer,~~ with:

- (a) the date of the pawning or purchasing;
 - (b) date when the article must be redeemed;
 - (c) the name of the person by whom the ~~same~~ *article* was pawned or by whom purchased; and
 - (d) the amount loaned ~~thereon on~~ or paid ~~therefor for~~ *the article*.
- (2) In case of the sale of any article pawned or pledged, the pawnbroker or junk dealer ~~must shall~~ enter upon ~~said the~~ register:
- (a) the name of the purchaser;
 - (b) the time of the sale; and
 - (c) the price paid ~~therefor for~~ *the article*.
- (3) The register must always be open to inspection and examination of any peace officer or other persons.”

Section 980. Section 31-1-502, MCA, is amended to read:

“31-1-502. Periodic statement to be furnished to debtor. (1) A seller may charge the late payment charge provided for in 31-1-501 only if ~~he~~ *the seller* promptly supplies the buyer with a statement as of the end of each monthly period, or other regular period agreed upon by the seller and the buyer, in which there is any unpaid balance. ~~Such~~ *The statement shall* ~~must~~ recite the following:

- (a) the percentage amount of the late payment charge that will be charged beginning 30 days after the obligation is incurred;
- (b) the unpaid balance at the beginning or end of the period;
- (c) an identification of any amounts debited to the buyer’s account during the period;
- (d) the payments made by the buyer to the seller during the period;
- (e) the amount of the late payment charge and also the percentage annual simple interest equivalent of ~~such~~ *the* amount; and
- (f) a legend to the effect that the buyer may at any time pay the total unpaid balance.

(2) The items need not be stated in the sequence or order set forth in subsection (1). Additional items may be included to explain the computations made in determining the amount to be paid by the buyer.”

Section 981. Section 31-2-102, MCA, is amended to read:

“31-2-102. Creditor defined. A creditor is ~~one~~ *a person* in whose favor an obligation exists, by reason of which ~~he~~ *the person* is or may become entitled to the payment of money.”

Section 982. Section 31-2-103, MCA, is amended to read:

“31-2-103. Contracts of debtor are valid. In the absence of fraud, every contract of a debtor is valid against all ~~his~~ *the debtor’s* creditors, existing or subsequent, who have not acquired a lien on the property affected by ~~such~~ *the* contract.”

Section 983. Section 31-2-104, MCA, is amended to read:

“31-2-104. Payments in preference. A debtor may pay one creditor in preference to another or may give to one creditor security for the payment of ~~his~~ *the creditor’s* demand in preference to another.”

Section 984. Section 31-2-105, MCA, is amended to read:

“31-2-105. Relative rights of different creditors. ~~Where~~ *When* a creditor is entitled to resort to each of several funds for the satisfaction of ~~his~~ *the creditor’s* claim and another person has an interest in or is entitled as a creditor to resort to some but not all of ~~them~~ *the funds*, the ~~latter~~ *the other person* may require the ~~former~~ *creditor* to seek satisfaction from those funds to which the ~~latter~~ *has no such other person does not have a* claim; so far as it can be done without impairing the right of the ~~former~~ *creditor* to complete satisfaction and without doing injustice to third persons.”

Section 985. Section 31-2-201, MCA, is amended to read:

“31-2-201. When debtor may execute assignment. An insolvent debtor may, in good faith, execute an assignment of property to one or more assignees in trust for the satisfaction of ~~his~~ *the debtor’s* creditors, in conformity ~~to~~ *with* the provisions of this part, subject, ~~however,~~ to the provisions of this code relative to trusts and fraudulent transfers and to the restrictions imposed by law upon assignments by special partnerships, corporations, or other specific classes or persons.”

Section 986. Section 31-2-202, MCA, is amended to read:

“31-2-202. Insolvency — what constitutes. A debtor is insolvent, within the meaning of this part, when ~~he~~ *the debtor* is unable to pay ~~his~~ *the debtor’s* debts from ~~his~~ *the debtor’s* own means as they become due.”

Section 987. Section 31-2-203, MCA, is amended to read:

“31-2-203. Certain transfers not affected. The provisions of this part do not prevent a person residing in another state or country from making there, in good faith and without intent to evade the laws of this state, a transfer of property situated within ~~it;~~ *the other state or territory.* ~~nor do they~~ *This part does not* affect the power of a person, although insolvent and within this state, to transfer property to a particular creditor for the purpose of paying or securing the whole or a part of a debt owing to ~~such~~ *the* creditor, whether in ~~his~~ *the person’s* own right or otherwise.”

Section 988. Section 31-2-204, MCA, is amended to read:

“31-2-204. What debts may be secured. An assignment for the benefit of creditors may provide for any subsisting liability of the assignor ~~which he~~ *that the assignor* might lawfully pay, whether absolute or contingent.”

Section 989. Section 31-2-205, MCA, is amended to read:

“31-2-205. Preference given for wages. In all assignments of property made by any person, association, partnership, chartered company, or corporation to trustees or assignees on account of inability of the assignor at the time of the assignment to pay ~~his~~ *the assignor’s* debts or in proceedings in insolvency, the wages of the miners, mechanics, ~~salesmen~~ *salespersons*, servants, clerks, or laborers employed by ~~such~~ *the* assignor for services rendered within 4 months immediately previous to ~~such~~ *the* assignment, not to exceed the actual amount owed for each person, are preferred claims and must be paid by ~~such~~ *the* trustees or assignees before any other creditor of ~~such~~ *the* assignor.”

Section 990. Section 31-2-209, MCA, is amended to read:

“31-2-209. Assignment — when void. An assignment for the benefit of creditors is void against any creditor of the assignor not assenting ~~thereto~~ *to the assignment* in the following cases:

- (1) if ~~it~~ *the assignment* gives a preference dependent upon any condition or contingency or with any power of revocation reserved;
- (2) if ~~it~~ *the assignment* tends to coerce any creditor to release or compromise ~~his~~ *the creditor’s* demand;
- (3) if ~~it~~ *the assignment* provides for the payment of any claim known by the assignor to be false or fraudulent or for the payment of more upon any claim than is known to be justly due from the assignor;
- (4) if ~~it~~ *the assignment* reserves any interest in the assigned property or in any part ~~thereof~~ *of the property* to the assignor or for ~~his~~ *the assignor’s* benefit, before all existing debts are paid;
- (5) if ~~it~~ *the assignment* confers upon the assignee any power ~~which that~~, if exercised, might prevent or delay the immediate conversion of the assigned property to the purposes of the trust;
- (6) if ~~it~~ *the assignment* exempts ~~him~~ *the assignor* from liability for neglect of duty or misconduct;
- (7) if ~~it~~ *the assignment* violates 72-34-105.”

Section 991. Section 31-2-210, MCA, is amended to read:

“31-2-210. The instrument of assignment. (1) An assignment for the benefit of creditors must be in writing and subscribed by the assignor or by ~~his~~ *the assignor’s agent thereto* authorized by writing.

(2) ~~It~~ *The assignment* must be acknowledged or proved and certified in the mode prescribed by the law on recording transfers of real property and recorded as required by 31-2-215 and 31-2-216, but recording in one county constitutes a compliance with ~~the last mentioned sections~~ *31-2-215 and 31-2-216*.

(3) The assignment must be accompanied by the affidavit of the assignor and assignee that ~~such~~ *the* assignment is made in good faith, for the benefit of the creditors of the assignor, and without any design to hinder, delay, or defraud ~~such~~ *the* creditors.

(4) The assent of the assignee, subscribed and acknowledged by ~~him~~ *the assignee*, must appear in writing ~~embraced~~ *contained* in or at the end of or endorsed upon the assignment before the ~~same~~ *assignment* is recorded and, if separate from the assignment, must be duly acknowledged.”

Section 992. Section 31-2-212, MCA, is amended to read:

“31-2-212. Assignee takes subject to rights of third parties. An assignee for the benefit of creditors is not to be regarded as a purchaser for value and has no greater rights than ~~his~~ *the* assignor has in respect to things in action transferred by the assignment.”

Section 993. Section 31-2-214, MCA, is amended to read:

“31-2-214. Verification of assignor’s books and papers. (1) An affidavit must be made by every person executing an assignment for the benefit of creditors, to be annexed to and filed with the inventory mentioned in 31-2-213, to the effect that the ~~same~~ *affidavit* is in all respects just and true; according to the best of ~~such~~ *the* assignor’s knowledge and belief.

(2) (a) ~~In case such~~ *If the assignor shall omit omits, neglect neglects, or refuse refuses* to make and deliver ~~such~~ *the* inventory within the *required* 20 days ~~required~~, the assignee named in ~~such~~ *the* assignment shall, within 30 days after the *required* date ~~thereof~~, cause to be made and delivered to the judge of the district court of the county where ~~such~~ *the* assignment is recorded ~~such~~ *the* inventory as ~~above required~~ *described in subsection (1)*, insofar as ~~he~~ *the assignee* can.

(b) For ~~such~~ *the* purpose of *subsection (2)(a)*, ~~said~~ *the* judge shall, at any time upon the application of ~~such~~ *the* assignee, compel by order ~~such~~ *the* delinquent assignor and any other person to appear before ~~him~~ *the judge* and disclose, upon oath, any knowledge or information ~~he~~ *the assignor or person* may possess necessary to the proper making of ~~such~~ *the* inventory.

(c) The assignee shall verify the inventory ~~so~~ made by ~~him~~ *the assignee* to the effect that the ~~same~~ *inventory* is in all respects just and true to the best of ~~his~~ *the assignee’s* knowledge and belief.

(3) ~~In case~~ *If* the assignee ~~shall be~~ *is* unable to make and file ~~such~~ *the* inventory within 30 days, the district judge may, upon application upon oath showing ~~such~~ *the* inability, allow ~~him~~ *such the assignee* further time as ~~shall be~~ necessary, not exceeding 60 days.

(4) If the assignee fails to make and file ~~such~~ *the* inventory within ~~said~~ 30 days or ~~such~~ *the* further time as *that* may be allowed, the district judge shall require, by order, the assignee ~~forthwith~~ to appear before ~~him~~ *the judge* and

show cause why ~~he~~ *the assignee* should not be removed. Any person interested in the trust estate may apply for ~~such~~ *the* order and demand ~~such~~ *the* removal.

(5) The books and papers of ~~such~~ *the* delinquent assignor ~~shall~~ *must* at all times be subject to the inspection and examination of any creditor. The district judge is authorized by order to require ~~such~~ *the* debtor or assignee to allow ~~such~~ *the* inspection or examination. Disobedience to ~~such~~ *an inspection* order is a contempt, and obedience to ~~such~~ *the* order may be enforced by attachment.

(6) The inventory ~~shall~~ *must* be filed by ~~said~~ *the* district judge in the office of the clerk of ~~said~~ *the* county in which ~~said~~ *the* assignment is recorded.”

Section 994. Section 31-2-215, MCA, is amended to read:

“31-2-215. Recording assignment and filing inventory. An assignment for the benefit of creditors must be recorded and the inventory required by 31-2-213 *must be* filed with the county clerk of the county in which the assignor resided at the date of the assignment or, if ~~he~~ *the assignor* did not ~~then~~ reside in this state *at that time*, with the clerk of the county in which ~~his~~ *the assignor’s* principal place of business was ~~then~~ situated or, if ~~he~~ *the assignor* ~~had~~ *did* not ~~then~~ have a residence or place of business in this state, with the clerk of the county in which the principal part of the assigned property was ~~then~~ situated *at the time of the assignment.*”

Section 995. Section 31-2-220, MCA, is amended to read:

“31-2-220. Management, disposal, and conversion of estate. (1) Until the inventory and affidavit required by 31-2-213 and 31-2-214 have been made and filed and the assignee has given bond as required by 31-2-219, the assignee for the benefit of creditors has no authority to dispose of the estate or convert it to the purposes of the trust.

(2) ~~But in case~~ *However, if* the assignor ~~shall~~ *fail* fails to present ~~such~~ *the* inventory within the *required* 20 days ~~required~~, then the assignee, before the 10 days ~~shall~~ have elapsed, may apply to ~~said~~ *the* district judge by verified petition for leave to file a provisional bond until ~~such~~ *the* time ~~as~~ *he* that the assignor may be able to present the inventory as ~~herein~~ provided *in this section.*

(3) The district judge shall, in the case ~~provided~~ *described* in 31-2-214, and may also at any time on the petition of one or more creditors showing misconduct or incompetency of the assignee or on petition of the assignee ~~himself~~, showing sufficient reason ~~therefor~~, and after due notice of not less than 5 days to the assignor, assignee, surety, and ~~such~~ other persons ~~as~~ *such* that the judge may prescribe:

(a) remove or discharge the assignee and appoint one or more *assignees* in ~~his~~ *the former assignee’s* place; and

(b) order an accounting of the assignee ~~so~~ removed or discharged.

(4) The district judge may:

(a) enjoin ~~said~~ *the* assignee from interfering with the assignor’s estate and make provision by order for the safe custody of the ~~same~~ *estate*; and

(b) enforce obedience to ~~such~~ *the* injunction and orders by attachment.

(5) Upon ~~his~~ discharge, upon ~~his own~~ *the former assignee’s* application, ~~such~~ *the former* assignee’s bond ~~shall~~ *must* be canceled and discharged.

(6) The new assignee shall give a bond, ~~to~~ *which* ~~must~~ be approved as required.

(7) The district judge ~~shall~~ *have* has power by order to:

(a) require or allow any inventory or schedule filed to be corrected or amended;

(b) require and compel, from time to time, supplemental inventories or schedules to be made and filed within ~~such the time as he shall prescribe that the judge prescribes~~; and

(c) enforce obedience to ~~such the~~ orders by attachment.”

Section 996. Section 31-2-221, MCA, is amended to read:

“31-2-221. Notice to creditors to present claims. (1) The judge may, upon the petition of the assignee, authorize ~~him the assignee~~ to advertise for creditors to present to ~~him the assignee~~ their claims, with the vouchers ~~therefor for the claims~~, duly verified, on or before a day to be specified in ~~such the~~ advertisement, not less than 10 days from the publication ~~thereof, which The~~ advertisement or notice ~~shall must~~ be published in one newspaper, to be designated by the judge as most likely to give notice to the persons to be served, at least once and ~~such any~~ additional times ~~as that~~ the judge may direct. The last publication ~~shall must~~ be at least 1 week prior to the date specified.

(2) ~~Said The~~ verified claims of creditors ~~shall must~~ set forth whether any and, if so, what securities are held for ~~such the~~ claims and whether any and, if so, what payments have been made ~~thereon on the claims~~.”

Section 997. Section 31-2-224, MCA, is amended to read:

“31-2-224. Power of court. The court ~~shall have~~ has power to:

(1) authorize the business of the assignor to be conducted for a limited period by assignee, if necessary in the best interests of the estate, and allow additional compensation for ~~such the~~ services;

(2) reopen estates when it appears they were closed before being fully administered and for that purpose to appoint another assignee who will take title to the property not administered;

(3) direct upon the final settlement of the estate that the assignee pay to the lawful creditors their proportionate dividend, notwithstanding ~~that~~ their claim has not been presented in accordance with the notice sent out by the assignee, provided that 4 months have not elapsed since the first publication of notice to creditors;

(4) approve the final report and discharge the assignee and ~~his the assignee's~~ surety from all further liabilities upon matters included in the accounting to creditors appearing and to creditors not having appeared after due citation or not having presented their claims after due advertisement.”

Section 998. Section 31-2-225, MCA, is amended to read:

“31-2-225. When further security required. The district judge may, upon ~~his the judge's~~ own motion or upon the application of any party in interest and on ~~such notice as he that the judge~~ may direct to be given to the assignor, assignee, and surety, require further security to be given whenever, in ~~his the judge's~~ judgment, the security afforded by the bond on file is not adequate.”

Section 999. Section 31-2-229, MCA, is amended to read:

“31-2-229. Assignees protected for acts done in good faith. An assignee for the benefit of creditors ~~is may~~ not ~~to~~ be held liable for ~~his~~ acts, done in good faith in the execution of the trust; merely for the reason that the assignment is afterwards adjudged void.”

Section 1000. Section 31-2-329, MCA, is amended to read:

“31-2-329. Insolvency. (1) A debtor is insolvent if the sum of the debtor’s debts is greater than all of the debtor’s property at a fair valuation and the debtor is generally not paying ~~his~~ *the debtor’s* debts as they become due.

(2) Property under this section does not include property that has been transferred, concealed, or removed with intent to hinder, delay, or defraud creditors or that has been transferred in a manner making the transfer voidable under this part.”

Section 1001. Section 31-2-333, MCA, is amended to read:

“31-2-333. Transfers fraudulent as to present and future creditors.

(1) A transfer made or obligation incurred by a debtor is fraudulent as to a creditor, whether the creditor’s claim arose before or after the transfer was made or the obligation was incurred, if the debtor made the transfer or incurred the obligation:

(a) with actual intent to hinder, delay, or defraud any creditor of the debtor;
or

(b) without receiving a reasonably equivalent value in exchange for the transfer or obligation and the debtor:

(i) was engaged or was about to engage in a business or a transaction for which the remaining assets of the debtor were unreasonably small in relation to the business or transaction; or

(ii) intended to incur, or believed or reasonably should have believed that ~~he~~ *the debtor* would incur, debts beyond ~~his~~ *the debtor’s* ability to pay as they became due.

(2) In determining actual intent under subsection (1)(a), consideration may be given, among other factors, to whether:

(a) the transfer or obligation was to an insider;

(b) the debtor retained possession or control of the property transferred after the transfer;

(c) the transfer or obligation was disclosed or concealed;

(d) before the transfer was made or obligation was incurred, the debtor had been sued or threatened with suit;

(e) the transfer was of substantially all the debtor’s assets;

(f) the debtor absconded;

(g) the debtor removed or concealed assets;

(h) the value of the consideration received by the debtor was reasonably equivalent to the value of the asset transferred or the amount of the obligation incurred;

(i) the debtor was insolvent or became insolvent shortly after the transfer was made or the obligation was incurred;

(j) the transfer occurred shortly before or shortly after a substantial debt was incurred; or

(k) the debtor transferred the essential assets of the business to a lienor who transferred the assets to an insider of the debtor.”

Section 1002. Section 31-3-102, MCA, is amended to read:

“31-3-102. Definitions and rules of construction. (1) Definitions and rules of construction set forth in this section are applicable for the purposes of this part.

(2) The term “consumer” means an individual.

(3) (a) The term “consumer report” means any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer’s credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living ~~which~~ *that* is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer’s eligibility for:

(i) credit or insurance to be used primarily for personal, family, or household purposes;

(ii) employment purposes; or

(iii) other purposes authorized under 31-3-111.

(b) The term does not include:

(i) any report containing information solely as to transactions or experiences between the consumer and the person making the report;

(ii) any authorization or approval of a specific extension of credit, directly or indirectly, by the issuer of a credit card or similar device; or

(iii) any report in which a person who has been requested by a third party to make a specific extension of credit, directly or indirectly, to a consumer conveys ~~his~~ *the consumer’s* decision with respect to ~~such~~ *the* request; if the third party advises the consumer of the name and address of the person to whom the request was made and ~~such~~ *that* person makes the disclosures to the consumer required under 31-3-131.

(4) The term “consumer reporting agency” means any person ~~which~~ *that*, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties.

(5) The term “employment purposes”, when used in connection with a consumer report, means a report used for the purpose of evaluating a consumer for employment, promotion, reassignment, or retention as an employee.

(6) The term “file”, when used in connection with information on any consumer, means all of the information on that consumer recorded and retained by a consumer reporting agency regardless of how the information is stored.

(7) The term “investigative consumer report” means a consumer report or portion ~~thereof~~ *of a consumer report* in which information on a consumer’s character, general reputation, personal characteristics, or mode of living is obtained through personal interviews with neighbors, friends, or associates of the consumer reported on or with others with whom ~~he~~ *the consumer* is acquainted or who may have knowledge concerning any ~~such~~ items of information. However, ~~such~~ *the* information ~~shall~~ *may* not include specific factual information on a consumer’s credit record obtained directly from a creditor of the consumer or from a consumer reporting agency when ~~such~~ *the* information was obtained directly from a creditor of the consumer or from the consumer.

(8) The term “medical information” means information or records obtained, with the consent of the individual to whom it relates, from licensed physicians or medical practitioners, hospitals, clinics, or other medical or medically related facilities.

(9) The term “person” means any individual, partnership, corporation, trust, estate, cooperative, association, government or governmental subdivision or agency, or other entity.”

Section 1003. Section 31-3-113, MCA, is amended to read:

“31-3-113. Disclosure of investigative consumer reports. (1) A person may not procure or cause to be prepared or distribute an investigative consumer report on any consumer unless:

(a) it is clearly and accurately disclosed to the consumer that an investigative consumer report, including information as to ~~his~~ *the consumer’s* character, general reputation, personal characteristics, and mode of living, whichever are applicable, may be made and ~~such~~ *the* disclosure is made in a writing mailed or otherwise delivered to the consumer not later than 3 days after the date on which the report was first requested and includes a statement informing the consumer of ~~his~~ *the* right to request the additional disclosures provided for under subsection (2) ~~of this section~~; or

(b) the report is to be used for employment purposes for which the consumer applied.

(2) Any person who procures or causes to be prepared an investigative consumer report on any consumer shall, upon written request made by the consumer within a reasonable period of time after the receipt by ~~him~~ *the person* of the disclosure required by subsection (1)(a), make a complete and accurate disclosure of the nature, scope, and substance of the investigation requested. This disclosure ~~shall~~ *must* be made in a writing ~~and must be~~ mailed or otherwise delivered to the consumer not later than 5 days after the date on which the request for ~~such~~ *the* disclosure was received from the consumer or ~~such~~ *the* report was first requested, whichever is ~~the latter~~ *later*.

(3) ~~No~~ A person may *not* be held liable for any violation of subsection (1) or (2) ~~of this section~~ if ~~he~~ *the person* shows by a preponderance of the evidence that at the time of the violation ~~he~~ *the person* maintained reasonable procedures to ~~assure~~ *ensure* compliance with subsection (1) or (2).”

Section 1004. Section 31-3-114, MCA, is amended to read:

“31-3-114. Compliance procedures. (1) Every consumer reporting agency shall maintain reasonable procedures designed to avoid violations of 31-3-112 and 31-3-113 and to limit the furnishing of consumer reports to the purposes listed under 31-3-111. These procedures ~~shall~~ *must* require that prospective users of the information identify themselves, certify the purposes for which the information is sought, and certify that the information will be used for no other purpose. Every consumer reporting agency shall make a reasonable effort to verify the identity of a new prospective user and the uses certified by ~~such~~ *the* prospective user prior to furnishing ~~such~~ *the* user a consumer report. ~~No~~ A consumer reporting agency may *not* furnish a consumer report to any person if it has reasonable grounds for believing that the consumer report will not be used for a purpose listed in 31-3-111.

(2) Whenever a consumer reporting agency prepares a consumer report, it shall follow reasonable procedures to assure maximum possible accuracy of the information concerning the individual about whom the report relates, and it shall maintain a record of all persons using the information and the source of each piece of information.

(3) When gathering information, a consumer reporting agency shall notify any person who furnishes information that ~~he~~ *the person* is liable to suit if the

information is false or furnished with malice or willful intent to injure the consumer.”

Section 1005. Section 31-3-121, MCA, is amended to read:

“31-3-121. Disclosures to governmental agencies. Notwithstanding the provisions of 31-3-111, a consumer reporting agency may furnish identifying information respecting any consumer, limited to ~~his~~ *the consumer’s* name, address, former addresses, places of employment, or former places of employment, to a governmental agency.”

Section 1006. Section 31-3-123, MCA, is amended to read:

“31-3-123. Conditions of disclosure to consumer. (1) A consumer reporting agency shall make the disclosures required under 31-3-122 during normal business hours and on reasonable notice.

(2) The disclosures required under 31-3-122 ~~shall~~ *must* be made to the consumer:

(a) in person if ~~he~~ *the consumer* appears in person and furnishes proper identification; or

(b) by telephone if ~~he~~ *the consumer* has made a written request, with proper identification for telephone disclosure, and the toll charge, if any, for the telephone call is prepaid by or charged directly to the consumer.

(3) Any consumer reporting agency shall provide trained personnel to explain to the consumer any information furnished to ~~him~~ *the consumer* pursuant to 31-3-122.

(4) The consumer ~~shall~~ *must* be permitted to be accompanied by one other person of ~~his~~ *the consumer’s* choosing, who shall furnish reasonable identification. A consumer reporting agency may require the consumer to furnish a written statement granting permission to the consumer reporting agency to discuss the consumer’s file in ~~such~~ *the other* person’s presence.”

Section 1007. Section 31-3-131, MCA, is amended to read:

“31-3-131. Requirements on users of consumer reports. (1) Whenever credit or insurance for personal, family, or household purposes or employment involving a consumer is denied or the charge for ~~such~~ *the* credit or insurance is increased either wholly or partly because of information contained in a consumer report from a consumer reporting agency, the user of the consumer report shall ~~se~~ advise the consumer against whom ~~such~~ *the* adverse action has been taken and supply the name and address of the consumer reporting agency making the report.

(2) Whenever credit for personal, family, or household purposes involving a consumer is denied or the charge for ~~such~~ *the* credit is increased either wholly or partly because of information obtained from a person other than a consumer reporting agency bearing upon the consumer’s credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living, the user of ~~such~~ *the* information shall, within a reasonable period of time, upon the consumer’s written request for the reasons for ~~such~~ *the* adverse action received within 60 days after the consumer learned of ~~such~~ *the* adverse action, disclose the nature of the information to the consumer. The user of ~~such~~ *the* information shall clearly and accurately disclose to the consumer ~~his~~ *the* right to make ~~such~~ *the* written request at the time ~~such~~ *the* adverse action is communicated to the consumer.

(3) ~~No~~ A person may *not* be held liable for any violation of this section if ~~he~~ *the person* shows by a preponderance of the evidence that at the time of the alleged violation ~~he~~ *the person* maintained reasonable procedures to ~~assure~~ *ensure* compliance with the provisions of subsections (1) and (2)."

Section 1008. Section 32-1-206, MCA, is amended to read:

"32-1-206. Disqualification of board member — when. ~~Any~~ A board member ~~shall disqualify himself~~ *must be disqualified* from acting upon any matter in which ~~he~~ *the member* or any bank or financial institution in which ~~he~~ *the member* has a direct or indirect interest is involved, competitively or otherwise."

Section 1009. Section 32-1-403, MCA, is amended to read:

"32-1-403. Penalty for transacting business without certificate. (1) A person, firm, company, partnership, or corporation, domestic or foreign, advertising that ~~he~~ *the person* or ~~it~~ *entity* is receiving or accepting money or savings and issuing notes or certificates of deposit for them or advertising that ~~he~~ *the person* or ~~it~~ *entity* is transacting the business of a bank, savings bank, or trust company or making use of an office sign at the place where the business is transacted, having on it an artificial or corporate name or other words indicating that the place or office is the place or office of a bank, savings bank, or trust company or that deposits are received there or payments made on check or that interest is paid on deposits or that certificates of deposit, either with or without interest, are being issued or that any other form of banking business is transacted, and a person, firm, company, partnership, or corporation, domestic or foreign, using or circulating any letterheads, billheads, blank notes, blank receipts, certificates, or circulars or any written or printed or partly written and partly printed paper whatever, having on it an artificial or corporate name or advertising that the business is the business of a bank, savings bank, or trust company, must have the proper capital stock paid in and set aside for the purpose of transacting that business and must have received from the department, as provided for in this chapter, a certificate to do a banking business.

(2) A person, firm, company, partnership, or corporation, domestic or foreign, violating any provision of this section shall forfeit to the state \$100 a day for every day or part of a day during which the violation continues.

(3) Upon action brought by the department, the court may issue an injunction restraining a person, firm, company, partnership, or corporation from further violating any provision of this section and may enter a further order or decree as equity and justice require.

(4) A person, firm, company, partnership, or corporation doing any of the things or transacting any of the business defined in this section ~~must~~ *shall* transact that business according to the provisions of the Bank Act, and the department may examine the accounts, books, papers, cash, and credits of that person, firm, company, partnership, or corporation, domestic or foreign, in order to ascertain whether that person, firm, company, partnership, or corporation has violated or is violating any provisions of this section."

Section 1010. Section 32-1-421, MCA, is amended to read:

"32-1-421. Investment of capital of savings banks. (1) The term "savings bank" as used in this section means any bank organized to do the business specified in 32-1-106.

(2) (a) At least one-half of the paid-in capital of a savings bank and one-half of the whole amount deposited in the savings bank must be invested in bonds or other securities of the United States or any of the states of the United States or any county, city, town, or school district of this state on which interest is regularly payable or federal land bank bonds or loaned on unencumbered real estate worth at least double the amount to be secured.

(b) The remainder may be invested in bonds or securities listed in subsection (2)(a) or in approved personal securities. However, a loan may not be made on personal securities of less than two responsible persons or collateral security to be approved by the directors, and a loan upon personal security may not be made to any person or partnership to an amount exceeding \$10,000.

(c) Investments in United States government obligations permitted under subsection (2)(a) or (2)(b) may be made either directly or in the form of securities of or other interests in an open-end or closed-end management type investment company or investment trust registered under the Investment Company Act of 1940, (15 U.S.C. 80a-1 through 80a-64), ~~as amended~~, if:

(i) the portfolio of the investment company or investment trust is limited to United States government obligations and repurchase agreements fully collateralized by United States government obligations; and

(ii) the investment company or investment trust takes delivery of the collateral for any repurchase agreement, either directly or through an authorized custodian.

(3) A president, vice president, director, or other officer or ~~servant~~ *employee* of a savings bank may not directly or indirectly borrow any of the funds of the bank or of its deposits or in any manner use the ~~same funds or deposits in his the~~ *person's* private affairs or business. A director may not receive any pay, salary, or emolument until the interest ~~as that~~ the directors have determined to allow depositors has been provided for in accordance with the regulations of the corporation.

(4) The real estate that the corporation may lawfully purchase, hold, and convey is the real estate that is:

(a) necessary for the proper transaction of its business, not exceeding in value \$50,000;

(b) mortgaged to it in good faith for money loaned pursuant to this chapter or given as security for money loaned or advanced;

(c) purchased at the sale on judgment or decree obtained or rendered on money loaned or advanced.

(5) Savings banks organized under the provisions of this chapter may not purchase, hold, or convey real estate in any other case or for any other purpose than is specified in subsection (4) and may not buy or sell any personal property, except ~~such as personal property that~~ *may be necessary for the proper transaction of its business or as that* may have been pledged, mortgaged, or assigned to it to secure money loaned or advanced."

Section 1011. Section 32-1-451, MCA, is amended to read:

"32-1-451. Statement of capital, resources, and liabilities. ~~No A bank or officer thereof shall of a bank may not~~ advertise in any manner or publish any statement of the capital authorized or subscribed unless ~~it the bank or he officer~~ advertises and publishes in connection ~~therewith~~ *with the advertisement* the amount of capital actually paid up. ~~No A bank shall may not~~ publish a statement of its resources or liabilities in connection with those of any other bank; unless

~~such the~~ statement ~~shall show~~ *shows* the resources and liabilities of each bank separately.”

Section 1012. Section 32-1-463, MCA, is amended to read:

“32-1-463. Sale of securities by officer to bank. (1) ~~No~~ A director, officer, employee, or controlling stockholder of any bank ~~shall may not~~, directly or indirectly, for ~~his own~~ *the person’s* account, for ~~himself~~ *the person*, or as the partner or agent of others sell or transfer or cause to be sold or transferred to the bank of which ~~he~~ *the person* is a director, officer, employee, or controlling stockholder any note or bond secured by any mortgage or trust deed on real estate or any contract arising from the sale of real estate, in which ~~such the~~ director, officer, employee, or controlling stockholder is personally or financially interested, without a vote of the majority of the board of ~~such the~~ bank, duly noted upon the minutes of the meeting at which ~~such the~~ transaction is decided upon; ~~which~~ *The* minutes ~~shall must~~ be signed by a majority of the board.

(2) Any director, officer, employee, or controlling stockholder of any bank who knowingly violates or consents to the violation of this provision ~~shall be~~ *is* guilty of a felony.”

Section 1013. Section 32-1-466, MCA, is amended to read:

“32-1-466. Purchase of obligation of bank by officer. ~~No~~ A director, officer, agent, or other employee of any bank ~~shall may not~~, directly or indirectly, for ~~his~~ *the person’s* own personal benefit, purchase, ~~or~~ sell, or be interested in the purchase or sale of any obligation of ~~said the~~ bank or of any of the assets of ~~said the~~ bank for a sum less than ~~shall appear~~ *the amount that appears* upon the face of the obligation or obligations ~~so~~ purchased or sold. Every person violating the provisions of this section shall, in addition to the general penalties of this chapter, forfeit to the state twice the nominal amount or face value of ~~such the~~ obligations or assets ~~so~~ purchased or sold.”

Section 1014. Section 32-1-471, MCA, is amended to read:

“32-1-471. Penalty for unlawful hypothecation of property received. Any officer or employee of any bank doing business in this state who, except in the manner authorized by law or the contract of the parties, ~~hypothecates,~~ pledges, or in any way alienates any notes, stocks, bonds, mortgages, securities, or any other property coming into ~~his~~ *the officer’s or employee’s* hands or into the possession of the bank as collateral, for safekeeping or in any other manner, and to which the bank has not acquired full title, is guilty of theft and upon conviction ~~thereof~~ shall be punished as for other felonies.”

Section 1015. Section 32-1-474, MCA, is amended to read:

“32-1-474. False statement to obtain loan. ~~Whoever shall make~~ any *A person who makes* a statement, knowing it to be false, for the purpose of obtaining for ~~himself~~ *for that person* or for any other person, firm, corporation, or association a loan of money from any bank or for the purpose of gaining an extension of time ~~of~~ *for the* payment of any debt due ~~such the~~ bank shall be punished by a fine of not more than \$1,000 or by imprisonment in the county jail for not more than 1 year, or both.”

Section 1016. Section 32-1-506, MCA, is amended to read:

“32-1-506. Assessment on capital stock to make good impairment. (1) When the department determines that an impairment of capital exists in a bank, it may, ~~in its discretion,~~ notify the board of directors of the bank by written notice that the impairment exists, stating the amount ~~thereof~~ *of the impairment*

in dollars and percentage of the capital stock, and it may, ~~in its discretion,~~ order the board to make good the impairment within 90 days from date of the notice.

(2) The board of directors shall, upon receipt of notice, convene and pass a resolution reciting the receipt of the notice of impairment and calling a special meeting of the stockholders of the bank in the manner provided in their bylaws.

(3) The stockholders at the meeting shall pass a resolution reciting the facts of receipt of notice from the department, notice of impairment, and notice of meeting and assessing themselves by assessing the stock of record. ~~payment~~ *Payment* of which the assessment must be made within the time limit specified by the department ~~as provided~~ in notice of impairment.

(4) If there is any stock remaining on which the assessment is not paid as provided in this section, ~~it the stock~~ or a part of it ~~as the stock that~~ is necessary to pay the assessment shall *must* be sold by the board of directors, acting through the cashier or secretary of the bank, at public or private sale, as appears best for all concerned, not less than 30 days after the day fixed for payment of assessment. Notice of the time and place of the sale shall *must* be given by certified ~~or registered~~ mail to the stockholders by the board through its cashier or secretary at least 10 days prior to the sale. A sale of stock as provided in this section causes an absolute cancellation of the outstanding certificate or certificates evidencing the stock ~~so~~ sold and makes them void in the hands of the stockholder or ~~his the stockholder's~~ assigns or pledgees. A new certificate shall *must* be issued by the bank to the purchaser for the number of shares purchased, and a new certificate *must be* issued to the stockholder of record and delivered to ~~him the stockholder~~ or any pledgee or assignee of the stock for the remaining shares, if any. The record of the original certificate sold shall *must* be marked canceled on the books of the bank, and that record is prima facie evidence of the regularity of the proceedings for the sale of the stock.

(5) If a bank fails to make good its capital impairment upon demand of the department, as provided in this section, the department may immediately take charge of that bank and proceed to liquidate it as in *the* case of insolvency.

(6) If the stock does not sell for enough to pay the assessment on it, the board of directors may sue in the name of the corporation to collect the deficiency from the stockholder of record whose stock has been sold for the assessment.”

Section 1017. Section 32-1-510, MCA, is amended to read:

“32-1-510. Penalty for maliciously declaring bank insolvent. If, as a result of malice or for personal gain, an employee or agent of the department declares a bank insolvent, ~~he the employee or agent~~ is subject to a fine not exceeding \$1,000 or imprisonment in the county jail not exceeding 1 year, or both, and shall forfeit ~~his the employee's or agent's~~ office.”

Section 1018. Section 32-1-535, MCA, is amended to read:

“32-1-535. Claims — partial payments — assignments. (1) The department need not await the expiration of the time allowed for filing claims, as fixed in the notice to the creditors, for the payment of dividends. ~~It The department~~ may, ~~in its discretion and~~ if under the circumstances of the particular case it considers it expedient and safe, at any time after taking possession of the bank and prior to the expiration of the period fixed for filing of claims; ~~and~~ if it has on hand in cash sufficient funds ~~over and above in excess of~~ the expenses of liquidation, make pro rata distribution to any class of creditors ~~next~~ entitled to distribution; in the order of priority fixed in this chapter. ~~making that~~ *The department shall make a payment to the creditors as they appear on the books and records of the bank and after determining the priority*

and basing its apportionment on the amount shown to be due by the books and records.

(2) At any time after the expiration of the date fixed for the presentation of claims against the bank and from time to time ~~thereafter~~ *after that date* when, in its discretion, there are sufficient funds available, the department shall, after making proper provisions for the payment of expenses of liquidation, declare and pay dividends to all creditors of the bank pro rata in the order of their priority. If, after the time fixed for presentation of claims against the bank has expired, it appears that a person, prior to the expiration of the period or at any other time, has been paid more than the pro rata amount due ~~him~~ *the person* as compared with the amounts ~~then~~ *paid to* other creditors, nothing more may be paid *to* that creditor until the payment made *to* other creditors places them on equal footing.

(3) In calculating dividends, all disputed claims and deposits ~~shall~~ *must* be taken into account and the amount of dividends upon the disputed claims or deposits ~~shall~~ *must* be held by the department until the validity of those claims or deposits has been finally determined.

(4) Claims against a bank in process of liquidation may be assigned in whole or in part subject to the approval of the department. Assignments of claims are binding upon the department only after they have been filed and allowed by the department and are subject to the payment of the assignor's liabilities to the bank. An assignment ~~shall~~ *must* be made by filing written notice, signed by the original claimant, with the department or person in charge of the bank. ~~No assigned~~ *Assigned* claims may *not* be offset against obligations due the bank. A check or draft drawn against a bank closed or taken possession of by the department, whether issued before or after closing, may not be recognized as a claim against the bank or as an assignment of any amount, whether protested or not protested."

Section 1019. Section 32-1-807, MCA, is amended to read:

"32-1-807. Transfer of fiduciary relationships from affiliated banks to subsidiary trust companies. (1) Upon any subsidiary trust company being duly authorized to commence the business for which it is organized, ~~such~~ *the* subsidiary trust company may file its verified application in the district court of the county in which its main office is located requesting that it be substituted, except as may be expressly excluded in ~~such~~ *the* application, in every fiduciary capacity for each of its affiliated banks specified in the application, and each ~~such~~ specified affiliated bank shall join in ~~such~~ *the* application. ~~Such~~ *The* application ~~shall~~ *must* indicate the county ~~wherein~~ *in which* the main office of each affiliated bank joining in the application is located and ~~shall~~ *must* designate each fiduciary account existing at the date ~~thereof~~ *of the application* with respect to which ~~such~~ *the* subsidiary trust company requests substitution, but fiduciary capacities in other cases need not be listed. ~~Such~~ *The* application ~~shall~~ *must* additionally set forth, with regard to each existing fiduciary account designated ~~therein~~ *in the application*, the name and address last known to the applicant of each person entitled to mailed notice of hearing ~~thereon~~ *on the application*, ~~to-wit~~ *including*:

(a) in the case of an existing fiduciary account ~~which~~ *that* may be revoked, terminated, or amended, each person who, alone or together with others, is empowered to revoke, terminate, or amend the ~~same~~ *account*;

(b) in the case of an existing fiduciary account with respect to which any person other than a court has the power to remove the corporate fiduciary, each

person who, alone or together with others, is empowered to remove the corporate fiduciary;

(c) in the case of an existing fiduciary account ~~which~~ *that* is an estate of a deceased person or ~~which~~ *that* is a guardianship or conservatorship, to the clerk of the court in which ~~such~~ *the* estate, guardianship, or conservatorship matter is pending;

(d) in the case of an existing fiduciary account not described in ~~any of the foregoing~~ subsections (1)(a) through (1)(c), to each income beneficiary of ~~such~~ *the* account and to each beneficiary who, ~~were~~ ~~such~~ *if the* account terminated at the date of the application respecting ~~such~~ *the* account, would be entitled to share in distributions of income or principal ~~thereof of the account~~; and

(e) in the case of any existing fiduciary account ~~wherein~~ *for which* an affiliated bank specified in the application is acting with a cofiduciary, to each ~~such~~ cofiduciary at ~~his last known~~ *the cofiduciary's last-known* address.

(2) ~~When any such an application shall have~~ *has* been filed, the clerk of the court where ~~the application is~~ *the application is* filed shall make an order fixing a date and time for hearing ~~thereon on the application~~ and give notice ~~thereof of the hearing~~ as ~~hereinafter~~ *provided in this section*. The clerk of court shall cause a copy of ~~such~~ *the* notice to be published at least once a week for 3 successive weeks preceding the hearing date; ~~the~~ *The* first ~~such~~ publication ~~to must~~ be at least 25 days preceding the hearing date; ~~such publication to be~~ in a newspaper of general circulation published in each county in which the main office of an affiliated bank specified in the application is located or, ~~if in any case there be no such a~~ *general circulation newspaper is not published in that county*, then in a newspaper of general circulation published in a contiguous county. In addition, at least 25 days preceding the hearing date, the clerk of the court shall cause a copy of ~~such~~ *the* notice to be mailed by first-class mail to each person identified in the application as being entitled to mailed notice under the provisions of this part, at ~~his~~ *the person's* address last known to the applicant as set forth in the application.

(3) The notice to be published and mailed with respect to each ~~such~~ application ~~shall must~~ state the time and place of the hearing ~~thereon on the application~~, the name of the subsidiary trust company ~~which~~ *that* has filed the application, the name of each affiliated bank ~~which~~ *that* has joined in ~~such~~ *the* application, that the application requests that the subsidiary trust company be substituted in every fiduciary capacity for each of its affiliated banks specified in the application, and that any person beneficially interested in any affected fiduciary account may appear on or before the date of hearing and file ~~his~~ *the person's* written objection to ~~such~~ *the* substitution ~~as to such~~ *for the* affected fiduciary account, and ~~such~~ *the* notice ~~shall must~~ refer to ~~such~~ *the* application for further particulars.

(4) On or before the date and time of hearing ~~any such on the application~~, any person beneficially interested in any fiduciary account ~~as to~~ *for* which substitution of the subsidiary trust company is requested may appear and file ~~an~~ *an* objection to substitution and ~~shall be~~ *is* entitled to be heard with respect to ~~such~~ *the* objection.

(5) On ~~such~~ *the* date of hearing, upon finding that due notice has been given as required by this part and upon finding that the subsidiary trust company has been duly authorized to commence the business for which it is organized by the department or the comptroller of the currency if the subsidiary trust company is a national banking association, the district court shall enter an order

substituting the subsidiary trust company in every fiduciary capacity for each of its specified affiliated banks, ~~excepting~~ *except* as may be otherwise specified in the application and ~~excepting~~ *except for* fiduciary capacities in any account with respect to which an objection has been filed pursuant to this section. Upon entry of ~~such~~ *the* order, the subsidiary trust company ~~shall~~ *must*, without further act, be substituted in every ~~such~~ fiduciary capacity. ~~Such~~ *The* substitution may be made a matter of record in any county of this state by filing a certified copy of the order of substitution in the office of the clerk of any district court in this state or by filing a certified copy of ~~such~~ *the* order in the office of the clerk and recorder of any county in this state. ~~to be by such officer recorded and indexed in like~~ *The clerk and recorder shall record and index the order in the same manner and with like the same* effect as other orders and decrees of court are recorded and indexed.

(6) Each designation, in a will or other instrument ~~heretofore or hereafter executed~~, of a bank as fiduciary ~~shall be deemed~~ *is considered* a designation of the subsidiary trust company substituted for ~~such~~ *the* bank pursuant to this section except ~~where~~ *when* the will or other instrument is executed after ~~such~~ *the* substitution and expressly negates the application of this section. Any grant in ~~any such~~ a will or other instrument of any discretionary power ~~shall be deemed~~ *is considered* conferred upon the subsidiary trust company ~~deemed~~ designated as the fiduciary pursuant to this section.

(7) A bank shall account jointly with the subsidiary trust company ~~which~~ *that* has been substituted as fiduciary for ~~such~~ *the* bank pursuant to this section for the accounting period during which the subsidiary trust company is initially ~~so~~ substituted. Upon substitution pursuant to this section, the bank shall deliver to the subsidiary trust company all assets held by the bank as fiduciary, (except assets held for accounts with respect to which there has been no substitution pursuant to this section), and upon ~~such~~ *the* substitution, all ~~such of~~ *the* assets ~~shall~~ become the property of the subsidiary trust company without the necessity of any instrument of transfer or conveyance.”

Section 1020. Section 32-1-808, MCA, is amended to read:

“32-1-808. Transfer of fiduciary relationships between affiliated banks. (1) Any bank ~~which~~ *that* has received approval pursuant to 32-1-806 to maintain a trust office in the same building with the main office of any affiliated bank may file its verified application in the district court of the county in which its main office is located requesting that it be substituted, except as may be expressly excluded in ~~such~~ *the* application, in every fiduciary capacity for ~~such~~ *the* affiliated bank, and ~~such~~ *the* affiliated bank shall join in ~~such~~ *the* application. ~~Such~~ *The* application ~~shall~~ *must* indicate the county ~~wherein~~ *in which* the main office of ~~such~~ *the* affiliated bank is located and ~~shall~~ *must* designate each fiduciary account existing at the date ~~thereof~~ *of application* with respect to which the applicant bank requests substitution, but fiduciary capacities in other cases need not be listed. ~~Such~~ *The* application ~~shall~~ *must* additionally set forth, with regard to each existing fiduciary account designated ~~therein~~ *in the application*, the name and address last known to the applicant of each person entitled to mailed notice of hearing ~~thereon~~ *on the application*, who ~~shall~~ *must* be those persons specified in ~~subsections (1)(a) through (1)(e) of~~ *32-1-807(1)(a) through (1)(e)*.

(2) When ~~any such~~ *an* application has been filed, the clerk of the court where ~~the application is~~ filed shall make an order fixing a date and time for hearing ~~thereon~~ *on the application* and shall cause notice ~~thereof~~ *of the hearing* to be given by publication and mailing in the manner required by 32-1-807.

(3) The notice to be published and mailed ~~with respect to~~ *for* each application ~~shall~~ *must* state the time and place of the hearing ~~thereon on the application~~, the name of the bank ~~which that~~ has filed the application, the name of the affiliated bank ~~which that~~ has joined in ~~such the~~ application, that the application requests that the applicant bank *to* be substituted in every fiduciary capacity for the affiliated bank specified in the application, and that any person beneficially interested in any affected fiduciary account may appear on or before the date of hearing and file ~~his a~~ written objection to ~~such the~~ substitution ~~as to such for the~~ affected fiduciary account, and ~~such the~~ notice ~~shall~~ *must* refer to ~~such the~~ application for further particulars.

(4) On or before the date and time of hearing ~~any such on the~~ application, any person beneficially interested in any fiduciary account ~~as to for~~ which substitution of the applicant bank is requested may appear and file objection to ~~the~~ substitution and ~~shall be~~ *is* entitled to be heard with respect to ~~such the~~ objection.

(5) On ~~such the~~ date of hearing, upon finding that ~~due~~ notice has been given as required by this part and upon finding that the applicant bank has received the requisite approval from the department or the comptroller of the currency if the applicant bank is a national banking association, the district court shall enter an order substituting the applicant bank in every fiduciary capacity for the affiliated bank designated in the application, ~~excepting except~~ as may be otherwise specified in the application and ~~excepting except for~~ fiduciary capacities in any account with respect to which an objection has been filed pursuant to this section. Upon entry of ~~such the~~ order, the applicant bank ~~shall~~ *must*, without further act, be substituted in every ~~such~~ fiduciary capacity. ~~Such~~ *The* substitution may be made a matter of record in any county of this state by filing a certified copy of the order of substitution in the office of the clerk of any district court in this state or by filing a certified copy of ~~such the~~ order in the office of the clerk and recorder of any county in this state. ~~to be by such officer recorded and indexed in like~~ *The appropriate clerk shall record and index the order in the same manner and with like the same effect as other orders and decrees of court are recorded and indexed.*

(6) Each designation, in a will or other instrument ~~heretofore or hereafter executed~~, of a bank as fiduciary ~~shall be deemed~~ *is considered* a designation of the applicant bank substituted for ~~such the~~ bank pursuant to this section except ~~where such when the~~ will or other instrument is executed after ~~such the~~ substitution and expressly negates the application of this section. Any grant in ~~any such a~~ will or other ~~such~~ instrument of any discretionary power ~~shall be deemed~~ *is considered* conferred upon the applicant bank ~~deemed~~ designated as the fiduciary pursuant to this section.

(7) A bank shall account jointly with the applicant bank ~~which that~~ has been substituted as fiduciary for ~~such the~~ bank pursuant to this section for the accounting period during which the applicant bank is initially ~~so~~ substituted. Upon substitution pursuant to this section, the affiliated bank for which substitution has been made shall deliver to ~~such the~~ applicant bank all assets held by ~~such the~~ affiliated bank as fiduciary, (except assets held for accounts with respect of which there has been no substitution pursuant to this section), and upon ~~such the~~ substitution, all ~~such of the~~ assets ~~shall~~ become the property of ~~such the~~ applicant bank without the necessity of any instrument of transfer or conveyance.”

Section 1021. Section 32-1-903, MCA, is amended to read:

“32-1-903. Informal conferences — time for application. Within 15 days after service of the notice of charges, either the institution or department may request an informal conference to discuss the charges and the possible disposition of ~~them~~ *the charges* without a formal hearing process. The conference ~~shall~~ *must* be carried out in accordance with the provisions of 2-4-603. Upon a proper showing, the director ~~in his discretion~~ may withdraw charges and proceedings for a cease and desist order.”

Section 1022. Section 32-1-905, MCA, is amended to read:

“32-1-905. Notice of intention to remove board member or officer or to prohibit participation — suspension. (1) The director may serve upon a board member or officer of an institution a written notice of intention to remove ~~him~~ *the member or officer* from office whenever the director has reasonable cause to believe *that*:

(a) the board member or officer has:

(i) committed any violation of law involving dishonesty or breach of trust;

(ii) violated a cease and desist order ~~which~~ *that* has become final;

(iii) engaged or participated in any unsafe or unsound practice in connection with the institution; or

(iv) committed or engaged in any act, omission, or practice ~~which~~ *that* constitutes a breach of ~~his~~ *the member's or officer's* fiduciary duty as a board member or officer of the institution; and

(b) the institution has suffered or will probably suffer substantial financial loss or other damage or the interest of its depositors could be seriously prejudiced by reason of the violation, practice, or breach of fiduciary duty involving personal dishonesty on the part of ~~such~~ *the* board member or officer.

(2) Whenever in the opinion of the director any board member or officer of an institution has, by conduct or practice with respect to another institution or business organization ~~which~~ *that* has resulted in substantial financial loss or other damage to that institution or business organization, evidenced ~~his~~ *the member's or officer's* personal disability and unfitness to continue as a board member or officer of the institution; and whenever the director has reasonable cause to believe that any other person participating in the conduct of the affairs of an institution has, by conduct or practice with respect to ~~such~~ *the* institution, another institution, or other business organization ~~which~~ *that* has resulted in substantial financial loss or other damage to the institution or business organization, evidenced ~~his~~ *the person's* personal disability and unfitness to participate in the conduct of the affairs of ~~such~~ *the* institution, the director may serve upon the board member, officer, or other person a written notice of intention to remove ~~such~~ *the* person from office or to prohibit ~~his~~ *the person's* further participation in any manner in the conduct of the affairs of the institution.

(3) A notice of intention to remove a board member, officer, or other person from office or to prohibit ~~his~~ *the member's, officer's, or person's* participation in the conduct of the affairs of an institution ~~shall~~ *must* contain a statement of the facts constituting grounds ~~therefor~~ *for the removal or prohibition*; and ~~shall~~ *must* fix a time and place at which a hearing will be held ~~thereon~~ *on the removal or prohibition*. The hearing ~~shall~~ *must* be held not earlier than 30 days or later than 60 days after the date of service of the notice; unless an earlier or later date is set by the director at the request of the board member, officer, or other person and for good cause shown.

(4) Unless the board member, officer, or other person appears at the hearing in person or by a duly authorized representative, ~~he shall~~ *the member, officer, or person must* be considered to have consented to the issuance of an order of removal or prohibition. In the event of consent or if upon the record made at the hearing the director finds that any of the grounds specified in the notice have been established by the preponderance of the evidence, the director may issue ~~such~~ orders of suspension, removal from office, or prohibition from participation in the conduct of the affairs of the institution as ~~he~~ *the director* considers appropriate. The order becomes effective 30 days after service upon the institution and the board member, officer, or other person concerned, except in the case of an order issued upon consent, which becomes effective at the time specified ~~therein~~ *in the order*. The order remains effective and enforceable until it is stayed, modified, terminated, or set aside by action of the director or a reviewing court.”

Section 1023. Section 32-1-906, MCA, is amended to read:

“32-1-906. Informal conferences — time for application. Within 15 days after service of the notice of charges, either the board member, officer, or other person may request an informal conference to discuss the charges and the possible disposition of ~~them~~ *the charges* without a formal hearing process. The conference ~~shall~~ *must* be carried out in accordance with the provisions of 2-4-603. Upon a proper showing, the director ~~in his discretion~~ may withdraw charges and proceedings for a cease and desist order.”

Section 1024. Section 32-1-907, MCA, is amended to read:

“32-1-907. Suspension or prohibition effective upon service — stay.

(1) With respect to any board member or officer of an institution or any other person to whom notice is sent pursuant to 32-1-905, if the director considers it necessary for the protection of the institution or the interests of its depositors that the board member, officer, or other person be suspended from office or prohibited from further participation in any manner in the conduct of the affairs of the institution, the director may serve upon ~~such~~ *the* board member, officer, or other person a written notice suspending ~~him~~ *the member, officer, or person* from office or prohibiting ~~him~~ *the member, officer, or person* from further participation in any manner in the conduct of the affairs of the institution. The notice ~~shall~~ *must* contain a statement of the facts constituting grounds for the order and ~~shall~~ *must* fix a time, not later than 10 days from the date of the service of the notice, at which a hearing will be held to afford the board member, ~~or~~ *officer, or other person* the opportunity to respond. The suspension or prohibition is effective upon service of the notice and unless stayed by a court in proceedings authorized by subsection (2) ~~of this section~~ *shall remain* ~~remains~~ in effect until the completion of the administrative proceedings pursuant to the notice served under 32-1-904, until ~~such~~ *the time as* ~~that~~ the director dismisses the charges specified in ~~such~~ *the* notice, or until the order of removal or prohibition ~~which~~ *that* is issued against the board member, officer, or other person becomes effective. Copies of the notice ~~shall~~ *must* also be served upon the institution of which the person is a director or officer or in the conduct of whose affairs ~~he~~ *the person* has participated.

(2) Within 10 days after the hearing provided for in subsection (1) ~~of this section~~, the board member, officer, or other person may apply to the district court for the county in which the home office of the institution is located for a stay of the suspension or prohibition pending the completion of the administrative proceedings pursuant to the notice served upon the board

member, officer, or other person under 32-1-904. The court has jurisdiction to stay the suspension or prohibition.”

Section 1025. Section 32-1-908, MCA, is amended to read:

“32-1-908. Felony charges — suspension or prohibition. (1) Whenever any board member or officer of an institution or other person participating in the conduct of the affairs of an institution is charged in any information, indictment, warrant, or complaint authorized by a county, state, or federal authority with the commission of or participation in a felony involving dishonesty or breach of trust, the director by written notice served upon the board member, officer, or other person may suspend ~~him~~ *that individual* from office or prohibit ~~him~~ *that individual* from further participation in any manner in the conduct of the affairs of the institution. Suspension is effective upon service upon the individual. The notice ~~shall~~ *must* contain a statement of the facts constituting grounds for the order and ~~shall~~ *must* fix a place and time, not later than 10 days from the date of the notice, at which a hearing will be held to afford the board member, ~~or~~ officer, *or other person* the opportunity to respond. A copy of the notice ~~shall~~ *must* also be served upon the institution. The suspension or prohibition remains in effect until the information, indictment, warrant, or complaint is finally disposed of or until terminated by the director.

(2) Within 10 days after the hearing provided for in subsection (1) ~~of this section~~, the board member, officer, or other person may apply to the district court for the county in which the home office of the institution is located for a stay of the suspension or prohibition pending the completion of the criminal proceedings initiated by the information, indictment, warrant, or complaint. The court has jurisdiction to stay the suspension or prohibition.

(3) If a judgment of conviction with respect to the offense is entered against the board member, officer, or other person and at ~~such the time as~~ *that* the judgment is not subject to further appellate review, the director may issue and serve upon the board member, officer, or other person an order removing ~~him~~ *that individual* from office or prohibiting ~~him~~ *that individual* from further participation in any manner in the conduct of the affairs of the institution except with the consent of the director. A copy of the order ~~shall~~ *must* also be served upon the institution, ~~whereupon~~ *and upon receipt* the board member or officer ~~shall cease~~ *ceases* to be a board member or officer of the institution. A finding of not guilty or other disposition of the charge does not preclude the director from ~~thereafter~~ instituting proceedings to suspend or remove the board member, officer, or other person from office or to prohibit further participation in the affairs of the institution pursuant to 32-1-905 or 32-1-906.”

Section 1026. Section 32-1-910, MCA, is amended to read:

“32-1-910. Hearings — decision — review, modification, termination or stay of orders. (1) ~~Any~~ A hearing provided for in this part ~~shall~~ *must* be conducted in accordance with the provisions of the Montana Administrative Procedure Act. The hearing ~~shall~~ *must* be private unless the director, after fully considering the views of the party afforded the hearing, determines that a public hearing is necessary to protect the public interest. After the hearing and within 90 days after the director has notified the parties that the case has been submitted ~~to him~~ for final decision, ~~he~~ *the director* shall render ~~his~~ *a* decision, which ~~shall~~ *must* include findings of fact upon which ~~his~~ *the* decision is ~~predicated~~ *based*, and shall issue and serve upon each party to the proceeding an order consistent with the provisions of this section.

(2) Any party to the hearing or any person required by an order issued under this part to cease and desist from any of the violations or practices stated ~~therein~~ *in the order* or any person suspended, removed, or prohibited from participation in the conduct of the affairs of an institution may obtain a review of any order, other than a consent order, ~~which~~ *The review shall must* be pursuant to the Montana Administrative Procedure Act. Unless a petition for review is timely filed as provided in the Montana Administrative Procedure Act, the director, at any time, upon ~~such~~ notice and in ~~such a~~ manner ~~as he~~ *that the director* considers proper, may modify, terminate, or set aside the order. Upon the timely filing of a petition for review, the director may modify, terminate, or set aside the order with the permission of the court.”

Section 1027. Section 32-2-108, MCA, is amended to read:

“32-2-108. Purchase of obligations of association by officer. ~~No~~ *A* director, officer, agent, or other employee of any building and loan association ~~shall may not~~, directly or indirectly, for ~~his~~ *the person's* own personal benefit, purchase or be interested in the purchase of any obligation of ~~said the~~ association for a ~~less~~ *lesser* sum than ~~shall appear~~ *appears* upon the books of ~~such the~~ association to be the value ~~thereof of the obligation~~. Every person violating the provisions of this section shall for each offense forfeit to the state three times the face value of any ~~such~~ obligation ~~so~~ purchased.”

Section 1028. Section 32-2-109, MCA, is amended to read:

“32-2-109. Purchase of assets of association by officer. ~~No~~ *An* officer, director, agent, or other employee of any association ~~shall may not~~, directly or indirectly, for ~~his~~ *the person's* own personal benefit, purchase or be interested in the purchase of any of the assets of any building and loan association for a ~~less~~ *lesser* sum than the book value ~~thereof of the assets~~. Every person violating any provision of this section shall for each offense forfeit to the state twice the nominal value of any ~~such~~ assets ~~so~~ purchased.”

Section 1029. Section 32-2-209, MCA, is amended to read:

“32-2-209. Notice of meetings. (1) At least 30 days prior to any annual or special meeting of any association, a notice stating the time and place of the meeting ~~shall must~~ be deposited in the post office at the principal place of business of ~~such the~~ association, directed to each member or stockholder at ~~his~~ *the member's or stockholder's* address; as the ~~same~~ *address* appears at the time on the books of the association; and, when ~~so~~ deposited, postage prepaid, ~~shall be deemed is considered~~ a legal and sufficient notice of any meeting.

(2) In addition ~~thereto to the notice in subsection (1)~~, notice may be given by four consecutive weekly publications in a newspaper published in the county where the association has its principal place of business. ~~Such The~~ publication ~~shall be is~~ complete on the day of the fourth publication.

(3) In notices of special meetings there ~~shall must~~ be attached to and accompanying ~~such the~~ notice a statement of any matter or matters to be considered at ~~said the~~ meeting.

(4) All members or stockholders of the association ~~shall be are~~ entitled to vote at the meetings in person or by proxy.”

Section 1030. Section 32-2-210, MCA, is amended to read:

“32-2-210. Proxies. At least once every year the board of directors of every building and loan association shall, by resolution, cause the secretary of ~~such the~~ association to mail to every member or stockholder of ~~such the~~ association a blank form of proxy, and the member or stockholder may withdraw ~~his a~~ former

proxy and substitute ~~another in its stead~~ *a new proxy for the former proxy.* ~~Every~~ A proxy shall ~~continue~~ *continues* in force and ~~be~~ *is* binding upon the member or stockholder until ~~such~~ *the* proxy is revoked or another *proxy* is substituted.”

Section 1031. Section 32-2-212, MCA, is amended to read:

“32-2-212. Requirements of transfer in certain cases. When a certificate of stock or a savings account in a building and loan association is owned by persons residing out of the state or is lost, the president, secretary, or directors of ~~such~~ *the* association, before entering any transfer of ~~such~~ *the* stock or account on its books or before issuing a new certificate ~~therefor~~ to the transferee or owner, may require from the attorney or agent of the owner or from the person claiming under the transfer an affidavit or other evidence that the owner was alive at the date of the transfer or that the original certificate is lost and has not been assigned or transferred. ~~and~~ *The president, secretary, or directors* may also require from the attorney, agent, or claimant a bond of indemnity, with a surety or sureties satisfactory to the officers of ~~such~~ *the* association, to protect ~~such~~ *the* association against any liability to the owner, assignee, or transferee of ~~such~~ *the* shares or account or the legal representatives of the owners of ~~such~~ *the* shares or account, in case of ~~his or her~~ *the owner's* death before the transfer, and also to protect the association against any liability accruing or resulting by reason of ~~said~~ *the* lost or original certificate being ~~thereafter~~ presented to it. If the affidavit or other evidence or bond is not furnished when required as ~~herein~~ *provided in this section*, neither the association nor any officer ~~thereof~~ *shall be of the association* is liable for refusing to enter the transfer on the books of the association.”

Section 1032. Section 32-2-232, MCA, is amended to read:

“32-2-232. Organization of mutual associations. The incorporators of a mutual association shall appoint one of their number as ~~chairman~~ *presiding officer* of the incorporators, and ~~he~~ *the presiding officer* shall procure from a surety company or other surety acceptable to the department a surety bond in an amount no less than the sum of the amount subscribed by the incorporators and the amount of the expense fund described in 32-2-233. The bond ~~shall~~ *must* name the department as obligee and ~~shall~~ *must* be delivered to ~~it~~ *the department*. The bond ~~shall~~ *must* ~~assure~~ *ensure* the safekeeping of the funds described and their delivery to the association after the issuance of a certificate of incorporation and after bonding of the officers of the corporation. In the event of failure to complete organization, the bond ~~shall~~ *assure* ~~must~~ *ensure* the return of the amounts collected to the respective subscribers or their assigns, less reasonable expenses, which ~~shall~~ *must* be deducted from the expense fund. The incorporators, before a certificate of incorporation is issued, shall pay to the ~~chairman~~ *presiding officer* in cash, labor, or services actually performed an aggregate amount of at least \$500,000, including that part of the original subscription paid by the ~~chairman~~ *presiding officer*, as subscriptions to the savings accounts of the proposed association.”

Section 1033. Section 32-2-233, MCA, is amended to read:

“32-2-233. Expense fund for mutual association. (1) In addition to their subscriptions to savings accounts, the incorporators shall create an expense fund of not less than one-half of the minimum amount of savings account subscriptions required to be paid ~~in~~ under this chapter. The expense fund ~~shall~~ *must* be used to pay the expenses of organizing the association, and its operating expenses may be paid from the fund until ~~such~~ *the* time as ~~that~~ *its* net

income is sufficient to pay ~~such~~ *the earnings as that* may be declared and paid or credited to its savings account holders from sources available for payment of earnings. Before a certificate of incorporation is issued, the incorporators shall deposit to the credit of the ~~chairman~~ *presiding officer* of the incorporators the amount of the expense fund, in cash. The amounts contributed to the expense fund by the incorporators ~~shall~~ *may* not constitute a liability of the association except as otherwise provided.

(2) Contributions made by the incorporators and others to the expense fund may be repaid pro rata from the net income of the association after provision for statutory reserves and declaration of earnings of not less than 2% on savings accounts. If the association is liquidated before contributions to the expense fund have been repaid, any contributions to the expense fund remaining unexpended ~~shall~~ *must* be repaid to the contributors pro rata; after the payment of the expenses of liquidation, creditors, and withdrawal value of all savings accounts. The books of the association ~~shall~~ *must* reflect the expense fund. The contributors to the expense fund ~~shall~~ *must* be paid earnings on the amounts paid in by them at the times earnings are regularly distributed to savings account holders; and for this purpose, the contributions ~~shall~~ *must* in all respects be considered as savings accounts of the association.”

Section 1034. Section 32-2-241, MCA, is amended to read:

“32-2-241. Organization of capital stock associations. The incorporators of a capital stock association shall appoint one of their number as ~~chairman~~ *presiding officer* of the incorporators, and the ~~chairman~~ *presiding officer* shall procure from a surety company or other surety acceptable to the department a surety bond in an amount at least equal to the sum of the amount of capital stock contributions and the additional amounts described in 32-2-242. The bond ~~shall~~ *must* name the department as obligee and ~~shall~~ *must* be delivered to ~~it~~ *the department*. The bond ~~shall~~ *must* ~~assure~~ *ensure* the safekeeping of the funds described and their delivery to the association after the issuance of the certificate of incorporation and the bonding of the officers. In the event of the failure to complete organization, the bond ~~shall~~ *must* ~~assure~~ *ensure* the return of the amounts collected to the respective subscribers or their assigns, less reasonable expenses, which ~~shall~~ *must* be deducted from the paid-in surplus. Before a certificate of incorporation is issued, the subscribers shall pay to the ~~chairman~~ *presiding officer*, in cash, labor, or services actually performed, the capital of ~~such~~ *the* association. The capital ~~shall~~ *must* be the sum of the par or initially stated value of all shares of voting capital stock. Each share of capital stock ~~shall~~ *entitle* the holder of the share to one vote. The minimum required capital is \$500,000.”

Section 1035. Section 32-2-245, MCA, is amended to read:

“32-2-245. Purchase of stock of deceased stockholder. An association may purchase its capital stock from the personal representative of a deceased stockholder upon the written approval of the department. Upon obtaining written approval, an association may contract with a living stockholder for a purchase of ~~his~~ *the* stock upon ~~his~~ *the stockholder's* death. ~~Any such~~ *The* purchase ~~shall~~ *must* be for a price and upon ~~such~~ terms and conditions ~~as that~~ may be agreed upon by the association and the stockholder or personal representative. The purchase of a deceased stockholder's stock may not reduce the net worth accounts of the association to an amount less than required by law or by any approved insurer of the association's savings accounts. An association agreeing with a stockholder to purchase ~~his~~ *the* capital stock upon ~~his~~ *the stockholder's* death may purchase insurance on the life of the stockholder to

fund or partially fund ~~such~~ the purchase. Any stock purchased under this section may be resold by the association at a price and upon ~~such~~ terms and conditions ~~as that~~ the board of directors may approve, or may be retired. If the stock is to be resold, the association shall file notice with the department disclosing the price, terms, and conditions of the proposed resale.”

Section 1036. Section 32-2-254, MCA, is amended to read:

“32-2-254. Conversion of mutual to capital stock association — mandatory plan requirements. The following requirements are mandatory in any plan of conversion from the mutual form to a capital stock form of organization:

(1) Each savings account holder ~~shall~~ *must* receive a withdrawable account of the same general class in the converted association equal in amount and time tenure to ~~his~~ *the holder’s* withdrawable account in the converting association. ~~No~~ A payment may *not* be required from the account holder for this change of accounts.

(2) The plan ~~shall~~ *must* specify the aggregate dollar amount of voting capital stock and the total number of shares to be issued to accomplish the conversion. The distribution of the stock ~~shall~~ *must* be in accordance with subsection (3).

(3) All voting capital stock issued by the association to accomplish a conversion ~~shall~~ *must* be subscribed and fully paid for in cash, labor, or services actually performed in the conversion process and may not be eligible, either directly or indirectly, as security for a loan or other credit advance to facilitate its own purchase. Each account holder ~~must have~~ *has* the right for a period of 60 days to purchase a proportionate share of the stock at a price equal to the initial stated value ~~thereof of the stock~~. Any stock remaining unsubscribed ~~shall~~ *must*, during the succeeding 60-day period, be offered for sale to those savings account holders of record who have purchased their proportionate share during the initial period. Any stock remaining unsubscribed may be offered for sale to others or transferred to others in consideration for labor or services actually performed in the conversion process.

(4) The record date for determining savings account holders’ rights to distribution under subsection (3) ~~shall~~ *must* be set by the converting association’s board of directors but may not be less than 120 days prior to the date of approval of the conversion plan by the directors.

(5) The conversion plan ~~shall~~ *must* make specific provision with respect to the surplus, reserves, undivided profits, and capital stock of the converted association, specifying types of accounts, amounts, priorities, any voting rights, and how ~~such~~ *the* accounts are to be disposed of or retained.

(6) The plan ~~shall~~ *must* contain ~~such~~ other information and be in the form *that is* required by the department to enable it to make a determination of whether:

(a) the plan is fair and equitable;

(b) the interests of the applicant, members or stockholders, savings account holders, and the public are adequately protected; and

(c) the converting applicant has complied with the requirements of 32-2-251 through 32-2-257.”

Section 1037. Section 32-2-255, MCA, is amended to read:

“32-2-255. Conversion of capital stock to mutual association — mandatory plan requirements. The following requirements are mandatory

in any plan of conversion from the capital stock form to a mutual form of association:

(1) Each savings account holder ~~shall~~ *must* receive a withdrawable account of the same general class in the converted association equal in amount and time tenure to ~~his~~ *the holder's* withdrawable account in the converting association. ~~No~~ A payment may *not* be required from the account holder for this change of accounts.

(2) The conversion plan ~~shall~~ *must* specify how and in what amount the return of capital to each class of stockholder in the form of an exchange of stock for savings accounts ~~shall~~ *will* be effectuated.

(3) The plan ~~shall~~ *must* provide for the allocation of voting rights to the holders of savings accounts and the manner in which ~~such~~ *the* rights may be exercised.

(4) The plan ~~shall~~ *must* make specific provision with respect to the surplus, reserves, undivided profits, and capital stock of the converted association, specifying types of accounts, amounts, priorities, any voting rights, and how ~~such~~ *the* accounts ~~shall~~ *will* be disposed of or retained.

(5) The plan ~~shall~~ *must* contain ~~such~~ other information and be in the form *that is* required by the department to enable it to make a determination of whether:

- (a) the plan is fair and equitable;
- (b) the interests of the applicant, members or stockholders, savings account holders, and the public are adequately protected; and
- (c) the converting applicant has complied with the requirements of 32-2-251 through 32-2-257."

Section 1038. Section 32-2-307, MCA, is amended to read:

"32-2-307. Reports and examinations by department confidential.

(1) An employee or agent of the department who fails to keep secret the facts and information obtained in the course of an examination or by reason of ~~his~~ *the employee's or agent's* official position, except when the public duty of that officer requires ~~him~~ *the officer* to report upon or take official action regarding the affairs of the association ~~so~~ examined, or *who* willfully makes a false official report as to the conditions of the association ~~shall~~ *must* be removed from office and shall be fined not more than \$500 or imprisoned in the penitentiary not less than 2 years or more than 5 years, or both.

(2) ~~Nothing in this~~ *This section prevents does not prevent* the proper exchange of information relating to building and loan associations and their business with the representatives of building and loan departments of other states, but in ~~no case shall~~ the private business or affairs of an individual, association, or company *may not* be disclosed."

Section 1039. Section 32-2-401, MCA, is amended to read:

"32-2-401. Powers and duties of building and loan associations. A building and loan association may:

- (1) have continual succession by its corporate name;
- (2) sue and be sued in any court;
- (3) make and use a common seal and alter it at pleasure;
- (4) appoint those officers or agents the business of the corporation requires and pay them suitable compensation;

(5) enter into obligations or contracts essential to the transaction of its ordinary affairs or for the purposes of the corporation;

(6) issue stock to stockholders and savings certificates to members on the terms and conditions the articles of incorporation and bylaws provide;

(7) assess and collect from members interest on loans at the times and in the amount provided for in the articles of incorporation and bylaws;

(8) permit members to withdraw all or part of their savings at the times and upon the terms as the articles of incorporation and bylaws may provide;

(9) cancel savings certificates upon which all credits have been withdrawn or upon which loans have been canceled or savings upon which ~~no~~ payments have *not* been made for a period of 6 months, by returning to the members all credits, if any, and reissue the certificates as new savings certificates;

(10) issue savings certificates to minors and permit them to be withdrawn as other savings certificates. The receipt by the minor is a valid acquittance if ~~his~~ *the minor's* rights have been fully secured to ~~him~~ *the minor*.

(11) acquire, hold, encumber, and convey ~~that~~ real estate and personal property *that is* necessary for the transaction of its business or necessary to enforce or protect its securities;

(12) borrow money, only when necessary and not exceeding 20% of its assets, except when borrowing from the federal home loan bank as provided in 32-2-405, and issue its promissory note for the loan;

(13) make loans to members on the security of the savings accounts of the association and also on their notes secured by first mortgages on improved real estate, including suburban homes or farm lands but not on mining property, for not to exceed 75% of the actual value of the real estate and upon the terms and conditions ~~which~~ *that* may be provided in the articles of incorporation and bylaws;

(14) cancel those loans and release the securities on those terms *that* the board of directors may provide;

(15) invest the money of the association in accordance with 32-2-406;

(16) loan money to other building and loan associations;

(17) make distribution of all interest and dividends earned after payment of expenses and setting aside a sum for the contingent funds as provided in this chapter;

(18) amend its articles of incorporation by changing the name, place of business, ~~the~~ *or* number of directors, ~~and increase or decrease or by increasing or decreasing~~ the capital stock, and provide for its own continual succession by a majority vote of its directors. However, those amendments are of no effect until approved by the department.

(19) dissolve the corporation in accordance with the provisions of this chapter;

(20) provide, by articles of incorporation and bylaws adopted or amended by its board of directors, for the proper exercise of the powers granted in this section and the conduct and management of its affairs;

(21) exercise those other powers ~~which~~ *that* are necessary and proper to enable the corporation to carry out the purpose of its organization."

Section 1040. Section 32-2-403, MCA, is amended to read:

“32-2-403. Statement of interest rates — canceling loans. (1) ~~Where~~ *When* the promissory note or other written evidence of the loan made by a building and loan association requires the payment of the loan or total aggregate sum of principal and interest in periodic installments, the promissory note or other written evidence of debt ~~shall~~ *must* specifically state the actual interest rate charged the borrower upon the unpaid balance of the principal amount at each periodic payment. When the note or other evidence of debt does not require the payment of the loan in periodic installments, the note or other evidence of debt ~~shall~~ *must* specifically state the actual rate of interest charged the borrower.

(2) A borrower may have ~~his~~ *a* loan canceled by paying all the interest up to *the* date of cancellation and the sum actually borrowed, less payments on principal, dues paid in, and the dividends credited.”

Section 1041. Section 32-2-404, MCA, is amended to read:

“32-2-404. Savings account withdrawal. (1) ~~No~~ *A* charge or fee, except as provided in this section, may *not* be made against a member who withdraws ~~his~~ *the member’s* savings; after having given 30 days’ notice of the withdrawal. ~~No~~ *A* fine of any description may *not* be made upon the value of that savings account because of the withdrawal. A member who withdraws ~~his~~ *the member’s* savings or whose savings account is matured is entitled to receive all sums paid in and all interest declared, less interest, if any, as provided in 32-2-402, less a reasonable membership fee not exceeding 2% of the amount of ~~his~~ *the member’s* deposit, and less a pro rata share of all losses, if any, ~~which~~ *that* have occurred. ~~No other fine~~ *Other fines* or assessments may *not* be made against the savings.

(2) Applications for withdrawal ~~shall~~ *must* be registered on the books of the association in the order received, and one-half of all cash collections not required to meet outstanding contracts must be used for the payment of the matured savings and of the withdrawals in the order registered. The other half of those collections each month may be used for the payment of withdrawals other than in the order registered, but ~~no~~ *a* member may *not* receive more than \$100 in any ~~one~~ *1* month other than by payment of an application for withdrawal in the order registered. The term “outstanding contracts” includes the costs and expenses of operation, completion of loans, payment of taxes and assessments and necessary remodeling and repairs on properties owned by or mortgaged to the association, repayment of all borrowed money, and all fixed charges.”

Section 1042. Section 32-2-408, MCA, is amended to read:

“32-2-408. Bonds of officers, agents, and employees. The board of directors of ~~every~~ *a* building and loan association shall require that all officers, agents, and employees of *the* building and loan ~~associations~~ *association* whose duties include the handling of ~~moneys~~ *money*, notes, bonds, credits, and cash items and whose duties include bookkeeping or the making of entries in relation to the business of the building and loan association and its customers be bonded. The board of directors shall by an order entered upon the minute books of the board designate all the officers, agents, and employees to be ~~so~~ bonded and the amount of bonds to be given by each. The action as to the personnel and amount and the surety company or sureties ~~shall be~~ *is* subject to approval by the department. The bonds ~~shall~~ *must* be in a form ~~which~~ *shall* ~~that~~ *must* be provided and approved by the department, ~~and~~ the bonds ~~shall~~ *must* be approved by the president of the building and loan association, and ~~his~~ *the* ~~president’s~~ *president’s* action *must be* reported to the board of directors. All bonds required by this section ~~shall~~ *must* be kept in the custody of the building and loan

association subject to inspection by the department. As far as possible, a bond may not be placed in the custody of the officer, agent, or employee for whom it is given.”

Section 1043. Section 32-2-409, MCA, is amended to read:

“32-2-409. Employment of agents — licenses and revocation thereof.

(1) It is unlawful for a building and loan association doing business in this state to employ an agent for the purpose of soliciting loans or the sale of stock in that association unless ~~he~~ *the agent* is first licensed by the department. An agent representing an association, foreign or domestic, doing business in this state may not solicit loans or the sale of stock of any association unless ~~he~~ *the agent* is first licensed by the department.

(2) A license may not be issued to an applicant for an agent’s license until the applicant has first filed with the department a written request from the building and loan association desiring to employ ~~him~~ *the applicant* as agent and has filed an application upon a form prescribed and furnished by the department. The application must show the applicant’s name, *the* business and residence address, *the* community or district in which ~~he~~ *the applicant* wishes to act as agent, the name of the company to be represented, ~~his~~ *the applicant’s* occupation for the last 12 months, and other information *that* the department may require. If the department is satisfied that the applicant is a fit and proper person to engage in the solicitation of loans or the sale of stock, it shall issue the license. The department, upon 10 days’ notice to an agent and after a hearing, may revoke the license of an agent upon the following grounds:

- (a) misrepresentation;
- (b) conviction in any court for violation of the criminal statutes;
- (c) evidence sufficient to convince the department that the agent is not a fit and proper person to sell building and loan association stock.

(3) The department shall revoke the license of an agent upon the request of the association employing the agent.

(4) Each license provided for in this section expires on December 31 of each year, and for issuance or renewal the department shall require a fee of \$2.”

Section 1044. Section 32-3-406, MCA, is amended to read:

“32-3-406. Compensation of officials. ~~No~~ An officer, director, or committee member, other than the treasurer, a credit manager, or a loan officer may *not* be compensated for ~~his~~ service ~~as such in that position~~, but reasonable life, health, accident, and similar insurance protection for a director or committee member ~~shall~~ *may* not be considered compensation. Directors and committee members, while on official business of the credit union, may be reimbursed for necessary expenses incidental to the performance of the business.”

Section 1045. Section 32-3-407, MCA, is amended to read:

“32-3-407. Conflicts of interest. ~~No~~ A director, committee member, officer, agent, or employee of the credit union ~~shall~~ *may not* in any manner, directly or indirectly, participate in the deliberation upon or the determination of any question affecting ~~his~~ *the person’s* pecuniary interest or the pecuniary interest of any corporation, partnership, or association, (other than the credit union), in which ~~he~~ *the person* is directly or indirectly interested.”

Section 1046. Section 32-3-416, MCA, is amended to read:

“32-3-416. Credit manager. The credit committee may be dispensed with and a credit manager *may be* empowered to approve or disapprove loans under conditions prescribed by the board of directors. ~~In the event~~ *If* the credit committee is dispensed with, the procedures prescribed in 32-3-413 through 32-3-415 do not apply; and ~~no~~ loans ~~shall~~ *may not* be made unless approved by the credit manager, except the credit manager may appoint one or more loan officers with the power to approve loans, subject to ~~such~~ limitations or conditions ~~as he~~ *that the credit manager* prescribes.”

Section 1047. Section 32-3-418, MCA, is amended to read:

“32-3-418. Suspension and removal of officials. (1) The supervisory committee by a unanimous vote may suspend any member of the credit committee and shall report ~~such the~~ action to the board of directors for appropriate action.

(2) The supervisory committee by a unanimous vote may suspend any officer or member of the board of directors until the next members’ meeting, which ~~shall must~~ be held not less than 7 or more than 21 days after ~~such the~~ suspension. At ~~such the~~ meeting, the suspension ~~shall must~~ be acted upon by the members.

(3) Any member of the supervisory committee may be removed by the board of directors for failure to perform ~~his the member’s~~ duties in accordance with this chapter, the articles of incorporation, or the bylaws.”

Section 1048. Section 32-3-507, MCA, is amended to read:

“32-3-507. Liens. The credit union ~~shall have~~ *has* a lien on the shares and accumulated dividends or interest of a member in ~~his the member’s~~ individual, joint, or trust account for any sum past due the credit union from ~~said the~~ member or for any loan endorsed by ~~him the member.~~”

Section 1049. Section 32-3-605, MCA, is amended to read:

“32-3-605. Installments. A member may receive a loan in installments or in one sum and may pay the whole or any part of ~~his the~~ loan on any day on which the office of the credit union is open for business.”

Section 1050. Section 32-4-203, MCA, is amended to read:

“32-4-203. Certificate of incorporation. Before the articles of incorporation ~~shall may~~ become effective, the secretary of state ~~must shall~~ issue a certificate that *verifies that* a copy of the articles containing the required statement of facts has been filed in ~~his the secretary of state’s~~ office. ~~Thereupon~~ *Upon issuance of the certificate,* the persons signing the articles, and their associates, and their successors and assigns ~~shall~~ become a body politic and corporate, by the name specified in the articles of incorporation, subject to amendment and dissolution as provided in this chapter. The incorporators ~~shall~~ have the authority *to* and shall perform ~~such the~~ acts and things as required by the provisions of this chapter, as set forth in 32-4-201.”

Section 1051. Section 32-4-205, MCA, is amended to read:

“32-4-205. Amendment of articles of incorporation. (1) The articles of incorporation may be amended by vote of the stockholders of the corporation, and ~~such the~~ amendments ~~shall~~ require approval by the affirmative vote of two-thirds of the stockholders, provided:

(a) that ~~no an~~ amendment ~~which that~~ is inconsistent with the general purposes expressed ~~herein in this chapter~~ or ~~which that~~ eliminates or curtails

the obligation of the corporation to make reports as provided in 32-4-306 ~~shall~~ *may not* be made without amendment of this chapter; and

(b) that ~~no~~ *an* amendment of the articles of incorporation ~~which~~ *that* increases the obligation of a member to make loans to the corporation; makes any change in the principal amount, interest rate, maturity date, or in the security or credit position of any outstanding loan of a member to the corporation; or affects a member's right to withdraw from membership as provided in 32-4-303 ~~shall~~ *may not* be made without the consent of each member affected by ~~such~~ *the* amendment.

(2) Within 30 days after any meeting at which amendment of the articles of incorporation has been adopted, articles of amendment signed and sworn to by the president, treasurer, and a majority of the directors, setting forth ~~such~~ *the* amendment and the due adoption ~~thereof~~ *of the amendment*, ~~shall~~ *must* so far as consistent with this chapter be submitted, as prescribed in Title 35, to the secretary of state who shall examine ~~them~~ *the articles*. If ~~he~~ *the secretary of state* finds that ~~they~~ *the articles* conform to the requirements of this chapter, ~~he~~ *the secretary of state* shall so certify and endorse ~~his~~ approval ~~thereon~~ *on the amended articles*. ~~Thereupon~~ *Upon certification and approval*, the amended articles of incorporation ~~shall~~ *must* be filed in the office of the secretary of state, and ~~no~~ *such* an amendment ~~shall~~ *may not* take effect until ~~such~~ *the* amended articles of incorporation ~~shall~~ have been filed as ~~aforsaid~~ *provided in this subsection.*"

Section 1052. Section 32-4-301, MCA, is amended to read:

"32-4-301. Powers of stockholders. (1) The stockholders of the corporation ~~shall~~ have the following powers of the corporation:

- (a) to determine the number of and elect directors as provided in 32-4-206;
- (b) to make, amend, and repeal bylaws;
- (c) to amend the articles of incorporation as provided in 32-4-205;
- (d) to exercise ~~such~~ other ~~of the~~ powers of the corporation as may be conferred on the stockholders by the bylaws.

(2) As to all matters requiring action by the stockholders of the corporation; and except as otherwise ~~herein~~ *provided in this chapter*, ~~such~~ *the* matters ~~shall~~ require the affirmative vote of a majority of the votes to which the stockholders present or represented at the meeting ~~shall~~ *be* entitled.

(3) Each stockholder ~~shall~~ *have* ~~has~~ one vote, in person or by proxy, for each share of capital stock held by ~~him~~ *the stockholder.*"

Section 1053. Section 32-5-304, MCA, is amended to read:

"32-5-304. Receipts — return of note. Every licensee shall:

(1) give to the borrower a plain and complete receipt in a form approved by the department for every payment made in cash on account of any loan at the time ~~such~~ *the* payment is made;

(2) endorse indelibly on a loan ledger or card, which ~~shall~~ *must* be kept by the licensee, the amount and date of each payment made by the borrower. Subject to the prior written approval of the department, mechanical data processing methods may be used. The department may approve any ~~such~~ system containing information *that is* equivalent to that required on a loan ledger or card.

(3) upon repayment of the loan in full, mark indelibly every obligation and security signed by the borrower with the word "paid" or "canceled" and release

any mortgage, restore any pledge, and cancel and return to the borrower any note and any assignment given to the licensee within 10 days after ~~such the~~ repayment. ~~Such~~ The canceled notes and canceled assignments ~~shall must~~ be mailed to the borrower at ~~his last known~~ *the borrower's last-known* address unless returned to the borrower in person.”

Section 1054. Section 32-6-106, MCA, is amended to read:

“32-6-106. Unauthorized disclosure of electronic funds transfer records. (1) A person commits the offense of unauthorized disclosure of electronic funds transfer records if ~~he~~ *the person* has lawful access to ~~such the~~ records by virtue of office or employment *and*:

(a) ~~and~~ permits another, who lacks lawful access to ~~such the~~ records, to inspect, copy, or read ~~such the~~ records; or

(b) transfers ~~such the~~ records to another who lacks lawful access ~~thereto to~~ *the records*.

(2) A person convicted of the offense of unauthorized disclosure of electronic funds transfer records shall be imprisoned in the state prison for any term not to exceed 1 year, be fined not more than \$5,000, or be punished by both ~~such~~ imprisonment and fine.”

Section 1055. Section 32-6-302, MCA, is amended to read:

“32-6-302. Verification of statement — procedure for discrepancies.

(1) If, upon receipt of a periodic statement of account, a customer of a financial institution believes the statement contains an error with respect to an electronic funds transfer, the customer shall notify the institution within 60 days after the day the institution delivered the statement. In this notification, the customer ~~shall identify himself~~ *must be identified* and *shall set forth* the foundation of ~~his~~ *the customer's* belief regarding the error.

(2) Within 10 days after a customer has notified a financial institution of a possible error under subsection (1), the institution shall either:

(a) correct the account in question, giving the customer a description of the correction *and* (if the correction is not in the exact amount of the alleged error, the description ~~shall must~~ explain the difference); or

(b) after investigating the matter, give the customer an explanation of the reasons the institution believes the statement to be correct. If requested in writing by the customer, a written explanation, documented by the institution's record of the transaction in question, ~~shall must~~ be furnished *to* the customer.

(3) A financial institution receiving notice under subsection (1) may not close the account concerning which the dispute exists or restrict transactions in ~~such the~~ account affecting the portion not in dispute until it complies with subsection (2). A financial institution ~~which that~~ has once complied with subsection (2) with respect to an alleged error is not required to respond under subsection (2) to repeated allegations of the same error.”

Section 1056. Section 32-6-303, MCA, is amended to read:

“32-6-303. Unauthorized transactions — liability. (1) A customer whose account is debited by an electronic funds transfer without ~~his the~~ *the customer's* authorization is not liable for the amount of ~~such the~~ transaction, and the amount must be recredited to ~~his the~~ *the customer's* account as provided under 32-6-302, unless:

(a) the financial institution has provided the customer *with* a unique identification device for initiating electronic funds transfer requests and

transactions are made as a result of the theft or loss of that device, in which case the customer is liable for the first \$50 of any consequent transactions made prior to the time the financial institution is notified of the loss or theft; or

(b) the financial institution has provided the customer *with* a unique identification device for initiating, in conjunction with a personal identification number separate from the device, electronic funds transfer requests and the customer attaches the personal identification number to the device by writing or otherwise or in any way makes the number readily available for discovery in connection with the theft or loss of the device and transactions are made as a result of the theft or loss of the device, in which case the customer is liable for one-half the value of all consequent transactions made until the financial institution is notified of the theft or loss.

(2) A customer who willingly gives ~~his~~ *the customer's* unique identification device and personal identification number to another is presumed to have authorized any electronic funds transfers requested by the other person.

(3) A merchant who makes electronic funds transfer services available on ~~his~~ *the merchant's* premises is liable for the amount of an unauthorized electronic funds transfer requested from ~~his~~ *the* premises only if *the merchant*:

(a) ~~he~~ or ~~his~~ *the merchant's* agent is negligent in requiring a user of electronic funds transfer services to furnish adequate self-identification;

(b) ~~he~~ fails to retain a physical record of the transaction for 1 year following the transaction; or

(c) ~~he~~ breaches the warranty required by subsection (4).

(4) A merchant operating a point-of-sale terminal shall warrant to the financial institution or the department that an order for an electronic funds transfer emanating from the terminal is part of a commercial transaction in which the customer receives goods or services of commensurate value.

(5) The liability for any unauthorized or erroneous electronic funds transfer that does not fall upon a customer or a merchant under this section falls upon the financial institution that carries out the transfer."

Section 1057. Section 32-7-103, MCA, is amended to read:

"32-7-103. Exemptions. (1) The provisions of this part do not apply to the following:

(a) a person licensed by this state pursuant to Title 37, chapter 61, as an attorney at law who is not actively engaged in the escrow business;

(b) a person licensed by this state pursuant to Title 37, chapter 50, as a public accountant who is not actively engaged in the escrow business;

(c) a person whose principal business is that of preparing abstracts or making searches of title that are used as a basis for the issuance of any title insurance policy by a company doing business under the laws of this state relating to insurance companies and the person is regulated by the commissioner of insurance;

(d) a financial institution, as defined in 32-6-103, that has its escrow accounts regularly audited or examined. The financial institution ~~must~~ *shall* supply a copy of the most recently prepared audit or examination to the director upon ~~his~~ *the director's* request.

(e) except as provided in subsection (2), any broker licensed by the Montana board of realty regulation if ~~he~~ *the broker* is performing an act:

- (i) in the course of or incidental to a single real estate transaction; and
- (ii) for which a real estate license is required; and
- (f) any person furnishing escrow services under the order of a court.

(2) A trust account of a broker licensed by the Montana board of realty regulation is not an escrow account within the meaning of this part.”

Section 1058. Section 32-7-108, MCA, is amended to read:

“32-7-108. Director — powers and duties. (1) The director shall exercise general supervision and control over persons doing escrow business in this state.

(2) In addition to the other duties imposed upon ~~him~~ *the director* by law, the director shall:

- (a) adopt reasonable rules necessary to effectuate the purposes of this part;
- (b) conduct examinations and investigations that may be necessary to determine whether a person has engaged or is about to engage in any act or practice constituting a violation of any provisions of this part;
- (c) conduct examinations, investigations, and hearings necessary and proper for the efficient administration of this part; and
- (d) establish fees commensurate with the costs of issuing the license and examining an escrow business.”

Section 1059. Section 33-1-211, MCA, is amended to read:

“33-1-211. Surety insurance. Surety insurance includes:

- (1) fidelity insurance, which is insurance guaranteeing the fidelity of persons holding positions of public or private trust;
- (2) insurance guaranteeing the performance of contracts, other than insurance policies, and guaranteeing and executing bonds, undertakings, and contracts of suretyship;
- (3) insurance indemnifying banks, bankers, brokers, or financial or moneyed corporations or associations:
 - (a) against check forgery or alteration or against loss resulting from any cause of bills of exchange, notes, bonds, securities, evidences of debt, deeds, mortgages, warehouse receipts, or other valuable papers, documents, money, precious metals and articles made ~~therefrom~~ *from precious metals*, jewelry, watches, necklaces, bracelets, gems, or precious and semiprecious stones, including any loss while being transported in armored motor vehicles, by mail, or by messenger but not including any other risks of transportation or navigation;
 - (b) against loss or damage to the insured’s premises or to ~~his~~ *the insured’s* furnishings, fixtures, equipment, safes, and vaults ~~therein~~ *on the premises* caused by burglary, robbery, theft, or criminal mischief or any attempt ~~thereat~~ *of those crimes*.”

Section 1060. Section 33-1-228, MCA, is amended to read:

“33-1-228. Commercial property. Risks generally covered by commercial property floaters covering property pertaining to a business, profession, or occupation may be covered by marine, inland marine, and transportation policies. This category includes:

- (1) radium floaters;

(2) physicians' and surgeons' instrument floaters. ~~Such~~ *The* policies may include coverage of ~~such~~ furniture, fixtures, and tenant assured's interest in ~~such the~~ improvements of buildings as *that* are located in that portion of the premises occupied by the assured in the practice of ~~his the assured's~~ profession.

(3) pattern and die floaters;

(4) theatrical floaters, excluding buildings and improvements, furniture, and fixtures that do not travel ~~about~~ with theatrical troupes;

(5) film floaters, including a builders' risk during the production and coverage on completed negatives, positives, and sound records;

(6) ~~salesmen's~~ *salesperson's* samples floaters;

(7) exhibition policies on property while it is on exhibition and in transit to or from ~~such~~ exhibitions;

(8) live animal floaters;

(9) builders' risks and installation risks policies covering the interest of owner, seller, or contractor against loss or damage to machinery, equipment, building materials, or supplies being used with and during the course of installation, testing, building, renovating, or repairing. These policies may cover property at points or places where work is being performed, while in transit, and during temporary storage or deposit of property designated for an awaiting specific installation, building, renovating, or repairing. ~~Such The~~ coverage is limited to builders' risks or installation risks ~~where when~~ perils in addition to fire and extended coverage are to be insured. If written for the account of the owner, the coverage ceases upon completion of work and acceptance ~~thereof; of the work,~~ or if written for the account of a seller or contractor, the coverage terminates when the interest of the seller or contractor terminates.

(10) mobile articles, machinery, and equipment floaters, (excluding motor vehicles designed for highway use and motor homes, trailers, and semitrailers except when hauled by tractors not designed for highway use, and snowplows constructed exclusively for highway use), covering identified property of a mobile or floating nature, not on sale or consignment or in the course of manufacture, that has come into custody or control of parties who intend to use ~~such the~~ property for which it was manufactured or created. ~~Such The~~ policies may not cover furniture and fixtures not customarily used away from premises where ~~such the~~ property is usually kept.

(11) property in transit to or from and in the custody of bailees, (not owned, controlled, or operated by the bailor), but ~~such the~~ policies may not cover the bailee's property at ~~his the bailee's~~ premises;

(12) installment sales and leased property policies covering property sold under conditional contract of sale, partial payment contract or installment sales contract or leased, but excluding motor vehicles designed for highway use. These policies must cover property in transit but may not extend beyond the termination of the seller's or lessor's interest. This subsection does not include machinery and equipment under certain "lease-back" contracts.

(13) garment contracts' floaters;

(14) furriers' or fur storers' customer's policies, which are policies under which certificates or receipts are issued by furriers or fur storers, covering specified articles that are the property of customers;

(15) accounts receivable policies and valuable papers and records policies;

(16) floor plan policies, covering property for sale while in possession of dealers under a floor plan or any similar plan under which the dealer borrows money from a bank or lending institution to pay the manufacturer; if:

(a) the merchandise is specifically identifiable as encumbered to the bank or lending institution;

(b) the dealer's right to sell or otherwise dispose of the merchandise is conditioned upon its being released from encumbrance by the bank or lending institution; and

(c) the policies cover property in transit and do not extend beyond the termination of the dealer's interest;

(17) sign and street clock policies, including neon signs, automatic or mechanical signs, and street clocks, while in use as ~~such~~ *intended*;

(18) fine arts policies covering paintings, etchings, pictures, tapestries, art glass windows, and other bona fide works of art of rarity, historical value, or artistic merit, for account of museums, galleries, universities, businesses, municipalities, and other similar interests;

(19) policies covering personal property, which may include coverage of money in locked safes or vaults on the assured's premises and may also include coverage of furniture, fixtures, tools, machinery, patterns, molds, dies, and a tenant insured's interest in improvements of buildings, which when sold to the ultimate purchaser may be covered specifically by the owner under inland marine policies, including:

(a) musical instrument dealers' policies, covering property consisting principally of musical instruments and their accessories, but radios, televisions, record players, and combinations of them are not musical instruments for the purposes of this subsection;

(b) camera dealers' policies covering property consisting principally of cameras and their accessories;

(c) furrier dealers' policies covering property consisting principally of furs and fur garments;

(d) equipment dealers' policies covering mobile equipment consisting of binders, reapers, tractors, harvesters, harrows, tedders, and other similar agricultural equipment and accessories ~~therefor~~; *for the equipment and covering construction equipment consisting of bulldozers, road scrapers, tractors, compressors, pneumatic tools, and similar equipment and accessories therefor for the equipment*, but excluding motor vehicles designed for highway use;

(e) stamp and coin dealers' policies covering property of philatelic and numismatic nature;

(f) jewelers' block policies; and

(g) fine arts dealers' policies;

(20) wool growers' floaters;

(21) domestic bulk liquids policies covering tanks and domestic bulk liquids stored ~~therein~~ *in the tanks*;

(22) "difference in conditions" coverage, excluding fire and extended coverage perils; and

(23) electronic data processing policies."

Section 1061. Section 33-1-302, MCA, is amended to read:

“33-1-302. Commissioner’s seal. (1) The commissioner ~~shall~~ *must* have a seal of office consisting of the same symbolic design within the inner circle as the great seal of the state of Montana, encircled by the words “Commissioner of Insurance, State of Montana”.

(2) All certificates and licenses issued by the commissioner ~~shall~~ *must* bear ~~his~~ *the* seal, except that the commissioner may, ~~in his discretion,~~ omit the seal as ~~to~~ *for* licenses.”

Section 1062. Section 33-1-304, MCA, is amended to read:

“33-1-304. Delegation of authority — responsibility. (1) The commissioner may delegate to any deputy, assistant, examiner, or employee of ~~his~~ *the commissioner’s* department the exercise or discharge in the commissioner’s name of any power, duty, or function, whether ministerial or discretionary, vested by this code in the commissioner.

(2) The commissioner ~~shall be~~ *is* responsible for the official acts of ~~his~~ *the commissioner’s* deputy, assistant, examiner, or employee acting in the commissioner’s name and by ~~his~~ *the commissioner’s* authority.”

Section 1063. Section 33-1-312, MCA, is amended to read:

“33-1-312. Records and certificates. (1) The commissioner shall enter in permanent form records of ~~his~~ *the commissioner’s* official transactions, examinations, investigations, and proceedings and keep ~~such~~ *the* records in ~~his~~ *the commissioner’s* office. ~~Such~~ *The* records and insurance filings in ~~his~~ *the commissioner’s* office ~~shall~~ *must* be open to public inspection except as otherwise provided in this code with respect to particular records or filings.

(2) When required, the commissioner shall furnish ~~his~~ *a* certificate as to the authority of any person to transact insurance, and ~~such~~ *the* certificate ~~shall~~ *must* be evidence of the facts set forth ~~therein~~ *in the certificate*.

(3) Copies of records or documents in ~~his~~ *the commissioner’s* office certified to by the commissioner ~~shall~~ *must* be received in evidence in all courts as if they were the originals.”

Section 1064. Section 33-1-402, MCA, is amended to read:

“33-1-402. Examination of insurance producers, managers, and promoters. For the purpose of ascertaining compliance with this code, the commissioner may, as often as ~~he~~ *the commissioner* considers advisable, examine the accounts, records, documents, and transactions pertaining to or affecting its insurance affairs or proposed insurance affairs of:

(1) an insurance producer, surplus lines insurance producer, general insurance producer, or adjuster;

(2) a person having a contract under which ~~he~~ *the person* enjoys in fact the exclusive or dominant right to manage or control an insurer;

(3) a person holding the shares of voting stock or policyholder proxies of a domestic insurer, for the purpose of controlling the management of the domestic insurer, as voting trustee or otherwise;

(4) a person engaged in or proposing to be engaged in or assisting in the promotion or formation of a domestic insurer or insurance holding corporation or corporation to finance a domestic insurer or the production of its business.”

Section 1065. Section 33-1-502, MCA, is amended to read:

“33-1-502. Grounds for disapproval. The commissioner shall disapprove any form filed under 33-1-501 or withdraw any previous approval ~~thereof~~ *of a form* only if the form:

(1) is in any respect in violation of or does not comply with this code;

(2) contains or incorporates by reference, where ~~such~~ *the* incorporation is otherwise permissible, any inconsistent, ambiguous, or misleading clauses or exceptions and conditions ~~which that~~ deceptively affect the risk purported to be assumed in the general coverage of the contract, including a provision in a casualty insurance form permitting defense costs within limits, except as permitted by the commissioner ~~in his discretion~~;

(3) has any title, heading, or other indication of its provisions ~~which that~~ is misleading;

(4) is printed or otherwise reproduced in ~~such a~~ manner ~~as to render that renders~~ any provision of the form substantially illegible;

(5) contains any provision that violates the provisions of 49-2-309.”

Section 1066. Section 33-1-602, MCA, is amended to read:

“33-1-602. Service of process — foreign, alien, or domestic. Service of ~~such~~ process against a foreign or alien insurer ~~shall may~~ be made only by service of process upon the commissioner or upon a deputy or other person in charge of ~~his the~~ *the commissioner’s* office during ~~his the~~ *the commissioner’s* absence. Service of process against a domestic insurer may be made either upon the commissioner or upon the insurer corporation in the manner provided by laws applying to corporations generally or upon the insurer’s attorney-in-fact if a domestic reciprocal insurer.”

Section 1067. Section 33-1-603, MCA, is amended to read:

“33-1-603. Serving process — time to plead. (1) Duplicate copies of legal process against an insurer for whom the commissioner is *the* attorney, pursuant to 33-1-601, ~~shall must~~ be served upon the commissioner or upon ~~his the~~ *the commissioner’s* deputy or other person in charge of ~~his the~~ *the commissioner’s* office during ~~his the~~ *the commissioner’s* absence. At the time of service, the plaintiff shall pay to the commissioner \$10, taxable as costs in the action. Upon receiving ~~such the~~ service, the commissioner shall promptly forward a copy ~~thereof~~ by certified ~~or~~ registered mail to the person last ~~so~~ designated by the insurer to receive the ~~same~~ *service*.

(2) ~~Where~~ *When* process is served upon the commissioner as an insurer’s attorney, the insurer ~~shall have~~ *has* 30 days within which to appear, answer, or plead after *the* date of mailing of the copy ~~thereof~~ by the commissioner, exclusive of the date of mailing, as provided by subsection (1).

(3) Process served upon the commissioner and a copy ~~thereof of the process~~ forwarded as *provided* in this section ~~provided shall constitute constitutes~~ service ~~thereof of the process~~ upon the insurer.”

Section 1068. Section 33-1-612, MCA, is amended to read:

“33-1-612. Commissioner — process agent for unauthorized insurer doing business in state. Delivery, effectuation, or solicitation of any insurance contract, by mail or otherwise, within this state by an unauthorized insurer; or the performance within this state of any other service or transaction connected with ~~such the~~ insurance by or on behalf of ~~such the~~ insurer; ~~shall be deemed must be considered~~ to constitute an appointment by ~~such the~~ insurer of the commissioner and ~~his the~~ *the commissioner’s* successors in office as its attorney, upon whom may be served all lawful process issued within this state in any action or proceeding against ~~such the~~ insurer arising out of any ~~such~~ contract or transaction; and ~~shall be deemed must be considered~~ to signify the insurer’s

agreement that any ~~such~~ service of process ~~shall have~~ *has* the same legal effect and validity as personal service of process upon it in this state.”

Section 1069. Section 33-1-613, MCA, is amended to read:

“33-1-613. Service of process — criteria mandating designation of commissioner. (1) Service of process upon any ~~such~~ insurer pursuant to 33-1-612 ~~shall must~~ be made by delivering to and leaving with the commissioner or some person in apparent charge of ~~his~~ *the commissioner’s* office two copies ~~thereof of the process~~ and the payment to ~~him~~ *the commissioner* of ~~such~~ fees as ~~that~~ may be prescribed by law. The commissioner shall ~~forthwith~~ mail by ~~registered or~~ certified mail one of the copies of ~~such the~~ process to the defendant at its principal place of business last known to the commissioner and shall keep a record of ~~all any~~ process ~~so~~ served upon ~~him~~ *the commissioner*. ~~Such~~ *The* service of process is sufficient, ~~provided if~~ notice of ~~such the~~ service and a copy of the process are sent within 10 days ~~thereafter~~ by ~~registered or~~ certified mail by ~~the~~ plaintiff’s attorney to the defendant at its ~~last known~~ *last-known* principal place of business and the defendant’s receipt or receipt issued by the post office with which the letter is registered, showing the name of the sender of the letter and the name and address of the person to whom the letter is addressed, and the affidavit of the plaintiff’s attorney showing a compliance ~~herewith~~ *with this section* are filed with the clerk of the court in which ~~such the~~ action is pending on or before the date the defendant is required to appear or within ~~such~~ further time ~~as that~~ the court may allow.

(2) Service of process in any ~~such~~ action, suit, or proceeding ~~shall must~~ in addition to the manner provided in subsection (1) ~~of this section~~ be valid if:

(a) served upon any person within this state who in this state on behalf of ~~such the~~ insurer is:

(i) soliciting insurance;

(ii) making any contract of insurance or issuing or delivering any policies or written contracts of insurance; or

(iii) collecting or receiving any premium for insurance;

(b) a copy of ~~such the~~ process is sent within 10 days ~~thereafter~~ by ~~registered or~~ certified mail by the plaintiff’s attorney to the defendant at the ~~last known~~ *last-known* principal place of business of the defendant; and

(c) the defendant’s receipt or the receipt issued by the post office with which the letter is registered, showing the name of the sender of the letter and the name and address of the person to whom the letter is addressed, and the affidavit of the plaintiff’s attorney showing a compliance ~~herewith~~ *with this section* are filed with the clerk of the court in which ~~such the~~ action is pending on or before the date the defendant is required to appear or within ~~such~~ further time ~~as that~~ the court may allow.

(3) ~~No~~ A plaintiff or complainant ~~shall may not~~ be entitled to a judgment by default under this section until the expiration of 30 days from the date of the filing of the affidavit of compliance.

(4) ~~Nothing in this~~ *This section contained shall does not* limit or abridge the right to serve any process, notice, or demand upon any insurer in any other manner now or ~~hereafter~~ *later* permitted by law.”

Section 1070. Section 33-2-111, MCA, is amended to read:

“33-2-111. Deposit requirement. (1) An insurer ~~shall may not~~ be authorized to transact insurance in this state unless it makes and ~~thereafter~~

maintains in trust in this state through the commissioner for the protection of all its policyholders or of all its policyholders and creditors a deposit of cash or securities eligible for deposit under 33-2-603 in an amount not less than the minimum paid-in capital stock, (if a stock insurer), or minimum surplus, (if a mutual or reciprocal insurer), other than special surplus, required to be maintained for authority to transact the kinds of insurance to be transacted, except as to:

(a) title insurers, the deposit ~~shall~~ *must* be in the amount of \$100,000;

(b) foreign insurers, in lieu of ~~such the~~ deposit or part ~~thereof of the~~ deposit in this state, the commissioner shall accept the certificate in proper form of the public official having supervision over insurers in any other state to the effect that a like deposit or part ~~thereof of a~~ deposit by ~~such the~~ insurer is being maintained in public custody ~~therein in that state~~ in trust for the purpose, among other reasonable purposes of protection of policyholders ~~and/or~~ or creditors, *or both*, of the protection of all its policyholders or ~~policyholders and~~ creditors, *or both*, in Montana;

(c) alien insurers, in lieu of ~~such the~~ deposit or part ~~thereof of the~~ deposit in this state, the commissioner shall accept evidence satisfactory to ~~him the~~ *commissioner* that the insurer maintains within the United States by way of trust deposits with public depositaries or in trust institutions approved by the commissioner assets available for discharge of its United States insurance obligations. ~~which~~ *The* assets ~~shall~~ *must* be in *an* amount not less than the outstanding liabilities of the insurer arising out of its insurance transactions in the United States, together with the larger of the following sums:

(i) the largest deposit required by this code to be made by foreign insurers transacting like kinds of insurance; or

(ii) \$300,000.

(2) Deposits of foreign or alien insurers in another state ~~shall~~ *must* be in cash ~~and/or~~ or securities, *or both*, of substantially the same quality as those eligible for deposit in this state under 33-2-603.

(3) Deposits of reserves by domestic life insurers ~~shall~~ *must* be made as provided in 33-2-531.

(4) Deposits made in this state ~~shall further be~~ *are* subject to the provisions of part 6 of this chapter."

Section 1071. Section 33-2-112, MCA, is amended to read:

"33-2-112. Management qualifications and affiliations. The commissioner ~~shall~~ *may* not grant or continue authority to transact insurance in this state as to any insurer the principal management personnel of which is found by ~~him the~~ *commissioner* to be untrustworthy or not of good character or so lacking in insurance company managerial experience as to make the proposed operation hazardous to the insurance-buying public or to its stockholders or ~~which he that the~~ *commissioner* has good reason to believe is affiliated directly or indirectly through ownership, control, management, reinsurance transactions, or other insurance or business relations with any person or persons whose business operations, to the detriment of insurers, stockholders, or creditors, are or have been marked by manipulation of assets, accounts, or reinsurance or by bad faith."

Section 1072. Section 33-2-116, MCA, is amended to read:

"33-2-116. Issuance or refusal of certificate of authority — state ownership of certificate. (1) If upon completion of its application the

commissioner finds that the insurer has met the requirements for and is entitled ~~thereto~~ under this code, ~~he~~ *the commissioner* shall issue to the insurer a proper certificate of authority. If ~~he~~ *the commissioner* does not so find, the commissioner shall issue ~~his an~~ order refusing ~~such the~~ certificate. The commissioner shall act upon an application for a certificate of authority within 180 days after its completion.

(2) The certificate, if issued, shall *must* specify the kind or kinds of insurance the insurer is authorized to transact in Montana. At the insurer's request, the commissioner may issue a certificate of authority limited to particular types of insurance or insurance coverages within the scope of a kind of insurance as defined in 33-1-205 through 33-1-212.

(3) Although issued to the insurer, the certificate of authority is at all times the property of the state of Montana. Upon any expiration, suspension, or termination ~~thereof of the certificate~~, the insurer shall promptly deliver the certificate of authority to the commissioner."

Section 1073. Section 33-2-120, MCA, is amended to read:

"33-2-120. Notice of suspension or revocation — effect upon producer's authority. (1) Upon suspending or revoking an insurer's certificate of authority, the commissioner shall ~~forthwith~~ give notice ~~thereof~~ to the insurer and to its insurance producers in this state of record in the commissioner's office.

(2) ~~Such~~ *The* suspension or revocation shall ~~likewise~~ *must* automatically suspend or revoke, as the case may be, the authority of all ~~such~~ insurance producers to act as insurance producers of the insurer in this state, and the commissioner shall ~~so~~ state *that requirement* in the notice to insurance producers provided for in subsection (1).

(3) ~~In his discretion the~~ *The* commissioner may also publish notice of ~~such~~ revocation in one or more newspapers of general circulation published in this state."

Section 1074. Section 33-2-121, MCA, is amended to read:

"33-2-121. Duration of suspension — insurer's obligations — reinstatement. (1) Suspension of an insurer's certificate of authority shall *must* be for ~~such a~~ period ~~as is~~ fixed by the commissioner in the order of suspension and shall *must* continue until rescinded or otherwise removed by the commissioner. During the suspension, the commissioner may shorten the period ~~thereof~~ by ~~his~~ further order.

(2) During the period of the suspension the insurer shall file its annual statement and pay fees, licenses, and taxes as required under this code as if the certificate had continued in full force.

(3) If within ~~such the~~ period of suspension the certificate of authority has not been terminated, the insurer's certificate of authority may be reinstated if the commissioner finds that the causes of the suspension have been removed or that the insurer is otherwise in compliance with the requirements of this code.

(4) Upon reinstatement of the insurer's certificate of authority, the authority of its insurance producers in this state to represent the insurer shall ~~likewise~~ *are reinstated*.

(5) The commissioner shall forthwith notify both the insurer and its insurance producers in this state, as shown by ~~his~~ *the commissioner's* records, of ~~such the~~ reinstatement."

Section 1075. Section 33-2-127, MCA, is amended to read:

“33-2-127. Effects of transfer of domicile. The certificate of authority, producers’ appointments and licenses, policy forms, rates, and other items that the commissioner allows, ~~in his discretion~~, that are in existence at the time an insurer admitted to transact insurance in this state transfers its corporate domicile to this or any other state continue in ~~full force and~~ effect upon transfer if the insurer remains qualified to transact insurance in this state. All rates and outstanding policies of a transferring insurer remain in ~~full force and~~ effect, and policies need not be endorsed as to the new name of the company or its domicile unless required by the commissioner. A transferring insurer either shall file new policy forms for use in this state with the commissioner on or before the effective date of the transfer or may use existing policy forms with the appropriate endorsements; as allowed by the commissioner. A transferring insurer shall notify the commissioner of the proposed transfer and shall promptly file any resulting amendments to corporate documents required to be filed with the commissioner.”

Section 1076. Section 33-2-205, MCA, is amended to read:

“33-2-205. Trust agreement — approval. (1) The deposit referred to in 33-2-202 ~~shall must~~ be made under a written trust agreement between the insurer and the trustee, consistent with the provisions of this part, and ~~shall must~~ be authenticated in ~~such the~~ form and manner ~~as that~~ the commissioner may designate or approve.

(2) The agreement ~~shall may~~ not be effective until filed with and approved in writing by the commissioner. The commissioner ~~shall may~~ not approve any trust agreement found by ~~him the commissioner~~ not to be in compliance with law or the terms of which do not in fact provide reasonably adequate protection for the insurer’s policyholders ~~or policyholders and or~~ creditors, ~~or both~~, in the United States.”

Section 1077. Section 33-2-208, MCA, is amended to read:

“33-2-208. Withdrawal of approval. The commissioner’s approval of any trust agreement or of any amendment ~~thereof of a trust agreement~~ may be withdrawn by the commissioner if ~~he the commissioner~~ finds upon hearing, after notice ~~thereof~~ to the insurer and the trustee or trustees, that the requisites for ~~such~~ approval, as provided in this part, no longer exist.”

Section 1078. Section 33-2-211, MCA, is amended to read:

“33-2-211. Statement of trustee. (1) The trustee of trusteed assets shall, from time to time, file with the commissioner statements, in ~~such the~~ form ~~as he that the commissioner~~ may designate and request in writing, certifying the character of ~~such the~~ assets and the amounts ~~thereof of the assets~~.

(2) If the trustee fails to file any ~~such~~ statement *described in subsection (1)* after a request ~~therefor for the statement~~ and expiration of a reasonable time ~~thereafter~~, the commissioner may suspend or revoke the certificate of authority of the insurer.”

Section 1079. Section 33-2-214, MCA, is amended to read:

“33-2-214. Substitution of trustee. (1) A new trustee or new trustees may be substituted for the original trustee or trustees of trusteed assets in the event of a vacancy or for other proper cause. Any ~~such~~ substitution ~~shall be is~~ subject to the commissioner’s approval.

(2) If the trustees of any trusteed assets ~~heretofore created~~ are individuals and if the number of ~~such~~ trustees is reduced to less than three by death,

resignation, or otherwise, the commissioner shall require that there be substituted for ~~such the~~ trustees a bank or trust company in this state approved by ~~him~~ *the commissioner*.”

Section 1080. Section 33-2-306, MCA, is amended to read:

“33-2-306. Surplus lines insurance producer’s authority under license — acceptance of business from other insurance producers. (1) Under a surplus lines insurance producer’s license, the licensee may place surplus lines insurance, in compliance with The Surplus Lines Insurance Law, with a foreign or alien insurer not authorized to transact insurance in this state and may act as a surplus lines insurance producer in this state for the insurer.

(2) The surplus lines insurance producer may accept surplus lines insurance from a licensed insurance producer of an authorized insurer or, if the commissioner agrees in advance, through an individual, partnership, or corporation that has not been appointed as an insurance producer in this state and may ~~compensate him therefor~~ *provide compensation for the insurance*.

(3) A surplus lines insurance producer who places or renews surplus lines insurance in accordance with subsection (1) may collect an inspection fee for the actual costs of inspecting the risk to be covered.”

Section 1081. Section 33-2-308, MCA, is amended to read:

“33-2-308. Evidence of insurance — changes — penalty. (1) Upon placing surplus lines insurance, the surplus lines insurance producer shall promptly issue or deliver to the insured or the producing insurance producer evidence of the insurance, consisting either of the policy as issued by the insurer or, if the policy is not then available, a cover note or certificate of insurance signed or countersigned by the insurance producer. The cover note or certificate must show the subject, coverage, conditions, and term of the insurance, the premium charged and taxes collected from the insured, and the name and address of the insurer. If a direct risk is assumed by more than one insurer, the cover note or certificate must state the name and address and proportion of the entire direct risk assumed by each insurer.

(2) If after the issuance and delivery of any cover note or certificate there is a change as to the identity of the insurers or the proportion of the direct risk assumed by the insurer as stated in the original cover note or certificate or in any other material respect as to the insurance coverage evidenced by the cover note or certificate, the surplus lines insurance producer shall promptly issue or deliver to the insured a substitute cover note or certificate accurately showing the current status of the coverage and the insurers responsible under the coverage.

(3) If a policy issued by the insurer is not available upon placement of the insurance and the surplus lines insurance producer has issued and delivered a cover note or certificate as provided in subsection (2), upon request ~~therefor~~ by the insured, the surplus lines insurance producer shall as soon as reasonably possible procure from the insurer its policy evidencing the insurance and deliver the policy to the insured in replacement of the cover note or certificate previously issued.

(4) A surplus lines insurance producer who knowingly or negligently issues or delivers a false cover note or certificate of insurance or fails promptly to notify the insured of a material change with respect to the insurance by delivery to the insured of a substitute cover note or certificate as provided in subsection (2) is guilty of a violation of this code and upon conviction is subject to the penalties

provided by 33-1-104 or to any greater applicable penalty otherwise provided by law.

(5) A surplus lines insurance producer may not issue or deliver an evidence of insurance or purport to insure or represent that insurance will be or has been written by an eligible surplus lines insurer unless ~~he~~ *the surplus lines insurance producer* has authority from the insurer to cause the risk to be insured or has received information from the insurer in the regular course of business that the insurance has been granted.”

Section 1082. Section 33-2-309, MCA, is amended to read:

“33-2-309. Liability of insurer as to losses and unearned premiums.

(1) As to a surplus lines risk that has been assumed by an unauthorized insurer pursuant to The Surplus Lines Insurance Law and if the premium on the surplus lines risk has been received by the surplus lines insurance producer who placed the insurance, in all questions ~~thereafter~~ arising under the coverage as between the insurer and the insured, the insurer is considered to have received the premium due to it for the coverage. The insurer is liable to the insured ~~as to~~ *for* losses covered by the insurance and for unearned premiums that may become payable to the insured upon cancellation of the insurance, whether or not in fact the surplus lines insurance producer is indebted to the insurer with respect to the insurance or for any other cause. This provision does not affect rights as between the insurer and the surplus lines insurance producer.

(2) A payment of premium to a surplus lines insurance producer acting for a person other than ~~himself~~ *individually* in negotiating, continuing, or reviewing a policy of insurance under this part is considered to be payment to the insurer, notwithstanding any conditions or stipulations that may be inserted in the policy or contract.

(3) Each unauthorized insurer assuming a surplus lines direct risk under The Surplus Lines Insurance Law is considered to have subjected itself to the terms of this section.”

Section 1083. Section 33-2-310, MCA, is amended to read:

“33-2-310. Records and annual statement — affidavit. (1) Each surplus lines insurance producer shall keep a separate record and account of all business transacted under ~~his~~ *the producer’s* license, including a copy of each daily report, if any, or of each policy, certificate of insurance, cover note, or other evidence of insurance issued or delivered by ~~him~~ *the producer*. The records must be available for examination by the commissioner at any reasonable time within 5 years after the issuance of the surplus lines insurance to which it relates.

(2) Prior to April 1 of each year, the surplus lines insurance producer shall file with the commissioner a statement for the preceding calendar year, showing:

(a) name and address of each insured for whom surplus lines insurance was procured;

(b) name and home office address of each insurer providing the surplus lines insurance;

(c) amount of each surplus lines insurance policy, the premium rate, and the gross premium charged for the policy;

(d) date and term of the policy;

(e) amount of premium returned on each policy canceled or not taken;

(f) amount of tax and other sums to be collected from the insured;

(g) identity of the producing insurance producer; and

(h) ~~such~~ additional information ~~as~~ *that* the commissioner may reasonably require.

(3) Each producing insurance producer shall execute and each surplus lines insurance producer shall file an affidavit, on a standardized form furnished by the commissioner, as to the diligent efforts to place the coverage with authorized insurers and the results of ~~such~~ *the* efforts. An affidavit filed under this subsection is subject to public inspection unless the commissioner determines that the public interest requires otherwise. The producing insurance producer shall state in the affidavit that ~~he~~ *the producer* has expressly advised the insured prior to placing the insurance that:

(a) the surplus lines insurer with whom the insurance is placed is not authorized in this state and is not subject to the same supervision as an authorized insurer; and

(b) in the event of the insolvency of the surplus lines insurer, the property and casualty guaranty fund of the state will not pay losses under the surplus lines coverage.”

Section 1084. Section 33-2-311, MCA, is amended to read:

“33-2-311. Tax on surplus lines. There is imposed upon premiums collected for surplus lines insurance transacted in this state a tax at the same rate and computed in the same manner as provided in 33-2-705 as to premiums of authorized insurers, except that amounts collected from the insured specifically for applicable state and federal taxes, and in excess of the premium otherwise required, are not considered to be part of the premium for the purposes of ~~such~~ *the* computation. Upon filing of the annual statement referred to in 33-2-310(2), the surplus lines insurance producer shall pay to the commissioner the amount of tax owing as to surplus lines insurance business transacted by ~~him~~ *the surplus lines insurance producer* during the preceding calendar year. If a surplus lines insurance policy covers risks or exposures only partially in this state, the tax payable must be computed upon the proportion of the premium ~~which~~ *that* is properly allocable to the risks or exposures located in this state.”

Section 1085. Section 33-2-503, MCA, is amended to read:

“33-2-503. Treatment of assets. Assets may be allowed as deductions from corresponding liabilities, ~~and~~ liabilities may be charged as deductions from assets, and deductions from assets may be charged as liabilities, in accordance with the form of annual statement applicable to the insurer as prescribed by the commissioner, ~~or otherwise in his discretion.~~”

Section 1086. Section 33-2-605, MCA, is amended to read:

“33-2-605. Record of deposits — liability of commissioner and state.

(1) The commissioner shall give to the depositing insurer vouchers as to all assets and securities deposited by it in this state through the commissioner as provided in this code.

(2) The commissioner shall keep a record of the assets and securities comprising each deposit, showing as far as practical the amount and market value of each item, and all ~~his~~ transactions relative ~~thereto~~ *to the deposits*.

(3) The commissioner and the state of Montana ~~shall do not~~ have ~~no~~ liability as to the safekeeping of any ~~such~~ deposit by the depositary or custodian ~~thereof~~ *of the deposit.*”

Section 1087. Section 33-2-606, MCA, is amended to read:

“33-2-606. Assignment or conveyance of assets or securities. All securities not negotiable by delivery and deposited under this code ~~shall must~~ be duly assigned to the commissioner and ~~his the commissioner’s~~ successors in office. In the case of securities held under custodial arrangements outside this state pursuant to 33-2-604(3), the custodian’s receipt for ~~such the~~ securities ~~shall must~~ be ~~so~~ delivered, if negotiable, or assigned to the commissioner if ~~thereby~~ legal title to ~~such the~~ securities is vested in the commissioner. The insurer shall transfer or convey to the commissioner and ~~his the commissioner’s~~ successors in office all other assets ~~so~~ deposited. Upon release to the insurer of any ~~such~~ asset or security, the commissioner shall reassign or transfer or reconvey the ~~same asset or security~~ to the insurer.”

Section 1088. Section 33-2-607, MCA, is amended to read:

“33-2-607. Appraisal. The commissioner may, ~~in his discretion,~~ prior to acceptance for deposit of any particular asset or security or at any *later* time ~~thereafter~~ while ~~so~~ deposited, have the ~~same asset or security~~ appraised or valued by competent appraisers. The reasonable costs of any ~~such~~ appraisal or valuation ~~shall must~~ be borne by the insurer.”

Section 1089. Section 33-2-612, MCA, is amended to read:

“33-2-612. Duration and release of deposit. (1) Every deposit made in this state by an insurer pursuant to this code, including assets and securities held in another state under custodial arrangements permitted by 33-2-604(3), ~~shall must~~ be held as long as there is outstanding any liability of the insurer as to which the deposit was so required, or if a deposit *was* required under the retaliatory law, 33-2-709, the deposit ~~shall must~~ be held for ~~so as~~ long as the basis of ~~such the~~ retaliation exists.

(2) Upon the request of a domestic insurer, the commissioner shall return to the insurer the whole or any portion of the assets and securities of the insurer held on deposit when the commissioner is satisfied that the assets and securities ~~so~~ to be returned are *not* subject to ~~no~~ liability and are not required to be ~~longer~~ held by any provision of law or purposes of the original deposit. If the insurer has reinsured all its outstanding risks in another insurer or insurers authorized to transact insurance in this state, then the commissioner shall deliver ~~such the~~ assets and securities to ~~such the~~ insurer or insurers ~~so~~ assuming ~~such the~~ risks; upon:

(a) written notice to ~~him the commissioner~~ by ~~such the~~ domestic insurer that ~~such the~~ assets and securities have been ~~duly~~ assigned, transferred, and set over to ~~such the~~ reinsuring insurer or insurers, ~~which notice shall be~~ accompanied by a ~~duly~~ verified copy of ~~such the~~ assignment, transfer, or conveyance; and

(b) in the case of deposits of the reserves of domestic life insurers under 33-2-531, proof satisfactory to the commissioner that the reinsuring insurer or insurers have deposited or will deposit and will maintain on deposit in public custody through the insurance supervisory official of its state of domicile assets and securities of like quality in *an* amount not less than the reserves ~~then and thereafter~~ of the policies and contracts ~~so~~ reinsured, in addition to any other deposit of ~~such the~~ insurer required or permitted by law, and, unless the insurer is required ~~so~~ to deposit and maintain on deposit all of its reserves, that ~~such the~~ deposit of ~~such the~~ reserves will be ~~so~~ deposited and held on deposit for the special benefit and protection of the holders of the life insurance policies and annuity contracts ~~so~~ reinsured.

(3) The commissioner shall return to a foreign insurer any deposit made in this state by ~~such the~~ insurer when ~~such the~~ insurer has ceased transacting insurance in this state or in the United States, and the insurer is not subject to any liability in this state on account of which the deposit was held.

(4) If the insurer is subject to delinquency proceedings, as defined in part 13 of this chapter, upon the order of a court of competent jurisdiction, the commissioner shall yield the assets and securities held on deposit to the receiver, conservator, rehabilitator, or liquidator of the insurer or to any other properly designated official or officials who succeed to the management and control of the insurer's assets.

(5) ~~No~~ A release of deposited assets ~~shall may not~~ be made except upon application to and the written order of the commissioner. The commissioner ~~shall does not~~ have ~~no~~ personal liability for ~~any~~ release of any ~~such~~ deposit or part ~~thereof so of a deposit made by him~~ in good faith."

Section 1090. Section 33-2-1104, MCA, is amended to read:

"33-2-1104. Acquisition of control of or merger with domestic insurer — filing requisites. (1) ~~No~~ A person other than the issuer ~~shall may not~~ make a tender offer for or a request or invitation for tenders of or enter into any agreement to exchange securities for, seek to acquire, or acquire, in the open market or otherwise, any voting security of a domestic insurer if, after the consummation ~~thereof of the transaction,~~ ~~such the~~ person would, directly or indirectly (or by conversion or by exercise of any right to acquire), be in control of ~~such the~~ insurer; ~~and no~~ A person ~~shall may not~~ enter into an agreement to merge with or otherwise to acquire control of a domestic insurer unless, at the time any ~~such~~ offer, request, or invitation is made or any ~~such~~ agreement is entered into or prior to the acquisition of ~~such the~~ securities if ~~no an~~ offer or agreement is ~~not~~ involved, ~~such the~~ person has filed with the commissioner and has sent to ~~such the~~ insurer, and ~~such the~~ insurer has sent to its shareholders, a statement containing the information required by this section and ~~such the~~ offer, request, invitation, agreement, or acquisition has been approved by the commissioner in the manner ~~hereinafter~~ prescribed ~~in this section~~. For purposes of this section, a domestic insurer ~~shall include~~ *includes* any other person controlling a domestic insurer unless ~~such the~~ other person is either directly or through its affiliates primarily engaged in business other than the business of insurance.

(2) The statement to be filed with the commissioner ~~hereunder shall must~~ be made under oath or affirmation and ~~shall must~~ contain the following information:

(a) the name and address of each person by whom or on whose behalf the merger or other acquisition of control referred to in subsection (1) is to be effected, ~~hereinafter who is called the~~ "acquiring party");

(i) if ~~such the~~ person is an individual, ~~his the~~ principal occupation and all offices and positions held during the past 5 years and any conviction of crimes other than minor traffic violations during the past 10 years;

(ii) if ~~such the~~ person is not an individual;:

(A) a report of the nature of its business operations during the past 5 years or for ~~such a~~ lesser period ~~as such that the~~ person and any predecessors ~~thereof shall~~ have been in existence;

(B) an informative description of the business intended to be done by ~~such the~~ person and ~~such the~~ person's subsidiaries; and

(C) a list of all individuals who are or who have been selected to become directors or executive officers of ~~such the~~ person or who perform or will perform functions appropriate to ~~such the~~ positions. ~~Such~~ The list ~~shall must~~ include for each ~~such~~ individual the information required by subsection (2)(a)(i).

(b) the source, nature, and amount of the consideration used or to be used in effecting the merger or other acquisition of control, a description of any transaction ~~wherein in which~~ funds were or are to be obtained for any ~~such~~ purpose, and the identity of persons furnishing ~~such the~~ consideration, provided, ~~however,~~ that ~~where when~~ a source of ~~such~~ consideration is a loan made in the lender's ordinary course of business, the identity of the lender ~~shall must~~ remain confidential if the person filing ~~such the~~ statement ~~so~~ requests;

(c) fully audited financial information as to the earnings and financial condition of each acquiring party for the preceding 5 fiscal years of each ~~such~~ acquiring party, (or for ~~such a~~ lesser period ~~as such that the~~ acquiring party and any predecessors ~~thereof shall~~ have been in existence), and similar unaudited information as of a date not earlier than 90 days prior to the filing of the statement;

(d) any plans or proposals ~~which that~~ each acquiring party may have to liquidate ~~such the~~ insurer, to sell its assets or merge or consolidate it with any person, or to make any other material change in its business or corporate structure or management;

(e) the number of shares of any security referred to in subsection (1) ~~which that~~ each acquiring party proposes to acquire and the terms of the offer, request, invitation, agreement, or acquisition referred to in subsection (1) and a statement as to the method by which the fairness of the proposal was arrived at;

(f) the amount of each class of any security referred to in subsection (1) ~~which that~~ is beneficially owned or concerning which there is a right to acquire beneficial ownership by each acquiring party;

(g) a full description of any contracts, arrangements, or understandings with respect to any security referred to in subsection (1) in which any acquiring party is involved, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. ~~Such~~ The description ~~shall must~~ identify the persons with whom ~~such the~~ contracts, arrangements, or understandings have been entered into.

(h) a description of the purchase of any security referred to in subsection (1) ~~by an acquiring party~~ during the 12 calendar months preceding the filing of the statement, ~~by an acquiring party~~, including the dates of purchase, names of the purchasers, and consideration paid or agreed to be paid ~~therefor for the security~~;

(i) a description of any recommendations to purchase any security referred to in subsection (1) ~~made~~ during the 12 calendar months preceding the filing of the statement, ~~made~~ by any acquiring party or by anyone based upon interviews or at the suggestion of ~~such the~~ acquiring party;

(j) copies of all tender offers for, requests or invitations for tenders of, exchange offers for, and agreements to acquire or exchange any securities referred to in subsection (1) and, (if distributed), of additional soliciting material relating ~~thereto to the offers or agreements~~;

(k) the terms of any agreement, contract, or understanding made with any broker-dealer as to solicitation of securities referred to in subsection (1) for

tender and the amount of any fees, commissions, or other compensation to be paid to broker-dealers with regard ~~thereto~~ *to the solicitation*;

(1) ~~such~~ additional information ~~as that~~ the commissioner may by rule prescribe as necessary or appropriate for the protection of policyholders and securityholders of the insurer or in the public interest.

(3) If the person required to file the statement referred to in subsection (1) is a partnership, limited partnership, syndicate, or other group, the commissioner may require that the information called for by subsection (2) ~~shall~~ *must* be given with respect to each partner of ~~such the~~ partnership or limited partnership, each member of ~~such the~~ syndicate or group, and each person who controls ~~such the~~ partner or member. If any ~~such~~ partner, member, or person is a corporation or the person required to file the statement referred to in subsection (1) is a corporation, the commissioner may require that the information ~~called for~~ *required* by subsection (2) ~~shall~~ be given with respect to ~~such the~~ corporation, each officer and director of ~~such the~~ corporation, and each person who is directly or indirectly the beneficial owner of more than 10% of the outstanding voting securities of ~~such the~~ corporation.

(4) If any material change occurs in the facts set forth in the statement filed with the commissioner and sent to ~~such the~~ insurer pursuant to this section, an amendment setting forth ~~such the~~ change, together with copies of all documents and other material relevant to ~~such the~~ change, ~~shall~~ *must* be filed with the commissioner and sent to ~~such the~~ insurer within 2 business days after the person learns of ~~such the~~ change. ~~Such~~ *The* insurer shall send ~~such the~~ amendment to its shareholders.

(5) If any offer, request, invitation, agreement, or acquisition referred to in subsection (1) is proposed to be made by means of a registration statement under the Securities Act of 1933 or in circumstances requiring the disclosure of similar information under the Securities Exchange Act of 1934 or under a state law requiring similar registration or disclosure, the person required to file the statement referred to in subsection (1) may ~~utilize such~~ *use the* documents in furnishing the information called for by that statement.”

Section 1091. Section 33-2-1105, MCA, is amended to read:

“33-2-1105. Approval by commissioner — hearings — notice. (1) The commissioner shall approve any merger or other acquisition of control referred to in 33-2-1104(1) unless, after a public hearing ~~thereon~~, ~~he~~ *the commissioner* finds that:

(a) after the change of control the domestic insurer referred to in 33-2-1104(1) would not be able to satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed;

(b) the effect of the merger or other acquisition of control would be substantially to lessen competition in insurance in this state or tend to create a monopoly ~~therein~~;

(c) the financial condition of any acquiring party might jeopardize the financial stability of the insurer or prejudice the interest of its policyholders or the interests of any remaining securityholders who are unaffiliated with the acquiring party;

(d) the terms of the offer, request, invitation, agreement, or acquisition referred to in 33-2-1104(1) are unfair and unreasonable to the securityholders of the insurer;

(e) the plans or proposals ~~which~~ *that* the acquiring party has to liquidate the insurer, to sell its assets or consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management are unfair and unreasonable to policyholders of the insurer and not in the public interest;

(f) the competence, experience, and integrity of those persons who would control the operation of the insurer are ~~such of the nature~~ *such of the nature* that it would not be in the interest of policyholders of the insurer and of the public to permit the merger or other acquisition of control.

(2) The public hearing referred to in subsection (1) must be held within 30 days after the statement required by 33-2-1104(1) is filed, and at least 20 ~~days~~ *days*' notice ~~thereof of the hearing~~ must be given by the commissioner to the person filing the statement. Not less than 7 days' notice of the public hearing must be given by the person filing the statement to the insurer and to other persons as may be designated by the commissioner. The insurer shall give notice to its securityholders. The commissioner shall make a determination within 30 days after the conclusion of the hearing. At the hearing, the person filing the statement, the insurer, any person to whom notice of hearing was sent, and any other person whose interests may be affected ~~thereby~~ has the right to present evidence, examine and cross-examine witnesses, and offer oral and written arguments and ~~in connection therewith is entitled~~ to conduct discovery proceedings in the same manner as *that* is presently allowed in the district court of this state. All discovery proceedings must be concluded not later than 3 days prior to the commencement of the public hearing.

(3) All statements, amendments, or other material filed pursuant to ~~subsections (1) through (4) of 33-2-1104(1) through (4)~~ *through (4)* and all notices of public hearings held pursuant to subsection (1) *of this section* must be mailed by the insurer to its shareholders within 5 business days after the insurer has received the statements, amendments, other material, or notices. The expenses of mailing must be borne by the person making the filing. As security for the payment of the expenses, the person shall file with the commissioner an acceptable bond or other deposit in an amount to be determined by the commissioner.

(4) The commissioner may retain at the acquiring party's expense any attorneys, actuaries, accountants, and other experts not otherwise a part of the commissioner's staff as may be reasonably necessary to assist the commissioner in reviewing the proposed acquisition of control."

Section 1092. Section 33-2-1106, MCA, is amended to read:

"33-2-1106. Exemptions — violations — jurisdiction. (1) The provisions of 33-2-1104, 33-2-1105, and this section do not apply to an offer, request, invitation, agreement, or acquisition ~~which that~~ the commissioner by order ~~shall exempt therefrom~~ *exempts from those sections* as:

(a) not having been made or entered into for the purpose and not having the effect of changing or influencing the control of a domestic insurer; or

(b) otherwise not comprehended within the purposes of 33-2-1104 and 33-2-1105.

(2) The following are violations of 33-2-1104, 33-2-1105, and this section:

(a) the failure to file any statement, amendment, or other material required to be filed pursuant to ~~subsections (1) through (4) of 33-2-1104(1) through (4)~~;

(b) the effectuation or any attempt to effectuate an acquisition of control of or merger with a domestic insurer unless the commissioner has given his approval thereto.

(3) The courts of this state are hereby vested with jurisdiction over every person not resident, domiciled, or authorized to do business in this state who files a statement with the commissioner under 33-2-1104 and over all actions involving the person arising out of violations of 33-2-1104, 33-2-1105, and this section, and each such person is considered to have performed acts equivalent to and constituting an appointment by such a the person of the commissioner to be his true and lawful the person's attorney upon whom may be served all lawful process in any action, suit, or proceeding arising out of violations of this section. Copies of all such lawful process must be served on the commissioner and transmitted by certified mail by the commissioner to the person at his the person's last-known address."

Section 1093. Section 33-2-1120, MCA, is amended to read:

"33-2-1120. Criminal or civil proceedings — penalties. (1) An insurer failing without just cause to file a registration statement as required in 33-2-1111 shall, after notice and hearing, pay a penalty of \$100 for each day of delinquency. The maximum penalty under this subsection is \$25,000. The commissioner may reduce the penalty if the insurer demonstrates to the commissioner that the imposition of the penalty would constitute a financial hardship to the insurer.

(2) A director or an officer of an insurance holding company system who knowingly violates, participates in, or assents to a transaction or who knowingly permits an officer or insurance producer of the insurer to engage in a transaction or make an investment that has not been properly reported or submitted pursuant to 33-2-1111 or 33-2-1113 or that violates any other provision of Title 33, chapter 2, part 11, shall, after notice and hearing, pay, in his the director's or officer's individual capacity, a fine of not more than \$5,000 for each violation. To determine the amount of the fine, the commissioner shall consider the appropriateness of the fine with respect to the gravity of the violation, the history of previous violations, and such other matters as that justice may require.

(3) If the commissioner determines that an insurer subject to Title 33, chapter 2, part 11, or a director, officer, employee, or insurance producer of the insurer has engaged in a transaction or entered into a contract that is subject to 33-2-1113 and that would not have been approved had approval been requested, the commissioner may order the insurer to cease and desist immediately any further activity under that transaction or contract. After notice and hearing, the commissioner may also order the insurer to void the contract and restore the status quo if such that action is in the best interest of policyholders, creditors, or the public.

(4) Whenever it appears to the commissioner that any insurer or any director, officer, employee, or insurance producer thereof of the insurer has committed a willful violation of this part, the commissioner may cause criminal proceedings to be instituted by the district court for the county in which the principal office of the insurer is located or if such the insurer has no such does not have an office in the state, then by the district court for Lewis and Clark County against such the insurer or the responsible director, officer, employee, or insurance producer thereof of the insurer.

(5) Any insurer ~~which~~ *that* willfully violates this part may be fined not more than \$25,000.

(6) Any individual who willfully violates this part may be fined not more than \$5,000 or, if ~~such~~ *the* willful violation involves the deliberate perpetration of a fraud upon the commissioner, imprisoned *for* not more than 2 years, or both.”

Section 1094. Section 33-2-1122, MCA, is amended to read:

“33-2-1122. Revocation, suspension, or nonrenewal of insurer’s license. Whenever it appears to the commissioner that any person has committed a violation of this part ~~which~~ *that* makes the continued operation of an insurer contrary to the interests of policyholders or the public, the commissioner may, after giving notice and an opportunity to be heard, determine to suspend, revoke, or refuse to renew ~~such~~ *the* insurer’s license or authority to do business in this state for ~~such~~ *a* period ~~as he~~ *that the commissioner* finds is required for the protection of policyholders or the public. Any ~~such~~ determination ~~shall~~ *must* be accompanied by specific findings of fact and conclusions of law.”

Section 1095. Section 33-2-1206, MCA, is amended to read:

“33-2-1206. Bulk reinsurance — foreign or alien insurers. (1) A foreign or alien insurer may reinsure all or substantially all of its insurance in force in Montana or a major class ~~thereof~~ *of insurance* with an agreement of bulk reinsurance, but ~~no such~~ *the* agreement may *not* become effective unless filed with the commissioner and approved by ~~him~~ *the commissioner* in writing. The commissioner may ~~in his discretion~~ hold a hearing before approving or disapproving an agreement of bulk reinsurance. Factors to be considered on bulk reinsurance agreements include but are not limited to:

- (a) whether the agreement would be inequitable to Montana policyholders;
- (b) whether the agreement would substantially reduce security of Montana policyholders; and
- (c) whether the agreement would substantially reduce the service to be rendered to Montana policyholders.

(2) The commissioner shall approve or disapprove the agreement within a reasonable time after filing the proposed agreement or, when applicable, after a hearing.

(3) The commissioner may require a foreign or alien insurer to establish a trust account in this state, not to exceed the aggregate reserves of the policies contained in the bulk reinsurance agreement, prior to granting approval.”

Section 1096. Section 33-2-1211, MCA, is amended to read:

“33-2-1211. Bulk reinsurance — stock insurers. (1) A domestic stock insurer may reinsure all or substantially all of its insurance in force or a major class ~~thereof~~ *of insurance* with another insurer by an agreement of bulk reinsurance, but ~~no such~~ *the* agreement ~~shall~~ *may not* become effective unless filed with the commissioner and approved by ~~him~~ *the commissioner* in writing after a hearing ~~thereon~~ *on the agreement*.

(2) The commissioner shall approve ~~such~~ *an* agreement within a reasonable time after ~~such~~ filing unless ~~he~~ *the commissioner* finds that it is inequitable to the stockholders of the domestic insurer or would substantially reduce the protection or service to its policyholders. If the commissioner does not approve

the agreement, ~~he~~ *the commissioner* shall ~~so~~ notify the insurer in writing specifying ~~his~~ *the* reasons ~~therefor~~ *for disapproval.*”

Section 1097. Section 33-2-1212, MCA, is amended to read:

“33-2-1212. Bulk reinsurance — mutual insurers. (1) A domestic mutual insurer may reinsure all or substantially all its business in force, or all or substantially all of a major class ~~thereof of its business~~, with another insurer, stock or mutual, by an agreement of bulk reinsurance after compliance with this section. ~~No such~~ *An agreement shall may not* become effective unless filed with the commissioner and approved by ~~him~~ *the commissioner* in writing after a hearing ~~thereon on the agreement~~.

(2) The commissioner shall approve ~~such an~~ agreement within a reasonable time after filing if ~~he~~ *the commissioner* finds it to be fair and equitable to each domestic insurer involved and that ~~such the~~ reinsurance if effectuated would not substantially reduce the protection or service to its policyholders. If the commissioner does not ~~so~~ approve *the agreement*, ~~he~~ *the commissioner* shall ~~so~~ notify each insurer involved in writing specifying ~~his~~ *the* reasons ~~therefor~~ *for disapproval*.

(3) The plan and agreement for ~~such~~ reinsurance must be approved by vote of not less than two-thirds of each domestic mutual insurer’s members voting ~~thereon on the plan and agreement~~ at meetings of members called for the purpose, pursuant to ~~such~~ reasonable notice and procedure ~~as that~~ the commissioner may approve. If *the insurer is* a life insurer, *the* right to vote may be limited to members whose policies are other than term or group policies and have been in effect for more than 1 year.

(4) If *the agreement is* for reinsurance of a mutual insurer in a stock insurer, the agreement must provide for payment in cash to each member of the insurer entitled ~~thereto as to a payment~~ upon conversion of ~~such the~~ insurer, pursuant to 33-3-216, of ~~his~~ *the member’s* equity in the business reinsured as determined under a fair formula approved by the commissioner, ~~which~~ *The* equity ~~shall must~~ be based upon ~~such the~~ member’s equity in the reserves, assets, (whether or not “admitted” assets), and surplus, if any, of the mutual insurer to be taken over by the stock insurer.”

Section 1098. Section 33-2-1310, MCA, is amended to read:

“33-2-1310. Cooperation of officers, owners, and employees. (1) ~~Any A~~ officer, manager, director, trustee, owner, employee, or insurance producer of any insurer or any other persons with authority over or in charge of any segment of the insurer’s affairs shall cooperate with the commissioner in any proceeding under this part or any investigation preliminary to the proceeding.

(2) (a) The term “person” as used in this section includes any person who exercises control directly or indirectly over activities of an insurer through any holding company or other affiliate of the insurer.

(b) “To cooperate” includes but is not limited to the following:

(~~a~~)*(i)* replying promptly in writing to any inquiry from the commissioner requesting ~~such~~ a reply; and

(~~b~~)*(ii)* making available to the commissioner any books, accounts, documents, or other records or information or property of or pertaining to the insurer and in ~~his~~ *the insurer’s* possession, custody, or control.

(~~2~~)*(3)* ~~No~~ A person may *not* obstruct or interfere with the commissioner in the conduct of any delinquency proceeding or any investigation preliminary or incidental ~~thereto to the proceeding~~.

~~(3)~~(4) This section shall *may* not be construed to abridge otherwise existing legal rights, including the right to resist a petition for liquidation or other delinquency proceedings or other orders.

(4)(5) Any person included within subsection (1) who fails to cooperate with the commissioner or any person who obstructs or interferes with the commissioner in the conduct of any delinquency proceeding or any investigation preliminary or incidental ~~thereto~~ *to the proceeding* or who violates any order the commissioner issued validly under this part may:

(a) be sentenced to pay a fine not exceeding \$10,000 or to undergo imprisonment for a term of not more than 1 year, or both; or

(b) after a hearing, be subject to the imposition by the commissioner of a civil penalty not to exceed \$10,000 and to the revocation or suspension of any insurance licenses issued by the commissioner.”

Section 1099. Section 33-2-1321, MCA, is amended to read:

“33-2-1321. Commissioner’s summary orders and supervision proceedings. (1) ~~Whenever~~ *If* the commissioner determines, after a hearing held under subsection (5), that any domestic insurer has committed or engaged in or is about to commit or engage in any act, practice, or transaction that would subject it to delinquency proceedings under this part, ~~he the commissioner~~ *may* make and serve upon the insurer and any other persons involved ~~such~~ *orders as that* are reasonably necessary to correct or eliminate ~~such the~~ *conduct*.

(2) If upon examination or at any other time the commissioner determines that any domestic insurer is in ~~such a~~ *condition as to render that renders* the continuance of its business hazardous to the public or to holders of its policies or certificates of insurance or if ~~such the~~ *domestic insurer* gives its consent, then the commissioner shall notify the insurer of ~~his the commissioner’s~~ *determination* and furnish to the insurer a written list of the commissioner’s requirements to abate ~~his the~~ *determination*.

(3) If the commissioner makes a determination to supervise an insurer subject to an order under subsection (1) or (2), ~~he the commissioner~~ *shall* notify the insurer that it is under the supervision of the commissioner. During the period of supervision, the commissioner may appoint a supervisor to supervise ~~such the~~ *insurer*. The order appointing a supervisor shall direct the supervisor to enforce orders issued under subsections (1) and (2) and may also require that the insurer may not do any of the following things during the period of supervision without the prior approval of the commissioner or the supervisor:

- (a) dispose of, convey, or encumber any of its assets or its business in force;
- (b) withdraw from any of its bank accounts;
- (c) lend any of its funds;
- (d) invest any of its funds;
- (e) incur any debt, obligation, or liability;
- (f) merge or consolidate with another company; or
- (g) enter into any new reinsurance contract or treaty.

(4) Any insurer subject to an order under this section shall comply with the lawful requirements of the commissioner and, if placed under supervision, has 60 days from the date the supervision order is served within which to comply with the requirements of the commissioner. If the insurer fails to comply within that time, the commissioner may institute proceedings under 33-2-1331 or

33-2-1341 to have a rehabilitator or liquidator appointed or extend the period of supervision.

(5) The notice of hearing under subsection (1) and any order issued pursuant to ~~such~~ subsection ~~shall~~ (1) *must* be served upon the insurer pursuant to the applicable rules of civil or administrative procedure. The notice of hearing ~~shall~~ *must* state the time and place of hearing and the conduct, condition, or ground upon which the commissioner would base ~~his~~ *an* order. Unless mutually agreed between the commissioner and the insurer, the hearing ~~shall~~ *must* occur not less than 10 days or more than 30 days after notice is served and ~~shall~~ *must* be either in Lewis and Clark County or in some other place convenient to the parties to be designated by the commissioner. The commissioner shall hold all hearings under subsection (1) privately unless the insurer requests a public hearing, in which case the hearing ~~shall~~ *must* be public.

(6) (a) Any insurer subject to an order under subsection (2) may request a hearing to review that order. ~~Such a~~ *The* hearing ~~shall~~ *must* be held as provided in subsection (5), but the request for a hearing ~~shall~~ *may* not stay the effect of the order.

(b) If the commissioner issues an order under subsection (2), the insurer may, at any time, waive a commissioner's hearing and apply for immediate judicial relief by means of any remedy afforded by law without first exhausting administrative remedies. Subsequent to a hearing, any party to the proceedings whose interests are substantially affected ~~shall be~~ *is* entitled to judicial review of any order issued by the commissioner.

(7) During the period of supervision the insurer may request the commissioner to review an action taken or proposed to be taken by the supervisor, specifying ~~wherein~~ *the reason why* the action complained of is believed not to be in the best interest of the insurer.

(8) If any person has violated any supervision order issued under this section ~~which as to him that was then~~ still in effect *for that person, he the person* is subject to a civil penalty imposed by the district court not to exceed \$10,000.

(9) The commissioner may apply for and any court of general jurisdiction may grant ~~such~~ restraining orders, preliminary and permanent injunctions, and other orders ~~as~~ *that* may be necessary to enforce a supervision order.

(10) If any person subject to the provisions of this part, including any person described in 33-2-1310(1), knowingly violates any valid order of the commissioner issued under the provisions of this section and, as a result of ~~such~~ *the* violation, the net worth of the insurer is reduced or the insurer suffers loss it would not otherwise have suffered, ~~said~~ *the* person is personally liable to the insurer for the amount of any ~~such~~ reduction or loss. The commissioner or supervisor is authorized to bring an action on behalf of the insurer in the district court to recover the amount of the reduction or loss together with any costs."

Section 1100. Section 33-2-1323, MCA, is amended to read:

"33-2-1323. Confidentiality of proceedings. In all proceedings and judicial reviews under 33-2-1321 and 33-2-1322, all records of the insurer, other documents, and all files and court records and papers of the commissioner, so far as they pertain to or are a part of the record of the proceedings, remain confidential except as necessary to obtain compliance ~~therewith~~ *with the records, documents, files, or papers*, unless the district court, after hearing arguments from the parties in chambers, orders otherwise or unless the insurer requests that the matter be made public. Until ~~such~~ *the* court order, all papers

filed with the clerk of the district court ~~shall~~ *must* be held by ~~him~~ in a confidential file.”

Section 1101. Section 33-2-1333, MCA, is amended to read:

“33-2-1333. Powers and duties of the rehabilitator. (1) The commissioner as rehabilitator may appoint one or more special deputies, who ~~shall~~ have all the powers and responsibilities of the rehabilitator granted under this section, and the commissioner may employ counsel, clerks, and assistants. The compensation of the special deputy, counsel, clerks, and assistants and all expenses of taking possession of the insurer and of conducting the proceedings ~~shall~~ *must* be fixed by the commissioner with the approval of the court and ~~shall~~ *must* be paid out of the funds or assets of the insurer. The persons appointed under this section shall serve at the pleasure of the commissioner. If the property of the insurer does not contain sufficient cash or liquid assets to defray the costs incurred, the commissioner may advance the costs ~~so~~ incurred out of any appropriation for the maintenance of ~~his~~ *the commissioner’s* office. Any amounts ~~so~~ advanced for expenses of administration ~~shall~~ *must* be repaid to the commissioner for the use of ~~his~~ *the commissioner’s* office out of the first available money of the insurer.

(2) The rehabilitator may take ~~such~~ action as necessary to reform and revitalize the insurer. ~~He~~ *The rehabilitator* shall have all the powers of the directors, officers, and managers, whose authority ~~shall~~ *must* be suspended, except as they are redelegated by the rehabilitator. ~~He~~ ~~shall~~ ~~have~~ *The rehabilitator* has full power to direct and manage, to hire and discharge employees subject to any contract rights they may have, and to deal with the property and business of the insurer.

(3) If it appears to the rehabilitator that there has been criminal or tortious conduct or breach of any contractual or fiduciary obligation detrimental to the insurer by any officer, manager, insurance producer, broker, employee, or other person, ~~he~~ *the rehabilitator* may pursue all appropriate legal remedies on behalf of the insurer.

(4) If the rehabilitator determines that reorganization, consolidation, conversion, reinsurance, merger, or other transformation of the insurer is appropriate, ~~he~~ *the rehabilitator* shall prepare a plan to effect ~~such~~ *the* changes. Upon application of the rehabilitator for approval of the plan and after ~~such~~ notice and hearings ~~as~~ *that* the court may prescribe, the court may either approve or disapprove the plan proposed or may modify it and approve it as modified. Any plan approved under this section must be, in the judgment of the court, fair and equitable to all parties concerned. If the plan is approved, the rehabilitator shall carry out the plan. In the case of a life insurer, the plan proposed may include the imposition of liens upon the policies of the company if all rights of shareholders are first relinquished. A plan for a life insurer may also propose imposition of a moratorium upon loan and cash surrender rights under policies for ~~such~~ *the* period and to ~~such~~ ~~an~~ *the* extent as may be necessary.

(5) The rehabilitator ~~shall~~ ~~have~~ *has* the power under 33-2-1351 and 33-2-1352 to avoid fraudulent transfers.”

Section 1102. Section 33-2-1334, MCA, is amended to read:

“33-2-1334. Effect of proceedings on pending and potential litigation. (1) Any court in this state before which any action or proceeding in which the insurer is a party or is obligated to defend a party is pending when a rehabilitation order against the insurer is entered shall stay the action or proceeding for 90 days and ~~such~~ *an* additional time ~~as~~ *that* is necessary for the

rehabilitator to obtain proper representation and prepare for further proceedings. The rehabilitator shall take ~~such~~ action respecting the pending litigation ~~as he~~ *that the rehabilitator* considers necessary in the interests of justice and for the protection of creditors, policyholders, and the public. The rehabilitator shall immediately consider all litigation pending outside this state and shall petition the courts having jurisdiction over that litigation for stays whenever necessary to protect the estate of the insurer.

(2) ~~No~~ A statute of limitations or defense of laches ~~shall~~ *may not* run with respect to any action by or against an insurer between the filing of a petition for appointment of a rehabilitator for that insurer and the order granting or denying that petition. Any action by or against the insurer that might have been commenced when the petition was filed may be commenced for at least 60 days after the order of rehabilitation is entered or the petition is denied.”

Section 1103. Section 33-2-1341, MCA, is amended to read:

“33-2-1341. Grounds for liquidation. The commissioner may petition the district court for an order directing ~~him~~ *the commissioner* to liquidate a domestic insurer or an alien insurer domiciled in this state on the basis:

(1) of any ground for an order of rehabilitation as specified in 33-2-1331, whether or not there has been a prior order directing the rehabilitation of the insurer;

(2) that the insurer is insolvent; or

(3) that the insurer is in ~~such~~ a condition that the further transaction of business would be hazardous, financially or otherwise, to its policyholders, its creditors, or the public.”

Section 1104. Section 33-2-1344, MCA, is amended to read:

“33-2-1344. Dissolution of insurer. The commissioner may petition for an order dissolving the corporate existence of a domestic insurer or the United States branch of an alien insurer domiciled in this state at the time ~~he~~ *the commissioner* applies for a liquidation order. The court shall order dissolution of the corporation upon petition by the commissioner upon or after the granting of a liquidation order. If the dissolution has not previously been ordered, it ~~shall~~ *must* be effected by operation of law upon the discharge of the liquidator if the insurer is insolvent but may be ordered by the court upon the discharge of the liquidator if the insurer is under a liquidation order for some other reason.”

Section 1105. Section 33-2-1345, MCA, is amended to read:

“33-2-1345. Powers of liquidator. (1) The liquidator may:

(a) appoint a special deputy to act for ~~him~~ *the liquidator* under this part and determine ~~his~~ *the deputy's* reasonable compensation. The special deputy has all powers of the liquidator granted by this section. The special deputy ~~shall serve~~ *serves* at the pleasure of the liquidator.

(b) employ insurance producers, legal counsel, actuaries, accountants, appraisers, consultants, and other personnel necessary to assist in the liquidation;

(c) fix the reasonable compensation of employees and insurance producers, legal counsel, actuaries, accountants, appraisers, and consultants with the approval of the court;

(d) pay reasonable compensation to persons appointed and defray from the funds or assets of the insurer all expenses of taking possession of, conserving, conducting, liquidating, disposing of, or otherwise dealing with the business and

property of the insurer. If the property of the insurer does not contain sufficient cash or liquid assets to defray the costs incurred, the commissioner may advance the costs so incurred out of any appropriation for the maintenance of the commissioner's office. Any amounts so advanced for expenses of administration shall *must* be repaid to the commissioner for the use of ~~his~~ *the commissioner's* office out of the first available money of the insurer.

(e) hold hearings, subpoena witnesses to compel their attendance, administer oaths, examine any person under oath, and compel any person to subscribe to ~~his~~ *the person's* testimony after it has been correctly reduced to writing and in connection ~~therewith~~ *with the hearings* require the production of any books, papers, records, or other documents ~~which he~~ *that the liquidator* considers relevant to the inquiry;

(f) collect all debts and money due and claims belonging to the insurer, wherever located, and for this purpose:

(i) institute timely action in other jurisdictions in order to forestall garnishment and attachment proceedings against ~~such~~ *the* debts;

(ii) do ~~such~~ other acts ~~as that~~ are necessary to collect, conserve, or protect its assets or property, including selling, compounding, compromising, or assigning debts for collection purposes on ~~such~~ terms and conditions ~~as he~~ *that the liquidator* considers best; and

(iii) pursue any creditor's remedies available to enforce ~~his~~ *the liquidator's* claims;

(g) conduct public and private sales of the property of the insurer;

(h) use assets of the estate of an insurer under a liquidation order to transfer policy obligations to a solvent assuming insurer if the transfer can be arranged without prejudice to applicable priorities under 33-2-1371;

(i) acquire, encumber, lease, improve, sell, or transfer any property of the insurer at its market value or upon ~~such~~ terms and conditions ~~as that~~ are fair and reasonable. ~~He shall~~ *The liquidator* also ~~have~~ *has the* power to execute, acknowledge, and deliver any and all deeds, assignments, releases, and other instruments necessary or proper to effectuate any sale of property or other transaction in connection with the liquidation.

(j) borrow money on the security of the insurer's assets or without security and execute and deliver all documents necessary to that transaction for the purpose of facilitating the liquidation;

(k) enter into ~~such~~ contracts ~~as that~~ are necessary to carry out the order to liquidate and affirm or disavow any contracts to which the insurer is a party;

(l) continue to prosecute and institute in the name of the insurer or in ~~his~~ *the liquidator's* own name any and all suits and other legal proceedings, in this state or elsewhere, and abandon the prosecution of claims ~~he~~ *that the liquidator* considers unprofitable to pursue further. If the insurer is dissolved under 33-2-1344, ~~he shall~~ *the liquidator has* the power to apply to any court in this state or elsewhere for leave to substitute ~~himself~~ for the insurer as plaintiff.

(m) prosecute any action ~~which~~ *that* may exist in behalf of the creditors, members, policyholders, or shareholders of the insurer against any officer of the insurer or any other person;

(n) remove any or all records and property of the insurer to the offices of the commissioner or to ~~such other~~ *another* place ~~as that~~ may be convenient for the purposes of efficient and orderly execution of the liquidation. Guaranty

associations and foreign guaranty associations ~~shall~~ *must* have ~~such~~ reasonable access to the records of the insurer ~~as~~ *that* is necessary for them to carry out their statutory obligations.

(o) deposit in one or more banks in this state ~~such~~ sums ~~as~~ *that* are required for meeting current administration expenses and dividend distributions;

(p) invest all sums not currently needed, unless the court orders otherwise;

(q) file any necessary documents for record in the office of any county clerk and recorder in this state or elsewhere where property of the insurer is located;

(r) assert all defenses available to the insurer as against third persons, including statutes of limitation, statutes of frauds, and the defense of usury. A waiver of any defense by the insurer after a petition in liquidation has been filed ~~shall~~ *may* not bind the liquidator. Whenever a guaranty association or foreign guaranty association has an obligation to defend any suit, the liquidator shall give precedence to ~~such~~ *the* obligation and may defend only in the absence of a defense by ~~such~~ *the* guaranty associations.

(s) exercise and enforce all the rights, remedies, and powers of any creditor, shareholder, policyholder, or member, including any power to avoid any transfer or lien that may be given by the general law and that is not included with 33-2-1351 through 33-2-1357;

(t) intervene in any proceeding wherever instituted that might lead to the appointment of a receiver or trustee and act as the receiver or trustee whenever the appointment is offered;

(u) enter into agreements with any receiver or commissioner of any other state relating to the rehabilitation, liquidation, conservation, or dissolution of an insurer doing business in both states;

(v) exercise all powers now held or ~~hereafter~~ conferred upon receivers by the laws of this state not inconsistent with the provisions of this part.

(2) The enumeration in this section of the powers and authority of the liquidator ~~shall~~ *may* not be construed as a limitation upon ~~him~~ *the liquidator*; ~~nor shall it~~ or exclude in any manner ~~his~~ *the* right to do ~~such~~ other acts not ~~herein~~ specifically enumerated or otherwise provided for ~~as~~ *that* may be necessary for the accomplishment of or in aid of the purpose of liquidation.”

Section 1106. Section 33-2-1347, MCA, is amended to read:

“33-2-1347. Duty of insurance producers to give notice. (1) Every person who receives notice in the form prescribed in 33-2-1346 that an insurer ~~which he~~ *that the person* represents as an insurance producer is the subject of a liquidation order shall within 15 days of ~~such~~ *the* notice give notice of the liquidation order. The notice ~~shall~~ *must* be sent by first-class mail to the last address contained in the insurance producer’s records to each policyholder or other person named in any policy issued through the insurance producer by the insurer if ~~he~~ *the producer* has a record of the address of the policyholder or other person. A policy ~~shall~~ *must* be considered issued through an insurance producer if the insurance producer has a property interest in the expiration of the policy or if the insurance producer has had in ~~his~~ *the producer’s* possession a copy of the declarations of the policy at any time during the life of the policy, except where the ownership of the expiration of the policy has been transferred to another. The written notice ~~shall~~ *must* include the name and address of the insurer, the name and address of the insurance producer, identification of the policy impaired, and the nature of the impairment, including termination of coverage as described in 33-2-1343. Notice by a general insurance producer satisfies the

notice requirement for any insurance producers under contract to ~~him~~ *the producer*. Each insurance producer obligated to give notice under this section shall file a report of compliance with the liquidator.

(2) Any insurance producer failing to give notice or file a report of compliance as required in subsection (1) may be subject to payment of a penalty of not more than \$1,000 and may have ~~his~~ *the producer's* license suspended, after a hearing held by the commissioner.

(3) The liquidator may waive the duties imposed by this section if ~~he~~ *the liquidator* determines that other notice to the policyholders of the insurer under liquidation is adequate.”

Section 1107. Section 33-2-1348, MCA, is amended to read:

“33-2-1348. Effect of proceedings on pending and potential litigation — actions by liquidator. (1) Upon issuance of an order appointing a liquidator of a domestic insurer or of an alien insurer domiciled in this state, ~~no~~ *an* action at law or equity may *not* be brought against the insurer or liquidator, whether in this state or elsewhere, ~~nor shall any such~~ *Any* existing actions *may not* be maintained or further presented after issuance of ~~such~~ *the* order. The courts of this state shall give full faith and credit to injunctions against the liquidator or the company or the continuation of existing actions against the liquidator or the company when ~~such~~ *the* injunctions are included in an order to liquidate an insurer issued pursuant to corresponding provisions in other states. Whenever in the liquidator's judgment protection of the estate of the insurer necessitates intervention in an action against the insurer that is pending outside this state, ~~he~~ *the liquidator* may intervene in the action. The liquidator may defend any action in which ~~he~~ *the liquidator* intervenes under this section at the expense of the estate of the insurer.

(2) The liquidator may, upon or after an order for liquidation, within 2 years or ~~such~~ *a* time in addition to 2 years ~~as~~ *that* applicable law may permit, institute an action or proceeding on behalf of the estate of the insurer upon any cause of action against which the period of limitation fixed by applicable law has not expired at the time of the filing of the petition upon which ~~such~~ *the* order is entered. When, by any agreement, a period of limitation is fixed for instituting a suit or proceeding upon any claim or for filing any claim, proof of claim, proof of loss, demand, notice, or the like or when in any proceeding, judicial or otherwise, a period of limitation is fixed, either in the proceeding or by applicable law, for taking any action, filing any claim or pleading, or doing any act and when in any ~~such~~ case the period had not expired at the date of the filing of the petition, the liquidator may, for the benefit of the estate, take any ~~such~~ action or do any ~~such~~ act required of or permitted to the insurer within a period of 180 days subsequent to the entry of an order for liquidation or within ~~such~~ *a* further period ~~as~~ *that* is shown to the satisfaction of the court not to be unfairly prejudicial to the other party.

(3) ~~No~~ *A* statute of limitations or defense of laches ~~shall~~ *may not* run with respect to any action against an insurer between the filing of a petition for liquidation against an insurer and the denial of the petition. Any action against the insurer that might have been commenced when the petition was filed may be commenced for at least 60 days after the petition is denied.”

Section 1108. Section 33-2-1352, MCA, is amended to read:

“33-2-1352. Fraudulent transfer after petition. (1) After a petition for rehabilitation or liquidation has been filed, a transfer of any of the real property of the insurer made to a person acting in good faith is valid against the receiver if

made for a present fair equivalent value or, if not made for a present fair equivalent value, then to the extent of the present consideration actually paid ~~therefor~~, for which amount the transferee ~~shall~~ *must* have a lien on the property ~~so~~ transferred. The commencement of a proceeding in rehabilitation or liquidation is constructive notice upon the recording of a copy of the petition for or order of rehabilitation or liquidation with the county clerk and recorder in the county where any real property in question is located. The exercise by a court of the United States or any state or jurisdiction to authorize or effect a judicial sale of real property of the insurer within any county in any state ~~shall~~ *may* not be impaired by the pendency of ~~such~~ a *rehabilitation or liquidation* proceeding unless the copy is recorded in the county prior to the consummation of the judicial sale.

(2) After a petition for rehabilitation or liquidation has been filed and before either the receiver takes possession of the property of the insurer or an order of rehabilitation or liquidation is granted:

(a) a transfer of any of the property of the insurer, other than real property, made to a person acting in good faith is valid against the receiver if made for a present fair equivalent value or, if not made for a present fair equivalent value, then to the extent of the present consideration actually paid ~~therefor~~, for which amount the transferee ~~shall~~ *must* have a lien on the property ~~so~~ transferred;

(b) a person indebted to the insurer or holding property of the insurer may, if acting in good faith, pay the indebtedness or deliver the property or any part ~~thereof of the property~~ to the insurer or upon ~~his~~ *the person's* order, with the same effect as if the petition were not pending;

(c) a person having actual knowledge of the pending rehabilitation or liquidation is considered not acting in good faith;

(d) a person asserting the validity of a transfer under this section has the burden of proof. Except as ~~elsewhere~~ *otherwise* provided in this section, ~~no~~ a transfer by or on behalf of the insurer after the date of the petition for liquidation by any person other than the liquidator ~~shall be~~ *is not* valid against the liquidator.

(3) ~~Nothing in this~~ *This part impairs does not impair* the negotiability of currency or negotiable instruments."

Section 1109. Section 33-2-1353, MCA, is amended to read:

"33-2-1353. Voidable preferences and liens. (1) (a) A preference is a transfer of any of the property of an insurer to or for the benefit of a creditor, for or on account of an antecedent debt, made or suffered by the insurer within 1 year before the filing of a successful petition for liquidation under this part, the effect of which transfer may be to enable the creditor to obtain a greater percentage of this debt than another creditor of the same class would receive. If a liquidation order is entered while the insurer is already subject to a rehabilitation order, then ~~such~~ *the* transfers ~~shall~~ *must* be considered preferences if made or ~~suffered~~ *allowed* within 1 year before the filing of the successful petition for rehabilitation or within 2 years before the filing of the successful petition for liquidation, whichever time is shorter.

(b) Any preference may be avoided by the liquidator if:

(i) the insurer was insolvent at the time of the transfer;

(ii) the transfer was made within 4 months before the filing of the petition;

(iii) the creditor receiving it or to be benefited ~~thereby~~ *by it* or ~~his~~ *the* creditor's agent acting with reference ~~thereto~~ *to the transfer* had, at the time

when the transfer was made, reasonable cause to believe that the insurer was insolvent or was about to become insolvent; or

(iv) the creditor receiving it was an officer or any employee or attorney or other person who was in fact in a position of comparable influence in the insurer to an officer, whether or not ~~he~~ *the creditor* held ~~such~~ *the* position, or any shareholder holding directly or indirectly more than 5% of any class of any equity security issued by the insurer or any other person, firm, corporation, association, or aggregation of persons with whom the insurer did not deal at arm's length.

(c) When the preference is voidable, the liquidator may recover the property or, if it has been converted, its value from any person who has received or converted the property, except ~~where~~ *when* a bona fide purchaser or lienor has given less than fair equivalent value, ~~he shall have~~ *the purchaser or lienor has* a lien upon the property to the extent of the consideration actually given by ~~him~~ *the purchaser or lienor*. When a preference by way of lien or security title is voidable, the court may on due notice order the lien or title to be preserved for the benefit of the estate, in which event the lien or title passes to the liquidator.

(2) (a) A transfer of property other than real property is considered to be made or ~~suffered~~ *allowed* when it becomes so far perfected that ~~no~~ *a* subsequent lien *is not* obtainable by legal or equitable proceedings on a simple contract *that* could become superior to the rights of the transferee.

(b) A transfer of real property is considered to be made or ~~suffered~~ *allowed* when it becomes so far perfected that ~~no~~ *a* subsequent bona fide purchaser from the insurer could *not* obtain rights superior to the rights of the transferee.

(c) A transfer ~~which~~ *that* creates an equitable lien is not considered to be perfected if there are available means by which a legal lien could be created.

(d) A transfer not perfected prior to the filing of a petition for liquidation is considered to be made immediately before the filing of the successful petition.

(e) The provisions of this subsection apply whether or not there are or were creditors who might have obtained liens or persons who might have become bona fide purchasers.

(3) (a) A lien obtainable by legal or equitable proceedings upon a simple contract is one arising in the ordinary course of ~~such~~ *the* proceedings upon the entry or docketing of a judgment or decree or upon attachment, garnishment, execution, or like process, whether before, upon, or after judgment or decree and whether before or upon levy. It does not include liens ~~which~~ *that* under applicable law are given a special priority over other liens ~~which~~ *that* are prior in time.

(b) A lien obtainable by legal or equitable proceedings could become superior to the rights of a transferee or a purchaser could obtain rights superior to the rights of a transferee, within the meaning of subsection (2), if ~~such~~ *the* consequences would follow only from the lien or purchase itself or from the lien or purchase followed by any step wholly within the control of the respective lienholder or purchaser, with or without the aid of ministerial action by public officials. ~~Such~~ *However*, a lien could not, ~~however~~, become superior and ~~such~~ a purchase could not create superior rights for the purpose of subsection (2) through any acts subsequent to the obtaining of ~~such~~ a lien or subsequent to ~~such~~ a purchase ~~which~~ *that* require the agreement or concurrence of any third party or ~~which~~ *that* require any further judicial action or ruling.

(4) A transfer of property for or on account of a new and contemporaneous consideration ~~which that~~ is considered under subsection (2) to be made or suffered after the transfer because of delay in perfecting it does not ~~thereby~~ become a transfer for or on account of an antecedent debt if any acts required by the applicable law to be performed in order to perfect the transfer as against liens or bona fide purchasers' rights are performed within 21 days or any period expressly allowed by the law, whichever is less. A transfer to secure a future loan, if ~~such~~ a loan is actually made, or a transfer ~~which that~~ becomes security for a future loan ~~shall must~~ have the same effect as a transfer for or on account of a new and contemporaneous consideration.

(5) If any lien considered voidable under subsection (1)(b) has been dissolved by the furnishing of a bond or other obligation, the surety on which has been indemnified directly or indirectly by the transfer of or the creation of a lien upon any property of an insurer before the filing of a petition under this part ~~which that~~ results in a liquidation order, the indemnifying transfer or lien ~~shall must~~ also be considered voidable.

(6) The property affected by any lien considered voidable under subsections (1) and (5) ~~shall must~~ be discharged from ~~such the~~ lien, and that property and any of the indemnifying property transferred to or for the benefit of a surety ~~shall must~~ pass to the liquidator, except that the court may on due notice order any ~~such~~ lien to be preserved for the benefit of the estate and the court may direct that ~~such the~~ conveyance be executed as may be proper or adequate to evidence the title of the liquidator."

Section 1110. Section 33-2-1355, MCA, is amended to read:

"33-2-1355. Set off for further credit given in good faith. If a creditor has been preferred and afterward in good faith gives the insurer further credit without security of any kind for property ~~which that~~ becomes a part of the insurer's estate, the amount of the new credit remaining unpaid at the time of the petition may be set off against the preference ~~which that~~ would otherwise be recoverable from ~~him the insurer.~~"

Section 1111. Section 33-2-1357, MCA, is amended to read:

"33-2-1357. Personal liability. (1) Every officer, manager, employee, shareholder, member, subscriber, attorney, or any other person acting on behalf of the insurer who knowingly participates in giving any preference when ~~he the individual~~ has reasonable cause to believe the insurer is or is about to become insolvent at the time of the preference is personally liable to the liquidator for the amount of the preference. It is permissible to infer that there is reasonable cause to so believe if the transfer was made within 4 months before the date of filing of ~~this a~~ successful petition for liquidation.

(2) Every person receiving any property from the insurer or the benefit ~~thereof of the property~~ as a preference voidable under 33-2-1353(1) is personally liable ~~therefor~~ and is bound to account to the liquidator.

(3) ~~Nothing in this section prejudices~~ *This section does not prejudice* any other claim by the liquidator against any person."

Section 1112. Section 33-2-1358, MCA, is amended to read:

"33-2-1358. Claims of holders of void or voidable rights. (1) ~~No~~ *The* claims of a creditor who has received or acquired a preference, lien, conveyance, transfer, assignment, or encumbrance voidable under this part ~~shall may not~~ be allowed unless ~~he the creditor~~ surrenders the preference, lien, conveyance, transfer, assignment, or encumbrance. If the avoidance is effected by a

proceeding in which a final judgment has been entered, the claim may not be allowed unless the money is paid or the property is delivered to the liquidator within 30 days from the date of the entering of the final judgment, except that the court having jurisdiction over the liquidation may allow further time if there is an appeal or other continuation of the proceeding.

(2) A claim allowable under subsection (1) by reason of the avoidance, whether voluntary or involuntary, or a preference, lien, conveyance, transfer, assignment, or encumbrance may be filed as an excused late filing under 33-2-1364 if filed within 30 days from the date of the avoidance or within the further time allowed by the court under subsection (1)."

Section 1113. Section 33-2-1360, MCA, is amended to read:

"33-2-1360. Assessments against members of insurer. (1) As soon as practicable but not more than 2 years from the date of an order of liquidation under 33-2-1342 of an insurer issuing assessable policies, the liquidator shall make a report to the court setting forth:

(a) the reasonable value of the assets of the insurer;

(b) the insurer's probable total liabilities;

(c) the probable aggregate amount of the assessment necessary to pay all claims of creditors and expenses in full, including expenses of administration and costs of collecting the assessment; and

(d) a recommendation as to whether or not an assessment should be made and in what amount.

(2) (a) Upon the basis of the report provided *for* in subsection (1), including any supplements and amendments ~~thereto~~, the district court may levy one or more assessments against all members of the insurer who are subject to assessment.

(b) Subject to any applicable legal limits on assessability, the aggregate assessment ~~shall~~ *must* be for the amount that the sum of the probable liabilities, the expenses of administration, and the estimated cost of collection of the assessment exceeds the value of existing assets, with due regard being given to assessments that cannot be collected economically.

(3) After levy of assessment under subsection (2), the liquidator shall issue an order directing each member who has not paid the assessment pursuant to the order to show cause why the liquidator should not pursue a judgment ~~therefor for the assessment~~.

(4) The liquidator shall give notice of the order to show cause by publication and by first-class mail to each member liable ~~thereunder for the assessment~~ mailed to ~~his~~ *the member's* last-known address as it appears on the insurer's records at least 20 days before the return day of the order to show cause.

(5) (a) If a member does not appear and serve duly verified objections upon the liquidator on or before the return day of the order to show cause under subsection (3), the court shall make an order adjudging the member liable for the amount of the assessment against ~~him~~ *the member*, pursuant to subsection (3), together with costs, and the liquidator ~~shall have~~ *has* a judgment against the member ~~therefor for that amount~~.

(b) If on or before ~~such~~ *the* return day the member appears and serves duly verified objections upon the liquidator, the commissioner may hear and determine the matter or may appoint a referee to hear it and make ~~such~~ *an* order ~~as that~~ *the* facts warrant. If the commissioner determines that ~~such~~ *the*

objections do not warrant relief from assessment, the member may request the court to review the matter and vacate the order to show cause.

(6) The liquidator may enforce any order or collect any judgment under subsection (5) by any lawful means.”

Section 1114. Section 33-2-1362, MCA, is amended to read:

“33-2-1362. Recovery of premiums owed. (1) (a) An insurance producer or any other person responsible for the payment of a premium, other than the insured, ~~shall be~~ *is* obligated to pay any unpaid premium for the full policy term due the insurer at the time of the declaration of insolvency, whether earned or unearned, as shown on the records of the insurer. The liquidator may recover from ~~such the~~ *the* person any part of an unearned premium that represents a commission of ~~such the~~ *the* person. Credits or setoffs or both may not be allowed to an insurance producer for any amounts advanced to the insurer by the insurance producer on behalf of but in the absence of a payment by the insured.

(b) An insured shall pay any unpaid earned premium due the insurer at the time of the declaration of insolvency, as shown on the records of the insurer.

(2) Upon satisfactory evidence of a violation of this section, the commissioner may pursue either one or both of the following courses of action:

(a) suspend, ~~or~~ *revoke*, or refuse to renew the licenses of any offending party;

(b) impose a penalty of not more than \$1,000 for each act in violation of this section by ~~such the~~ *the* party.

(3) Before the commissioner may take any action as set forth in subsection (2), ~~he the~~ *the commissioner* shall give written notice to the person, company, association, or exchange accused of violating the law, stating specifically the nature of the alleged violation and fixing a time and place, at least 10 days ~~thereafter~~ *after the notice*, when a hearing on the matter ~~shall will~~ be held. After ~~such the~~ *the* hearing or upon failure of the accused to appear at ~~such the~~ *the* hearing, the commissioner, if ~~he finds~~ *a violation is found*, shall impose ~~such~~ *such* penalties under subsection (2) ~~as he that the commissioner~~ *considers* advisable.

(4) When the commissioner takes action in any of the ways set out in subsection (2), the party aggrieved may appeal from the action to the district court.”

Section 1115. Section 33-2-1364, MCA, is amended to read:

“33-2-1364. Filing of claims. (1) Proof of all claims ~~shall must~~ be filed with the liquidator in the form required by 33-2-1365 on or before the last day for filing specified in the notice required under 33-2-1346, except that proof of claims for cash surrender values or other investment values in life insurance and annuities ~~need are~~ *not required to* be filed unless the liquidator requires.

(2) The liquidator may permit a claimant making a late filing to share in distributions, whether past or future, as if ~~he the~~ *the claimant* were not late, to the extent that any ~~such~~ *such* payment will not prejudice the orderly administration of the liquidation, under the following circumstances:

(a) the existence of the claim was not known to the claimant, and ~~his the~~ *the* claim was filed as promptly after learning of it as reasonably possible;

(b) a transfer to a creditor was avoided under 33-2-1351 through 33-2-1357 or was voluntarily surrendered under 33-2-1358, and the filing satisfies the conditions of 33-2-1358; and

(c) the valuation under 33-2-1370 of security held by a secured creditor shows a deficiency, which is filed within 30 days after the valuation.

(3) The liquidator shall permit late filing claims to share in distributions, whether past or future, as if they were not late if ~~such~~ *the* claims are claims of a guaranty association or foreign guaranty association for reimbursement of covered claims paid or expenses incurred, or both, subsequent to the last day for filing where ~~such~~ *the* payments were made and expenses incurred as provided by law.

(4) The liquidator may consider any claim filed late ~~which~~ *that* is not covered by subsection (2) and permit it to receive distributions ~~which~~ *that* are subsequently declared on any claims of the same or lower priority if the payment does not prejudice the orderly administration of the liquidation. The late-filing claimant shall receive, at each distribution, the same percentage of the amount allowed on ~~his~~ *that* claim ~~as~~ *that* is ~~then~~ being paid to claimants of any lower priority. This ~~shall~~ *distribution must* continue until ~~his~~ *the* claim has been paid in full.”

Section 1116. Section 33-2-1365, MCA, is amended to read:

“33-2-1365. Proof of claim. (1) Proof of claim ~~shall consist~~ *consists* of a statement signed by the claimant that includes all of the following that are applicable:

- (a) the particulars of the claim, including the consideration given for it;
- (b) the identity and amount of the security on the claim;
- (c) the payments made on the debt, if any;
- (d) that the sum claimed is justly owing and that there is no setoff, counterclaim, or defense to the claim;
- (e) any right of priority of payment or other specific right asserted by the claimants;
- (f) a copy of the written instrument ~~which~~ *that* is the foundation of the claim;
- (g) the name and address of the claimant and the attorney who represents ~~him~~ *the claimant*, if any.

(2) ~~No~~ *A claim need is not required to* be considered or allowed if it does not contain all the information in subsection (1) ~~which~~ *that* may be applicable. The liquidator may require that a prescribed form be used and may require that other information and documents be included.

(3) At any time, the liquidator may request the claimant to present information or evidence supplementary to that required under subsection (1) and may take testimony under oath, require production of affidavits or depositions, or otherwise obtain additional information or evidence.

(4) ~~No~~ *A judgment or order against an insured or the insurer entered after the date of filing of a successful petition for liquidation and* ~~no~~ *a judgment or order against an insured or the insurer entered at any time by default or by collusion* ~~need are not required to~~ be considered as evidence of liability or of quantum of damages. ~~No~~ *A judgment or order against an insured or the insurer entered within 4 months before the filing of the petition* ~~need is not required to~~ be considered as evidence of liability or of the quantum of damages.

(5) All claims of a guaranty association or foreign guaranty association ~~shall~~ *must* be in ~~such~~ *the* form and contain ~~such~~ *the* substantiation ~~as~~ *that* may be agreed to by the association and the liquidator.”

Section 1117. Section 33-2-1366, MCA, is amended to read:

“33-2-1366. Special claims. (1) The claim of a third party ~~which~~ *that* is contingent ~~only~~ on ~~his~~ *the third party* first obtaining a judgment against the insured ~~shall~~ *must* be considered and allowed as if there were no ~~such~~ contingency.

(2) A claim may be allowed, even if contingent, if it is filed in accordance with 33-2-1364. It may be allowed and may participate in all distributions declared after it is filed to the extent that it does not prejudice the orderly administration of the liquidation.

(3) Claims that are due except for the passage of time ~~shall~~ *must* be treated as absolute claims are treated, except that ~~such~~ *the* claims may be discounted at the legal rate of interest.

(4) Claims made under employment contracts by directors, principal officers, or persons in fact performing similar functions or having similar powers are limited to payment for services rendered prior to the issuance of any order of rehabilitation or liquidation under 33-2-1332 or 33-2-1342.”

Section 1118. Section 33-2-1367, MCA, is amended to read:

“33-2-1367. Claims of insureds or claimants against insureds. (1) Whenever any third party asserts a cause of action against an insured of an insurer in liquidation, the third party may file a claim with the liquidator.

(2) Whether or not the third party files a claim, the insured may file a claim on ~~his~~ *the insured's* own behalf in the liquidation. If the insured fails to file a claim by the date for filing claims specified in the order of liquidation or within 60 days after mailing of the notice required by 33-2-1346, whichever is later, ~~he~~ *the insured* is an unexcused late filer.

(3) The liquidator shall make ~~his~~ recommendations to the court under 33-2-1371 for the allowance of an insured's claim under subsection (2); after consideration of the probable outcome of any pending action against the insured on which the claim is based, the probable damages recoverable in the action, and the probable costs and expenses of defense. After allowance by the court, the liquidator shall withhold any dividends payable on the claim, pending the outcome of litigation and negotiation with the insured. Whenever it seems appropriate, ~~he~~ *the liquidator* shall reconsider the claim on the bases of additional information and amend ~~his~~ *the* recommendations to the court. The insured ~~shall~~ *must* be afforded the same notice and opportunity to be heard on all changes in the recommendation as in its initial determination. The court may amend its allowance as it ~~thinks~~ *determines* appropriate. As claims against the insured are settled or barred, the insured ~~shall~~ *must* be paid, from the amount withheld, the same percentage dividend as was paid on other claims of ~~like~~ *similar* property, based on the lesser of the amount actually recovered from the insured by action or paid by agreement, plus the reasonable costs and expenses of defense, or the amount allowed on the claims by the court. After all claims are settled or barred, any sum remaining from the amount withheld ~~shall~~ *must* revert to the undistributed assets of the insurer. Delay in final payment under this subsection ~~shall~~ *may* not be a reason for unreasonable delay of final distribution and discharge of the liquidator.

(4) If several claims founded upon one policy are filed, whether by third parties or as claims by the insured under this section and the aggregate allowed amount of the claims to which the same limit of liability in the policy is applicable exceeds that limit, each claim as allowed ~~shall~~ *must* be reduced in the same proportion so that the total equals the policy limit. Claims by the insured ~~shall~~ *must* be evaluated as *provided* in subsection (3). If any insured's claim is

subsequently reduced under subsection (3), the amount thus freed shall *must* be apportioned ratably among the claims which *that* have been reduced under this subsection.

(5) ~~No~~ A claim may *not* be presented under this section if it is or may be covered by any guaranty association or foreign guaranty association.”

Section 1119. Section 33-2-1368, MCA, is amended to read:

“33-2-1368. Disputed claims. (1) When a claim is denied in whole or in part by the liquidator, written notice of the determination shall *must* be given to the claimant or ~~his~~ *the claimant’s* attorney by first-class mail at the address shown in the proof of claim. Within 60 days from the mailing of the notice, the claimant may file ~~his~~ objections with the liquidator. If ~~no such~~ a filing is *not* made, the claimant may not further object to the determination.

(2) Whenever objections are filed with the liquidator and the liquidator does not alter ~~his~~ *the* denial of the claim as a result of the objections, the liquidator shall ask the court for a hearing as soon as practicable and give notice of the hearing by first-class mail to the claimant or ~~his~~ *the claimant’s* attorney and to any other persons directly affected not less than 10 or more than 30 days before the date of the hearing. The matter may be heard by the court or by a court-appointed referee who shall submit findings of fact along with ~~his~~ a recommendation.”

Section 1120. Section 33-2-1369, MCA, is amended to read:

“33-2-1369. Claims of sureties. (1) Whenever a creditor whose claim against an insurer is secured, in whole or in part, by the undertaking of another person fails to prove and file that claim, the other person may do so in the creditor’s name and shall *must* be subrogated to the rights of the creditor, whether the claim has been filed by the creditor or by the other person in the creditor’s name, to the extent that ~~he~~ *the other person* discharges the undertaking. However, in the absence of an agreement with the creditor to the contrary, the other person shall *is not be* entitled to any distribution until the amount paid to the creditor on the undertaking plus the distributions paid on the claim from the insurer’s estate to the creditor equals the amount of the entire claim of the creditor. Any excess received by the creditor shall *must* be held by ~~him~~ *the creditor* in trust for ~~such~~ *the* other person.

(2) The term “other person”, as used in this section, is not intended to apply to a guaranty association or foreign guaranty association.”

Section 1121. Section 33-2-1370, MCA, is amended to read:

“33-2-1370. Claims of secured creditors. (1) The value of any security held by a secured creditor shall *must* be determined in one of the following ways, as the court may direct:

(a) by converting the ~~same~~ *security* into money according to the terms of the agreement pursuant to which the security was delivered to ~~such~~ *the* creditors; or

(b) by agreement, arbitration, compromise, or litigation between the creditor and the liquidator.

(2) The determination shall *must* be under the supervision and control of the court with due regard for the recommendation of the liquidator. The amount so determined shall *must* be credited upon the secured claim, and any deficiency shall *must* be treated as an unsecured claim. If the claimant surrenders ~~his~~ *the claimant’s* security to the liquidator, the entire claim shall *must* be allowed as if unsecured.”

Section 1122. Section 33-2-1372, MCA, is amended to read:

“33-2-1372. Liquidator’s recommendations to the court concerning claims. (1) The liquidator shall review all claims duly filed in the liquidation and make ~~such~~ further investigation ~~as he~~ *that the liquidator* considers necessary. ~~He~~ *The liquidator* may compound, compromise, or in any other manner negotiate the amount for which claims will be recommended to the court except ~~where~~ *when* the liquidator is required by law to accept claims as settled by any person or organization, including any guaranty association or foreign guaranty association. Unresolved disputes ~~shall~~ *must* be determined under 33-2-1368. As soon as practicable, ~~he~~ *the liquidator* shall present to the court a report of the claims against the insurer with ~~his~~ *the liquidator’s* recommendations. The report ~~shall~~ *must* include the name and address of each claimant and the amount of the claim finally recommended, if any. If the insurer has issued annuities or life insurance policies, the liquidator shall report the persons to whom, according to the records of the insurer, amounts are owed as cash surrender values or other investment value and the amounts owed.

(2) The court may approve, disapprove, or modify the report on claims by the liquidator. Reports not modified by the court within a period of 60 days following submission by the liquidator ~~shall~~ *must* be treated by the liquidator as allowed claims, subject to later modification or to rulings made by the court pursuant to 33-2-1368. ~~No~~ A claim under a policy of insurance ~~shall~~ *may not* be allowed for an amount in excess of the applicable policy limits.”

Section 1123. Section 33-2-1374, MCA, is amended to read:

“33-2-1374. Unclaimed and withheld funds. (1) All unclaimed funds subject to distribution remaining in the liquidator’s hands when ~~he~~ *the liquidator* is ready to apply to the court for discharge, including the amount distributable to any creditor, shareholder, member, or other person who is unknown or cannot be found, ~~shall~~ *must* be deposited with the state treasurer and ~~shall~~ *must* be paid without interest except in accordance with 33-2-1371 to the person entitled ~~thereto~~ *to the funds* or ~~his~~ *the person’s* legal representative upon proof satisfactory to the state treasurer of ~~his~~ *the person’s* right ~~thereto~~ *to the funds*. Any amount on deposit not claimed within 6 years from the discharge of the liquidator ~~shall~~ *must* be considered to have been abandoned and ~~shall~~ *must* be escheated without formal escheat proceedings and be deposited in the general fund.

(2) All funds withheld under 33-2-1366 and not distributed ~~shall~~ *must* upon discharge of the liquidator be deposited with the state treasurer and paid ~~by him~~ in accordance with 33-2-1371. Any sums remaining ~~which~~ *that* under 33-2-1371 would revert to the undistributed assets of the insurer ~~shall~~ *must* be transferred to the state treasurer and become the property of the state under subsection (1) unless the commissioner ~~in his discretion~~ petitions the court to reopen the liquidation under 33-2-1376.”

Section 1124. Section 33-2-1377, MCA, is amended to read:

“33-2-1377. Disposition of records during and after liquidation. When it appears to the commissioner that the records of any insurer in *the* process of liquidation or completely liquidated are no longer useful, ~~he~~ *the commissioner* may recommend to the court and the court shall direct ~~what~~ *which* records should be retained for future reference and ~~what~~ *which* should be destroyed.”

Section 1125. Section 33-2-1379, MCA, is amended to read:

“33-2-1379. Conservation of property of foreign or alien insurers. (1)

If a domiciliary liquidator has not been appointed, the commissioner may apply to the district court by verified petition for an order directing ~~him~~ *the commissioner* to act as conservator to conserve the property of an alien insurer not domiciled in this state or a foreign insurer on any one or more of the following grounds:

- (a) any of the grounds in 33-2-1331;
 - (b) that any of its property has been sequestered by official action in its domiciliary state or in any other state;
 - (c) that enough of its property has been sequestered in a foreign country to give reasonable cause to fear that the insurer is or may become insolvent;
 - (d) that its certificate of authority to do business in this state has been revoked or that none was ever issued;
 - (e) that there are residents of this state with outstanding claims or outstanding policies.
- (2) When an order is sought under subsection (1), the court shall cause the insurer to be given ~~such~~ notice and *a* time to respond ~~thereto~~ *as that* is reasonable under the circumstances.
- (3) The court may issue the order in whatever terms it considers appropriate. The filing or recording of the order with the clerk of the district court or the clerk and recorder of the county in which the principal business of the company is located or the county in which its principal office or place of business is located ~~shall~~ *must* impart the same notice as a deed, bill of sale, or other evidence of title ~~duly~~ filed or recorded with that clerk and recorder would have imparted.
- (4) The conservator may at any time petition for and the court may grant an order under 33-2-1380 to liquidate assets of a foreign or alien insurer under conservation or, if appropriate, for an order under 33-2-1382 to be appointed ancillary receiver.
- (5) The conservator may at any time petition the court for an order terminating conservation of an insurer. If the court finds that the conservation is no longer necessary, it shall order the insurer to be restored to possession of its property and the control of its business. The court may also make ~~such~~ *a* finding and issue ~~such~~ *an* order at any time upon motion of any interested party, but if ~~such~~ *the* motion is denied, all costs ~~shall~~ *must* be assessed against ~~such~~ *the* party.”

Section 1126. Section 33-2-1380, MCA, is amended to read:

“33-2-1380. Liquidation of assets of foreign or alien insurers. (1) If ~~no~~ *a* domiciliary receiver has *not* been appointed, the commissioner may apply to the district court by verified petition for an order directing ~~him~~ *the commissioner* to liquidate the assets found in this state of a foreign insurer or an alien insurer not domiciled in this state; on any of the following grounds:

- (a) any of the grounds in 33-2-1331 or 33-2-1341; or
 - (b) any of the grounds specified in ~~subsections (1)(b) through (1)(d) of 33-2-1379(1)(b) through (1)(d).~~
- (2) When an order is sought under subsection (1), the court shall cause the insurer to be given notice and time to respond ~~thereto~~ *as that is* reasonable under the circumstances.

(3) If it appears to the court that the best interests of creditors, policyholders, and the public require, the court may issue an order to liquidate in whatever terms it considers appropriate. The filing or recording of the order with the clerk of the district court or the clerk and recorder of the county in which the principal business of the company is located or the county in which its principal office or place of business is located shall impart the same notice as a deed, bill of sale, or other evidence of title duly filed or recorded with that clerk and recorder would have imparted.

(4) If a domiciliary liquidator is appointed in a reciprocal state while a liquidation is proceeding under this section, the liquidator under this section shall ~~thereafter~~ act as ancillary receiver under 33-2-1382. If a domiciliary liquidator is appointed in a nonreciprocal state while a liquidation is proceeding under this section, the liquidator under this section may petition the court for permission to act as ancillary receiver under 33-2-1382.

(5) On the same grounds as specified in subsection (1), the commissioner may petition any appropriate federal district court to be appointed receiver to liquidate that portion of the insurer's assets and business over which the court will exercise jurisdiction or any lesser part ~~thereof of the assets and business~~ that the commissioner considers desirable for the protection of the policyholders and creditors in this state.

(6) The court may order the commissioner, when ~~he~~ *the commissioner* has liquidated the assets of a foreign or alien insurer under this section, to pay claims of residents of this state against the insurer under ~~such~~ rules as *that relate* to the liquidation of insurers under this part as *and that* are otherwise compatible with the provisions of this section."

Section 1127. Section 33-2-1381, MCA, is amended to read:

"33-2-1381. Domiciliary liquidators in other states. (1) The domiciliary liquidator of an insurer domiciled in a reciprocal state ~~shall~~ *is*, except as to special deposits and security on secured claims under 33-2-1382(3), ~~be~~ vested by operation of law with the title to all of the assets, property, contracts, and rights of action, insurance producers' balances, and all of the books, accounts, and other records of the insurer located in this state. The date of vesting ~~shall~~ *must* be the date of the filing of the petition if that date is specified by the domiciliary law for the vesting of property in the domiciliary state. Otherwise, the date of vesting ~~shall be~~ *is* the date of entry of the order directing possession to be taken. The domiciliary liquidator has the immediate right to recover balances due from insurance producers and to obtain possession of the books, accounts, and other records of the insurer located in this state. ~~He~~ *The domiciliary liquidator* also has the right to recover all other assets of the insurer located in this state, subject to 33-2-1382.

(2) If a domiciliary liquidator is appointed for an insurer not domiciled in a reciprocal state, the commissioner of this state is vested by operation of law with the title to all of the property, contracts, and rights of action and all of the books, accounts, and other records of the insurer located in this state, at the same time that the domiciliary liquidator is vested with title in the domicile. The commissioner of this state may petition for a conservation or liquidation order under 33-2-1379 or 33-2-1380 or for an ancillary receivership under 33-2-1382 or, after approval by the district court, may transfer title to the domiciliary liquidator, ~~as~~ *that* the interests of justice and the equitable distribution of the assets require.

(3) Claimants residing in this state may file claims with the liquidator or ancillary receiver, if any, in this state or with the domiciliary liquidator, if the domiciliary law permits. The claims must be filed on or before the last date fixed for the filing of claims in the domiciliary liquidation proceedings.”

Section 1128. Section 33-2-1382, MCA, is amended to read:

“33-2-1382. Ancillary formal proceedings. (1) If a domiciliary liquidator has been appointed for an insurer not domiciled in this state, the commissioner may file a petition with the district court requesting appointment as ancillary receiver in this state:

(a) if ~~he~~ *the commissioner* finds that there are sufficient assets of the insurer located in this state to justify the appointment of an ancillary receiver;

(b) if the protection of creditors or policyholders in this state ~~so~~ requires.

(2) The court may issue an order appointing an ancillary receiver in whatever terms it considers appropriate. The filing or recording of the order with the county clerk and recorder imparts the same notice as a deed, bill of sale, or other evidence of title duly filed or recorded.

(3) When a domiciliary liquidator has been appointed in a reciprocal state, then the ancillary receiver appointed in this state may, whenever necessary, aid and assist the domiciliary liquidator in recovering assets of the insurer located in this state. The ancillary receiver shall, as soon as practicable, liquidate from ~~their~~ respective securities those special deposit claims and secured claims ~~which~~ *that* are proved and allowed in the ancillary proceedings in this state and shall pay the necessary expenses of the proceedings. ~~He~~ *The ancillary receiver* shall promptly transfer all remaining assets, books, accounts, and records to the domiciliary liquidator. Subject to this section, the ancillary receiver and ~~his~~ *the ancillary receiver’s* deputies ~~shall~~ have the same powers and ~~be~~ *are* subject to the same duties with respect to the administration of assets as a liquidator of an insurer domiciled in this state.

(4) When a domiciliary liquidator has been appointed in this state, ancillary receivers appointed in reciprocal states ~~shall~~ have, as to assets and books, accounts, and other records in their respective states, corresponding rights, duties, and powers to those provided in subsection (3) for ancillary receivers appointed in this state.”

Section 1129. Section 33-2-1383, MCA, is amended to read:

“33-2-1383. Ancillary summary proceedings. The commissioner ~~in his~~ *sole discretion* may institute proceedings under 33-2-1321 through 33-2-1323 at the request of the commissioner or other appropriate insurance official of the domiciliary state of any foreign or alien insurer having property located in this state.”

Section 1130. Section 33-2-1385, MCA, is amended to read:

“33-2-1385. Claims of residents against insurers domiciled in reciprocal states. (1) In a liquidation proceeding in a reciprocal state against an insurer domiciled in that state, claimants against the insurer who reside within this state may file claims either with the ancillary receiver, if any, in this state or with the domiciliary liquidator. Claims must be filed on or before the last dates fixed for the filing of claims in the domiciliary liquidation proceeding.

(2) Claims belonging to claimants residing in this state may be proved either in the domiciliary state under the law of that state or in ancillary proceedings, if any, in this state. If a claimant elects to prove ~~his~~ *a* claim in this state, ~~he~~ *the claimant* shall file ~~his~~ *the* claim with the liquidator in the manner provided in

33-2-1364 and 33-2-1365. The ancillary receiver shall make ~~his a~~ recommendation to the court ~~as under in the same manner provided in~~ 33-2-1372. ~~He~~ *The ancillary receiver* shall also arrange a date for hearing, if necessary, under 33-2-1368 and shall give notice to the liquidator in the domiciliary state, either by certified mail or by personal service, at least 40 days prior to the date set for hearing. If the domiciliary liquidator, within 30 days after the giving of ~~such~~ *the* notice, gives notice in writing to the ancillary receiver and to the claimant, either by certified mail or by personal service, of ~~his the~~ *the ancillary receiver's* intention to contest the claim, ~~he shall be the ancillary receiver~~ *is* entitled to appear or to be represented in any proceeding in this state involving the adjudication of the claim.

(3) The final allowance of the claim by the courts of this state ~~shall must~~ be accepted as conclusive as to amount and as to priority against special deposits or other security located in this state.”

Section 1131. Section 33-2-1387, MCA, is amended to read:

“33-2-1387. Interstate priorities. (1) In a liquidation proceeding in this state involving one or more reciprocal states, the order of distribution of the domiciliary state ~~shall must~~ control as to all claims of residents of this and reciprocal states. All claims of residents of reciprocal states ~~shall must~~ be given equal priority of payment from general assets regardless of where ~~such the~~ assets are located.

(2) The owners of special deposit claims against an insurer for which a liquidator is appointed in this or any other state is given priority against the special deposits in accordance with the statutes governing the creation and maintenance of the deposits. If there is a deficiency in any deposit so that the claims secured by it are not fully discharged from it, the claimants may share in the general assets, but the sharing ~~shall must~~ be deferred until general creditors, and also claimants against other special deposits who have received smaller percentages from their respective special deposits, have been paid percentages of their claims equal to the percentage paid from the special deposit.

(3) The owner of a secured claim against an insurer for which a liquidator has been appointed in this or any other state may surrender ~~his the~~ security and file ~~his the~~ claim as a general creditor, or the claim may be discharged by resort to the security in accordance with 33-2-1370, in which case the deficiency, if any, ~~shall must~~ be treated as a claim against the general assets of the insurer on the same basis as claims of unsecured creditors.”

Section 1132. Section 33-3-216, MCA, is amended to read:

“33-3-216. Converting mutual insurer to stock insurer. (1) A mutual insurer may become a stock insurer under ~~such a~~ plan and procedure as may be approved by the commissioner after a hearing ~~thereon~~.

(2) The commissioner ~~shall may~~ not approve any ~~such~~ plan or procedure unless:

(a) it is equitable to the insurer's members;

(b) it is subject to approval by vote of not less than three-fourths of the insurer's current members voting ~~thereon on the plan or procedure~~ in person, by proxy, or by mail at a meeting of members called for the purpose pursuant to ~~such~~ reasonable notice and procedure ~~as that~~ may be approved by the commissioner. *If the insurer is a life insurer, the right to vote may be limited to*

members who hold policies other than term or group policies and whose policies have been in force for not less than 1 year.

(c) the equity of each policyholder in the insurer is determinable under a fair formula approved by the commissioner, which ~~such~~ equity ~~shall~~ *must* be based upon not less than the insurer's entire surplus, after deducting contributed or borrowed surplus funds, plus a reasonable present equity in its reserves and in all nonadmitted assets;

(d) the policyholders entitled to participate in the purchase of stock or distribution of assets ~~shall~~ *must* include all current policyholders and all existing persons who had been policyholders of the insurer within 3 years prior to the date ~~such~~ *the* plan was submitted to the commissioner;

(e) the plan gives to each policyholder of the insurer, as specified in subsection (2)(d), a preemptive right to acquire ~~his~~ *the policyholder's* proportionate part of all of the proposed capital stock of the insurer, within a designated reasonable period, and to apply upon the purchase ~~thereof of the stock~~ the amount of ~~his~~ *the policyholder's* equity in the insurer as determined under subsection (2)(c);

(f) shares are ~~so~~ offered to policyholders at a price not greater than *the price* to be ~~thereafter~~ offered to others but at not more than double the par value of ~~such~~ *the* shares;

(g) the plan provides for payment to each policyholder not electing to apply ~~his~~ *the policyholder's* equity in the insurer for or upon the purchase price of stock to which preemptively entitled of cash in the amount of not less than 50% of the amount of ~~his~~ *the* equity not ~~so~~ used for the purchase of stock, and which cash payment together with stock ~~so~~ purchased, if any, ~~shall constitute~~ *constitutes* full payment and discharge of the policyholder's equity as an owner of ~~such~~ *the* mutual insurer; and

(h) the plan, when completed, would provide for the converted insurer paid-in capital stock in an amount not less than the minimum paid-in capital required of a domestic stock insurer transacting like kinds of insurance, together with surplus funds in amount not less than one-half of ~~such~~ *the* required capital."

Section 1133. Section 33-3-217, MCA, is amended to read:

"33-3-217. Mergers and consolidations of stock insurers. (1) A domestic stock insurer may merge or consolidate with one or more domestic or foreign stock corporations authorized to transact business in this state by complying with the applicable provisions of the statutes of this state governing the merger or consolidation of stock corporations formed for profit but subject to subsections (2) and (3) below.

(2) ~~No such~~ A merger or consolidation may *not* be effectuated unless in advance ~~thereof of the merger or consolidation~~ the plan and agreement ~~therefor~~ *for the merger or consolidation* have been filed with the commissioner and approved in writing by ~~him~~ *the commissioner* after a hearing ~~thereon~~. The commissioner shall give ~~such~~ approval within a reasonable time after ~~such~~ *the* filing unless ~~he~~ *the commissioner* finds ~~such~~ *that the* plan or agreement:

(a) is contrary to law;

(b) *is* inequitable to the stockholders of any domestic insurer involved; or

(c) would substantially reduce the security of and service to be rendered to policyholders of the domestic insurer in this state or elsewhere.

(3) ~~No~~ A director, officer, insurance producer, or employee of any insurer *that is party to such the merger or consolidation* may *not* receive any fee, commission, compensation, or other valuable consideration ~~whatsoever~~ for in any manner aiding, promoting, or assisting ~~therein in the merger or consolidation~~ except as set forth in ~~such the plan or agreement~~.

(4) If the commissioner does not approve any ~~such~~ plan or agreement, ~~he the commissioner~~ shall ~~so~~ notify the insurer in writing specifying ~~his the~~ reasons ~~therefor for disapproval~~.

(5) If any domestic insurer involved in the proposed merger or consolidation is authorized to transact insurance ~~also~~ in other states, the commissioner may request the insurance commissioner, director of insurance, superintendent of insurance, or other similar public insurance supervisory official of the two other ~~such~~ states in which ~~such the~~ insurer has in force the larger amounts of insurance to participate in the hearing provided for under subsection (2) ~~above~~, with full right to examine all witnesses and evidence and to offer to the commissioner ~~such~~ pertinent information and suggestions ~~as that~~ they may ~~deem~~ *consider* proper.

(6) Any plan or proposal through which a stock insurer proposes to acquire a controlling stock interest in another stock insurer through an exchange of stock of the first insurer, issued by the insurer for the purpose, for ~~such the~~ controlling stock of the second insurer is ~~deemed considered~~ to be a plan or proposal of merger of the second insurer into the first insurer for the purposes of this section and is subject to the applicable provisions ~~hereof of this section~~.

(7) Upon merger or consolidation of a domestic insurer with another insurer under this chapter, the corporate charter of ~~such the~~ merged or consolidated domestic insurer ~~shall thereby must~~ automatically be extinguished and nullified.”

Section 1134. Section 33-3-218, MCA, is amended to read:

“33-3-218. Mergers and consolidations of mutual insurers. (1) A domestic mutual insurer ~~shall may~~ not merge or consolidate with a stock insurer.

(2) A domestic mutual insurer may merge or consolidate with another mutual insurer under the applicable procedures prescribed by the statutes of this state applying to corporations formed for profit, except as ~~hereinbelow~~ provided *in this section*.

(3) The plan and agreement for merger or consolidation ~~shall must~~ be submitted to and approved by at least two-thirds of the members of each mutual insurer involved *by voting thereon on the issue* at meetings called for the purpose pursuant to ~~such~~ reasonable notice and procedure ~~as that~~ has been approved by the commissioner. If *the insurer is a life insurer, the* right to vote may be limited to members whose policies are other than term and group policies and have been in effect for more than 1 year.

(4) ~~No such~~ An merger or consolidation ~~shall may not~~ be effectuated unless in advance ~~thereof of the merger or consolidation~~ the plan and agreement ~~therefor for the merger or consolidation~~ have been filed with the commissioner and approved by ~~him in writing the commissioner~~ after a hearing ~~thereon~~. The commissioner shall give ~~such~~ approval within a reasonable time after ~~such the~~ filing unless ~~he the commissioner~~ finds ~~such that the~~ plan or agreement:

(a) *is* inequitable to the policyholders of any domestic insurer involved; or

(b) would substantially reduce the security of and service to be rendered to policyholders of the domestic insurer in this state and elsewhere.

(5) If the commissioner does not approve ~~such the~~ plan or agreement, ~~he the~~ commissioner shall ~~so~~ notify the insurers in writing specifying ~~his the~~ reasons ~~therefor for disapproval.~~

(6) Section 33-3-217(5) shall also ~~apply as applies~~ to mergers and consolidations of ~~such~~ mutual insurers.

(7) Upon merger or consolidation of a domestic insurer with another insurer under this chapter, the corporate charter of ~~such the~~ merged or consolidated domestic insurer shall ~~thereby must~~ automatically be extinguished and nullified.”

Section 1135. Section 33-3-301, MCA, is amended to read:

“33-3-301. Bylaws of mutual. (1) A domestic mutual insurer shall *must* have bylaws for the governing of its affairs. The initial board of directors of the insurer shall adopt original bylaws, subject to the approval of the insurer’s members at the next ~~succeeding~~ meeting. The members shall have *the* power to make, modify, and revoke bylaws.

(2) The bylaws shall *must* provide:

(a) that each member is entitled to one vote upon each matter coming to a vote at meetings of members; or to more votes in accordance with a reasonable classification of members as set forth in the bylaws and based upon the amount of insurance in force, *upon the* number of policies held or ~~upon~~ the amount of the premiums paid by ~~such the~~ member, or upon other reasonable factors. A member ~~shall have~~ has the right to vote in person or by his written proxy. ~~No such A~~ proxy shall *may not* be made irrevocable or for longer than a reasonable period of time.

(b) for election of directors by the members and the number, qualifications, terms of office, and powers of directors;

(c) the time, notice, quorum, and conduct of annual and special meetings of members and voting ~~thereat at the meetings.~~ The bylaws may provide that the annual meeting shall *must* be held at a place, date, and time to be set forth in the policy and without giving other notice of ~~such the~~ meeting.

(d) the number, designation, election, terms, and powers and duties of the respective corporate officers;

(e) for deposit, custody, disbursement, and accounting as to corporate funds;

(f) for any other reasonable provisions customary, necessary, or convenient for the management or regulation of its corporate affairs.

(3) ~~No A~~ provision in the bylaws for determining a quorum of members at any meeting ~~thereof~~ of less than a majority of all the insurer’s members shall *be is not* effective unless approved by the commissioner. This subsection shall *may not* affect any other provision of law requiring *the* vote of a larger percentage of members for a specified purpose.

(4) The insurer shall promptly file with the commissioner a copy, certified by the insurer’s secretary, of its bylaws and of every modification ~~thereof of~~ or addition ~~thereto to the bylaws.~~ The commissioner shall disapprove any bylaw provision ~~deemed by him to be that the commissioner considers~~ unlawful, unreasonable, inadequate, unfair, or detrimental to the proper interests or protection of the insurer’s members or any class ~~thereof of members.~~ The insurer shall *may not*, after receiving written notice of ~~such the~~ disapproval and during

the existence thereof of the disapproval, effectuate any bylaw provision so disapproved.”

Section 1136. Section 33-3-308, MCA, is amended to read:

“33-3-308. Prohibited pecuniary interest of officials. (1) Any officer or director or any member of any committee or an employee of a domestic insurer who is charged with the duty of investing or handling the insurer’s funds shall may not:

(a) deposit or invest such the funds except in the insurer’s corporate name;

(b) shall not borrow the funds of such the insurer;

(c) shall not be pecuniarily interested in any loan, pledge of deposit, security, investment, sale, purchase, exchange, reinsurance, or other similar transaction or property of such the insurer except as a stockholder or member;

(d) shall not take or receive to his the individual’s own use any fee, brokerage, commission, gift, or other consideration for or on account of any such transaction made by or on behalf of such the insurer.

(2) No An insurer shall may not guarantee any financial obligation of any of its officers or directors.

(3) This section shall may not prohibit such a director or officer or member of a committee or employee from becoming a policyholder of the insurer and enjoying the usual rights so provided for its policyholders.

(4) The commissioner may, by regulations from time to time, define and permit additional exceptions to the prohibition contained in subsection (1) of this section solely to enable payment of reasonable compensation to a director who is not otherwise an officer or employee of the insurer or to a corporation or firm in which a director is interested for necessary services performed or sales or purchases made to or for the insurer in the ordinary course of the insurer’s business and in the usual private professional or business capacity of such the director or such the corporation or firm.”

Section 1137. Section 33-3-309, MCA, is amended to read:

“33-3-309. Management and exclusive agency contracts. (1) No A domestic insurer shall may not make any contract whereby under which any person is granted or is to enjoy in fact the management of the insurer to the substantial exclusion of its board of directors or to have the controlling or preemptive right to produce substantially all insurance business for the insurer unless the contract is filed with and approved by the commissioner. The contract shall must be deemed considered approved unless disapproved by the commissioner within 20 days after date of filing, subject to such a reasonable extension of time as that the commissioner may require by notice given within such 20 days. Any disapproval shall must be delivered to the insurer in writing, stating the grounds therefor for disapproval.

(2) The commissioner shall disapprove any such contract if he the commissioner finds that it:

(a) subjects the insurer to excessive charges;

(b) is to extend for an unreasonable length of time;

(c) does not contain fair and adequate standards of performance; or

(d) contains other inequitable provision or provisions which that impair the proper interests of stockholders or members of the insurer.”

Section 1138. Section 33-3-411, MCA, is amended to read:

“33-3-411. Contingent liability of mutual members. (1) Each member of a domestic mutual insurer shall, except as otherwise hereinafter provided in *this part* with respect to nonassessable policies, have a contingent liability, pro rata and not one for another, for the discharge of its obligations, ~~which~~ *The* contingent liability ~~shall~~ *must* be expressed in the policy and *must* be in ~~such a~~ maximum amount ~~as is~~ specified in the insurer’s articles of incorporation.

(2) Termination of the policy of any ~~such~~ member ~~shall~~ *may* not relieve the member of contingent liability for ~~his~~ *the member’s* proportion, if any, of the obligations of the insurer ~~which~~ *that* accrued while the policy was in force.

(3) Unrealized contingent liability of members does not constitute an asset of the insurer in any determination of its financial condition.”

Section 1139. Section 33-3-412, MCA, is amended to read:

“33-3-412. Levy of contingent liability. (1) If at any time the assets of a domestic mutual insurer are less than its liabilities and the minimum amount of surplus required to be maintained by it by this code for authority to transact the kinds of insurance being transacted and the deficiency is not cured from other sources, its directors shall levy an assessment only upon its members who held policies providing for contingent liability at any time within the 12 months preceding the date notice of ~~such~~ *the* assessment was mailed to them, and ~~such~~ *the* members ~~shall~~ *be* are liable to the insurer for the amount ~~so~~ assessed.

(2) The assessment ~~shall~~ *must* be for ~~such~~ an amount ~~as~~ *that* is required to cure ~~such~~ *the* deficiency and to provide a reasonable amount of working funds ~~above~~ ~~such~~ *in excess of the* minimum amount of surplus, but ~~such~~ *the* working funds ~~so~~ provided ~~shall~~ *may* not exceed 5% of the insurer’s liabilities as of the date ~~as of~~ ~~which~~ *that* the amount of ~~such~~ *the* deficiency was determined.

(3) In levying an assessment upon a policy providing for contingent liability, the assessment ~~shall~~ *must* be computed on the basis of the premiums earned on ~~such~~ *the* policy during the period to which the assessment relates.

(4) ~~No~~ *A* member ~~shall~~ *may not* have an offset against any assessment for which ~~he~~ *the member* is liable on account of any claim for unearned premium or loss payable.

(5) As to life insurance, any part of ~~such~~ an assessment upon a member ~~which~~ *that* remains unpaid following notice of assessment, demand for payment, and lapse of a reasonable waiting period as specified in ~~such~~ *the* notice may, if approved by the commissioner as being in the best interests of the insurer and its members, be secured by placing a lien upon the cash surrender values and accumulated dividends held by the insurer to the credit of ~~such~~ *the* member.”

Section 1140. Section 33-3-433, MCA, is amended to read:

“33-3-433. Assessment of stockholders or members. (1) Any insurer receiving the commissioner’s notice mentioned in 33-3-432(1):

(a) if a stock insurer, by resolution of its board of directors and subject to any limitations upon assessment contained in its articles of incorporation, may assess its stockholders for amounts necessary to cure the deficiency and provide the insurer with a reasonable amount of surplus in addition. If ~~any~~ *a* stockholder fails to pay a lawful assessment after notice given to ~~him~~ *the stockholder* in person or by advertisement in ~~such~~ *a* time and manner ~~as~~ approved by the commissioner, the insurer may require the return of the original certificate of stock held by the stockholder and in cancellation and in lieu ~~thereof~~ *of the original certificate* issue a new certificate for ~~such~~ *the* number of shares ~~as~~ *that*

the stockholder may then be entitled to, upon the basis of the stockholder's proportionate interest in the amount of the insurer's capital stock as determined by the commissioner to be remaining at the time of determination of the amount of impairment under 33-3-432, after deducting from ~~such~~ *the* proportionate interest the amount of ~~such~~ *the* unpaid assessment. The insurer may pay for or reissue fractional shares under this subsection.

(b) if a mutual insurer, shall levy such an assessment upon members as is provided for under 33-3-412.

(2) Neither ~~this section nor~~ 33-3-432 ~~nor this section shall~~ *may* be deemed ~~considered~~ to prohibit the insurer from curing any ~~such~~ deficiency through any lawful means other than those referred to in ~~such sections 33-3-432 or this section.~~

Section 1141. Section 33-3-436, MCA, is amended to read:

"33-3-436. Mutual member's share of assets on liquidation. (1) Upon any liquidation of a domestic mutual insurer, its assets remaining after discharge of its indebtedness, policy obligations, repayment of contributed or borrowed surplus, if any, and expenses of administration ~~shall~~ *must* be distributed to existing persons who were its members at any time within 36 months ~~next~~ preceding the date ~~such~~ *that* liquidation was authorized or ordered or ~~the~~ date of last termination of the insurer's certificate of authority, whichever date is the earlier.

(2) The distributive share of each ~~such~~ member ~~shall~~ *under subsection (1) must* be in the proportion that the aggregate premiums earned by the insurer on the policies of the member during the combined periods of ~~his~~ membership bear to the aggregate of all premiums ~~so~~ earned on the policies of all ~~such~~ members. The insurer may, and if ~~the insurer is~~ a life insurer shall, make a reasonable classification of its policies ~~so~~ held by ~~such~~ members; and a formula based upon ~~such~~ *the* classification; for determining the equitable distributive share of each ~~such~~ member. ~~Such~~ *The* classification and formula ~~shall~~ *be* subject to the approval of the commissioner."

Section 1142. Section 33-3-442, MCA, is amended to read:

"33-3-442. Inside trading of securities — profit inures to company — limitation of action to recover — rules. (1) For the purpose of preventing the unfair use of information ~~which~~ *that* may have been obtained by ~~such~~ *the* beneficial owner, director, or officer by reason of ~~his~~ *the individual's* relationship to ~~such~~ *the* company, any profit realized by ~~him~~ *the individual* from any purchase and sale, or any sale and purchase, of any equity security of ~~such~~ *the* company within any period of less than 6 months, unless ~~such~~ *the* security was acquired in good faith in connection with a debt previously contracted, ~~shall inure to~~ *must benefit* and be recoverable by the company, irrespective of any intention on the part of ~~such~~ *the* beneficial owner, director, or officer in entering into ~~such~~ *the* transaction of holding the security purchased or of not repurchasing the security sold for a period exceeding 6 months.

(2) Suit to recover ~~such~~ *the* profit ~~described in subsection (1)~~ may be instituted at law or in equity in any court of competent jurisdiction by the company or by the owner of any security of the company in the name and in behalf of the company if the company ~~shall fail~~ *fails* or ~~refuse~~ *refuses* to bring ~~such~~ suit within 60 days after request or ~~shall fail~~ *diligently fails* to ~~diligently~~ prosecute the ~~same thereafter, suit.~~ *However, the suit shall may not* be brought more than 2 years after the date ~~such~~ *the* profit was realized.

(3) This section shall ~~may~~ not be construed to cover any transaction ~~where such in which the~~ beneficial owner was not ~~such the~~ beneficial owner both at the time of the purchase and sale, or the sale and purchase, of the security involved or any transaction or transactions ~~which that~~ the commissioner ~~by rules~~ may exempt ~~by rule~~ as not comprehended within the purpose of this section.”

Section 1143. Section 33-3-443, MCA, is amended to read:

“33-3-443. Short sales of equity securities prohibited — time for delivery after sale. (1) It ~~shall be~~ *is* unlawful for any ~~such~~ beneficial owner, director, or officer, directly or indirectly, to sell any equity security of ~~such the~~ company if the person selling the security or ~~his the~~ person’s principal:

(a) does not own the security sold; or

(b) if ~~owning the person owns~~ the security, does not deliver it against ~~such the~~ sale within 20 days ~~thereafter~~ or does not within 5 days after ~~such the~~ sale deposit it in the ~~mails mail~~ or other usual channels of transportation.

(2) ~~No~~ A person ~~shall be deemed~~ *may not be considered* to have violated this section if ~~he the~~ person proves that notwithstanding the exercise of good faith ~~he the~~ person was unable to make ~~such the~~ delivery or deposit within ~~such that~~ time or that to do so would cause undue inconvenience or expense.”

Section 1144. Section 33-3-444, MCA, is amended to read:

“33-3-444. Exemptions — securities held in an investment account — primary or secondary market — rules. (1) The provisions of 33-3-442 ~~shall do~~ not apply to any purchase and sale, or sale and purchase, and the provisions of 33-3-443 ~~shall do~~ not apply to any sale of an equity security of a domestic stock insurance company not then or ~~theretofore later~~ held by ~~him a~~ person in an investment account by a broker-dealer in the ordinary course of ~~his~~ business and incident to the establishment or maintenance by ~~him the~~ broker-dealer of a primary or secondary market, (~~otherwise than except~~ on an exchange as defined in the Securities Exchange Act of 1934), for ~~such the~~ security.

(2) The commissioner may, by ~~such rules as he deems that the commissioner~~ *considers* necessary or appropriate in the public interest, define and prescribe terms and conditions with respect to securities held in an investment account and transactions made in the ordinary course of business and incident to the establishment or maintenance of a primary or secondary market.”

Section 1145. Section 33-3-447, MCA, is amended to read:

“33-3-447. Rules of commissioner — classifications — effect. (1) The commissioner may make ~~such adopt~~ rules as ~~that~~ may be necessary for the execution of the functions vested in ~~him the~~ commissioner by 33-3-441 through 33-3-446 and may ~~for such purpose~~ classify domestic stock insurance companies, securities, and other persons or matters within ~~his the~~ commissioner’s jurisdiction.

(2) ~~No~~ A provision of 33-3-441 through 33-3-443 imposing any liability ~~shall~~ *does not* apply to any act done or omitted in good faith in conformity with any rule of the commissioner, notwithstanding that ~~such the~~ rule may, after ~~such the~~ act or omission, be amended or rescinded or determined by judicial or other authority to be invalid for any reason.”

Section 1146. Section 33-3-502, MCA, is amended to read:

“33-3-502. Solicitations in other states. (1) ~~No~~ A domestic insurer ~~shall~~ *may not* knowingly solicit insurance business in any reciprocating state in which it is not then licensed as an authorized insurer.

(2) This section ~~shall~~ *does* not prohibit advertising through publication and radio, television, and other broadcasts originating outside ~~such the~~ reciprocating state; if the insurer is licensed in a majority of the states in which ~~such the~~ advertising is disseminated and if ~~such the~~ advertising is not specifically directed to residents of ~~such the~~ reciprocating state.

(3) This section ~~shall~~ *does* not prohibit insurance, covering persons or risks located in a reciprocating state, under contracts solicited and issued in states in which the insurer is then licensed. ~~It shall~~ *This section does* not prohibit insurance effectuated by the insurer as an unauthorized insurer in accordance with the laws of the reciprocating state.

(4) A reciprocating state, as used ~~herein~~ *in this section*, is one under the laws of which a similar prohibition is imposed upon and enforced against insurers domiciled in that state.

(5) The commissioner shall suspend or revoke the certificate of authority of a domestic insurer found by ~~him~~ *the commissioner*, after a hearing, to have violated this section.”

Section 1147. Section 33-3-602, MCA, is amended to read:

“33-3-602. Conversion to involuntary liquidation. An insurer may at any time during liquidation under 35-1-931 and 35-1-932 apply to the commissioner to have the liquidation continued under ~~his~~ *the commissioner’s* supervision; ~~thereupon~~ *Upon receipt of the application*, the commissioner shall apply to the court for liquidation under 33-2-1341.”

Section 1148. Section 33-3-604, MCA, is amended to read:

“33-3-604. Distribution of assets of a mutual insurer. The maximum amount that a mutual insurer may pay to a policyholder upon dissolution, in addition to the benefits promised in the insurance policy, is the total of the premium payments made by the policyholder with interest at the legal rate compounded annually. Any excess over ~~such the~~ amounts must be deposited with the state treasurer to the credit of the state general fund. A person may participate in the distribution of assets of a mutual insurer only if ~~he~~ *the person* has a policy in effect 180 days before the insurer files its plan for dissolution with the commissioner. The amount that a person eligible to participate in the distribution of assets of a mutual insurer may receive must be in the proportion that the premiums paid by the policyholder bear to the total premiums paid to the mutual insurer by all policyholders who had policies in effect 180 days before the insurer filed its plan for dissolution with the commissioner.”

Section 1149. Section 33-4-302, MCA, is amended to read:

“33-4-302. Bylaws — contents. (1) The bylaws of a farm mutual insurer ~~shall~~ *must* provide:

(a) ~~as to~~ *for* the liability of each member for payment of the expenses and losses of the insurer and *for* what obligations ~~shall~~ *must* be given ~~therefor~~ *for the expenses and losses* when a person applies for insurance;

(b) ~~as to~~ *for* the time when obligations of members for losses and expenses become due;

(c) *for the* limitation of liability of members for the payment of expenses and losses of the insurer;

(d) ~~for~~ the terms of office of the directors. At least part of the directors ~~shall~~ *must* be elected at each annual meeting of members. The term of any director ~~shall~~ *may* not be longer than 3 years.

(e) the date of the annual meeting of the members, at which vacancies existing or occurring on the board of directors are to be filled by election by the members. Each member ~~shall~~ *must* be permitted to cast at least one vote, either in person or, if ~~so~~ authorized in the bylaws, by proxy, for each director to be elected and may cumulate ~~his~~ *the member's* votes for one or more directors, not exceeding the number to be elected.

(f) how directors are to be elected in case ~~no~~ *an* election ~~occurs~~ *does not occur* at the annual meeting or in event of resignation, disability, or death of a director;

(g) the manner and time of giving notice of annual and special meetings of members.

(2) The bylaws may provide:

(a) the character of property to be insured and under what restrictions and limitations;

(b) restrictions and limitations as to membership and the powers, duties, and obligations of the members other than as to obligations covered under subsection (1)(a) ~~above~~;

(c) the manner of making and collecting assessments;

(d) the manner of the suspension and expulsion of members;

(e) the form of application and the form of policy;

(f) the manner of making proof, adjustment, and payment of losses;

(g) ~~as to~~ *for* who is authorized to adjust losses for the insurer;

(h) for arbitration as provided in 33-4-411, in event the insurer's adjuster and any claimant cannot agree as to the amount of any insured damage or loss;

(i) the duties and compensation of the officers and the bonds to be required of them;

(j) the books and records to be kept by the insurer, reports required of the officers, and the manner of examining and auditing their accounts;

(k) what ~~shall~~ *must* be contained on the corporate seal and when the seal ~~shall~~ *be is* required to be used;

(l) ~~such~~ other matters as may be ~~deemed~~ *considered* necessary or convenient for the management of the affairs of the insurer."

Section 1150. Section 33-4-316, MCA, is amended to read:

"33-4-316. Records — inspections. (1) A farm mutual insurer, through its president and secretary, shall keep or cause to be kept accurate records and accounts of its transactions. The books, files, and records of the insurer ~~shall~~ *must* be located at its principal place of business or, in the case of a county mutual insurer, at ~~such~~ *a* place within the county of its principal place of business as may be designated by the insurer's board of directors and shown in the minutes of the board.

(2) The books, files, and records of the insurer ~~shall~~ *must* be available for inspection by the insurer's directors and officers and by the commissioner or ~~his~~ *the commissioner's* duly constituted examiner at all reasonable times."

Section 1151. Section 33-4-402, MCA, is amended to read:

“33-4-402. Members’ liability — limitation. All liability of the members of a farm mutual insurer ~~shall must~~ be as limited in the insurer’s bylaws. ~~As to~~ For insurers transacting business on the cash premium plan, the limitation ~~shall must~~ comply with 33-4-504(4). ~~No~~ A member ~~shall may not~~ be required to pay more than the full amount of ~~his~~ the member’s obligation given to the insurer or of ~~his~~ the member’s liability as provided for in the bylaws.”

Section 1152. Section 33-4-411, MCA, is amended to read:

“33-4-411. Arbitration — committee — compensation. (1) If any insurer’s adjuster and a claimant fail to agree as to the amount of the insured loss or damage sustained by the claimant and if ~~so~~ provided for in the insurer’s bylaws, the matter ~~shall must~~ be submitted to three persons as a committee of reference, ~~one of whom shall~~ One member ~~must~~ be selected by the claimant, one by the insurer, and the third by ~~such~~ the other two persons members, all of whom ~~shall must~~ be sworn to a faithful and impartial investigation and award.

(2) The committee of reference ~~shall have~~ has authority to examine witnesses and determine all matters in dispute. The decision or award of the committee ~~shall must~~ be made in writing to the secretary of the insurer. If it relates to any claimed loss or damage to a crop, the decision or award ~~shall may~~ not be made until after maturity of ~~such~~ the crop. The decision or award of the committee ~~shall be~~ is final and binding upon all parties, unless an interested party appeals to the court within 30 days ~~thereafter~~ after the decision or award.

(3) The compensation of each member of any ~~such~~ committee ~~shall must~~ be at the rate of \$10 per day for each day of service in the discharge of ~~his~~ duties. ~~Such~~ The compensation ~~shall must~~ be paid by the claimant, unless the award of the committee exceeds the sum ~~theretofore~~ offered by the insurer in settlement of the claim, and in which case the compensation ~~shall must~~ be paid by the insurer.”

Section 1153. Section 33-4-506, MCA, is amended to read:

“33-4-506. Members — minimum membership. (1) ~~No~~ A person may ~~not~~ become a member of a farm mutual insurer except by insuring ~~therein~~ property owned by ~~him~~ ~~so~~ the person insurable under this chapter.

(2) The membership of ~~such~~ an insurer ~~shall consist~~ consists of the persons lawfully insuring ~~therein~~ in the insurer.

(3) The total membership of the insurer ~~shall must~~ at all times be not less than the number of persons required by 33-4-201 to incorporate ~~such~~ an insurer.”

Section 1154. Section 33-4-507, MCA, is amended to read:

“33-4-507. Withdrawal of member — cancellation by insurer. (1) ~~Any~~ A member of an insurer may withdraw ~~therefrom~~ by surrendering ~~his~~ the member’s policy to the insurer for cancellation and paying all obligations then ~~owing~~ owned by ~~him~~ the member to the insurer.

(2) The insurer ~~has power to~~ may cancel the policy of any member for any cause ~~deemed~~ considered adequate by the insurer and upon not less than 10 days’ written notice in advance of cancellation delivered to the member or mailed to ~~his~~ the member’s last address last of record on file with the insurer.”

Section 1155. Section 33-4-508, MCA, is amended to read:

“33-4-508. Application for insurance. All ~~persons~~ A person desiring insurance shall make written application ~~therefor~~ to the insurer. If the insurer is transacting business on the assessment plan, the applicant shall at the time of

application give ~~his~~ *the applicant's* obligation to the insurer for the payment of losses and expenses as provided in the insurer's bylaws and make ~~such~~ advance payment in cash as *the* insurer may require."

Section 1156. Section 33-4-509, MCA, is amended to read:

"33-4-509. Application and policy forms filed with commissioner. All forms of application for insurance and of policies proposed to be used by an insurer ~~shall~~ *must* be filed with the commissioner at least 30 days in advance of any ~~such~~ use. The commissioner shall disapprove any ~~such~~ form found by ~~him~~ *the commissioner* to be unlawful, illegible, or misleading. An insurer ~~shall~~ *may* not use any ~~such~~ form after it has received the commissioner's notice of disapproval setting forth the reasons ~~therefor~~ *for disapproval*."

Section 1157. Section 33-5-202, MCA, is amended to read:

"33-5-202. Merger or conversion. (1) A domestic reciprocal insurer, upon affirmative vote of not less than two-thirds of its subscribers who vote on ~~such~~ *a* merger pursuant to due notice and the approval of the commissioner of the terms ~~therefor~~, may merge with another reciprocal insurer or be converted to a stock or mutual insurer.

(2) ~~Such a~~ *A* stock or mutual insurer ~~shall be~~ *is* subject to the same capital or surplus requirements and ~~shall have~~ *has* the same rights as a ~~like~~ *similar* domestic insurer transacting ~~like~~ *the same* kinds of insurance.

(3) The commissioner ~~shall~~ *may* not approve any plan for ~~such~~ merger or conversion ~~which~~ *that* is inequitable to subscribers or ~~which~~ *that*, if for conversion to a stock insurer, does not give each subscriber *a* preferential right to acquire stock of the proposed insurer proportionate to ~~his~~ *the subscriber's* interest in the reciprocal insurer as determined in accordance with 33-5-411 and a reasonable length of time within which to exercise ~~such~~ *the* right."

Section 1158. Section 33-5-303, MCA, is amended to read:

"33-5-303. Attorney's bond. (1) Concurrently with the filing of the declaration provided for in 33-5-201, the attorney of a domestic reciprocal insurer shall file with the commissioner a bond in favor of this state for the benefit of all persons damaged as a result of breach by the attorney of the conditions of ~~his~~ *the attorney's* bond as set forth in subsection (2) ~~hereof~~. The bond ~~shall~~ *must* be executed by the attorney and by an authorized corporate surety and ~~shall~~ *must* be subject to the commissioner's approval.

(2) The bond ~~shall~~ *must* be in the penal sum of \$25,000, aggregate in form, conditioned that the attorney will faithfully account for all ~~moneys~~ *money* and other property of the insurer coming into ~~his~~ *the attorney's* possession and that ~~he~~ *the attorney* will not withdraw or appropriate to ~~his~~ *the attorney's* own use from the funds of the insurer any ~~moneys~~ *money* or property to which ~~he~~ *the attorney* is not entitled under the power of attorney.

(3) The bond ~~shall~~ *must* provide that it is not subject to cancellation unless 30 days' advance notice in writing of cancellation is given *to* both the attorney and the commissioner."

Section 1159. Section 33-5-403, MCA, is amended to read:

"33-5-403. Financial condition — method of determining. In determining the financial condition of a reciprocal insurer the commissioner shall apply the following rules:

(1) ~~He~~ *The commissioner* shall charge as liabilities the same reserves ~~as that~~ are required of incorporated insurers issuing nonassessable policies on a reserve basis.

(2) The surplus deposits of subscribers ~~shall~~ *must* be allowed as assets, except that any premium deposits delinquent for 90 days ~~shall~~ *must* first be charged against ~~such~~ *the* surplus deposit.

(3) The surplus deposits of subscribers ~~shall~~ *may* not be charged as a liability.

(4) All premium deposits *that are* delinquent for less than 90 days ~~shall~~ *must* be allowed as assets.

(5) An assessment levied upon subscribers and not collected ~~shall~~ *may* not be allowed as an asset.

(6) The contingent liability of subscribers ~~shall~~ *may* not be allowed as an asset.

(7) The computation of reserves ~~shall~~ *must* be based upon premium deposits other than membership fees and without any deduction for expenses and the compensation of the attorney.”

Section 1160. Section 33-5-404, MCA, is amended to read:

“33-5-404. Subscribers’ liability. (1) The liability of each subscriber, other than as to a nonassessable policy, for the obligations of the reciprocal insurer ~~shall~~ *must* be an individual, several, and proportionate liability, and not joint *liability*.

(2) Except as to a nonassessable policy, each subscriber ~~shall~~ *must* have a contingent assessment liability, in the amount provided for in the power of attorney or in the subscribers’ agreement, for payment of actual losses and expenses incurred while ~~his~~ *the subscriber’s* policy was in force. ~~Such~~ *The* contingent liability may be at the rate of not less than 1 or more than 10 times the premium or premium deposit stated in the policy, and the maximum aggregate ~~thereof~~ *shall* *contingent liability must* be computed in the manner set forth in 33-5-406.

(3) Each assessable policy issued by the insurer ~~shall~~ *must* contain a statement of the contingent liability.”

Section 1161. Section 33-5-405, MCA, is amended to read:

“33-5-405. Subscribers’ liability on judgment. (1) ~~No~~ *An* action ~~shall~~ *may not* lie against any subscriber upon any obligation claimed against the insurer until a final judgment has been obtained against the insurer and remains unsatisfied for 30 days.

(2) Any ~~such~~ judgment ~~shall~~ *be described in subsection (1) is* binding upon each subscriber only in ~~such~~ *the* proportion ~~as his~~ *that the subscriber’s* interests may appear and in *an* amount not exceeding ~~his~~ *the subscriber’s* contingent liability, if any.”

Section 1162. Section 33-5-406, MCA, is amended to read:

“33-5-406. Assessments. (1) Assessments may from time to time be levied upon subscribers of a domestic reciprocal insurer liable ~~therefor~~ *for the assessment* under the terms of their policies by the attorney upon approval in advance by the subscribers’ advisory committee and the commissioner or by the commissioner in liquidation of the insurer.

(2) Each subscriber's share of a deficiency for which an assessment is made, but not exceeding in any event ~~his~~ *the subscriber's* aggregate contingent liability as stated in accordance with 33-5-404, ~~shall must~~ be computed by applying to the premium earned on the subscriber's policy or policies during the period to be covered by the assessment the ratio of the total deficiency to the total premiums earned during ~~such the~~ period upon all policies subject to the assessment.

(3) In computing the earned premiums for the purposes of this section, the gross premium received by the insurer for the policy ~~shall must~~ be used as a base, deducting ~~therefrom solely~~ *only* charges not recurring upon the renewal or extension of the policy.

(4) ~~No~~ A subscriber ~~shall may not~~ have an offset against any assessment for which ~~he~~ *the subscriber* is liable on account of any claim for unearned premium or losses payable."

Section 1163. Section 33-5-407, MCA, is amended to read:

"33-5-407. Time limit for assessments. Every subscriber of a domestic reciprocal insurer having contingent liability ~~shall must~~ be liable for and shall pay ~~his the subscriber's~~ share of any assessment, as computed and limited in accordance with this chapter, if:

(1) while ~~his the subscriber's~~ policy is in force or within 1 year after its termination, ~~he the subscriber~~ is notified by either the attorney or the commissioner of ~~his intentions~~ *the intention* to levy ~~such an~~ assessment; or

(2) an order to show cause why a receiver, conservator, rehabilitator, or liquidator of the insurer should not be appointed is issued while ~~his the subscriber's~~ policy is in force or within 1 year after its termination."

Section 1164. Section 33-5-409, MCA, is amended to read:

"33-5-409. Nonassessable policies. (1) If a reciprocal insurer has a surplus of assets over all liabilities at least equal to the minimum capital stock required of a domestic stock insurer authorized to transact ~~like~~ *similar* kinds of insurance, upon application of the attorney and as approved by the subscribers' advisory committee, the commissioner shall issue ~~his a~~ certificate authorizing the insurer to extinguish the contingent liability of subscribers under its policies then in force in this state and to omit provisions imposing contingent liability in all policies delivered or issued for delivery in this state for ~~so as~~ long as all ~~such the~~ surplus remains unimpaired.

(2) Upon impairment of ~~such the~~ surplus, the commissioner shall ~~forthwith~~ revoke the certificate. ~~Such The~~ revocation ~~shall may not render~~ *make a policy* subject to contingent liability ~~any if the policy is~~ then in force and for the remainder of the period for which the premium has ~~theretofore~~ been paid; ~~but~~ *However*, after ~~such the~~ revocation, ~~no a policy shall may not~~ be issued or renewed without providing for contingent assessment liability of the subscriber.

(3) The commissioner ~~shall may not~~ authorize a domestic reciprocal insurer ~~so~~ to extinguish the contingent liability of any of its subscribers or in any of its policies to be issued unless it qualifies to and does extinguish ~~such the~~ liability of all its subscribers and in all ~~such~~ policies for all kinds of insurance transacted by it; ~~except that~~ *However*, if required by the laws of another state in which the insurer is transacting insurance as an authorized insurer, the insurer may issue policies providing for the contingent liability of ~~such those~~ of its subscribers ~~as that may acquire such the policies in such that state and need not extinguish the contingent liability applicable to policies theretofore previously in force in such that state."~~

Section 1165. Section 33-5-412, MCA, is amended to read:

“33-5-412. Impaired reciprocals. (1) If the assets of a reciprocal insurer are at any time insufficient to discharge its liabilities, other than any liability on account of funds contributed by the attorney or others, and to maintain the required surplus, its attorney shall ~~forthwith~~ make up the deficiency or levy an assessment upon the subscribers for the amount needed to make up the deficiency, but subject to the limitation set forth in the power of attorney or policy.

(2) If the attorney fails to make up ~~such~~ the deficiency or to make the assessment within 30 days after the commissioner orders ~~him~~ the attorney to do so; or if the deficiency is not fully made up within 60 days after the date the assessment was made, the insurer ~~shall be deemed~~ is considered insolvent and ~~shall must~~ be proceeded against as authorized by this code.

(3) If liquidation of ~~such~~ an insurer is ordered, an assessment ~~shall must~~ be levied upon the subscriber for ~~such~~ an amount, subject to limits as provided by this chapter, as ~~that~~ the commissioner determines to be necessary to discharge all liabilities of the insurer, exclusive of any funds contributed by the attorney or other persons but including the reasonable cost of the liquidation.”

Section 1166. Section 33-6-102, MCA, is amended to read:

“33-6-102. Definitions. (1) (a) ~~Any~~ An entity is considered a “benevolent association” for the purposes of this chapter if the entity:

(i) is a corporation, association, or society, or by whatever name called, ~~which that~~ issues any certificate, policy, or membership agreement; or makes any promise or agreement with its members ~~whereby~~ under which, upon ~~decease~~ the death of a member, any money or other benefit, charity, aid, or relief is to be paid, provided, or rendered by ~~such~~ the corporation, association, or society to ~~his~~ the deceased’s legal representatives or to the beneficiary designated by ~~him~~ the deceased, ~~which and~~ the money, benefit, charity, aid, or relief is derived from voluntary donations or from admission fees, dues, or assessments or any of ~~them~~ those items collected or to be collected from the members ~~thereof~~ of the entity or members of a class ~~therein~~ of the entity or interest or accretions ~~thereon~~ gains on the items or accumulations ~~thereof~~ of the items; and

(ii) ~~wherein~~ uses the money or other benefit, charity, aid, or relief ~~so realized~~ is applied to or accumulated for the uses and purposes ~~herein~~ specified in this chapter, ~~and/or~~ for the uses of ~~such~~ the corporation, association, or society, ~~and/or~~ or the expenses of management and prosecution of its business, ~~shall be deemed to~~ be a “benevolent association” for the purposes of this chapter.

(b) The definition of benevolent association in subsection (1)(a) ~~above~~ is not applicable to:

(i) burial or death benefits, annuities, endowments, or any other benefit payments of any legal reserve life or disability insurer or of any labor union, railroad brotherhood, or lodge having as a primary business the improvement of working conditions;

(ii) any auxiliaries to any labor union, railroad brotherhood, or lodge referred to in subsection (1)(b)(i); or

(iii) the benevolent plans within fraternal orders if limited to members and if the plan is not the principal object for the formation or continuance of the fraternal order.

(2) A ~~“member”~~ *“Member”* or “member in good standing” is an individual who must contribute to a benevolent association upon notice of assessment.

(3) (a) “Membership contract” is any certificate, policy, membership agreement, by whatever name called, or any promise or agreement of a benevolent association with any or all of its members, ~~whereby~~ *under which* any money or other benefit, charity, aid, or relief is to be paid, provided, or rendered by ~~such the~~ *the* association upon the ~~decease~~ *death* of a member to ~~his the member’s~~ *the member’s* legal representatives or to the beneficiary or beneficiaries designated by ~~him the~~ *the* member.

(b) There ~~shall~~ *must* be one contributing member for each membership contract, but a membership contract may cover more than one individual.

(4) “Officer” is any of the individuals having supervision and control of a benevolent association and engaging in the management and the prosecution of the business ~~thereof of the association~~, whether designated as officers, trustees, comptrollers, managers, or by whatever name called.”

Section 1167. Section 33-6-401, MCA, is amended to read:

“33-6-401. Continuous certificate of authority — fee — evidence. (1) A benevolent association may not insure a risk in this state unless it ~~then~~ holds a subsisting certificate of authority issued to it by the commissioner.

(2) A benevolent association’s certificate of authority continues in force as long as the benevolent association is entitled to it under this chapter and until suspended, revoked, or otherwise terminated; ~~subject, however~~ *However, the certificate is subject* to continuance of the certificate by the benevolent association each year by payment before May 15 of the continuation fee of \$25, to be deposited by the commissioner with the state treasurer to the credit of the state general fund.

(3) If a benevolent association does not continue its certificate of authority in accordance with subsection (2), its certificate of authority expires at midnight on May 31 ~~next~~ following its failure to continue it in force. The commissioner shall promptly notify a benevolent association that has not continued its certificate of authority of the impending expiration of its certificate of authority.

(4) The commissioner may ~~in his discretion~~ reinstate a certificate of authority that a benevolent association has inadvertently permitted to expire, after the benevolent association has fully cured all failures that resulted in the expiration and upon payment by the benevolent association of a \$25 fee for reinstatement in addition to the current continuation fee as provided in subsection (2). If a certificate is not reinstated, the commissioner may grant a benevolent association another certificate of authority only after the benevolent association files an application for a certificate of authority and meets all other requirements for an original certificate of authority in this state.

(5) The commissioner may amend a certificate of authority at any time to accord with changes in the benevolent association’s charter of insuring powers.

(6) A duly certified copy or duplicate of ~~such the~~ *the* license ~~shall be~~ *is* prima facie evidence that the licensee is a benevolent association within the meaning of this chapter.”

Section 1168. Section 33-7-119, MCA, is amended to read:

“33-7-119. Examination of societies. (1) The commissioner of insurance or any person ~~he may appoint~~ *appointed by the commissioner* may examine any domestic, foreign, or alien society transacting or applying for admission to transact business in this state in the same manner as authorized for

examination of domestic, foreign, or alien insurers. Requirements of notice and an opportunity to respond before findings are made public, as provided in the laws regulating insurers, are applicable to the examination of societies.

(2) The expense of each examination and of each valuation, including compensation and actual expenses of examiners, must be paid by the society examined or whose certificates are valued, upon statements furnished by the commissioner."

Section 1169. Section 33-7-120, MCA, is amended to read:

"33-7-120. Injunction — liquidation — receivership of domestic society. (1) The commissioner of insurance shall notify a domestic society of a deficiency or deficiencies and state in writing the reasons for ~~his~~ *the* dissatisfaction, whenever the commissioner, upon investigation, finds that the society:

- (a) has exceeded its powers;
- (b) has failed to comply with any provision of this chapter;
- (c) is not fulfilling its contracts in good faith;
- (d) has a membership of less than 400 after an existence of 1 year or more; or
- (e) is conducting business fraudulently or in a manner hazardous to its members, creditors, the public, or the business.

(2) Whenever a deficiency or deficiencies are found, the commissioner shall issue to the society a written notice that requires the deficiency or deficiencies to be corrected. The society shall within 30 days comply with the commissioner's request for correction. If the society fails to comply, the commissioner shall notify the society of the noncompliance and require the society to show cause by a stated date why it should not be enjoined from transacting business until the violation complained of is corrected or why an action in quo warranto should not be commenced against the society.

(3) If the society does not present sufficient reasons why it should not be enjoined from transacting business or why the quo warranto action should not be commenced, the commissioner may present the facts relating to ~~his~~ *the commissioner's* determination to the attorney general who shall, if ~~he~~ *the attorney general* finds that the circumstances warrant, commence an action to enjoin the society from transacting business or an action in quo warranto.

(4) The court shall notify the officers of the society of a hearing. If after a hearing it appears that the society should be enjoined or liquidated or that a receiver should be appointed, the court shall enter the necessary order. A society enjoined from transacting business may not do business until:

- (a) the commissioner finds that the violation complained of has been corrected;
- (b) the costs of the action have been paid by the society if the court finds that the society was in default as charged;
- (c) the court has dissolved its injunction; and
- (d) the commissioner has reinstated the certificate of authority.

(5) If the court orders the society liquidated, it is enjoined from transacting any further business. The receiver of the society shall proceed at once to take possession of the books, papers, money, and other assets of the society and, under the direction of the court, proceed to close the affairs of the society and distribute its funds to those entitled to the funds.

(6) An action under this section may not be recognized in any court of this state unless brought by the attorney general upon request of the commissioner. The court shall appoint the commissioner as the receiver for a domestic society.

(7) The provisions of this section relating to hearing by the commissioner, action by the attorney general at the request of the commissioner, hearing by the court, injunction, and receivership apply to a society that voluntarily decides to discontinue business.”

Section 1170. Section 33-7-121, MCA, is amended to read:

“33-7-121. Suspension, revocation, or refusal of license of foreign or alien society. (1) The commissioner of insurance shall notify a foreign or alien society of a deficiency or deficiencies and state in writing the reasons for ~~his~~ *the commissioner’s* dissatisfaction; whenever the commissioner, upon investigation, finds that the society transacting or applying to transact business in this state:

- (a) has exceeded its powers;
- (b) has failed to comply with any of the provisions of this chapter;
- (c) is not fulfilling its contracts in good faith; or
- (d) is conducting its business fraudulently or in a manner hazardous to its members, creditors, or the public.

(2) Whenever a deficiency or deficiencies are found, the commissioner shall issue to the society a written notice that requires the deficiency or deficiencies to be corrected. The society shall within 30 days comply with the commissioner’s request for correction. If the society fails to comply, the commissioner shall notify the society of the noncompliance and require the society to show cause by a stated date why its authority to do business in this state should not be suspended, revoked, or refused.

(3) If the society does not present sufficient reason why its authority to do business in this state should not be suspended, revoked, or refused, the commissioner may:

- (a) suspend or refuse the authority of the society to do business in this state until satisfactory evidence is furnished to the commissioner that the suspension or refusal should be withdrawn; or
- (b) revoke the authority of the society to do business in this state.

(4) ~~Nothing in this~~ *This* section may *not* be construed as preventing any society from continuing in good faith all contracts made in this state during the time the society was legally authorized to transact business in this state.”

Section 1171. Section 33-7-208, MCA, is amended to read:

“33-7-208. Organization. A domestic society organized on or after January 1, 1992, must be formed as follows:

(1) Ten or more citizens of the United States, a majority of whom are residents of this state, who desire to form a fraternal benefit society, may make, sign, and acknowledge before a notary public; an application for articles of incorporation that states:

- (a) the proposed corporate name of the society, which may not so closely resemble the name of any society or insurance company as to be misleading or confusing;

(b) the purposes for which it is being formed and the mode in which its corporate powers are to be exercised. The purposes may not include more liberal powers than are granted by this chapter.

(c) the names and residences of the incorporators and the names, residences, and official titles of all the officers, trustees, directors, or other persons who are to have and exercise the general control of the management of the affairs and funds of the society for the first year or until the ensuing election at which all officers are elected by the supreme governing body. The election must be held not later than 1 year from the date of issuance of the permanent certificate of authority.

(2) The application for articles of incorporation, certified copies of the society's bylaws and rules, copies of all proposed forms of certificates, applications for certificates, and circulars to be issued by the society, and a bond conditioned upon the return to applicants of the advanced payments if the organization is not completed within 1 year must be filed with the commissioner, who may require further information considered necessary. The bond, with sureties approved by the commissioner, must be in an amount, not less than \$300,000 or more than \$1,500,000, required by the commissioner. All documents filed must be in English. If the purposes of the society conform to the requirements of this chapter and all provisions of law have been complied with, the commissioner shall certify, retain, and file the articles of incorporation and furnish to the incorporators a preliminary certificate of authority authorizing the society to solicit members.

(3) A preliminary certificate of authority granted under the provisions of this section is not valid after 1 year from its date of issuance or after an extended period, not exceeding 1 year, as may be authorized by the commissioner upon good cause shown, unless the 500 applicants required under subsection (4) have been secured and the organization has been completed. The charter and all other proceedings under the charter are void 1 year from the date of issuance of the preliminary certificate of authority or at the expiration of the extended period; unless the society has completed its organization and received a certificate of authority to do business.

(4) Upon receipt of a preliminary certificate of authority from the commissioner, the society may solicit members for the purpose of completing its organization, shall collect from each applicant the amount of not less than one regular monthly premium in accordance with its table of rates, and shall issue to each applicant a receipt for the amount collected. A society may not incur a liability other than for the return of an advance premium, issue any certificate, or pay, allow, offer, or promise to pay or allow any benefit to a person until:

(a) actual applications for benefits have been secured, aggregating at least \$500,000, on not less than 500 applicants; and any necessary evidence of insurability has been furnished to and approved by the society;

(b) at least 10 subordinate lodges have been established into which the 500 applicants have been admitted;

(c) there has been submitted to the commissioner, under oath of the president, secretary, or corresponding officer of the society, a list of the applicants, giving their names, addresses, date each was admitted, name and number of the subordinate lodge of which each applicant is a member, amount of benefits to be granted, and premiums for benefits; and

(d) it has been shown to the commissioner, by sworn statement of the treasurer or the corresponding officer of the society, that at least 500 applicants

have each paid in cash at least one regular monthly premium. The aggregate premiums must amount to at least \$150,000. The advance premiums must be held in trust during the period of organization. If the society has not qualified for a certificate of authority within 1 year, unless extended as provided in subsection (3), the premiums must be returned to the applicants.

(5) The commissioner may ~~in his discretion~~ require and examine additional information ~~he~~ *that the commissioner* considers advisable. Upon presentation of satisfactory evidence that the society has complied with all the provisions of law, the commissioner shall issue a certificate of authority to the society, authorizing it to transact business pursuant to the provisions of this chapter. The certificate of authority is prima facie evidence of the existence of the society at the date of the certificate. The commissioner shall record the certificate of authority.

(6) A society authorized to transact business in this state on January 1, 1992, is not required to reincorporate.

(7) An unincorporated or voluntary association may not transact business in this state as a society. Every voluntary association incorporated as provided in section 629(2), Chapter 286, Laws of 1959, may incur the obligations and enjoy the benefits of a society as if it were originally incorporated, and the corporation is considered a continuation of the original voluntary association. The officers must be elected and serve as provided in its articles of incorporation. Incorporation of a voluntary association does not affect existing suits, claims, or contracts.”

Section 1172. Section 33-7-209, MCA, is amended to read:

“33-7-209. Amendments to laws. (1) A domestic society may amend its laws in accordance with the provisions of its laws by action of its supreme governing body at any regular or special meeting or, if its laws provide, by referendum. The referendum may be held in accordance with the provisions of its laws by a vote of the voting members of the society, by a vote of delegates or representatives of voting members, or by a vote of local lodges. A society may provide for voting by mail. An amendment submitted by referendum may not be adopted unless, within 6 months from the date of submission, a majority of the members voting have signified their consent to the amendment.

(2) An amendment to the laws of a domestic society does not take effect unless approved by the commissioner of insurance, who shall approve the amendment if ~~he~~ *the commissioner* finds that it has been adopted and is not inconsistent with any requirement of the laws of this state or with the character, objectives, and purposes of the society. Unless the commissioner disapproves an amendment within 60 days after its filing, the amendment is considered approved. The approval or disapproval of the commissioner must be in writing and mailed to the secretary or corresponding officer of the society at its principal office. If the commissioner disapproves an amendment, the reasons for the disapproval must be stated in the written notice.

(3) Within 90 days of approval by the commissioner, all amendments or a synopsis of the amendments must be furnished to all members of the society, either by mail or by publication in full in the official publication of the society.

(4) A foreign or alien society authorized to do business in this state shall file with the commissioner a certified copy of all amendments of or additions to its laws within 90 days after their enactment.

(5) Printed copies of the laws, as amended, that are certified by the secretary or a corresponding officer of the society are prima facie evidence of their legal adoption.”

Section 1173. Section 33-7-216, MCA, is amended to read:

“33-7-216. Conversion of a society into a mutual life insurance company. A domestic society may be converted and licensed as a mutual life insurance company by compliance with all the applicable requirements of Title 33 if the plan of conversion has been approved by the commissioner of insurance. The board of directors shall prepare a written plan of conversion that sets forth in full the terms and conditions of conversion. An affirmative vote of two-thirds of all members of the supreme governing body at a regular or special meeting is necessary for the approval of the plan. A conversion may not take effect unless approved by the commissioner, who may approve the conversion if ~~he~~ *the commissioner* finds that the proposed change is in conformity with the requirements of law and not prejudicial to the certificate holders of the society.”

Section 1174. Section 33-7-307, MCA, is amended to read:

“33-7-307. No personal liability. (1) The officers and members of the supreme governing body or any subordinate body of a society are not personally liable for any benefits provided by a society.

(2) A person may be indemnified and reimbursed by a society for expenses reasonably incurred by and liabilities imposed upon ~~him~~ *the person* in connection with or arising out of an action, suit, or proceeding, (whether civil, criminal, administrative, or investigative), or threat ~~thereof~~ *of a proceeding* in which the person may be involved by reason of the fact that ~~he~~ *the person* is or was a director, officer, employee, or agent of the society or of a firm, corporation, or organization that ~~he~~ *the person* served in any capacity at the request of the society.

(3) (a) A person may not be indemnified or reimbursed in relation to any matter in an action, suit, or proceeding:

(i) in which ~~he~~ *the person* is finally found to be guilty of breach of a duty as a director, officer, employee, or agent of the society; or

(ii) that is the subject of a compromise settlement.

(b) A person may be indemnified or reimbursed if ~~he~~ *the person* acted in good faith for a purpose ~~he~~ *that the person* reasonably believed to be in, or not opposed to, the best interests of the society and, in a criminal action or proceeding, in addition, ~~had no~~ *did not have* reasonable cause to believe that ~~his~~ *the* conduct was unlawful.

(4) The determination of whether the person’s conduct met the standard required in order to justify indemnification or reimbursement in relation to any matter described in subsection (3) may be made only by the supreme governing body or board of directors by a majority vote of a quorum consisting of persons who were not parties to the action, suit, or proceeding or by a court of competent jurisdiction. The termination of an action, suit, or proceeding by a judgment, order, settlement, or conviction or upon a plea of no contest, does not create a conclusive presumption that the person did not meet the standard of conduct required in order to justify indemnification or reimbursement. The right of indemnification or reimbursement is not exclusive of other rights to which the person may be entitled as a matter of law, and the right inures to the benefit of ~~his~~ *the person’s* heirs, executors, and administrators.

(5) A director, officer, employee, member, or volunteer of a society who serves without compensation may not be held liable; ~~for~~ and a cause of action may not be brought; ~~for~~ damages resulting from the exercise of judgment or

discretion in connection with the person's duties or responsibilities for the society unless the act or omission involved willful or wanton misconduct.

(6) A society may purchase and maintain liability insurance for acts incurred in the course and scope of the position for a person who is or was a director, officer, employee, or agent of the society or who is or was serving at the request of the society as a director, officer, employee, or agent of any other firm, corporation, or organization."

Section 1175. Section 33-7-411, MCA, is amended to read:

"33-7-411. Valuation. (1) Standards of valuation for certificates issued prior to July 1, 1993, must be those provided by the laws applicable immediately prior to July 1, 1992.

(2) (a) The minimum standards of valuation for certificates issued on or after July 1, 1993, must be based on the following tables:

(i) for certificates of life insurance—the commissioner of insurance's 1941 standard ordinary mortality table, the commissioner's 1941 standard industrial mortality table, the commissioner's 1958 standard ordinary mortality table, the commissioner's 1980 standard ordinary mortality table, or any more recent table made applicable to life insurers;

(ii) for annuity and pure endowment certificates, for total and permanent disability benefits, for accidental death benefits and for noncancelable accident and health benefits—the tables authorized for use by life insurers in this state.

(b) All of the certificates must be valued under valuation methods and standards, including interest assumptions, that are in accordance with the laws of this state applicable to life insurers that issue policies containing similar benefits.

(3) The commissioner may accept other standards for valuation if ~~he~~ *the commissioner* finds that the reserves produced by the valuation will not be less in the aggregate than reserves computed in accordance with the minimum valuation standard prescribed in this section. The commissioner may vary the standards of mortality applicable to all benefit contracts on substandard lives or other extrahazardous lives by a society authorized to do business in this state.

(4) A society, with the consent of the commissioner of insurance of the state of domicile of the society and under conditions, if any, that the commissioner may impose, may establish and maintain reserves on its certificates in excess of required reserves, but the contractual rights of a benefit member may not be affected by the excess reserves."

Section 1176. Section 33-9-102, MCA, is amended to read:

"33-9-102. Professionals as members, stockholders, or subscribers of mutual, stock, or reciprocal insurers. A health care provider or other professional may be a member of a mutual insurer, a stockholder of a stock insurer, or a subscriber of a reciprocal insurer, whether ~~such~~ *the* mutual, stock, or reciprocal insurer is domestic, foreign, or alien, for the purpose of protecting ~~himself~~ *the provider or professional* by insurance against loss, damage, or expense incident to a claim arising out of a breach of contract, pecuniary or personal injury to or death of any person, or other loss as the result of negligence in rendering professional services by any health care provider or other professional."

Section 1177. Section 33-10-108, MCA, is amended to read:

“33-10-108. Prevention of insolvencies — directors’ and commissioner’s action. (1) It ~~shall be~~ *is* the duty of the board of directors, upon majority vote, to notify the commissioner of any information indicating *that* any member insurer may be insolvent or in a financial condition hazardous to the policyholders or the public.

(2) The board of directors may, upon majority vote, request that the commissioner order an examination of any member insurer ~~which~~ *that* the board in good faith believes may be in a financial condition hazardous to the policyholders or the public. Within 30 days of the receipt of ~~such~~ *the* request, the commissioner shall begin ~~such~~ *the* examination. The examination may be conducted as a national association of insurance commissioners examination or may be conducted by ~~such~~ persons ~~as~~ *that* the commissioner designates. The cost of ~~such~~ *the* examination ~~shall~~ *must* be paid by the association, and the examination report ~~shall~~ *must* be treated as are other examination reports. ~~In no event shall such~~ *The* examination report *may not* be released to the board of directors prior to its release to the public, but this ~~shall~~ *does* not preclude the commissioner from complying with subsection (3). The commissioner shall notify the board of directors when the examination is completed. The request for an examination ~~shall~~ *must* be kept on file by the commissioner, but it ~~shall~~ *may* not be open to public inspection prior to the release of the examination report to the public.

(3) It ~~shall be~~ *is* the duty of the commissioner to report to the board of directors when ~~he~~ *the commissioner* has reasonable cause to believe that any member insurer examined or being examined at the request of the board of directors may be insolvent or in a financial condition hazardous to the policyholders or the public.

(4) The board of directors may, upon majority vote, make reports and recommendations to the commissioner upon any matter germane to the solvency, liquidation, rehabilitation, or supervision of any member insurer. ~~Such~~ *The* reports and recommendations ~~shall~~ *may* not be considered public documents.

(5) The board of directors may, upon majority vote, make recommendations to the commissioner for the detection and prevention of insurer insolvencies.

(6) The board of directors shall, at the conclusion of any insurer insolvency in which the association was obligated to pay covered claims, prepare a report on the history and causes of ~~such~~ *the* insolvency, based on the information available to the association, and submit ~~such~~ *the* report to the commissioner.”

Section 1178. Section 33-10-109, MCA, is amended to read:

“33-10-109. Notice of insolvencies — suspension — other powers and duties of commissioner. (1) The commissioner shall:

(a) notify the association of the existence of an insolvent insurer not later than 3 days after ~~he~~ *the commissioner* receives notice of the determination of the insolvency;

(b) upon request of the board of directors, provide the association with a statement of the net direct written premiums of each member insurer.

(2) The commissioner may:

(a) require that the association notify the insureds of the insolvent insurer and any other interested parties of the determination of insolvency and of their rights under this part. ~~Such~~ *The* notification ~~shall~~ *must* be by mail at their ~~last known address~~ *last-known addresses*, where available, but if sufficient

information for notification by mail is not available, notice by publication in a newspaper of general circulation ~~shall be~~ *is* sufficient.

(b) suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in this state of any member insurer ~~which that~~ fails to pay an assessment when due or fails to comply with the plan of operation. As an alternative, the commissioner may levy a fine on any member insurer ~~which that~~ fails to pay an assessment when due. ~~Such~~ *The fine shall may* not exceed 5% of the unpaid assessment ~~per a~~ month, except that ~~no a~~ fine ~~shall may~~ not be less than \$100 ~~per a~~ month.

(c) revoke the designation of any servicing facility if ~~he the~~ *the commissioner* finds claims are being handled unsatisfactorily.

(3) Any final action or order of the commissioner under this part ~~shall must~~ be subject to judicial review in a court of competent jurisdiction.”

Section 1179. Section 33-10-115, MCA, is amended to read:

“33-10-115. Recovery — sequence — nonduplication. (1) Any person having a claim against an insurer under any provision in an insurance policy other than a policy of an insolvent insurer ~~which that~~ is also a covered claim ~~shall must~~ be required to exhaust ~~first his the person’s~~ right under ~~such the~~ policy. Any amount payable on a covered claim under this part ~~shall must~~ be reduced by the amount of any recovery under ~~such the~~ insurance policy.

(2) Any person having a claim ~~which that~~ may be recovered under more than one insurance guaranty association or its equivalent shall seek recovery first from the association of the place of residence of the insured, except that if it is a first party claim for damage to property with a permanent location, ~~he the person~~ shall seek recovery first from the association of the location of the property, and if it is a workers’ compensation claim, ~~he the person~~ shall seek recovery first from the association of the residence of the claimant. Any recovery under this part ~~shall must~~ be reduced by the amount of recovery from any other insurance guaranty association or its equivalent.”

Section 1180. Section 33-14-203, MCA, is amended to read:

“33-14-203. License revocation — suspension. The commissioner may revoke or suspend the license of a premium finance company when and if after investigation it appears to the commissioner that:

- (1) a license issued to the company was obtained by fraud;
- (2) there was misrepresentation in the application for the license;
- (3) the holder of the license has otherwise *been* shown ~~himself~~ untrustworthy or incompetent to act as a premium finance company; or
- (4) the company has violated any provisions of this chapter.”

Section 1181. Section 33-14-204, MCA, is amended to read:

“33-14-204. Records required of licensees — form — inspection. (1) Every premium finance company shall maintain records of its premium finance transactions, and the records ~~shall must~~ be open to examination and investigation by the commissioner. The commissioner may at any time require the company to bring ~~such~~ records ~~as he that the commissioner~~ may direct to the commissioner’s office for examination.

(2) Every premium finance company shall preserve its records of premium finance transactions for at least 3 years after making the final entry in respect to any premium finance agreement. The records may be preserved in photographic form.”

Section 1182. Section 33-14-301, MCA, is amended to read:

“33-14-301. Premium finance agreements — contents — form — delivery. (1) A premium finance agreement ~~shall~~ *must*:

(a) be dated; *and* signed by the insured or by any person authorized in writing to act in behalf of the insured, and the printed portion ~~thereof shall~~ *of the agreement must* be in at least 8-point type;

(b) contain the name and place of business of the insurance producer negotiating the related insurance policy, the name and residence or the place of business of the insured as specified by ~~him~~ *the insured*, the name and place of business of the premium finance company to which payments are to be made, and a description of the insurance policies involved and the amount of the premium ~~therefor~~ *for the policies*; and

(c) set forth when applicable:

(i) the total amount of the premiums;

(ii) the amount of the downpayment;

(iii) the principal balance, *{which is the difference between the items enumerated in subsections (1)(c)(i) and (1)(c)(ii)}*;

(iv) the amount of the finance charge;

(v) the balance payable by the insured, *{which is the sum of the items enumerated in subsections (1)(c)(iii) and (1)(c)(iv)}*; and

(vi) the number of installments required, the amount of each installment expressed in dollars, and the due date or period ~~thereof~~ *of the installments*.

(2) The items set out in subsection (1)(c) ~~need~~ *are not required to* be stated in the sequence or order in which they appear in that subsection, and additional items may be included to explain the computations made in determining the amount to be paid by the insured.

(3) The information required by subsection (1) may only be required in the initial agreement *only* if the premium finance company and the insured enter into an open-end credit transaction, which is defined as a plan prescribing the terms of credit transactions that may be made ~~thereunder~~ *under the plan* from time to time and under the terms of which a finance charge may be computed on the outstanding unpaid balance from time to time ~~thereunder~~ *under the plan*.

(4) The premium finance company or the insurance producer shall deliver to the insured or mail to ~~him~~ *the insured* at ~~his~~ *the* address shown in the agreement a complete copy of the agreement.”

Section 1183. Section 33-14-302, MCA, is amended to read:

“33-14-302. Charges for premium financing regulated — method of computation. (1) A premium finance company may not charge, contract for, receive, or collect a finance charge other than as permitted by this chapter.

(2) The finance charge must be computed on the balance of the premiums due, *{after subtracting the downpayment made by the insured in accordance with the premium finance agreement}*, from the effective date of the insurance coverage for which the premiums are being advanced to and including the date when the final payment of the premium finance agreement is payable.

(3) Notwithstanding any other provision of law, the finance charge may not exceed interest at the annual rate of 21%, plus a service charge of \$12.50 per premium finance agreement. The service charge of \$12.50 ~~need~~ *is not required to* be refunded upon cancellation or prepayment.

(4) An insured may prepay ~~his~~ *the* premium finance agreement in full at any time prior to the due date of the final payment, and ~~in such event upon payment~~ the unearned finance charge ~~shall~~ *must* be refunded.”

Section 1184. Section 33-15-103, MCA, is amended to read:

“33-15-103. Power to contract — purchase of insurance by minors.

(1) Any person of competent legal capacity may contract for insurance.

(2) Any minor ~~of the age of 15 years of age or more older~~, as determined by the nearest birthday, may, ~~notwithstanding his minority~~, contract for annuities and for insurance upon ~~his~~ *the minor's* own life, body, health, property, liabilities, or other interests or on the person of another in whom the minor has an insurable interest. ~~Such a~~ *The* minor ~~shall, notwithstanding such minority, be deemed must be considered~~ competent to exercise all rights and powers with respect to or under any contract for annuity or for insurance upon ~~his~~ *the minor's* own life, body, or health or any contract ~~such~~ *the* minor effected upon ~~his~~ *the minor's* own property, liabilities, or other interests or on the person of another, as might be exercised by a person of full legal age, and may at any time surrender ~~his~~ *the minor's* interest in any ~~such~~ contracts and give valid discharge for any benefit accruing or money payable ~~thereunder under the contracts~~. ~~Such a~~ *The* minor ~~shall may~~ not, by reason of ~~his~~ *the minor's* minority, be entitled to rescind, avoid, or repudiate the contract or to rescind, avoid, or repudiate any exercise of a right or privilege ~~thereunder under the contract~~, except that ~~such a~~ *the* minor, not otherwise emancipated, ~~shall may~~ not be bound by any unperformed agreement to pay by promissory note or otherwise any premium on any ~~such~~ annuity or insurance contract.

(3) If any minor mentioned in subsection (2) ~~above~~ is possessed of an estate that is being administered by a guardian, ~~no such~~ *the* contract ~~shall be is not~~ binding upon the estate as to payment of premiums except ~~as and~~ when consented to by the guardian and approved by the district court of the county in which the administration of the estate is pending, and ~~such~~ *the* consent and approval ~~shall be is~~ required ~~as to~~ for each annual premium payment.

(4) Any annuity contract or policy of life or disability insurance procured by or for a minor under subsection (2) ~~above~~ *shall must* be made payable either to the minor, ~~or his to the minor's~~ estate, or to a person having an insurable interest in the life of the minor under 33-15-201.”

Section 1185. Section 33-15-201, MCA, is amended to read:

“33-15-201. Restrictions on contracting for personal insurance — insurable interests — violation. (1) Any individual of competent legal capacity may procure or effect an insurance contract upon ~~his~~ *the individual's* own life or body for the benefit of any person. ~~But no~~ *However, a* person ~~shall may not~~ procure or cause to be procured any insurance contract upon the life or body of another individual unless the benefits under ~~such~~ *the* contract are payable to the individual insured, ~~or his to the individual's~~ personal representatives, or to a person having, at the time when ~~such~~ *the* contract was made, an insurable interest in the individual insured.

(2) If the beneficiary, assignee, or other payee under any contract made in violation of this section receives from the insurer any benefits ~~thereunder under~~ *the contract* accruing upon the death, disablement, or injury of the individual insured, the individual insured or ~~his~~ *the individual's* personal representative may maintain an action to recover ~~such~~ *the* benefits from the person ~~so~~ receiving them.

(3) "Insurable interest" with reference to personal insurance includes only interests as follows:

(a) in the case of individuals related closely by blood or by law, a substantial interest engendered by love and affection;

(b) in the case of other persons, a lawful and substantial economic interest in having the life, health, or bodily safety of the individual insured continue, as distinguished from an interest ~~which~~ *that* would arise only by or would be enhanced in value by the death, disablement, or injury of the individual insured.

(4) An individual ~~heretofore or hereafter~~ *who is* a party to a contract or option for the purchase or sale of an interest in a business partnership or firm or of shares of stock of a closed corporation or of an interest in ~~such~~ *the* shares has an insurable interest in the life of each individual party to ~~such~~ *the* contract and for the purposes of ~~such~~ *the* contract only; in addition to any insurable interest ~~which~~ *that* may otherwise exist as to the life of ~~such~~ *the* individual.

(5) A charitable institution has an insurable interest in an individual if:

(a) the individual authorizes the charitable institution to purchase insurance naming the charitable institution as an irrevocable beneficiary; and

(b) the insurance is purchased with contributions made by the individual."

Section 1186. Section 33-15-206, MCA, is amended to read:

"33-15-206. Interest of named insured — change of interest on death — transfer. (1) When the name of the person insured is specified in a policy insuring property, the insurance can be applied only to ~~his~~ *the person's* own proper interest.

(2) A change of interest, by will or succession, on the death of the insured does not avoid an insurance of property, and the insurance passes to the person taking ~~his~~ *the insured's* interest in the thing insured.

(3) A transfer of interest by one of several partners, joint owners, or owners in common, who are jointly insured, to the others does not avoid an insurance of property even though it has been agreed that the insurance ~~shall~~ *must* cease upon an alienation of the thing insured."

Section 1187. Section 33-15-327, MCA, is amended to read:

"33-15-327. Powers of the commissioner. The commissioner may authorize a lower score than the Flesch reading ease score required in 33-15-325(1)(a) whenever, in ~~his~~ *in the commissioner's* sole discretion, ~~he~~ *the commissioner* finds that a lower score:

(1) will provide a more accurate reflection of the readability of a policy form;

(2) is warranted by the nature of a particular policy form or type or class of policy forms; or

(3) is caused by certain policy language ~~which~~ *that* is drafted to conform to the requirements of any state law, regulation, or agency interpretation."

Section 1188. Section 33-15-329, MCA, is amended to read:

"33-15-329. Applicability schedule. (1) Except as provided in 33-15-324, *the provisions of* 33-15-321 through 33-15-329 apply to all policy forms filed on or after July 1, 1983. ~~No~~ *A* policy form may *not* be delivered or issued for delivery in this state on or after July 1, 1986, unless approved by the commissioner or permitted to be issued under 33-15-321 through 33-15-329. Any policy form that has been approved or permitted to be issued prior to July 1, 1986, and that meets the standards set by 33-15-321 through 33-15-329 ~~need~~ *is not required to be*

refiled for approval but may continue to be lawfully delivered or issued for delivery in this state upon the filing with the commissioner of a list of ~~such the~~ forms identified by form number and accompanied by a certificate as to each ~~such~~ form in the manner provided in 33-15-325(4).

(2) The commissioner may, ~~in his sole discretion,~~ extend the dates in subsection (1).”

Section 1189. Section 33-15-402, MCA, is amended to read:

“33-15-402. Application as evidence — copy to insured — alteration.

(1) ~~No~~ An application for the issuance of any life or disability insurance policy or annuity contract ~~shall may not~~ be admissible in evidence in any action relative to ~~such the~~ policy or contract unless a true copy of the application was attached to or otherwise made a part of the policy or contract when issued. This provision ~~shall does~~ not apply to industrial life insurance policies.

(2) If any policy of life or disability insurance delivered in this state is reinstated or renewed and the insured or the beneficiary or assignee of the policy makes written request to the insurer for a copy of the application, if any, for ~~such~~ reinstatement or renewal, the insurer shall, within 30 days after receipt of ~~such the~~ request at its home office or at any of its branch offices, deliver or mail to the person making ~~such the~~ request a copy of ~~such the~~ application. If ~~such the~~ copy is not ~~so~~ delivered or mailed after having been ~~so~~ requested, the insurer ~~shall be is~~ precluded from introducing the application in evidence in any action or proceeding based upon or involving the policy or its reinstatement or renewal. In the case of ~~such a~~ request from a beneficiary, the time within which the insurer is required to furnish a copy of ~~such the~~ application ~~shall may~~ not begin to run until after receipt of evidence satisfactory to the insurer of the beneficiary’s vested interest in the policy or contract.

(3) As to kinds of insurance other than life or disability insurance, ~~no an~~ application for insurance signed by or on behalf of the insured ~~shall may not~~ be admissible in evidence in any action between the insured and the insurer arising out of the policy ~~so~~ applied for if the insurer has failed, at expiration of 30 days after receipt by the insurer of written demand ~~therefor~~ by or on behalf of the insured, to furnish to the insured a copy of ~~such the~~ application reproduced by any legible means.

(4) ~~No~~ An alteration of any written application for any life or disability insurance policy ~~shall may not~~ be made by any person other than the applicant without ~~his the applicant’s~~ written consent, except that insertions may be made by the insurer, for administrative purposes only, in ~~such a~~ manner ~~as to indicate that~~ clearly indicates that ~~such the~~ insertions are not to be ascribed to the applicant.”

Section 1190. Section 33-15-511, MCA, is amended to read:

“33-15-511. Exemption from execution of life insurance proceeds. (1)

If a policy of insurance, ~~whether heretofore or hereafter issued,~~ is effected by any person on ~~his the person’s~~ own life or on another life in favor of a person other than ~~himself the applicant~~ or, except in cases of transfer with intent to defraud creditors, if a policy of life insurance is assigned or in any way made payable to any ~~such~~ person, the lawful beneficiary or assignee ~~thereof of the policy~~, other than the insured or the person ~~so~~ effecting ~~such the~~ insurance or executors or administrators of ~~such the~~ insured or the person ~~so~~ effecting ~~such the~~ insurance, ~~shall be is~~ entitled to its proceeds and avails against the creditors and representatives of the insured and of the person effecting the ~~same, policy~~ whether or not the right to change the beneficiary is reserved or permitted and

whether or not the policy is made payable to the person whose life is insured if the beneficiary or assignee shall predecease such that person; ~~except that~~ *However*, subject to the statute of limitations, the amount of any premiums for such the insurance paid with intent to defraud creditors with interest ~~thereon shall accrue on the premiums accrues to their the creditor's benefit~~ from the proceeds of the policy, but the insurer issuing the policy shall *must* be discharged of all liability thereof by payment of its proceeds in accordance with its terms; unless before such the payment the insurer shall ~~have~~ received written notice at its home office, by or in behalf of a creditor, of a claim to recover for transfer made or premiums paid with intent to defraud creditors, with specifications of the amount so claimed.

(2) For the purposes of subsection (1) ~~above~~, a policy shall *must* also be ~~deemed considered~~ to be payable to a person other than the insured if and to the extent that a facility-of-payment clause or similar clause in the policy permits the insurer to discharge its obligation after the death of the individual insured by paying the death benefits to a person as permitted by ~~such the~~ clause.”

Section 1191. Section 33-15-512, MCA, is amended to read:

“33-15-512. Exemption from execution of proceeds of group life — exception. (1) A policy of group life insurance or the proceeds thereof of the policy payable to the individual insured or to the beneficiary thereunder shall under the policy may not be liable, either before or after payment, to be applied by any legal or equitable process to pay any debt or liability of such the insured individual, ~~or his of the individual's~~ beneficiary, or of any other person having a right under the policy. The proceeds thereof of the policy, when not made payable to a named beneficiary or to a third person pursuant to a facility-of-payment clause, shall *may* not constitute a part of the estate of the individual insured for the payment of his the individual's debts.

(2) This section shall *does* not apply to group life insurance issued pursuant to Title 33, chapter 20, parts 10, 11, and 12, ~~of chapter 20~~ to a creditor covering his the creditor's debtors; to the extent that such the proceeds are applied to payment of the obligation for the purpose of which the insurance was so issued.”

Section 1192. Section 33-15-513, MCA, is amended to read:

“33-15-513. Exemption from execution of proceeds of disability insurance. The proceeds or ~~avails other payments~~ of all contracts of disability insurance and of provisions providing benefits on account of the insured's disability which that are supplemental to life insurance or annuity contracts heretofore or hereafter effected shall *are* exempt from all liability for any debt of the insured and from any debt of the beneficiary existing at the time the proceeds are made available for his the insured's use.”

Section 1193. Section 33-15-514, MCA, is amended to read:

“33-15-514. Exemption from execution of proceeds of annuity contracts — assignability of rights. (1) The benefits, rights, privileges, and options which that under any annuity contract heretofore or hereafter issued are due or prospectively due the annuitant shall *may* not be subject to execution, ~~nor shall~~ the annuitant *may not* be compelled to exercise any such rights, powers, or options, ~~nor shall~~ and creditors *may not* be allowed to interfere with or terminate the contract, except:

(a) as to amounts paid for or as premium on any such annuity with intent to defraud creditors, with interest thereon, and of which the creditor has given the insurer written notice at its home office prior to the making of the payments to the annuitant out of which the creditor seeks to recover. ~~Any such~~ *The* notice

~~shall must~~ specify the amount claimed or ~~such the facts as that~~ will enable the insurer to ascertain ~~such the~~ amount and ~~shall must~~ set forth ~~such the facts as that~~ will enable the insurer to ascertain the annuity contract, the annuitant, and the payments sought to be avoided on the ground of fraud.

(b) the total exemption of benefits presently due and payable to any annuitant periodically or at stated times under all annuity contracts under which ~~he the person~~ is an annuitant ~~shall may~~ not at any time exceed \$250 ~~per a~~ month for the length of time represented by ~~such the~~ installments and ~~that such the~~ periodic payments in excess of \$350 ~~per a~~ month ~~shall must~~ be subject to garnishee execution;

(c) if the total benefits presently due and payable to any annuitant under all annuity contracts under which ~~he the person~~ is an annuitant ~~shall~~ at any time exceed payment at the rate of \$350 ~~per a~~ month, then the court may order ~~such the~~ annuitant to pay to a judgment creditor or apply on the judgment, in installments, ~~such the~~ portion of ~~such the~~ excess benefits ~~as to the court may that~~ appear ~~to the court to be~~ just and proper, after due regard for the reasonable requirements of the judgment debtor and ~~his the debtor's~~ family, if dependent upon ~~him the debtor~~, as well as any payments required to be made by the annuitant to other creditors under prior court orders.

(2) If the contract ~~so~~ provides, the benefits, rights, privileges, or options accruing under ~~such the~~ contract to a beneficiary or assignee ~~shall may~~ not be transferable or subject to commutation, and if the benefits are payable periodically or at stated times, the same exemptions contained ~~herein in this section~~ for the annuitant ~~shall~~ apply with respect to ~~such the~~ beneficiary or assignee.

(3) An annuity contract within the meaning of this section ~~shall be is~~ any obligation to pay certain sums at stated times during life or lives or for a specified term or terms, issued for a valuable consideration, regardless of whether or not ~~such the~~ sums are payable to one or more persons, jointly or otherwise, but does not include payments under life insurance contracts at stated times during life or lives or for a specified term or terms."

Section 1194. Section 33-16-111, MCA, is amended to read:

"33-16-111. Issuance of order — suspension or revocation of certificate of authority or license. If, after a hearing pursuant to 33-16-206, the commissioner finds:

(1) that an insurer, a rating organization, an advisory organization, or a group, association, or other organization of insurers ~~which that~~ engages in joint underwriting or joint reinsurance is in violation of the provisions of this chapter applicable to it, other than the provisions dealing with rates, rating plans, or rating systems, ~~he the commissioner~~ may issue an order to ~~such the~~ insurer, organization, group, or association ~~which that~~ has been the subject of the hearing, specifying in what respects ~~such the~~ violation exists and requiring compliance within a reasonable time ~~thereafter~~;

(2) that the violation of any of the provisions of this chapter applicable to it by any insurer or rating organization ~~which that~~ has been the subject of hearing was willful, ~~he the commissioner~~ may suspend or revoke, in whole or in part, the certificate of authority of ~~such the~~ insurer or the license of ~~such the~~ rating organization with respect to the class of insurance ~~which that~~ has been the subject matter of the hearing;

(3) that any rating organization has willfully engaged in any fraudulent or dishonest act or practices, ~~he the commissioner~~ may suspend or revoke, in whole

or in part, the license of ~~such the~~ organization, in addition to any other penalty provided in this chapter.”

Section 1195. Section 33-16-112, MCA, is amended to read:

“33-16-112. Failure to comply with order — suspension or revocation of license or certificate. In addition to other penalties provided in this code, the commissioner may suspend or revoke, in whole or in part, the license of any rating organization or the certificate of authority of any insurer with respect to the class or classes of insurance specified in ~~such the~~ order ~~which that~~ fails to comply within the time limited by ~~such the~~ order or any extension ~~thereof which of the order that~~ the commissioner may grant, with an order of the commissioner lawfully made by ~~him~~ pursuant to 33-16-111 and 33-16-211 and effective pursuant to 33-16-113.”

Section 1196. Section 33-16-113, MCA, is amended to read:

“33-16-113. Appeal from order or decision of commissioner. Any person, insurer, or rating organization aggrieved by any order or decision made by the commissioner under this chapter may appeal ~~therefrom~~ to the district court of the county where the aggrieved party may reside or has ~~his a~~ principal place of business in this state or to the district court of Lewis and Clark County, Montana. The appeal ~~shall must~~ be taken within 30 days from the making and filing of the order or decision by filing in the office of the commissioner a notice of the appeal in writing. The commissioner shall, within 20 days after filing of the notice, make and return to the district court a full and complete certified transcript of the finding and order appealed from and of all parts relative ~~thereto to the finding and order~~ on file in ~~his the~~ commissioner’s office, including the notice of appeal. Upon filing of the certified transcript, all matters involved ~~therein shall in the appeal must~~ be brought on for trial upon the merits at the next term of the court after the filing of the transcript unless otherwise ordered by the court. Upon the trial, the findings of fact on which the order is based ~~shall must~~ be prima facie evidence of the matters ~~therein~~ stated. During the pendency of the proceedings upon review, the order of the commissioner ~~shall be is~~ suspended, but in the event of a final determination against any insurer, any overcharge by the insurer during review ~~shall must~~ be refunded to the persons entitled ~~thereto to the refund.~~”

Section 1197. Section 33-16-114, MCA, is amended to read:

“33-16-114. Penalty. (1) ~~Any A~~ person, insurer, organization, group, or association ~~who that~~ fails to comply with a final order of the commissioner under this chapter ~~shall be is~~ liable to the state in an amount not exceeding \$50. If ~~such the~~ failure ~~be is~~ willful, ~~he the person or it shall be~~ entity is liable to the state in an amount not exceeding \$5,000 for ~~such the~~ failure. The commissioner shall collect the amount ~~so~~ payable and may bring an action in the name of the people of the state of Montana to enforce collection. ~~Such The~~ penalties may be in addition to any other penalties provided by law.

(2) A willful violation of the provisions of this chapter by any person is a misdemeanor.”

Section 1198. Section 33-16-204, MCA, is amended to read:

“33-16-204. Review of rates on request by aggrieved person. (1) ~~Any A~~ person aggrieved by any rate charged, rating plan, rating system, or underwriting rule followed or adopted by an insurer or rating organization may request the insurer or rating organization to review the manner in which the rate, plan, system, or rule has been applied with respect to insurance afforded

~~him~~ *the person*. ~~Such~~ The request may be made by ~~his~~ *the person's* authorized representative and ~~shall~~ *must* be written.

(2) If the request is not granted within 30 days after it is made, the requester may treat it as rejected.

(3) Any person aggrieved by the action of an insurer or rating organization in refusing the review requested or in failing or refusing to grant all or part of the relief requested may file a written complaint and request for hearing with the commissioner, specifying the grounds relied upon. If the commissioner has information concerning a similar complaint, ~~he~~ *the commissioner* may deny the hearing. If ~~he~~ *the commissioner* believes that probable cause for the complaint does not exist or that the complaint is not made in good faith, ~~he~~ *the commissioner* shall deny the hearing. Otherwise, and if ~~he~~ *the commissioner* finds that the complaint charges a violation of this chapter and that the complainant would be aggrieved if the violation is proven, ~~he~~ *the commissioner* shall proceed as provided in 33-16-205.”

Section 1199. Section 33-16-206, MCA, is amended to read:

“33-16-206. Hearings — notice — subject of hearing. (1) If the commissioner has good cause to believe ~~such~~ *the* noncompliance to be willful or if within the period prescribed by the commissioner in the notice required by 33-16-205 the insurer, organization, group, or association does not make ~~such~~ changes ~~as~~ *that* may be necessary to correct the noncompliance specified by the commissioner or establish to the satisfaction of the commissioner that ~~such~~ *the* specified noncompliance does not exist, then the commissioner may hold a public hearing in connection ~~therewith~~ *with the noncompliance*, provided that within a reasonable period of time, which ~~shall~~ *may not* be ~~not~~ less than 10 days before the date of ~~such~~ hearing, ~~he~~ *shall* ~~mail~~ *the commissioner mails* written notice specifying the matters to be considered at ~~such~~ *the* hearing to ~~such~~ *the* insurer, organization, group, or association. If ~~no~~ notice has *not* been given as provided in 33-16-205, ~~such~~ *the* notice ~~shall~~ *must* state ~~therein~~ in what manner and to what extent noncompliance is alleged to exist.

(2) The hearing ~~shall~~ *may* not include any additional subjects not specified in the notices required by 33-16-205 or this section.”

Section 1200. Section 33-16-211, MCA, is amended to read:

“33-16-211. Order prohibiting use of rate or rating system. If, after a hearing pursuant to 33-16-206, the commissioner finds that any rate, rating plan, or rating system violates the provisions of this chapter applicable to it, ~~he~~ *the commissioner* may issue an order to the insurer or rating organization ~~which~~ *that* has been the subject of the hearing, specifying in what respects ~~such~~ *the* violation exists and stating when, within a reasonable period of time, the further use of ~~such~~ *the* rate or rating system by ~~such~~ *the* insurer or rating organization in contracts of insurance made ~~thereafter~~ *shall be after that time* is prohibited.”

Section 1201. Section 33-16-223, MCA, is amended to read:

“33-16-223. Effective period of reduction. (1) The premium reduction required by 33-16-222 is effective for an insured for a 2-year period after successful completion of the approved course. Each person shall take an approved course every 2 years in order to continue to be eligible for the reduction in premium required by 33-16-222.

(2) An insurer may require, as a condition of maintaining the discount, any or all of the following:

(a) that the insured not be involved in an accident in which ~~he~~ *the insured* is at fault;

(b) that the insured not be convicted of or plead guilty or nolo contendere to a moving traffic violation; or

(c) that the insured not have forfeited bail or collateral for a moving traffic violation.”

Section 1202. Section 33-16-224, MCA, is amended to read:

“33-16-224. Certificate. The organization offering the approved course shall issue a certificate to each person who successfully completes the course, ~~which that~~ *qualifies him the person* for the premium discount required by 33-16-222.”

Section 1203. Section 33-16-305, MCA, is amended to read:

“33-16-305. Agreements for apportionment of casualty insurance — approval of commissioner — review of practices of adherents — revocation of approval. (1) Agreements may be made among admitted insurers with respect to the equitable apportionment among them of casualty insurance ~~which that~~ may be afforded applicants who are in good faith entitled to but who are unable to procure ~~such the~~ *insurance* through ordinary methods and with respect to the use of reasonable rate modifications for ~~such the~~ *insurance*. ~~such The~~ *agreements to be* are subject to the approval of the commissioner.

(2) All ~~such~~ *agreements* shall ~~must~~ be submitted in writing to the commissioner for ~~his~~ *consideration* and approval, together with ~~such~~ *information as he that the commissioner* may reasonably require. The commissioner shall approve only ~~such~~ *agreements as that* are found ~~by him~~ to contemplate:

(a) the use of rates ~~which that~~ meet the standards prescribed by this chapter; and

(b) activities and practices that are not unfair, unreasonable, or otherwise inconsistent with the provisions of this chapter.

(3) At any time after ~~such the~~ *agreements* are in effect, the commissioner may review the practices and activities of the ~~adherents parties~~ *to such the agreements* and if, after a hearing upon not less than 10 days’ notice to ~~such adherents the parties, he the commissioner~~ *finds that any such practice or activity is unfair or unreasonable or is otherwise inconsistent with the provisions of this chapter, he the commissioner* may issue a written order to the parties to any ~~such~~ *agreement*, specifying in what respects ~~such the~~ *act or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this chapter and requiring the discontinuance of such the activity or practice. For good cause and after hearing upon not less than 10 days’ notice to the adherents thereto the parties, the commissioner may revoke approval of any such agreement referred to in this section.*”

Section 1204. Section 33-17-411, MCA, is amended to read:

“33-17-411. Penalty. A nonresident insurance producer who violates a condition of ~~his the producer’s~~ *Montana license* or a provision of this part is subject to a fine by the commissioner of up to \$50,000 for each violation and may, at the discretion of the commissioner, have ~~his the~~ *Montana nonresident license* revoked or suspended for a period of up to 5 years.”

Section 1205. Section 33-17-513, MCA, is amended to read:

“33-17-513. Restrictions on insurers recommended by licensee. A person licensed as an insurance consultant under this part may not recommend or encourage the purchase of insurance, annuities, or securities from an authorized insurer in which ~~he~~ *the person* or any member of ~~his~~ *the person's* immediate family holds an executive position or holds a substantial interest.”

Section 1206. Section 33-18-201, MCA, is amended to read:

“33-18-201. Unfair claim settlement practices prohibited. No A person may *not*, with such frequency as to indicate a general business practice, do any of the following:

- (1) misrepresent pertinent facts or insurance policy provisions relating to coverages at issue;
- (2) fail to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies;
- (3) fail to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies;
- (4) refuse to pay claims without conducting a reasonable investigation based upon all available information;
- (5) fail to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed;
- (6) neglect to attempt in good faith to effectuate prompt, fair, and equitable settlements of claims in which liability has become reasonably clear;
- (7) compel insureds to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in actions brought by ~~such~~ *the* insureds;
- (8) attempt to settle a claim for less than the amount to which a reasonable ~~man~~ *person* would have believed ~~he~~ *the person was* entitled by reference to written or printed advertising material accompanying or made part of an application;
- (9) attempt to settle claims on the basis of an application ~~which~~ *that* was altered without notice to or knowledge or consent of the insured;
- (10) make claims payments to insureds or beneficiaries not accompanied by statements setting forth the coverage under which the payments are being made;
- (11) make known to insureds or claimants a policy of appealing from arbitration awards in favor of insureds or claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration;
- (12) delay the investigation or payment of claims by requiring an insured, claimant, or physician of either to submit a preliminary claim report and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information;
- (13) fail to promptly settle claims, if liability has become reasonably clear, under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage; or
- (14) fail to promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement.”

Section 1207. Section 33-18-203, MCA, is amended to read:

“33-18-203. False or deceptive advertising prohibited. No A person shall *may not* make, publish, disseminate, circulate, or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication or in the form of a notice, circular, pamphlet, letter, or poster or over any radio or television station or in any other way, an advertisement, announcement, or statement containing any assertion, representation, or statement with respect to the business of insurance or with respect to any person in the conduct of *his the person's* insurance business, ~~which that~~ is untrue, deceptive, or misleading.”

Section 1208. Section 33-18-1003, MCA, is amended to read:

“33-18-1003. Undefined unfair practices — procedures for determining and restraining. (1) If the commissioner believes that any person engaged in the insurance business is engaging in this state in any method of competition or in any act or practice in the conduct of ~~such the~~ business ~~which that~~ is not defined in this chapter but that ~~such the~~ method of competition is unfair or that ~~such the~~ act or practice is unfair or deceptive and that a proceeding by ~~him the commissioner~~ in respect ~~thereto to the act or practice~~ would be in the public interest, ~~he the commissioner~~ shall, after a hearing of which notice of the hearing and of the charges against ~~him the person~~ are given ~~such to the~~ person, make a written report of ~~his the~~ findings of fact relative to ~~such the~~ charges and serve a copy ~~thereof of the report~~ upon ~~such the~~ person and any intervenor at the hearing.

(2) If ~~such the~~ report charges a violation of this chapter and if ~~such the~~ method of competition, act, or practice has not been discontinued, the commissioner may, through the attorney general of this state, at any time after the service of ~~such the~~ report cause an action to be instituted to enjoin and restrain ~~such the~~ person from engaging in ~~such the~~ method, act, or practice. In ~~such the~~ action, the court may grant a restraining order or injunction upon ~~such terms as that~~ may be just, but the people of this state ~~shall may~~ not be required to give security before the issuance of any ~~such~~ order or injunction. If a stenographic record of the proceedings in the hearing before the commissioner was made, a certified transcript ~~thereof~~, including all evidence taken and the report and findings, ~~shall must~~ be received in evidence in ~~such the~~ action.

(3) If the commissioner's report made under subsection (1) ~~above~~ or order on hearing made under 33-18-1004 does not charge a violation of this chapter, then any intervenor in the proceedings may appeal ~~therefrom from the report or order on hearing~~ within the time and in the manner provided in this code for appeals from the commissioner generally.”

Section 1209. Section 33-18-1004, MCA, is amended to read:

“33-18-1004. Desist orders for prohibited practices. (1) If, after a hearing ~~thereon of the charges~~ of which notice of ~~such the~~ hearing and of the charges against ~~him the person were was~~ given ~~such to the~~ person, the commissioner finds that ~~any a~~ person in this state has engaged or is engaging in any act or practice defined in or prohibited under this chapter, the commissioner shall order ~~such the~~ person to desist from ~~such the~~ acts or practices.

(2) ~~Such The~~ desist order ~~shall become becomes~~ final upon expiration of the time allowed for appeals from the commissioner's orders if ~~no-such an~~ appeal is ~~not~~ taken or, in event of ~~such~~ an appeal, upon final decision of the court if the court affirms the commissioner's order or dismisses the appeal. An intervenor in ~~such the~~ hearing ~~shall have has~~ the right to appeal as provided in 33-18-1003(3).

(3) In event of ~~such~~ an appeal, to the extent that the commissioner's order is affirmed, the court shall issue its own order commanding obedience to the terms of the commissioner's order.

(4) ~~No~~ An order of the commissioner pursuant to this section or order of court to enforce it ~~shall does not~~ in any way relieve or absolve ~~any a~~ person affected by ~~such the~~ order from any other liability, penalty, or forfeiture under law.

(5) This section ~~shall may~~ not be ~~deemed considered~~ to affect or prevent the imposition of any penalty provided by this code or by other law for violation of any other provision of this chapter, whether or not ~~any such the~~ hearing is called or held or ~~such the~~ desist order *is* issued."

Section 1210. Section 33-19-205, MCA, is amended to read:

"33-19-205. Investigative consumer reports. (1) An insurance institution, insurance producer, or insurance-support organization may not prepare or request an investigative consumer report about an individual in connection with an insurance transaction involving an application for insurance, a policy renewal, a policy reinstatement, or a change in insurance benefits unless the insurance institution or insurance producer informs the individual:

(a) that ~~he the~~ *individual* may request to be interviewed in connection with the preparation of the investigative consumer report; and

(b) that upon a request pursuant to 33-19-301, ~~he the~~ *individual* is entitled to receive a copy of the investigative consumer report.

(2) If an investigative consumer report is to be prepared by an insurance institution or insurance producer, the insurance institution or insurance producer shall institute reasonable procedures to conduct a personal interview requested by an individual.

(3) If an investigative consumer report is to be prepared by an insurance-support organization, the insurance institution or insurance producer desiring ~~such the~~ report shall inform the insurance-support organization *as to* whether a personal interview has been requested by the individual. The insurance-support organization shall institute reasonable procedures to conduct ~~such the~~ interview, if requested."

Section 1211. Section 33-20-117, MCA, is amended to read:

"33-20-117. Nonforfeiture rights — policies issued before operative date. (1) This section ~~shall apply~~ *applies* only to policies of life insurance issued prior to the operative date of 33-20-213.

(2) In *the* event of default in payment of any premium due on any policy, ~~provided if~~ not less than ~~three 3~~ full years' premiums ~~shall~~ have been paid, there ~~shall must~~ be secured to the insured, without action on ~~his the~~ *insured's* part, either paid-up or extended insurance as specified in the policy, the net value of which ~~shall must~~ be at least equal to the entire net reserve held by the insurer of ~~such the~~ policy, less 2 1/2% of the amount insured by the policy and dividend additions, if any, and less any outstanding indebtedness to the insurer on the policy at *the* time of default. There ~~shall must~~ be secured to the insured the right to surrender the policy to the insurer at its home office within 1 month after *the* date of default for cash value otherwise available for the purchase of the paid-up or extended insurance ~~as aforesaid.~~"

Section 1212. Section 33-20-1002, MCA, is amended to read:

“33-20-1002. Employee life insurance defined. “Employee life insurance” is that plan of life insurance, other than salary savings life insurance or pension trust insurance and annuities, under which individual policies are issued to the employees of any employer and ~~where such~~ *when the* policies are issued on the lives of not less than five employees at date of issue. Premiums for ~~such the~~ policies ~~shall must~~ be paid by the employer or the trustee of a fund established by the employer either wholly from the employer’s funds or funds contributed by ~~him the employer~~ or partly from ~~such those~~ funds and partly from funds contributed by the insured employees.”

Section 1213. Section 33-20-1103, MCA, is amended to read:

“33-20-1103. Employer and labor union combinations — trustee groups. The lives of a group of individuals may be insured under a policy issued to the trustees of a fund established by two or more employers or by one or more labor unions or by one or more employers and one or more labor unions, which trustees ~~shall be deemed~~ *must be considered* the policyholder, to insure employees of the employers or members of the unions for the benefit of persons other than the employers or the unions, subject to the following requirements:

(1) The persons eligible for insurance ~~shall must~~ be all of the employees of the employers or all of the members of the unions or all of any class or classes ~~thereof of the employees or members~~ determined by conditions pertaining to their employment or to membership in the unions, or to both. The policy may provide that the term “employees” ~~shall include~~ *includes* retired employees and the individual proprietor or partners if an employer is an individual proprietor or a partnership. ~~No~~ A director of a corporate employer ~~shall may not~~ be eligible for insurance under the policy unless ~~such the~~ person is otherwise eligible as a bona fide employee of the corporation by performing services other than usual duties of a director. ~~No~~ An individual proprietor or partner ~~shall may not~~ be eligible for insurance under the policy unless ~~he the proprietor or partner~~ is actively engaged in and devotes a substantial part of ~~his the individual’s~~ time to the conduct of the business of the proprietor or partnership. The policy may provide that the term “employees” ~~shall include~~ *includes* the trustees or their employees, or both, if their duties are principally connected with ~~such the~~ trusteeship.

(2) The premium for the policy ~~shall must~~ be paid by the trustees wholly from funds contributed by the employer or employers of the insured persons or by the union or unions, or by both, or partly from ~~such the~~ funds and partly from funds contributed by the insured persons. ~~No~~ A policy may *not* be issued on which the entire premium is to be derived from funds contributed by the insured persons specifically for their insurance. A policy on which part of the premium is to be derived from funds contributed by the insured persons specifically for their insurance may be placed in force only if at least 75% of the then eligible persons, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions. A policy on which no part of the premium is to be derived from funds contributed by the insured persons specifically for their insurance must insure all eligible persons or all except any ~~as to person for~~ whom evidence of individual insurability is not satisfactory to the insurer.

(3) The policy must cover at date of issue at least 100 persons and not less than an average of 5 persons per employer unit, and if the fund is established by the members of an association of employers the policy may be issued if:

(a) either:

(i) the participating employers constitute at date of issue at least 60% of those employer members whose employees are not already covered for group life insurance; or

(ii) the total number of persons covered at date of issue exceeds 600; and

(b) the policy ~~shall~~ *does* not require that, if a participating employer discontinues membership in the association, the insurance of ~~his~~ *the employer's* employees shall cease solely by reason of ~~such~~ *the* discontinuance.

(4) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the insured persons or by the policyholder, employers, or unions.”

Section 1214. Section 33-20-1105, MCA, is amended to read:

“33-20-1105. Debtor groups. The lives of a group of individuals may be insured under a policy issued to a creditor, who ~~shall be deemed~~ *is considered* the policyholder, to insure the debtors of the creditor, subject to the following requirements:

(1) The debtors eligible for insurance under the policy ~~shall~~ *must* be all of the debtors of the creditor or all of any class or classes ~~thereof~~ *of those debtors* determined by conditions pertaining to the indebtedness or the purchase giving rise to the indebtedness. The policy may provide that the term “debtors” ~~shall include~~ *includes* the debtors of one or more subsidiary corporations and the debtors of one or more affiliated corporations, proprietors, or partnerships if the business of the policyholder and of ~~such~~ *the* affiliated corporations, proprietors, or partnerships is under common control.

(2) The premium for the policy ~~shall~~ *must* be paid by the policyholder, ~~either~~ from the creditor's funds, ~~or~~ from charges collected from the insured debtors, or from both. A policy on which part or all of the premium is to be derived from the collection from the insured debtors of identifiable charges not required of uninsured debtors ~~shall~~ *may* not include, in the class or classes of debtors eligible for insurance, debtors under obligations outstanding at its date of issue without evidence of individual insurability unless at least 75% of the then eligible debtors elect to pay the required charges. A policy on which no part of the premium is to be derived from the collection of ~~such~~ identifiable charges must insure all eligible debtors or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

(3) The policy may be issued only if the group of eligible debtors is then receiving new entrants at the rate of at least 100 persons yearly or may reasonably be expected to receive at least 100 new entrants during the first policy year and only if the policy reserves to the insurer the right to require evidence of individual insurability if less than 75% of the new entrants become insured. The policy may exclude from the classes eligible for insurance classes of debtors determined by age.

(4) The amount of insurance on the life of any debtor ~~shall~~ *may not* at ~~no~~ any time exceed the amount owed by ~~him~~ *the debtor* to the creditor.

(5) The insurance ~~shall~~ *must* be payable to the policyholder. Each payment ~~shall~~ *must* reduce or extinguish the unpaid indebtedness of the debtor to the extent of ~~such~~ *the* payment.”

Section 1215. Section 33-20-1208, MCA, is amended to read:

“33-20-1208. Certificate. The group life insurance policy ~~shall~~ *must* contain a provision that the insurer will issue to the policyholder for delivery to each person insured an individual certificate setting forth a statement as to the

insurance protection to which ~~he~~ *the person* is entitled, to whom the insurance benefits are payable, and the rights and conditions set forth in 33-20-1209 through 33-20-1211.”

Section 1216. Section 33-21-104, MCA, is amended to read:

“33-21-104. Existing insurance — choice of insurer. When credit life insurance or credit disability insurance is required as additional security for an indebtedness, the debtor, upon request to the creditor, has the option of furnishing the required amount of insurance through existing policies of insurance owned or controlled by ~~him~~ *the debtor* or of procuring and furnishing the required coverage through an insurer authorized to transact insurance within Montana.”

Section 1217. Section 33-21-111, MCA, is amended to read:

“33-21-111. Rules — enforcement of chapter. The commissioner may, after notice and hearing, ~~issue such adopt~~ rules ~~as he deems that the commissioner considers~~ appropriate for the supervision of this chapter. Whenever the commissioner finds that there has been a violation of this chapter or any rules ~~issued adopted~~ pursuant ~~thereto to this chapter~~ and after written notice ~~thereof~~ and hearing given to the insurer or other person authorized or licensed by the commissioner, ~~he the commissioner~~ shall set forth the details of ~~his the commissioner’s~~ findings together with an order for compliance by a specified date. ~~Such~~ *The order shall be* is binding on the insurer and other person authorized or licensed by the commissioner on the date specified unless ~~sooner~~ withdrawn by the commissioner or *unless* a stay ~~thereof~~ has been ordered by a court of competent jurisdiction.”

Section 1218. Section 33-21-113, MCA, is amended to read:

“33-21-113. Penalties. In addition to any penalty provided by law, a person who violates an order of the commissioner after it has become final and while the order is in effect shall, upon proof ~~thereof of the violation~~ to the satisfaction of the court, forfeit and pay to the state of Montana a sum not to exceed \$250, which may be recovered in a civil action, except that if the violation is found to be willful, the amount of the penalty is a sum not to exceed \$1,000. The commissioner, ~~in his discretion,~~ may revoke or suspend the license or certificate of authority of the person, partnership, or corporation guilty of ~~such the~~ violation. The order for suspension or revocation is subject to judicial review as provided in 33-1-711.”

Section 1219. Section 33-21-204, MCA, is amended to read:

“33-21-204. Policy or certificate delivered — time of delivery — provisions. (1) All credit life insurance and credit disability insurance sold must be evidenced by an individual policy or, in the case of group insurance, by a certificate of insurance, ~~which~~ *The* individual policy or group certificate of insurance must be delivered to the debtor at the time the indebtedness is incurred except as ~~hereinafter~~ provided *in this section*.

(2) If the individual policy or group certificate of insurance is not delivered to the debtor at the time the indebtedness is incurred, a copy of the application for the policy or a notice of proposed insurance, signed by the debtor and setting forth the name and home office address of the insurer, the name of each debtor, the premium or amount of payment, if any, by the debtor separately in connection with credit life insurance and credit disability insurance coverage, the amount, term, and a brief description of the coverage provided or to be provided, must be delivered to the debtor at the time ~~such the~~ indebtedness is incurred. The copy of the application for or notice of proposed insurance must

also refer exclusively to insurance coverage and must be separate and apart from the loan, sale, or other credit statement of account, instrument, or agreement unless the information required by this section is prominently set forth ~~therein~~ *in the statement of account, instrument, or agreement*. Upon approval by the insurer of the application for insurance or acceptance of the insurance by the insurer and within 30 days of the date upon which the indebtedness is incurred, the insurer shall deliver the individual policy or group certificate of insurance to the debtor. The application or notice of proposed insurance must state that, upon acceptance by the insurer, the insurance becomes effective as of the date the indebtedness is incurred. If the named insurer does not accept the risk, the debtor must receive a policy or certificate of insurance setting forth the name and home office address of the substituted insurer and the amount of the premium to be charged. If the amount of premium is less than that set forth in the notice of proposed insurance, the insurer shall make an appropriate refund.

(3) Each individual policy or group certificate of credit life insurance and credit disability insurance must, in addition to other requirements of law, set forth the name and home office address of the insurer, the name of each debtor or, in the case of a group certificate of insurance, the identity by name or otherwise of the debtor, the rate or amount of payment, if any, by the debtor separately in connection with credit life insurance and credit disability insurance, *and* a description of the coverages, including the amount and term ~~thereof of the coverages~~ and any exceptions, limitations, or restrictions, and must state that the benefits must be paid to the creditor to reduce or extinguish the unpaid indebtedness and, wherever the amount of insurance may exceed the unpaid indebtedness, that any ~~such~~ excess must be payable to a beneficiary, other than the creditor, named by the debtor or to ~~his~~ *the debtor's* estate. If the term of the insurance is less than the term of the loan, that fact must be stated on the face of the individual policy or group certificate in not less than 10-point boldface type.

(4) For the purposes of subsections (1) and (2), an individual policy or group certificate of insurance delivered in connection with an open-end credit agreement is considered to be delivered at the time the indebtedness is incurred if delivery occurs on or before the date the indebtedness is incurred."

Section 1220. Section 33-22-112, MCA, is amended to read:

"33-22-112. Disability insurance coverage of services of state institutions — provision void — rate of payment. (1) ~~From and after February 14, 1973, it shall be~~ *It is* unlawful for any insurance company issuing disability insurance policies in Montana to exclude from coverage in a disability insurance policy services rendered the insured while a resident in a Montana state institution, ~~provided if~~ *if* the services to the insured would be covered by the disability insurance policy if rendered to ~~him~~ *the insured* outside a Montana state institution.

(2) A disability insurance policy is considered issued in Montana if the insured purchasing the disability insurance policy is, at the time of the purchase, residing in the state of Montana.

(3) If the exclusion prohibited by this section ~~should appear~~ *appears* in a disability insurance policy issued in Montana after February 14, 1973, the provision is void and the disability insurance policy will be considered to cover services rendered the insured in a Montana state institution if the services

would have been covered if rendered to an insured outside of a Montana state institution.

(4) Payment for services rendered in a Montana state institution ~~shall~~ *must* be to the same extent and at the same rates, according to the provisions of the disability policy, ~~which~~ *that* would be paid for the services if rendered outside a Montana state institution.”

Section 1221. Section 33-22-125, MCA, is amended to read:

“33-22-125. Independent chiropractic physical examination or review of records. (1) If a patient’s attending health care professional is a licensed chiropractor, the following provisions govern the conduct of a utilization review of the health care services rendered to the patient by the chiropractor:

(a) If an independent physical examination is required by the insurer, it must be conducted by a chiropractor engaged in the practice of chiropractic in Montana.

(b) If a review of the patient’s or the chiropractor’s records is required by the insurer in the course of an appeal or a redetermination of an adverse determination of medical necessity or appropriateness made pursuant to an insurer’s review, the review must be conducted by a person trained in the field of chiropractic. During an appeal or redetermination, the patient may, at ~~his~~ *the patient’s* expense, request an independent review of the patient’s or the chiropractor’s records by a chiropractor engaged in the practice of chiropractic in Montana and may require that review to be considered by the insurer in reaching its decision. If the initial adverse determination of medical necessity or appropriateness is reversed, the insurer shall bear the expense of the independent review.

(2) ~~Nothing in this section prevents~~ *This section does not prevent* a health care insurer from requesting additional medical review of a patient’s condition or treatment by another chiropractor or medical provider.

(3) The provisions of this section do not apply to routine claim administration or determination by an insurer.

(4) As used in this section, “health care insurer” means:

(a) an insurer who provides disability insurance as defined in 33-1-207;

(b) a health service corporation as defined in 33-30-101;

(c) a health maintenance organization as defined in 33-31-102;

(d) a fraternal benefit society as defined in 33-7-108;

(e) an administrator as defined in 33-17-102; and

(f) any other entity regulated by the commissioner that provides health care coverage.”

Section 1222. Section 33-22-206, MCA, is amended to read:

“33-22-206. Grace period. (1) There ~~shall~~ *must* be a provision as follows:

“Grace Period: A grace period of ... (insert a number not less than 7 for weekly premium policies, 10 for monthly premium policies, and 31 for all other policies) days will be granted for the payment of each premium falling due after the first premium, during which grace period the policy ~~shall~~ *must* continue in force.”

(2) A policy in which the insurer reserves the right to refuse renewal shall ~~must~~ have, at the beginning of the ~~above~~ provision *contained in subsection (1)*:

“Unless not less than 30 days prior to the premium due date the insurer has delivered to the insured or has mailed to ~~his~~ *the insured’s* last address as shown by the records of the insurer written notice of its intention not to renew this policy beyond the period for which the premium has been accepted.”

Section 1223. Section 33-22-208, MCA, is amended to read:

“33-22-208. Notice of claim. (1) ~~There shall be~~ *A policy must contain* a provision as follows:

“Notice of Claim: Written notice of claim must be given to the insurer within 6 months after the occurrence or commencement of any loss covered by the policy or as soon ~~thereafter~~ *after that date* as is reasonably possible. Notice given by or on behalf of the insured or the beneficiary to the insurer at ... (insert the location of ~~such~~ *the office as that* the insurer may designate for the purpose) or to any authorized insurance producer of the insurer, with information sufficient to identify the insured, ~~shall be deemed is considered~~ notice to the insurer.”

(2) In a policy providing a loss-of-time benefit ~~which that~~ may be payable for at least 2 years, an insurer may at its option insert the following between the first and second sentences of the ~~above~~ provision *in subsection (1)*:

“Subject to the qualifications set forth below, if the insured suffers loss of time on account of disability for which indemnity may be payable for at least 2 years, ~~he~~ *the insured* shall, at least once in every 6 months after having given notice of the claim, give to the insurer notice of continuance of the disability, except in the event of legal incapacity. The period of 6 months following any filing of proof by the insured or any payment by the insurer on account of ~~such~~ *the claim* or any denial of liability in whole or in part by the insurer ~~shall must~~ be excluded in applying this provision. Delay in ~~the giving of such the~~ notice ~~shall~~ *may* not impair the insured’s right to any indemnity ~~which that~~ would otherwise have accrued during the period of 6 months preceding the date on which ~~such the~~ notice is actually given.”

Section 1224. Section 33-22-222, MCA, is amended to read:

“33-22-222. Change of occupation. There may be a provision as follows:

“Change of Occupation: If the insured ~~be is~~ injured or ~~contract~~ *contracts* sickness after having changed ~~his~~ *the insured’s* occupation to one classified by the insurer as more hazardous than that stated in this policy or while doing for compensation anything pertaining to ~~an a~~ *a classified* occupation ~~so classified~~, the insurer will pay only ~~such the~~ portion of the indemnities provided in this policy ~~as that~~ the premium paid would have purchased at the rates and within the limits fixed by the insurer for ~~such the~~ more hazardous occupation. If the insured changes ~~his~~ *the insured’s* occupation to one classified by the insurer as less hazardous than that stated in this policy, the insurer, upon receipt of proof of ~~such the~~ change of occupation, will reduce the premium rate accordingly and will return the excess pro rata unearned premium from the date of change of occupation or from the policy anniversary date immediately preceding receipt of ~~such the~~ proof, whichever is the more recent. In applying this provision, the classification of occupational risk and the premium rates ~~shall must~~ be ~~such~~ *as those that* have been last filed by the insurer prior to the occurrence of the loss for which the insurer is liable or prior to date of proof of change in occupation with the state official having supervision of insurance in the state where the insured resided at the time this policy was issued; ~~but~~ *However*, if ~~such the~~ filing

was not required, then the classification of occupational risk and the premium rates shall *must* be those last made effective by the insurer in ~~such~~ *that* state prior to the occurrence of the loss or prior to the date of proof of change in occupation.”

Section 1225. Section 33-22-224, MCA, is amended to read:

“33-22-224. Other insurance in this insurer. (1) There may be a provision as follows:

“Other Insurance in This Insurer: If an accident or sickness or accident and sickness policy or policies previously issued by the insurer to the insured ~~be are~~ in force concurrently ~~herewith~~ *with this policy*, making the aggregate indemnity for ... (insert type of coverage or coverages) in excess of \$... (insert maximum limit of indemnity or indemnities), the excess insurance ~~shall be~~ *is* void and all premiums paid for ~~such~~ *the* excess shall *must* be returned to the insured or to ~~his~~ *the insured’s* estate.”

(2) ~~Or, in lieu thereof~~ *Instead of the provision in subsection (1), there may be the following:*

“Insurance effective at any one time on the insured under a ~~like~~ *similar* policy or policies in this insurer is limited to the one ~~such~~ policy elected by the insured, ~~his~~ *the insured’s* beneficiary, or ~~his~~ *the insured’s* estate, as ~~the case may be~~ *appropriate*, and the insurer will return all premiums paid for all other ~~such~~ policies.”

Section 1226. Section 33-22-227, MCA, is amended to read:

“33-22-227. Relation of earnings to insurance. (1) There may be a provision as follows:

“Relation of Earnings to Insurance: If the total monthly amount of loss-of-time benefits promised for the same loss under all valid loss-of-time coverage upon the insured, whether payable on a weekly or monthly basis, shall ~~exceed~~ *exceeds* the monthly earnings of the insured at the time disability commenced or ~~his~~ *the insured’s* average monthly earnings for the period of 2 years immediately preceding a disability for which claim is made, whichever is the greater, the insurer will be liable only for ~~such~~ *the* proportionate amount of ~~such~~ benefits under this policy ~~as that~~ the amount of ~~such~~ *the* monthly earnings or ~~such~~ *the* average monthly earnings of the insured bears to the total amount of monthly benefits for the same loss under all ~~such~~ coverage upon the insured at the time ~~such~~ *the* disability commences and for the return of ~~such~~ *the* part of the premiums paid during ~~such~~ *the* 2 years ~~as shall~~ *that* exceed the pro rata amount of the premiums for the benefits actually paid ~~hereunder; under this policy. but~~ *However, this shall may* not operate to reduce the total monthly amount of benefits payable under all ~~such~~ coverage upon the insured below the sum of \$200 or the sum of the monthly benefits specified in ~~such~~ *the* coverages, whichever is the lesser, ~~nor shall it~~ *and may not* operate to reduce benefits other than those payable for loss of time.”

(2) The ~~foregoing~~ policy provision *in subsection (1)* may be inserted only in a policy ~~which~~ *that* the insured has the right to continue in force subject to its terms by the timely payment of premiums until at least age 50; or, in the case of a policy issued after age 44, for at least 5 years from its date of issue. The insurer may, at its option, include in this provision a definition of “valid loss of time coverage”, approved as to form by the commissioner, ~~which~~ *The* definition shall *must* be limited in subject matter to coverage provided by governmental agencies or by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any

province of Canada or to any other coverage the inclusion of which may be approved by the commissioner or any combination of ~~such~~ coverages. In the absence of ~~such a~~ definition, ~~such the~~ term shall *may* not include any coverage provided for ~~such the~~ insured pursuant to any compulsory benefit statute, including any workers' compensation or employer's liability statute, or benefits provided by union welfare plans or by employer or employee benefit organizations."

Section 1227. Section 33-22-502, MCA, is amended to read:

"33-22-502. Required provisions of group policies. Each group disability insurance policy delivered or issued for delivery in this state must contain in substance the following provisions:

(1) a provision that, in the absence of fraud, all statements made by applicants or the policyholder or by an insured person shall *must* be ~~deemed considered~~ representations and not warranties and that ~~no a~~ statement made for the purpose of effecting insurance shall *may not* avoid ~~such the~~ insurance or reduce benefits unless contained in a written instrument signed by the policyholder or the insured person, a copy of which has been furnished to ~~such the~~ policyholder or to ~~such the insured~~ person or ~~his the insured person's~~ beneficiary;

(2) a provision that the insurer will furnish to the policyholder for delivery to each employee or member of the insured group a statement in summary form of the essential features of the insurance coverage of ~~such the~~ employee or member and to whom benefits ~~thereunder~~ are payable. If dependents are included in the coverage, only one certificate ~~need is required~~ be issued for each family unit.

(3) a provision that to the group originally insured may be added from time to time eligible new employees or members or dependents, as the case may be, in accordance with the terms of the policy;

(4) a provision or the equivalent ~~thereto~~ that reads:

"Conformity with Montana statutes. The provisions of this policy conform to the minimum requirements of Montana law and control over any conflicting statutes of any state in which the insured resides on or after the effective date of this policy."

Section 1228. Section 33-22-507, MCA, is amended to read:

"33-22-507. Continuing group coverage after reduction of work schedule. A person covered by a group disability insurance policy issued or renewed after October 1, 1981, under 33-22-501(1) may, for a period of 1 year, with the consent of the employer or the trustees, continue coverage under group disability policy during ~~his the person's~~ employment notwithstanding any reduction of ~~his the person's~~ regular work schedule to less than the minimum time required to qualify for membership in the group, and the premium charged ~~him shall the person must~~ be equal to that charged other members of the group of the same risk class."

Section 1229. Section 33-22-510, MCA, is amended to read:

"33-22-510. Insured's family — conversion entitlement. Subject to the conditions set forth in this section, the conversion privilege is also available:

(1) to the surviving spouse, if any, at the death of the employee or member, with respect to the spouse and ~~such~~ children whose coverage under the group policy terminates by reason of ~~such the~~ death, otherwise to each surviving child whose coverage under the group policy terminates by reason of ~~such the~~ death,

or if the group policy provides for continuation of dependent's coverage following the employee's or member's death, at the end of ~~such the~~ continuation;

(2) to the spouse of the employee or member upon termination of coverage of the spouse, by reason of ceasing to be a qualified family member under the group policy, while the employee or member remains under the group policy, including ~~such~~ children whose coverage under the group policy terminates at the same time; or

(3) to a child solely with respect to ~~himself~~ *the child* upon termination of ~~his child's~~ coverage by reason of ceasing to be a qualified family member under the group policy; if a conversion privilege is not otherwise provided ~~above in this section~~ with respect to ~~such the~~ termination."

Section 1230. Section 33-22-604, MCA, is amended to read:

"33-22-604. Payment of claims — discharge. (1) (a) ~~All~~ *Subject to subsection (1)(b), all* benefits under ~~any a~~ blanket disability policy ~~shall must~~ be payable to:

(i) the person insured or to ~~his the person's~~ designated beneficiary or beneficiaries or to ~~his the person's~~ estate; except that if the person insured ~~be is~~ a minor or ~~mental is mentally~~ incompetent, ~~such the~~ benefits may be made payable to ~~his the~~ parent, guardian, or other person actually supporting ~~him the person~~; or

(ii) ~~the employer~~, if the entire cost of the insurance has been borne by the employer ~~such benefits may be made payable to the employer~~.

(b) ~~Provided, however, that the~~ *The* policy may provide that all or any portion of any indemnities provided by ~~such the~~ policy on account of hospital, nursing, medical, or surgical services may, at the insurer's option, be paid directly to the hospital or person rendering ~~such the~~ services; but the policy may not require that the service be rendered by a particular hospital or person.

(2) Payment ~~so made shall discharge as provided in subsection (1) discharges~~ the insurer's obligation with respect to the amount of insurance ~~so paid~~."

Section 1231. Section 33-22-1001, MCA, is amended to read:

"33-22-1001. Definition of home health care. "Home health care" means services provided by a licensed home health agency to an insured in ~~his the insured's~~ place of residence that is prescribed by the insured's attending physician as part of a written plan of care. Services provided by home health care include:

- (1) nursing;
- (2) home health aide services;
- (3) physical therapy;
- (4) occupational therapy;
- (5) speech therapy;
- (6) hospice service;
- (7) medical supplies and equipment suitable for use in the home; and
- (8) medically necessary personal hygiene, grooming, and dietary assistance."

Section 1232. Section 33-22-1602, MCA, is amended to read:

“33-22-1602. Notice — shared costs of third-party action — limitation. (1) If an insured intends to institute an action for damages against a third party, the insured shall give the insurer reasonable notice of ~~his~~ *the* intention to institute the action.

(2) The insured may request that the insurer pay a proportionate share of the reasonable costs of the third-party action, including attorney fees.

(3) An insurer may elect not to participate in the cost of the action. If ~~such~~ an election is made, the insurer waives 50% of any subrogation rights granted to it by 33-22-1601.

(4) The insurer’s right of subrogation granted in 33-22-1601 may not be enforced until the injured insured has been fully compensated for ~~his~~ *the insured’s* injuries.”

Section 1233. Section 33-23-201, MCA, is amended to read:

“33-23-201. Motor vehicle liability policies to include uninsured motorist coverage — rejection by insured. (1) ~~No~~ A motor vehicle liability policy insuring against loss resulting from liability imposed by law for bodily injury or death suffered by any person arising out of the ownership, maintenance, or use of a motor vehicle may *not* be delivered or issued for delivery in this state, with respect to any motor vehicle registered and principally garaged in this state, unless coverage is provided ~~therein~~ *in the policy* or supplemental ~~thereto~~ *to the policy*, in limits for bodily injury or death set forth in 61-6-103, under provisions filed with and approved by the commissioner, for the protection of persons insured ~~thereunder~~ *under the policy* who are legally entitled to recover damages from owners or operators of uninsured motor vehicles because of bodily injury, sickness, or disease, including death, resulting ~~therefrom~~ *from the injury, sickness, or disease*, caused by an accident arising out of the operation or use of ~~such~~ *the motor* vehicle. An uninsured motor vehicle is a land motor vehicle, the ownership, the maintenance, or the use of which is not insured or bonded for bodily injury liability at the time of the accident.

(2) The named insured ~~shall have~~ *has* the right to reject ~~such~~ *the* coverage. Unless the named insured requests ~~such~~ *the* coverage in writing, ~~such~~ *the* coverage need not be provided in or supplemental to a renewal policy ~~where~~ *when* the named insured had rejected the coverage in connection with the policy previously issued to ~~him~~ *the named insured* by the same insurer.”

Section 1234. Section 33-23-213, MCA, is amended to read:

“33-23-213. Notice to insured of ground for cancellation — commissioner to ensure compliance. Whenever an insurer gives notice of cancellation of a motor vehicle liability policy, upon request of the insured, the insurer, within 15 days of receipt of the request, shall furnish to the insured a statement setting forth the ground or grounds upon which the notice of cancellation is based. If the insurer fails to comply with the provisions of this section, the insured may apply to the commissioner for a certificate of the facts or information desired. The commissioner shall exercise any power conferred upon ~~him~~ *the commissioner* by law ~~as that~~ *may be* necessary to ensure compliance with this section.”

Section 1235. Section 33-23-216, MCA, is amended to read:

“33-23-216. Retention and proof of notice. (1) A notice of cancellation or of intention not to renew or of reasons for cancellation of insurance issued under terms of this chapter must be retained for a period of 3 years by the insurer or ~~his~~

the insurer's insurance producer within this state and must be made available within this state for examination or inspection by the commissioner or ~~his~~ *the insurer's* insurance producers at any time within ~~such~~ *the* 3-year period upon reasonable notice.

(2) Proof of mailing of notice of cancellation or of intention not to renew or of reasons for cancellation to the named insured at the address shown in the policy or to the named insured's ~~latest known~~ *last-known* address is sufficient proof of notice."

Section 1236. Section 33-24-102, MCA, is amended to read:

"33-24-102. Insuring improvements — insurance equal to true value. Whenever any policy of insurance ~~shall be~~ *is* written to insure any improvements upon real property in this state against loss or damage and the property insured is considered to be a total loss, without criminal fault on the part of the insured or ~~his~~ *the insured's* assigns, the amount of insurance written in ~~such~~ *the* policy ~~shall~~ *must* be taken conclusively to be the true value of the property insured and the true amount of loss and measure of damages. The payment of money as a premium for insurance ~~shall~~ *must* be prima facie evidence that the party paying ~~such~~ *the* insurance premium is the owner of the property insured; ~~provided~~ *However*, that any insurance company may ~~set up~~ *assert* fraud in obtaining the policy as a defense to a suit ~~thereon~~ *on the policy*."

Section 1237. Section 33-25-216, MCA, is amended to read:

"33-25-216. Notice of issuance of mortgage policy. (1) A title insurer or title insurance producer that issues a mortgagee's policy of title insurance on a loan made simultaneous to the purchase of all or part of the property securing the loan, when ~~no~~ *an* owner's policy has *not* been ordered, ~~must~~ *shall* inform the borrower in writing that the mortgagee's policy is to be issued, that the mortgagee's policy does not protect the borrower, and that the borrower may obtain an owner's title insurance policy for ~~his~~ *the borrower's* protection. This notice must be provided, on a form prescribed by the commissioner, before issuance of the mortgagee's policy.

(2) If the borrower elects not to purchase an owner's title insurance policy, the title insurer or title insurance producer ~~must~~ *shall* obtain from ~~him~~ *the borrower* a statement in writing that the notice has been received and that the borrower waives the right to purchase an owner's title insurance policy. If the buyer refuses to provide the statement and waiver, the title insurer or title insurance producer ~~must so note~~ *shall indicate the refusal* in the file. The statement and waiver must be on a form prescribed by the commissioner and must be retained by the title insurer or title insurance producer for at least 5 years after receipt."

Section 1238. Section 33-25-302, MCA, is amended to read:

"33-25-302. Disapproval of agency contracts. (1) The commissioner may disapprove a title agency contract between a title insurance producer and title insurer, upon appropriate notice to the parties to the contract, if ~~he~~ *the commissioner* finds that the contract, together with all amendments and related documents:

(a) does not provide for adequate monitoring of the insurance producer's financial transactions; or

(b) provides for inadequate, unreasonable, or excessive amounts to be paid to or retained by the title insurance producer. Factors the commissioner may consider in this determination include but are not limited to the insurance

producer's duties under the contract and the general level of amounts paid to or retained by other title insurance producers in the state performing or assuming comparable duties.

(2) A person may not act as a title insurance producer under an agency contract that has been disapproved by the commissioner."

Section 1239. Section 33-25-401, MCA, is amended to read:

"33-25-401. Prohibited practices — referrals — splitting charges — exemptions. (1) Except as provided in subsection (2), a person may not:

(a) give or accept a fee, rebate, or thing of value pursuant to an agreement or understanding that title insurance business will be referred to a title insurance producer; or

(b) give or accept a portion, split, or percentage of a charge made or received for title insurance business in connection with a transaction involving real property in this state, other than for services actually performed.

(2) (a) A person may pay a return on an investment, based on a percentage of an ownership interest in a title insurance agency, if:

(i) at or prior to the time of a referral, a disclosure of the existence of the arrangement is made to the person being referred and, in connection with the referral, the person is provided a written estimate of the charge or range of charges generally made by the title insurance producer to which the person is referred; and

(ii) the person is not required to use a particular insurance producer.

(b) The following arrangements are not a violation of subsection (2)(a)(ii):

(i) an arrangement that requires a buyer, borrower, or seller to pay for the services of an attorney, credit reporting agency, or real estate appraiser chosen by a lender to represent the lender's interest in a real estate transaction; or

(ii) an arrangement by which an attorney or law firm represents a client in a real estate transaction and issues or arranges for the issuance of a policy of title insurance in the transaction directly as insurance producer or through a separate corporate title insurance agency that may be established by that attorney or law firm and operated as an adjunct to ~~his~~ *the attorney's* or ~~its~~ *firm's* law practice.

(c) Failure to disclose a controlled business relationship is not a violation of subsection (2)(a)(i) if the failure was not intentional and resulted from a bona fide error, proven by a preponderance of the evidence.

(3) This section does not prohibit:

(a) the payment of a fee to an attorney for services actually rendered or by a title insurance producer for services actually performed in the issuance of a title insurance policy; or

(b) payment of a bona fide salary, compensation, or other payment for goods or facilities actually furnished or for services actually performed."

Section 1240. Section 33-26-101, MCA, is amended to read:

"33-26-101. Corporations as sureties. (1) In all cases where an undertaking or bond, with any number of sureties, is authorized or required by any law of this state, any corporation with a paid-up capital of not less than \$100,000, incorporated under the laws of this state for the purpose of making, guaranteeing, or becoming a surety upon bonds or undertakings required or authorized by law, may become and ~~shall~~ *must* be accepted as security or as a

sole and sufficient security upon ~~such the~~ undertaking or bond, and ~~such the~~ corporate surety ~~shall must~~ be subject to all liabilities and entitled to all the rights of natural persons as ~~such~~ sureties.

(2) Whenever the liabilities of any ~~such~~ corporation ~~shall described in subsection (1)~~ exceed its assets, the state auditor shall require the deficiency to be paid up in 60 days, and if it is not ~~so~~ paid up, then ~~he the state auditor~~ shall issue a certificate showing the extent of ~~such the~~ deficiency; and ~~he~~ shall publish the ~~same certificate~~ once a week for 3 weeks in a daily paper published in the town or city ~~wherein in which~~ the principal office of ~~such the~~ corporation is, ~~and until located until such the~~ deficiency is paid up, ~~such the~~ company ~~shall may~~ not be accepted as a surety on any undertaking or bond. In estimating the condition of ~~any such a~~ company, the state auditor shall allow as assets only ~~such as~~ assets ~~that~~ are allowed under existing laws at the time and shall charge as liabilities, in addition to 80% of the capital stock, all outstanding indebtedness of the company and the premium reserved equal to 50% of the premiums charged by ~~said the~~ company on all risks then in force.”

Section 1241. Section 33-26-107, MCA, is amended to read:

“33-26-107. Deposit of money in bank for safekeeping by executors and other fiduciaries on agreement with surety. It ~~shall be~~ *is* lawful for any executor, administrator, guardian, receiver, trustee, or other party of whom a bond, undertaking, or other obligation is required to agree with ~~his the~~ *the* entity’s surety or sureties for the deposit of any or all ~~moneys~~ *money* and assets for which ~~he the~~ *the* entity and ~~his the~~ *the* surety or sureties are or may be held responsible with a bank, savings bank, safe-deposit, or trust company, authorized by law to do business ~~as such~~, or with ~~other another~~ depository approved by the court or a judge ~~thereof~~, if ~~such the~~ deposit is otherwise proper, for the safekeeping ~~thereof~~, and in ~~such a~~ manner ~~as to prevent that prevents~~ the withdrawal of ~~such the~~ money or assets or any part ~~thereof of the money or assets~~ without the written consent of ~~such the~~ surety or sureties or an order of court or a judge ~~thereof~~ made on ~~such~~ notice to ~~such the~~ surety or sureties ~~as such that the~~ court or judge may direct. ~~Such The~~ agreement ~~shall may~~ not in any manner release from or change the liability of the principal or sureties as established by the terms of the bond.”

Section 1242. Section 33-30-105, MCA, is amended to read:

“33-30-105. Examination of a health service corporation. (1) If the commissioner believes a health service corporation is unable or potentially unable to fulfill its contractual obligations to its members, the commissioner may conduct an examination of that corporation.

(2) In addition to the examination authorized in subsection (1), at least once every 4 years, the commissioner shall conduct an examination of each health service corporation to determine if the corporation is fulfilling its contractual obligations by prompt satisfaction of claims at the highest monetary level consistent with reasonable dues or fees; and that the corporation’s management exercises appropriate fiscal controls, operations, and personnel policies to ~~assure~~ *ensure* that efficient and economic administration restrains overhead costs for the benefit of its members.

(3) Each health service corporation examined; ~~and~~ its officers, employees, and insurance producers; shall produce and make available to the commissioner or ~~his the~~ *the* commissioner’s examiners the accounts, records, documents, files, information, assets, and matters in its possession or control relating to the subject of the examination.

(4) The commissioner or ~~his~~ *the commissioner's* examiner shall make a verified report of the examination.

(5) The report ~~shall~~ *must* comprise only facts appearing from the books, papers, records, or documents of the corporation examined or ascertained from the testimony, under oath, of individuals concerning its affairs and conclusions and recommendations as warranted by those facts.

(6) The commissioner shall furnish a copy of the proposed report to the corporation examined not less than 20 days prior to its filing in ~~his~~ *the commissioner's* office. If the corporation requests a hearing, in writing, within the 20-day period, the commissioner shall grant ~~one~~ *a hearing* with respect to the report and ~~shall~~ *may* not file the report until after the hearing and after modifications, if any, ~~that~~ *the commissioner deems considers* proper.

(7) The health service corporation shall pay for each examination conducted pursuant to subsections (1) and (2) in accordance with 33-1-413."

Section 1243. Section 33-30-303, MCA, is amended to read:

"33-30-303. Grievance procedure for members. Any individual member of a corporation, subject to the provisions of this chapter, who believes ~~himself to be~~ *that the member is* aggrieved by any act or omission of the corporation or its officers, directors, or employees may file a statement in writing of ~~his~~ *the* grievance in the office of the commissioner, and the commissioner may investigate the grievance. ~~No~~ *An* investigation by the commissioner ~~shall~~ *may not* act as a bar to any suit in a court of competent jurisdiction instituted by an aggrieved member or as a bar to any defense by the involved corporation."

Section 1244. Section 33-30-1002, MCA, is amended to read:

"33-30-1002. Disability coverage of services received in state institutions — coverage of persons eligible for public medical assistance. (1) ~~From and after February 14, 1973, it shall be~~ *It is* unlawful for any health service corporation issuing membership contracts in Montana to exclude from coverage in a membership contract services rendered the insured while a resident in a Montana state institution, ~~provided if~~ *provided if* the services to the insured would be covered by the membership contract if rendered to ~~him~~ *the insured* outside a Montana state institution.

(2) A membership contract is considered issued in Montana if the insured purchasing the membership contract is, at the time of ~~such~~ purchase, residing in the state of Montana.

(3) If the exclusion prohibited by this section ~~should appear~~ *appears* in a membership contract issued in Montana after February 14, 1973, the provision is void and the membership contract will be considered to cover services rendered the insured in a Montana state institution if the services would have been covered if rendered to an insured outside ~~of~~ a Montana state institution.

(4) Payment for services rendered in a Montana state institution ~~shall~~ *must* be to the same extent and at the same rates, according to the provisions of the membership contract, ~~which~~ *that* would be paid for the services if rendered outside a Montana state institution.

(5) ~~No~~ *A* membership contract issued by a health service corporation on or after July 1, 1979, ~~may not~~ deny or reduce benefits to any member on the ground that the person insured is eligible for or receiving public medical assistance provided under Title 53, chapter 2."

Section 1245. Section 33-30-1005, MCA, is amended to read:

“33-30-1005. Right of rescission. Each membership contract, other than a group contract, issued for delivery in this state on or after January 1, 1980, ~~shall~~ *must* contain a notice stating in substance that if the person to whom the contract is issued is not satisfied for any reason, ~~he~~ *the person* is permitted to return the contract within 10 days of its delivery, or ~~such a~~ longer period ~~as~~ *that* the contract may provide, and to have refunded the amount of the premium paid. A contract returned pursuant to this section is void from the beginning.”

Section 1246. Section 33-30-1006, MCA, is amended to read:

“33-30-1006. Continuing group coverage after termination. A person covered by a group hospital or medical service plan contract, issued or renewed by a health service corporation after October 1, 1981, may, for a period of 1 year with the consent of the employer or the trustees, continue coverage under the group contract during ~~his~~ *the person's* employment notwithstanding any reduction of ~~his~~ *the person's* regular work schedule to less than the minimum time required to qualify for membership in the group, and the premium charged ~~him~~ *shall* *must* be equal to that charged the members of the group.”

Section 1247. Section 33-30-1009, MCA, is amended to read:

“33-30-1009. Insured's family — conversion entitlement. Subject to the conditions set forth in this section, the conversion privilege is also available:

(1) to the surviving spouse, if any, at the death of the employee or member, with respect to the spouse and ~~such~~ children whose coverage under the group policy terminates by reason of ~~such~~ *the* death, otherwise to each surviving child whose coverage under the group policy terminates by reason of ~~such~~ *the* death, or if the group policy provides for continuation of dependent's coverage following the employee's or member's death, at the end of ~~such~~ *the* continuation;

(2) to the spouse of the employee or member upon termination of coverage of the spouse, by reason of ceasing to be a qualified family member under the group policy, while the employee or member remains under the group policy, including ~~such~~ children whose coverage under the group policy terminates at the same time; or

(3) to a child solely with respect to ~~himself~~ *the child* upon termination of ~~his~~ *the child's* coverage by reason of ceasing to be a qualified family member under the group policy; if a conversion privilege is not otherwise provided ~~above in this section~~ with respect to ~~such~~ *the* termination.”

Section 1248. Section 33-30-1102, MCA, is amended to read:

“33-30-1102. Notice — shared costs of third-party action — limitation. (1) If an insured intends to institute an action for damages against a third party, the insured shall give the health service corporation reasonable notice of ~~his~~ *the* intention to institute the action.

(2) The insured may request that the health service corporation pay a proportionate share of the reasonable costs of the third-party action, including attorney fees.

(3) A health service corporation may elect not to participate in the cost of the action. If ~~such an~~ *that* election is made, the health service corporation waives 50% of any subrogation rights granted to it by 33-30-1101.

(4) The health service corporation's right of subrogation granted in 33-30-1101 may not be enforced until the injured insured has been fully compensated for ~~his~~ *the insured's* injuries.”

Section 1249. Section 33-31-201, MCA, is amended to read:

“33-31-201. Establishment of health maintenance organizations. (1)

Notwithstanding any law of this state to the contrary, a person may apply to the commissioner for and obtain a certificate of authority to establish and operate a health maintenance organization in compliance with this chapter. A person may not establish or operate a health maintenance organization in this state except as authorized by a subsisting certificate of authority issued to it by the commissioner. A foreign person may qualify for a certificate of authority if it first obtains from the secretary of state a certificate of authority to transact business in this state as a foreign corporation under 35-1-1028.

~~(2) Each health maintenance organization operating in this state as of October 1, 1987, shall submit an application for a certificate of authority under subsection (3) within 30 days after the effective date of rules adopted by the commissioner as provided in 33-31-103. Each such applicant may continue to operate in this state until the commissioner acts upon the application. If an application is denied under 33-31-202, the applicant must be treated as a health maintenance organization whose certificate of authority has been revoked.~~

~~(3)~~(2) Each application of a health maintenance organization, whether separately licensed or not, for a certificate of authority must:

- (a) be verified by an officer or authorized representative of the applicant;
- (b) be in a form prescribed by the commissioner;
- (c) contain:
 - (i) the applicant's name;
 - (ii) the location of the applicant's home office or principal office in the United States, (if a foreign person);
 - (iii) the date of organization or incorporation;
 - (iv) the form of organization, (including whether the providers affiliated with the health maintenance organization will be salaried employees or group or individual contractors);
 - (v) the state or country of domicile; and
 - (vi) any additional information *that* the commissioner may reasonably require; and
- (d) set forth the following information or be accompanied by the following documents, as applicable:
 - (i) a copy of the applicant's organizational documents, such as its corporate charters or articles of incorporation, articles of association, partnership agreement, trust agreement, or other applicable documents, and all amendments ~~thereto to those documents~~, certified by the public officer with whom the originals were filed in the state or country of domicile;
 - (ii) a copy of the bylaws, rules, and regulations, or similar document, if any, regulating the conduct of the applicant's internal affairs, certified by its secretary or other officer having custody ~~thereof of the documents~~;
 - (iii) a list of the names, addresses, and official positions of the persons responsible for the conduct of the applicant's affairs, including all members of the board of directors, board of trustees, executive committee, or other governing board or committee; the principal officers in the case of a corporation; and the partners or members in the case of a partnership or association;
 - (iv) a copy of any contract made or to be made between:
 - (A) any provider and the applicant; or

(B) any person listed in subsection ~~(3)(d)(iii)~~ (2)(d)(iii) and the applicant. The applicant may file a list of providers executing a standard contract and a copy of the contract instead of copies of each executed contract.

(v) the extent to which any of the following will be included in provider contracts and the form of any provisions that:

(A) limit a provider's ability to seek reimbursement for basic health care services or health care services from an enrollee;

(B) permit or require a provider to assume a financial risk in the health maintenance organization, including any provisions for assessing the provider, adjusting capitation or fee-for-service rates, or sharing in the earnings or losses; and

(C) govern amending or terminating an agreement with a provider;

(vi) a financial statement showing the applicant's assets, liabilities, and sources of financial support. If the applicant's financial affairs are audited by independent certified public accountants, a copy of the applicant's most recent certified financial statement satisfies this requirement unless the commissioner directs that additional or more recent financial information is required for the proper administration of this chapter.

(vii) a description of the proposed method of marketing, a financial plan that includes a projection of operating results anticipated until the organization has had net income for at least 1 year, and a statement as to the sources of working capital as well as any other source of funding;

(viii) a power of attorney executed by the applicant, on a form prescribed by the commissioner, appointing the commissioner, ~~his~~ *the commissioner's* successors in office, and ~~his~~ *the commissioner's* authorized deputies as the applicant's attorney to receive service of legal process issued against it in this state;

(ix) a statement reasonably describing the geographic service area or areas to be served, by county, including:

(A) a chart showing the number of primary and specialty care providers, with locations and service areas by county;

(B) the method of handling emergency care, with the location of each emergency care facility; and

(C) the method of handling out-of-area services;

(x) a description of the way in which the health maintenance organization provides services to enrollees in each geographic service area, including the extent to which a provider under contract with the health maintenance organization provides primary care to those enrollees;

(xi) a description of the complaint procedures to be used as required under 33-31-303;

(xii) a description of the mechanism by which enrollees will be afforded an opportunity to participate in matters of policy and operation under 33-31-222;

(xiii) a summary of the way in which administrative services will be provided, including the size and qualifications of the administrative staff and the projected cost of administration in relation to premium income. If the health maintenance organization delegates management authority for a major corporate function to a person outside the organization, the health maintenance organization shall include a copy of the contract in its application for a certificate of authority. Contracts for delegated management authority must be

filed with the commissioner in accordance with the filing provisions of 33-31-301(2); ~~however~~ *However, nothing in this subsection deprives does not deprive* the health maintenance organization of its right to confidentiality of any proprietary information, and the commissioner may not disclose that proprietary information to any other person. All contracts must include:

- (A) the services to be provided;
 - (B) the standards of performance for the manager;
 - (C) the method of payment, including any provisions for the administrator to participate in the profits or losses of the plan;
 - (D) the duration of the contract; and
 - (E) any provisions for modifying, terminating, or renewing the contract.
- (xiv) a summary of all financial guaranties by providers, sponsors, affiliates, or parents within a holding company system or any other guaranties that are intended to ensure the financial success of the plan, including hold harmless agreements by providers, insolvency insurance, reinsurance, or other guaranties;
- (xv) a summary of benefits to be offered enrollees, including any limitations and exclusions and the renewability of all contracts to be written;
- (xvi) evidence that it can meet the requirement of 33-31-216(10); and
- (xvii) any other information that the commissioner may reasonably require to make the determinations required in 33-31-202.

~~(4)~~(3) Each health maintenance organization shall file each substantial change, alteration, or amendment to the information submitted under subsection ~~(3)~~ (2) with the commissioner at least 30 days prior to its effective date, including changes in articles of incorporation and bylaws, organization type, geographic service area, provider contracts, provider availability, plan administration, financial projections and guaranties, and any other change that might affect the financial solvency of the plan. The commissioner may, after notice and hearing, disapprove any proposed change, alteration, or amendment to the business plan. The commissioner may ~~make~~ *adopt* reasonable rules exempting from the filing requirements of this subsection those items ~~he~~ *that the commissioner* considers unnecessary.

~~(5)~~(4) An applicant or a health maintenance organization holding a certificate of authority shall file with the commissioner all contracts of reinsurance and any modifications ~~thereto~~ *to the contracts*. An agreement between a health maintenance organization and an insurer is subject to Title 33, chapter 2, part 12. A reinsurance agreement must remain in full force and effect for at least 90 days following written notice of cancellation by either party by certified mail to the commissioner.

~~(6)~~(5) Each health maintenance organization shall maintain, at its administrative office, and make available to the commissioner upon request executed copies of all provider contracts.

~~(7)~~(6) The commissioner may ~~make~~ *adopt* reasonable rules exempting an insurer or health service corporation operating a health maintenance organization as a plan from the filing requirements of this section if information requested in the application has been submitted to the commissioner under other laws and rules administered by the commissioner.”

Section 1250. Section 33-31-221, MCA, is amended to read:

“33-31-221. Powers of health maintenance organizations. (1) The powers of a health maintenance organization include but are not limited to the following:

(a) the purchase, lease, construction, renovation, operation, or maintenance of a hospital, a medical facility, or both, its ancillary equipment, and ~~such~~ property *as that* may reasonably be required for its principal office or for ~~such~~ purposes *as that* may be necessary in the transaction of the business of the organization;

(b) the making of loans to a medical group under contract with it in furtherance of its program or the making of loans to a corporation under its control for the purpose of acquiring or constructing a medical facility or hospital or in furtherance of a program providing health care services to enrollees;

(c) the furnishing of health care services through a provider who is under contract with or employed by the health maintenance organization;

(d) the contracting with a person for the performance on its behalf of certain functions, such as marketing, enrollment, and administration;

(e) the contracting with an insurer authorized to transact insurance in this state, or with a health service corporation authorized to do business in this state, for the provision of insurance, indemnity, or reimbursement against the cost of health care services provided by the health maintenance organization; and

(f) the offering of other health care services in addition to basic health care services.

(2) A health maintenance organization shall file notice, with adequate supporting information, with the commissioner before exercising a power granted in subsection (1)(a), (1)(b), or (1)(d). The commissioner may, after notice and hearing, within 60 days disapprove the exercise of a power under subsection (1)(a), (1)(b), or (1)(d) only if, in ~~his~~ *the commissioner's* opinion, it would substantially and adversely affect the financial soundness of the health maintenance organization and endanger its ability to meet its obligations. The commissioner may make reasonable rules exempting from the filing requirement of this subsection those activities having a de minimis effect. The commissioner may exempt certain contracts from the filing requirement whenever exercise of the authority granted in this section would have little or no effect on the health maintenance organization's financial condition and ability to meet obligations.

(3) ~~Nothing in this~~ *This section exempts does not exempt* the activities of a health maintenance organization from any applicable certificate of need requirements under Title 50, chapter 5, parts 1 and 3.”

Section 1251. Section 33-31-312, MCA, is amended to read:

“33-31-312. Prohibited practices. (1) A health maintenance organization; or representative ~~thereof,~~ *of a health maintenance organization* may not cause or knowingly permit the use of advertising that is untrue or misleading, solicitation that is untrue or misleading, or any form of evidence of coverage that is deceptive. For purposes of this chapter:

(a) a statement or item of information is considered to be misleading, whether or not it may be literally untrue; if, in the total context in which the statement is made or the item of information is communicated, a reasonable person not possessing special knowledge regarding health care coverage may reasonably understand the statement or item of information as indicating a benefit or advantage or the absence of an exclusion, limitation, or disadvantage

of possible significance to an enrollee or person considering enrollment in a health maintenance organization if the benefit or advantage or absence of limitation, exclusion, or disadvantage does not in fact exist; and

(b) an evidence of coverage is considered to be deceptive if, when taken as a whole and with consideration given to typography, format, and language, it can cause a reasonable person not possessing special knowledge regarding health maintenance organizations to expect benefits, services, charges, or other advantages that the evidence of coverage does not provide or ~~which~~ *that* the health maintenance organization issuing the evidence of coverage does not regularly make available to enrollees covered under the evidence of coverage.

(2) Title 33, chapter 18, applies to health maintenance organizations and evidences of coverage issued by a health maintenance organization, except to the extent that the commissioner determines that the nature of health maintenance organizations and evidences of coverage render the chapter clearly inappropriate.

(3) A health maintenance organization shall clearly disclose in the evidence of coverage the circumstances under which it may disenroll, cancel, or refuse to renew an enrollee. A health maintenance organization may disenroll, cancel, or refuse to renew an enrollee only if the enrollee:

(a) has failed to pay required premiums by the end of the grace period;

(b) has committed acts of physical or verbal abuse that pose a threat to providers or other enrollees of the health maintenance organization;

(c) has allowed a nonenrollee to use the health maintenance organization's certification card to obtain services or has knowingly provided fraudulent information in applying for coverage;

(d) has moved outside of the geographical service area of the health maintenance organization;

(e) has violated rules of the health maintenance organization stated in the evidence of coverage;

(f) has violated rules adopted by the commissioner for enrollment in a health maintenance organization; or

(g) is unable to establish or maintain a satisfactory physician-patient relationship with the physician responsible for the enrollee's care. Disenrollment of an enrollee for this reason must be permitted only if the health maintenance organization can demonstrate that it provided the enrollee with the opportunity to select an alternate primary care physician, made a reasonable effort to assist the enrollee in establishing a satisfactory physician-patient relationship, and informed the enrollee that ~~he~~ *the enrollee* may file a grievance on this matter.

(4) A health maintenance organization may not disenroll an enrollee under subsection (3) for reasons related to the physical or mental condition of the enrollee or for any of the following reasons:

(a) failure of the enrollee to follow a prescribed course of treatment; or

(b) administrative actions, such as failure to keep an appointment.

(5) (a) A health maintenance organization that disenrolls a group certificate holder for any reason not listed in subsection (3) or provided in rules adopted by the commissioner shall make arrangements to provide similar alternate insurance coverage to enrollees. The insurance coverage must be continued until the disenrolled group certificate holder finds its own coverage or a period of

12 months elapses, whichever comes first. The premium on the individual coverage must be at the then-customary rate applicable to the individual coverage offered by the insurer, health service corporation, or health maintenance organization that provides the alternate insurance coverage.

(b) If a health maintenance organization disenrolls an enrollee covered on an individual basis for any reason not listed in subsection (3) or provided in rules adopted by the commissioner, coverage must be continued until the anniversary date of the policy or for 1 year, whichever is earlier. A health maintenance organization that disenrolls an individual enrollee for failure to pay a required premium or for fraudulent statements on the enrollment form need not provide alternate insurance coverage to that enrollee.

(6) A health maintenance organization may not refer to itself as an insurer unless licensed as an insurer or use a name deceptively similar to the name or description of an insurer authorized to transact insurance in this state.

(7) A person may not refer to itself as a health maintenance organization or HMO unless it holds a valid certificate of authority issued by the commissioner.”

Section 1252. Section 33-31-402, MCA, is amended to read:

“33-31-402. Suspension or revocation of certificate of authority. (1) The commissioner may ~~in his discretion~~ suspend or revoke any certificate of authority issued to a health maintenance organization under this chapter if ~~he~~ *the commissioner* finds that any of the following conditions exist:

(a) The health maintenance organization is operating in contravention of its basic organizational document or in a manner contrary to that described in any other information submitted under 33-31-201 and ~~provided that such~~ *the* operation adversely affects the health maintenance organization’s ability to provide benefits and operate under the application approved by the commissioner, unless amendments to ~~such~~ *the* submissions have been filed with and approved by the commissioner.

(b) The health maintenance organization issues evidences of coverage or uses a schedule of charges for health care services that do not comply with the requirements of 33-31-301.

(c) The health maintenance organization does not provide or arrange for basic health care services.

(d) The health maintenance organization is no longer financially responsible and may reasonably be expected to be unable to meet its obligations to enrollees or prospective enrollees.

(e) The health maintenance organization has failed to implement a mechanism affording the enrollees an opportunity to participate in matters of policy and operation under 33-31-222.

(f) The health maintenance organization has failed to implement the complaint system required by 33-31-303 to resolve valid complaints in a reasonable manner.

(g) The health maintenance organization, or any person on its behalf, has advertised or merchandised its services in an untrue, misrepresentative, misleading, deceptive, or unfair manner.

(h) The continued operation of the health maintenance organization would be hazardous to its enrollees.

(i) The health maintenance organization has otherwise failed to substantially comply with this chapter.

(2) The commissioner may ~~in his discretion~~ suspend or revoke a certificate of authority only if ~~he~~ *the commissioner* complies with the requirements of 33-31-404.

(3) When the certificate of authority of a health maintenance organization is suspended, the health maintenance organization may not, during the period of ~~such~~ suspension, enroll any additional enrollees except newborn infants or other newly acquired dependents of existing enrollees and may not engage in any advertising or solicitation.

(4) If the commissioner revokes the certificate of authority of a health maintenance organization, the health maintenance organization shall proceed, immediately following the effective date of the order of revocation, to wind up its affairs and may not transact further business except as may be essential to the orderly conclusion of its affairs. It may not engage in further advertising or solicitation following the effective date of the order of revocation. The commissioner may by written order permit further operation of the health maintenance organization if ~~he~~ *the commissioner* finds further operation to be in the best interest of enrollees to the extent that enrollees will be afforded the greatest practical opportunity to obtain continuing health care coverage.”

Section 1253. Section 33-31-403, MCA, is amended to read:

“33-31-403. Supervision, rehabilitation, or liquidation of a health maintenance organization. (1) The supervision, rehabilitation, or liquidation of a health maintenance organization is considered to be the supervision, rehabilitation, or liquidation of an insurer and must be conducted under the supervision of the commissioner pursuant to chapter 2, part 13. The commissioner may apply for an order directing ~~him~~ *the commissioner* to supervise, rehabilitate, or liquidate a health maintenance organization upon any one or more grounds set out in 33-2-1321, 33-2-1331, or 33-2-1341 or when in ~~his~~ *the commissioner’s* opinion the continued operation of the health maintenance organization would be hazardous either to the enrollees or to the people of this state. Enrollees ~~shall~~ have the same priority in the event of liquidation or rehabilitation as the law provides to policyholders of an insurer.

(2) A claim by a health care provider for an uncovered expenditure has the same priority as a claim by an enrollee if the provider of services agrees not to assert the claim against any enrollee of the health maintenance organization.”

Section 1254. Section 33-31-404, MCA, is amended to read:

“33-31-404. Administrative procedures. (1) When the commissioner has cause to believe that grounds for the denial of an application for a certificate of authority exist or that grounds for the suspension or revocation of a certificate of authority exist, ~~he~~ *the commissioner* shall give written notice to the health maintenance organization specifically stating the grounds for denial, suspension, or revocation and fixing a time of at least 30 days after the notice for a hearing on the matter.

(2) After the hearing, or upon the failure of the health maintenance organization to appear at the hearing, the commissioner shall make written findings and act as ~~he~~ *the commissioner* considers advisable. The commissioner shall mail the written findings to the health maintenance organization. The action of the commissioner is subject to review by the district court having jurisdiction. The court may, in disposing of the issue before it, modify, affirm, or reverse the order of the commissioner in whole or in part.

(3) ~~Where~~ *When* notice and hearing are required with regard to actions taken by the commissioner under this chapter, the requirements of 33-1-314

through 33-1-316 and Title 33, chapter 1, part 7, apply, except that the formal rules of pleading and evidence must be observed. To the extent that 33-1-314 through 33-1-316 and Title 33, chapter 1, part 7, do not address the notice and hearing requirements of this chapter, the provisions of Title 2, chapter 4, parts 6 and 7, apply.”

Section 1255. Section 33-31-405, MCA, is amended to read:

“33-31-405. Penalties and enforcement. (1) The commissioner may, in addition to suspension or revocation of a certificate of authority under 33-31-402, after notice and hearing, impose an administrative penalty in an amount not less than \$500 or more than \$10,000 if ~~he~~ *the commissioner* gives reasonable notice in writing of the intent to levy the penalty and the health maintenance organization has a reasonable time within which to remedy the defect in its operations that gave rise to the penalty citation.

(2) If the commissioner has cause to believe that a violation of this chapter has occurred or is threatened, the commissioner may:

(a) give notice to the health maintenance organization and to the representatives or other persons who appear to be involved in the suspected violation;

(b) arrange a conference with the alleged violators or their authorized representatives to attempt to ascertain the facts relating to the suspected violation; and

(c) if it appears that a violation has occurred or is threatened, arrive at an adequate and effective means of correcting or preventing the violation.

(3) (a) The commissioner may issue an order directing a health maintenance organization or its representative to cease and desist from engaging in an act or practice in violation of this chapter.

(b) Within 15 days after service of the cease and desist order, the respondent may request a hearing to determine whether acts or practices in violation of this chapter have occurred. The hearing must be conducted pursuant to Title 2, chapter 4, part 6, and judicial review must be available as provided by Title 2, chapter 4, part 7.

(4) If a health maintenance organization violates a provision of this chapter and the commissioner elects not to issue a cease and desist order or if the respondent does not comply with a cease and desist order issued pursuant to subsection (3), the commissioner may institute a proceeding to obtain injunctive or other appropriate relief in the district court of Lewis and Clark County.”

Section 1256. Section 35-1-418, MCA, is amended to read:

“35-1-418. General standards for directors. (1) A director shall discharge ~~his~~ *the* duties as a director, including the director’s duties as a member of a committee:

(a) in good faith;

(b) with the care an ordinarily prudent person in a similar position would exercise under similar circumstances; and

(c) in a manner *that* the director reasonably believes to be in the best interests of the corporation.

(2) In discharging duties, a director is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

(a) one or more officers or employees of the corporation whom the director reasonably believes to be reliable and competent in the matters presented;

(b) attorneys, public accountants, or other persons with regard to matters *that* the director reasonably believes are within the person's professional or expert competence; or

(c) a committee of the board of directors of which the director is not a member if the director reasonably believes the committee merits confidence.

(3) A director is not acting in good faith if the director has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (2) unwarranted.

(4) A director is not liable for any action taken as a director or for any failure to take any action if ~~he~~ *the director* performed the duties of the director's office in compliance with this section."

Section 1257. Section 35-1-421, MCA, is amended to read:

"35-1-421. Terms of directors generally. (1) The terms of the initial directors of a corporation expire at the first shareholders' meeting at which directors are elected.

(2) The terms of all other directors expire at the next annual shareholders' meeting following their election unless their terms are staggered under 35-1-422.

(3) A decrease in the number of directors does not shorten an incumbent director's term.

(4) A director elected or appointed to fill a vacancy is elected or appointed for the unexpired term of ~~his~~ *the director's* predecessor in office.

(5) Despite the expiration of a director's term, the director continues to serve until the director's successor is elected and qualifies or until there is a decrease in the number of directors."

Section 1258. Section 35-1-423, MCA, is amended to read:

"35-1-423. Resignation of directors. (1) A director may resign at any time by delivering written notice to the board of directors, *to its chairman presiding officer*, or to the corporation.

(2) A resignation is effective when the notice is delivered unless the notice specified a later effective date."

Section 1259. Section 35-1-424, MCA, is amended to read:

"35-1-424. Removal of directors. (1) The shareholders may remove one or more directors with or without cause unless the articles of incorporation provide that directors may be removed only for cause.

(2) If a director is elected by a voting group of shareholders, only the shareholders of that voting group may participate in the vote to remove the director.

(3) Any director or the entire board of directors may be removed only by a vote of the holders of two-thirds of the shares entitled to vote at an election of directors unless otherwise provided by the articles of incorporation or bylaws. If the shareholders have the right to cumulate their votes when electing directors and if less than the entire board is to be removed, a director may not be removed if the votes cast against the director's removal would be sufficient to elect ~~him~~ *the director* if cumulatively voted at an election of the entire board of directors or, if there are classes of directors, at an election of the class of directors of which

the director is a part. If the corporation has fewer than 100 shareholders, the entire board of directors may be removed only by a vote of a majority of the shares then entitled to vote.

(4) A director may be removed by the shareholders only at a meeting called for the purpose of removing the director. The meeting notice must state that the purpose, or one of the purposes, of the meeting is removal of the director.”

Section 1260. Section 35-1-428, MCA, is amended to read:

“35-1-428. Penalty for signing false document. (1) The execution of any document required to be filed with the secretary of state under this chapter constitutes an affirmation, under the penalties of false swearing, by each person executing the document that the facts stated ~~therein~~ *in the document* are true.

(2) The secretary of state shall provide for the printing of a warning to this effect on each form prescribed by ~~him~~ *the secretary of state* under this chapter.”

Section 1261. Section 35-1-435, MCA, is amended to read:

“35-1-435. Quorum — voting. (1) Unless the articles of incorporation or bylaws require a greater number, a quorum of a board of directors consists of:

(a) a majority of the fixed number of directors if the corporation has a fixed board size; or

(b) a majority of the number of directors prescribed or, if ~~no~~ *a* number is *not* prescribed, the number in office immediately before the meeting begins; if the corporation has a variable-range size board.

(2) The articles of incorporation or bylaws may authorize a quorum of a board of directors to consist of no fewer than one-third of the fixed or prescribed number of directors.

(3) If a quorum is present when a vote is taken, the affirmative vote of a majority of directors present is the act of the board of directors unless the articles of incorporation or bylaws require the vote of a greater number of directors.

(4) A director who is present at a meeting of the board of directors or a committee of the board of directors when corporate action is taken is considered to have assented to the action taken unless:

(a) the director objects at the beginning of the meeting or promptly upon the director’s arrival to holding the meeting or transacting business at the meeting and delivers written notice of the director’s objection to the presiding officer before its adjournment or to the corporation immediately after adjournment of the meeting;

(b) the director’s dissent or abstention from the action taken is entered in the minutes of the meeting; or

(c) the director delivers written notice of ~~his~~ *the* dissent or abstention to the presiding officer of the meeting before its adjournment or to the corporation immediately after adjournment of the meeting.

(5) The right of dissent or abstention is not available to a director who votes in favor of the action taken.”

Section 1262. Section 35-1-443, MCA, is amended to read:

“35-1-443. Standards of conduct for officers. (1) An officer with discretionary authority shall discharge ~~his~~ duties under that authority:

(a) in good faith;

(b) with the care *that* an ordinarily prudent person in a similar position would exercise under similar circumstances; and

(c) in a manner the officer reasonably believes to be in the best interests of the corporation.

(2) In discharging ~~his~~ *an officer's* duties, an officer is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

(a) one or more officers or employees of the corporation whom the officer reasonably believes to be reliable and competent in the matters presented; or

(b) attorneys, public accountants, or other persons as to matters the officer reasonably believes are within the person's professional or expert competence.

(3) An officer is not acting in good faith if the officer has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (2) unwarranted.

(4) An officer is not liable for any action taken as an officer or for any failure to take any action if the officer performed the duties of ~~his~~ office in compliance with this section."

Section 1263. Section 35-1-451, MCA, is amended to read:

"35-1-451. Definitions. As used in 35-1-451 through 35-1-459, the following definitions apply:

(1) "Corporation" includes any domestic or foreign predecessor entity of a corporation in a merger or other transaction in which the predecessor's existence ceased upon consummation of the transaction.

(2) (a) "Director" means an individual who is or was a director of a corporation or an individual who, while a director of a corporation, is or was serving at the corporation's request as a director, officer, partner, trustee, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise. A director is considered to be serving an employee benefit plan at the corporation's request if the director's duties to the corporation include duties or services by ~~him~~ *the director* to the plan or to participants in or beneficiaries of the plan.

(b) ~~Director~~ *The term* includes, unless the context requires otherwise, the estate or personal representative of a director.

(3) "Expenses" include attorney fees.

(4) "Liability" means the obligation to pay a judgment, settlement, penalty, or fine, including an excise tax assessed with respect to an employee benefit plan, or to pay reasonable expenses incurred with respect to a proceeding.

(5) (a) "Official capacity" means:

(i) when used with respect to a director, the office of director in a corporation; or

(ii) when used with respect to an individual other than a director, as contemplated in 35-1-457, the office in a corporation held by the officer or the employment or agency relationship undertaken by the employee or agent on behalf of the corporation.

(b) ~~Official capacity~~ *The term* does not include service for any other foreign or domestic corporation or any partnership, joint venture, trust, employee benefit plan, or other enterprise.

(6) "Party" includes an individual who was, is, or is threatened to be made a named defendant or respondent in a proceeding.

(7) "Proceeding" means any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative and whether formal or informal."

Section 1264. Section 35-1-452, MCA, is amended to read:

"35-1-452. Authority to indemnify. (1) Except as provided in subsection (4), an individual made a party to a proceeding because ~~he~~ *the individual* is or was a director may be indemnified against liability incurred in the proceeding if:

(a) ~~he conducted himself~~ *the individual engaged* in good faith conduct;

(b) ~~he~~ *the individual* reasonably believed:

(i) in the case of conduct in ~~his~~ *an* official capacity with the corporation, that ~~his~~ *the individual's* conduct was in the corporation's best interests; and

(ii) in all other cases, that ~~his~~ *the individual's* conduct was at least not opposed to the corporation's best interests; and

(c) in the case of any criminal proceeding, ~~he had no~~ *the individual did not* have reasonable cause to believe ~~his~~ *the* conduct was unlawful.

(2) A director's conduct with respect to an employee benefit plan for a purpose the director reasonably believed to be in the interests of the participants in and beneficiaries of the plan is conduct that satisfies the requirement of subsection (1)(b)(ii).

(3) The termination of a proceeding by judgment, order, settlement, or conviction; or upon a plea of nolo contendere or its equivalent is not, of itself, a determination that the director did not meet the standard of conduct described in this section.

(4) A corporation may not indemnify a director under this section:

(a) in connection with a proceeding by or in the right of the corporation in which the director was adjudged liable to the corporation; or

(b) in connection with any other proceeding charging improper personal benefit to the director, whether or not involving action in the director's official capacity, in which the director was adjudged liable on the basis that personal benefit was improperly received by the director.

(5) Indemnification permitted under this section in connection with a proceeding by or in the right of the corporation is limited to reasonable expenses incurred in connection with the proceeding."

Section 1265. Section 35-1-453, MCA, is amended to read:

"35-1-453. Mandatory indemnification. Unless limited by its articles of incorporation, a corporation shall indemnify a director who was wholly successful, on the merits or otherwise, in the defense of any proceeding to which the director was a party because ~~he~~ *the individual* is or was a director of the corporation, against reasonable expenses incurred by the director in connection with the proceeding."

Section 1266. Section 35-1-458, MCA, is amended to read:

"35-1-458. Insurance. A corporation may purchase and maintain insurance on behalf of an individual who is or was a director, officer, employee, or agent of the corporation or who, while a director, officer, employee, or agent of the corporation, is or was serving at the request of the corporation as a director, officer, partner, trustee, employee, or agent of another foreign or domestic

corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise, against liability asserted against or incurred by ~~him~~ *the individual* in that capacity or arising from ~~his~~ *the individual's* status as a director, officer, employee, or agent, whether or not the corporation would have power to indemnify ~~him~~ *the individual* against the same liability under 35-1-452 or 35-1-453.”

Section 1267. Section 35-1-461, MCA, is amended to read:

“35-1-461. Definitions. As used in 35-1-461 through 35-1-464, the following definitions apply:

(1) “Conflicting interest” with respect to a corporation means the interest a director of the corporation has respecting a transaction effected or proposed to be effected by the corporation or by a subsidiary of the corporation or any other entity in which the corporation has a controlling interest if:

(a) regardless of whether the transaction is brought before the board of directors of the corporation for action, the director knows at the time of commitment that ~~he~~ *the director* or a related person is a party to the transaction or has a beneficial financial interest in or is so closely linked to the transaction and the transaction is of such financial significance to the director or a related person that the interest would reasonably be expected to exert an influence on the director’s judgment if the director were called upon to vote on the transaction; or

(b) the transaction is brought, or is of a character and significance to the corporation that it would in the normal course be brought, before the board of directors of the corporation for action and the director knows at the time of commitment that any of the following persons is either a party to the transaction or has a beneficial financial interest in or is so closely linked to the transaction and the transaction is of such financial significance to the person that the interest would reasonably be expected to exert an influence on the director’s judgment if the director were called upon to vote on the transaction:

(i) an entity, other than the corporation, of which the director is a director, general partner, agent, or employee;

(ii) a person who controls one or more of the entities specified in subsection (1)(b)(i) or an entity that is controlled by, or is under common control with, one or more of the entities specified in subsection (1)(b)(i); or

(iii) an individual who is a general partner, principal, or employer of the director.

(2) “Director’s conflicting interest transaction”, with respect to a corporation, means a transaction effected or proposed to be effected by the corporation or by a subsidiary of the corporation or any other entity in which the corporation has a controlling interest in which transaction a director of the corporation has a conflicting interest.

(3) “Related person” means:

(a) the spouse or a parent or sibling of a spouse of the director;

(b) a child, grandchild, sibling, parent or spouse of any child, grandchild, sibling, or parent of the director;

(c) an individual having the same residence as the director;

(d) a trust or estate of which an individual specified in this subsection (3) is a substantial beneficiary; or

(e) a trust, estate, incompetent person, conservatee, or minor for whom the director is a fiduciary.

(4) "Required disclosure" means disclosure by a director, who has a conflicting interest, of:

(a) the existence and nature of ~~his~~ *the* conflicting interest; and

(b) all facts known to the director respecting the subject matter of the transaction that an ordinarily prudent person would reasonably believe to be material to a judgment about whether or not to proceed with the transaction.

(5) "Time of commitment" respecting a transaction means the time when the transaction is consummated or, if made pursuant to contract, the time when the corporation or its subsidiary or the entity in which it has a controlling interest becomes contractually obligated so that its unilateral withdrawal from the transaction would entail significant loss, liability, or other damage."

Section 1268. Section 35-1-464, MCA, is amended to read:

"35-1-464. Shareholders' action. (1) Shareholders' action respecting a transaction is effective for purposes of 35-1-462(2)(b) if a majority of the votes entitled to be cast by the holders of all qualified shares were cast in favor of the transaction after:

(a) notice to shareholders describing the director's conflicting interest transaction;

(b) provision of the information referred to in subsection (3); and

(c) required disclosure to the shareholders who voted on the transaction, to the extent the information was not known by them.

(2) A majority of the votes entitled to be cast by the holders of all qualified shares constitutes a quorum for purposes of action that complies with this section. Subject to the provisions of subsections (3) and (4), shareholders' action that otherwise complies with this section is not affected by the presence of ~~shareholders, or the voting,~~ *holders* of shares that are not qualified shares *or the voting of those shares*.

(3) For purposes of compliance with subsection (1), a director who has a conflicting interest respecting the transaction shall, before the shareholders' vote, inform the secretary or other office or agent of the corporation authorized to tabulate votes of the number of all shares and the identity of persons holding or controlling the vote of all shares that the director knows are beneficially owned by or the voting of which is controlled by the director or by a related person of the director, or both.

(4) If a shareholders' vote does not comply with subsection (1) solely because of a failure of a director to comply with subsection (3) and if the director establishes that ~~his~~ *the* failure did not determine and was not intended by ~~him~~ *the director* to influence the outcome of the vote, the court may, with or without further proceedings respecting 35-1-462(2)(c), take action respecting the transaction and the director and give effect, if any, to the shareholders' vote as it considers appropriate in the circumstances.

(5) For purposes of this section, "qualified shares" means any shares entitled to be voted with respect to the director's conflicting interest transaction except shares that, to the knowledge, before the vote, of the secretary or other officer or agent of the corporation authorized to tabulate votes, are beneficially owned by or the voting of which is controlled by a director who has a conflicting interest respecting the transaction or by a related person of the director, or both."

Section 1269. Section 35-1-535, MCA, is amended to read:

“35-1-535. Shareholders’ preemptive rights. (1) The shareholders of a corporation do not have a preemptive right to acquire the corporation’s unissued shares except to the extent provided in the articles of incorporation.

(2) A statement included in the articles of incorporation that “the corporation elects to have preemptive rights”, or similar words, means that all of the following principles apply except to the extent the articles of incorporation expressly provide otherwise:

(a) The shareholders of the corporation have a preemptive right, granted on uniform terms and conditions prescribed by the board of directors to provide a fair and reasonable opportunity to exercise the right, to acquire proportional amounts of the corporation’s unissued shares upon the decision of the board of directors to issue them and to acquire proportional amounts of the corporation’s issued shares acquired by the corporation pursuant to 35-1-630 upon the decision of the board of directors to convey them.

(b) A shareholder may waive his *the shareholder’s* preemptive right. A waiver evidenced by a writing is irrevocable even though it is not supported by consideration.

(c) Shareholders of a corporation *do not* have ~~no~~ a preemptive right to acquire proportional amounts of shares with respect to:

(i) shares issued as compensation to directors, officers, agents, or employees of the corporation, its subsidiaries, or its affiliates;

(ii) shares issued to satisfy conversion or option rights created to provide compensation to directors, officers, agents, or employees of the corporation, its subsidiaries, or its affiliates;

(iii) shares authorized in articles of incorporation that are issued within 6 months from the effective date of incorporation; or

(iv) shares sold otherwise than for money.

(d) Holders of shares of any class without general voting rights but with preferential rights to distributions or assets *do not* have ~~no~~ preemptive rights with respect to shares of any class.

(e) Holders of shares of any class with general voting rights but without preferential rights to distributions or assets *do not* have ~~no~~ preemptive rights with respect to shares of any class with preferential rights to distributions or assets unless the shares with preferential rights are convertible into or carry a right to subscribe for or acquire shares without preferential rights.

(f) Shares subject to preemptive rights that are not acquired by shareholders may be issued to any person for a period of 1 year after being offered to shareholders at a consideration set by the board of directors that is not lower than the consideration set for the exercise of preemptive rights. An offer at a lower consideration or after the expiration of 1 year is subject to the shareholders’ preemptive rights.

(g) Shares acquired by the corporation pursuant to 35-1-630 *do not* have ~~no~~ preemptive rights as long as they are owned by the corporation.

(3) For purposes of this section, “shares” includes a security convertible into or carrying a right to subscribe for or acquire shares.”

Section 1270. Section 35-1-828, MCA, is amended to read:

“35-1-828. Dissent by nominees and beneficial owners. (1) A record shareholder may assert dissenters’ rights as to fewer than all the shares registered in ~~his~~ *the shareholder’s* name only if ~~he~~ *the shareholder* dissents with respect to all shares beneficially owned by any one person and notifies the corporation in writing of the name and address of each person on whose behalf ~~he~~ *the shareholder* asserts dissenters’ rights. The rights of a partial dissenter under this subsection are determined as if the shares as to which ~~he~~ *the shareholder* dissents and ~~his~~ *the shareholder’s* other shares were registered in the names of different shareholders.

(2) A beneficial shareholder may assert dissenters’ rights as to shares held on ~~his~~ *the beneficial shareholder’s* behalf only if *the beneficial shareholder*:

(a) ~~he~~ submits to the corporation the record shareholder’s written consent to the dissent not later than the time the beneficial shareholder asserts dissenters’ rights; and

(b) ~~he~~ does so with respect to all shares of which ~~he~~ *the beneficial shareholder* is the beneficial shareholder or over which ~~he~~ *the beneficial shareholder* has power to direct the vote.”

Section 1271. Section 35-1-830, MCA, is amended to read:

“35-1-830. Notice of intent to demand payment. (1) If proposed corporate action creating dissenters’ rights under 35-1-827 is submitted to a vote at a shareholders’ meeting, a shareholder who wishes to assert dissenters’ rights:

(a) shall deliver to the corporation before the vote is taken written notice of ~~his~~ *the* intent to demand payment for ~~his~~ *the shareholder’s* shares if the proposed action is effectuated; and

(b) may not vote ~~his~~ *the shareholder’s* shares in favor of the proposed action.

(2) A shareholder who does not satisfy the requirements of subsection (1)(a) is not entitled to payment for ~~his~~ *the shareholder’s* shares under 35-1-826 through 35-1-839.”

Section 1272. Section 35-1-831, MCA, is amended to read:

“35-1-831. Dissenters’ notice. (1) If proposed corporate action creating dissenters’ rights under 35-1-827 is authorized at a shareholders’ meeting, the corporation shall deliver a written dissenters’ notice to all shareholders who satisfied the requirements of 35-1-830.

(2) The dissenters’ notice must be sent no later than 10 days after the corporate action was taken and must:

(a) state where the payment demand must be sent and where and when certificates for certified shares must be deposited;

(b) inform shareholders of uncertificated shares to what extent transfer of the shares will be restricted after the payment is received;

(c) supply a form for demanding payment that includes the date of the first announcement to news media or to shareholders of the terms of the proposed corporate action and that requires the person asserting dissenters’ rights to certify whether or not ~~he~~ *the person* acquired beneficial ownership of the shares before that date;

(d) set a date by which the corporation must receive the payment demand, which may not be fewer than 30 nor more than 60 days after the date the required notice under subsection (1) is delivered; and

(e) be accompanied by a copy of 35-1-826 through 35-1-839.”

Section 1273. Section 35-1-832, MCA, is amended to read:

“35-1-832. Duty to demand payment. (1) A shareholder sent a dissenters’ notice described in 35-1-831 shall demand payment, certify whether the shareholder acquired beneficial ownership of the shares before the date required to be set forth in the dissenters’ notice pursuant to 35-1-831(2)(c), and deposit ~~his~~ *the shareholder’s* certificates in accordance with the terms of the notice.

(2) The shareholder who demands payment and deposits ~~his~~ *the shareholder’s* certificates under subsection (1) retains all other rights of a shareholder until these rights are canceled or modified by the taking of the proposed corporate action.

(3) A shareholder who does not demand payment or deposit ~~his~~ *the shareholder’s* certificates ~~where~~ *when* required, each by the date set in the dissenters’ notice, is not entitled to payment for ~~his~~ *the shareholder’s* shares under 35-1-826 through 35-1-839.”

Section 1274. Section 35-1-836, MCA, is amended to read:

“35-1-836. After-acquired shares. (1) A corporation may elect to withhold payment required by 35-1-834 from a dissenter unless the dissenter was the beneficial owner of the shares before the date set forth in the dissenters’ notice as the date of the first announcement to news media or to shareholders of the terms of the proposed corporate action.

(2) To the extent the corporation elects to withhold payment under subsection (1), after taking the proposed corporate action, the corporation shall estimate the fair value of the shares plus accrued interest and shall pay this amount to each dissenter who agrees to accept it in full satisfaction of ~~his~~ *the dissenter’s* demand. The corporation shall send with its offer a statement of its estimate of the fair value of the shares, an explanation of how the interest was calculated, and a statement of the dissenter’s right to demand payment under 35-1-837.”

Section 1275. Section 35-1-837, MCA, is amended to read:

“35-1-837. Procedure if shareholder dissatisfied with payment or offer. (1) A dissenter may notify the corporation in writing of the dissenter’s own estimate of the fair value of the dissenter’s shares and the amount of interest due and may demand payment of the dissenter’s estimate, less any payment under 35-1-834, or reject the corporation’s offer under 35-1-836 and demand payment of the fair value of the dissenter’s shares and the interest due if:

(a) the dissenter believes that the amount paid under 35-1-834 or offered under 35-1-836 is less than the fair value of the dissenter’s shares or that the interest due is incorrectly calculated;

(b) the corporation fails to make payment under 35-1-834 within 60 days after the date set for demanding payment; or

(c) the corporation, having failed to take the proposed action, does not return the deposited certificates or release the transfer restrictions imposed on uncertificated shares within 60 days after the date set for demanding payment.

(2) A dissenter waives the right to demand payment under this section unless ~~he~~ *the dissenter* notifies the corporation of ~~his~~ *the* demand in writing

under subsection (1) within 30 days after the corporation made or offered payment for ~~his~~ *the dissenter's* shares.”

Section 1276. Section 35-1-941, MCA, is amended to read:

“35-1-941. Receivership or custodianship. (1) A court in a judicial proceeding brought to dissolve a corporation may appoint one or more receivers to wind up and liquidate, or one or more custodians to manage, the business and affairs of the corporation. The court shall hold a hearing, after notifying all parties to the proceeding and any interested persons designated by the court, before appointing a receiver or custodian. The court appointing a receiver or custodian has exclusive jurisdiction over the corporation and all its property wherever located.

(2) The court may appoint an individual or a domestic or foreign corporation, authorized to transact business in this state, as a receiver or custodian. The court may require the receiver or custodian to post bond, with or without sureties, in an amount the court directs.

(3) The court shall describe the powers and duties of the receiver or custodian in its appointing order, which may be amended from time to time. Among other powers:

(a) the receiver may dispose of all or any part of the assets of the corporation wherever located, at a public or private sale, if authorized by the court and may sue and defend in the receiver's own name as receiver of the corporation in all courts of this state; and

(b) the custodian may exercise all of the powers of the corporation through or in place of its board of directors or officers to the extent necessary to manage the affairs of the corporation in the best interests of its shareholders and creditors.

(4) The court during a receivership may redesignate the receiver a custodian and during a custodianship may redesignate the custodian a receiver if doing so is in the best interests of the corporation and its shareholders and creditors.

(5) The court from time to time during the receivership or custodianship may order compensation paid and expense disbursements or reimbursements made to the receiver or custodian and ~~his~~ *the receiver's or custodian's* counsel from the assets of the corporation or proceeds from the sale of the assets.”

Section 1277. Section 35-1-943, MCA, is amended to read:

“35-1-943. Deposit with state treasurer. Assets of a dissolved corporation that should be transferred to a creditor, claimant, or shareholder of the corporation who cannot be found or who is not competent to receive them must be reduced to cash and deposited with the state treasurer or other appropriate state official for safekeeping. When the creditor, claimant, or shareholder furnishes satisfactory proof of entitlement to the amount deposited, the state treasurer or other appropriate state official shall pay ~~him~~ *the creditor, claimant, or shareholder* or ~~his~~ *the creditor's, claimant's, or shareholder's* representative that amount.”

Section 1278. Section 35-1-1310, MCA, is amended to read:

“35-1-1310. Appeal from secretary of state's refusal to file document.

(1) If the secretary of state refuses to file a document delivered to the secretary of state's office for filing, the domestic or foreign corporation may appeal the refusal to the district court for the first judicial district. The appeal is begun by petitioning the court to compel the filing of the document and by attaching to the petition the document and the secretary of state's explanation of ~~his~~ *the* refusal to file.

(2) The court may summarily order the secretary of state to file the document or take other action the court considers appropriate.

(3) The court's final decision may be appealed as in other civil proceedings."

Section 1279. Section 35-2-416, MCA, is amended to read:

"35-2-416. General standards for directors. (1) A director shall discharge ~~his~~ *the* duties as a director, including ~~his~~ *the* director's duties as a member of a committee:

(a) in good faith;

(b) with the care an ordinarily prudent person in a similar position would exercise under similar circumstances; and

(c) in a manner the director reasonably believes to be in the best interests of the corporation.

(2) In discharging ~~his~~ *the* duties, a director is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

(a) one or more officers or employees of the corporation whom the director reasonably believes to be reliable and competent in the matters presented;

(b) attorneys, public accountants, or other persons with regard to matters *that* the director reasonably believes are within the person's professional or expert competence;

(c) a committee of the board of which the director is not a member, as to matters within its jurisdiction, if the director reasonably believes the committee merits confidence; or

(d) in the case of religious corporations, religious authorities, ministers, priests, rabbis, or other persons whose position or duties in the religious organization the director believes justify reliance and confidence and whom the director believes to be reliable and competent in the matters presented.

(3) A director is not acting in good faith if the director has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (2) unwarranted.

(4) A director is not liable to the corporation, any member, or any other person for any action taken or not taken as a director if the director acted in compliance with this section.

(5) A director may not be a trustee with respect to the corporation or with respect to any property held or administered by the corporation, including but not limited to property that may be subject to restrictions imposed by the donor or transferor of the property.

(6) This chapter does not modify any limitation of liability of directors provided by Title 27."

Section 1280. Section 35-2-441, MCA, is amended to read:

"35-2-441. Standards of conduct for officers. (1) An officer with discretionary authority shall discharge ~~his~~ *the* duties under that authority:

(a) in good faith;

(b) with the care an ordinarily prudent person in a similar position would exercise under similar circumstances; and

(c) in a manner the officer reasonably believes to be in the best interests of the corporation and its members, if any.

(2) In discharging ~~his~~ *the* duties, an officer is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

(a) one or more officers or employees of the corporation who the officer reasonably believes to be reliable and competent in the matters presented;

(b) attorneys, public accountants, or other persons as to matters *that* the officer reasonably believes are within the person's professional or expert competence; or

(c) in the case of religious corporations, religious authorities, ministers, priests, rabbis, or other persons whose position or duties in the religious organization the officer believes justify reliance and confidence and who the officer believes to be reliable and competent in the matters presented.

(3) An officer is not acting in good faith if the officer has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (2) unwarranted.

(4) An officer is not liable to the corporation, any member, or any other person for an action taken or not taken as an officer if the officer acted in compliance with this section.

(5) This part does not modify any limitation of liability of officers provided by Title 27."

Section 1281. Section 35-2-447, MCA, is amended to read:

"35-2-447. Authority to indemnify. (1) Except as provided in subsection (4), an individual made a party to a proceeding because the individual is or was a director may be indemnified against liability incurred in the proceeding if the individual:

(a) ~~conducted himself~~ *engaged* in good faith *conduct*;

(b) reasonably believed:

(i) in the case of conduct in ~~his~~ *the individual's* official capacity with the corporation, that ~~his~~ *the* conduct was in its best interests; and

(ii) in all other cases, that ~~his~~ *the* conduct was at least not opposed to its best interests; and

(c) in the case of any criminal proceeding, had no reasonable cause to believe ~~his~~ *the* conduct was unlawful.

(2) A director's conduct with respect to an employee benefit plan for a purpose the director reasonably believed to be in the interests of the participants in and beneficiaries of the plan is conduct that satisfies the requirements of subsection (1)(b)(ii).

(3) The termination of a proceeding by judgment, order, settlement, or conviction; or upon a plea of nolo contendere or its equivalent is not, of itself, a determination that the director did not meet the standard of conduct described in this section.

(4) A corporation may not indemnify a director under this section:

(a) in connection with a proceeding by or in the right of the corporation in which the director was adjudged liable to the corporation; or

(b) in connection with any other proceeding that charges improper personal benefit to the director, whether or not involving action in ~~his~~ *the director's* official capacity, in which the director was adjudged liable on the basis that personal benefit was improperly received by the director.

(5) Indemnification permitted under this section in connection with a proceeding by or in the right of the corporation is limited to reasonable expenses incurred in connection with the proceeding.”

Section 1282. Section 35-2-448, MCA, is amended to read:

“35-2-448. Mandatory indemnification. Unless limited by its articles of incorporation, a corporation shall indemnify a director who was wholly successful, on the merits or otherwise, in the defense of any proceeding to which the director was a party because ~~he~~ *the individual* is or was a director of the corporation, against reasonable expenses actually incurred by the director in connection with the proceeding.”

Section 1283. Section 35-2-449, MCA, is amended to read:

“35-2-449. Advance for expenses. (1) A corporation may pay for or reimburse the reasonable expenses incurred by a director who is a party to a proceeding in advance of final disposition of the proceeding if:

(a) the director furnishes the corporation *with* a written affirmation of ~~his~~ *the director's* good faith belief that ~~he~~ *the director* has met the standard of conduct described in 35-2-447;

(b) the director furnishes the corporation *with* a written undertaking, executed personally or on the director's behalf, to repay the advance if it is ultimately determined that the director did not meet the standard of conduct; and

(c) a determination is made that the facts then known to those making the determination would not preclude indemnification under 35-2-446 through 35-2-454.

(2) The undertaking required by subsection (1)(b) must be an unlimited general obligation of the director but need not be secured and may be accepted without reference to financial ability to make repayment.

(3) Determinations and authorizations of payments under this section must be made in the manner specified in 35-2-451.”

Section 1284. Section 35-2-453, MCA, is amended to read:

“35-2-453. Insurance. A corporation may purchase and maintain insurance on behalf of an individual who is or was a director, officer, employee, or agent of the corporation or who, while a director, officer, employee, or agent of the corporation, is or was serving at the request of the corporation as a director, officer, partner, trustee, employee, or agent of another foreign or domestic business or nonprofit corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise, against liability asserted against or incurred by ~~him~~ *the individual* in that capacity or arising from ~~his~~ *the individual's* status as a director, officer, employee, or agent, whether or not the corporation would have power to indemnify the ~~person~~ *individual* against the same liability under 35-2-447 or 35-2-448.”

Section 1285. Section 35-2-510, MCA, is amended to read:

“35-2-510. Admission. (1) The articles or bylaws may establish criteria or procedures for admission of members.

(2) A person may not be admitted as a member without ~~his~~ *the person's* consent.”

Section 1286. Section 35-2-722, MCA, is amended to read:

“35-2-722. Notices to the attorney general. (1) Except as provided in subsection (4), a public benefit corporation or religious corporation shall give the attorney general written notice that it intends to dissolve at or before the time it delivers articles of dissolution to the secretary of state. The notice must include a copy or summary of the plan of dissolution.

(2) Assets may not be transferred or conveyed by a public benefit corporation or religious corporation as part of the dissolution process until 20 days after it has given the written notice required by subsection (1) to the attorney general or until the attorney general has consented in writing to the dissolution or indicated in writing that ~~he~~ *the attorney general* will not take action in respect to the transfer or conveyance, whichever is earlier.

(3) When all or substantially all of the assets of a public benefit corporation have been transferred or conveyed following approval of dissolution, the board shall deliver to the attorney general a list showing those, other than creditors, to whom the assets were transferred or conveyed. The list must indicate the address of each person, other than creditors, who received assets and indicate what assets each received.

(4) A public benefit corporation or religious corporation that is considered a nonprofit health entity, as defined in 50-4-701, is subject to the provisions of Title 50, chapter 4, part 7.”

Section 1287. Section 35-2-727, MCA, is amended to read:

“35-2-727. Unknown claims against dissolved corporations. (1) The dissolution of a corporation, including by the expiration of its term, does not take away or impair any remedy available to or against the corporation, or its officers, directors, or members for any claim or right, whether or not the claim or right existed or accrued prior to the dissolution. Any action or proceeding by or against the corporation referred to in this subsection may be prosecuted or defended by the corporation in its corporate name. Members, directors, and officers may take corporate or other action as is appropriate to protect a remedy, right, or claim.

(2) A claim may be enforced under ~~this section or~~ 35-2-726 or *this section*:

(a) against the dissolved corporation, to the extent of its undistributed assets; or

(b) if the assets have been distributed in liquidation, against a member of the dissolved corporation to the extent of the member’s pro rata share of the claim or the corporate assets distributed to ~~him~~ *the member* in liquidation, whichever is less. However, a member’s total liability for all claims under this section may not exceed the total amount of assets distributed to the member.

(3) Subsections (1) and (2) apply to a foreign corporation transacting business in this state, and its members, for any claims otherwise arising or accruing under Montana law.”

Section 1288. Section 35-2-732, MCA, is amended to read:

“35-2-732. Deposit with state treasurer. Assets of a dissolved corporation that should be transferred to a creditor, claimant, or member of the corporation who cannot be found or who is not competent to receive them must be reduced to cash, subject to known trust restrictions, and deposited with the state treasurer for safekeeping. However, in the state treasurer’s discretion, property may be received and held in kind. When the creditor, claimant, or member furnishes satisfactory proof of entitlement to the amount deposited or property held in kind, the state treasurer shall deliver to the creditor, claimant,

member, or other person as ~~his~~ *the creditor's, claimant's, or member's* representative that amount or property.”

Section 1289. Section 35-2-831, MCA, is amended to read:

“35-2-831. Withdrawal of foreign corporation. (1) A foreign corporation authorized to transact business in this state may not withdraw from this state until it obtains a certificate of withdrawal from the secretary of state.

(2) A foreign corporation authorized to transact business in this state may apply for a certificate of withdrawal by delivering an application to the secretary of state for filing. The application must set forth:

(a) the name of the foreign corporation and the name of the state or country under whose law it is incorporated;

(b) the fact that it is not transacting business in this state and that it surrenders its authority to transact business in this state;

(c) the fact that it revokes the authority of its registered agent to accept service on its behalf and appoints the secretary of state as its agent for service of process in any proceeding based on a cause of action arising during the time it was authorized to do business in this state;

(d) a mailing address to which the secretary of state may mail a copy of any process served on ~~him~~ *the secretary of state* under subsection (2)(c); and

(e) a commitment to notify the secretary of state, in the future, of any change in the mailing address.”

Section 1290. Section 35-3-205, MCA, is amended to read:

“35-3-205. Powers of corporation sole. Every corporation sole organized under the provisions of this chapter, for the purpose of the trust ~~hereinafter mentioned described in this section,~~ *shall have* ~~has~~ power:

(1) to continue to exist perpetually by its corporate name unless a limited period of duration is stated in its articles of incorporation;

(2) to sue and be sued, complain, and defend; in its corporate name;

(3) to have a corporate seal ~~which~~ *that* may be altered at pleasure and to use the ~~same seal~~ by causing it or a facsimile ~~thereof~~ to be impressed or affixed or in any other manner reproduced;

(4) to purchase, take, receive, lease, take by gift, devise, or bequest or otherwise acquire, own, hold, improve, use, and otherwise deal in and with real or personal property or any interest ~~therein~~ *in real or personal property*, wherever situated, provided that all ~~such~~ property ~~shall~~ *must* be in trust for the use, purpose, and benefit of ~~such~~ *the* religious denomination, society, or church for which and in whose behalf ~~such~~ *the* corporation sole is organized;

(5) to sell, convey, mortgage, pledge, lease, exchange, transfer, and otherwise dispose of all or any part of its property and assets;

(6) to lend money to its employees other than its officers and otherwise assist its employees and officers;

(7) to purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of and otherwise use and deal in and with shares or other interests in or obligations of other domestic or foreign corporations, whether for profit or not for profit, associations, partnerships, or individuals or direct or indirect obligations of the United States or of any other government, state, territory, governmental

district, or municipality or of any instrumentality ~~thereof~~ *of a governmental entity*;

(8) to make contracts and incur liabilities, borrow money at ~~such~~ rates of interest *as that* the corporation may determine, issue its notes, bonds, and other obligations, and secure any of its obligations by mortgage or pledge of all or any of its property, franchises, and income;

(9) to lend money for its corporate purposes, invest and reinvest its funds, and take and hold real and personal property as security for the payment of funds ~~so~~ loaned or invested;

(10) to conduct its affairs, carry on its operations, and have offices and exercise the powers granted by this chapter in any state, territory, district, or possession of the United States or in any foreign country;

(11) to elect or appoint officers and agents of the corporation, including attorneys-in-fact, and to define their duties and fix their compensation;

(12) to make and alter bylaws, not inconsistent with its articles of incorporation or with the laws of this state, for the administration and regulation of the affairs of the corporation;

(13) unless otherwise provided in the articles of incorporation, to make donations for the public welfare or for charitable, religious, scientific, or educational purposes;

(14) to indemnify any officer or agent or any person who may have served at its request as an officer or agent or as a director or officer of another corporation in which it owns shares of capital stock or of which it is a creditor against claims, liabilities, expenses, and costs necessarily incurred by ~~him~~ *the person* in connection with the defense, compromise, or settlement of any action, suit, or proceeding, civil or criminal, in which ~~he~~ *the person* is made a party by reason of being or having been ~~such a~~ director or officer, except in relation to matters as to which ~~he~~ *shall be the person* is adjudged in ~~such the~~ action, suit, or proceeding to be liable for negligence or misconduct in the performance of duty to the corporation; and to make any other indemnification that ~~shall be~~ *is* authorized by the articles of incorporation or by any bylaw or resolution promulgated by the incorporator or ~~his~~ *the incorporator's* successor;

(15) to pay pensions and retirement benefits and establish pension plans, pension trusts, insurance plans, and incentive plans for all or any of its officers and employees;

(16) to cease its corporate activities and surrender its corporate franchise;

(17) to have and exercise all powers necessary or convenient to effect any or all of the purposes for which the corporation is organized."

Section 1291. Section 35-3-206, MCA, is amended to read:

"35-3-206. Amendment of articles of incorporation. (1) Whenever any bishop, chief priest, or presiding elder ~~shall have~~ *has* filed in the office of the secretary of state articles of incorporation, under the provisions of an act entitled "An Act Authorizing and Regulating the Incorporation of Sole Corporations and Defining Their Powers", approved February 27, 1899, or amendments ~~thereto to that act~~ or under this chapter, ~~such the~~ corporation sole may amend its articles of incorporation from time to time in any and as many respects as may be desired, ~~so~~ as long as its articles of incorporation as amended contain only ~~such~~ provisions *as that* are lawful under this chapter.

(2) ~~Such~~ *The* articles of amendment ~~shall~~ *must* be promulgated by the incorporator or ~~his~~ *a* successor by setting forth a statement of the facts authorizing ~~such~~ *the* amendment and the date upon which ~~said~~ *the* amendment was promulgated, and ~~his~~ *the incorporator's or successor's* affidavit that the ~~same~~ *amendment* is a true copy or translation ~~thereof~~ *shall be deemed of the amendment is considered* a sufficient attestation ~~thereof~~.

Section 1292. Section 35-3-207, MCA, is amended to read:

“35-3-207. Succession. (1) In the event of the death or resignation from office of any bishop, chief priest, or presiding elder or of ~~his~~ *that individual's* transfer or removal ~~therefrom~~ *from office* by the person or body having the authority to remove ~~him~~ *that individual*, ~~his~~ *the individual's* successor in office ~~shall succeed~~ *succeeds* to the powers, rights, and obligations of the office and ~~shall become~~ *becomes* vested with the title to the property with like power and authority over the ~~same~~ *property* and subject to all the legal liabilities and obligations with reference ~~thereto~~ *to the property*.

(2) Succession ~~shall be~~ *is* effected when the successor ~~shall file~~ *files* in the office of the secretary of state the original or a copy or translation of ~~his~~ *the successor's* commission, certificate, or letters of appointment as ~~such~~ *bishop, chief priest, or presiding elder*, duly attested, and ~~his~~ *the successor's* affidavit that the ~~same~~ *document* is a true copy or translation ~~shall be deemed is considered~~ *sufficient attestation thereof of the document*.”

Section 1293. Section 35-4-403, MCA, is amended to read:

“35-4-403. Rendering services. A professional corporation, domestic or foreign, may render professional services in this state only through natural persons permitted to render ~~such~~ *the* services in this state; ~~however~~ *However*, nothing in this chapter requires any person employed by a professional corporation to be licensed to perform services for which ~~no~~ *a* license is *not* otherwise required or prohibits the rendering of professional services by a licensed natural person acting in ~~his~~ *an* individual capacity, even if ~~such~~ *the* person is a shareholder, director, officer, employee, or agent of a professional corporation, domestic or foreign.”

Section 1294. Section 35-4-404, MCA, is amended to read:

“35-4-404. Responsibility for services. (1) An individual who renders professional services as an employee of a domestic or foreign professional corporation is liable for any negligent or wrongful act or omission in which ~~he~~ *the individual* personally participates to the same extent as if ~~he~~ *the individual* had rendered ~~such~~ *the* services as a sole practitioner. An employee of a professional corporation is not liable for the conduct of other employees unless ~~he~~ *the employee* is at fault in appointing, supervising, or cooperating with them.

(2) A domestic or foreign professional corporation whose employee performs professional services within the scope of ~~his~~ *the employee's* employment or apparent authority to act for the corporation is liable to the same extent as that employee.

(3) Except as otherwise provided by statute, the personal liability of a shareholder of a domestic or foreign professional corporation is no greater in any respect than that of a shareholder of a corporation organized under the Montana Business Corporation Act.”

Section 1295. Section 35-9-201, MCA, is amended to read:

“35-9-201. Notice of statutory close corporation status on issued shares. (1) The following statement must appear conspicuously on each share certificate issued by a statutory close corporation:

The rights of shareholders in a statutory close corporation may differ materially from the rights of shareholders in other corporations. Copies of the articles of incorporation and bylaws, shareholders’ agreements, and other documents, any of which may restrict transfers and affect voting and other rights, may be obtained by a shareholder on written request to the corporation.

(2) Within a reasonable time after the issuance or transfer of uncertificated shares, the corporation shall send to the shareholders a written notice containing the information required by subsection (1).

(3) The notice required by this section satisfies all requirements of ~~this chapter and~~ of 35-1-628 ~~and of this chapter~~ that notice of share transfer restrictions be given.

(4) A person claiming an interest in shares of a statutory close corporation that has complied with the notice requirement of this section is bound by the documents referred to in the notice. A person claiming an interest in shares of a statutory close corporation that has not complied with the notice requirement of this section is bound by any documents of which ~~he~~ *the person* or ~~a~~ *another* person through whom ~~he~~ *the person* claims has knowledge or notice.

(5) A corporation shall provide to any shareholder upon ~~his~~ *the shareholder’s* written request and without charge copies of provisions that restrict transfer or affect voting or other rights of shareholders appearing in articles of incorporation, bylaws, or shareholders’ or voting trust agreements filed with the corporation.”

Section 1296. Section 35-9-202, MCA, is amended to read:

“35-9-202. Share transfer prohibition. (1) An interest in shares of a statutory close corporation may not be voluntarily or involuntarily transferred, by operation of law or otherwise, except to the extent permitted by the articles of incorporation or under 35-9-203.

(2) Except to the extent the articles of incorporation provide otherwise, this section does not apply to a transfer:

(a) to the corporation or to any other holder of the same class or series of shares;

(b) to members of the shareholder’s immediate family or to a trust, all of whose beneficiaries are members of the shareholder’s immediate family, which immediate family consists of ~~his~~ *the shareholder’s* spouse, parents, lineal descendants including adopted children and stepchildren and the spouse of any lineal descendant, and brothers and sisters;

(c) that has been approved in writing by all of the holders of the corporation’s shares having general voting rights;

(d) to an executor or administrator upon the death of a shareholder or to a trustee or receiver as the result of a bankruptcy, insolvency, dissolution, or similar proceeding brought by or against a shareholder;

(e) by merger or share exchange under Title 35, chapter 1, part 8, or an exchange of existing shares for other shares of a different class or series in the corporation;

(f) by a pledge as collateral for a loan that does not grant the pledgee any voting rights possessed by the pledgor; and

(g) made after termination of the corporation's status as a statutory close corporation."

Section 1297. Section 35-9-203, MCA, is amended to read:

"35-9-203. Share transfer after first refusal by corporation. (1) A person desiring to transfer shares of a statutory close corporation subject to the transfer prohibition of 35-9-202 ~~must~~ *shall* first offer them to the corporation by obtaining an offer to purchase the shares for cash from a third person who is eligible to purchase the shares under subsection (2). The offer by the third person must be in writing and state the offeror's name and address, the number and class or series of shares offered, the offering price per share, and the other terms of the offer.

(2) A third person is eligible to purchase the shares if:

(a) ~~he~~ *the third person* is eligible to become a qualified shareholder under any federal or state tax statute the corporation has adopted and ~~he~~ agrees in writing not to terminate ~~his~~ *that* qualification without the approval of the remaining shareholders; and

(b) ~~his~~ *the* purchase of the shares will not impose a personal holding company tax or similar federal or state penalty tax on the corporation.

(3) The person desiring to transfer shares shall deliver the offer to the corporation and by doing so offers to sell the shares to the corporation on the terms of the offer. Within 20 days after the corporation receives the offer, the corporation shall call a special shareholders' meeting, to be held not more than 40 days after the call, to decide whether the corporation should purchase all but not less than all of the offered shares. The offer must be approved by the affirmative vote of the holders of a majority of votes entitled to be cast at the meeting, excluding votes in respect of the shares covered by the offer.

(4) The corporation ~~must~~ *shall* deliver to the offering shareholder written notice of acceptance within 75 days after receiving the offer or the offer is rejected. If the corporation makes a counteroffer, the shareholder ~~must~~ *shall* deliver to the corporation written notice of acceptance within 15 days after receiving the counteroffer or the counteroffer is rejected. If the corporation accepts the original offer or the shareholder accepts the corporation's counteroffer, the shareholder shall deliver to the corporation duly endorsed certificates for the shares, or instruct the corporation in writing to transfer the shares if uncertificated, within 20 days after the effective date of the notice of acceptance. The corporation may specifically enforce the shareholder's delivery or instruction obligation under this subsection.

(5) A corporation accepting an offer to purchase shares under this section may allocate some or all of the shares to one or more of its shareholders or to other persons if all the shareholders voting in favor of the purchase approve the allocation. However, if the corporation has more than one class or series of shares, the remaining holders of the class or series of shares being purchased are entitled to a first option to purchase the shares not purchased by the corporation in proportion to their shareholdings or in some other proportion agreed to by all the shareholders participating in the purchase.

(6) If an offer to purchase shares under this section is rejected, the offering shareholder, for a period of 120 days after the corporation received ~~his~~ *the* offer, is entitled to transfer to the third-person offeror all but not less than all of the offered shares in accordance with the terms of ~~his~~ *the* offer to the corporation."

Section 1298. Section 35-9-204, MCA, is amended to read:

“35-9-204. Attempted share transfer in breach of prohibition. (1) An attempt to transfer shares in a statutory close corporation in violation of a prohibition against transfer binding on the transferee is ineffective.

(2) An attempt to transfer shares in a statutory close corporation in violation of a prohibition against transfer that is not binding on the transferee, either because the notice required by 35-9-201 was not given or because the prohibition is held unenforceable by a court, gives the corporation an option to purchase the shares from the transferee for the same price and on the same terms that ~~he~~ *the transferee* purchased them. To exercise its option, the corporation ~~must~~ *shall* give the transferee written notice within 30 days after the shares are presented for registration in the transferee’s name. The corporation may specifically enforce the transferee’s sale obligation upon exercise of its purchase option.”

Section 1299. Section 35-9-205, MCA, is amended to read:

“35-9-205. Compulsory purchase of shares after death of shareholder. (1) ~~This section and Sections 35-9-206 through 35-9-208 and this section~~ apply to a statutory close corporation only if so provided in its articles of incorporation. If these sections apply, the executor or administrator of the estate of a deceased shareholder may require the corporation to purchase or cause to be purchased all but not less than all of the decedent’s shares or to be dissolved.

(2) The provisions of 35-9-206 through 35-9-208 may be modified only if the modification is set forth or referred to in the articles of incorporation.

(3) An amendment to the articles of incorporation to provide for application of 35-9-206 through 35-9-208 or to modify or delete the provisions of these sections must be approved by the holders of at least two-thirds of the votes of each class or series of shares of the statutory close corporation, voting as separate voting groups, whether or not otherwise entitled to vote on amendments. If the corporation has no shareholders when the amendment is proposed, it must be approved by at least two-thirds of the subscribers for shares, if any, or if none, by all of the incorporators.

(4) A shareholder who votes against an amendment to modify or delete the provisions of 35-9-206 through 35-9-208 is entitled to dissenters’ rights under 35-1-826 through 35-1-839 if the amendment upon adoption terminates or substantially alters ~~his~~ *the shareholder’s* existing rights under these sections to have ~~his~~ *the shareholder’s* shares purchased.

(5) A shareholder may waive ~~his~~ *the shareholder’s* and ~~his~~ *the shareholder’s* estate’s rights under 35-9-206 through 35-9-208 by a signed writing.

(6) Sections 35-9-206 through 35-9-208 do not prohibit any other agreement providing for the purchase of shares upon a shareholder’s death, nor do they prevent a shareholder from enforcing any remedy ~~he~~ *that the shareholder* has independently of 35-9-206 through 35-9-208.”

Section 1300. Section 35-9-302, MCA, is amended to read:

“35-9-302. Elimination of board of directors. (1) A statutory close corporation may operate without a board of directors if its articles of incorporation contain a statement to that effect.

(2) An amendment to articles of incorporation eliminating a board of directors must be approved by:

(a) all the shareholders of the corporation, whether or not otherwise entitled to vote on amendments;

(b) if no shares have been issued, by all the subscribers for shares, if any; or

(c) if there are no subscribers, by all the incorporators.

(3) While a corporation is operating without a board of directors as authorized by subsection (1):

(a) all corporate powers must be exercised by or under the authority of and the business and affairs of the corporation managed under the direction of the shareholders;

(b) unless the articles of incorporation provide otherwise:

(i) action requiring director approval or both director and shareholder approval is authorized if approved by the shareholders; and

(ii) action requiring a majority or greater percentage vote of the board of directors is authorized if approved by the majority or greater percentage of the votes of shareholders entitled to vote on the action;

(c) a shareholder is not liable for ~~his~~ *the shareholder's* act or omission, even though a director would be, unless the shareholder was entitled to vote on the action;

(d) a requirement by a state or the United States that a document delivered for filing contain a statement that specified action has been taken by the board of directors is satisfied by a statement that the corporation is a statutory close corporation without a board of directors and that the action was approved by the shareholders; and

(e) the shareholders may by resolution appoint one or more shareholders to sign documents as designated directors.

(4) An amendment to articles of incorporation deleting the statement eliminating a board of directors must be approved by the holders of at least two-thirds of the votes of each class or series of shares of the corporation, voting as separate voting groups, whether or not otherwise entitled to vote on amendments. The amendment must also specify the number, names, and addresses of the corporation's directors or describe who will perform the duties of a board under 35-1-416."

Section 1301. Section 35-9-503, MCA, is amended to read:

"35-9-503. Extraordinary relief—share purchase. (1) If the court finds that the ordinary relief described in 35-9-502(1) is or would be inadequate or inappropriate, it may order the corporation dissolved under 35-9-504 unless the corporation or one or more of its shareholders purchases all the shares of the shareholder for their fair value and on terms determined under subsection (2).

(2) If the court orders a share purchase, it shall:

(a) determine the fair value of the shares, considering among other relevant evidence:

(i) the going concern value of the corporation;

(ii) any agreement among some or all of the shareholders fixing the price or specifying a formula for determining share value for any purpose;

(iii) the recommendations of appraisers, if any, appointed by the court; and

(iv) any legal constraints on the corporation's ability to purchase the shares;

(b) specify the terms of the purchase, including if appropriate:

(i) terms for installment payments;

(ii) subordination of the purchase obligation to the rights of the corporation's other creditors;

(iii) security for a deferred purchase price; and

(iv) a covenant not to compete or other restriction on the seller;

(c) require the seller to deliver all ~~his~~ *the seller's* shares to the purchaser upon receipt of the purchase price or the first installment of the purchase price;

(d) provide that after the seller delivers ~~his~~ *the* shares, ~~he~~ *the seller* has no further claim against the corporation; *or* its directors, officers, or shareholders; other than a claim to any unpaid balance of the purchase price and a claim under any agreement with the corporation or the remaining shareholders that is not terminated by the court; and

(e) provide that if the purchase is not completed in accordance with the specified terms, the corporation is to be dissolved under 35-9-504.

(3) After the purchase order is entered, any party may petition the court to modify the terms of the purchase and the court may do so if it finds that changes in the financial or legal ability of the corporation or other purchaser to complete the purchase justify a modification.

(4) If the corporation is dissolved because the share purchase was not completed in accordance with the court's order, the selling shareholder has the same rights and priorities in the corporation's assets as if the sale had not been ordered."

Section 1302. Section 35-10-506, MCA, is amended to read:

"35-10-506. Partner's application to discharge attachment — undertaking. (1) If a writ of attachment is levied upon the interest in a partnership of one or more of the partners, the other partners who are not defendants in the action or any of them may, at any time before final judgment, apply to the judge who granted the writ or to the court, upon an affidavit showing the facts, for an order to discharge the attachment as to that interest.

(2) Upon ~~such~~ an application, the applicant shall give an undertaking, with at least two sufficient sureties, to the effect that they will pay to the sheriff, on demand, the amount of any judgment ~~which that~~ *that* may be recovered against the partner who is defendant in the action or ~~which that~~ *that* may be recovered against ~~him that partner~~ *that partner* in any other action in which the other partners are not defendants and in which a writ of attachment or an execution may come into the sheriff's hands at any time before the writ of attachment ~~which that~~ *that* was so levied is vacated and annulled, not exceeding the sum specified in the undertaking, which may not be less than the value of the interest of the defendant in the partnership as fixed by the court or judge. If, in the opinion of the court or judge, the value is uncertain, the sum must be ~~such as an amount that~~ *such as an amount that* the court or judge determines. For the purpose of fixing the sum or to determine the sufficiency of its sureties, the court or judge may receive affidavits or oral testimony or may direct a reference."

Section 1303. Section 35-11-201, MCA, is amended to read:

"35-11-201. Register of names to be kept by county clerk. ~~Every~~ *Each* county clerk ~~must shall~~ keep a register of the names of firms and persons mentioned in the certificates filed with ~~him the clerk~~, pursuant to 35-11-101 through 35-11-103 prior to repeal by section 18, Chapter 260, Laws of 1979, entering in alphabetical order the name of every ~~such~~ partnership and of each partner ~~therein in the partnership.~~

Section 1304. Section 35-11-202, MCA, is amended to read:

“35-11-202. Certified copies of register and proof of publication to be evidence. Copies of the entries of a county clerk, when certified by ~~him~~ *the clerk*, and affidavits of publication pursuant to 35-11-101 through 35-11-103 prior to repeal by section 18, Chapter 260, Laws of 1979, made by the printer, publisher, or chief clerk of a newspaper are presumptive evidence of the facts ~~therein~~ *stated in the certificate or affidavits.*”

Section 1305. Section 35-12-504, MCA, is amended to read:

“35-12-504. Definitions. In this chapter, the following definitions apply:

(1) “Certificate of limited partnership” means the certificate referred to in 35-12-601, as that certificate is amended or restated from time to time.

(2) “Contribution” means any cash, property, or services rendered or a promissory note or other binding obligation to contribute cash or property or to perform services, ~~which~~ *that* a partner contributes to a limited partnership in ~~his~~ *the* capacity as a partner.

(3) “Event of withdrawal of a general partner” means an event that causes a person to cease to be a general partner as provided in 35-12-802.

(4) “Foreign limited partnership” means a partnership formed under the laws of any state other than this state and having as partners one or more general partners and one or more limited partners.

(5) “General partner” means a person who has been admitted to a limited partnership as a general partner in accordance with the partnership agreement and who is named in the certificate of limited partnership as a general partner.

(6) “Limited partner” means a person who has been admitted to a limited partnership as a limited partner in accordance with the partnership agreement.

(7) “Limited partnership” and “domestic limited partnership” mean a partnership formed by two or more persons under the laws of this state and having one or more general partners and one or more limited partners.

(8) “Partner” means any limited partner or general partner.

(9) “Partnership agreement” means the agreement, written or, to the extent not prohibited by law, oral, or both, of the partners as to the affairs of a limited partnership and the conduct of its business.

(10) “Partnership interest” has the meaning specified in 35-12-1101.

(11) “Person” means a natural person, partnership, limited partnership (domestic or foreign), trust, estate, association, or corporation.

(12) “State” means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.”

Section 1306. Section 35-12-506, MCA, is amended to read:

“35-12-506. Reservation of name. (1) The exclusive right to the use of a name may be reserved by:

(a) any person intending to organize a limited partnership under this chapter and to adopt that name;

(b) any domestic limited partnership or any foreign limited partnership registered in this state ~~which~~ *that*, in either case, intends to adopt that name;

(c) any foreign limited partnership intending to register in this state and to adopt that name; and

(d) any person intending to organize a foreign limited partnership and intending to have it registered in this state and to adopt that name.

(2) The reservation must be made by filing with the secretary of state an application, executed by the applicant, to reserve a specified name. If the secretary of state finds that the name is available for use by a domestic or foreign limited partnership, ~~he~~ *the secretary of state* shall reserve the name for the exclusive use of the applicant for a period of 120 days. Once having reserved a name, the applicant may not again reserve the name until more than 60 days after the expiration of the last 120-day period for which that applicant had reserved that name. The right to the exclusive use of a name so reserved may be transferred to any other person by filing in the office of the secretary of state a notice of the transfer, executed by the applicant for whom the name was reserved and specifying the name and address of the transferee.”

Section 1307. Section 35-12-804, MCA, is amended to read:

“35-12-804. Contributions by a general partner. A general partner may make contributions to a limited partnership and share in the profits and losses of and in distributions from the limited partnership as a general partner. A general partner may also make contributions to and share in profits, losses, and distributions as a limited partner. A person who is both a general partner and a limited partner has all the rights and powers and is subject to all the restrictions and liabilities of a general partner and also has, except as otherwise provided in the partnership agreement, all powers and is subject to the restrictions of a limited partner to the extent ~~he~~ *the person* is participating in the partnership as a limited partner.”

Section 1308. Section 35-12-1002, MCA, is amended to read:

“35-12-1002. Withdrawal of general partner. A general partner may withdraw from a limited partnership at any time by giving written notice to the other partners, but if the withdrawal violates the partnership agreement, the limited partnership may recover from the withdrawing general partner damages for breach of the partnership agreement and offset the damages against the amount otherwise distributable to ~~him~~ *the withdrawing partner*.”

Section 1309. Section 35-12-1006, MCA, is amended to read:

“35-12-1006. Right to distributions. At the time a partner becomes entitled to receive a distribution, ~~he~~ *the partner* has the status of and is entitled to all of the remedies available to a creditor of the limited partnership with respect to the distribution.”

Section 1310. Section 35-12-1102, MCA, is amended to read:

“35-12-1102. Assignment of partnership interest. Except as otherwise provided in the partnership agreement, a partnership interest is assignable in whole or in part. An assignment of a partnership interest does not dissolve a limited partnership or entitle the assignee to become a partner or to exercise any of the rights ~~thereof~~ *of a partner*. An assignment only entitles the assignee to receive, to the extent assigned, any distributions to which the assignor would be entitled. Except as otherwise provided in the partnership agreement, a partner ceases to be a partner upon assignment of all ~~his~~ *the partner's* partnership interest.”

Section 1311. Section 35-12-1103, MCA, is amended to read:

“35-12-1103. Rights of creditors. On due application to a court of competent jurisdiction by any judgment creditor of a partner, the court may charge the partnership interest of the partner with payment of the unsatisfied amount of the judgment debt, with interest ~~thereon~~. To the extent ~~so~~ charged, the judgment creditor has only the rights of an assignee of the partnership

interest. This chapter does not deprive any partner of the benefit of any exemption laws applicable to ~~his~~ *the partner's* partnership interest.”

Section 1312. Section 35-12-1105, MCA, is amended to read:

“35-12-1105. Power of estate of deceased or incompetent partner. If a partner who is a natural person dies or a court of competent jurisdiction adjudges ~~him~~ *that partner* to be incompetent to manage ~~his~~ *the partner's* person or ~~his~~ property, the partner's personal representative, guardian, conservator, or other legal representative may exercise all of the partner's rights for the purpose of settling ~~his~~ *the partner's* estate or administering ~~his~~ *the partner's* property, including any power the partner had to give an assignee the right to become a limited partner. If a partner that is a corporation, trust, or other entity other than a natural person is dissolved or terminated, those powers may be exercised by the legal representative or successor of the partner.”

Section 1313. Section 35-12-1203, MCA, is amended to read:

“35-12-1203. Winding up. Unless otherwise provided in the partnership agreement, the general partners who have not wrongfully dissolved the limited partnership or, if none, the limited partners may wind up the limited partnership's affairs; ~~but~~ *However*, any partner, ~~his~~ *a partner's* legal representative, or ~~his~~ *a partner's* assignee, upon cause shown, may obtain winding up by the district court.”

Section 1314. Section 35-12-1404, MCA, is amended to read:

“35-12-1404. Expenses. If a derivative action is successful, in whole or in part, or anything is received by the plaintiff as a result of a judgment, compromise, or settlement of an action or claim, the court may award the plaintiff reasonable expenses, including reasonable ~~attorney's~~ *attorney* fees, and shall direct ~~him~~ *the plaintiff* to account to the limited partnership for the remainder of the proceeds ~~so~~ received by ~~him~~ *the plaintiff*.”

Section 1315. Section 35-13-204, MCA, is amended to read:

“35-13-204. Profits and losses — how shared. A member of a mining partnership shares in the profits and losses ~~thereof of the partnership~~ in the proportion ~~which~~ *that* the interest or share ~~he~~ *the member* owns in the mine bears to the whole partnership capital or whole number of shares.”

Section 1316. Section 35-13-205, MCA, is amended to read:

“35-13-205. Lien of partner for debts due creditors. Each member of a mining partnership has a lien on the partnership property for the debts due the creditors ~~thereof of the partnership~~ and for money advanced by ~~him~~ *the member* for its uses. This lien exists notwithstanding ~~there is~~ an agreement among the partners that it ~~must~~ *may not exist*.”

Section 1317. Section 35-13-206, MCA, is amended to read:

“35-13-206. Partnership not dissolved by sale of interest — purchaser becomes partner. One of the partners in a mining partnership may convey ~~his~~ *the partner's* interest in the mine and business without dissolving the partnership. The purchaser from the date of ~~his~~ purchase becomes a member of the partnership.”

Section 1318. Section 35-13-207, MCA, is amended to read:

“35-13-207. Purchaser takes subject to liens — exception for good faith purchaser. A purchaser of an interest in the mining ground of a mining partnership takes it subject to the liens existing in favor of the partners for debts due all creditors ~~thereof of the partnership~~ or advances made for the benefit of

the partnership unless ~~he~~ *the purchaser* purchased in good faith for a valuable consideration without notice of ~~such~~ *the* lien.”

Section 1319. Section 35-15-303, MCA, is amended to read:

“35-15-303. Stockholder voting by mail. At any regularly called general or special meeting of the stockholders of cooperative associations, a written vote received by mail from any absent stockholder and signed by ~~him~~ *the stockholder* may be read in ~~such~~ *the* meeting and ~~shall must~~ be equivalent to a vote of each of the *signing* stockholders ~~so signing~~, provided ~~he~~ *the stockholder* has been previously notified in writing of the exact motion or resolution upon which ~~such~~ *the* vote is taken and a copy of the ~~same~~ *motion or resolution* is forwarded with and attached to the *mailed* vote ~~so mailed by him.~~”

Section 1320. Section 35-15-403, MCA, is amended to read:

“35-15-403. Assignment of stock. ~~No~~ An assignment of stock ~~shall may~~ not be made to any person who already owns stock, except by the consent of the board of directors, but stock may be assigned to the association at any time with the consent of the directors. ~~On no~~ a question ~~shall~~ a stockholder *may not* have more than one vote. Every assignment of stock on which there remains any portion unpaid ~~shall must~~ be recorded in the books of the association, and each stockholder ~~shall be~~ *is* jointly and severally liable with the association for the debts of the association to the extent of the amount ~~which shall be~~ *that is* unpaid upon the share held by ~~him~~ *the stockholder*. ~~No~~ An assignor ~~shall may not~~ be released from ~~any such~~ *the* indebtedness by reason of any assignment of ~~his~~ *the assignor's* share but ~~shall remain~~ *remains* jointly liable ~~therefor~~ with the assignee.”

Section 1321. Section 35-15-404, MCA, is amended to read:

“35-15-404. Share exempt from attachment and execution — sale upon death of member. (1) The share, not exceeding the par value of \$500, of each member ~~shall be~~ *is* exempt from seizure on attachment or sale under execution.

(2) Upon ~~his~~ *a member's* death, the share ~~shall must~~ be sold by the association and the proceeds, after deducting all liabilities to the association, ~~shall must~~ be delivered to ~~his~~ *the deceased member's* heirs.”

Section 1322. Section 35-15-505, MCA, is amended to read:

“35-15-505. Effect of merger or consolidation — rights and obligations — rights of creditors not impaired. (1) After the effective date, the associations ~~which that~~ are parties to the plan become a single association. In the case of a merger, the surviving association is that association ~~so~~ designated in the plan. In the case of a consolidation, the new association is the association provided for in the plan. The separate existence of all associations ~~which that~~ are parties to the plan, except the surviving or new association, then ceases.

(2) The surviving or new association possesses all the rights and all the property of each of the individual associations and is responsible for all their obligations. Title to any property is vested in the surviving or new association with no reversion or impairment ~~thereof~~ *of the title* caused by the merger or consolidation. ~~No~~ The right of any creditor may not be impaired by the merger or consolidation without ~~his~~ *the creditor's* consent.

(3) ~~Nothing in this~~ This part ~~shall may not~~ be construed to impair the obligation of any contract to which any of ~~such~~ *the* constituents was a party at the date of ~~said~~ consolidation.”

Section 1323. Section 35-16-210, MCA, is amended to read:

“35-16-210. Existing associations — reorganization under this chapter. (1) Any cooperative or other corporation, association, society, or group of individuals on or before March 5, 1921, associated together for purposes and objects similar to those contemplated by the provisions hereof of this chapter desiring to come within the provisions hereof of this chapter may, by resolution of their board of directors, direct written notice to be given to each stockholder or member of their corporation or group of individuals of the proposal to organize a corporation or district under the provisions hereof of this chapter and request 10 or more of their members qualified as herein provided for in this chapter to prepare and file, in such the county as that they shall select to make their principal place of business, a petition in accordance with the provisions of 35-16-202. If thereafter after petitioning not less than two-thirds of the stockholders or members as such of such the cooperative or other corporation, association, society, or group of individuals shall either file with the corporation or district their written consent to such the reorganization or petition to become members thereof, in accordance with the provisions hereof of this chapter, or both, the board of directors or other governing board of such the existing cooperative or other corporation, association, society, or group of individuals shall must be authorized to, through proper officers, transfer to such the new corporation or district, when organized, their corporate assets, real, personal, and mixed.

(2) Any stockholder or member of any cooperative or other corporation or society reorganized under the provisions hereof of this section, consenting to such the reorganization but not including lands therein in the reorganized corporation or district, shall be is entitled to a certificate or shares of stock or other evidence of membership in such the reorganized corporation or district of the par value equal to the value of his the stockholder's or member's certificate or shares of stock or membership right in the previous existing cooperative or other corporation or society's assets at the time of such the reorganization and shall be is to this extent a stockholder or member; provided However, any stockholder or member of the corporation or group of individuals that are reorganizing shall may not be considered as increasing the stock of the new corporation so as to require consent of a majority of its members or stockholders to their admission.”

Section 1324. Section 35-16-211, MCA, is amended to read:

“35-16-211. Stockholders dissenting from reorganization of existing association — appraisal remedy. In the event If any stockholder or member of such an existing cooperative or other corporation, association, society, or group of individuals shall decline declines to consent to such the transfer or refuse refuses to become a member of such the new organization, he must the stockholder or member shall, within 30 days from and after receiving written notice of the transfer of said assets to the new corporation or district, serve upon the officers of the newly created corporation or district and file in the district court of the county of its principal place of business his a petition praying for the net value of his the stockholder's or member's equity as a stockholder or member in said the cooperative or other corporation, association, society, or group of individuals in its assets, determined and valued as of the date when the said the property was transferred by the directors or executive officers to the new corporation or district. Upon a failure to, within the time and in the manner specified herein in this section, file such a claim for appraisal and settlement, it shall be forever is barred.”

Section 1325. Section 35-16-212, MCA, is amended to read:

“35-16-212. Association operating two or more enterprises in different parts of state — control by delegates. (1) ~~Any An agricultural association or company~~, either cooperative stock or nonprofit nonstock, ~~agricultural association or company~~ existing on July 1, 1921, or thereafter organized under the laws of Montana *after that date* may own and operate two or more cooperative enterprises in different parts of the state and may exercise and possess the following powers by providing in their articles of incorporation or in their bylaws that:

(a) all powers of the association members or stockholders ~~shall must~~ be exercised by duly elected delegates at any meeting of ~~such~~ delegates ~~which that~~ may be called. They shall elect ~~such~~ officers and transact ~~such~~ business in the same manner ~~as that~~ the association members or stockholders are empowered to do. ~~Such The~~ officers and board of directors ~~as that~~ the delegates may elect ~~shall must~~ be known as “general officers” or “general board of directors”.

(b) stockholders or members of ~~such the~~ cooperative stock or nonprofit nonstock agricultural associations or companies ~~shall must~~ be grouped into locals in ~~such the~~ districts ~~as that~~ the general board of directors may from time to time direct;

(c) each local, with territorial limits as determined by the general board of directors, shall elect from among its stockholders or members one delegate and one alternate to represent the local at any meeting of the association or company. ~~Such The~~ delegate and alternate shall serve for 1 year. The alternate shall serve as delegate at all meetings where the delegate may not be in attendance.

(d) each delegate may have only one vote, regardless of the number of stockholders or members ~~which he~~ *that the delegate* represents.

(2) Nothing in this section limits the powers of the board of directors of any corporation.”

Section 1326. Section 35-16-302, MCA, is amended to read:

“35-16-302. Procedure for receiving other members. (1) Whenever any corporation or district has been formed under the provisions ~~hereof of this chapter~~, it is authorized and directed to permit other holders of title or evidence of title of similar or like agricultural, horticultural, or farm ~~lands land~~ within this state to become members ~~thereof~~, upon ~~such the~~ holder of title or evidence of title, in manner and form ~~as that~~ may be required by the laws of Montana and the rules of ~~such the~~ corporation or district or its bylaws, applying for membership ~~therein~~ to the officers ~~thereof of the corporation or district~~ by written application, duly acknowledged:

(a) containing a full, true, and correct description of the ~~lands land~~ owned by ~~him the applicant~~ and proposed to be contained in ~~said the~~ corporation or district;

(b) containing a statement of ~~his the applicant's~~ desire to become a member ~~thereof~~ and ~~his the applicant's~~ consent to submit ~~his-lands the applicant's land~~ to the provisions ~~hereof of this chapter~~ and to the administration of ~~said the~~ corporation or district and its bylaws and to its objects and purposes; and

(c) accompanied by a map of the ~~lands so land~~ owned by ~~him the applicant~~ and proposed to be submitted to ~~said the~~ corporation or district, its objects and purposes.

(2) If ~~said the~~ application ~~shall be~~ *is* in proper form and the applicant ~~be is~~ the holder of title or evidence of title to the ~~lands land~~ described and the uses of ~~said~~

the land as represented in said the petition be are similar to the uses of lands land already included in said the corporation or district, a full, true, and correct copy of his the application shall must be made and filed in the office of principal place of business of the corporation or district and his the original application shall must be filed and recorded in the office of the county clerk and recorder of the county in which the lands land or the greater portion thereof of the land is situate located. He shall thereupon be Upon filing, the applicant is entitled to evidence of temporary membership, in shares or units of membership, in a similar manner as the original members thereof and the lands land described in the petition shall thereafter must be construed to be a part of said the corporation or district to all intents and purposes as though originally incorporated therein in the corporation or district. Upon the consent of a majority of the members or stockholders given in the annual meeting or at a special meeting called as provided by law for that purpose, such the new member or stockholder shall be is entitled to full membership in such the corporation or district.”

Section 1327. Section 35-16-303, MCA, is amended to read:

“35-16-303. Withdrawal of membership lands land — procedure. Any person holding title or evidence of title to membership lands land included in a corporation or district organized under the provisions hereof subsequently of this chapter desiring to withdraw his lands the person’s land from such the corporation or district may do so upon presenting to the board of directors his a verified petition stating that he the person is the holder of title or evidence of title to membership lands land included therein in the corporation or district, particularly describing the same land with a map or plat thereof, that he the person is desirous of withdrawing wishes to withdraw from such the corporation or district, and tendering to said the board the pro rata amount of liability of his lands the person’s land for all of the corporation’s lawfully created and existing lien liabilities together with his the person’s pro rata amount of interest due and to become due upon any such liabilities to the maturity of the same liabilities. If the matters and things set forth in said the petition shall be are true and said the petitioner shall deposit deposits with the board his the petitioner’s pro rata amount of the liabilities as before herein set out or furnish furnishes a receipt for such the amount from the mortgage or lien holders holding liens against such the lands, the proper officers of the corporation or district shall make, execute, acknowledge, and deliver a release of said the lands from incorporation the corporation or district and its liabilities. Upon presentation of such the release to the mortgage holder or lien holder lienholder claiming a right against said the membership lands, they shall furnish their release thereof, which said release or releases may be filed and recorded in any county or counties in which said lands may be situated the land is located. The board of directors and corporate assets of the corporation shall must be responsible to any mortgage or lien holder lienholder and the withdrawee for the payments of such funds on their debt or liability.”

Section 1328. Section 35-16-304, MCA, is amended to read:

“35-16-304. Withdrawal — application to court for order. In the event If the board of directors shall refuse refuses or fail fails for a period of 30 days to act upon such a petition of withdrawal, the petitioner shall be is entitled to apply to the district court in the county wherein said in which the lands land or the larger proportion of the same shall be land is situated for an order of withdrawal, and upon his payment to the clerk of the court for the use and benefit of the holders of mortgages or other liens against said the corporation or

its membership ~~lands~~ *land* of the pro rata amount of ~~his~~ *the petitioner's* land's liabilities ~~therefor, he shall be~~ *the petitioner is* entitled to an order of withdrawal and release of ~~his~~ *the petitioner's land* ~~lands from said court.~~ The filing with the clerk and recorder of a duly certified copy of ~~such~~ *the* order permitting withdrawal ~~shall operate~~ *operates* to release the membership ~~lands~~ *land* described ~~therein in the order~~ from any liens of the corporation under the provisions ~~hereof of this chapter.~~"

Section 1329. Section 35-16-311, MCA, is amended to read:

"35-16-311. Meetings — voting — proxies. At the organization meeting or any meeting of the stockholders or members of a corporation or district organized under the provisions ~~hereof of this chapter,~~ each member and each unit of membership in acres, production, or other evidence of membership ~~shall be~~ *is* entitled to vote in person or by proxy. Corporate action at ~~such a~~ meeting ~~shall must~~ be determined by a majority of the membership and a majority of the acres, production, or units of membership, as may have been adopted. Any group of members of a subdivision or subdistrict of the corporation or district as may be defined and designated by the board of directors or ~~the~~ bylaws shall, at a subdivision or subdistrict meeting called for the purpose, elect a delegate or proxy to represent all of the membership in the subdivision or subdistrict at any ~~such organization~~ meeting or *meeting of the stockholders or members.* ~~Where~~ *If* any subdivision or subdistrict fails to elect ~~such a~~ delegate, any individual member may give a proxy. ~~provided no~~ *However,* a person ~~shall be~~ *who is not a member of the corporation or district and a resident agricultural or horticultural freeholder in the state of Montana for at least 3 years immediately preceding the meeting is not* entitled to act as proxy ~~who is not himself a member of the corporation or district and a resident agricultural or horticultural freeholder in the state of Montana for not less than 3 years immediately preceding such meeting.~~"

Section 1330. Section 35-16-314, MCA, is amended to read:

"35-16-314. Qualifications of directors — quorum — vacancies. (1) ~~No~~ A person ~~shall be~~ *is not* eligible to be a director of any corporation or district organized under the provisions ~~hereof~~ *of this chapter unless the person is* a member of the corporation or district and a resident agricultural freeholder in the state of Montana.

(2) A quorum of the board of directors ~~shall at all times be~~ *is* necessary for the transaction of business. ~~provided~~ *However,* if the bylaws or board of directors ~~shall~~ provide for an executive committee, a quorum of ~~such that~~ committee ~~shall have authority to~~ *may* carry on business.

(3) Whenever a vacancy occurs in the office of a director, unless the bylaws ~~shall otherwise~~ provide *otherwise,* ~~such the~~ vacancy may be filled by appointment by the board of directors."

Section 1331. Section 35-17-206, MCA, is amended to read:

"35-17-206. Bylaws. (1) Each association incorporated under this chapter ~~must~~ *shall,* within 30 days after its incorporation, adopt for its government and management a code of bylaws, not inconsistent with the powers granted by this chapter. A majority vote of the members or stockholders or their written assent is necessary to adopt ~~such the~~ bylaws. The bylaws may be amended at any regular or special meeting if approved by a majority vote of the stockholders ~~voting thereon.~~

(2) Each association under its bylaws may also provide for any or all of the following matters:

- (a) the time, place, and manner of calling and conducting its meetings;
- (b) the number of stockholders or members constituting a quorum;
- (c) the right of members or stockholders to vote by proxy or by mail or by both and the conditions, manner, form, and effects of ~~such~~ *those* votes;
- (d) the number of directors constituting a quorum;
- (e) the qualifications, compensation, duties, and term of office of directors and officers, *the* time of their election, and the mode and manner of giving notice ~~thereof of these matters~~;
- (f) penalties for violations of the bylaws;
- (g) the amount of entrance, organization, and membership fees, if any, the manner and method of collection of the ~~same~~ *fees*, and the purposes for which they may be used;
- (h) the amount ~~which~~ *that* each member or stockholder ~~shall be~~ *is* required to pay annually or from time to time, if at all, to carry on the business of the association, the charge, if any, to be paid by each member or stockholder for services rendered by the association to ~~him~~ *the stockholder or member* and the time of payment and the manner of collection, and the marketing contract between the association and its members or stockholders which every member or stockholder may be required to sign;
- (i) the number and qualifications of members or stockholders of the association and the conditions precedent to membership or ownership of common stock; the method, time, and manner of permitting members to withdraw or the holders of common stock to transfer their stock; the manner of assignment and transfer of the interest of members and the shares of common stock; *and* the conditions upon which and the time when membership of any member ~~shall cease~~ *ceases*;
- (j) the automatic suspension of the rights of a member when ~~he~~ *the member* ceases to be eligible ~~to~~ *for* membership in the association and the mode, manner, and effect of the expulsion of a member;
- (k) the manner of determining the value of a member's interest and provision for its purchase by the association upon the death or withdrawal of a member or stockholder or upon the expulsion of a member or forfeiture of ~~his~~ membership or, at the option of the association, by conclusive appraisal by the board of directors."

Section 1332. Section 35-17-303, MCA, is amended to read:

"35-17-303. Limited liability of members. Except for debts lawfully contracted between ~~him~~ *a member* and the association, ~~no~~ *a member shall be is not* liable for the debts of the association ~~to~~ *for* an amount exceeding the sum remaining unpaid on ~~his~~ *the member's* membership fee or ~~his~~ subscription to the capital stock, including any unpaid balance on any promissory notes given in payment ~~thereof of the subscription~~."

Section 1333. Section 35-17-311, MCA, is amended to read:

"35-17-311. Directors — election — compensation — interest in contracts — vacancies. (1) The affairs of the association ~~shall~~ *must* be managed by a board of not less than five directors elected by the members or stockholders from their own number. The bylaws may provide that the territory in which the association has members ~~shall~~ *must* be divided into districts and that the directors ~~shall~~ *must* be elected according to ~~such~~ *the* districts. In ~~such a~~ *that* case, the bylaws ~~shall~~ *must* specify the number of directors to be elected by

each district, the manner and method of reapportioning the directors, and *the manner and method* of redistricting the territory covered by the association. The bylaws may provide that primary elections ~~should~~ *must* be held in each district to elect the directors apportioned to ~~such~~ *the* districts, and the result of all ~~such~~ primary elections must be ratified by the next regular meeting of the association.

(2) An association may provide a fair remuneration for the time actually spent by its officers and directors in its service.

(3) ~~No~~ A director during the term of ~~his~~ office ~~shall~~ *may not* be a party to a contract for profit with the association differing in any way from the business relations accorded regular members or holders of common stock of the association or to any other kind of contract differing from terms generally current in that district.

(4) When a vacancy on the board of directors occurs, other than by expiration of *a* term, the remaining members of the board by a majority vote shall fill the vacancy unless the bylaws ~~provided~~ *provide* for an election of directors by district. In ~~such~~ *a* ~~that~~ case, the board of directors shall immediately call a special meeting of the members or stockholders in that district to fill the vacancy.”

Section 1334. Section 35-17-313, MCA, is amended to read:

“35-17-313. Removal of officer or director. (1) Any member may bring charges against an officer or director by filing them in writing with the secretary of the association, together with a petition signed by 10% of the members, requesting the removal of the officer or director in question. The removal ~~shall~~ *must* be voted upon at the next regular or special meeting of the association, and by a vote of a majority of the members, the association may remove the officer or director and fill the vacancy. The director or officer against whom ~~such~~ charges have been brought ~~shall~~ *must* be informed in writing of the charges previous to the meeting and ~~shall~~ *must* have an opportunity at the meeting to be heard in person or by counsel and to present witnesses, and the person or persons bringing the charges against ~~him~~ *the director or officer* ~~shall~~ *must* have the same opportunity.

(2) ~~In case~~ *If* the bylaws provide for election of directors by districts with primary elections in each district, then the petition for removal of a director must be signed by 12% of the members residing in the district from which ~~he~~ *the* director was elected. The board of directors ~~must~~ *shall* call a special meeting of the members residing in that district to consider the removal of the director. By a vote of the majority of the members of that district, the director in question ~~shall be~~ *is* removed from office.”

Section 1335. Section 35-17-401, MCA, is amended to read:

“35-17-401. Marketing contracts. (1) The association and its members may make and execute marketing contracts requiring the members to sell, for any period of time not over 10 years, all or any specified part of their agricultural products or specified commodities exclusively to or through the association or any facilities to be created by the association. The contract may provide that the association may sell or resell the products of its members with or without taking title ~~thereto~~ *to the products* and pay over to its members the resale price after deducting all necessary selling, overhead, and other costs and expenses.

(2) The bylaws and the marketing contract may fix, as liquidated damages, specific sums to be paid by the member or stockholder to the association upon the breach by ~~him~~ *the member or stockholder* of any provisions of the marketing

contract regarding the sale or delivery or withholding of products and may further provide that the member *or stockholder* will pay all costs, premiums for bonds, expenses, and fees in case any action is brought upon the contract by the association, and ~~any such~~ *these* provisions ~~shall be~~ *are* valid and enforceable in the courts of this state.

(3) In the event of any ~~such~~ breach or threatened breach of ~~such a~~ marketing contract by a member, the association ~~shall be~~ *is* entitled to an injunction to prevent the further breach of the contract and to a decree of specific performance ~~thereof~~. Pending the adjudication of ~~such~~ an action and upon filing a verified complaint showing the breach or threatened breach and upon filing a sufficient bond, the association ~~shall be~~ *is* entitled to a temporary restraining order and preliminary injunction against the member *or stockholder*.”

Section 1336. Section 35-17-505, MCA, is amended to read:

“35-17-505. Effect of merger or consolidation — rights and obligations — rights of creditors not impaired. (1) On the effective date, the associations ~~which that~~ are parties to a plan adopted pursuant to this part become a single association. In the case of a merger, the surviving association is that association ~~so~~ designated in the plan. The articles and bylaws of the surviving association are amended to the extent provided in the documents setting forth the plan of merger. In the case of a consolidation, the new association is the association provided for in the plan. The separate existence of all associations ~~which that~~ are parties to the plan, except the surviving or new association, then ceases.

(2) The surviving or new association possesses all the rights and all the property of each of the individual associations and is responsible for all their obligations. Title to any property is vested in the surviving or new association with no reversion or impairment ~~thereof of title~~ caused by the merger or consolidation.

(3) ~~No~~ *The* right of any creditor may *not* be impaired by the merger or consolidation without ~~his the~~ *the creditor's* consent.”

Section 1337. Section 35-18-312, MCA, is amended to read:

“35-18-312. Trustees — term — quorum — powers. (1) The trustees of a cooperative named in any articles of incorporation, consolidation, merger, or conversion, ~~as the case may be, shall~~ hold office until the next ~~following~~ annual meeting of the members or until their successors ~~shall~~ have been elected and qualified. At each annual meeting or, in case of failure to hold the annual meeting as specified in the bylaws, at a special meeting called for that purpose, the members shall elect trustees who may serve for 1-, 2-, or 3-year terms. Each trustee shall ~~hold~~ *holds* office for the term for which ~~he the~~ *the trustee* is elected or until ~~his a~~ *his* successor ~~shall have been~~ *is* elected and qualified.

(2) A majority of the board of trustees ~~shall constitute~~ *constitutes* a quorum.

(3) The board of trustees may exercise all of the powers of a cooperative, except ~~such as~~ *powers that* are conferred upon the members by this chapter or its articles of incorporation or bylaws.”

Section 1338. Section 35-18-314, MCA, is amended to read:

“35-18-314. Officers. The officers of a cooperative ~~shall~~ consist of a president, ~~vice-president~~ *vice president*, secretary, and treasurer who ~~shall~~ *must* be elected annually by and from the board of trustees. ~~No~~ *A* person ~~shall~~ *may not* continue to hold any of the above offices ~~office~~ after ~~he~~ *he* ~~shall have ceased~~ *the person ceases* to be a trustee. The offices of secretary and of treasurer may be

held by the same person. The board of trustees may also elect or appoint ~~such~~ other officers, agents, or employees ~~as that it shall deem~~ *considers* necessary or advisable and shall prescribe the powers and duties ~~thereof of those offices~~. Any officer may be removed from office and ~~his~~ *a* successor elected in the manner prescribed in the bylaws.”

Section 1339. Section 35-18-405, MCA, is amended to read:

“35-18-405. Dissolution and winding up of cooperative ~~which that~~ has commenced business. A cooperative ~~which that~~ has commenced business may dissolve voluntarily and wind up its affairs in the following manner:

(1) The board of trustees shall first recommend that the cooperative be dissolved voluntarily, and ~~thereafter~~ *then* the proposition that the cooperative be dissolved ~~shall must~~ be submitted to the members of the cooperative at any annual or special meeting, the notice of which ~~shall must~~ set forth ~~such the~~ proposition. The proposed voluntary dissolution ~~shall must~~ be ~~deemed~~ *considered* to be approved upon the affirmative vote of not less than two-thirds of all of the members of the cooperative.

(2) Upon ~~such~~ approval, a certificate of election to dissolve, ~~hereinafter~~ designated the “certificate”, ~~shall must~~ be executed on behalf of the cooperative by its president or ~~vice-president~~ *vice president* and its corporate seal ~~shall must~~ be affixed ~~thereto to the certificate~~ and attested by its secretary or assistant secretary. The certificate ~~shall must~~ state the name of the cooperative, the address of its principal office, the names and addresses of its trustees, and the total number of members who voted for and against the voluntary dissolution of the cooperative. The president or ~~vice-president~~ *vice president* executing the certificate shall also make and ~~annex thereto~~ *attach to the certificate* an affidavit stating that the provisions of this subsection were ~~duly~~ complied with. ~~Such The~~ certificate and affidavit ~~shall must~~ be submitted to the secretary of state for filing as provided in this chapter.

(3) Upon the filing of the certificate and affidavit by the secretary of state, the cooperative ~~shall must~~ cease to carry on its business except ~~insofar as may be~~ *to the extent* necessary for the winding up ~~thereof of the cooperative~~, but its corporate existence ~~shall continue~~ *continues* until articles of dissolution have been filed by the secretary of state.

(4) After the filing of the certificate and affidavit by the secretary of state, the board of trustees shall immediately cause notice of the winding up proceedings to be mailed to each known creditor and claimant and to be published once a week for 2 successive weeks in a newspaper of general circulation in the county in which the principal office of the cooperative is located.

(5) The board of trustees ~~shall have~~ *has* full power to wind up and settle the affairs of the cooperative and shall proceed to collect the debts owing to the cooperative, convey and dispose of its property and assets, pay, satisfy, and discharge its debts, obligations, and liabilities, and do all other things required to liquidate its business and affairs and after paying or adequately providing for the payment of all its debts, obligations, and liabilities shall distribute the remainder of its property and assets among its members in proportion to the aggregate patronage of each ~~such~~ member during the 7 years ~~next~~ preceding the date of ~~such~~ filing of the certificate or, if the cooperative ~~shall has~~ not ~~have~~ been in existence for ~~such period~~ *7 years*, during the period of its existence.

(6) When all debts, liabilities, and obligations of the cooperative have been paid and discharged or adequate provision ~~shall have~~ *has* been made ~~therefor~~

for payment or discharge and all of the remaining property and assets of the cooperative ~~shall~~ have been distributed to the members pursuant to the provisions of this section, the board of trustees shall authorize the execution of articles of dissolution, which ~~shall thereupon must~~ be executed on behalf of the cooperative by its president or ~~vice-president~~ *vice president* and its corporate seal ~~shall must~~ be affixed ~~thereto to the articles~~ and attested by its secretary. ~~Such~~ The articles of dissolution ~~shall must~~ recite in the caption that they are executed pursuant to this chapter and ~~shall must~~ state:

- (a) the name of the cooperative;
- (b) the address of the principal office of the cooperative;
- (c) that the cooperative has ~~heretofore~~ *previously* delivered to the secretary of state a certificate of election to dissolve and the date on which the certificate was filed by the secretary of state in the records of ~~his~~ *that* office;
- (d) that all debts, obligations, and liabilities of the cooperative have been paid and discharged or that adequate provision has been made ~~therefor for~~ *payment or discharge*;
- (e) that all the remaining property and assets of the cooperative have been distributed among the members in accordance with the provisions of this section; and
- (f) that there are no actions or suits pending against the cooperative. The president or ~~vice-president~~ *vice president* executing the articles of dissolution shall also make and ~~annex thereto attach to the articles~~ an affidavit stating that the provisions of this subsection (6) were ~~duly~~ complied with. ~~Such~~ The articles of dissolution and affidavit, accompanied by proof of the publication required in this subsection (6), ~~shall must~~ be submitted to the secretary of state for filing as provided in this chapter.”

Section 1340. Section 35-18-501, MCA, is amended to read:

“35-18-501. Filings relative to incorporation, amendment, conversion, merger, consolidation, and dissolution — effect of filing — transmittal to county clerk. (1) Articles of incorporation, amendment, consolidation, merger, conversion, *or* dissolution, ~~as the case may be~~, when executed and accompanied by ~~such~~ affidavits ~~as that~~ may be required by applicable provisions of this chapter, ~~shall must~~ be presented to the secretary of state for filing ~~in the records of his office~~. If the secretary of state ~~shall find~~ *finds* that the articles presented conform to the requirements of this chapter, ~~he the~~ *secretary of state* shall upon the payment of the fees as *provided* in this chapter ~~provided~~ file the articles ~~so presented in the records of his office~~, and upon ~~such~~ filing, the incorporation, amendment, consolidation, merger, conversion, or dissolution ~~provided for therein shall be~~ *is* in effect.

(2) The secretary of state, immediately upon the filing ~~in his office~~ of any articles pursuant to this chapter, shall transmit a certified copy ~~thereof~~ to the county clerk of the county in which the principal office of each cooperative or corporation affected by ~~such the~~ incorporation, amendment, consolidation, merger, conversion, or dissolution ~~shall be~~ *is* located. The clerk of any county, upon receipt of any ~~such~~ certified copy, shall file and index the ~~same copy~~ in the records of ~~his that~~ office, but the failure of the secretary of state or of a clerk of a county to comply with the provisions of this section ~~shall does~~ not invalidate ~~such the~~ articles.

(3) The provisions of this section ~~shall also~~ apply to certificates of election to dissolve and affidavits of compliance executed pursuant to 35-18-405(2).”

Section 1341. Section 35-20-101, MCA, is amended to read:

“35-20-101. Permissible purposes for association — first meeting — election of trustees. ~~Any number~~ *A group of seven persons or more* residing in any county in the state of Montana, ~~not less than seven~~, who desire to form an association for the purpose of procuring and holding lands to be used exclusively for a cemetery or place of burial of the dead, may meet at ~~such a~~ time and place ~~as~~ *that* they or a majority of them agree upon and appoint a ~~chairman~~ *chairman presiding officer* and secretary by a vote of the majority of the persons present at the meeting and may proceed to form an association by agreeing upon a corporate name by which the association ~~shall~~ *must* be known and by determining upon the number of trustees to manage the affairs of the association, ~~which~~ *The* number ~~shall~~ *of trustees may* not be less than three or more than nine. ~~Thereupon~~ *Upon determining the number of trustees* they may proceed to elect ~~by ballot the number of the trustees so determined upon by ballot.”~~

Section 1342. Section 35-20-102, MCA, is amended to read:

“35-20-102. Classification of trustees — staggered terms. The ~~chairman~~ *chairman presiding officer* and secretary of ~~such the~~ *such the* meeting described in 35-20-101 shall immediately after ~~such the~~ *such the* election divide the trustees by lot into three classes, those in the first class to hold their office for 1 year; those in the second class; *for 2 years*; and those in the third class; *for 3 years*; ~~but~~ *However*, the trustees of each class may be reelected if they possess the qualifications ~~hereinafter~~ *mentioned in this part*. ~~Such~~ *The* meeting ~~shall~~ *must* also determine on what day in each year the future annual election of trustees ~~shall~~ *will* be held.”

Section 1343. Section 35-20-103, MCA, is amended to read:

“35-20-103. Document of incorporation — contents — filing. (1) The ~~chairman~~ *chairman presiding officer* and secretary of ~~such the~~ *such the* meeting described in 35-20-101 shall within 5 days after the holding of the ~~same~~ *meeting* make a written certificate, which ~~shall~~ *must* state:

- (a) the names of the associates who attended ~~such the~~ *the* meeting;
- (b) the corporate name of the association determined ~~upon~~ *by* a majority of the persons who met;
- (c) the number of persons ~~fixed~~ *agreed* upon to manage the concerns of the association;
- (d) the names of the trustees chosen at the meeting and their classification;
- (e) the day of the year ~~fixed upon~~ *identified* for the annual election of trustees and the manner of their election.

(2) In addition to provisions required in subsection (1), the document of incorporation may also contain provisions not inconsistent with law regarding liability as set forth in 35-1-216(2)(d).

(3) ~~Such~~ *The* certificate ~~shall~~ *must* be signed by the ~~chairman~~ *chairman presiding officer* and secretary and acknowledged by them before some person authorized to take acknowledgments within the state of Montana. They shall cause ~~such the~~ *the* ~~acknowledged~~ *acknowledged* certificate ~~so acknowledged~~ to be recorded in the office of the county clerk and recorder of the county in which ~~said the~~ *said the* meeting was held, and a certified copy of ~~such the~~ *the* ~~recorded~~ *recorded* certificate ~~so recorded~~ *shall* ~~shall~~ *must* be filed with the secretary of state of the state of Montana, who shall ~~thereupon~~ *thereupon* issue ~~his~~ *his* a certificate ~~therefor~~ *of filing* without charge.”

Section 1344. Section 35-20-208, MCA, is amended to read:

“35-20-208. Trustees to manage — quorum — officers — bond of treasurer. (1) The affairs and property of the association ~~shall~~ *must* be managed by the trustees, a majority of whom is a quorum for the transaction of business.

(2) The trustees shall annually appoint from among their number a president, ~~vice-president~~ *vice president*, secretary, and treasurer who shall hold their offices ~~during~~ *at* the pleasure of the board of trustees. The trustees may require the treasurer to give security for the faithful performance of the duties of ~~his~~ *that* office.”

Section 1345. Section 35-20-209, MCA, is amended to read:

“35-20-209. Duties of secretary — record of interments. The secretary shall perform all the duties of a secretary of a corporation and shall, in addition, keep a record of interments in which ~~he~~ *the secretary* shall enter as correctly and carefully as may be the name, age, sex, ~~nativity~~ *place of birth*, and cause of death with date of burial of every person interred in ~~such~~ *the* cemetery, ~~which facts he~~ *The secretary* shall procure ~~these facts~~ from ~~such~~ friends or relatives of the deceased or the undertaker ~~as that give gives the~~ order for ~~such~~ interment ~~at the~~ *that* time ~~thereof~~ or, ~~in case if the~~ deceased is a pauper, a stranger, or criminal, from the coroner, ~~county~~ physician, ~~overseer of the poor~~, or other public officer directing the burial of the ~~same~~ *deceased*.”

Section 1346. Section 35-20-216, MCA, is amended to read:

“35-20-216. Inalienability of lots. (1) Whenever the ~~lands~~ *land* of ~~such~~ an association ~~are~~ *is* laid out in lots and the lots or any of them are transferred to individual proprietors and there has been an interment in a ~~transferred~~ lot ~~so~~ transferred, that lot from the time of ~~such~~ interment ~~shall forever be~~ *is* inalienable and ~~shall~~ *must*, upon the death of the proprietor, descend to ~~his~~ *to the proprietor's* heirs. However, any one or more of those heirs may release to any other of the heirs ~~his~~ *that individual's* or their interest in the lot. A copy of the release ~~shall~~ *must* be filed with the secretary of the association or with the county clerk and recorder of the county within which the lot is situated. Except by consent of all persons having an interest in the lot, the body of a deceased person may not be interred in that lot unless it is the body of:

(a) a person having an interest in that lot at the time of ~~his~~ *decease* ~~that~~ *person's death*;

(b) a relative of some person having ~~such~~ *an* interest;

(c) the wife or husband of ~~such~~ a person *having an interest*; or

(d) a relative of ~~such~~ *the* husband or wife.

(2) However, the person or persons in whom the title to ~~such~~ *the* lot or lots or part ~~thereof~~ *of the lot or lots* is vested may at any time sell, convey, and release the ~~lot~~ *lot* or lots or parts ~~thereof~~ *of the lot or lots* to the cemetery association maintaining the cemetery in which the lots are situated. A copy of the instruments of ~~such~~ conveyance ~~shall~~ *must* be filed in the same manner provided for release from one heir to another. The cemetery association may use any funds under its control for ~~such~~ *filing* purposes and ~~shall hold~~ *holds* and may convey ~~such~~ *the* lot or lots or parts ~~thereof~~ *of the lot or lots* to other purchasers in the same manner and with the same effect as it holds and conveys any other of its cemetery lots. This ~~provisio~~ *subsection* does not allow or authorize the conveyance to the cemetery association of a piece of ground in which the body of a deceased person lawfully interred actually remains interred at the time of the attempted conveyance.”

Section 1347. Section 35-20-302, MCA, is amended to read:

“35-20-302. Trustees of fund — appointment by district court — qualifications — powers. (1) Whenever ~~moneys to the amount of at least \$100 shall have~~ been received by ~~such a cemetery~~ corporation or association, formed, ~~before or after February 16, 1905,~~ either from the sale of lots or from direct payments of ~~such the~~ corporation or association toward ~~such a~~ fund by lot owners or otherwise, the trustees of ~~such that~~ association shall immediately make application to the judge of the district court for the judicial district in which the cemetery for which ~~such the~~ trust fund exists for the appointment of a trustee or of a board of trustees of ~~such the~~ fund. The judge of ~~such court~~ shall ~~thereupon~~ appoint a trustee or a board of trustees from a list submitted to ~~him~~ by the trustees of ~~such the~~ association. ~~Such The trust fund~~ trustee or ~~such board~~ shall ~~must~~ consist of not less than one or more than five persons, the exact number to rest in the discretion of the trustees of ~~said the~~ association.

(2) ~~Such The~~ trustee or the members of ~~such the~~ board of trustees of ~~such the~~ trust funds must be citizens and freeholders of the state of Montana during all the time they exercise the powers of ~~such the~~ trust. Upon the election, appointment, and qualification ~~as hereinafter provided~~ of the trustees of ~~such the~~ fund, all of the title to the funds included in ~~said the~~ trust and all of the rights, powers, authorities, franchises, and trusts of ~~whatsoever thereunto appertaining shall at once relating to the trust~~ vest in ~~him the trustee~~ or ~~them; board.~~ ~~or However, in case of the failure of if~~ any of those so chosen and appointed ~~as trustees fail~~ to qualify within 30 days after their appointment, the ~~same shall rights, powers, authorities, franchises, and trusts~~ vest in ~~the one or more those~~ who shall qualify. ~~In case of the failure of If~~ any of those so chosen and appointed ~~so fail~~ to qualify within ~~such time 30 days,~~ a vacancy ~~shall exist exists~~ and the judge of ~~said the~~ district court shall ~~forthwith~~ appoint a trustee to fill the vacancy from a list submitted to ~~him~~ by the trustees of ~~such the~~ association ~~some person possessing the above qualifications to fill vacancy or vacancies in said board of trustees of such fund;~~ provided, however, that trustees of ~~such fund heretofore appointed by such cemetery associations or district courts shall continue to hold their office as such trustees until terminated in one of the manners in this chapter provided.~~

(3) The board of trustees ~~shall also have the power and authority to of the association may~~ nominate any bank ~~which that~~ is authorized to act as a trust company in Montana under state or federal law to be trustee of ~~such the~~ trust fund. ~~And in that event In that case,~~ the district court shall ~~make appointment of such appoint the~~ nominee ~~which that~~ shall serve in ~~such capacity~~ without bond but ~~shall be is~~ required to make all reports and discharge all the duties and obligations required of individual trustees.”

Section 1348. Section 35-20-304, MCA, is amended to read:

“35-20-304. Trustees of fund — bond required — renewal of bond — deposit with county treasurer. (1) Before exercising or having any of the powers, duties, rights, titles, authorities, or franchises appertaining to ~~such the~~ trust or to ~~such~~ trusteeship, each person chosen to be a trustee of ~~such the~~ fund shall give to the cemetery association for which the trust is maintained a bond in a sum equaling at least 1 1/3 times the value of the property on hand at the time of giving ~~such the~~ bond, with good and sufficient sureties ~~thereto,~~ who shall justify in the aggregate in at least double the amount of ~~such the~~ bond. ~~the same to~~ ~~The bond must~~ be conditioned for the due and faithful performance of ~~his the trustee's~~ trust until July 1 of the next even-numbered year after the year in

which ~~such the~~ bond shall be given and until ~~such the~~ trustee shall give gives a new bond as hereinafter provided.

(2) Upon July 1 in each even-numbered year, each trustee shall give a new bond conditioned in the same way, the amount thereof to be determined by the same rule, and with sureties as above provided in subsection (1).

(3) Any failure so to renew bonds within 30 days after the time ~~hereinbefore~~ provided shall be is a sufficient ground for removal of any trustee within the discretion of the district court. ~~Such~~ The bonds shall must all be approved by a judge of the district court for the judicial district in which the cemetery for ~~such the~~ trust exists or some part thereof shall be situated of the cemetery is located and shall must be filed with the clerk of the district court of the county in which ~~such the~~ cemetery is located.

(4) The value of the property on hand may be reduced for the purpose of fixing the amount of the bond in an amount equal to the value of the money, bonds, and securities which that the trustee or trustees of the permanent care and improvement fund may elect to and do deposit with the county treasurer as hereinafter provided in subsection (5).

(5) The trustee or trustees of ~~such the~~ fund may deposit ~~such~~ money, bonds, and securities as ~~he or they the trustee or trustees~~ see fit with the county treasurer of the county in which ~~said the~~ cemetery or some part thereof of the cemetery is situated located for safekeeping, and it is the duty of the county treasurer to receive and safely keep all ~~such moneys~~ money, bonds, and securities and pay them out or deliver them up, or any part thereof of them, upon the order of ~~such the~~ trustee or a majority of the trustees, when countersigned by a judge of ~~said the~~ judicial district and not otherwise, and to keep an account with ~~such the~~ trustee or trustees of all ~~such~~ transactions. For the safekeeping and payment and delivery of all ~~such moneys~~ money, bonds, and securities as herein provided, the treasurer and ~~his the treasurer's~~ sureties are liable upon ~~his the treasurer's~~ official bond."

Section 1349. Section 37-1-205, MCA, is amended to read:

"37-1-205. Licensure on completion of supervision. Completion of probation or parole supervision without any subsequent criminal conviction shall be is evidence of rehabilitation; provided, however However, that the facts surrounding the situation that led to the probation or parole supervision may be considered as they relate to the occupation for which a license is sought, and provided that nothing herein shall this chapter may not be construed to prohibit licensure of a person while he the person is under state supervision if the licensing agency finds insufficient evidence to preclude ~~such~~ licensure."

Section 1350. Section 37-2-102, MCA, is amended to read:

"37-2-102. Practices declared unlawful between drug companies and medical practitioners. It shall be is unlawful:

(1) for a drug company to give or sell to a medical practitioner any legal or beneficial interest in the company or in the income thereof of the company with the intent or for the purpose of inducing ~~such the~~ medical practitioner to prescribe to ~~his~~ patients the drugs of the company. The giving or selling of ~~such an~~ interest by the company to a medical practitioner without ~~such the~~ interest first having been publicly offered to the general public shall be is prima facie evidence of ~~such the~~ intent or purpose.

(2) for a medical practitioner to acquire or own a legal or beneficial interest in any drug company, provided it shall is not be unlawful for a medical

practitioner to acquire or own ~~such~~ an interest solely for investment; and the acquisition of an interest ~~which~~ *that* is publicly offered to the general public ~~shall be~~ *is* prima facie evidence of its acquisition solely for investment;

(3) for a medical practitioner to solicit or to knowingly receive from a drug company or for a drug company to pay or to promise to pay to a medical practitioner any rebate, refund, discount, commission, or other valuable consideration for, on account of, or based upon the volume of wholesale or retail sales, at any place, of drugs manufactured, processed, packaged, or distributed by the company.”

Section 1351. Section 37-2-103, MCA, is amended to read:

“37-2-103. Practices declared unlawful between medical practitioners and pharmacies. (1) It ~~shall be~~ *is* unlawful for a medical practitioner to own, directly or indirectly, a community pharmacy. ~~Nothing in this~~ *This* subsection ~~shall~~ *does not* prohibit a medical practitioner from dispensing a drug ~~which he~~ *that the medical practitioner* is permitted to dispense under 37-2-104.

(2) It ~~shall be~~ *is* unlawful for a medical practitioner, directly or indirectly, to solicit or to knowingly receive from a community pharmacy or for a community pharmacy knowingly to pay or promise to pay to a medical practitioner any rebate, refund, discount, commission, or other valuable consideration for, on account of, or based upon income received or resulting from the sale or furnishing by ~~such~~ *the* community pharmacy of drugs to patients of ~~any a~~ medical practitioner.”

Section 1352. Section 37-2-106, MCA, is amended to read:

“37-2-106. Existing ownership of pharmacy. The provisions of 37-2-103(1) ~~shall do not~~ apply to a medical practitioner ~~as with respect to any interest which he~~ *that the medical practitioner* owns ~~as set forth in said subsection on July 1, 1971; provided that~~ *However,* transfer of this interest to another person ~~shall result~~ *results* in immediate termination of ~~such the~~ exemption.”

Section 1353. Section 37-2-201, MCA, is amended to read:

“37-2-201. Nonliability — evidential privilege — application to nonprofit corporations. (1) ~~No~~ A member of a utilization review or medical ethics review committee of a hospital or long-term care facility or of a professional utilization committee, peer review committee, medical ethics review committee, or professional standards review committee of a society composed of persons licensed to practice a health care profession is *not* liable in damages to any person for any action taken or recommendation made within the scope of the functions of the committee if the committee member acts without malice and in the reasonable belief that the action or recommendation is warranted by the facts known to ~~him~~ *the member* after reasonable effort to obtain the facts of the matter for which the action is taken or a recommendation is made.

(2) The proceedings and records of professional utilization, peer review, medical ethics review, and professional standards review committees are not subject to discovery or introduction into evidence in any proceeding. However, information otherwise discoverable or admissible from an original source is not to be construed as immune from discovery or use in any proceeding merely because it was presented during proceedings before the committee, nor is a member of the committee or other person appearing before it to be prevented from testifying as to matters within ~~his~~ *the individual's* knowledge, but ~~he~~ *the*

individual cannot may not be questioned about ~~his~~ *the individual's* testimony or other proceedings before the committee or about opinions or other actions of the committee or any member ~~thereof~~ *of the committee*.

(3) This section also applies to any member, agent, or employee of a nonprofit corporation engaged in performing the functions of a peer review, medical ethics review, or professional standards review committee."

Section 1354. Section 37-2-303, MCA, is amended to read:

"37-2-303. Immunity from liability. A physician or other person reporting pursuant to 37-2-302 ~~shall be~~ *is* presumed to be acting in good faith and in ~~so doing shall be reporting is~~ immune from any liability, civil or criminal, unless ~~he~~ *the individual* acted in bad faith or with malicious purpose."

Section 1355. Section 37-2-311, MCA, is amended to read:

"37-2-311. Report to department of justice by physician. (1) Any physician who diagnoses a physical or mental condition that, in the physician's judgment, will significantly impair a person's ability to safely operate a motor vehicle may voluntarily report the person's name and other information relevant to ~~his~~ *the person's* condition to the department of justice. The department, upon receiving the report, shall require the person ~~so~~ reported to be examined or investigated as provided for in 61-5-207.

(2) (a) The physician's report may be introduced as evidence in any proceeding involving the granting, suspension, or revocation of the person's driver's license, driving privilege, or commercial driver's license before the department or a court.

(b) The physician's report may not be utilized in a criminal proceeding or in a civil proceeding, other than as provided in this subsection (2), without the consent of the patient."

Section 1356. Section 37-2-312, MCA, is amended to read:

"37-2-312. Physician's immunity from liability. ~~Any~~ A physician reporting in good faith is immune from any liability, civil or criminal, that otherwise might result by reason of ~~his~~ *the physician's* actions pursuant to 37-2-311 except for damages occasioned by gross negligence. ~~No~~ An action may *not* be brought against a physician for not making a report pursuant to 37-2-311."

Section 1357. Section 37-3-310, MCA, is amended to read:

"37-3-310. Notice of change of address or name — applicants — licensees. When a person applies for a license of any type to practice medicine in this state, the person shall designate in ~~his~~ *the* application ~~his~~ *the person's* correct and official address to which the department shall send communications, notices, orders, citations, or other process, if any, affecting ~~him~~ *the person*. A person licensed to practice medicine in this state shall keep the department advised at all times of ~~his~~ *the person's* correct mailing address and of ~~his~~ *the person's* correct name. If the person changes ~~his~~ *the person's* address or when the name of a licensee is changed by marriage or otherwise, the person shall within 30 days notify the department in writing of ~~his~~ *the* old and new address or of the former name and new name. This information ~~shall~~ *must* be entered promptly by the department in the official records of the department."

Section 1358. Section 37-3-321, MCA, is amended to read:

"37-3-321. Refusal of license. If the board determines that an applicant for a license to practice medicine does not possess the qualifications or character

required by this chapter or that ~~he~~ *the applicant* has committed unprofessional conduct, it shall refrain from authorizing the department to issue a license. The department shall mail to the applicant, at ~~his~~ *the applicant's* last address of record with the department, written notification of the board's decision, together with notice of a time and place of a hearing before the board. If the applicant without cause fails to appear at the hearing or if after *the* hearing the board determines ~~he~~ *that the applicant* is not entitled to a license, the board shall refuse to grant the license."

Section 1359. Section 37-3-325, MCA, is amended to read:

"37-3-325. Violations — penalties. (1) A person practicing medicine in this state without complying with parts 1 through 3 of this chapter or an association or corporation, (~~except a professional service corporation under Title 35, chapter 4), practicing medicine in this state or a person, association, or corporation violating parts 1 through 3 of this chapter or an officer or director of an association or corporation violating parts 1 through 3 of this chapter is guilty of a misdemeanor and on conviction shall be fined not less than \$250 or more than \$1,000 or be imprisoned in the county jail for not less than 90 days or more than 1 year, or both. Each daily failure to comply with or each daily violation of parts 1 through 3 of this chapter constitutes a separate offense.~~

(2) A person presenting or attempting to file as ~~his~~ *the person's* own the diploma, license, certificate, or credentials of another or who gives false or forged evidence to the board, a member of the board, or the department in connection with an application for a license to practice medicine or who practices medicine under a false or assumed name or who falsely impersonates another licensee is guilty of a felony and on conviction shall be imprisoned in the state penitentiary for a term of not less than 1 year or more than 10 years."

Section 1360. Section 37-3-326, MCA, is amended to read:

"37-3-326. Injunctive relief — manner of charging violation. Notwithstanding any other provision in this chapter, the board may maintain an action to enjoin a person from engaging in the practice of medicine until a license to practice medicine is procured. A person who has been enjoined and who violates the injunction is punishable for contempt of court. The injunction does not relieve the person practicing medicine without a license from a criminal prosecution. The remedy by injunction is in addition to remedies provided for the criminal prosecution of the offender. In charging a person in a complaint for injunction or in an affidavit, information, or indictment with a violation of this law by practicing medicine without a license, it is sufficient to charge that ~~he~~ *the person* did, on a certain day and in a certain county, engage in the practice of medicine not having a license to do so, without averring further or more particular facts concerning the violation."

Section 1361. Section 37-3-328, MCA, is amended to read:

"37-3-328. Failure to appear or testify. ~~Any~~ A person subpoenaed in the manner provided in 37-3-327 who fails or refuses to appear and testify ~~shall~~ *must* be dealt with by the district court from which ~~such~~ *the* subpoena was issued in the same manner and to the same effect as though the subpoena had commanded ~~him~~ *the person* to appear and testify in a cause on trial in ~~said~~ *that* court."

Section 1362. Section 37-4-322, MCA, is amended to read:

"37-4-322. When publishing professional cards not unprofessional conduct. (1) It ~~shall~~ *is* not be considered unprofessional for a dentist to place in any newspaper or publication, subject to the limitations stated ~~hereafter~~ *in this*

section, a card bearing ~~his~~ *the dentist's* name only, together with ~~his~~ *the dentist's* degree or the word "dentist" and giving office location, hours, and telephone numbers. If ~~he~~ *the dentist* limits ~~his~~ *the dentist's* practice to a specialty, ~~he~~ *the dentist* may ~~so~~ announce it or ~~he~~ *the dentist* may announce ~~his~~ *an* absence from or ~~his~~ *a* return to practice in the same manner.

(2) A dentist may publish a list of ~~his~~ fees, but ~~such~~ *the* listing must include full and complete information stating if the published fee is minimum, maximum, or usual and whether or not any additional charges may be made for the services published. All announcements or publications must be done in a professional manner that will in no way coerce or confuse the public."

Section 1363. Section 37-4-325, MCA, is amended to read:

"37-4-325. Witness fees and mileage. (1) Each witness who ~~shall appear~~ *appears* by order of the board or any member ~~thereof shall be of the board is~~ entitled to receive, if demanded, for ~~his~~ attendance the same fees and mileage allowed by law to a witness in civil cases in the district court, ~~which~~ *The* amount ~~shall must~~ be paid by the party at whose request ~~such~~ *the* witness is subpoenaed unless otherwise ordered by the board. When any witness who has not been required to attend at the request of any party is subpoenaed by the board, ~~his~~ *the witness's* fees and mileage may be paid from the funds of the board in the same manner as other expenses of the board are paid.

(2) Any witness subpoenaed, except one whose fees and mileage may be paid from the funds of the board, may at the time of service demand the fee to which ~~he~~ *the witness* is entitled for travel to and from the place at which ~~he~~ *the witness* is required to appear and 1 day's attendance. If ~~such~~ *the* witness demands ~~such~~ *the* fees at the time of service and they are not at that time paid or tendered, ~~he~~ *shall the witness may* not be required to attend before the board, ~~or a member thereof of the board,~~ or a referee as directed in the subpoena."

Section 1364. Section 37-4-501, MCA, is amended to read:

"37-4-501. Work order for construction or repair of appliances. (1) A licensed dentist who employs or engages the services of a person, firm, or corporation to construct, reproduce, make, alter, or repair bridges, crowns, dentures, other prosthetic appliances, surgical appliances, or orthodontic appliances shall furnish the person, firm, or corporation with a written work authorization on forms prescribed by the board ~~which shall that must~~ contain:

(a) the name and address of the person, firm, or corporation to which the work authorization is directed;

(b) the patient's name or identification number, but if only a number is used, the patient's name ~~shall must~~ be written on the duplicate copy of the work authorization retained by the dentist;

(c) the date on which the work authorization was written;

(d) a description of the work to be done, including diagrams if necessary;

(e) a specification of the type and quality of the materials to be used; and

(f) the signature of the dentist and the number of ~~his~~ *the dentist's* license to practice dentistry.

(2) The person, firm, or corporation receiving a work authorization from a licensed dentist shall retain the original work authorization, and the dentist shall retain the duplicate copy for inspection at a reasonable time by the board for a period of 2 years from date of issuance."

Section 1365. Section 37-4-511, MCA, is amended to read:

“37-4-511. Limitations on the administration of general anesthetics and practices involving general anesthesia. (1) ~~No~~ A person engaged in the practice of dentistry or oral surgery may *not* perform any dental or surgical procedure upon another person if a general anesthetic is administered unless ~~such~~ *the* anesthetic is administered and monitored by:

(a) an anesthesiologist licensed to practice medicine by the state board of medical examiners;

(b) a nurse anesthetist recognized in that specialty by the state board of nursing; or

(c) another health professional who has received at least 1 year of postgraduate training in the administration of general anesthesia.

(2) ~~No~~ A person engaged in the practice of dentistry or oral surgery may *not* conduct any dental or surgical procedure upon another person under full general anesthesia unless the vital signs of the patient are continually monitored by another health professional who meets the qualifications for an anesthesiologist, nurse anesthetist, or other trained health professional as provided for in subsection (1).

(3) ~~No~~ A person engaged in the practice of dentistry or oral surgery may *not* conduct any dental or surgical procedure upon another person under light general anesthesia unless the vital signs of the patient are continually monitored by another person who has been examined by the board or its agent in life support skills and *who has* demonstrated a satisfactory level of proficiency as established by the board.

(4) ~~No~~ A person engaged in the practice of dentistry or oral surgery may *not* administer a general anesthetic to any other person unless ~~he~~ *the administering person* satisfies the requirements for a person qualified to administer a general anesthetic, as provided in subsection (1), and meets any additional standards established by the board of dentistry for training in the administration of general anesthesia and in the treatment of the complications ~~thereof~~ *of general anesthesia*. This subsection does not affect the requirements for monitoring of vital signs by another health professional under subsection (2) or (3).

(5) The facility in which general anesthesia is to be administered as part of a dental or surgical procedure must be equipped with proper drugs and equipment to safely administer anesthetic agents, to monitor the well-being of the patient under general anesthesia, and to treat the complications that may arise from general anesthesia.”

Section 1366. Section 37-6-103, MCA, is amended to read:

“37-6-103. Application of chapter. This chapter ~~shall~~ *does* not apply to any physician licensed to practice ~~his~~ *the* profession in this state or to surgeons of the United States army, navy, ~~and/or~~ *or* public health service when in actual performance of their duties.”

Section 1367. Section 37-6-301, MCA, is amended to read:

“37-6-301. License required for practice. ~~It~~ *Except as otherwise provided in this chapter, it* is unlawful for a person to profess to be a podiatrist, to practice or assume the duties incident to podiatry, or to advertise in any form or hold ~~himself~~ *out* to the public ~~as that the person is~~ *a* podiatrist, or in a sign or advertisement to use the word “podiatrist” or “foot correctionist” or any other term, terms, or letters indicating to the public that ~~he~~ *the person* is holding ~~himself~~ *out* ~~as to the public that the person is~~ *a* podiatrist or foot correctionist in

any manner; without first obtaining from the board a license authorizing the practice of podiatry in this state, ~~except under this chapter.~~”

Section 1368. Section 37-7-506, MCA, is amended to read:

“37-7-506. Notice to purchaser. (1) A pharmacist who selects a drug product, as provided in 37-7-505, shall notify the person presenting the prescription that ~~he~~ *the person* may refuse the product selection as provided in 37-7-505.

(2) Each pharmacy shall display in a prominent place that is in clear and unobstructed public view, at or near the place where prescriptions are dispensed, a sign stating: “This pharmacy may be able to select a less expensive drug product ~~which~~ *that* is equivalent to the one prescribed by your physician unless you or your physician request otherwise.” The printing on the sign shall ~~must~~ be in block letters not less than 1 inch in height.”

Section 1369. Section 37-7-509, MCA, is amended to read:

“37-7-509. Limitations on liability. (1) A pharmacist making a product selection under the provisions of this part assumes no greater responsibility for selecting the dispensed drug product than ~~he~~ *the pharmacist* would incur in filling a prescription for a drug product prescribed by a generic name.

(2) When a pharmacist selects a drug product, the prescriber may not be held liable in an action for loss, damage, injury, or death to a person caused by the use of the selected drug product, except that if the original drug product was incorrectly prescribed, the prescriber is not relieved of liability.”

Section 1370. Section 37-9-201, MCA, is amended to read:

“37-9-201. Organization and compensation of board. (1) The board shall elect from its membership a ~~chairman~~ *presiding officer*, ~~vice-chairman~~ *vice presiding officer*, and secretary-treasurer and shall adopt rules to govern its proceedings.

(2) Each board member shall ~~must~~ receive compensation and travel expenses as provided for in 37-1-133.”

Section 1371. Section 37-9-301, MCA, is amended to read:

“37-9-301. Qualifications for licensure — examination. (1) The department shall register and issue licenses to qualified persons as nursing home administrators, and the board shall establish qualification criteria for nursing home administrators. ~~No~~ A registration or license shall ~~may not~~ be issued to a person as a nursing home administrator unless ~~he~~ *the person*:

(a) is of good character, *is* of sound physical and mental health, *and* has received a high school diploma or its equivalent; and

(b) (i) has satisfactorily completed a course of instruction and training prescribed by the board, which shall ~~must~~ be designed and administered to present sufficient knowledge of the needs properly served by long-term care facilities, laws governing the operation of long-term care facilities and the protection of the interests of patients, and the elements of good nursing home administration; or

(ii) has presented evidence satisfactory to the board of sufficient education, training, or experience, or a combination of education, training, and experience, in the fields referred to in subsection (1)(b)(i) to administer, supervise, and manage a long-term care facility; and

(c) has passed an examination designed to test for competence in the subject matters referred to in subsection (1)(b)(i).

(2) The minimum standards for qualification ~~shall~~ *must* comply with the requirements, if any, set forth in Title XIX of the Social Security Act, Public Law 90-248, as amended 42 U.S.C. 1396g.”

Section 1372. Section 37-9-312, MCA, is amended to read:

“37-9-312. Violation. It ~~shall be~~ *is* unlawful for any person to act or serve in the capacity of a nursing home administrator unless ~~he~~ *the person* is the holder of a registration and license as a nursing home administrator, issued in accordance with the provisions of this chapter. A person who violates the provisions of this chapter ~~shall be~~ *is* guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$500 or by imprisonment for not more than 6 months, or ~~by both such fine and imprisonment.~~”

Section 1373. Section 37-11-311, MCA, is amended to read:

“37-11-311. Display of license. Each licensee shall display ~~his~~ *the licensee's* original license or an official duplicate issued by the department and a renewal certificate in a conspicuous place in the principal office where ~~he~~ *the licensee* practices physical therapy. A reproduction displayed in lieu of the ~~above~~ *original or official duplicate* is not authorized unless the reproduction is signed and notarized by a notary public.”

Section 1374. Section 37-12-324, MCA, is amended to read:

“37-12-324. Penalty for violation. ~~Any~~ A person who ~~shall practice~~ *practices* or ~~attempt attempts~~ to practice chiropractic or ~~any a~~ person who ~~shall~~ *buys*, ~~sell~~ *sells*, or fraudulently ~~obtain~~ *obtains* any diploma or license to practice chiropractic, whether recorded or not, or who ~~shall use~~ *uses* the title “chiropractor”, “D.C.”, “Ph.C.”, or any word title to influence belief that ~~he~~ *the person* is engaged in the practice of chiropractic without first complying with the provisions of this chapter or ~~any a~~ person who ~~shall violate~~ *violates* any of the provisions of this chapter ~~shall be~~ *is* guilty of a misdemeanor and upon conviction ~~thereof~~ shall be punished by a fine of not less than \$100 or more than \$700 or by imprisonment in a county jail for not less than 30 days or more than 7 months, or ~~by both such fine and imprisonment.~~ Prosecutions for the violation of this chapter ~~shall~~ *must* be instituted in the district courts.”

Section 1375. Section 37-13-315, MCA, is amended to read:

“37-13-315. Enjoining unlawful practice. The practice of acupuncture in any way other than as defined in this chapter may be enjoined by the district court on petition by the board. In ~~any such~~ *the* proceeding, it ~~shall~~ *is* not be necessary to show that any person is individually injured by the actions complained of. If the respondent is found to have ~~so~~ practiced *improperly*, the court shall enjoin ~~him~~ *the respondent* from ~~so~~ practicing ~~unless and~~ until ~~he~~ *the respondent* has been ~~duly~~ licensed. Procedure in ~~such~~ *these* cases ~~shall be~~ *is* the same as in any other injunction suit. The remedy by injunction is in addition to criminal prosecution and punishment.”

Section 1376. Section 37-14-307, MCA, is amended to read:

“37-14-307. Duty to carry, or display license or permit. Each radiologic technologist or limited permit technician shall carry or display ~~his~~ *the person's* license or permit while at work. The license or permit ~~shall~~ *must* be displayed on request.”

Section 1377. Section 37-15-301, MCA, is amended to read:

“37-15-301. License required. (1) A license ~~shall~~ *must* be issued to qualified persons either in speech-language pathology or audiology. A person may be licensed in both areas if ~~he~~ *the person* meets the respective

qualifications, and in ~~such~~ *those* instances, the license fee ~~shall~~ *must* be as though for one license.

(2) ~~No~~ A person may *not* practice or represent ~~himself as to the public that the person is~~ a speech-language pathologist or audiologist in this state unless ~~he the person~~ is licensed in accordance with the provisions of this chapter.”

Section 1378. Section 37-16-103, MCA, is amended to read:

“37-16-103. Exemptions. (1) This chapter does not apply to a person who is a physician licensed to practice by the state board of medical examiners.

(2) This chapter does not apply to a person while ~~he the person~~ is engaged in the practice of fitting hearing aids if ~~his the person’s~~ practice is part of the academic curriculum of an accredited institution of higher education or part of a program conducted by a public agency.”

Section 1379. Section 37-16-402, MCA, is amended to read:

“37-16-402. Application — qualifications — fee. An applicant for a license shall pay a fee fixed by the board and commensurate with the costs of processing and administering ~~his the~~ application and related functions of the board and shall show to the satisfaction of the board that ~~he the applicant:~~

(1) is a person of good moral character;

(2) has an education equivalent to a 4-year course in an accredited high school or holds a current license as an audiologist under Title 37, chapter 15; and

(3) is free of contagious or infectious disease.”

Section 1380. Section 37-17-301, MCA, is amended to read:

“37-17-301. License required. A person may not represent ~~himself to be to the public that the person is~~ a psychologist or engage in the practice of psychology unless ~~he the person~~ is licensed under this chapter.”

Section 1381. Section 37-17-313, MCA, is amended to read:

“37-17-313. Injunction for unlawful practice. The practice of psychology in any way other than as defined in this chapter may be enjoined by the district court on petition by the board. In ~~any such the~~ proceeding, it ~~shall~~ *is* not ~~be~~ necessary to show that any person is individually injured by the actions complained of. If the respondent is found to have ~~so~~ practiced *improperly*, the court shall enjoin ~~him the respondent~~ from ~~so~~ practicing unless and until ~~he the respondent~~ has been *duly* licensed. Procedure in ~~such these~~ cases ~~shall be~~ *is* the same as in any other injunction suit. The remedy by injunction ~~hereby given~~ is in addition to criminal prosecution and punishment.”

Section 1382. Section 37-18-102, MCA, is amended to read:

“37-18-102. Veterinary medicine defined. (1) A person is considered practicing veterinary medicine when ~~he the person~~ does any of the following:

(a) represents ~~himself as to the public that the person is a veterinarian~~ or is engaged in the practice of veterinary medicine in any of its branches, either directly or indirectly;

(b) uses words, titles, or letters in this connection or on a display or advertisement or under circumstances so as to induce the belief the person using them is engaged in the practice of veterinary medicine. This use is prima facie evidence of the intention to represent oneself as engaged in the practice of veterinary medicine in any of its branches.

(c) diagnoses, prescribes, or administers a drug, medicine, appliance, application, or treatment of whatever nature or performs a surgical operation or

manipulation for the prevention, cure, or relief of a pain, deformity, wound, fracture, bodily injury, physical condition, or disease of animals;

(d) instructs, demonstrates, or solicits by a notice, sign, or other indication, with contract either express or implied, or otherwise, with or without the necessary instruments, for the administration of biologics or medicines or animal disease cures for the prevention and treatment of disease of animals and remedies for the treatment of internal parasites in animals;

(e) performs a manual or laboratory procedure on livestock for the diagnosis of pregnancy, sterility, or infertility for remuneration or hire;

(f) performs acupuncture, ova or embryo transfer, or dentistry on animals;

(g) instructs others, except those covered under the provisions of 37-18-104(4), for compensation, in any manner how to perform any acts ~~which~~ *that* constitute the practice of veterinary medicine.

(2) ~~Nothing in subsection Subsection (1)(e) of this section shall~~ *may not* in any way be construed to prohibit the pregnancy testing by any person of ~~his the~~ *the person's* own farm animals or by ~~his the~~ *the person's* employees regularly employed in the conduct of ~~his the~~ *the person's* business or by other persons whose services are rendered gratuitously.

(3) ~~Nothing in this~~ *This* section ~~shall~~ *may not* be construed as modifying, amending, altering, or repealing any part of 37-18-104.”

Section 1383. Section 37-18-313, MCA, is amended to read:

“37-18-313. Municipal license fee prohibited. ~~No~~ A license fee or license tax *may not* be imposed upon a person who practices veterinary medicine, as a condition to the practice of ~~his the~~ *the* profession, by any municipality or other political subdivision of the state, including a local government with self-governing powers.”

Section 1384. Section 37-18-501, MCA, is amended to read:

“37-18-501. Penalty. A person practicing veterinary medicine within this state, as defined in this chapter, without first having obtained a license to practice and being registered as required by this chapter or after ~~his the~~ *the person's* license to practice has been suspended or revoked or contrary to the provisions of this chapter in any manner is guilty of a misdemeanor for each violation of the provisions of this chapter or for each act relating to the practice of veterinary medicine in this state. ~~and upon~~ *Upon* conviction, *the person* shall be punished by a fine of not less than \$200 or more than \$500; or by imprisonment in the county jail for not less than 30 days or more than 6 months, or ~~by both such fine and imprisonment.~~ *Any* A person convicted a second time for any violation of this chapter shall be punished by both ~~such~~ *such* fine and imprisonment. The district court has jurisdiction of all prosecutions brought ~~hereunder~~ *under this section.*”

Section 1385. Section 37-18-502, MCA, is amended to read:

“37-18-502. Injunction. The board or any person may bring an action in the district court to enjoin ~~any a~~ *a* person who is not licensed from engaging in the practice of veterinary medicine unless otherwise exempted under 37-18-104(4). If the court finds that the defendant is violating or threatening to violate any provision of Title 37, chapter 18, it shall enter an order restraining ~~him the~~ *the defendant* from the violation, without regard to any criminal provisions of Title 37, chapter 18.”

Section 1386. Section 37-19-201, MCA, is amended to read:

“37-19-201. Organization — compensation and expenses of members. The board shall elect a ~~chairman~~ *presiding officer*, secretary-treasurer, and other necessary officers. Board members are entitled to receive compensation and travel expenses as provided for in 37-1-133.”

Section 1387. Section 37-21-301, MCA, is amended to read:

“37-21-301. Dietitian — qualifications. ~~No~~ A person may *not* use, in connection with ~~his~~ *the person’s* name or place of business, the term “dietitian” or represent in any way that ~~he~~ *the person* is a dietitian unless ~~he~~ *the person*:

(1) has been granted, prior to October 1, 1983, the right to use the term “dietitian” by an authorized agency; or

(2) (a) is 18 years of age or older;

(b) has satisfactorily completed appropriate academic requirements for the field of dietetics and related disciplines;

(c) has received a baccalaureate or higher degree in dietetics or a related field from a college or university accredited by the Northwestern association of schools and colleges; and

(d) has satisfactorily completed a program of supervised clinical experience of not less than 6 months in length that is designed to train entry-level dietitians through instruction and assignments in a clinical setting. The program must meet minimum requirements established by the department.”

Section 1388. Section 37-22-401, MCA, is amended to read:

“37-22-401. Privileged communications — exceptions. A licensee may not disclose any information ~~he~~ *the licensee* acquires from clients consulting ~~him~~ *the licensee* in ~~his~~ *a* professional capacity except:

(1) with the written consent of the client or, in the case of the client’s death or mental incapacity, with the written consent of the client’s personal representative or guardian;

(2) that ~~he~~ *the licensee* need not treat as confidential a communication otherwise confidential that reveals the contemplation of a crime by the client or any other person or that in ~~his~~ *the licensee’s* professional opinion reveals a threat of imminent harm to the client or others;

(3) that if the client is a minor and information acquired by the licensee indicates that the client was the victim of a crime, the licensee may be required to testify fully in relation ~~thereto~~ *to the information* in any investigation, trial, or other legal proceeding in which the commission of ~~such~~ *that* crime is the subject of inquiry;

(4) that if the client or ~~his~~ *the client’s* personal representative or guardian brings an action against a licensee for a claim arising out of the social worker-client relationship, the client is considered to have waived any privilege;

(5) to the extent that the privilege is otherwise waived by the client; and

(6) as may otherwise be required by law.”

Section 1389. Section 37-22-411, MCA, is amended to read:

“37-22-411. Violations — penalties. (1) It is a misdemeanor for a person to:

(a) represent ~~himself~~ *as to the public that the person is* a licensed social worker without being licensed under this chapter;

(b) obtain or attempt to obtain a license or license renewal by bribery or fraudulent representation; or

(c) knowingly make a false statement on any form used by the board to implement this chapter or the rules adopted under this chapter.

(2) A person convicted under this section shall be imprisoned in the county jail for a period not exceeding 6 months or *be* fined not more than \$500, or both. A person convicted of a second offense under this section shall be punished by both ~~such~~ fine and imprisonment.”

Section 1390. Section 37-23-301, MCA, is amended to read:

“37-23-301. Privileged communications — exceptions. A licensee may not disclose any information ~~he~~ *the licensee* acquires from clients consulting ~~him~~ *the licensee* in ~~his~~ a professional capacity except:

(1) with the written consent of the client or, in the case of the client’s death or mental incapacity, with the written consent of the client’s personal representative or guardian;

(2) that ~~he~~ *the licensee* need not treat as confidential a communication otherwise confidential that reveals the contemplation of a crime by the client or any other person or that in ~~his~~ *the licensee’s* professional opinion reveals a threat of imminent harm to the client or others;

(3) that if the client is a minor and information acquired by the licensee indicates that the client was the victim of a crime, the licensee may be required to testify fully in relation ~~thereto~~ *to the information* in any investigation, trial, or other legal proceeding in which the commission of ~~such~~ *that* crime is the subject of inquiry;

(4) that if the client or ~~his~~ *the client’s* personal representative or guardian brings an action against a licensee for a claim arising out of the counselor-client relationship, the client is considered to have waived any privilege;

(5) to the extent that the privilege is otherwise waived by the client; and

(6) as may otherwise be required by law.”

Section 1391. Section 37-24-301, MCA, is amended to read:

“37-24-301. License required. (1) (a) ~~No~~ A person may *not* hold ~~himself~~ out ~~as to the public that the person is~~ an occupational therapist or ~~as being~~ *is* able to practice occupational therapy or able to render occupational therapy services in this state unless ~~he~~ *the person* is licensed as an occupational therapist under the provisions of this chapter.

(b) ~~No~~ A person may *not* practice or hold ~~himself~~ out ~~as to the public that the person is~~ an occupational therapy assistant in this state unless ~~he~~ *the person* is licensed as an occupational therapist or as an occupational therapy assistant.

(2) Only an individual may be licensed under this chapter.”

Section 1392. Section 37-25-302, MCA, is amended to read:

“37-25-302. Licensing requirements. (1) An applicant for licensure as a licensed nutritionist shall file a written application with the board and demonstrate to the board that ~~he~~ *the person* is registered by the commission.

(2) An applicant shall pay an application fee; set by the board.”

Section 1393. Section 37-25-304, MCA, is amended to read:

“37-25-304. Exemptions from licensure requirements. This chapter does not prevent:

(1) a student or intern in an approved academic program or a paraprofessional with approved dietetic-nutrition training from engaging in the practice of dietetics-nutrition if a licensed nutritionist is available for direct supervision and if the student, intern, or paraprofessional does not represent ~~himself~~ to the public ~~as that the individual is~~ a nutritionist;

(2) a licensed physician or nurse from engaging in the practice of dietetics-nutrition when it is incidental to the practice of ~~his~~ *that* profession;

(3) a person licensed under any other law from engaging in the profession or business for which ~~he~~ *the person* is licensed if ~~he~~ *the person* does not represent ~~himself~~ to the public ~~as that the person is~~ a nutritionist;

(4) an educator or ~~advisor~~ *adviser* employed by a nonprofit agency acceptable to the board or by an accredited degree-granting institution or an accredited elementary or secondary school from engaging in an activity within the scope of ~~his~~ *the individual's* salaried position;

(5) a person employed by or under contract with an agency of the state or federal government from discharging ~~his~~ *an* official duty if ~~he~~ *the person* does not represent ~~himself~~ to the public ~~as that the person is~~ a nutritionist;

(6) a person from furnishing general nutritional information, including dissemination of literature, as to the use of food, food materials, or dietary supplements or from engaging in the explanation as to the use of foods or food products, including dietary supplements, in connection with the marketing and distribution of those products if ~~he~~ *the person* does not represent ~~himself~~ to the public ~~as that the person is~~ a nutritionist;

(7) a person from furnishing general nutrition information or disseminating literature if ~~he~~ *the person* does not represent ~~himself~~ to the public ~~as that the person is~~ a dietitian or a nutritionist; or

(8) a person from fulfilling state or federal regulations governing the delivery or provision of nutritional health services to hospitals or long-term care facilities if ~~he~~ *the person* does not represent ~~himself~~ to the public ~~as that the person is~~ a nutritionist."

Section 1394. Section 37-26-401, MCA, is amended to read:

"37-26-401. License required — titles restricted — enjoining unlawful practice. (1) Except as provided in 37-26-302, a person may not practice naturopathy without a valid and current license issued by the board as provided in this chapter.

(2) (a) A naturopathic physician licensed under this chapter may use the prefix "Dr." or "doctor" as a title.

(b) Only a naturopathic physician licensed under this chapter may use any ~~or all~~ of the following titles or terms:

(i) "doctor of naturopathy", "doctor of naturopathic medicine", "naturopath", "naturopathic physician", and the abbreviation "N.D." when used to imply any of these titles; or

(ii) "naturopathic medicine", "naturopathic health care", "naturopathic", and "naturopathy".

(c) The titles and terms in subsection (2)(b) identify naturopathic physicians and are restricted to describing and identifying licensed practitioners and their practice. A person who uses these titles and terms to represent ~~himself~~ *the person* or ~~his~~ *the person's* practice to the public without being licensed pursuant to this chapter is in violation of this chapter.

(3) A violation of this chapter may be enjoined by the district court on petition by the board.”

Section 1395. Section 37-26-402, MCA, is amended to read:

“37-26-402. Qualifications for licensure. A person is qualified to be licensed to practice naturopathic medicine in Montana if ~~he~~ *the person*:

- (1) is of good moral character as determined by the board;
- (2) is a graduate of an approved naturopathic medical college; and
- (3) has passed an examination prescribed or endorsed by the board for the licensure of naturopathic physicians.”

Section 1396. Section 37-29-405, MCA, is amended to read:

“37-29-405. Advertising restrictions. ~~No~~ A person may *not* represent or hold ~~himself~~ out to the public ~~as that the person is a dentist or as is practicing dentistry~~ unless licensed under this chapter.”

Section 1397. Section 37-40-102, MCA, is amended to read:

“37-40-102. Exemptions. Persons exempt from the requirements of this chapter are:

- (1) any person teaching, lecturing, or engaging in research in environmental sanitation, but only insofar as ~~such~~ *the* activities are performed as part of an academic position in a college or university;
- (2) any person who is a registered professional engineer or engineer intern;
- (3) any public health officer employed pursuant to 50-2-116;
- (4) any person employed by a federal governmental agency, but only at ~~such~~ *times as that* the person is carrying out the functions of ~~his~~ *the* employment;
- (5) a state employee unless expressly required by statute, regulation, or position description to be registered as a sanitarian; or
- (6) any person not employed by a governmental entity or not under contract with a governmental entity for the performance of an official regulatory function.”

Section 1398. Section 37-40-301, MCA, is amended to read:

“37-40-301. License required. A person may not practice or offer to practice the profession of sanitarian as defined in this chapter or hold ~~himself~~ out *to the public* in any manner ~~to be that the person is~~ a licensed sanitarian unless the person is licensed and registered under the provisions of this chapter.”

Section 1399. Section 37-40-312, MCA, is amended to read:

“37-40-312. Penalty. (1) A person who offers ~~his~~ *the person's* services as a sanitarian or uses, assumes, or advertises in any way any title or description tending to convey the impression that ~~he~~ *the person* is a registered sanitarian who does not hold the license specified by this chapter is guilty of a misdemeanor and is punishable by a fine not to exceed \$500 or *by* imprisonment for not longer than 6 months, or both.

(2) The board may enforce the provisions of this chapter by injunction or any other appropriate proceeding.”

Section 1400. Section 37-42-201, MCA, is amended to read:

“37-42-201. Meetings — compensation of members — expenses. (1) Annually, when new members are appointed to the council, a ~~chairman shall~~ *presiding officer must* be elected at the next council meeting.

(2) Meetings may be called by the ~~chairman~~ *presiding officer* or on written request of four members of the council when necessary to carry out its function to advise the department under this chapter. Four members constitute a quorum.

(3) Members of the council are entitled to be reimbursed and compensated as are members of advisory councils in 2-15-122(5)."

Section 1401. Section 37-42-305, MCA, is amended to read:

"37-42-305. Certification without examination. The department may consider for certification the holder of a certificate issued by a governmental agency or equivalent certification board of another state on presentation to the department of satisfactory evidence that the applicant is in responsible charge of works located in this state requiring a certified operator and that ~~he~~ *the applicant* has successfully passed an examination at least equivalent to that required under 37-42-202(2)."

Section 1402. Section 37-43-102, MCA, is amended to read:

"37-43-102. Definitions. Unless the context requires otherwise, in this chapter the following definitions apply:

(1) "Apprentice water well driller" means an individual who is learning the trade of water well drilling and performs labor and services for a licensed water well contractor and whose duties are directly related to well drilling or drilling rig operation.

(2) "Board" means the board of water well contractors provided for in 2-15-3307.

(3) "Department" means the department of natural resources and conservation provided for in Title 2, chapter 15, part 33.

(4) "Geotechnical boring" means a hole intended solely to determine the composition, stability, density, movement, pressure, stratigraphy, or other physical properties of soil or rock.

(5) (a) "Monitoring well" means a well that is used for pollutant recovery or monitoring ground water quality, ground water levels, or flow direction, but whose primary purpose is not the withdrawal or acquisition of ground water.

(b) ~~Monitoring well~~ *The term* does not include geotechnical borings, perk test holes, and ground water exploration holes that are used to determine suitability of onsite sewage disposal by septic tank drain fields or lagoons.

(6) "Monitoring well constructor" means a natural person who installs monitoring wells.

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

(b) The term does not include:

(i) spring development or excavations, by backhoe or otherwise, for recovery and use of surface waters or for the purpose of stock watering or irrigation ~~where~~ *when* the depth is 25 feet or less; *or*

(ii) ~~The term does not include~~ an excavation made for the purpose of obtaining or prospecting for oil, natural gas, minerals, or products of mining or quarrying or for inserting media to repressure oil- or natural-gas-bearing formations or for storing petroleum, natural gas, or other products.

(8) "Water well contractor" or "contractor" means a natural person who contracts on behalf of a firm, corporation, partnership, or other business entity to construct, alter, or rehabilitate a water well on lands other than ~~his~~ *the person's* own for compensation.

(9) "Water well driller" or "driller" means any person, other than an apprentice, at a drilling site causing a water well to be drilled, altered, or rehabilitated."

Section 1403. Section 37-43-201, MCA, is amended to read:

"37-43-201. Organization — seal — compensation of members. (1) The board shall annually elect a ~~chairman~~ *presiding officer* and ~~vice chairman~~ *vice presiding officer*.

(2) The board ~~shall~~ *must* have a seal with the words ~~engraved thereon,~~ "Board of Water Well Contractors" *engraved on the seal*, and ~~such~~ *the* seal ~~shall~~ *must* be affixed to all writs, authentication of records, and other official proceedings of the board. The courts of this state shall take judicial notice of ~~such~~ *the* seal.

(3) Each appointed member of the board who is not a government employee ~~shall~~ *must* receive as compensation for ~~his~~ *the member's* services ~~the sum of \$50~~ *per a day* for each day actually engaged in the performance of the duties of ~~his~~ *the* office, including time of travel between ~~his~~ *the member's* home and the places at which ~~he~~ *she* ~~shall perform~~ *such the member performs* duties, together with mileage and per diem expenses as provided for in 2-18-501 through 2-18-503. The members who are employees of the state of Montana ~~shall~~ *may not* receive ~~no~~ extra compensation for their services as members of the board."

Section 1404. Section 37-43-302, MCA, is amended to read:

"37-43-302. License required. (1) The drilling, making, or construction of water wells and monitoring wells is declared to be a business and activity affecting the public interest; *and* requiring reasonable standards of competence. Except as provided in subsection (2), it is unlawful for any water well contractor, water well driller, or monitoring well constructor ~~as defined in this chapter~~ to construct, alter, or rehabilitate a water well or a monitoring well without first having obtained a valid license therefor as provided for in this chapter. An individual who is licensed as a water well contractor is not required to have a separate water well driller's license to perform the actual construction work on the well or a separate license to install monitoring wells.

(2) A license is not required for:

(a) a person who drills, alters, or rehabilitates a water or monitoring well on land that is owned or leased by ~~him~~ *the person*, ~~provided if:~~

(i) the land is used by ~~him~~ *the person* for farming, ranching, or agricultural purposes or as ~~his~~ *the person's* residence;

(ii) the person obtains a permit from the board; and

(iii) the construction of the well conforms to the minimum construction standards for water or monitoring wells set by board rule; or

(b) an apprentice water well driller who performs labor or services for a licensed water well contractor or driller in connection with the drilling of a water well at the direction and under the personal supervision of a licensed water well contractor or driller.

(3) (a) To obtain a permit under subsection (2)(a), a person shall file with the department an application containing the applicant's name, *and* mailing

address, the location of the proposed well, the nature of the applicant's ownership interest in the property on which the well is to be located, the construction or installation method to be used, and the use for the proposed well.

(b) The board shall promptly issue a permit if it finds that:

(i) the well is located on land that the applicant owns or leases and that ~~he~~ *the applicant* uses for farming, ranching, or agricultural purposes or as ~~his~~ *the applicant's* residence; and

(ii) the construction or installation method to be used meets the minimum standards for water wells or monitoring wells set by board rule."

Section 1405. Section 37-43-305, MCA, is amended to read:

"37-43-305. Examination and qualifications. (1) Under board rules pertaining to the business of drilling and contracting for drilling of water wells and monitoring wells, the department shall inquire by examination or otherwise into the qualifications of applicants for licenses. Examinations may be oral, written, or both.

(2) The qualifications for a water well contractor's license are:

(a) familiar knowledge of ground water laws of this state and sanitary standards for water well drilling and construction of water wells;

(b) knowledge of types of water well construction;

(c) knowledge of types of drilling tools and their uses;

(d) knowledge of geology in its relation to well construction;

(e) possession of adequate equipment by the applicant to complete satisfactory water wells under the standards of the board;

(f) financial responsibility of the applicant;

(g) successful completion of an examination given by the department; and

(h) completion of an apprenticeship of 1 year or more under the direct supervision of a licensed water well contractor or equivalent education, experience, or both, as determined by the board.

(3) The qualifications for a water well driller's license are:

(a) familiar knowledge of ground water laws of this state and sanitary standards for water well drilling and water well construction;

(b) knowledge of types of water well construction;

(c) knowledge of types of drilling tools and their uses;

(d) knowledge of geology in its relation to well construction;

(e) employment by a licensed water well contractor;

(f) completion of an apprenticeship of 1 year or more under the direct supervision of a licensed water well contractor or driller or equivalent education, experience, or both, as determined by the board; and

(g) successful completion of an examination given by the department.

(4) The qualifications for a license to construct monitoring wells are:

(a) familiar knowledge of ground water laws of this state and sanitary standards for drilling and construction of monitoring wells;

(b) knowledge of types of monitoring well construction;

(c) knowledge of types of drilling tools used for monitoring wells and their uses;

(d) knowledge of geology;

(e) financial responsibility of the applicant;

(f) 1 or more years of experience in drilling monitoring wells under the direct supervision of a licensed monitoring well constructor or equivalent education, experience, or both, as determined by the board; and

(g) successful completion of an examination related specifically to drilling of monitoring wells given by the department.

(5) The department shall give examinations at times and places the board determines. Failure of an applicant to successfully complete the examination disqualifies ~~him~~ *the applicant* from making further application for a period of 3 months. The board shall act within a reasonable time on applications for licenses. An application ~~shall~~ *must* be accompanied by the initial fee, and failure to successfully meet the requirements of the board does not entitle the applicant to a refund of the fee.”

Section 1406. Section 37-43-306, MCA, is amended to read:

“37-43-306. Bond to be required. (1) The department, on issuance of a water well contractor’s or monitoring well constructor’s license under this chapter, shall require, before the person commences operations in this state, a good and sufficient surety bond or its equivalent in a certificate of deposit, cashier’s check, bank draft, or certified check, to be approved by the board, in the sum of \$4,000, conditioned that the licensee will comply with the rules of the board.

(2) A person who is licensed in more than one category need supply only one surety bond or its equivalent in a certificate of deposit, cashier’s check, bank draft, or certified check, to be approved by the board, for \$4,000.

(3) A state or federal employee who is bonded by the state or federal government is not required to supply a bond during the course of ~~his~~ employment with the state or federal government. A bond is required if the person ceases government employment.

(4) In lieu of the requirements of subsections (1) through (3), a firm, corporation, or partnership having more than two licensed water well contractors or monitoring well constructors may submit one bond in the amount of \$10,000 for the entire firm, corporation, or partnership.”

Section 1407. Section 37-43-308, MCA, is amended to read:

“37-43-308. Reciprocity. If a person holding a license entitling ~~him~~ *the person* to drill water wells or monitoring wells in another state applies for a Montana water well contractor’s, water well driller’s, or monitoring well constructor’s license, the board may waive the apprenticeship requirements and examination requirements if it finds that the standards and requirements of the state in which the applicant is licensed are equal to or exceed those of Montana. However, the board may require the applicant to successfully complete an examination based on Montana statutes and rules relating to the drilling of water wells or monitoring wells in this state.”

Section 1408. Section 37-50-403, MCA, is amended to read:

“37-50-403. Nonliability — evidential privilege — application to nonprofit corporations. (1) A member of a peer review, professional standards review, or ethics review committee of a society composed of persons licensed to practice the accounting profession is not liable in damages to any person for any action taken or recommendation made within the scope of the

functions of the committee if the committee member acts without malice and in the reasonable belief that the action or recommendation is warranted by the facts known to ~~him~~ *the member* after reasonable effort to obtain the facts.

(2) The proceedings and records of peer review, professional standards review, and ethics review committees are not subject to discovery or introduction into evidence in any proceeding. However, information otherwise discoverable or admissible from an original source is not to be construed as immune from discovery or use in any proceeding merely because it was presented during proceedings before the committee, nor is a member of the committee or other person appearing before it to be prevented from testifying as to matters within ~~his~~ *that person's* knowledge; ~~however~~ *However, he* ~~the person~~ may not be questioned about ~~his~~ *the person's* testimony or other proceedings before the committee or about opinions or other actions of the committee or any member of the committee.

(3) This section also applies to ~~any~~ *a* member, agent, or employee of a nonprofit corporation engaged in performing the functions of a peer review, professional standards review, or ethics review committee with respect to the profession of accounting.”

Section 1409. Section 37-51-201, MCA, is amended to read:

“37-51-201. Chairman Presiding officer — seal — records — prohibition on membership in real estate associations. (1) The members of the board shall elect a ~~chairman presiding officer~~ from among their number.

(2) The board shall adopt a seal of a design as ~~that it shall prescribe~~ *prescribes*. Copies of records and papers kept by the department, certified by the ~~chairman presiding officer~~, and authenticated by the seal of the board; ~~shall~~ *must* be received in evidence in courts with ~~like~~ *the same* effect as the original. Records of the board are open to public inspection under rules it prescribes.

(3) The department:

(a) shall keep a record of proceedings, transactions, communications, and official acts of the board;

(b) ~~be~~ *is* custodian of the records of the board; and

(c) ~~cause to be performed~~ *shall perform* other duties as ~~that~~ *that* the board, on the written request of two or more members of the board or at other times as ~~that~~ *that* the ~~chairman in his discretion~~ *presiding officer*, considers necessary.

(4) ~~Neither the chairman nor~~ *The presiding officer or* an employee of the department hired to provide services to the board may *not* be an officer or paid employee of any real estate association or group of real estate dealers or brokers.”

Section 1410. Section 37-51-323, MCA, is amended to read:

“37-51-323. Penalties — criminal — civil. (1) ~~Any~~ *An* individual acting as a broker or salesperson without a license or while ~~his~~ *the individual's* license is suspended or revoked or ~~any~~ *a* person who violates any provision of this chapter ~~shall be~~ *is* guilty of a misdemeanor and upon conviction ~~thereof~~ by a district court of this state shall be ~~punishable~~ *punished* by a fine of not less than \$100 or more than \$500 or by imprisonment for a term not to exceed 90 days, or both. Upon conviction of a second or subsequent violation, the person shall be ~~punishable~~ *punished* by a fine of not less than \$500 or more than \$2,000 or by imprisonment for a term not to exceed 6 months, or both.

(2) In case ~~any~~ *a* person in a civil action is found guilty of having received any money or the equivalent ~~thereof~~ *of money* as a fee, commission, compensation, or profit by or in consequence of a violation of any provision of this chapter, ~~he~~ *the person* shall in addition be liable to a penalty of not less than the amount of the sum of money ~~so~~ received and not more than three times the sum ~~so~~ received, as may be determined by the court, ~~which~~ *The monetary* penalty may be recovered in any court of competent jurisdiction by any person aggrieved.”

Section 1411. Section 37-51-503, MCA, is amended to read:

“37-51-503. Claims against fund — orders for payment. (1) Whenever a person obtains a final judgment in any court of competent jurisdiction against ~~any~~ *a* person licensed under this chapter for the conversion of trust funds or arising directly out of any act or transaction ~~occurring on or after July 1, 1985,~~ for which a license is required under this chapter, ~~he~~ *the person* may after executing on ~~such~~ *the* final judgment file an application, in accordance with ~~this section and 37-51-504 and this section,~~ with the board for an order directing payment out of the account for any actual and direct loss unpaid on the judgment.

(2) ~~No~~ *An* application or order for payment from the account may *not* be made for:

(a) a judgment ~~which~~ *that* has been satisfied;

(b) any amount in excess of \$25,000 for any one licensee, regardless of the number of persons injured by acts of the licensee or number of parcels of real estate involved in the transaction or transactions;

(c) attorney fees and exemplary or punitive damages; or

(d) amounts remaining unpaid on any final judgment entered more than 2 years prior to the date of application.

(3) The application must be:

(a) served by certified mail, return receipt requested, upon the board, the licensee, and any other party to the transaction referred to in the application; and

(b) filed with the board along with an affidavit of service.”

Section 1412. Section 37-51-504, MCA, is amended to read:

“37-51-504. Form of application. The person making application for payment from the account ~~must~~ *shall* show in the application:

(1) that ~~he~~ *the person* is not the spouse of the judgment debtor or the personal representative of ~~such~~ *the* spouse;

(2) that ~~he~~ *the person* has obtained a judgment ~~which~~ *that* satisfies the requirements of 37-51-503, stating the amount of the judgment and the amount unpaid on the date of the application;

(3) that ~~he~~ *the person* has, on the dates and at the times shown by the applicant, diligently pursued the remedies of execution and proceedings in aid of execution provided in Title 25, chapters 13 and 14, ~~respectively;~~

(4) the amount of any money obtained as a result of the proceedings required to be shown in subsection (3) and the balance of the judgment remaining unpaid for which application is made; and

(5) that ~~he~~ *the person* has diligently pursued ~~his~~ *the* remedies of execution and proceedings in aid of execution against any other person against whom ~~he~~

the person has a judgment as a result of the transaction for which ~~he~~ *the person* seeks recovery from the account.”

Section 1413. Section 37-51-511, MCA, is amended to read:

“37-51-511. Subrogation rights of board. Upon payment of money from the account, the board is subrogated to all of the rights of the judgment creditor to the extent of the amount ~~so~~ paid and the judgment creditor is considered to have assigned to the board all of ~~his~~ *the creditor’s* right, title, and interest in the judgment to the extent of the amount paid from the account. Any amount and interest recovered by the board on the judgment must be deposited in the account.”

Section 1414. Section 37-53-102, MCA, is amended to read:

“37-53-102. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) “Advertisement” means a written, printed, audio, or visual communication that is published in whole or in part to sell, offer to sell, or solicit an offer for a timeshare.

(2) “Affiliate” means a person who controls, is controlled by, or is under the control of a developer.

(3) “Association” or “owners’ association” means the association of owners created by the timeshare instruments for purposes of managing and maintaining the project for the benefit of all timeshare owners.

(4) “Board” means the board of realty regulation provided for in 2-15-1757.

(5) “Developer” means:

(a) a person creating timeshares or engaged in the business of selling ~~his~~ *the person’s* own timeshares;

(b) a person who controls, is controlled by, or is in common control with the person engaged in creating or selling timeshares; or

(c) any successor or assignee of a person referred to in subsection (5)(a) or (5)(b).

(6) “Managing entity” means a person hired by the timeshare association or developer to manage the timeshare plan or the timeshare property.

(7) “Offer” or “offering” means an inducement, solicitation, or attempt to encourage a person to acquire a timeshare. An offer is made in this state if the offer originates in this state or if the principal timeshare property is located in this state.

(8) “Person” means a natural person, corporation, business trust, estate, trust, partnership, association, joint venture, or other legal or commercial entity.

(9) “Prize and gift promotional offer” means advertising material stating that a prospective purchaser may receive goods or services other than the timeshare plan itself, either free or at a discount, including but not limited to the use of a prize, gift, award, premium, or lodging or vacation certificate.

(10) “Project” means the real property or real estate, ~~that~~ *which* must contain more than one unit, in which timeshares are created by a single instrument or set of instruments.

(11) “Promoter” means any person who initiates the inducement, solicitation, or encouragement of another person, by any means, of the review or acquisition of a timeshare interval.

(12) "Purchaser" means a person, other than a developer, who by means of a voluntary transfer acquires a legal or equitable interest in a timeshare, other than as security for an obligation.

(13) "Real estate" means real estate as defined in 37-51-102.

(14) "Sale" or "sell" includes each contract of sale of, contract to sell, or disposition of a timeshare for value.

(15) "Timeshare broker" means a natural person who supervises a timeshare sales operation and one or more timeshare salespersons.

(16) (a) "Timeshare expenses" means expenditures, fees, charges, or liabilities:

(~~a~~)*(i)* incurred with respect to the timeshares by or on behalf of all timeshare owners in one timeshare property; and

(~~b~~)*(ii)* imposed on the timeshare by the entity governing a project of which the timeshare is a part, together with any allocations to reserve.

(b) The term does not include purchase money payable for timeshares.

(17) "Timeshare instrument" means one or more documents, by whatever name denominated, creating or regulating timeshares.

(18) "Timeshare interval" or "timeshare interest" means the right, however evidenced or documented, to use and occupy one or more timeshare units on a periodic basis according to an arrangement allocating ~~such~~ *the* use and occupancy rights between similar users.

(19) "Timeshare owner" means a person, other than a developer, who is an owner or co-owner of a timeshare. If title to a timeshare is held in trust, timeshare owner means the beneficiary of the trust.

(20) "Timeshare salesperson" means a person who for a salary, commission, or compensation of any kind is associated, either directly or indirectly, regularly or occasionally, with a timeshare broker to sell, purchase, or negotiate for sale, purchase, lease, or exchange of the timeshare interests in real estate and who, on behalf of a developer, sells or offers to sell a timeshare to a purchaser.

(21) "Timeshare unit" or "unit" means the real property or portion ~~thereof~~ *of real property* in which the timeshare exists and that is designated for separate use, including campgrounds, campsites, and outdoor recreation sites with spaces designed or promoted for the purpose of locating a trailer, tent, tent trailer, camper, or similar device for land-based portable housing."

Section 1415. Section 37-53-301, MCA, is amended to read:

"37-53-301. Licensure of timeshare brokers and timeshare salespersons. (1) (a) A person offering timeshare units for ~~his~~ *the person's* own account or for the account of others must be licensed as a timeshare salesperson or timeshare broker unless the offering is exempt under 37-53-205. Licensure may be obtained:

(i) upon completion of an application and personal disclosure statement and passage of an examination prescribed by the board demonstrating knowledge of the timeshare industry and this chapter; and

(ii) upon successful completion of a course of education related to the timeshare industry that has been approved by the board.

(b) ~~The~~ *Upon compliance with the requirements of subsection (1)(a), the* board shall ~~then~~ issue a certificate of completion to the applicant.

(2) A person licensed as a real estate broker or salesperson under Title 37, chapter 51, may act as a timeshare salesperson or timeshare broker upon successful completion of a course of education related to the timeshare industry that has been approved by the board. ~~The~~ *Upon completion, the* board shall ~~then~~ issue a certificate of completion to the applicant. ~~No~~ *Another* license other than that issued pursuant to Title 37, chapter 51, is *not* required.”

Section 1416. Section 37-53-305, MCA, is amended to read:

“37-53-305. Transfer of developer’s interest. A developer may not sell, lease, assign, or otherwise transfer ~~his~~ *the developer’s* interest in a project unless the transferee agrees in writing to honor the purchaser’s right to use and occupy the timeshare unit, to honor the purchaser’s right to cancel, and to comply with this chapter. Each purchaser whose contract may be affected must be given written notice of a transfer immediately after the transfer is made.”

Section 1417. Section 37-53-403, MCA, is amended to read:

“37-53-403. Awarding of gifts and prizes. (1) Any prize, gift, or other item offered pursuant to a prize and gift promotional offer must be delivered to the prospective purchaser on the day ~~he~~ *the prospective purchaser* appears to claim it, whether or not ~~he~~ *the prospective purchaser* purchases a timeshare interval. If the prize is not available, it must be presented or mailed at the developer’s expense, postage prepaid, within 30 days ~~thereafter~~ *after the date on which the prospective purchaser appears*.

(2) All prizes, gifts, or other items represented by the developer to be awarded in connection with any prize and gift promotional offer must be awarded by the date referenced in the advertising material used in connection with ~~such~~ *the* offer.”

Section 1418. Section 37-54-412, MCA, is amended to read:

“37-54-412. Collection of appraisal fees. A person who performs independent appraisal services as a licensed or certified real estate appraiser in this state may not bring an action in any court in this state to collect compensation for the performance of those services unless ~~he~~ *the person* alleges and proves that ~~he~~ *the person* held a valid license or certificate at all times during the performance of those services.”

Section 1419. Section 37-54-415, MCA, is amended to read:

“37-54-415. Place of business. (1) A resident licensed or certified real estate appraiser shall maintain a principal place of business in this state. If the appraiser changes ~~his~~ *the* principal place of business, ~~he~~ *the appraiser* shall promptly notify the board in writing of the change. Upon receipt of notice of the change, the board shall issue a new license or certificate for the unexpired term, stating the principal place of business.

(2) A nonresident licensee is not required to maintain a place of business in this state if ~~he~~ *the licensee* maintains a principal place of business in ~~his~~ *the licensee’s* domicile state.”

Section 1420. Section 37-54-416, MCA, is amended to read:

“37-54-416. Retention of records. (1) A licensed or certified real estate appraiser shall retain for 5 years from the date of submission of an appraisal report to a client:

(a) an original or true copy of any written contract engaging ~~his~~ *the person’s* services as an appraiser;

(b) an appraisal report prepared or signed by the licensed or certified real estate appraiser; and

(c) all supporting data assembled and formulated by the licensed or certified real estate appraiser in preparing the appraisal report.

(2) If a licensed or certified real estate appraiser is notified within this 5-year period that the appraisal report is involved in litigation, the appraiser shall retain the appraisal report for 5 years from the final date of disposition of the litigation.

(3) The licensed or certified real estate appraiser shall make available to the board at reasonable times, for inspection and copying, any appraisal report *he the appraiser* is required to maintain under the provisions of this section.”

Section 1421. Section 37-60-104, MCA, is amended to read:

“37-60-104. Restrictions on contract security company and proprietary security organization. ~~No~~ *An* employee of a contract security company or proprietary security organization may *not* make any investigation or investigations except those that are incidental to the theft, loss, embezzlement, misappropriation, or concealment of any property or any other thing ~~which he~~ *that the employee* has been hired or engaged to protect, guard, or watch.”

Section 1422. Section 37-60-401, MCA, is amended to read:

“37-60-401. Responsibility of licensee for conduct of employees. A licensee ~~shall~~ *is* at all times be legally responsible for the good conduct in the business of each employee, including ~~his~~ *the* manager.”

Section 1423. Section 37-60-404, MCA, is amended to read:

“37-60-404. Duty to maintain employee records. Each employer shall maintain a record containing ~~such~~ information relative to ~~his~~ *the employer's* employees ~~as~~ *that* may be prescribed by the board.”

Section 1424. Section 37-61-201, MCA, is amended to read:

“37-61-201. Who considered to be practicing law. Any person who ~~shall hold himself~~ *holds* out to the public or ~~advertise~~ *advertises* as an attorney or counselor at law or who ~~shall appear~~ *appears* in any court of record or before a judicial body, referee, commissioner, or other officer appointed to determine any question of law or fact by a court or who ~~shall engage~~ *engages* in the business and duties and ~~perform such~~ *performs* acts, matters, and things ~~as~~ *that* are usually done or performed by an attorney at law in the practice of ~~his~~ *that* profession for the purposes of parts 1 through 3 of this chapter ~~shall be deemed~~ *is considered* to be practicing law.”

Section 1425. Section 37-61-203, MCA, is amended to read:

“37-61-203. Clerk, sheriff, or coroner may not practice law. The clerk, deputy clerk, sheriff, undersheriff, deputy sheriff, or coroner ~~must~~ *may* not, during ~~his~~ *the* continuance in office, practice as attorney and counselor in any court.”

Section 1426. Section 37-61-207, MCA, is amended to read:

“37-61-207. Oath. Every person on ~~his~~ admission ~~must~~ *shall* take an oath to support the Constitution of the United States and The Constitution of the State of Montana and to faithfully discharge the duties of an attorney and counselor at law with fidelity to the best of ~~his~~ *the person's* knowledge and ability. A certificate of ~~such~~ *the* oath must be endorsed upon the license and a duplicate filed with the clerk.”

Section 1427. Section 37-61-210, MCA, is amended to read:

“37-61-210. Penalty for practicing without license. If any person practices law in any court, except a justice’s court or a city court, without having received a license as attorney ~~and counselor~~, ~~he~~ *the person* is guilty of a contempt of court.”

Section 1428. Section 37-61-214, MCA, is amended to read:

“37-61-214. Penalty for practicing without certificate indicating payment of tax. ~~No~~ An attorney ~~shall~~ *may not* practice or be permitted to practice ~~his profession~~ in any of the courts of record in this state until ~~he~~ ~~shall~~ ~~have~~ ~~the attorney~~ ~~has~~ paid ~~such a~~ license tax for the current fiscal year and procured a certificate, as ~~hereinabove~~ provided in 37-61-211, and any attorney violating this section ~~shall be~~ *is* guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than \$25.”

Section 1429. Section 37-61-301, MCA, is amended to read:

“37-61-301. Disbarment. (1) The supreme court of the state ~~shall have~~ *has* exclusive jurisdiction to remove or suspend attorneys ~~and counselors~~ at law.

(2) An attorney ~~and counselor~~ may be removed or suspended for any of the following causes arising after ~~his~~ admission to practice:

(a) ~~his~~ conviction of a felony or misdemeanor involving moral turpitude, in which case the record of conviction is conclusive evidence;

(b) willful disobedience or violation of an order of the court requiring ~~him~~ *the individual* to do or forbear an act connected with or in the course of ~~his~~ *the legal* profession ~~which he~~ *that the individual* ought in good faith to do or forbear and any violation of the oath taken by ~~him~~ *the individual* or of ~~his~~ *the* duties as ~~such an attorney and counselor~~;

(c) corruptly or willfully and without authority appearing as attorney for a party to an action or proceeding;

(d) lending ~~his~~ *the attorney’s* name to be used as attorney ~~and counselor~~ by another person who is not an attorney ~~and counselor~~;

(e) being guilty of deceit, malpractice, crime, or misdemeanor involving moral turpitude.”

Section 1430. Section 37-61-309, MCA, is amended to read:

“37-61-309. Judgment. Upon conviction, in cases arising under 37-61-301(2)(a), the judgment of the court must be that the name of the party be stricken from the roll of attorneys ~~and counselors~~ of the court and that ~~he~~ *the party* be precluded from practicing as ~~such an attorney or counselor~~ in all the courts of this state. Upon conviction in cases under the other subsections of that section, the judgment of the court may be, according to the gravity of the offense charged, deprivation of the right to practice as attorney ~~or counselor~~ in the courts of this state permanently or for a limited period.”

Section 1431. Section 37-61-401, MCA, is amended to read:

“37-61-401. Authority of attorney. (1) An attorney ~~and counselor~~ has authority to:

(a) bind ~~his~~ *the attorney’s* client in any steps of an action or proceeding by ~~his~~ agreement filed with the clerk or entered upon the minutes of the court and not otherwise;

(b) receive money claimed by ~~his~~ *the attorney’s* client in an action or proceeding during the pendency ~~thereof~~ *of an action or proceeding* or after

judgment unless a revocation of his authority is filed and, upon the payment thereof of the money and not otherwise, to discharge the claim or acknowledge satisfaction of the judgment.

(2) The death of a party to an action or proceeding does not revoke the authority of his the party's attorney of record in said the action or proceeding, but the authority of the attorney is continued in all respects the same and with like effect as it was prior to the death of such the party until such the attorney shall withdraw his withdraws the attorney's appearance in said the action or proceeding or some other attorney shall be is substituted for him or his the original attorney's authority shall be is otherwise terminated and entry thereof of the substitution or termination is made to appear in the record of such the action or proceeding."

Section 1432. Section 37-61-402, MCA, is amended to read:

"37-61-402. Production of proof of authority to court. The court or judge, on motion of either party, may require the attorney of the adverse party to produce and prove the authority under which he the attorney appears and may stay all proceedings until such the authority is shown and may at any time summarily relieve a party from the consequences of the acts of an unauthorized attorney."

Section 1433. Section 37-61-404, MCA, is amended to read:

"37-61-404. Notice of change. When an attorney is changed as provided in 37-61-403, written notice of the change and the substitution of a new attorney or of the appearance of the party in person must be given to the adverse party. Until then, he the adverse party must shall recognize the former attorney."

Section 1434. Section 37-61-405, MCA, is amended to read:

"37-61-405. Death or removal of attorney. When an attorney dies or is removed or suspended or ceases to act as such an attorney, a party to an action for whom he the attorney was acting as attorney must, before any further proceedings are had against him the party, be required by the adverse party, by written notice, to appoint another attorney or appear in person."

Section 1435. Section 37-61-406, MCA, is amended to read:

"37-61-406. Penalty for deceit. An attorney or counselor who is guilty of any deceit or collusion or consents to any deceit or collusion with intent to deceive the court or a party forfeits to the party injured by his the deceit or collusion treble damages. He The attorney is also guilty of a misdemeanor."

Section 1436. Section 37-61-407, MCA, is amended to read:

"37-61-407. Penalty for delay. An attorney and counselor who willfully delays his a client's cause with a view to his the attorney's own gain or willfully receives money or an allowance for or on account of money which he that the attorney has not laid out or become answerable for forfeits to the party injured treble damages."

Section 1437. Section 37-61-408, MCA, is amended to read:

"37-61-408. Attorney prohibited from buying claim or demand for purpose of bringing action. (1) An attorney and counselor must may not directly or indirectly buy or be in any manner interested in buying a bond, promissory note, bill of exchange, book debt, or other thing in action with the intent and for the purpose of bringing an action thereon on that instrument or thing.

(2) An attorney ~~and counselor must~~ *may not*, ~~by himself individually~~ or by or in the name of another person, either before or after *an* action is brought, promise or give or procure to be promised or given a valuable consideration to any person as an inducement to placing or in consideration of having placed in ~~his~~ *the person's* hands or in the hands of another person a demand of any kind for the purpose of bringing an action ~~thereon~~. This subsection does not apply to an agreement between attorneys ~~and counselors, or either,~~ to divide between themselves the compensation to be received."

Section 1438. Section 37-61-412, MCA, is amended to read:

"37-61-412. Partner of public prosecutor not to defend. An attorney ~~and counselor must~~ *may not*:

(1) directly or indirectly advise concerning, aid, or take any part in the defense of an action or special proceeding, civil or criminal, brought, carried on, aided, advocated, or prosecuted, as attorney general, county attorney, or other public prosecutor, by a person with whom ~~he~~ *the attorney* is interested or connected, either directly or indirectly, as a law partner; or

(2) take or receive, directly or indirectly, from a defendant ~~therein~~ *in a case described in subsection (1)* or other person a fee, gratuity, or reward for or upon any cause, consideration, pretense, understanding, or agreement ~~whatever,~~ express or implied, having relation ~~thereto~~ *to a case described in subsection (1)* or to the prosecution or defense ~~thereof~~ *of a case described in subsection (1)*."

Section 1439. Section 37-61-416, MCA, is amended to read:

"37-61-416. Party may appear in person or by attorney. A party to a civil action who is of ~~full~~ *legal* age may prosecute or defend the ~~same~~ *action* in person or by attorney at ~~his~~ *the party's* election unless ~~he~~ *the party* has been judicially declared to be incompetent to manage ~~his~~ *the party's* affairs. Each provision of this part relating to the conduct of an action ~~wherein~~ *in which* the attorney for the party is mentioned includes a party prosecuting or defending in person unless otherwise specially prescribed ~~therein~~ or unless that construction is manifestly repugnant to the context. If a party has an attorney in the action, ~~he~~ *the party cannot* ~~may not~~ appear or act in person ~~where~~ *when* an attorney may appear or act either by special provisions of law or by the course and practice of the court."

Section 1440. Section 37-61-417, MCA, is amended to read:

"37-61-417. Attorney may defend in person. This part does not prohibit an attorney ~~or counselor~~ from ~~defending himself in person~~ *defending in person* if prosecuted either civilly or criminally."

Section 1441. Section 37-61-418, MCA, is amended to read:

"37-61-418. Attorney may see prisoner. All public officers, sheriffs, coroners, jailers, constables, or other officers or persons having in custody any person committed, imprisoned, or restrained of ~~his~~ *the person's* liberty for any alleged cause ~~whatever~~ *must shall* admit any practicing attorney ~~and counselor~~ at law in this state whom ~~such~~ *the* person restrained of ~~his~~ liberty may desire to see or consult, to see and consult ~~such~~ *the imprisoned* person ~~so imprisoned,~~ alone and in private, at the jail or other place of custody. Any officer violating this provision shall forfeit and pay \$100 to the person aggrieved, to be recovered by action of debt in any court of competent jurisdiction."

Section 1442. Section 37-61-420, MCA, is amended to read:

“37-61-420. Judgment lien for compensation. (1) The compensation of an attorney and counselor for his services is governed by agreement, express or implied, which is not restrained by law.

(2) From the commencement of an action or the service of an answer containing a counterclaim, the attorney who appears for a party has a lien upon his the client’s cause of action or counterclaim which that attaches to a verdict, report, decision, or judgment in his the client’s favor and the proceeds thereof in whose hands they may come of the action or counterclaim. Such The lien cannot be affected by any settlement between the parties before or after judgment.”

Section 1443. Section 37-65-103, MCA, is amended to read:

“37-65-103. Exemptions. (1) ~~Nothing contained in this chapter shall prevent draftsmen~~ *This chapter does not prevent drafters*, students, clerks of work, superintendents, and other employees of those lawfully practicing as architects under the provisions of this chapter from acting under the instruction, control, or supervision of their employers or to prevent the employment of superintendents of the construction, enlargement, or structural alteration of buildings or any appurtenance ~~thereto~~ *to buildings*.

(2) ~~Nothing contained in this~~ *This* chapter shall ~~may not~~ be construed to:

(a) apply to alterations to any building which that do not involve changes affecting the structural safety ~~thereof~~ *of a building* or the public health;

(b) prevent the preparation of details and shop drawings by persons other than architects for use in connection with the execution of their work; or

(c) prevent the preparation of drawings or details for fixtures, cabinetwork, furniture, or other interior appliances or equipment or for any work necessary to provide for their installation unless the ~~same~~ *drawings or installation* involves public health or safety.

(3) ~~None of the~~ *The* acts enumerated in subsections (1) and (2) shall ~~may not~~ be interpreted or construed as the practice of architecture.

(4) ~~Nothing in this~~ *This* chapter shall ~~may not~~ be construed to affect or prevent the following, provided that no words, letters, figures, or other device shall ~~may not~~ be used in ~~such a manner as to tend~~ *that tends* to convey the impression that the person rendering ~~such~~ *the* service is an architect ~~and~~ registered under this chapter:

(a) consultants, officers, and employees of the United States while engaged solely in the practice of architecture for ~~said government~~ *the United States*;

(b) professional engineers from performing architectural services which ~~that~~ are purely incidental to their engineering practice;

(c) any person from planning, designing, altering, repairing, supervising, or engaging in residential construction consisting of less than eight living units regardless of size or cost or farm buildings which that are not intended for use or used as a public building;

(d) the planning, design, alteration, construction, repair, or supervision of construction of a building by its owner if the building is not intended for use or used as a public building.”

Section 1444. Section 37-65-301, MCA, is amended to read:

“37-65-301. License required. Except as provided in this chapter, no a person may ~~not~~ practice architecture in this state or use the title “architect” or “licensed architect” or any words, letters, figures, or other device indicating or

intending to imply that *he the person* is an architect, without having qualified under this chapter.”

Section 1445. Section 37-66-104, MCA, is amended to read:

“37-66-104. Acts declared unlawful. It ~~shall be~~ *is* unlawful for *any a* person to:

- (1) offer to practice or hold ~~himself~~ out *as to the public that the person is* entitled to practice landscape architecture unless ~~duly~~ licensed and registered under this chapter;
- (2) present as ~~his~~ *the person’s* own the license of another;
- (3) give false or forged evidence to the board or any *board* member ~~thereof~~ in obtaining a license;
- (4) falsely impersonate any other practitioner of like or different name;
- (5) otherwise violate any of the provisions of this chapter.”

Section 1446. Section 37-66-105, MCA, is amended to read:

“37-66-105. Exemptions. (1) ~~None of the~~ *The* provisions of this chapter *do not* prevent employees of those lawfully practicing as landscape architects from acting under the instruction, control, or supervision of their employers.

(2) ~~None of the~~ *The* provisions of this chapter *do not* apply to any business conducted in this state by *any a* horticulturist, ~~nurseryman~~ *nursery operator*, or landscape ~~nurseryman~~ *nursery operator*, ~~plantsman~~, gardener, landscape gardener, landscape designer, landscape artist, landscape contractor, or land use planner, as these terms are generally used. However, ~~no such an unlicensed~~ person ~~shall~~ *may not* use the title “landscape architect”, “landscape architecture”, or any description tending to convey the impression that *he the person* is a licensed landscape architect unless *he the person* is licensed as provided in this chapter.

(3) This chapter does not apply to architects, professional engineers, and professional land surveyors licensed to practice their respective professions.

(4) ~~None of the provisions of this~~ *This* chapter ~~shall does not~~ apply to *any a* person performing any of the services mentioned in this chapter upon ~~his~~ *the person’s* own property.

(5) ~~None of the provisions of this~~ *This* chapter ~~shall does not~~ require the hiring of a landscape architect.”

Section 1447. Section 37-66-302, MCA, is amended to read:

“37-66-302. Illegal use of title. ~~No~~ A person *may not* use the designation “landscape architect” or “landscape architecture” or advertise any title or description tending to convey the impression that *he the person* is a landscape architect or practicing landscape architecture unless ~~such~~ *the person* is a landscape architect licensed with the board.”

Section 1448. Section 37-66-303, MCA, is amended to read:

“37-66-303. Licensing restricted to individuals — partnerships — local business licensing. (1) Certificates of licensing may be issued to natural persons only, but ~~nothing contained in this chapter prevents~~ *does not prevent* a ~~duly~~ licensed landscape architect from performing ~~his~~ services for a corporation, firm, partnership, or association.

(2) Each partner in a partnership of landscape architects ~~shall~~ *must* be licensed to practice landscape architecture. Subject to this requirement, a

partnership of landscape architects may use a partnership name if the name consists of:

- (a) the names of two or more landscape architects; or
- (b) the names of one or more landscape architects and one or more professional engineers, architects, or planners.

(3) A person applying to the licensing official of any county or city for a business license to practice landscape architecture shall, at the time of application, exhibit to the licensing official satisfactory evidence under the seal of the board and the hand of its secretary that the applicant possesses a current registration with the board. The license may not be granted until ~~such~~ *the* evidence is presented.”

Section 1449. Section 37-66-308, MCA, is amended to read:

“37-66-308. Display of license — seal of landscape architect. (1) Each holder of a license shall display it in ~~his~~ *the licensee’s* principal office, place of business, or place of employment.

(2) Each landscape architect ~~shall~~ *must* have a seal approved by the board, ~~which shall~~ *that must* contain the name of the landscape architect and the words “Licensed Landscape Architect, State of Montana” and ~~such~~ other words or figures ~~as~~ *that* the board considers necessary. All drawings and title pages of specifications prepared by ~~such a~~ landscape architect or under the supervision of ~~such a~~ landscape architect ~~shall~~ *must* be stamped with ~~his~~ *the landscape architect’s* seal. ~~Nothing contained herein shall~~ *This section may not* be construed to permit the seal of a landscape architect to serve as a substitute for the seal of a licensed architect, a licensed professional engineer, or a licensed professional land surveyor.”

Section 1450. Section 37-68-103, MCA, is amended to read:

“37-68-103. Exemptions. (1) ~~Nothing in this chapter shall be deemed to~~ *This chapter does not* apply to the installation, alteration, or repair of electrical signal or communications equipment owned or operated by a public utility or a city. For purposes of this exemption, “communications equipment” includes telephone wire inside a customer’s premises. ~~Nothing in this chapter prohibits~~ *This chapter does not prohibit* a public utility from doing inside wiring to install, alter, repair, or maintain electrical equipment, installations, or facilities in buildings owned by the public utility if the work is accomplished by an employee who is a licensed electrician. If the building owned by the public utility is open to the public and the inside wiring constitutes major renovation or construction, the installation, alteration, repair, or maintenance of electrical equipment, installations, or facilities is subject to permits and inspections required by law.

(2) The licensing or inspection provisions of this chapter do not apply to regularly employed maintenance electricians doing maintenance work on the business premises of their employer, nor do they apply to line work on the business premises of the employer when ordinary and customary in-plant or onsite installations, modifications, additions, or repairs are performed.

(3) ~~Nothing in this chapter shall~~ *This chapter may not* be construed to require an individual to hold a license while or for doing electrical work on ~~his~~ *the individual’s* own property or residence ~~provided that said~~ *if the* property or residence is maintained for ~~his~~ *the individual’s* own use.

(4) An individual, firm, partnership, or corporation may engage in business as an electrical contractor without an electrician’s license if all electrical work performed by ~~such~~ *the* individual, firm, partnership, or corporation is under the

direction, control, and supervision of a licensed master electrician or under the direction, control, and supervision of a journeyman electrician for residential construction consisting of less than five living units in a single structure.

(5) ~~Any~~ A person who plugs in an electrical appliance where an approved electrical outlet is already installed ~~shall~~ *may* not be considered as an installer.

(6) ~~No provisions of this chapter shall~~ *This chapter may not* in any manner interfere with, hamper, preclude, or prohibit ~~any~~ a vendor of any electrical appliance from selling, delivering, and connecting any electrical appliance if the connection does not necessitate the installation of electrical wiring of the structure ~~where in which~~ the appliance is to be connected.”

Section 1451. Section 37-68-303, MCA, is amended to read:

“37-68-303. Apprentice may work under licensed electrician — record of apprentices. This chapter does not prohibit a person from working as an apprentice in the trade of electrician with an electrician licensed under this chapter and under rules ~~made~~ *adopted* by the board. The name and residence of each apprentice and the name and residence of ~~his~~ *the apprentice’s* employer ~~shall must~~ be filed with the department, and a record ~~shall must~~ be kept by the department showing the name and residence of each apprentice.”

Section 1452. Section 37-68-314, MCA, is amended to read:

“37-68-314. Qualifications for licensing examination — when no discretion in board. A person applying for a license as a journeyman electrician or a residential electrician must be allowed by the ~~state electrical~~ board to take the required examination and be granted a license upon passing the examination if *the person has*:

(1) ~~he has~~ completed an appropriate training program conducted by a bona fide union;

(2) ~~he has~~ completed the appropriate required apprenticeship; or

(3) ~~he has~~ worked in the electrical field for 10 years and is considered by ~~his~~ *the person’s* employer, as shown by a written statement of the employer, to be capable and qualified to take the examination for the license for which ~~he the~~ *the person* is applying.”

Section 1453. Section 37-69-103, MCA, is amended to read:

“37-69-103. No penalty for hiring unlicensed plumber. This chapter may not be construed as imposing ~~any a~~ penalty on any unlicensed person for hiring or contracting with an unlicensed person to do work in the field of plumbing. However, ~~any a~~ person who ~~himself~~ engages in the field of plumbing at a time when ~~he the person~~ is not ~~duly~~ licensed is subject to the penalties imposed by this chapter.”

Section 1454. Section 37-69-303, MCA, is amended to read:

“37-69-303. Application — contents — requirements. A person, firm, or corporation desiring to engage in or work in the field of plumbing in this state, either as a master plumber or as a journeyman plumber, shall make application to the department by filing a written application stating ~~his the applicant’s~~ place of residence, age, *and* experience; and the place where ~~he the applicant~~ has acquired ~~his~~ experience and ~~shall must~~ at a time and place designated by the board be examined as to ~~his the~~ qualifications for a license.”

Section 1455. Section 37-69-324, MCA, is amended to read:

“37-69-324. Penalty. A person who works at the field of plumbing or maintains or conducts a plumbing business or an individual who connects or

disconnects plumbing from a public water or sewer system in violation of any provisions of this chapter or at a time when ~~he~~ *the person* is not exempt from the provisions of this chapter pursuant to the provisions of ~~a duly an~~ enacted and subsisting ordinance of a city or town is guilty of a misdemeanor ~~and, upon conviction thereof in any court of competent jurisdiction, is guilty of a misdemeanor.~~ However, this chapter may not be construed to apply to or affect plumbing or pipefitting as indicated in the 37-69-102 exceptions.”

Section 1456. Section 37-72-203, MCA, is amended to read:

“37-72-203. Revocation, suspension, or refusal to renew license — grounds — procedure. (1) The department may reprimand or revoke, suspend, or refuse to renew the license of a person found guilty of:

- (a) fraud or deceit in obtaining a license;
- (b) gross negligence, incompetency, or misconduct in the practice of construction blasting;
- (c) a felony involving the use of explosives; or
- (d) violation of the rules of the department.

(2) A person may make charges under subsection (1) against a licensee. The charges must be made by affidavit, subscribed and sworn to by the person making them, and filed with the department. The charges must be investigated by the department. Unless the department, after investigation, dismisses the charges as unfounded or trivial, it shall within 6 months after the date on which the charges were made give notice by mail to the licensee of its intent to reprimand ~~him~~ *the licensee* or to revoke, suspend, or refuse to renew ~~his~~ *the* license. The notice must contain those matters required by the Montana Administrative Procedure Act.

(3) The department may require a licensee to take a written or oral examination, or both, in a proceeding to reprimand or to revoke, suspend, or refuse to renew a license.”

Section 1457. Section 37-72-301, MCA, is amended to read:

“37-72-301. General qualifications. A person making initial application to the department for a license as a construction blaster shall:

- (1) pay an application fee to the department; and
- (2) furnish proof under oath, on a form provided by the department, that ~~he~~ *the person*:
 - (a) is at least 18 years ~~old~~ *of age*;
 - (b) is of good moral character;
 - (c) has not been convicted of a felony or misdemeanor involving the use of explosives;
 - (d) is not addicted to narcotic drugs or intemperate in the use of alcohol; and
 - (e) has satisfied the requirements for training and experience in construction blasting established by 37-72-302 and the rules of the department.”

Section 1458. Section 39-1-103, MCA, is amended to read:

“39-1-103. Powers of department. (1) In discharging the duties imposed upon the department, the commissioner or ~~his~~ *the commissioner's* authorized representatives may administer oaths, examine witnesses under oath, take depositions or cause ~~same~~ *depositions* to be taken, deputize any citizen 18 years of age or older to serve subpoenas upon witnesses, and issue subpoenas for the

attendance of witnesses before ~~him~~ *the commissioner* in the same manner as for attendance before district courts.

(2) The commissioner may likewise cause to be inspected any mine, factory, workshop, smelter, mill, warehouse, elevator, foundry, machine shop, or other industrial establishment.

(3) ~~Nothing in this~~ *This chapter applies does not apply* to labor violations preempted by federal law or regulation.”

Section 1459. Section 39-2-102, MCA, is amended to read:

“39-2-102. What belongs to employer. Everything ~~which~~ *that* an employee acquires by virtue of ~~his~~ employment, except the compensation, if any, ~~which that~~ is due to ~~him~~ from ~~his~~ *the employee’s* employer, belongs to the ~~latter~~ *employer*, whether acquired lawfully or unlawfully or during or after the expiration of the term of ~~his~~ *the employee’s* employment.”

Section 1460. Section 39-2-303, MCA, is amended to read:

“39-2-303. Deception as to character of employment, conditions of work, or existence of labor dispute prohibited. (1) ~~No one~~ *A person or an entity* doing business in this state ~~shall may not~~ induce, influence, persuade, or engage ~~workmen~~ *workers* to change from one place to another in this state through or by means of deception, misrepresentation, or false advertising concerning the kind or character of the work, the sanitary or other conditions of employment, or as to the existence of a strike or other trouble pending between the employer and the employees at the time of or immediately prior to ~~such~~ *the* engagement. Failure to state in any advertisement, proposal, or contract for the employment of ~~workmen~~ *workers* that there is a strike, lockout, or other labor trouble at the place of the proposed employment when in fact ~~such a~~ *such* a strike, lockout, or other trouble ~~then~~ actually exists at ~~such that~~ *that* place ~~shall be deemed is considered~~ a false advertisement and misrepresentation for the purpose of this section.

(2) ~~Any workman~~ *A worker* influenced, induced, persuaded, or engaged through or by means of any of the things prohibited by subsection (1) ~~of this section~~ has a right of action for recovery of all damages that ~~he had~~ *the worker* sustained in consequence of the deception, misrepresentation, or false advertising used to induce ~~him~~ *the worker* to change ~~his~~ *the worker’s* place of employment against anyone directly or indirectly procuring ~~such~~ *the* change, and in addition ~~thereto, he~~ *the worker* shall recover reasonable ~~attorneys’~~ *attorney’s* fees to be fixed by the court and taxed as costs in any judgment recovered.”

Section 1461. Section 39-2-401, MCA, is amended to read:

“39-2-401. Duties of gratuitous employee. (1) One who without consideration undertakes to do a service for another is not bound to perform the ~~same~~ *service*, but if ~~he~~ *the person* actually enters upon its performance, ~~he~~ *the person* ~~must shall~~ use at least slight care and diligence ~~therein~~ *in performing the service*.

(2) One who by ~~his~~ *the person’s* own special request induces another to entrust ~~him~~ *the person* with the performance of a service ~~must shall~~ perform the same fully. In other cases, one who undertakes a gratuitous service may relinquish it at any time.

(3) A gratuitous employee who accepts a written power of attorney ~~must shall~~ act under it ~~so~~ as long as it remains in force or until ~~he~~ *the gratuitous*

employee gives notice to ~~his~~ *the* employer that ~~he~~ *the employee* will not ~~do so~~ *act under the power of attorney.*”

Section 1462. Section 39-2-402, MCA, is amended to read:

“39-2-402. Duties of employee for reward. One who for a good consideration agrees to serve another ~~must~~ *shall* perform the service and ~~must~~ *shall* use ordinary care and diligence ~~therein so~~ *in performing the service* as long as ~~he~~ *the person* is ~~thus~~ employed.”

Section 1463. Section 39-2-403, MCA, is amended to read:

“39-2-403. Duties of employee for his own benefit. One who is employed at ~~his~~ *the individual's* own request to do that which is more for ~~his~~ *the individual's* own advantage than for that of ~~his~~ *the employer* ~~must~~ *shall* use great care and diligence ~~therein~~ to protect the interest of the ~~latter~~ *employer.*”

Section 1464. Section 39-2-404, MCA, is amended to read:

“39-2-404. Employee must shall obey employer. An employee ~~must~~ *shall* substantially comply with all the directions of ~~his~~ *the* employer concerning the service on which ~~he~~ *the employee* is engaged, except ~~where~~ *such* ~~when~~ obedience is impossible or unlawful or would impose new and unreasonable burdens upon the employee.”

Section 1465. Section 39-2-405, MCA, is amended to read:

“39-2-405. Employee must shall conform to usage. An employee ~~must~~ *shall* perform ~~his~~ service in conformity to the usage of the place of performance unless otherwise directed by ~~his~~ *the* employer or unless it is impracticable or manifestly injurious to ~~his~~ *the* employer to do so.”

Section 1466. Section 39-2-406, MCA, is amended to read:

“39-2-406. Degree of skill required. (1) An employee is bound to exercise a reasonable degree of skill unless ~~his~~ *the* employer has notice before employing ~~him~~ *the employee* of ~~his~~ *the employee's* want of skill.

(2) An employee is always bound to use ~~such~~ *the* skill ~~as~~ *he* ~~that~~ *the employee* possesses, ~~so far as to the extent that~~ *the same skill* is required, for the service specified.”

Section 1467. Section 39-2-407, MCA, is amended to read:

“39-2-407. Duty to account. An employee ~~must~~ *shall*, on demand, render to ~~his~~ *the* employer as often as may be reasonable just accounts of all ~~his~~ *the employee's* transactions in the course of ~~his~~ service and ~~must~~ *shall*, without demand, give prompt notice to ~~his~~ *the* employer of everything ~~which~~ *he* ~~that~~ *the employee* receives for ~~his~~ *the employer's* account.”

Section 1468. Section 39-2-408, MCA, is amended to read:

“39-2-408. Duty of employee regarding items received on account of his employer. An employee who receives anything on account of ~~his~~ *the* employer in any capacity other than that of a mere servant is not bound to deliver it to ~~him~~ *the employer* until demanded and is not at liberty to send it to ~~him~~ *the employer* from a distance, without demand, in any mode involving greater risk than its retention by the employee ~~himself~~.”

Section 1469. Section 39-2-409, MCA, is amended to read:

“39-2-409. Preference to be given to employer's business. An employee who has any business to transact on ~~his~~ *the employee's* own account similar to that entrusted to ~~him~~ *the employee* by ~~his~~ *the employee's* employer ~~must~~ *shall* always give the ~~latter~~ *employer's business* the preference.”

Section 1470. Section 39-2-410, MCA, is amended to read:

“39-2-410. Responsibility of employee for substitute. An employee who is expressly authorized to employ a substitute is liable to ~~his~~ *the* principal only for want of ordinary care in ~~his~~ *the substitute’s* selection. The substitute is directly responsible to the principal.”

Section 1471. Section 39-2-411, MCA, is amended to read:

“39-2-411. Surviving employee. ~~Where~~ *When* service is to be rendered by two or more persons jointly and one of them dies, the survivor ~~must~~ *shall* act alone if the service to be rendered is ~~such as he~~ *of a type that the survivor* can rightly perform without the aid of the deceased person, but not otherwise.”

Section 1472. Section 39-2-501, MCA, is amended to read:

“39-2-501. Termination of employment generally. ~~Every~~ *An* employment is terminated by:

- (1) the expiration of its appointed term;
- (2) the extinction of its subject;
- (3) the death of the employee; or
- (4) ~~his~~ *the employee’s* legal incapacity to act as ~~such~~ *an employee.*”

Section 1473. Section 39-2-502, MCA, is amended to read:

“39-2-502. Termination by death or incapacity of employer. (1) ~~Every~~ *An* employment in which the power of the employee is not coupled with an interest in its subject is terminated by notice to ~~him~~ *the employee* of:

- (a) the death of the employer; or
- (b) ~~his~~ *the employer’s* legal incapacity to contract.

(2) An employee, unless the term of ~~his~~ *his* service has expired or unless ~~he~~ *the employee* has a right to discontinue it at any time without notice, ~~must~~ *shall* continue ~~his~~ *his* service after notice of the death or incapacity of ~~his~~ *the* employer, ~~so far as is to the extent~~ *so far as is to the extent* necessary to protect from serious injury the interests of the employer’s successor in interest, until a reasonable time after notice of the facts has been communicated to ~~such~~ *the* successor. The successor ~~must~~ *shall* compensate the employee for ~~such~~ *the* service according to the terms of the contract of employment.”

Section 1474. Section 39-2-601, MCA, is amended to read:

“39-2-601. Servant defined. A servant is one who is employed to render personal service to ~~his~~ *the* employer otherwise than in the pursuit of an independent calling and who in ~~such~~ *that* service remains entirely under the control and direction of the ~~latter~~ *employer*, who is called ~~his~~ *the servant’s* master.”

Section 1475. Section 39-2-605, MCA, is amended to read:

“39-2-605. Servant to pay over without demand. A servant ~~must~~ *shall* deliver to ~~his~~ *the servant’s* master without demand, as soon as with reasonable diligence ~~he can find him~~ *the master can be found*, everything that ~~he~~ *the servant* receives for ~~his~~ *the master’s* account, but ~~he~~ *the servant* is not bound without orders from ~~his~~ *the* master to send anything to ~~him~~ *the master* through another person.”

Section 1476. Section 39-2-606, MCA, is amended to read:

“39-2-606. When servant may be discharged. A master may discharge any servant, other than an apprentice, whether engaged for a fixed term or not:

(1) if ~~he~~ *the servant* is guilty of misconduct in the course of ~~his~~ *the servant's* service or of gross immorality, though unconnected with the ~~same~~ *service*; or

(2) if, being employed about the person of ~~his~~ *the* master or in a confidential position, the master discovers that ~~he~~ *the servant* has been guilty of misconduct before or after the commencement of ~~his~~ *the servant's* service of ~~such~~ a nature that, if the master had known or contemplated it, ~~he~~ *the master* would not have ~~so~~ employed ~~him~~ *the servant*."

Section 1477. Section 39-2-701, MCA, is amended to read:

"39-2-701. Indemnification of employee. (1) An employer ~~must~~ *shall* indemnify ~~his~~ *an* employee, except as prescribed in subsection (2) ~~of this section~~, for all that ~~he~~ *the employee* necessarily expends or loses in direct consequence of the discharge of ~~his~~ *the employee's* duties as ~~such~~ *an employee* or of ~~his~~ *the employee's* obedience to the directions of the employer, even though unlawful, unless the employee at the time of obeying ~~such~~ *the* directions believed them to be unlawful.

(2) An employer is not bound to indemnify ~~his~~ *an* employee for losses suffered by the ~~latter~~ *employee* in consequence of the ordinary risks of the business in which ~~he~~ *the employee* is employed.

(3) An employer ~~must~~ *shall* in all cases indemnify ~~his~~ *an* employee for losses caused by the ~~former's~~ *employer's* want of ordinary care."

Section 1478. Section 39-2-702, MCA, is amended to read:

"39-2-702. Liability of employee for negligence. An employee who is guilty of a culpable degree of negligence is liable to ~~his~~ *the* employer for the damage ~~thereby~~ *caused by the negligence* to the ~~latter~~ *employer*, and the employer is liable to ~~him~~ *the employee* for the value of ~~such~~ *the* services only as *that* are properly rendered if the service is not gratuitous."

Section 1479. Section 39-2-703, MCA, is amended to read:

"39-2-703. Liability of railway corporation for negligence of fellow servants. (1) ~~Every~~ *A* person or corporation operating a railway or railroad in this state is liable for all damages sustained by any employee of ~~such~~ *the* person or corporation in consequence of the neglect of any other employee ~~thereof~~ *of the person or corporation* or by the mismanagement of any other employee ~~thereof~~ and in consequence of the willful wrongs, whether of commission or omission, of any other employee ~~thereof~~ *of the person or corporation* when ~~such~~ *the* neglect, mismanagement, or wrongs are in any manner connected with the use and operation of ~~any~~ *a* railway or railroad on or about which ~~he~~ *the employee* is employed. ~~No~~ *A* contract ~~which~~ *that* restricts ~~such~~ *the* liability is ~~not~~ legal or binding.

(2) ~~In case of~~ *If* the death of ~~any~~ *such an* employee ~~in consequence of~~ *described in subsection (1) results from* any injury or damage ~~so~~ sustained, the right of action provided by subsection (1) ~~shall survive~~ *survives* and may be prosecuted and maintained by ~~his~~ *the deceased employee's* heirs or personal representatives.

(3) ~~Every~~ *A* railway corporation doing business in this state, including electric railway corporations, is liable for damages sustained by an employee ~~thereof~~ within this state, subject to the provisions of 27-1-702, when ~~such~~ *the* damages are caused by the negligence of any train dispatcher, telegraph operator, superintendent, master mechanic, yardmaster, conductor, engineer, ~~motorman~~ *motor operator*, or any other employee who has superintendence of any stationary or hand signal.

(4) ~~No~~ A contract of insurance, relief, benefit, or indemnity in case of injury or death or any other contract entered into, either before or after the injury, between the person injured and any of the employers named in subsection (3) is *not* a bar or defense to any cause of action brought under the provisions of this section, except as otherwise provided in the Workers' Compensation Act."

Section 1480. Section 39-2-704, MCA, is amended to read:

"39-2-704. Liability of mining company for negligence of fellow servants. (1) ~~Every~~ A company, corporation, or individual operating any mine, smelter, or mill for the refining of ores is liable for damages sustained by any employee ~~thereof~~ within this state, subject to the provisions of 27-1-702, when ~~such the~~ damage is caused by the negligence of any superintendent, ~~foreman~~ *supervisor*, shift boss, hoisting or other engineer, or ~~craneman~~ *crane operator*.

(2) ~~No~~ A contract of insurance, relief, benefit, or indemnity in case of injury or death or any other contract entered into before the injury between the person injured and any of the employers named in this section is *not* a bar or defense to any cause of action brought under the provisions of this section, except as otherwise provided in the Workers' Compensation Act.

(3) ~~In case of~~ *If* the death of ~~any such an~~ employee ~~in consequence of results~~ from any injury or damages ~~so~~ sustained, the right of action survives and may be prosecuted and maintained by ~~his the~~ *the deceased employee's* heirs or personal representatives."

Section 1481. Section 39-2-802, MCA, is amended to read:

"39-2-802. Protection of discharged employees. If ~~any a~~ person, after having discharged an employee from ~~his~~ service, prevents or attempts to prevent, by word or writing of any kind, ~~such the~~ discharged employee from obtaining employment with any other person, ~~such the~~ *discharging* person is punishable as provided in 39-2-804 and is liable in punitive damages to ~~such the~~ discharged person, to be recovered by civil action. ~~No~~ A person is *not* prohibited from informing by word or writing any person to whom ~~such the~~ discharged person or employee has applied for employment a truthful statement of the reason for ~~such~~ discharge."

Section 1482. Section 39-2-803, MCA, is amended to read:

"39-2-803. Blacklisting prohibited. If ~~any a~~ company or corporation in this state authorizes or allows any of its agents to blacklist or ~~any if a~~ person does blacklist any discharged employee or attempts by word or writing or any other means ~~whatever~~ to prevent any discharged employee or any employee who may have voluntarily left the company's service from obtaining employment with another person, except as provided for in 39-2-802, ~~such the~~ company, ~~or~~ corporation, or person is liable in punitive damages to ~~such the~~ employee ~~so~~ prevented from obtaining employment, to be recovered ~~by him~~ in a civil action, and is also punishable as provided in 39-2-804."

Section 1483. Section 39-3-102, MCA, is amended to read:

"39-3-102. Compensation of employee dismissed for cause. An employee dismissed by ~~his the~~ employer for good cause is not entitled to any compensation for services rendered since the last day upon which a payment became due to ~~him the~~ *the employee* under the contract."

Section 1484. Section 39-3-103, MCA, is amended to read:

"39-3-103. Compensation of employee leaving for cause. An employee who quits the service of ~~his an~~ employer for good cause is entitled to ~~such the~~ proportion of the compensation ~~which that~~ would become due in case of full

performance as the services ~~which he~~ *that the employee* has already rendered bear to the services ~~which he~~ *that the employee* was to render as full performance.”

Section 1485. Section 39-3-209, MCA, is amended to read:

“39-3-209. Commissioner of labor to investigate violations and institute actions for unpaid wages. ~~It shall be the duty of the~~ *The* commissioner of labor ~~to shall~~ inquire diligently for any violations of this part and ~~to~~ institute actions for the collection of unpaid wages and for the penalties provided for ~~herein in this part~~ in such cases as ~~he may deem that the~~ *commissioner of labor considers* proper and ~~to~~ enforce generally the provisions of this part.”

Section 1486. Section 39-3-210, MCA, is amended to read:

“39-3-210. Investigative powers of commissioner of labor. (1) The commissioner of labor or ~~his~~ *the commissioner of labor's* authorized representatives are empowered to enter and inspect ~~such~~ places, question ~~such~~ employees, and investigate ~~such~~ facts, conditions, or matters ~~which that~~ they may consider appropriate to determine whether any person has violated any provision of this part or any rule ~~issued hereunder~~ *adopted under this part* or ~~which that~~ may aid in the enforcement of the provisions of this part.

(2) ~~The~~ *In any proceeding before the commissioner of labor, the commissioner of labor or his* *the commissioner of labor's* authorized representatives may:

(a) administer oaths and examine witnesses under oath;

(b) issue subpoenas;

(c) compel the attendance of witnesses and the production of papers, books, accounts, records, payrolls, documents, and testimony; and

(d) take depositions and affidavits ~~in any proceeding before the~~ *commissioner.*”

Section 1487. Section 39-3-211, MCA, is amended to read:

“39-3-211. Commissioner of labor to take wage assignments. Whenever the commissioner of labor determines that one or more employees have claims for unpaid wages, ~~he~~ *the commissioner of labor* shall, upon the written request of the employee, take an assignment of the claim in trust for ~~such~~ *the* employee and may maintain any proceeding appropriate to enforce the claim, including liquidated damages pursuant to this part. With the written consent of the assignor, the commissioner of labor may settle or adjust any claim assigned pursuant to this section.”

Section 1488. Section 39-3-214, MCA, is amended to read:

“39-3-214. Court costs and attorneys' attorney fees. (1) Whenever it is necessary for the employee to enter or maintain a suit at law for the recovery or collection of wages due as provided for by this part, a resulting judgment must include a reasonable ~~attorney's~~ *attorney* fee in favor of the successful party, to be taxed as part of the costs in the case.

(2) ~~Any~~ *A* judgment for the plaintiff in a proceeding pursuant to this part must include all costs reasonably incurred in connection with the proceeding, including ~~attorneys'~~ *attorneys'* fees.

(3) If the proceeding is maintained by the commissioner of labor, ~~no~~ court costs or fees are *not* required of ~~him~~ *the commissioner of labor* nor is ~~he~~ *the commissioner of labor* required to furnish any bond or other security that might otherwise be required in connection with any phase of the proceeding.”

Section 1489. Section 39-3-215, MCA, is amended to read:

“39-3-215. Authority of county attorney. ~~Nothing herein contained shall~~ *This part may not* be construed to limit the authority of the county attorney of any county of the state to prosecute actions, both civil and criminal, for ~~such~~ violations of this part ~~as may come to his knowledge~~ or to enforce the provisions ~~hereof of this part~~ independently and without specific direction of the commissioner of labor.”

Section 1490. Section 39-3-404, MCA, is amended to read:

“39-3-404. Minimum wage. (1) Except as otherwise provided in this part and except for farm workers as provided in subsection (2), ~~every an~~ employer shall pay to each ~~of his employees~~ *employee* a wage of not less than the applicable minimum wage as determined by the commissioner in accordance with 39-3-409.

(2) In the case of a farm worker employed for a part of a calendar year ~~which~~ *that* includes periods requiring working hours in excess of 8 hours ~~per a~~ day and other seasonal periods requiring working hours substantially less than 8 hours ~~per a~~ day, the employer may pay the worker at a fixed rate of compensation during the term of employment. The employer may elect to:

(a) keep a record of the total number of hours worked by the worker during the part of the year during which the worker was employed by ~~him (the employer, but the total wages paid by such the employer to such the employee for that part of the year during which said the employee was employed by him shall the employer may not be less than the applicable minimum wage rate multiplied by the total number of hours so worked); or~~

(b) in lieu of the minimum wage set forth ~~herein in this part~~, pay the farm worker a wage as ~~herein defined in this section~~ on a monthly basis. This monthly compensation ~~shall must~~ constitute a minimum wage and ~~shall may~~ not be less than \$635 a month beginning January 1, 1990.”

Section 1491. Section 39-3-503, MCA, is amended to read:

“39-3-503. Report of violations to county attorney by commissioner. Whenever it ~~shall appear~~ *appears* from reliable information satisfactory to the commissioner of labor and industry that ~~any a~~ person, firm, partnership, or corporation engaged in the business mentioned in 39-3-501 and not exempt from the effect of this part ~~shall have~~ *has* failed to pay any wages or salaries due ~~his the entity's~~ employees as required by part 2 of this chapter, ~~he shall have the right to the commissioner may deliver such the information to the county attorney of the county wherein in which the operations of the employer are being carried on and to request such the county attorney to file a complaint in the district court of said the county in accordance with the provisions of this part and part 2 of this chapter and this part.”~~

Section 1492. Section 39-3-506, MCA, is amended to read:

“39-3-506. County attorney to file complaint in district court on belief of violation. If a county attorney believes after receiving information that the provisions of ~~this part or~~ part 2 of this chapter ~~or this part~~ have been violated and that ~~such the~~ violation was willful or that the financial condition of the employer ~~is such as to endanger~~ *endangers* employees in receiving prompt payment or collection of wages, ~~he the county attorney~~ shall file a complaint in district court. All proceedings upon ~~such the~~ complaint must be promptly prosecuted.”

Section 1493. Section 39-3-507, MCA, is amended to read:

“39-3-507. Prayer for relief. ~~Should such~~ *If the complaint be described in 39-3-506 is filed by the county attorney upon his the county attorney’s own motion or at said the request of said the commissioner of labor and industry, the same shall pray complaint must request that relief be had against the employer for the greater security for the payment of salaries and wages of the employees.”*

Section 1494. Section 39-3-508, MCA, is amended to read:

“39-3-508. Summons — service of process. (1) Upon the filing of ~~such the~~ *complaint described in 39-3-506, summons shall must issue thereon and a copy of such the complaint and a copy of the summons shall must be served upon the employer, who shall have has 10 days after such service to appear and defend such the action.*

(2) All orders and other process provided for in this part ~~shall must~~ be served by the sheriff upon the employer in the same manner as a summons in a civil suit is served. Service upon ~~any a~~ partner or member of any firm ~~shall be is~~ considered service upon each partner and each member of the firm. ~~In the event that~~ *If the employer is a nonresident or a corporation without officers or directors within the county who and cannot conveniently and promptly be found for service, then service upon the manager, superintendent, or foreman supervisor in charge of the work or, there being none such if there are none of these individuals, then posting a copy of the order or other process provided to be served herein in a conspicuous place at or near the entrance to the principal workings shall be deemed is considered sufficient service.”*

Section 1495. Section 39-3-509, MCA, is amended to read:

“39-3-509. Hearing on complaint — court order to pay wages due or appear and show cause why bond should not be required. Upon the conclusion of the hearing upon ~~such the~~ *complaint described in 39-3-506, the judge of the district court may make findings and shall issue an order to the employer in default to pay within 5 days all wages and salaries found by the court to be due and unpaid or an order to appear before the court within 10 days and show cause why a judgment and order should not issue requiring said the employer to give bond for the payment of all wages and salaries then due and thereafter to that accrue to his the employer’s employees within said that county. Service of such the order shall must be made at least 5 days before the date set for hearing or the date to which such the hearing may be continued by the court upon good cause shown.”*

Section 1496. Section 39-3-511, MCA, is amended to read:

“39-3-511. Bond requirements. (1) ~~Said The~~ *bond referred to in 39-3-510 may be that of a surety company licensed and authorized to do business within the state or of two owners of real estate situate located in said the county and who can and do justify as sureties in the same manner as sureties justify on appeal bonds or bail bonds.*

(2) ~~Said The~~ *bond shall must be in the sum of not less than \$500 for each unit of five men individuals or less employed by such the person, firm, partnership, or corporation.*

(3) ~~Said The~~ *bond shall must continue in force for 1 year.*

(4) ~~Said The~~ *bond shall must run in the name of the state of Montana and shall must be examined and approved by the judge of the district court, said with approval to be endorsed thereon on the bond.”*

Section 1497. Section 39-3-512, MCA, is amended to read:

“39-3-512. Enjoining further operations in event if bond not filed. (1) ~~In the event that~~ If the bond ordered by the district court is not executed and filed with the county treasurer within the time fixed by the court, the court may, if it ~~deems~~ *considers* the persons working for ~~such~~ *the* employer to be insecure in the prompt payment or collection of their wages or salaries, enjoin any ~~and all~~ further operations of ~~said~~ *the* employer within the state for a period of 1 year at any mine or reduction works or oil well or until the order, judgment, or decree of the court ~~shall have~~ *has* been fully complied with.

(2) The county attorney of the county ~~wherein such~~ *in which the* proceedings are had or the attorney general of the state ~~shall, at his or their discretion, may file such the~~ *action and prosecute the same action.*”

Section 1498. Section 39-3-513, MCA, is amended to read:

“39-3-513. Costs of proceeding. The ~~said~~ district court shall include in any order, judgment, or decree against the employer all costs of the proceeding, which ~~shall must~~ be taxed against the employer and paid ~~into~~ *to* the clerk of the court to be ~~by him~~ deposited with the county treasurer to the credit of the general fund of the county.”

Section 1499. Section 39-3-516, MCA, is amended to read:

“39-3-516. Review of court order by supreme court. ~~In event any~~ If an employer against whom an order to furnish the bond described in this part feels aggrieved by any order or injunction of the district court, ~~he shall be the employer is~~ entitled, upon payment for the transcript of record, to have ~~his the employer's~~ objections and exceptions reviewed and determined by the supreme court as upon a writ of certiorari.”

Section 1500. Section 39-3-517, MCA, is amended to read:

“39-3-517. Suit on bond. ~~Any~~ A person whose wages or salary has remained unpaid for 15 days or more after due ~~shall have~~ *has* a right to sue upon ~~said the~~ bond described in this part for the recovery of ~~his the person's~~ wages or salary.”

Section 1501. Section 39-3-519, MCA, is amended to read:

“39-3-519. Clarification as to construction and applicability of part. (1) ~~Nothing contained in this part shall~~ *This part may not* be considered as requiring any person, firm, partnership, or corporation to file a bond or bonds if ~~he the person or it entity~~ pays for all labor in full each day or ~~where such~~ *if the* labor has been performed upon a written building or construction contract to furnish material or other consideration as well as labor.

(2) ~~Nothing herein shall~~ *This part does not* prohibit the making or entering into of any wage or working agreement, such as grubstake agreements ~~and/or or~~ similar agreements, ~~provided such if the~~ *provided such if the* employer or contractor keeps in force proper workers' compensation insurance.”

Section 1502. Section 39-4-101, MCA, is amended to read:

“39-4-101. Hoisting engineers. (1) It ~~shall be~~ *is* unlawful for ~~any a~~ person or persons, company, or corporation to operate or handle or to induce, persuade, or prevail upon any person or persons to operate or handle for more than 8 hours in 24 hours of each day any hoisting engine at or in any mine.

(2) This section ~~shall apply~~ *applies* only to ~~such~~ plants as ~~that~~ are in continuous operation or are operated 16 or more hours in 24 hours of each day or at or in any mine ~~where said in which the~~ *wherein* the hoisting engine develops 15 or more horsepower or at or in any mine ~~wherein there are in which~~ *in which* 15 or more men

individuals are employed underground in 24 hours of each day. However, the provisions of this section ~~shall do not apply to any a~~ person or persons operating any hoisting engine more than 8 hours in each 24 hours for the purpose of relieving another employee in case of sickness or other unforeseen cause or causes.

(3) ~~Any~~ A person or persons, company, or corporation ~~who that shall violate~~ *violates* any of the provisions of this section shall upon conviction be punished by a fine of not less than \$10 or more than \$100. Each ~~and every~~ day that ~~such the~~ person or persons, company, or corporation ~~may continue continues~~ to violate any of the provisions of this section ~~shall be is~~ considered a separate and distinct offense and ~~shall be is~~ punishable as ~~such a separate and distinct offense.~~"

Section 1503. Section 39-4-102, MCA, is amended to read:

"39-4-102. Drivers and attendants of motor buses. (1) Drivers or attendants of motor buses employed in the state may not be employed for more than 8 hours in any 24-hour period. Drivers or attendants of motor buses must be allowed a rest of at least 12 hours between the completion of their services in any 24-hour period and the beginning of their services in the succeeding 24-hour period. In computing the number of hours of employment made by the provisions of this section, evidence may be introduced showing that part of ~~such~~ *the* time is consumed prior to entry within the state.

(2) The provisions of this section do not apply to drivers or attendants employed by a city, town, county, or political subdivision ~~thereof of a city, town, or county.~~

(3) The provisions of this section do not apply:

(a) when life is in danger or property is in imminent danger of destruction; ~~or~~

(b) in case of delay ~~due to because of~~ accident or impassable roads, abnormal road conditions, or snow blockades; or

(c) when ~~mails mail~~ for the drivers or attendants ~~are is~~ delayed.

(4) "Attendant", for the purpose of this section, is defined as any employee engaged for a portion of a day driving or repairing a motor bus and who is required to remain on the vehicle as a relief driver or mechanic for time in excess of the 8-hour period for which ~~he the individual~~ is rightly employed.

(5) ~~Any~~ An employer or supervisor in charge of employees who requires a driver or attendant ~~as above defined~~ to labor contrary to the provisions of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$100 or more than \$600 or by imprisonment of not less than 30 days or more than 7 months, or both ~~such fine and imprisonment.~~

(6) All motor bus companies operating lines in this state are liable in damage for all injuries to the person resulting from the violation of the provisions of this section."

Section 1504. Section 39-4-103, MCA, is amended to read:

"39-4-103. Underground miners and smeltermen smelter workers. (1) The period of employment of workers in all underground mines or workings, including railroad or other tunnels, is 8 hours ~~per a~~ day, except in cases of emergency when life and property are in imminent danger.

(2) The period of employment of workers in smelters, stamp mills, sampling works, concentrators, and all other institutions for the reduction of ores and refining of ores or metals is 8 hours ~~per a~~ day, except in cases of emergency ~~where when~~ life or property is in imminent danger.

(3) ~~Any~~ A person, corporation, agent, manager, or employer who violates any of the provisions of this section is guilty of a misdemeanor and upon conviction ~~thereof~~ for each offense is subject to a fine of not less than \$100 or more than \$600 or by imprisonment in the county jail for a period of not less than 1 month or more than 7 months, or ~~by both such fine and imprisonment.~~"

Section 1505. Section 39-4-107, MCA, is amended to read:

"39-4-107. State and municipal governments, school districts, mines, mills, and smelters. (1) A period of 8 hours constitutes a day's work in all works and undertakings carried on or aided by any municipal or county government, the state government, or a first-class school district, ~~and~~ on all contracts let by them, and for all janitors (except in courthouses of sixth- and seventh-class counties), engineers, firefighters, caretakers, custodians, and laborers employed in or about any buildings, works, or grounds used or occupied for any purpose by ~~such a~~ municipal, county, or state government or first-class school district. A period of 8 hours constitutes a day's work in mills and smelters for the treatment of ores, in underground mines, and in the washing, reducing, and treatment of coal. This subsection does not apply in the event of an emergency when life or property is in imminent danger or to the situations specified in subsections (3) and (4).

(2) The provisions of subsection (1) do not apply to firefighters who are working a work period established in a collective bargaining agreement entered into between a public employer and a firefighters' organization or its exclusive representative.

(3) In counties where regular road and bridge departments are maintained, the county commissioners may, with the approval of the employees or their ~~duly~~ constituted representative, establish a 40-hour workweek consisting of 4 consecutive 10-hour days. ~~No~~ An employee may *not* be required to work in excess of 8 hours in any one workday if ~~he~~ *the employee* prefers not to.

(4) In municipal and county governments, the employer and employee may agree to a workday of more than 8 hours and to a 7-day, 40-hour work period:

(a) through a collective bargaining agreement when a collective bargaining unit represents the employee; or

(b) by the mutual agreement of the employer and employee when ~~no~~ a bargaining unit is *not* recognized."

Section 1506. Section 39-4-110, MCA, is amended to read:

"39-4-110. Sugar refineries. (1) A period of not to exceed 8 hours constitutes a day's work for all persons employed in or about sugar refineries, except in a case of emergency when life or property is in danger.

(2) The provisions of this section do not apply to beet receiving station employees or superintendents, master mechanics, or beet-end, sugar-end, and Steffan house ~~foremen~~ *supervisors*.

(3) ~~Any~~ A person, corporation, agent, manager, or employer who violates the provisions of this section is guilty of a misdemeanor and upon conviction ~~thereof~~ is punishable by a fine of not less than \$50 or more than \$600 or by imprisonment in the county jail for not less than 30 days or more than 7 months, or ~~by both such fine and imprisonment.~~"

Section 1507. Section 39-4-112, MCA, is amended to read:

"39-4-112. Persons employed about public amusements. (1) A period of not to exceed 8 hours ~~shall constitute~~ *constitutes* a day's work and a period of

not to exceed 48 hours shall ~~constitute~~ *constitutes* a week's work for persons employed or working in or participating in and about any carnival, circus, derby show, walkathon, marathon dance, marathon race, marathon walk, or other endurance contest by whatever name it may be called within the state. The hours of work must be so arranged that persons employed in or participating or contesting in such an exhibition, show, or contest shall ~~may~~ not be on duty more than 8 hours in the aggregate of any 12 consecutive hours. ~~Such~~ *The* persons shall ~~must~~ have at least 12 consecutive hours off duty.

(2) The provisions of this section shall ~~do~~ not apply to ~~any a~~ traveling circus or carnival ~~which that~~ does not remain in any one county of the state for a period of more than 3 days and shall ~~does~~ not apply to ~~any a~~ person or persons working more than 8 hours in each 12 hours for the purpose of relieving another employee in case of sickness or ~~where when~~ a breakdown in machinery occurs or ~~where when~~ life or property is in imminent danger.

(3) ~~Any~~ A person, corporation, agent, manager, employer, employee, contestant, or participant who shall ~~violate~~ *violates* the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be punished for the first offense by a fine of not less than \$50. For a second offense, ~~he the~~ *the person or entity* shall be punished by a fine of not less than \$100 or more than \$500 or by imprisonment in the county jail for not less than 90 days or more than 6 months, or by both such fine and imprisonment. For a third or subsequent offense, ~~he the person or entity~~ shall be punished by a fine of \$500 and by imprisonment in the county jail for a term of 6 months. Each day's violation of this section shall ~~constitute~~ *constitutes* a separate offense within the meaning of this section."

Section 1508. Section 39-29-111, MCA, is amended to read:

"39-29-111. Retention during reduction in force. (1) Subject to the restrictions in subsections (2) and (3), during a reduction in force, a public employer shall retain in a position:

(a) a veteran, disabled veteran, or eligible relative whose performance has not been rated unacceptable under a performance appraisal system over other employees with similar job duties and qualifications and same length of service; and

(b) a disabled veteran with a service-connected disability of 30% or more whose performance has not been rated unacceptable under a performance appraisal system over other veterans, disabled veterans, and eligible relatives with similar job duties and qualifications and same length of service.

(2) An employee is not entitled to preference in retention under subsection (1) unless ~~he the~~ *the employee* is a United States citizen.

(3) The preference in retention under subsection (1) does not apply to a position covered by a collective bargaining agreement."

Section 1509. Section 39-30-206, MCA, is amended to read:

"39-30-206. Notice and claim of preference. (1) A public employer shall, by posting or on the application form, give notice of the preferences that this chapter provides in public employment.

(2) A job applicant who believes ~~he that the~~ *the applicant* has an employment preference shall claim the preference in writing before the time for filing applications for the position involved has passed. Failure to make a timely employment preference claim for a position is a complete defense to an action in regard to that position under 39-30-207.

(3) If an applicant for a position makes a timely written employment preference claim, the public employer shall give written notice of its hiring decision to each applicant claiming preference.”

Section 1510. Section 39-30-207, MCA, is amended to read:

“39-30-207. Enforcement of preference. (1) An applicant who believes ~~he~~ *that the applicant* has not been accorded ~~his~~ *the applicant's* rights under this chapter may, within 30 days of receipt of the notice of the hiring decision provided for in 39-30-206, submit to the public employer a written request for an explanation of the public employer's hiring decision. Within 15 days of receipt of the request, the public employer shall give the applicant a written explanation.

(2) The applicant may, within 90 days after receipt of notice of the hiring decision, file a petition in the district court in the county in which ~~his~~ *the applicant's* application was received by the public employer. The petition must state facts that on their face entitle the applicant to an employment preference.

(3) (a) Upon filing of the petition, the court shall order the public employer to appear in court at a specified time not less than 10 or more than 30 days after the day the petition was filed and show cause why the applicant was not hired for the position. At the hearing, the public employer has the burden of proving by a preponderance of the evidence that the employer made a reasonable determination pursuant to 39-30-103(7), and the applicant has the burden of proving by a preponderance of the evidence that ~~he~~ *the applicant* is a preference-eligible applicant.

(b) The time to appear provided in subsection (3)(a) may be waived by stipulation of the parties. If a time to appear has been specified pursuant to subsection (3)(a), the court may, on motion of one of the parties or on stipulation of all of the parties, grant a continuance.

(c) If the public employer does not carry its burden of proof under subsection (3)(a) and the court finds that the applicant is a preference-eligible applicant, the court shall order the public employer to reopen the selection process for the position involved and shall grant the applicant reasonable attorney fees and court costs. The remedy provided by this section is the only remedy for a violation of this chapter, and a court may not grant any other relief in an action for violation of this chapter.

(4) Failure of an applicant to file a petition under subsection (2) within 90 days bars the filing of a petition. If a public employer fails to provide an explanation under subsection (1) within 15 days and a petition is filed under subsection (2), the court shall order the public employer to reopen the selection process.

(5) The Montana Rules of Civil Procedure apply to a proceeding under this section to the extent that they do not conflict with this section.”

Section 1511. Section 39-31-204, MCA, is amended to read:

“39-31-204. Right of nonassociation with labor organization on religious grounds — requirements and procedure for assertion of right. (1) ~~No~~ A public employee who is a member of a bona fide religious sect or division ~~thereof~~ *of a sect*, the established and traditional tenets or teachings of which oppose a requirement that a member of ~~such~~ *the* sect or division join or financially support a particular or any labor organization, may *not* be required to join or financially support that particular labor organization or any labor organization if the tenets or teachings oppose a requirement that any labor organization be joined or supported as a condition of employment. ~~if such~~

However, the public employee pays shall pay in lieu of periodic union dues, initiation fees, and assessments, at the same time or times ~~such the~~ periodic union dues, initiation fees, and assessments would otherwise be payable, a sum of money equivalent to ~~such the~~ periodic union dues, initiation fees, and assessments to a nonreligious, nonunion charity designated by the labor organization. ~~Such The~~ public employee shall furnish to ~~such the~~ labor organization written receipts evidencing ~~such the~~ payments, and failure to make ~~such the~~ payments or furnish ~~such the~~ receipts shall ~~subject subjects~~ the employee to the same sanctions as would nonpayment of dues, initiation fees, or assessments under the applicable collective bargaining agreement.

(2) A public employee desiring to ~~avail himself or herself to exercise~~ the right of nonassociation with a labor organization as provided in this section shall make written application to the ~~chairman~~ *presiding officer* of the board of personnel appeals. Within 10 days of the date of receipt of ~~such an~~ application, the ~~chairman~~ *presiding officer* shall appoint a committee of three, consisting of a ~~clergyman~~ *member of the clergy* not connected with the sect in question, a labor union official not directly connected with the labor organization in question, and a member of the public at large who ~~shall be~~ *is* the ~~chairman~~ *presiding officer*. The committee shall within 10 days of the date of its appointment meet at the locale of either the employee's residence or place of employment and, after receiving written or oral presentations from all interested parties, determine by a majority vote whether or not ~~such the~~ public employee qualifies for the right of nonassociation with ~~such the~~ labor organization. The committee's decision shall ~~must~~ be made in writing within 3 days of the meeting date, and a copy ~~thereof~~ *shall of the decision must be forthwith* mailed to ~~such the~~ public employee, labor organization, and the ~~chairman~~ *presiding officer* of the board of personnel appeals."

Section 1512. Section 39-31-305, MCA, is amended to read:

"39-31-305. Duty to bargain collectively — good faith. (1) The public employer and the exclusive representative, through appropriate officials or their representatives, shall have the authority and the duty to bargain collectively. This duty extends to the obligation to bargain collectively in good faith as set forth in subsection (2) ~~of this section~~.

(2) For the purpose of this chapter, to bargain collectively is the performance of the mutual obligation of the public employer or ~~his~~ *the public employer's* designated representatives and the representatives of the exclusive representative to meet at reasonable times and negotiate in good faith with respect to wages, hours, fringe benefits, and other conditions of employment or the negotiation of an agreement or any question arising ~~thereunder~~ *under an agreement* and the execution of a written contract incorporating any agreement reached. ~~Such The~~ obligation does not compel either party to agree to a proposal or require the making of a concession.

(3) For purposes of state government only, the requirement of negotiating in good faith may be met by the submission of a negotiated settlement to the legislature in the executive budget or by bill or joint resolution. The failure to reach a negotiated settlement for submission is not, by itself, prima facie evidence of a failure to negotiate in good faith."

Section 1513. Section 39-31-311, MCA, is amended to read:

"39-31-311. Training of fact finders and arbitrators. The board of personnel appeals shall establish a course of education for the training of fact finders and arbitrators. ~~No~~ A person may *not* serve as a fact finder or as an

arbitrator under this chapter until ~~he~~ *the person* has successfully completed the course or equivalent education.”

Section 1514. Section 39-31-401, MCA, is amended to read:

“39-31-401. Unfair labor practices of public employer. It is an unfair labor practice for a public employer to:

(1) interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in 39-31-201;

(2) dominate, interfere, or assist in the formation or administration of any labor organization; ~~however~~ *However*, subject to rules adopted by the board under 39-31-104, an employer is not prohibited from permitting employees to confer with ~~him~~ *the employer* during working hours without loss of time or pay;

(3) discriminate in regard to hire or tenure of employment or any term or condition of employment in order to encourage or discourage membership in any labor organization; ~~however~~ *However*, nothing in this chapter or in any other statute of this state precludes a public employer from making an agreement with an exclusive representative to require, as a condition of employment, that an employee who is not or does not become a union member; must have an amount equal to the union initiation fee and monthly dues deducted from ~~his~~ *the employee's* wages in the same manner as checkoff of union dues;

(4) discharge or otherwise discriminate against an employee because ~~he~~ *the employee* has signed or filed an affidavit, petition, or complaint or given any information or testimony under this chapter; or

(5) refuse to bargain collectively in good faith with an exclusive representative.”

Section 1515. Section 39-31-402, MCA, is amended to read:

“39-31-402. Unfair labor practices of labor organization. It is an unfair labor practice for a labor organization or its agents to:

(1) restrain or coerce:

(a) employees in the exercise of the right guaranteed in 39-31-201; or

(b) a public employer in the selection of ~~his~~ *a* representative for the purpose of collective bargaining or the adjustment of grievances;

(2) refuse to bargain collectively in good faith with a public employer if it has been designated as the exclusive representative of employees;

(3) use agency shop fees for contributions to political candidates or parties at state or local levels.”

Section 1516. Section 39-31-404, MCA, is amended to read:

“39-31-404. Six-month limitation on unfair labor practice complaint — exception. ~~No~~ *A* notice of hearing ~~shall~~ *may not* be issued based upon any unfair labor practice more than 6 months before the filing of the charge with the board unless the person aggrieved ~~thereby~~ was prevented from filing the charge by reason of service in the armed forces, in which event the 6-month period ~~shall~~ *must* be computed from the day of ~~his~~ discharge.”

Section 1517. Section 39-31-406, MCA, is amended to read:

“39-31-406. Hearing on complaint — findings — order. (1) The complainant and the person charged ~~shall~~ *must* be parties and shall appear in person or otherwise give testimony at the place and time fixed in the notice of hearing. In the discretion of the board or its agent conducting the hearing, any

other person may be allowed to intervene in the proceeding and present testimony.

(2) In ~~any a~~ hearing, the board is not bound by the rules of evidence prevailing in the courts.

(3) The testimony taken by the board or its agent ~~shall~~ *must* be reduced to writing and filed with the board. Thereafter, in its discretion, the board upon notice may take further testimony or hear argument.

(4) If, upon the preponderance of the testimony taken, the board is of the opinion that any person named in the complaint has engaged in or is engaging in an unfair labor practice, it shall state its findings of fact and shall issue and cause to be served on the person an order requiring ~~him~~ *the person* to cease and desist from the unfair labor practice and to take ~~such~~ affirmative action, including reinstatement of employees with or without backpay, ~~as that~~ will effectuate the policies of this chapter. The order may further require the person to make reports from time to time showing the extent to which ~~he~~ *the person* has complied with the order. ~~No~~ An order of the board ~~shall~~ *may not* require the reinstatement of ~~any an~~ individual as an employee who has been suspended or discharged or the payment to ~~him~~ *the employee* of any backpay if it is found that the individual was suspended or discharged for cause.

(5) If, upon the preponderance of the testimony taken, the board is not of the opinion that the person named in the complaint has engaged in or is engaging in the unfair labor practice, then the board shall state its findings of fact and shall issue an order dismissing the complaint.

(6) If the evidence is presented before a member of the board or before an examiner, the member or the examiner, ~~as the case may be,~~ shall issue and cause to be served on the parties to the proceeding a proposed decision, together with a recommended order, which ~~shall~~ *must* be filed with the board, and if ~~no~~ exceptions are *not* filed within 20 days after service ~~thereof of the proposed decision and recommended order~~ upon the parties or within ~~such a~~ further period ~~as that~~ the board may authorize, the recommended order ~~shall become~~ *becomes* the order of the board. The board shall issue a final order within 5 months after final briefs are submitted to the hearings officer. If briefs are to be submitted, but either or both of the parties fail to submit their brief on the date set by the ~~hearing~~ *hearings* examiner at the close of the hearing on the matter, then the board shall issue a final order within 5 months after the date the last brief was ordered to be submitted. If no briefs are to be submitted, the board shall issue a final order within 5 months after the hearing.”

Section 1518. Section 39-32-102, MCA, is amended to read:

“39-32-102. Definitions. As used in this chapter, unless the context clearly requires otherwise, the following definitions apply:

(1) “Appropriate unit” means a homogenous group of employees (~~as herein defined~~) of a health care facility having similar duties and qualifications determined pursuant to 39-32-106.

(2) “Board” means the board of personnel appeals provided for in 2-15-1705.

(3) “Employee” means a registered professional or licensed practical nurse performing services for compensation for a health care facility, but does not include a member of a religious order assigned to a health care facility by the order as a part of ~~her~~ *the member’s* obligation to the order.

(4) “Health care facility” means a hospital or nursing home or other agency or establishment employing employees ~~as defined in this chapter,~~ whether

operated publicly or privately, having as one of its principal purposes the preservation of health, or the care of sick or infirm individuals, or both.

(5) "Strike" ~~shall mean~~ *means* any work stoppage caused by the employees of a health care facility, ~~as defined in subsection (4) of this section,~~ that interferes with the operation of the health care facility or affects the care of patients in the health care facility."

Section 1519. Section 39-32-109, MCA, is amended to read:

"39-32-109. Unfair labor practices. (1) It is an unfair labor practice for a health care facility to do one or more of the following:

(a) interfere with or restrain or coerce employees in any manner in the exercise of their right of self-organization;

(b) initiate, create, dominate, contribute to, or interfere with the formation or administration of any employee organization that has collective bargaining as one of its principal functions;

(c) discriminate in regard to hire terms or conditions of employment when a purpose of ~~such~~ is to discourage membership in an employee organization that has collective bargaining as one of its principal functions;

(d) refuse to meet and bargain in good faith with the ~~duy~~ designated representatives of an appropriate bargaining unit of its employees. For the purpose of this subsection (1)(d), it is a requirement of bargaining in good faith that the parties be willing to reduce ~~in~~ *to* writing and have their representative sign any agreement arrived at through negotiations and discussion.

(e) unilaterally exclude from work or prevent from working or discharge any one or more employees when the purpose of ~~such~~ *the* action is in whole or in part to interfere with or coerce or intimidate an employee in the exercise of rights ~~assured~~ *ensured* in this law.

(2) It is an unfair labor practice for a labor organization or its agents to:

(a) restrain or coerce employees in the exercise of the right to:

(i) form, join, or assist any labor organization;

(ii) bargain collectively through representatives of their own choosing; or

(iii) engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection;

(b) restrain or coerce an employer in the selection of ~~his~~ *a* representative for the purpose of collective bargaining or the adjustment of grievances;

(c) refuse to bargain collectively in good faith with an employer if it has been designated as the exclusive representative of employees;

(d) use agency shop fees for contributions to political candidates or parties."

Section 1520. Section 39-33-101, MCA, is amended to read:

"39-33-101. Intent of part. It is the intent of this part that a sole proprietor or a member of a partnership consisting of not more than two partners who own a retail or amusement establishment and the members of ~~his~~ *the proprietor's or partner's* immediate family ~~shall have the right to~~ *may* do any work in ~~his~~ *the* place of business without interference by any union or any member ~~thereof~~ *of the union.*"

Section 1521. Section 39-33-102, MCA, is amended to read:

“39-33-102. Immediate family defined. “Immediate family” ~~shall include~~ *includes* the owner, ~~his~~ *the owner’s* spouse, and any children under the age of 18 years.”

Section 1522. Section 39-33-103, MCA, is amended to read:

“39-33-103. Unfair labor practice. Any union or member ~~thereof~~ *of a union* who ~~shall infringe or interfere~~ *infringes or interferes* with the right of an owner and the members of ~~his~~ *the owner’s* immediate family to do any work in ~~his~~ *the owner’s* place of business ~~shall be~~ *is* guilty of an unfair labor practice.”

Section 1523. Section 39-33-202, MCA, is amended to read:

“39-33-202. Professional strikebreakers prohibited. (1) An employer involved in a labor dispute may not employ in the place of an employee involved in ~~such~~ *the* dispute a professional strikebreaker who customarily and repeatedly offers ~~himself for employment to be employed~~ in the place of employees involved in labor disputes.

(2) A professional strikebreaker who customarily and repeatedly offers ~~himself for employment to be employed~~ in place of employees involved in labor disputes may not take or offer to take the place in employment of an employee involved in a labor dispute within the state.”

Section 1524. Section 39-34-103, MCA, is amended to read:

“39-34-103. Powers and duties of arbitrator for firefighters and public employers. (1) The arbitrator shall establish dates and a place for hearings and may subpoena witnesses and require the submission of evidence necessary to resolve the impasse.

(2) Prior to making a determination on any issue relating to the impasse, the arbitrator may refer the issues back to the parties for further negotiation.

(3) At the conclusion of the hearings, the arbitrator shall require the parties to submit their respective final position on matters in dispute.

(4) The arbitrator shall make a just and reasonable determination of which final position on matters in dispute will be adopted within 30 days of the commencement of the arbitration proceedings. The arbitrator shall notify the board of personnel appeals and the parties, in writing, of ~~his~~ *the* determination.

(5) In arriving at a determination, the arbitrator shall consider any relevant circumstances, including:

(a) comparison of hours, wages, and conditions of employment of the employees involved with employees performing similar services and with other services generally;

(b) the interests and welfare of the public and the financial ability of the public employer to pay;

(c) appropriate cost-of-living indices;

(d) any other factors traditionally considered in the determination of hours, wages, and conditions of employment.

(6) The determination of the arbitrator is final and binding and is not subject to the approval of any governing body.”

Section 1525. Section 39-51-102, MCA, is amended to read:

“39-51-102. Declaration of state public policy. As a guide to the interpretation and application of this chapter, the public policy of this state is declared to be as follows:

(1) Economic insecurity ~~due to~~ *because of* unemployment is a serious menace to the health, morals, and welfare of the people of this state.

(2) Involuntary unemployment is, therefore, a subject of general interest and concern ~~which that~~ requires appropriate action by the legislature to prevent its spread and to lighten its burden ~~which that~~ now so often falls with crushing force upon the unemployed worker and ~~his~~ *the worker's* family. The achievement of social security requires protection against this greatest hazard of our economic life. This can be provided by encouraging employers to provide more stable employment and by the systematic accumulation of funds during periods of employment to provide benefits for periods of unemployment, thus maintaining purchasing power and limiting the serious social consequences of poor relief assistance.

(3) The legislature, therefore, declares that in its considered judgment the public good and the general welfare of the citizens of this state require the enactment of this ~~measure~~ *chapter* under the police powers of the state for the compulsory setting aside of unemployment reserves to be used for the benefit of persons unemployed through no fault of their own."

Section 1526. Section 39-51-206, MCA, is amended to read:

"39-51-206. Agricultural labor — who treated as employer of member of a crew furnished by a crew leader. (1) For the purposes of 39-51-203, any individual who is a member of a crew furnished by a crew leader to perform service in agricultural labor for any other person ~~shall~~ *must* be treated as an employee of ~~such~~ *the* crew leader if:

(a) ~~such~~ *the* crew leader holds a valid certificate of registration under the Migrant and Seasonal Agricultural Worker Protection Act, as amended, (29 U.S.C. 1801, et seq.); or

(b) (i) substantially all the members of ~~such~~ *the* crew operate or maintain tractors, mechanized harvesting or cropdusting equipment, or any other mechanized equipment ~~which that~~ is provided by ~~such~~ *the* crew leader; and

(ii) ~~such~~ *the* individual is not an employee of ~~such~~ *the* other person for whom services in agricultural labor are performed.

(2) In the case of any individual who is furnished by a crew leader to perform service in agricultural labor for any other person and who is not treated as an employee of ~~such~~ *the* crew leader under subsection (1):

(a) ~~such~~ *the* other person and not the crew leader ~~shall~~ *must* be treated as the employer of ~~such~~ *the* individual; and

(b) ~~such~~ *the* other person ~~shall~~ *must* be treated as having paid cash remuneration to ~~such~~ *the* individual in an amount equal to the amount of cash remuneration paid to ~~such~~ *the* individual by the crew leader, either on ~~his~~ *the crew leader's* own behalf or on behalf of ~~such~~ *the* other person, for the service in agricultural labor performed for ~~such~~ *the* other person.

(3) The term "crew leader" means an individual who:

(a) furnishes individuals to perform service in agricultural labor for any other person;

(b) pays, either on ~~his~~ *the crew leader's* own behalf or on behalf of ~~such~~ *the* other person, the individuals ~~so~~ furnished by ~~him~~ *the crew leader* for the service in agricultural labor performed by them; and

(c) has not entered into a written agreement with ~~such~~ *the* other person under which ~~such~~ *the* individual is designated as an employee of ~~such~~ *the* other person.”

Section 1527. Section 39-51-305, MCA, is amended to read:

“39-51-305. Department to appoint appeals referees. To hear and decide disputed claims, the department shall appoint ~~such~~ impartial salaried appeals referees as *who* are necessary for the proper administration of this chapter in accordance with 39-51-304. ~~No~~ A person ~~shall~~ *may not* participate on behalf of the department in any case in which ~~he~~ *the person* is an interested party. The department may designate alternates to serve in the absence or disqualification of an appeals referee.”

Section 1528. Section 39-51-309, MCA, is amended to read:

“39-51-309. Representation of department and state in court. (1) In any civil action to enforce the provisions of this chapter, the department and the state may be represented by any qualified attorney who is employed by the department and is designated by it for this purpose or, at the department’s or board’s request, by the attorney general.

(2) All criminal actions for violation of any provision of this chapter or of any rules issued pursuant ~~thereto~~ *shall to this chapter must* be prosecuted by the attorney general of the state or, at ~~his~~ *the attorney general’s* request and under ~~his~~ *the attorney general’s* direction, by the county attorney of the county ~~wherein~~ *in which* the crime was committed.”

Section 1529. Section 39-51-601, MCA, is amended to read:

“39-51-601. Department to maintain wage record. The department shall maintain a record of the wages paid to an individual in accordance with wages earned by ~~him~~ *the individual* for employment by employers during each quarter.”

Section 1530. Section 39-51-1215, MCA, is amended to read:

“39-51-1215. Maintenance of experience rating records. An experience rating record ~~shall~~ *must* be maintained for each covered employer. The record is credited with all contributions ~~which~~ *that* the covered employer has paid since October 1, 1981. The record is *must also be* charged with the amount of benefits paid ~~which~~ *that* are chargeable to the covered employer’s account since October 1, 1981. ~~Nothing in this~~ *This section grants does not grant* any covered employer or individual in ~~his~~ *the covered employer’s* service a priority with respect to any claim or right because of amounts paid by the covered employer into the employment security fund.”

Section 1531. Section 39-51-1216, MCA, is amended to read:

“39-51-1216. Experience rating record voided when account inactive. Whenever an employer whose coverage has been terminated because ~~he~~ *the employer* has ceased to do business or because ~~he~~ *the employer* has not covered employment for a period of 3 years becomes a covered employer, ~~he~~ *the employer* is considered a new employer and ~~he is~~ *may not* to be credited with ~~his~~ previous experience for the purpose of computing any future “experience factor”.”

Section 1532. Section 39-51-1302, MCA, is amended to read:

“39-51-1302. Summary or jeopardy assessment of unpaid taxes. (1) If ~~any~~ *an* employer fails to file a report or return as required under this chapter or the regulations of the department adopted ~~thereunder~~ *to implement this chapter*

within the time specified or if the employer's records are inaccurate or are incomplete when an employer has already filed a quarterly wage report for the period in question, the department may make a summary or jeopardy assessment of the amount due by making up ~~such the~~ report and determining the amount of taxes due and owing to the fund upon the basis of ~~such~~ information ~~as that~~ the department may be able to obtain, and ~~thereupon the same shall the taxes must~~ be collected the same as other reports and taxes due, with penalty and interest as provided in this chapter.

(2) Upon making ~~such a~~ summary or jeopardy assessment, the department shall immediately notify the employer in writing by personal service or by certified mail in the usual course at the ~~last known~~ *last-known* principal place of business operated by the employer. ~~Such The~~ assessment ~~shall be~~ *is* final unless the employer ~~shall protest such protests the~~ assessment in writing within 15 days after service of the notice or, within the same period of time, the employer ~~shall file files~~ a correct, signed, and sworn report and statement as provided by the chapter and the regulations of the department.

(3) Upon written protest being filed as ~~above set forth~~ *provided in subsection (2)*, a day certain for the hearing ~~thereof shall~~ *of the protest must* be fixed by the department and notice ~~thereof of the hearing date~~ mailed to the employer. At ~~such the~~ hearing, the facts ascertained by the department ~~shall be~~ *are* conclusive and the department may upon the basis of ~~such the~~ facts ascertained assess the amount due, modify, set aside, or revise the prior assessment, and require the employer to pay the amount due with penalty and interest as provided for in this chapter. A copy of the decision of the department and the assessment of the amount due ~~shall must~~ be mailed to the employer at ~~his the~~ *the employer's last known last-known* principal place of business and ~~thereupon become upon mailing becomes~~ final."

Section 1533. Section 39-51-1306, MCA, is amended to read:

"39-51-1306. Reciprocity with other states for collection of unpaid taxes. (1) The courts of this state shall recognize and enforce liabilities for unemployment taxes and any other special assessments imposed by other states ~~which that~~ extend a like comity to this state.

(2) The department ~~is hereby empowered to~~ *may* sue in the courts of any other jurisdiction ~~which that~~ extends ~~such~~ comity to collect unemployment taxes, penalties, and interest due this state. The officials of other states ~~which that~~ by statute or otherwise extend a like comity to this state may sue in the courts of this state to collect ~~for such the~~ taxes and any other special assessments and interest and penalties, if any, due ~~such that~~ state. In any ~~such case brought for another state,~~ the administrator may through ~~his the~~ *the administrator's* attorney ~~or attorneys~~ institute and conduct ~~such the~~ suit for ~~such the~~ other state.

(3) Venue of ~~such~~ proceedings ~~shall~~ *under this section must* be the same as for actions to collect delinquent taxes, penalties, and interest due under this chapter.

(4) A certificate by the secretary of any ~~such~~ state under the great seal of ~~such that~~ state attesting the authority of ~~such the~~ official ~~or officials~~ to collect unemployment insurance taxes and any other special assessments, penalties, and interest ~~shall be~~ *is* conclusive evidence of ~~such that~~ authority."

Section 1534. Section 39-51-2107, MCA, is amended to read:

"39-51-2107. Services for remuneration to be performed during benefit year as condition for receiving benefits in second benefit year — amount required. An individual who received benefits during a benefit

year ~~must~~ *shall* perform services for remuneration following the initial separation from employment in the previous benefit year as a condition for receiving benefits in a second benefit year. The service must constitute employment as defined in 39-51-203 and 39-51-204. However, the individual must have earned the lesser of three-thirteenths of ~~his~~ *the individual's* high quarter of ~~his~~ *the individual's* second benefit year or ~~6~~ *six* times ~~his~~ *the individual's* weekly benefit amount of that same year.”

Section 1535. Section 39-51-2305, MCA, is amended to read:

“39-51-2305. Disqualification when unemployment due to because of strike. (1) An individual ~~shall~~ *must* be disqualified for benefits for any week with respect to which the department finds that ~~his~~ *the individual's* total unemployment is due to a strike ~~which~~ *that* exists because of a labor dispute at the factory, establishment, or other premises at which ~~he~~ *the individual* is or was last employed; ~~provided that~~ *However*, this subsection ~~shall~~ *does* not apply if it is shown to the satisfaction of the department that *the individual*:

(a) ~~he~~ is not participating in or financing or directly interested in the labor dispute ~~which~~ *that* caused the strike; and

(b) ~~he~~ does not belong to a grade or class of workers of which, immediately before the commencement of the strike, there were members employed at the premises at which the strike occurs, any of whom are participating in or financing or directly interested in the dispute.

(2) If in any case separate branches of work ~~which~~ *that* are commonly conducted as separate businesses in separate premises are conducted in separate departments of the same premises, each ~~such~~ department ~~shall~~ *must*, for the purpose of this section, be ~~deemed~~ *considered* to be a separate factory, establishment, or other premises.

(3) If the department, upon investigation, ~~shall~~ *find* ~~finds~~ that ~~such~~ *the* labor dispute is caused by the failure or refusal of any employer to conform to the provisions of any law of the state ~~wherein~~ *in which* the labor dispute occurs or of the United States pertaining to collective bargaining, hours, wages, or other conditions of work, ~~such~~ *the* labor dispute ~~shall~~ *may* not render the workers ineligible for benefits.”

Section 1536. Section 39-51-2401, MCA, is amended to read:

“39-51-2401. Claims to be made in accordance with regulations rules — employers to post and make available copies of such regulations rules. Claims for benefits ~~shall~~ *must* be made in accordance with ~~such~~ *regulations as rules* that the department may prescribe. Each employer shall post and maintain printed statements of ~~such regulations~~ *the rules* in places readily accessible to individuals in ~~his~~ *the employer's* service and shall make available to each ~~such~~ individual at the time ~~he~~ *the individual* becomes unemployed a printed statement of ~~such regulations~~ *the rules*. ~~Such~~ *The* printed statements ~~shall~~ *must* be supplied by the department to each employer without cost to ~~him~~ *the employer*.”

Section 1537. Section 39-51-2509, MCA, is amended to read:

“39-51-2509. Weekly extended benefit amount. The weekly extended benefit amount payable to an individual for a week of total unemployment in ~~his~~ *the individual's* eligibility period ~~shall~~ *must* be an amount equal to the weekly benefit amount payable to ~~him~~ *the individual* during ~~his~~ *the individual's* applicable benefit year.”

Section 1538. Section 39-51-3101, MCA, is amended to read:

“39-51-3101. Protection against self-incrimination. ~~No~~ A person shall *may not* be excused from attending and testifying or from producing books, papers, correspondence, memoranda, and other records before the department or board, the ~~chairman~~ *presiding officer* of an appeal tribunal, or any ~~duly~~ authorized representative of either of them or in obedience to the subpoena of the department or board or any member ~~thereof of the board~~ or any ~~duly~~ authorized representative of the department in any cause or proceeding before the department or board on the ground that the testimony or evidence, documentary or otherwise, required of ~~him~~ *the person* may tend to incriminate ~~him~~ *the person* or subject ~~him~~ *the person* to a penalty or forfeiture. ~~but no~~ *However, an individual shall may not* be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which ~~he~~ *the individual* is compelled, after having claimed ~~his~~ *the* privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that ~~such~~ *the* individual ~~so~~ testifying ~~shall~~ *is not be* exempt from prosecution and punishment for perjury committed in ~~so~~ testifying.”

Section 1539. Section 39-51-3102, MCA, is amended to read:

“39-51-3102. Certain agreements in violation of chapter void. (1) Any agreement by an individual to waive, release, or commute ~~his~~ *the individual's* rights to benefits or any other rights under this chapter ~~shall be~~ *is* void.

(2) Any agreement by ~~any~~ *an* individual in the employ of any person or concern to pay all or any portion of an employer's contributions required under this chapter from ~~such~~ *the* employer ~~shall be~~ *is* void.”

Section 1540. Section 39-51-3103, MCA, is amended to read:

“39-51-3103. Employer prohibited from making, requiring, or accepting deduction from wages or requiring or accepting waiver of rights under chapter — penalty for violation. (1) ~~No~~ *An* employer ~~shall~~ *may not*, directly or indirectly, make, ~~or~~ require, or accept any deduction from wages to finance the employer's contributions required from ~~him~~ *the employer* or require or accept ~~any~~ *a* waiver of any right ~~hereunder~~ *under this chapter* by an individual in ~~his~~ *the* employer's employ.

(2) ~~Any~~ *An* employer or officer or agent of an employer who violates any provision of ~~this section or~~ 39-51-3102 *or this section* shall, for each offense, be fined not more than \$1,000 or be imprisoned for not more than 6 months, or both.”

Section 1541. Section 39-51-3104, MCA, is amended to read:

“39-51-3104. Limitation of fees in claim for benefits — penalty for violation. (1) ~~No~~ *An* individual claiming benefits ~~shall may not~~ be charged fees of any kind in ~~any~~ *a* proceeding under this chapter by the department or its representatives or by any court or any officer ~~thereof of the court~~.

(2) ~~Any~~ *An* individual claiming benefits in ~~any~~ *a* proceeding before the ~~chairman~~ *presiding officer* of an appeal tribunal or the department or its representatives, the board, or a court may be represented by counsel or other ~~duly~~ authorized agent, but ~~no~~ *such* ~~the~~ *the* counsel or agents ~~shall may not~~ either charge or receive for ~~such~~ *the* services more than an amount approved by the department or board.

(3) ~~Any~~ *A* person who violates any provision of this section shall, for each ~~such~~ offense, be fined not more than \$500 or ~~be~~ imprisoned for not more than 6 months, or both.”

Section 1542. Section 39-51-3203, MCA, is amended to read:

“39-51-3203. Obtaining benefits through deception or other fraudulent means — criminal penalty. A person who, through deception or other fraudulent means, obtains benefits ~~which he~~ *that the person* is not entitled to under this chapter or under an employment security law of any other state or territory or the federal government or a person legally accountable for ~~such that~~ conduct under 45-2-302 is guilty of a crime under 45-6-301, and a county attorney may initiate criminal proceedings against ~~him~~ *the person.*”

Section 1543. Section 39-71-411, MCA, is amended to read:

“39-71-411. Provisions of chapter exclusive remedy — nonliability of insured employer. For all employments covered under the Workers’ Compensation Act or for which an election has been made for coverage under this chapter, the provisions of this chapter are exclusive. Except as provided in part 5 of this chapter for uninsured employers and except as otherwise provided in the Workers’ Compensation Act, an employer is not subject to any liability whatever for the death of or personal injury to an employee covered by the Workers’ Compensation Act or for any claims for contribution or indemnity asserted by a third person from whom damages are sought on account of ~~such the~~ injuries or death. The Workers’ Compensation Act binds the employee ~~himself,~~ and, in case of death, binds ~~his~~ *the employee’s* personal representative and all persons having any right or claim to compensation for ~~his the employee’s~~ injury or death, as well as the employer and the servants and employees of ~~such the~~ employer and those conducting ~~his the employer’s~~ business during liquidation, bankruptcy, or insolvency.”

Section 1544. Section 39-71-412, MCA, is amended to read:

“39-71-412. Liability of third party other than employer or fellow employee — additional cause of action. The right to compensation and medical benefits as provided by this chapter is not affected by the fact that the injury, occupational disease, or death is caused by the negligence of a third party other than the employer or the servants or employees of the employer. Whenever ~~such event~~ *injury, occupational disease, or death* occurs to an employee while performing the duties of ~~his~~ employment and ~~such the~~ event is caused by the act or omission of some persons or corporations other than ~~his the~~ *employee’s* employer or the servants or employees of ~~his the~~ *employee’s* employer, the employee or in case of ~~his~~ death ~~his the~~ *employee’s* heirs or personal representative ~~shall,~~ in addition to the right to receive compensation under this chapter, ~~have~~ *has* a right to prosecute any cause of action ~~he that the employee or~~ *heirs* may have for damages against ~~such the~~ persons or corporations.”

Section 1545. Section 39-71-509, MCA, is amended to read:

“39-71-509. Action against uninsured employer — limitation of employer’s defenses. If an injured employee or the employee’s beneficiaries bring an action to recover damages for personal injuries sustained or for death resulting from personal injuries ~~so~~ sustained, it is not a defense for the employer that the:

- (1) employee was negligent unless ~~such the~~ negligence was willful;
- (2) injury was caused by the negligence of a fellow employee; or
- (3) employee had assumed the risks inherent in, incident to, or arising out of ~~his the~~ *employee’s* employment or arising from the failure of the employer to provide and maintain a reasonably safe place to work or reasonably safe tools or appliances.”

Section 1546. Section 39-71-515, MCA, is amended to read:

“39-71-515. Independent cause of action. (1) An injured employee or the employee’s beneficiaries have an independent cause of action against an uninsured employer for failure to be enrolled in a compensation plan as required by this chapter.

(2) In ~~such~~ an action *described in subsection (1)*, prima facie liability of the uninsured employer exists if the claimant proves, by a preponderance of the evidence, that:

(a) the employer was required by law to be enrolled under compensation plan No. 1, 2, or 3 with respect to the claimant; and

(b) the employer was not ~~so~~ enrolled on the date of the injury or death.

(3) It is not a defense to ~~such~~ an action that the employee had knowledge of or consented to the employer’s failure to carry insurance or that the employee was negligent in permitting ~~such~~ *the* failure to exist.

(4) The amount of recoverable damages in ~~such~~ an action is the amount of compensation that the employee would have received had the employer been properly enrolled under compensation plan No. 1, 2, or 3.

(5) A plaintiff who prevails in an action brought under this section is entitled to recover reasonable costs and attorney fees incurred in the action, in addition to ~~his~~ damages.”

Section 1547. Section 39-71-518, MCA, is amended to read:

“39-71-518. Setoffs against remaining liability. Any actual monetary compensation received by judgment or settlement by the injured employee or the employee’s beneficiaries under 39-71-509 or 39-71-515 may be offset by the uninsured employer against ~~his~~ *the employer’s* remaining liability under those sections.”

Section 1548. Section 39-71-726, MCA, is amended to read:

“39-71-726. No compensation after death ~~where~~ *when* death not result of injury. If the employee ~~shall die~~ *dies* from some cause other than the injury, there ~~shall be~~ *is* no liability for compensation after ~~his~~ *the* death.”

Section 1549. Section 39-71-2102, MCA, is amended to read:

“39-71-2102. Proof of solvency to be filed. ~~Every~~ *Each* employer who has elected to be bound by compensation plan No. 1 shall file proof of ~~his~~ solvency within the time and in the form ~~as may be~~ prescribed by the rules or orders of the department.”

Section 1550. Section 39-71-2401, MCA, is amended to read:

“39-71-2401. Disputes — jurisdiction — settlement requirements — mediation. (1) A dispute concerning benefits arising under this chapter, other than the disputes described in subsection (2), must be brought before a department mediator as provided in this part. If a dispute still exists after the parties satisfy the mediation requirements in this part, either party may petition the workers’ compensation court for a resolution.

(2) A dispute arising under this chapter that does not concern benefits or a dispute for which a specific provision of this chapter gives the department jurisdiction must be brought before the department.

(3) An appeal from a department order may be made to the workers’ compensation court.

(4) Except as otherwise provided in this chapter, before a party may bring a dispute concerning benefits before a mediator, the parties shall attempt to settle as follows:

(a) The party making a demand shall present the other party with a specific written demand that contains sufficient explanation and documentary evidence to enable the other party to thoroughly evaluate the demand.

(b) The party receiving the demand shall respond in writing within 15 working days of receipt. If the demand is denied in whole or in part, the response shall *must* state the basis of the denial.

(c) Upon motion of a party or upon the mediator's own motion, the mediator has the authority to dismiss a petition if ~~he~~ *the mediator* finds that either party did not comply with this subsection (4). A decision dismissing a petition under this subsection (4)(c) must be in writing and must state in detail the grounds for dismissal. The mediator's decision may be reviewed by the workers' compensation court upon motion of a party.

(d) ~~Nothing in this~~ *This subsection relieves (4) does not relieve* a party of an obligation otherwise contained in this chapter."

Section 1551. Section 39-71-2910, MCA, is amended to read:

"39-71-2910. Stay pending posttrial motions and appeal. (1) Upon the filing of a judgment or order of the workers' compensation judge, a party may apply to the workers' compensation judge, upon notice or ex parte, for a stay of execution of the judgment or order. The stay may be for a period of time and be under conditions as *that* the judge considers proper. A stay of execution under this subsection may not extend for more than 30 days following the judge's disposition of posttrial motions.

(2) The appellant may request of the workers' compensation judge or the supreme court, upon service of a notice of appeal, a stay of execution of the judgment or order pending resolution of the appeal. The appellant may request a stay by presenting a supersedeas bond to the workers' compensation judge and obtaining ~~his~~ *the* approval of the bond. The bond must have two sufficient sureties or a corporate surety as authorized by law. A court granting a stay may waive the bond requirement. The procedure for requesting a stay and posting a supersedeas bond must be the same as the procedure in Rule 22, Montana Rules of Appellate Procedure."

Section 1552. Section 39-71-2914, MCA, is amended to read:

"39-71-2914. Signing of petitions, pleadings, motions, and other papers — requirements — sanctions. (1) Every petition, pleading, motion, or other paper of a party appearing before the workers' compensation court and represented by an attorney must be signed by at least one attorney of record in ~~his~~ *the attorney's* individual name. The signer's address also must be stated.

(2) A party who is not represented by an attorney shall sign ~~his~~ *the party's* petition, pleading, motion, or other paper and state ~~his~~ *the party's* address.

(3) The signature of an attorney or party constitutes a certificate by ~~him~~ *the attorney or party* that:

(a) ~~he~~ *the attorney or party* has read the petition, pleading, motion, or other paper;

(b) to the best of ~~his~~ *the attorney's or party's* knowledge, information, and belief formed after reasonable inquiry, it is well grounded in fact;

(c) it is warranted by existing law or by a good faith argument for the extension, modification, or reversal of existing law; and

(d) it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

(4) If a petition, pleading, motion, or other paper is signed in violation of this section, the court, upon motion or upon its own initiative, shall impose an appropriate sanction upon the person who signed it, a represented party, or both. The sanction may include an order to pay to the other party or parties the amount of the reasonable expense incurred because of the filing of the petition, pleading, motion, or other paper, including reasonable attorney fees.”

Section 1553. Section 39-73-102, MCA, is amended to read:

“39-73-102. Administration — duties of department. The department of labor and industry shall administer this chapter. The department shall:

(1) formulate a plan and adopt rules for the operation of this chapter;

(2) cooperate with the federal government in all matters of immediate concern pertaining to silicosis;

(3) designate the procedure to be followed in securing a competent medical examination for the purposes of determining silicosis in each individual applicant;

(4) designate suitable physicians or physician, well qualified to examine applicants for aid under this chapter;

(5) pay the actual transportation expenses of any applicant from the *applicant's* place of ~~his~~ residence in the state to the place of examination and return, from funds appropriated to the department for that purpose;

(6) develop and cooperate with other agencies in developing measures for the prevention of silicosis.”

Section 1554. Section 39-73-105, MCA, is amended to read:

“39-73-105. Application for payment. Application for payment under this chapter shall *must* be made by the person seeking ~~such~~ *the* payment to the department of labor and industry. The application shall *must* be in writing or reduced to writing in the manner and upon the form prescribed by the department. The application form may be filled in and written by a person authorized by the department. If the applicant is unable to sign ~~his or her~~ *the applicant's* name on the application, a ~~duly~~ witnessed mark may be used.”

Section 1555. Section 39-73-108, MCA, is amended to read:

“39-73-108. Payment of benefits where when person entitled is in institution. If ~~any a~~ person who is entitled to benefits under this chapter shall ~~be is~~ an inmate in any Montana state institution, benefits shall ~~may~~ not be paid to ~~him~~ *the person* but shall *must* be paid ~~his to~~ *the person's* beneficiary, if any, as defined in 39-71-116.”

Section 1556. Section 39-73-111, MCA, is amended to read:

“39-73-111. Representative payee — appointment — duties. (1) The department of labor and industry may appoint a representative payee to apply for and receive payment of silicosis benefits on behalf of a person eligible for ~~such~~ *the* payments or ~~his~~ *the person's* beneficiary if the department determines that ~~such~~ *the* appointment is in the best interests of the person or ~~his~~ *the person's* beneficiary. The representative payee may be a person, a corporation, a

government agency, or an institution, including a nursing home or extended care facility providing care for the person or ~~his~~ *the person's* beneficiary.

(2) To determine the best interests of the eligible person or ~~his~~ *the person's* beneficiary for appointment of a representative payee, the department may consider:

(a) a court determination of incompetence;

(b) medical evidence;

(c) relevant information from any person, corporation, government agency, or institution; and

(d) other relevant information.

(3) The department shall:

(a) determine the circumstances in which a representative payee may be appointed;

(b) establish procedures for ~~his~~ *the* appointment; and

(c) establish the representative payee's responsibilities.

(4) The representative payee shall:

(a) act as a trustee to the person eligible for silicosis payments or ~~his~~ *the person's* beneficiary in handling payments received; and

(b) maintain and expend ~~such~~ *the* funds for the benefit and best interests of the eligible person or ~~his~~ *the person's* beneficiary.

(5) The department's obligation under this chapter is fully discharged upon payment of benefits to the representative payee."

Section 1557. Section 40-1-201, MCA, is amended to read:

"40-1-201. License application. (1) ~~No~~ *A* Montana resident may *not* be joined in marriage within this state until a license has been obtained for that purpose from a clerk of the district court.

(2) A license ~~so issued shall authorize~~ *authorizes* a marriage ceremony to be performed ~~in the county where the license is issued or in any other county of this state.~~

(3) If both parties are nonresidents of the state, the license may be obtained from the clerk of the district court of the county where the marriage ceremony is to be performed. If one of the persons is a nonresident of the county where the license is to issue, ~~his~~ *the nonresident's* part of the application may be completed and sworn to or affirmed before the person authorized to accept ~~such~~ *license* applications in the county and state in which ~~he~~ *that person* resides."

Section 1558. Section 40-1-207, MCA, is amended to read:

"40-1-207. Examination by health officer. ~~Any~~ *An* applicant for a marriage license may, ~~if he so chooses,~~ be examined free of charge by the county physician or county health officer."

Section 1559. Section 40-1-312, MCA, is amended to read:

"40-1-312. Persons who may draft declaration of marriage. It ~~shall be~~ *is* unlawful for any person other than the parties to ~~such~~ *the* written declaration to draw any ~~such~~ declaration of marriage unless ~~he shall have been~~ *the person is* ~~duly~~ licensed to practice law in the state of Montana."

Section 1560. Section 40-1-404, MCA, is amended to read:

“40-1-404. Putative spouse. ~~Any~~ A person who has cohabited with another to whom ~~he~~ *the person* is not legally married in the good faith belief that ~~he~~ *the person* was married to that person is a putative spouse until knowledge of the fact that ~~he~~ *the person* is not legally married terminates ~~his~~ *that* status and prevents acquisition of further rights. A putative spouse acquires the rights conferred upon a legal spouse, including the right to maintenance following termination of ~~his~~ *that* status, whether or not the marriage is prohibited, (*as provided in 40-1-401*), or declared invalid, (*as provided in 40-1-402*). If there is a legal spouse or other putative spouses, rights acquired by a putative spouse do not supersede the rights of the legal spouse or those acquired by other putative spouses, but the court shall apportion property, maintenance, and support rights among the claimants as appropriate in the circumstances and in the interests of justice.”

Section 1561. Section 40-2-103, MCA, is amended to read:

“40-2-103. Support of spouse. If a married person who is able neglects to make adequate provision for the financial support of ~~his~~ *the person's* spouse, except in the cases mentioned in 40-2-104, any other person may in good faith supply the spouse with articles necessary for support and recover the reasonable value ~~thereof~~ *of the articles* from the married person who has failed to provide ~~such~~ support.”

Section 1562. Section 40-2-104, MCA, is amended to read:

“40-2-104. Liability of married person when abandoned by spouse. A married person abandoned by ~~his~~ *a* spouse is not liable for the spouse's support until the spouse offers to return, unless the spouse was justified by the person's misconduct in abandoning ~~him~~ *that person*, nor is a married person liable for support of a spouse who is living separate from ~~him~~ *the person* by agreement, unless ~~such~~ support is stipulated in the agreement.”

Section 1563. Section 40-2-107, MCA, is amended to read:

“40-2-107. May sue and be sued. A married person may sue and be sued in the same manner as if ~~he~~ *the person* were ~~sole~~ *single*.”

Section 1564. Section 40-2-108, MCA, is amended to read:

“40-2-108. Married person as personal representative, guardian, conservator, or trustee. A married person may be a personal representative, guardian, conservator, or trustee and may *personally bound and may* bind ~~himself~~ and the estate ~~he~~ *the person* represents without any act or assent on the part of the person's spouse.”

Section 1565. Section 40-2-109, MCA, is amended to read:

“40-2-109. Right of person to sue spouse for intentional tort. A person has a cause of action against ~~his~~ *the person's* spouse for damages caused by the spouse's intentional tort against ~~such~~ *the person*, and the ~~common-law~~ *common-law* doctrine of interspousal tort immunity is, to that extent, abolished.”

Section 1566. Section 40-2-202, MCA, is amended to read:

“40-2-202. Individual property of married person. All the property of a married person owned before marriage and that acquired afterwards is ~~his~~ *that person's* individual property. The married person may, without consent, agreement, and signature of ~~his~~ *the person's* spouse, convey and transfer ~~his~~ *the person's* individual property, real or personal, including the fee simple title to real property, or execute a power of attorney for the conveyance and transfer ~~thereof~~ *of property*.”

Section 1567. Section 40-2-203, MCA, is amended to read:

“40-2-203. Inventory of individual personal property of married person. A married person’s title to and ownership of ~~his~~ *the person’s* individual property may be proved or demonstrated in the same manner that a single person’s ownership of or title to ~~his a single person’s~~ individual property may be proved. ~~Provided, however~~ *However,* that if a married person chooses, ~~he~~ *the person* may make out and sign an inventory of ~~his~~ *the person’s* individual personal property, which ~~inventory shall~~ *must* be acknowledged or proved in the same manner required by law for the acknowledgment or proof of a grant of real property and recorded in the office of the county clerk of the county in which the person lives.”

Section 1568. Section 40-2-205, MCA, is amended to read:

“40-2-205. Earnings and accumulations of married person. The earnings and accumulations of a married person are not liable for the debts of that person’s spouse except for debts incurred for necessary articles procured for the use and benefit of the married person, ~~his~~ *the person’s* spouse, or minor children.”

Section 1569. Section 40-2-206, MCA, is amended to read:

“40-2-206. Same Earnings and accumulations — when separated. The earnings and accumulations of a married person and of ~~his~~ *the person’s* minor children living with ~~him~~ *the person* or in ~~his~~ *the person’s* custody, while ~~he~~ *the person* is living separate from ~~his~~ *the person’s* spouse, are the individual property of ~~such~~ *that* person except that, to the extent that a mutual duty of support between the husband and wife as established by 40-2-102 still exists, ~~such~~ *the* earnings and accumulations are liable for debts incurred for necessary articles procured for the use and benefit of the married person, ~~his~~ *the person’s* spouse, or minor children.”

Section 1570. Section 40-2-207, MCA, is amended to read:

“40-2-207. Work and labor of married person. All work and labor performed by a married person for a person other than ~~his~~ *the married person’s* spouse and children ~~shall~~ *must*, unless there is a written agreement on ~~his~~ *the person’s* part to the contrary, be presumed to be performed on ~~his~~ *the person’s* separate account. This section does not affect the liability of earnings for debts incurred for necessary articles procured for the use and benefit of the married person, ~~his~~ *the person’s* spouse, or minor children, as established by 40-2-205, 40-2-206, 40-2-209, and 40-2-210.”

Section 1571. Section 40-2-210, MCA, is amended to read:

“40-2-210. Necessity determined by standard of living. For purposes of determining whether a married person’s earnings or individual property ~~are~~ *is* exempt from the debts incurred by the person’s spouse, the phrase “necessary articles” includes all ~~such~~ goods and services ~~as~~ *that* are reasonably required to provide for the health, welfare, comfort, and education of the married person, ~~his~~ *the person’s* spouse, and minor children, taking into consideration the earnings, resources, and general standard of living of ~~such~~ *the* persons.”

Section 1572. Section 40-2-302, MCA, is amended to read:

“40-2-302. Liability of spouse. The contracts made by a married person ~~in~~ *with* respect to ~~his~~ *the person’s* individual property, labor, or services ~~shall not be~~ *are not* binding upon the person’s spouse ~~nor~~ *and do not* render ~~him~~ *the spouse* or ~~his~~ *the spouse’s* property liable ~~therefor;~~ *but for the contracts.* *However,* the

contracting person and that person's individual property ~~shall be~~ *are* liable on ~~such the~~ contracts in the same manner as if ~~such the~~ person were ~~sole~~ *single*."

Section 1573. Section 40-3-113, MCA, is amended to read:

"40-3-113. Transfer of cases. Another district judge may be called in by the judge of the conciliation court to act as judge of the conciliation court during any period when the judge of the conciliation court is on vacation, absent, or for any reason unable to perform ~~his the judge's~~ duties. ~~Any An appointed~~ judge ~~so appointed shall have~~ *has* all of the powers and authority of a judge of the conciliation court in cases under this chapter."

Section 1574. Section 40-3-116, MCA, is amended to read:

"40-3-116. Privacy of hearings. (1) All district court hearings or conferences in proceedings under this chapter ~~shall must~~ be held in private, and the court shall exclude all persons except the officers of the court, the parties, their counsel, and witnesses. Conferences may be held with each party and ~~his that party's~~ counsel separately. In the discretion of the judge or counselor conducting the conference or hearing, all counsel may be excluded. All communications, verbal or written, from parties to the judge or counselor in a proceeding under this chapter ~~shall be deemed are considered~~ made to ~~such the~~ officer in official confidence.

(2) The files of the conciliation court ~~shall must~~ be closed. The petition, supporting affidavit, reconciliation agreement, and any court order made in the matter may be opened to inspection by any party or ~~his the party's~~ counsel upon the written authority of the judge of the conciliation court."

Section 1575. Section 40-3-124, MCA, is amended to read:

"40-3-124. Manner of conciliation. (1) The judge of the conciliation court may hear all matters invoked under this chapter; or ~~he~~ may refer ~~such the~~ matters to a pastor or director of any religious denomination to which the parties may belong, psychiatrist, physician, attorney, social worker, or other person who is competent and qualified by training and experience in personal counseling. ~~Such The~~ person ~~shall be~~ *is* referred to ~~herein in this section~~ as the conciliation counselor.

(2) The conciliation counselor shall:

(a) hold conciliation conferences with parties to, and hearings in, proceedings under this chapter and make recommendations concerning ~~such the~~ proceedings to the judge of the conciliation court;

(b) cause ~~such~~ reports to be made, ~~such~~ statistics to be compiled, and ~~such~~ records to be kept ~~as that~~ the judge of the conciliation court may direct."

Section 1576. Section 40-3-125, MCA, is amended to read:

"40-3-125. Hearings. (1) The court shall fix a reasonable time and place for hearing on the petition and shall cause ~~such the~~ notice of the filing of the petition and the time and place of the hearing as it considers necessary to be given to the respondents. The court may, when it considers it necessary, issue a citation to any respondent requiring ~~him the respondent~~ to appear at the time and place stated in the citation and may require the attendance of witnesses as in other civil cases.

(2) For the purpose of conducting hearings pursuant to this chapter, the conciliation court may be convened at any time and place within the district and the hearing may be had in chambers or otherwise, except that the time and place for hearing may not be different from the time and place provided by law for the

trial of civil actions if any party, prior to the hearing, objects to any different time or place.

(3) The hearing ~~shall~~ *must* be conducted informally as a conference or series of conferences to effect a reconciliation of the spouses or an amicable adjustment or settlement of the issues of the controversy. To facilitate and promote the purposes of this chapter, the court may, with the consent of both of the parties to the proceeding, recommend or invoke the aid of physicians, psychiatrists, other specialists or scientific experts, or the pastor or director of any religious denomination to which the parties may belong. ~~Such aid, however, shall~~ *However, the aid may* not be at the expense of the court or of the county, unless the county commissioners of the county specifically provide and authorize ~~such~~ *the aid.*"

Section 1577. Section 40-4-131, MCA, is amended to read:

"40-4-131. Joint petition — filing — form — contents. (1) A proceeding for summary dissolution of marriage is commenced by filing in the district court a joint petition in the form prescribed by the court.

(2) The petition must:

(a) be signed under oath by both parties;

(b) state that, as of the date of the filing of the joint petition, each condition set forth in 40-4-130 has been met;

(c) state the mailing address of both parties; and

(d) state whether or not the wife elects to have ~~her~~ *the wife's* maiden or former name restored and, if so, state the name to be restored."

Section 1578. Section 40-4-203, MCA, is amended to read:

"40-4-203. Maintenance. (1) In a proceeding for dissolution of marriage or legal separation or a proceeding for maintenance following dissolution of the marriage by a court ~~which~~ *that* lacked personal jurisdiction over the absent spouse, the court may grant a maintenance order for either spouse only if it finds that the spouse seeking maintenance:

(a) lacks sufficient property to provide for ~~his~~ *the spouse's* reasonable needs; and

(b) is unable to ~~support himself~~ *be self-supporting* through appropriate employment or is the custodian of a child whose condition or circumstances make it appropriate that the custodian not be required to seek employment outside the home.

(2) The maintenance order ~~shall~~ *must* be in ~~such~~ amounts and for ~~such~~ periods of time ~~as that~~ *the court deems considers* just, without regard to marital misconduct, and after considering all relevant facts, including:

(a) the financial resources of the party seeking maintenance, including marital property apportioned to ~~him~~ *that party*, and ~~his~~ *the party's* ability to meet ~~his~~ *the party's* needs independently, including the extent to which a provision for support of a child living with the party includes a sum for that party as custodian;

(b) the time necessary to acquire sufficient education or training to enable the party seeking maintenance to find appropriate employment;

(c) the standard of living established during the marriage;

(d) the duration of the marriage;

(e) the age and the physical and emotional condition of the spouse seeking maintenance; and

(f) the ability of the spouse from whom maintenance is sought to meet ~~his~~ *the spouse's own* needs while meeting those of the spouse seeking maintenance.”

Section 1579. Section 40-4-207, MCA, is amended to read:

“40-4-207. Assignments. The court may order the person obligated to pay support or maintenance to make an assignment of a part of ~~his~~ *the person's* periodic earnings or trust income to the person entitled to receive the payments. The assignment is binding on the employer, trustee, or other payor of the funds 2 weeks after service upon ~~him~~ *the payor* of notice that ~~it~~ *the assignment* has been made. The payor shall withhold from the earnings or trust income payable to the person obligated to support the amount specified in the assignment and shall transmit the payments to the person specified in the order. The payor may deduct from each payment a sum not exceeding \$1 as reimbursement for costs. An employer ~~shall~~ *may* not discharge or otherwise discipline an employee as a result of a wage or salary assignment authorized by this section.”

Section 1580. Section 40-5-214, MCA, is amended to read:

“40-5-214. Scale of suggested minimum contributions. (1) The department shall establish a scale of suggested minimum contributions to assist counties and courts in determining the amount that a parent should be expected to contribute toward the support of ~~his~~ *a* child under this part. The scale must be based on the uniform child support guidelines adopted by the department under 40-5-209.

(2) Copies of the scale must be made available to courts, county offices, *and* county attorneys, and, upon request, to any other state or county officer or agency engaged in the administration or enforcement of this part. Attorneys admitted to practice in Montana may have access to the scale.”

Section 1581. Section 40-6-104, MCA, is amended to read:

“40-6-104. How parent and child relationship established. The parent and child relationship between a child and:

(1) the natural mother may be established by proof of ~~her~~ *the mother* having given birth to the child or under this part;

(2) the natural father may be established under this part;

(3) an adoptive parent may be established by proof of adoption.”

Section 1582. Section 40-6-114, MCA, is amended to read:

“40-6-114. Pretrial recommendations. (1) On the basis of the information produced at the pretrial hearing, the judge or referee conducting the hearing shall evaluate the probability of determining the existence or nonexistence of the father and child relationship in a trial and whether a judicial declaration of the relationship would be in the best interest of the child. On the basis of the evaluation, an appropriate recommendation for settlement ~~shall~~ *must* be made to the parties, which may include any of the following:

(a) that the action be dismissed with or without prejudice;

(b) that the matter be compromised by an agreement among the alleged father, the mother, and the child, in which the father and child relationship is not determined but in which a defined economic obligation is undertaken by the alleged father in favor of the child and, if appropriate, in favor of the mother, subject to approval by the judge or referee conducting the hearing. In reviewing the obligation undertaken by the alleged father in a compromise agreement, the

judge or referee conducting the hearing shall consider the best interest of the child in the light of the factors enumerated in 40-6-116(5), discounted by the improbability, as it appears to ~~him~~ *the judge or referee*, of establishing the alleged father's paternity or nonpaternity of the child in a trial of the action. In the best interest of the child, the court may order that the alleged father's identity be kept confidential. In that case, the court may designate a person or agency to receive from the alleged father and disburse on behalf of the child all amounts paid by the alleged father in fulfillment of obligations imposed on ~~him~~ *the alleged father*.

(c) that the alleged father voluntarily acknowledge ~~his~~ paternity of the child.

(2) If the parties accept a recommendation made in accordance with subsection (1), judgment ~~shall~~ *must* be entered accordingly.

(3) If a party refuses to accept a recommendation made under subsection (1) and blood tests have not been taken, the court shall require the parties to submit to blood tests, if practicable. Thereafter, the judge or referee shall make an appropriate final recommendation. If a party refuses to accept the final recommendation, the action ~~shall~~ *must* be set for trial.

(4) If the scientific evidence resulting from the blood tests conclusively shows that the defendant could not have been the father, then the ~~instant~~ action ~~shall~~ *must* be dismissed.

(5) The guardian ad litem may accept or refuse to accept a recommendation under this section.

(6) The informal hearing may be terminated and the action set for trial if the judge or referee conducting the hearing finds unlikely that all parties would accept a recommendation ~~he might make~~ *made* under subsection (1) or (3)."

Section 1583. Section 40-6-202, MCA, is amended to read:

"40-6-202. Legitimacy of children born after dissolution of marriage. All children of a woman who has been married, born within 10 months after the dissolution of ~~her~~ *the woman's* marriage, are presumed to be legitimate children of that marriage."

Section 1584. Section 40-6-214, MCA, is amended to read:

"40-6-214. Reciprocal duties of parents and children in maintaining each other. It is the duty of the father, the mother, and the children of any poor person who is unable to ~~maintain himself~~ *provide self-maintenance* by work to maintain ~~such~~ *that* person to the extent of their ability. The promise of an adult child to pay for necessities previously furnished to ~~such~~ *that* parent is binding."

Section 1585. Section 40-6-217, MCA, is amended to read:

"40-6-217. Married person not bound for support of spouse's children by former marriage. A married person is not bound to support ~~his~~ *a* spouse's children by a former marriage; ~~but~~ *However*, if ~~he~~ *the person* receives ~~them~~ *the spouse's children* into ~~his~~ *the* family and supports them, it is presumed that ~~he~~ *the person* does so as a parent, and, ~~where such is the~~ *in that case, they* ~~the children~~ are not liable to ~~him~~ *the person* for their support ~~nor he to them and the person is not liable to the children~~ for their services."

Section 1586. Section 40-6-235, MCA, is amended to read:

"40-6-235. Parent may relinquish services and custody of child. The parent, whether solvent or insolvent, may relinquish to the child the right of controlling ~~him~~ *the child* and receiving ~~his~~ *the child's* earnings. Abandonment by the parent is presumptive evidence of ~~such~~ relinquishment."

Section 1587. Section 40-6-236, MCA, is amended to read:

“40-6-236. Wages of minors. The wages of a minor employed in service may be paid ~~him~~ *to the minor* until the parent or guardian entitled ~~thereto~~ *to the wages* gives the employer notice that ~~he~~ *the parent or guardian* claims ~~such~~ *the wages.*”

Section 1588. Section 41-1-201, MCA, is amended to read:

“41-1-201. Liability of minors for wrongs — exemplary damages. A minor is civilly liable for a wrong done by ~~him~~ *the minor*, but is not liable ~~in~~ *for* exemplary damages unless at the time of the act, ~~he~~ *the minor* was capable of knowing that it was wrongful.”

Section 1589. Section 41-1-202, MCA, is amended to read:

“41-1-202. Enforcement of minor’s rights. A minor may enforce ~~his~~ *the minor’s* rights by civil action or other legal proceedings in the same manner as a person of full age, except that a guardian ~~must~~ *shall* conduct the ~~same~~ *the action or proceedings.*”

Section 1590. Section 41-1-302, MCA, is amended to read:

“41-1-302. Contracts of minors — disaffirmance. A minor may make a conveyance or other contract in the same manner as any other person, subject only to ~~his~~ *the minor’s* power of disaffirmance under the provisions of this chapter and to the provisions of Title 40, chapter 1.”

Section 1591. Section 41-1-303, MCA, is amended to read:

“41-1-303. Capacity of minors to borrow money for education. ~~Any person who, being a~~ *A minor who,* contracts to borrow money to defray the expenses of attending any college or university or other institution of higher education beyond high school ~~shall have~~ *has* full legal capacity to act ~~in~~ *his* ~~on~~ *the minor’s* own behalf and ~~shall have~~ *has* all the rights, powers, and privileges and ~~be~~ *is* subject to the obligations of persons of full age with respect to ~~any such~~ *those* contracts.”

Section 1592. Section 41-1-305, MCA, is amended to read:

“41-1-305. Minor cannot may not disaffirm contract for necessities. A minor ~~cannot may not~~ disaffirm a contract, otherwise valid, to pay the reasonable value of things necessary for ~~his~~ *the minor’s* support or that of ~~his~~ *the minor’s* family, entered into by ~~him~~ *the minor* when not under the care of a parent or guardian able to provide for ~~him~~ *the minor* or ~~them~~ *the minor’s* family.”

Section 1593. Section 41-1-306, MCA, is amended to read:

“41-1-306. Minor cannot may not disaffirm certain obligations. A minor ~~cannot may not~~ disaffirm an obligation, otherwise valid, entered into by ~~him~~ *the minor* under the express authority or direction of a statute or when ~~he~~ *the minor* has been granted limited emancipation, including a specific right to enter into contracts, under 41-1-501 and 41-3-438.”

Section 1594. Section 41-1-406, MCA, is amended to read:

“41-1-406. Psychiatric or psychological counseling under urgent circumstances. When executed by a minor, the consent to the providing of psychiatric or psychological counseling by a physician or psychologist licensed to practice in this state, under circumstances when the need for ~~such~~ *the* counseling is urgent in the opinion of the physician or psychologist involved because of danger to the life, safety, or property of a minor or of ~~either~~ *another* person or persons and the consent of the spouse, parent, custodian, or guardian of the minor cannot be obtained within a reasonable time to offset the danger to

life or safety, ~~shall be~~ *is* as valid and binding as if the minor had achieved majority. ~~That is, such~~ *The* minor has the same legal capacity to act and the same legal obligations with regard to the giving of ~~such~~ consent as a person of full legal age and capacity, and ~~such the consent may~~ *is* not be subject to later disaffirmance by reason of ~~such~~ minority. The consent of ~~no other~~ *another* person, ~~or persons~~ (including but not limited to a spouse, parent, custodian, or guardian), *is not* necessary in order to authorize the psychiatric or psychological counseling of ~~such the~~ minor. However, ~~no a parent may not~~ *be* obligated for the cost of ~~such the~~ counseling without ~~his the~~ *the parent's* consent.”

Section 1595. Section 41-1-407, MCA, is amended to read:

“41-1-407. Immunity and responsibility of psychologist, physician, or health care facility. (1) ~~No~~ *A* physician, surgeon, dentist, or health or mental health care facility may *not* be compelled against ~~their the~~ *the entity's* best judgment to treat a minor on ~~his the~~ *the minor's* own consent.

(2) ~~Nothing contained in this~~ *This* section ~~shall may not~~ *may not* be construed to relieve any physician, surgeon, dentist, or health or mental health care facility from liability for negligence in the diagnosis and treatment rendered ~~such a~~ *a* minor.

(3) In any case arising under the provisions of 41-1-406, the physician or licensed psychologist who provides the psychiatric or psychological counseling services ~~shall may not~~ *may not* incur ~~no~~ civil or criminal liability by reason of having provided the counseling services, but ~~such the~~ *the* immunity ~~shall does~~ *does* not apply to any negligent acts or omissions.”

Section 1596. Section 41-4-101, MCA, is amended to read:

“41-4-101. Enactment — provisions. The Interstate Compact on the Placement of Children is hereby enacted into law and entered into with all other jurisdictions legally joining ~~therein in the compact~~ *in the compact* in the form substantially as follows:

Article I. Purpose and Policy

It is the purpose and policy of the party states to cooperate with each other in the interstate placement of children to the end that:

(1) each child requiring placement shall receive the maximum opportunity to be placed in a suitable environment and with persons or institutions having appropriate qualifications and facilities to provide a necessary and desirable degree and type of care;

(2) the appropriate authorities in a state where a child is to be placed may have full opportunity to ascertain the circumstances of the proposed placement, thereby promoting full compliance with applicable requirements for the protection of the child;

(3) the proper authorities of the state from which the placement is made may obtain the most complete information on the basis of which to evaluate a projected placement before it is made;

(4) appropriate jurisdictional arrangements for the care of children will be promoted.

Article II. Definitions

As used in this compact:

(1) “child” means a person who, by reason of minority, is legally subject to parental, guardianship, or similar control;

(2) “sending agency” means a party state, officer or employee thereof; a subdivision of a party state or officer or employee thereof; a court of a party state; a person, corporation, association, charitable agency, or other entity which sends, brings, or causes to be sent or brought any child to another party state;

(3) “receiving state” means the state to which a child is sent, brought, or caused to be sent or brought, whether by public authorities or private persons or agencies and whether for placement with state or local public authorities or for placement with private agencies or persons;

(4) “placement” means the arrangement for the care of a child in a family free or boarding home or in a child-caring agency or institution but does not include any institution caring for the mentally ill, mentally defective, or epileptic or any institution primarily educational in character and any hospital or other medical facility.

Article III. Conditions for Placement

(1) No sending agency shall send, bring, or cause to be sent or brought into any other party state any child for placement in foster care or as a preliminary to a possible adoption unless the sending agency shall comply with each and every requirement set forth in this article and with the applicable laws of the receiving state governing the placement of children therein.

(2) Prior to sending, bringing, or causing any child to be sent or brought into a receiving state for placement in foster care or as a preliminary to a possible adoption, the sending agency shall furnish the appropriate public authorities in the receiving state written notice of the intention to send, bring, or place the child in the receiving state. The notice shall contain:

(a) the name, date, and place of birth of the child;

(b) the identity and address or addresses of the parents or legal guardian;

(c) the name and address of the person, agency, or institution to or with which the sending agency proposes to send, bring, or place the child;

(d) a full statement of the reasons for such proposed action and evidence of the authority pursuant to which the placement is proposed to be made.

(3) Any public officer or agency in a receiving state which is in receipt of a notice pursuant to (2) of this article may request of the sending agency or any other appropriate officer or agency of or in the sending agency's state and shall be entitled to receive therefrom such supporting or additional information as it may deem necessary under the circumstances to carry out the purpose and policy of this compact.

(4) The child shall not be sent, brought, or caused to be sent or brought into the receiving state until the appropriate public authorities in the receiving state shall notify the sending agency, in writing, to the effect that the proposed placement does not appear to be contrary to the interests of the child.

Article IV. Penalty for Illegal Placement

The sending, bringing, or causing to be sent or brought into any receiving state of a child in violation of the terms of this compact shall constitute a violation of the laws respecting the placement of children of both the state in which the sending agency is located or from which it sends or brings the child and of the receiving state. Such violation may be punished or subjected to penalty in either jurisdiction in accordance with its laws. In addition to liability for any such punishment or penalty, any such violation shall constitute full and sufficient grounds for the suspension or revocation of any license, permit, or

other legal authorization held by the sending agency which empowers or allows it to place or care for children.

Article V. Retention of Jurisdiction

(1) The sending agency shall retain jurisdiction over the child sufficient to determine all matters in relation to the custody, supervision, care, treatment, and disposition of the child which it would have had if the child had remained in the sending agency's state, until the child is adopted, reaches majority, becomes self-supporting, or is discharged with the concurrence of the appropriate authority in the receiving state. Such jurisdiction shall also include the power to effect or cause the return of the child or ~~his~~ *the child's* transfer to another location and custody pursuant to law. The sending agency shall continue to have financial responsibility for support and maintenance of the child during the period of the placement. Nothing contained herein shall defeat a claim of jurisdiction by receiving state sufficient to deal with an act of delinquency or crime committed therein.

(2) When the sending agency is a public agency, it may enter into an agreement with an authorized public or private agency in the receiving state providing for the performance of one or more services in respect of such case by the latter as agent for the sending agency.

(3) Nothing in this compact shall be construed to prevent a private charitable agency authorized to place children in the receiving state from performing services or acting as agent in that state for a private charitable agency of the sending state, nor to prevent the agency in the receiving state from discharging financial responsibility for the support and maintenance of a child who has been placed on behalf of the sending agency without relieving the responsibility set forth in (1) hereof.

Article VI. Institutional Care of Delinquent Children

A child adjudicated delinquent may be placed in an institution in another party jurisdiction pursuant to this compact, but no such placement shall be made unless the child is given a court hearing on notice to the parent or guardian with opportunity to be heard prior to ~~his~~ *the parent's or guardian's child* being sent to such other party jurisdiction for institutional care and the court finds that:

(1) equivalent facilities for the child are not available in the sending agency's jurisdiction; and

(2) institutional care in the other jurisdiction is in the best interest of the child and will not produce undue hardship.

Article VII. Compact Administrator

The executive head of each jurisdiction party to this compact shall designate an officer who shall be general coordinator of activities under this compact in ~~his~~ *the officer's* jurisdiction and who, acting jointly with like officers of other party jurisdictions, shall have power to promulgate rules to carry out more effectively the terms and provisions of this compact.

Article VIII. Limitations

This compact shall not apply to:

(1) the sending or bringing of a child into a receiving state by ~~his~~ *the child's* parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or his guardian and leaving the child with any such relative or nonagency guardian in the receiving state;

(2) any placement, sending, or bringing of a child into a receiving state pursuant to any other interstate compact to which both the state from which the child is sent or brought and the receiving state are party or to any other agreement between said states which has the force of law.

Article IX. Enactment and Withdrawal

This compact shall be open to joinder by any state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and with the consent of congress, the government of Canada or any province thereof. It shall become effective with respect to any such jurisdiction when such jurisdiction has enacted the same into law. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until 2 years after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the governor of each other party jurisdiction. Withdrawal of a party state shall not affect the rights, duties, and obligations under this compact of any sending agency therein with respect to a placement made prior to the effective date of withdrawal.

Article X. Construction and Severability

The provisions of this compact shall be liberally construed to effectuate the purposes thereof. The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.”

Section 1597. Section 41-5-105, MCA, is amended to read:

“41-5-105. Youth court committee. In every county of the state, the judge having jurisdiction may appoint a committee, willing to act without compensation, composed of not less than three or more than seven reputable citizens, including youth representatives. The committee must be designated as a youth court committee. This committee shall meet subject to the call of the judge to confer with ~~him~~ *the judge* on all matters pertaining to the youth department of the court, including the appointment of probation officers, and shall act as a supervisory committee of youth detention facilities.”

Section 1598. Section 41-5-1404, MCA, is amended to read:

“41-5-1404. Service of summons. (1) ~~Any A~~ youth who is the subject of a proceeding under this chapter must be personally served with summons at least 5 days before the time stated for appearance.

(2) Service of summons on all other persons designated in 41-5-1403(1) ~~shall~~ *must* be made in accordance with Rule 4D of the Montana Rules of Civil Procedure, except that in all cases, service ~~shall~~ *must* be completed at least 5 days before the time stated for appearance.

(3) If a party referred to in subsection (2) ~~herein~~ is not personally served before a hearing and has not *been* secluded ~~himself with~~ *in* an attempt to delay or disrupt any proceeding, ~~such~~ *the* party may appear within a reasonable time subsequent to the hearing and, on motion to the court, request a rehearing. The

motion may be granted at the discretion of the judge if a rehearing would be in the best interest of the youth.

(4) The court may authorize payment from county funds of costs of service and necessary travel expenses incurred by persons summoned or otherwise required to appear at the hearing.

(5) An actual abandonment of a youth by ~~his~~ *the youth's* parent or parents ~~shall constitute~~ *constitutes* a waiver of summons and notice requirements by the parent or parents. A return endorsed upon the summons showing inability to serve summons constitutes prima facie evidence of actual abandonment.

(6) The youth court may, in the interests of justice, shorten the notice requirements contained ~~herein~~ *in this section*, and ~~such~~ notice of shortened time ~~shall must~~ be endorsed on the summons.

(7) A party, other than the youth, may waive service of summons on ~~himself~~ *that party* by written stipulation or by voluntary appearance at the hearing. If the youth is present at the hearing, ~~his~~ *the youth's* counsel may waive service of summons ~~in his~~ *on behalf of the youth.*"

Section 1599. Section 41-5-1411, MCA, is amended to read:

"41-5-1411. Appointment of guardian ad litem. The court at any stage of a proceeding on a petition under this chapter may appoint a guardian ad litem for a youth if the youth ~~has no~~ *does not have a* parent or guardian appearing ~~in his~~ *on the youth's* behalf or if ~~their~~ *the parent's or guardian's* interests conflict with those of the youth. A party to the proceeding or an employee or representative of a party may not be appointed as guardian ad litem."

Section 1600. Section 41-5-1901, MCA, is amended to read:

"41-5-1901. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Attendant care" means the direct supervision of youth by a trained attendant in a physically unrestricting setting.

(2) "Board" means the board of crime control provided for in 2-15-2006.

(3) "County" means a county, city-county consolidated government, or a youth detention region created pursuant to 41-5-1805.

(4) "Home detention" means the use of a youth's home for the purpose of ensuring the continued custody of the youth pending adjudication or final disposition of ~~his~~ *the youth's* case.

(5) "Plan" means a county plan for providing youth detention services as required in 41-5-1903.

(6) "Secure detention" means the detention of youth in a physically restricting facility designed to prevent a youth from departing at will.

(7) "Youth detention service" means service for the detention of youth in facilities separate from adult jails. The term includes the services described in 41-5-1902."

Section 1601. Section 41-6-106, MCA, is amended to read:

"41-6-106. Additional procedures not precluded. In addition to any procedure provided in Articles IV and VI of the compact for the return of ~~any a~~ runaway juvenile, the particular states, the juvenile or ~~his~~ *the juvenile's* parents, the courts, or other legal custodian involved may agree upon and adopt any other plan or procedure legally authorized under the laws of this state and the other respective party states for the return of ~~any such a~~ runaway juvenile."

Section 1602. Section 42-2-216, MCA, is amended to read:

“42-2-216. Storage of data. The department shall store the registry’s data in a manner so that the data is accessible through:

- (1) the putative father’s name;
- (2) the mother’s name, including ~~her~~ *the mother’s* maiden name, if known;
- (3) the date of birth of the putative father, the mother, and the child, if known;
- (4) the child’s name, if known; and
- (5) the social security number for the putative father, the mother, and the child, if known.”

Section 1603. Section 44-1-104, MCA, is amended to read:

“44-1-104. Duty to furnish governor with transportation. The department of justice shall furnish the governor with automobile transportation upon ~~his~~ *the governor’s* request, provided that ~~such~~ *the* transportation ~~shall~~ *must* be limited to travel and transportation of the governor while on official business of the state.”

Section 1604. Section 44-1-201, MCA, is amended to read:

“44-1-201. Appointment and tenure. The attorney general shall select a highway patrol chief who ~~shall~~ *must* have the rank of colonel and shall hold ~~his~~ office until ~~his~~ *the* appointment has terminated for cause, as ~~hereinafter~~ set forth *in parts 7 through 9 of this chapter.*”

Section 1605. Section 44-1-303, MCA, is amended to read:

“44-1-303. Duties. The chief, with the approval of the attorney general and within the limits of any appropriation made available for ~~such~~ *the following* purposes, ~~shall~~:

- (1) *shall* designate the authority and responsibility in each rank, grade, and position;
- (2) *shall* formulate standards, policies, and qualifications in the selection of recruit patrol officers;
- (3) *shall* prescribe the official uniform of the Montana highway patrol;
- (4) *shall* station employees in ~~such~~ localities ~~as he shall deem~~ *that the chief considers* advisable for the enforcement of the traffic laws of this state;
- (5) *shall* charge against each employee the value of property of the state lost or destroyed through the carelessness or neglect of ~~such~~ *the* employee;
- (6) *shall* discharge, demote, or temporarily suspend after hearing, as provided in parts 7 and 8 of this chapter, any patrol officer of the department;
- (7) *must* have purchased or otherwise acquired by the purchasing department of the state motor *vehicle* equipment and all other equipment and commodities ~~deemed by him~~ *that the chief considers* essential to the efficient operation of the Montana highway patrol.”

Section 1606. Section 44-1-503, MCA, is amended to read:

“44-1-503. Salary upon permanent appointment. ~~In the event that~~ *If* a probationary patrol officer is appointed permanently, ~~he~~ *the officer shall* *must*, at the time of ~~such~~ appointment, receive the base salary of a patrol officer.”

Section 1607. Section 44-1-512, MCA, is amended to read:

“44-1-512. Determination of eligibility for salary benefit. (1) The highway patrol chief shall determine whether an injury incurred by an officer was incurred in the performance of ~~his~~ *the officer’s* duties and whether an injury ~~so~~ incurred resulted in a disability.

(2) In determining the nature and extent of an officer’s injuries and the extent of any recovery, the chief shall seek and consider the medical opinion of a qualified physician who has examined the injured officer. The chief may seek a second medical opinion ~~in his discretion.~~”

Section 1608. Section 44-1-513, MCA, is amended to read:

“44-1-513. Periodic medical examinations — waiver of right to salary benefit. (1) The chief may appoint a physician to examine ~~the~~ *an injured* officer from time to time. If, in the physician’s opinion, the injured officer has sufficiently recovered to perform light duties or ~~his~~ regular duties, the physician shall certify that fact.

(2) An injured officer who unreasonably refuses to accept medical treatment or hospital care or to permit a medical examination under ~~subsection (1) or 44-1-512(2) or subsection (1) of this section~~ waives any salary benefit to which ~~he~~ *the officer* might otherwise be entitled under 44-1-511.”

Section 1609. Section 44-1-516, MCA, is amended to read:

“44-1-516. Effect on probationary status. If the injured officer is on probationary status at the time ~~he~~ *the officer* becomes injured, the balance of ~~his~~ *the officer’s* probationary time ~~shall~~ *must* be suspended until ~~he~~ *the officer* returns to regular duty or is discharged for cause.”

Section 1610. Section 44-1-611, MCA, is amended to read:

“44-1-611. Tenure. ~~Every~~ *Each* person employed or appointed and designated as a chief, captain, lieutenant, sergeant, patrol officer, or any other rank under and pursuant to the provisions of this chapter, except as provided in 44-1-601 and 44-1-602, shall continue in service and hold ~~his~~ *the* position without demotion until suspended, demoted, or discharged in the manner ~~hereinafter~~ *provided in parts 7 through 9 of this chapter* for one or more of the causes specified in 44-1-612.”

Section 1611. Section 44-1-801, MCA, is amended to read:

“44-1-801. Notice of hearing. (1) The department of justice shall, at least 10 days before the time appointed for a hearing, serve written notice on the accused patrol officer, specifying the charge or charges filed and stating the name of the person or persons making the charge or charges.

(2) If the accused patrol officer is located within the state and ~~his~~ *the officer’s* whereabouts is known, the service required by subsection (1) ~~shall~~ *must* be made personally. If the accused patrol officer is located outside the state and ~~his~~ *the officer’s* whereabouts is known, service may be made by mailing the written notice to ~~his~~ *the officer’s* place of residence. If, at the time, the whereabouts of the accused patrol officer is unknown, service may be made upon ~~him~~ *the officer* by mailing the written notice to ~~him~~ *the officer* at ~~his~~ *the officer’s* last-known place of residence in Montana.”

Section 1612. Section 44-1-803, MCA, is amended to read:

“44-1-803. Rights of accused. The accused patrol officer ~~shall be~~ *is* entitled to be confronted with the witnesses against ~~him~~ *the officer* and to have an opportunity to cross-examine the ~~same~~ *witnesses* and to introduce at ~~such~~ *the* *disciplinary* hearing testimony in ~~his~~ *the officer’s* own behalf. ~~He shall be~~ *The*

officer is entitled to be represented by counsel, at ~~his~~ *the officer's* own expense, at ~~such~~ *the* hearing.”

Section 1613. Section 44-1-805, MCA, is amended to read:

“44-1-805. Reinstatement and backpay upon exoneration. If after the hearing the department of justice finds that the charge or charges made against the patrol officer are not true, the department shall reinstate the accused patrol officer to ~~his~~ *the officer's* position and rank and shall order the payment of any salary withheld pending the determination of the charge or charges.”

Section 1614. Section 44-1-808, MCA, is amended to read:

“44-1-808. Demotion pay status. In cases of disciplinary action resulting in demotion, the member ~~shall~~ *must* receive the pay of the rank to which ~~he~~ *the member* is demoted.”

Section 1615. Section 44-1-903, MCA, is amended to read:

“44-1-903. Reinstatement and backpay upon reversal or modification. If the decision or determination of the department of justice is finally reversed or modified, the accused patrol officer must be reinstated in ~~his~~ *the officer's* position. Upon reinstatement, the department shall pay to the patrol officer any salary or wages withheld from ~~him~~ *the officer* pending the determination of the charge or charges or take ~~such~~ *action as that* may be directed by resolution of the grievance procedure or the court.”

Section 1616. Section 44-1-910, MCA, is amended to read:

“44-1-910. Waiver. A patrol officer may waive, in writing, ~~his~~ *the officer's* rights under ~~Title 44, chapter 1, parts 7 and 8 of this chapter,~~ and accept discipline considered appropriate by the department of justice.”

Section 1617. Section 44-1-1103, MCA, is amended to read:

“44-1-1103. Check in lieu of cash. (1) In the case of traffic violations, bond may be made by personal check in lieu of cash. Highway patrol officers or other authorized agents receiving bonds on behalf of the court may accept a personal check in lieu of cash ~~provided that if:~~

- (a) the check is drawn on a bank domiciled in the state of Montana; and
- (b) the person who writes the check in lieu of cash bond has two documents ~~identifying him~~ *of identification*.

(2) If a check is offered in lieu of cash, the highway patrol officer or other authorized agent who accepts the check is not liable in the case of nonpayment.

(3) A person who writes a check in lieu of cash bond ~~which that~~ is returned for insufficient funds is subject to prosecution under 45-6-316, and obtaining bond constitutes securing services for the purposes of that section.”

Section 1618. Section 44-2-301, MCA, is amended to read:

“44-2-301. Establishment — inclusion of other state agencies. The attorney general is ~~hereby~~ authorized to establish a permanent law enforcement ~~teletypewriter~~ communications system for the purpose of connecting federal, state, county, and city law enforcement agencies ~~by teletype~~. ~~He is further authorized to~~ *The attorney general may* bring into the network, ~~should he and they so if the parties desire,~~ any department of Montana state government or its subdivisions outside of law enforcement activities when, in the opinion of the attorney general and the state department or subdivision, ~~such the~~ inclusion will materially aid the law enforcement agencies of the state of Montana or its subdivisions in the fight against crime.”

Section 1619. Section 44-2-313, MCA, is amended to read:

“44-2-313. Payment of charge. ~~Such~~ *The charge shall authorized in 44-2-312 must* be billed monthly to the agencies. Payments made as a result of the billing ~~shall must~~ be remitted to the attorney general and deposited ~~by him~~ in a special *revenue* account in the state treasury.”

Section 1620. Section 44-2-402, MCA, is amended to read:

“44-2-402. Dental examination — records — report. (1) If the coroner cannot identify a body, ~~he~~ *the coroner* or the state medical examiner ~~shall must~~ have a dentist examine the body, and if the body cannot be identified from the dental examination, the coroner or state medical examiner ~~must shall~~ send the dental examination results to the department of justice on a form supplied by the department.

(2) The department is a repository for dental examination records filed with it under this section. The department shall compare ~~such the~~ records with dental records filed with it pursuant to 44-2-401 in an attempt to identify the body and ~~must shall~~ submit any findings to the coroner or state medical examiner.”

Section 1621. Section 44-3-213, MCA, is amended to read:

“44-3-213. Report to county attorney. When the cause of death has been established within reasonable medical certainty by the state medical examiner or ~~his~~ *an* associate, whether by review of a coroner’s report or by personal examination, the state medical examiner shall make available in writing to the county attorney ~~his the state medical examiner’s~~ determination as to the cause of death.”

Section 1622. Section 44-3-404, MCA, is amended to read:

“44-3-404. Criminal penalty. A person is guilty of a misdemeanor and may be fined not more than \$500 or *be* imprisoned in the county jail for not more than 1 year, or both, if ~~he~~ *the person*:

- (1) purposely fails to report or conceals a death, including a fetal death;
- (2) refuses to make available prior medical or other information in a death investigation;
- (3) without an order from the coroner or state medical examiner, purposely touches, removes, or disturbs a corpse, its clothing, or anything near the corpse; or
- (4) knowingly or purposely disobeys a cessation order of a coroner.”

Section 1623. Section 44-4-111, MCA, is amended to read:

“44-4-111. Request for special counsel services. (1) Except as provided in subsection (2), the training coordinator may act as special counsel upon request of the county attorney with the approval of the governing body of a county.

(2) If a case involves the prosecution of a member of the governing body of a county or a person related to ~~him~~ *a member* by consanguinity within the fourth degree or affinity within the second degree, the coordinator may, with the consent of the attorney general, act as special counsel upon request of the county attorney without approval of the governing body of the county.”

Section 1624. Section 44-4-206, MCA, is amended to read:

“44-4-206. Revocation. ~~Such registrations~~ *Registrations under this part* may be revoked at any time by the attorney general ~~at his discretion~~. On

delivery of notice of revocation, the registrant shall, within 24 hours, deliver ~~such the~~ license plates and certificate of registration to the attorney general or ~~his an~~ duly appointed agent.”

Section 1625. Section 44-4-903, MCA, is amended to read:

“44-4-903. Limitations on special peace officer. A person appointed and sworn as a special peace officer ~~shall must~~ when on duty have the power and authority of a peace officer but may exercise ~~such the~~ power and authority only in the protection of the property of the class I railroad corporation employing ~~him the person.~~”

Section 1626. Section 44-4-904, MCA, is amended to read:

“44-4-904. Responsibility of corporation. The class I railroad corporation employing a special peace officer is solely responsible for the compensation of the special peace officer and is civilly liable for any action of the officer arising out of ~~his the officer's~~ actions as a special peace officer. The class I railroad corporation employing a special peace officer shall hold the state, its subdivisions, and the officers and employees ~~thereof of the state and its subdivisions~~ harmless and indemnify them from any claim or liability, including costs and attorney fees, arising out of any action of a special peace officer or the certification of the special peace officer by the state.”

Section 1627. Section 44-5-215, MCA, is amended to read:

“44-5-215. Challenge and correction. (1) After inspection of criminal history record information, an individual may contest the accuracy or completeness, or both, of the information about ~~himself that individual.~~

(2) If the agency maintaining the criminal history record information does not correct it to the individual's satisfaction, the individual may request review and correction by the executive head of the agency.

(3) If the requested correction is denied by the head of the agency, the individual may present a challenge to the department of justice.

(4) If the agency in charge of the record in question can verify the accuracy of its record by communication with the originating criminal justice agency, it shall do so. If accuracy or completeness cannot be verified and the agency primarily originating the information containing the alleged error or omission is in the state, the individual shall address ~~his the~~ challenge to that agency. If information necessary to verify the accuracy or completeness of the record cannot be obtained by the originating agency, it may rely on verified written documents or include the individual's allegation in its records in dissemination until there is a final disposition of the challenge.

(5) If the challenge is successful, the agency shall:

(a) supply to the individual, if requested, a list of those noncriminal justice agencies ~~which that~~ have received copies of the criminal history record information about the individual; and

(b) immediately correct its records and notify all criminal justice agencies to which it has given erroneous or incomplete information of these changes.”

Section 1628. Section 44-11-102, MCA, is amended to read:

“44-11-102. Liability of assisted entity for obligation resulting from assistance. A law enforcement entity requesting assistance under 44-11-101 shall indemnify the assisting peace officer, ~~his the officer's~~ legal representative in case of death, or the furnishing law enforcement entity for any liability or

obligation to indemnify created by 2-9-305 that may result from the assistance furnished.”

Section 1629. Section 44-11-201, MCA, is amended to read:

“44-11-201. Retention of rights of employment. A peace officer rendering assistance under 44-11-101 is entitled to the same wage, salary, pension, workers’ compensation, and all other service rights for ~~such~~ service rendered under that section as for service rendered within the law enforcement entity in which ~~he~~ *the officer* is normally employed.”

Section 1630. Section 44-11-304, MCA, is amended to read:

“44-11-304. Authorization to enter agreement — general content — authority of peace officer. (1) Any one or more law enforcement agencies of this state may enter into a mutual aid agreement with any one or more law enforcement agencies of any other state or the United States to provide the law enforcement or emergency services that all of the parties are authorized by law to perform. If required by applicable law, the agreement must be authorized and approved by the governing body of each party to the agreement.

(2) The agreement must fully set forth the powers, rights, and obligations of the parties to the agreement.

(3) Subject to 44-11-308, a mutual aid agreement may grant a peace officer of any party law enforcement agency acting within the territorial jurisdiction of any other party law enforcement agency authority to act as if ~~he~~ *the officer* were ~~a~~ *an* appointed and qualified peace officer of the law enforcement agency ~~he~~ *the officer* is assisting.”

Section 1631. Section 44-12-102, MCA, is amended to read:

“44-12-102. Things subject to forfeiture. (1) The following are subject to forfeiture:

(a) all controlled substances that have been manufactured, distributed, prepared, cultivated, compounded, processed, or possessed in violation of Title 45, chapter 9;

(b) all money, raw materials, products, and equipment of any kind that are used or intended for use in manufacturing, preparing, cultivating, compounding, processing, delivering, importing, or exporting any controlled substance in violation of Title 45, chapter 9, except items used or intended for use in connection with quantities of marijuana in amounts less than 60 grams;

(c) except as provided in subsection (2)(d), all property that is used or intended for use as a container for anything enumerated in subsection (1)(a) or (1)(b);

(d) except as provided in subsection (2), all conveyances, including aircraft, vehicles, and vessels, that are used or intended for use in any manner to facilitate the commission of a violation of Title 45, chapter 9;

(e) all books, records, and research products and materials, including formulas, microfilm, tapes, and data, that are used or intended for use in violation of Title 45, chapter 9;

(f) all drug paraphernalia as defined in 45-10-101;

(g) everything of value furnished or intended to be furnished in exchange for a controlled substance in violation of Title 45, chapter 9, all proceeds traceable to ~~such~~ an exchange, and all money, negotiable instruments, and securities used or intended to be used to facilitate a violation of Title 45, chapter 9;

(h) any personal property constituting or derived from proceeds obtained directly or indirectly from a violation of Title 45, chapter 9, that is punishable by more than 5 years in prison; and

(i) real property, including any right, title, and interest in any lot or tract of land and any appurtenances or improvements, that is directly used or intended to be used in any manner or part to commit or facilitate the commission of or that is derived from or maintained by the proceeds resulting from a violation of Title 45, chapter 9, that is punishable by more than 5 years in prison. An owner's interest in real property is not subject to forfeit by reason of any act or omission unless it is proved that the act or omission was the owner's or was with ~~his~~ *the owner's* actual knowledge or express consent.

(2) (a) A conveyance used by a person as a common carrier in the transaction of business as a common carrier is not subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of Title 45, chapter 9.

(b) A conveyance is not subject to forfeiture under this section because of any act or omission established by the owner of the conveyance to have been committed or omitted without ~~his~~ *the owner's* knowledge or consent.

(c) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if ~~he~~ *the secured party* neither had knowledge of nor consented to any violation of Title 45, chapter 9.

(d) ~~No~~ A conveyance or container is *not* subject to forfeiture under this section if it was used or intended for use in transporting less than 60 grams of marijuana."

Section 1632. Section 44-12-103, MCA, is amended to read:

"44-12-103. When property may be seized. (1) A peace officer who has probable cause to make an arrest for a violation of Title 45, chapter 9, probable cause to believe that a conveyance has been used or is intended to be used to unlawfully transport a controlled substance, or probable cause to believe that a conveyance has been used to keep, deposit, or conceal a controlled substance shall seize the conveyance ~~so~~ used or intended to be used or any conveyance in which a controlled substance is unlawfully possessed by an occupant. ~~He~~ *A peace officer* shall immediately deliver a conveyance that ~~he~~ *the officer* seizes to the offices of ~~his~~ *the officer's* law enforcement agency, to be held as evidence until forfeiture is declared or release ordered.

(2) All property subject to forfeiture under 44-12-102 may be seized by a peace officer under a search warrant issued by a district court having jurisdiction over the property. Seizure without a warrant may be made if:

(a) the seizure is incident to an arrest or a search under a search warrant issued for another purpose or an inspection under an administrative inspection warrant;

(b) the property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal proceeding or a forfeiture proceeding based on this chapter;

(c) the peace officer has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(d) the peace officer has probable cause to believe that the property was used or is intended to be used in violation of Title 45, chapter 9, or in violation of Title 45, chapter 10, part 1."

Section 1633. Section 44-12-204, MCA, is amended to read:

“44-12-204. Proof required or permitted at hearing. In order to rebut the presumption of forfeiture:

(1) an owner of property who has a verified answer on file ~~must~~ *shall* prove that the property was not used for the purpose charged;

(2) an owner of property listed in 44-12-102(1)(g) who has a verified answer on file may prove in the alternative that the use of the property occurred without ~~his~~ *the owner's* knowledge or consent;

(3) a claimant of a security interest in the property who has a verified answer on file ~~must~~ *shall* prove that ~~his~~ *the claimant's* security interest is bona fide and that it was created after a reasonable investigation of the moral responsibility, character, and reputation of the purchaser and without knowledge that the property was being or was to be used for the purpose charged. However, ~~no~~ *a* person who has a lien dependent upon possession for compensation to which ~~he~~ *the person* is legally entitled for making repairs or performing labor upon, furnishing supplies or materials for, or providing storage, repair, or safekeeping of any property and ~~no~~ *a* person doing business under any law of this state or the United States relating to financial institutions, as defined in 32-6-103, loan companies, or licensed pawnbrokers or regularly engaged in the business of selling the property or of purchasing conditional sales contracts for the property may *not* be required to prove that ~~his~~ *the person's* security interest was created after a reasonable investigation of the moral responsibility, character, and reputation of the owner, purchaser, or person in possession of the property when it was brought to ~~such~~ *the person.*”

Section 1634. Section 44-12-205, MCA, is amended to read:

“44-12-205. Disposition of property following hearing. (1) If the court finds that the property was not used for the purpose charged or that the property listed in 44-12-102(1)(g) was used without the knowledge or consent of the owner, it shall order the property released to the owner of record as of the date of the seizure.

(2) If the court finds that the property was used for the purpose charged and that the property listed in 44-12-102(1)(g) was used with the knowledge or consent of the owner, the property ~~shall~~ *must* be disposed of as follows:

(a) If proper proof of ~~his~~ *a* claim is presented at the hearing by the holder of a security interest, the court shall order the property released to the holder of the security interest if the amount due ~~him~~ *to the holder* is equal to or in excess of the value of the property as of the date of seizure; ~~it being~~ *because* the purpose of this chapter *is* to forfeit only the right, title, or interest of the owner. If the amount due the holder of the security interest is less than the value of the property, the property, if it is sold, must be sold at public auction by the law enforcement agency that seized the property in the same manner provided by law for the sale of property under execution or the law enforcement agency may return the property to the holder of the security interest without proceeding with an auction. The property may not be sold to an officer or employee of the law enforcement agency that seized the property or to a person related to an officer or employee by blood or marriage.

(b) If ~~no~~ *a* claimant ~~exists~~ *does not exist* and the confiscating agency wishes to retain the property for its official use, it may do so. If ~~such~~ *the* property is not to be retained, it must be sold as provided in subsection (2)(a).

(c) If a claimant who has presented proper proof of ~~his~~ a claim exists and the confiscating agency wishes to retain the property for its official use, it may do so ~~provided if~~ it compensates the claimant in the amount of the security interest outstanding at the time of the seizure.

(3) In making a disposition of property under this chapter, the court may take any action to protect the rights of innocent persons.”

Section 1635. Section 45-2-202, MCA, is amended to read:

“45-2-202. Voluntary act. A material element of every offense is a voluntary act, which includes an omission to perform a duty ~~which that~~ the law imposes on the offender and ~~which he that the offender~~ is physically capable of performing, except for deliberate homicide under 45-5-102(1)(b) for which there must be a voluntary act only as to the underlying felony. Possession is a voluntary act if the offender knowingly procured or received the thing possessed or was aware of ~~his the offender’s control thereof of the thing~~ for a sufficient time to have been able to terminate ~~his~~ control.”

Section 1636. Section 45-2-203, MCA, is amended to read:

“45-2-203. Responsibility — intoxicated condition. A person who is in an intoxicated condition is criminally responsible for ~~his the person’s~~ conduct, and an intoxicated condition is not a defense to any offense and may not be taken into consideration in determining the existence of a mental state ~~which that~~ is an element of the offense unless the defendant proves that ~~he the defendant~~ did not know that it was an intoxicating substance when ~~he the defendant~~ consumed, smoked, sniffed, injected, or otherwise ingested the substance causing the condition.”

Section 1637. Section 45-2-212, MCA, is amended to read:

“45-2-212. Compulsion. A person is not guilty of an offense, other than an offense punishable with death, by reason of conduct ~~which he that the person~~ performs under the compulsion of threat or menace of the imminent infliction of death or serious bodily harm if ~~he the person~~ reasonably believes that death or serious bodily harm will be inflicted upon ~~him the person~~ if ~~he the person~~ does not perform ~~such the~~ conduct.”

Section 1638. Section 45-2-213, MCA, is amended to read:

“45-2-213. Entrapment. A person is not guilty of an offense if ~~his the person’s~~ conduct is incited or induced by a public servant or ~~his a public servant’s~~ agent for the purpose of obtaining evidence for the prosecution of ~~such the~~ person. However, this section is inapplicable if a public servant or ~~his a public servant’s~~ agent merely affords to ~~such the~~ person the opportunity or facility for committing an offense in furtherance of criminal purpose ~~which such that the person~~ has originated.”

Section 1639. Section 45-2-301, MCA, is amended to read:

“45-2-301. Accountability for conduct of another. A person is responsible for conduct ~~which that~~ is an element of an offense if the conduct is either that of the person ~~himself~~ or that of another and ~~he the person~~ is legally accountable for ~~such the~~ conduct as provided in 45-2-302, or both.”

Section 1640. Section 45-2-302, MCA, is amended to read:

“45-2-302. When accountability exists. A person is legally accountable for the conduct of another when:

(1) having a mental state described by the statute defining the offense, *he the person* causes another to perform the conduct, regardless of the legal capacity or mental state of the other person;

(2) the statute defining the offense makes ~~him~~ *so the person* accountable; or

(3) either before or during the commission of an offense with the purpose to promote or facilitate ~~such the~~ commission, *he the person* solicits, aids, abets, agrees, or attempts to aid ~~such the~~ other person in the planning or commission of the offense. However, a person is not ~~so~~ accountable if:

(a) *he the person* is a victim of the offense committed, unless the statute defining the offense provides otherwise; or

(b) before the commission of the offense, *he the person* terminates ~~his the person's~~ effort to promote or facilitate ~~such the~~ commission and does one of the following:

(i) wholly deprives ~~his the person's~~ prior efforts of effectiveness in ~~such the~~ commission;

(ii) gives timely warning to the proper law enforcement authorities; or

(iii) otherwise makes proper effort to prevent the commission of the offense.”

Section 1641. Section 45-2-303, MCA, is amended to read:

“45-2-303. Separate conviction of person accountable. A person who is legally accountable for the conduct of another ~~which that~~ is an element of an offense may be convicted upon proof that the offense was committed and that *he the person* was ~~so~~ accountable although the other person claimed to have committed the offense has not been prosecuted or convicted, has been convicted of a different offense, is not amenable to justice, or has been acquitted.”

Section 1642. Section 45-2-312, MCA, is amended to read:

“45-2-312. Accountability for conduct of corporation. (1) A person is legally accountable for conduct ~~which that~~ is an element of an offense and ~~which that~~, in the name or in behalf of a corporation, *he the person* performs or causes to be performed to the same extent as if the conduct were performed in ~~his the person's~~ own name or behalf.

(2) An individual who has been convicted of an offense by reason of ~~his~~ legal accountability for the conduct of a corporation is subject to the punishment authorized by law for an individual upon conviction of ~~such the~~ offense although only a lesser or different punishment is authorized for the corporation.”

Section 1643. Section 45-3-102, MCA, is amended to read:

“45-3-102. Use of force in defense of person. A person is justified in the use of force or threat to use force against another when and to the extent that *he the person* reasonably believes that ~~such the~~ conduct is necessary ~~to defend himself for self-defense or the defense of~~ another against ~~such other's the other person's~~ imminent use of unlawful force. However, *he the person* is justified in the use of force likely to cause death or serious bodily harm only if *he the person* reasonably believes that ~~such the~~ force is necessary to prevent imminent death or serious bodily harm to ~~himself the person~~ or another or to prevent the commission of a forcible felony.”

Section 1644. Section 45-3-103, MCA, is amended to read:

“45-3-103. Use of force in defense of occupied structure. A person is justified in the use of force or threat to use force against another when and to the extent that *he the person* reasonably believes that ~~such the~~ conduct is necessary

to prevent or terminate ~~such other's~~ *the other person's* unlawful entry into or attack upon an occupied structure. However, ~~he~~ *the person* is justified in the use of force likely to cause death or serious bodily harm only if:

(1) the entry is made or attempted in violent, riotous, or tumultuous manner and ~~he~~ *the person* reasonably believes that ~~such~~ *the* force is necessary to prevent an assault upon or offer of personal violence to ~~him~~ *the person* or another then in the occupied structure; or

(2) ~~he~~ *the person* reasonably believes that ~~such~~ *the* force is necessary to prevent the commission of a forcible felony in the occupied structure.”

Section 1645. Section 45-3-104, MCA, is amended to read:

“45-3-104. Use of force in defense of other property. A person is justified in the use of force or threat to use force against another when and to the extent that ~~he~~ *the person* reasonably believes that ~~such~~ *the* conduct is necessary to prevent or terminate ~~such other's~~ *the other person's* trespass on or other tortious or criminal interference with either real property, (other than an occupied structure), or personal property lawfully in ~~his~~ *the person's* possession or in the possession of another who is a member of ~~his~~ *the person's* immediate family or household or of a person whose property ~~he~~ *the person* has a legal duty to protect. However, ~~he~~ *the person* is justified in the use of force likely to cause death or serious bodily harm only if ~~he~~ *the person* reasonably believes that ~~such~~ *the* force is necessary to prevent the commission of a forcible felony.”

Section 1646. Section 45-3-105, MCA, is amended to read:

“45-3-105. Use of force by aggressor. The justification described in 45-3-102 through 45-3-104 is not available to a person who:

(1) is attempting to commit, committing, or escaping after the commission of a forcible felony; or

(2) purposely or knowingly provokes the use of force against ~~himself~~ *the person*, unless:

(a) ~~such~~ *the* force is so great that ~~he~~ *the person* reasonably believes that ~~he~~ *the person* is in imminent danger of death or serious bodily harm and that ~~he~~ *the person* has exhausted every reasonable means to escape ~~such~~ *the* danger other than the use of force ~~which~~ *that* is likely to cause death or serious bodily harm to the assailant; or

(b) in good faith, ~~he~~ *the person* withdraws from physical contact with the assailant and indicates clearly to the assailant that ~~he~~ *the person* desires to withdraw and terminate the use of force, but the assailant continues or resumes the use of force.”

Section 1647. Section 45-3-106, MCA, is amended to read:

“45-3-106. Use of force to prevent escape. (1) A peace officer or other person who has an arrested person in ~~his~~ custody is justified in the use of ~~such~~ force to prevent the escape of the arrested person from custody ~~as~~ *he* ~~that~~ *the officer or other person* would be justified in using if ~~he~~ *the officer or other person* were arresting ~~such~~ *the* person.

(2) A guard or other peace officer is justified in the use of force, including force likely to cause death or serious bodily harm, ~~which~~ *he* ~~that~~ *the guard or officer* reasonably believes to be necessary to prevent the escape from a correctional institution of a person whom the *guard or officer* reasonably believes to be lawfully detained in ~~such~~ *the* institution under sentence for an offense or awaiting trial or commitment for an offense.”

Section 1648. Section 45-3-107, MCA, is amended to read:

“45-3-107. Use of force by parent, guardian, or teacher. A parent or an authorized agent of ~~any~~ a parent or a guardian, master, or teacher is justified in the use of ~~such~~ force as ~~that~~ is reasonable and necessary to restrain or correct ~~his~~ *the person’s* child, ward, apprentice, or pupil.”

Section 1649. Section 45-3-108, MCA, is amended to read:

“45-3-108. Use of force in resisting arrest. A person is not authorized to use force to resist an arrest ~~which~~ ~~he~~ *that the person* knows is being made either by a peace officer or by a private person summoned and directed by a peace officer to make the arrest, even if ~~he~~ *the person* believes that the arrest is unlawful and the arrest in fact is unlawful.”

Section 1650. Section 45-3-109, MCA, is amended to read:

“45-3-109. Execution of death sentence. A person who puts a person to death pursuant to a sentence of a court of competent jurisdiction is justified if ~~he~~ *the person* acts in accordance with the sentence pronounced and the law prescribing the procedure for execution of a death sentence.”

Section 1651. Section 45-4-101, MCA, is amended to read:

“45-4-101. Solicitation. (1) A person commits the offense of solicitation when, with the purpose that an offense be committed, ~~he~~ *the person* commands, encourages, or facilitates the commission of that offense.

(2) A person convicted of solicitation shall be punished not to exceed the maximum provided for the offense solicited.”

Section 1652. Section 45-4-102, MCA, is amended to read:

“45-4-102. Conspiracy. (1) A person commits the offense of conspiracy when, with the purpose that an offense be committed, ~~he~~ *the person* agrees with another to the commission of that offense. ~~No~~ A person may *not* be convicted of conspiracy to commit an offense unless an act in furtherance of ~~such~~ *the* agreement has been committed by ~~him~~ *the person* or by a coconspirator.

(2) It ~~shall~~ *is not be* a defense to conspiracy that the person or persons with whom the accused has conspired:

- (a) has not been prosecuted or convicted;
- (b) has been convicted of a different offense;
- (c) is not amenable to justice;
- (d) has been acquitted; or
- (e) lacked the capacity to commit the offense.

(3) A person convicted of the offense of conspiracy shall be punished not to exceed the maximum sentence provided for the offense ~~which~~ *that* is the object of the conspiracy.”

Section 1653. Section 45-4-103, MCA, is amended to read:

“45-4-103. Attempt. (1) A person commits the offense of attempt when, with the purpose to commit a specific offense, ~~he~~ *the person* does any act toward the commission of ~~such~~ *the* offense.

(2) It ~~shall~~ *is not be* a defense to a charge of attempt that because of a misapprehension of the circumstances, it would have been impossible for the accused to commit the offense attempted.

(3) A person convicted of the offense of attempt shall be punished not to exceed the maximum provided for the offense attempted.

(4) A person ~~shall~~ *is* not be liable under this section if, under circumstances manifesting a voluntary and complete renunciation of ~~his~~ criminal purpose, ~~he~~ *the person* avoided the commission of the offense attempted by abandoning ~~his~~ *the person's* criminal effort.

(5) Proof of the completed offense does not bar conviction for the attempt.”

Section 1654. Section 45-5-203, MCA, is amended to read:

“45-5-203. Intimidation. (1) A person commits the offense of intimidation when, with the purpose to cause another to perform or to omit the performance of any act, ~~he~~ *the person* communicates to another, under circumstances ~~which~~ *that* reasonably tend to produce a fear that it will be carried out, a threat to perform without lawful authority any of the following acts:

- (a) inflict physical harm on the person threatened or any other person;
- (b) subject any person to physical confinement or restraint; or
- (c) commit any felony.

(2) A person commits the offense of intimidation if ~~he~~ *the person* knowingly communicates a threat or false report of a pending fire, explosion, or disaster ~~which~~ *that* would endanger life or property.

(3) A person convicted of the offense of intimidation shall be imprisoned in the state prison for any term not to exceed 10 years or be fined an amount not to exceed \$50,000, or both.”

Section 1655. Section 45-5-204, MCA, is amended to read:

“45-5-204. Mistreating prisoners. (1) A person commits the offense of mistreating prisoners if, being responsible for the care or custody of a prisoner, ~~he~~ *the person* purposely or knowingly:

- (a) assaults or otherwise injures a prisoner;
- (b) intimidates, threatens, endangers, or withholds reasonable necessities from the prisoner with the purpose to obtain a confession from ~~him~~ *the prisoner* or for any other purpose; or
- (c) violates any civil right of a prisoner.

(2) A person convicted of the offense of mistreating prisoners shall be removed from office or employment and shall be imprisoned in the state prison for a term not to exceed 10 years or be fined an amount not to exceed \$50,000, or both.”

Section 1656. Section 45-5-221, MCA, is amended to read:

“45-5-221. Malicious intimidation or harassment relating to civil or human rights — penalty. (1) A person commits the offense of malicious intimidation or harassment when, because of another person's race, creed, religion, color, national origin, or involvement in civil rights or human rights activities, ~~he~~ *the person* purposely or knowingly, with the intent to terrify, intimidate, threaten, harass, annoy, or offend:

- (a) causes bodily injury to another;
- (b) causes reasonable apprehension of bodily injury in another; or
- (c) damages, destroys, or defaces any property of another or any public property.

(2) For purposes of this section, “deface” includes but is not limited to cross burning or the placing of any word or symbol commonly associated with racial,

religious, or ethnic identity or activities on the property of another person without ~~his or her~~ *the other person's* permission.

(3) A person convicted of the offense of malicious intimidation or harassment shall be imprisoned in the state prison for a term not to exceed 5 years or be fined an amount not to exceed \$5,000, or both."

Section 1657. Section 45-5-301, MCA, is amended to read:

"45-5-301. Unlawful restraint. (1) A person commits the offense of unlawful restraint if ~~he~~ *the person* knowingly or purposely and without lawful authority restrains another so as to interfere substantially with ~~his~~ *the other person's* liberty.

(2) A person convicted of the offense of unlawful restraint shall be fined not to exceed \$500 or *be* imprisoned in the county jail for any term not to exceed 6 months, or both."

Section 1658. Section 45-5-511, MCA, is amended to read:

"45-5-511. Provisions generally applicable to sexual crimes. (1) When criminality depends on the victim being less than 16 years old, it is a defense for the offender to prove that ~~he~~ *the offender* reasonably believed the child to be above that age. ~~Such~~ *The belief shall* ~~may~~ not be ~~deemed~~ *considered* reasonable if the child is less than 14 years old.

(2) ~~No evidence~~ *Evidence* concerning the sexual conduct of the victim is ~~admissible~~ *inadmissible* in prosecutions under this part except evidence of the victim's past sexual conduct with the offender or evidence of specific instances of the victim's sexual activity to show the origin of semen, pregnancy, or disease ~~which~~ *that* is at issue in the prosecution.

(3) If the defendant proposes for any purpose to offer evidence described in subsection (2), the trial judge shall order a hearing out of the presence of the jury to determine whether the proposed evidence is admissible under subsection (2).

(4) Evidence of failure to make a timely complaint or immediate outcry does not raise any presumption as to the credibility of the victim.

(5) Resistance by the victim is not required to show lack of consent. Force, fear, or threat is sufficient alone to show lack of consent."

Section 1659. Section 45-5-604, MCA, is amended to read:

"45-5-604. Evidence in cases of promotion. (1) On the issue *of* whether a place is a house of prostitution, the following, in addition to all other admissible evidence, ~~shall~~ *must* be admissible:

- (a) its general repute;
- (b) the repute of the persons who reside in or frequent the place; or
- (c) the frequency, timing, and duration of visits by nonresidents.

(2) Testimony of a person against ~~his~~ *the person's* spouse ~~shall~~ *must* be admissible under 45-5-602, 45-5-603, and this section."

Section 1660. Section 45-5-611, MCA, is amended to read:

"45-5-611. Bigamy. (1) A person commits the offense of bigamy if, while married, ~~he~~ *the person* knowingly contracts or purports to contract another marriage unless at the time of the subsequent marriage:

- (a) the offender believes on reasonable grounds that the prior spouse is dead;
- (b) the offender and the prior spouse have been living apart for 5 consecutive years throughout which the prior spouse was not known by the offender to be alive;

(c) a court has entered a judgment purporting to terminate or annul any prior disqualifying marriage and the offender does not know that judgment to be invalid; or

(d) the offender reasonably believes that ~~he~~ *the offender* is legally eligible to remarry.

(2) A person convicted of bigamy shall be fined not to exceed \$500 or be imprisoned in the county jail for any term not to exceed 6 months, or both.”

Section 1661. Section 45-5-612, MCA, is amended to read:

“45-5-612. Marrying a bigamist. (1) A person commits the offense of marrying a bigamist if ~~he~~ *the person* contracts or purports to contract a marriage with another knowing that the other is ~~thereby~~ committing bigamy.

(2) A person convicted of the offense of marrying a bigamist shall be fined not to exceed \$500 or be imprisoned in the county jail for any period not to exceed 6 months, or both.”

Section 1662. Section 45-6-102, MCA, is amended to read:

“45-6-102. Negligent arson. (1) A person commits the offense of negligent arson if ~~he~~ *the person* purposely or knowingly starts a fire or causes an explosion, whether on ~~his~~ *the person’s* own property or property of another, and thereby negligently:

(a) places another person in danger of death or bodily injury, including a firefighter responding to or at the scene of a fire or explosion; or

(b) places property of another in danger of damage or destruction.

(2) A person convicted of the offense of negligent arson shall be fined not to exceed \$500 or be imprisoned in the county jail for any term not to exceed 6 months, or both. If the offender places another person in danger of death or bodily injury, ~~he~~ *the offender* shall be fined not to exceed \$50,000 or be imprisoned in the state prison for any term not to exceed 10 years, or both.”

Section 1663. Section 45-6-201, MCA, is amended to read:

“45-6-201. Definition of enter or remain unlawfully. (1) A person enters or remains unlawfully in or upon any vehicle, occupied structure, or premises when ~~he~~ *the person* is not licensed, invited, or otherwise privileged to do so. Privilege to enter or remain upon land is extended either by the explicit permission of the landowner or other authorized person or by the failure of the landowner or other authorized person to post notice denying entry onto private land. The privilege may be revoked at any time by personal communication of notice by the landowner or other authorized person to the entering person.

(2) To provide for effective posting of private land through which the public has no right-of-way, the notice provided for in subsection (1) must satisfy the following requirements:

(a) notice must be placed on a post, structure, or natural object by marking it with written notice or with not less than 50 square inches of fluorescent orange paint, except that when metal fenceposts are used, the entire post must be painted; and

(b) the notice described in subsection (2)(a) must be placed at each outer gate and normal point of access to the property, including both sides of a water body crossing the property wherever the water body intersects an outer boundary line.

(3) To provide for effective posting of private land through which or along which the public has an unfenced right-of-way by means of a public road, a landowner shall:

(a) place a conspicuous sign no closer than 30 feet of the centerline of the roadway where it enters the private land, stating words substantially similar to "PRIVATE PROPERTY, NO TRESPASSING OFF ROAD NEXT ___ MILES"; or

(b) place notice, as described in subsection (2)(a), no closer than 30 feet of the centerline of the roadway at regular intervals of not less than one-fourth mile along the roadway where it borders unfenced private land, except that orange markings may not be placed on posts where the public roadway enters the private land.

(4) If property has been posted in substantial compliance with subsection (2) or (3), it is considered closed to public access unless explicit permission to enter is given by the landowner or ~~his~~ *the landowner's* authorized agent.

(5) The department of fish, wildlife, and parks shall attempt to educate and inform all persons holding hunting, fishing, or trapping licenses or permits by including on any publication concerning the licenses or permits, in condensed form, the provisions of this section concerning entry on private land. The department shall use public media, as well as its own publications, in attempting to educate and inform other recreational users of the provisions of this section. In the interests of providing the public with clear information regarding the public nature of certain unfenced rural rights-of-way, the department may develop and distribute posting signs that satisfy the requirements of subsection (3).

(6) For purposes of this section, "land" means land as defined in 70-15-102.

(7) ~~In no event may civil~~ *Civil liability may not* be imposed upon the owner or occupier of premises by reason of any privilege created by this section."

Section 1664. Section 45-6-202, MCA, is amended to read:

"45-6-202. Criminal trespass to vehicles. (1) A person commits the offense of criminal trespass to vehicles when ~~he~~ *the person* purposely or knowingly and without authority enters any vehicle or any part ~~thereof~~ *of a vehicle*.

(2) A person convicted of the offense of criminal trespass to vehicles shall be fined not to exceed \$500 or be imprisoned in the county jail for any term not to exceed 6 months, or both."

Section 1665. Section 45-6-204, MCA, is amended to read:

"45-6-204. Burglary. (1) A person commits the offense of burglary if ~~he~~ *the person* knowingly enters or remains unlawfully in an occupied structure with the purpose to commit an offense ~~therein~~ *in the occupied structure*.

(2) A person commits the offense of aggravated burglary if ~~he~~ *the person* knowingly enters or remains unlawfully in an occupied structure with the purpose to commit an offense ~~therein~~ *in the occupied structure* and:

(a) in effecting entry or in the course of committing the offense or in immediate flight ~~thereafter~~ *after effecting entry or committing the offense*, ~~he~~ *the person* or another participant in the offense is armed with explosives or a weapon; or

(b) in effecting entry or in the course of committing the offense or in immediate flight ~~thereafter~~ *after effecting entry or committing the offense*, ~~he~~ *the*

person purposely, knowingly, or negligently inflicts or attempts to inflict bodily injury upon anyone.

(3) A person convicted of the offense of burglary shall be imprisoned in the state prison for any term not to exceed 20 years or be fined an amount not to exceed \$50,000, or both. A person convicted of the offense of aggravated burglary shall be imprisoned in the state prison for any term not to exceed 40 years or be fined an amount not to exceed \$50,000, or both.”

Section 1666. Section 45-6-205, MCA, is amended to read:

“45-6-205. Possession of burglary tools. (1) A person commits the offense of possession of burglary tools when ~~he~~ *the person* knowingly possesses any key, tool, instrument, device, or explosive suitable for breaking into an occupied structure, ~~or a vehicle,~~ or any depository designed for the safekeeping of property or any part thereof ~~of the occupied structure, vehicle, or depository~~ with the purpose to commit an offense ~~therewith~~.

(2) A person convicted of possession of burglary tools shall be fined not to exceed \$500 or be imprisoned in the county jail for any term not to exceed 6 months, or both.”

Section 1667. Section 45-6-302, MCA, is amended to read:

“45-6-302. Theft of lost or mislaid property. (1) A person who obtains control over lost or mislaid property commits the offense of theft when ~~he~~ *the person*:

(a) knows or learns the identity of the owner or knows, is aware of, or learns of a reasonable method of identifying the owner;

(b) fails to take reasonable measures to restore the property to the owner; and

(c) has the purpose of depriving the owner permanently of the use or benefit of the property.

(2) A person convicted of theft of lost or mislaid property shall be fined not to exceed \$500 or be imprisoned in the county jail for a period not to exceed 6 months.”

Section 1668. Section 45-6-305, MCA, is amended to read:

“45-6-305. Theft of labor or services or use of property. (1) A person commits the offense of theft when ~~he~~ *the person* obtains the temporary use of property, labor, or services of another ~~which~~ *that* are available only for hire, by means of threat or deception or knowing that ~~such~~ *the* use is without the consent of the person providing the property, labor, or services.

(2) A person convicted of theft of labor or services or use of property shall be fined not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.”

Section 1669. Section 45-6-308, MCA, is amended to read:

“45-6-308. Unauthorized use of motor vehicles. (1) A person commits the offense of unauthorized use of motor vehicles if ~~he~~ *the person* knowingly operates the automobile, airplane, motorcycle, quadricycle, motorboat, or other motor-propelled vehicle of another without ~~his~~ *the other's* consent.

(2) A person convicted of unauthorized use of motor vehicles shall be fined not to exceed \$500 or be imprisoned in the county jail for any term not to exceed 6 months, or both. It is an affirmative defense that the offender reasonably

believed that the owner would have consented to the operation had ~~he~~ *the owner* known of it.”

Section 1670. Section 45-6-314, MCA, is amended to read:

“45-6-314. Theft by disposal of stolen property. A pawnbroker or dealer who buys and sells secondhand merchandise and allows stolen property to be sold, bartered, or otherwise disposed of after a peace officer has requested ~~him~~ *the pawnbroker or dealer* to hold the property for 30 days, as provided in 46-5-212, commits the offense of theft as defined in 45-6-301.”

Section 1671. Section 45-6-315, MCA, is amended to read:

“45-6-315. Defrauding creditors. (1) A person commits the offense of defrauding secured creditors if ~~he~~ *the person* destroys, conceals, encumbers, transfers, removes from the state, or otherwise deals with property subject to a security interest with the purpose to hinder enforcement of that interest.

(2) “Security interest” means an interest in personal property or fixtures as defined in the Uniform Commercial Code, (30-1-201(2)(jj)).

(3) A person convicted of the offense of defrauding secured creditors shall be fined not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

(4) A person who destroys, conceals, encumbers, transfers, removes from the state, or otherwise deals with property subject to a security interest with the purpose of depriving the owner of the property or of the proceeds and value ~~therefrom~~ *from the property* may be prosecuted under 45-6-301.”

Section 1672. Section 45-6-318, MCA, is amended to read:

“45-6-318. Deceptive business practices. (1) A person commits the offense of deceptive business practices if in the course of engaging in a business, occupation, or profession, ~~he~~ *the person* purposely or knowingly:

(a) uses or possesses for use a false weight or measure or any other device for falsely determining or recording any quality or quantity;

(b) sells, offers, exposes for sale, or delivers less than the represented quantity of any commodity or service;

(c) takes or attempts to take more than the represented quantity of any commodity or service when as buyer ~~he~~ *the person* furnished the weight or measure;

(d) sells, offers, or exposes for sale adulterated commodities;

(e) sells, offers, or exposes for sale mislabeled commodities; or

(f) makes a deceptive statement regarding the quantity or price of goods in any advertisement addressed to the public.

(2) “Adulterated” means varying from the standard of composition or quality prescribed by statute or lawfully promulgated administrative regulation or, if none, as set by established commercial usage.

(3) “Mislabeled” means:

(a) varying from the standard of truth or disclosure in labeling prescribed by statute or lawfully promulgated administrative regulation or, if none, as set by established commercial usage; or

(b) represented as being another person’s produce though otherwise labeled accurately as to quality and quantity.

(4) A person convicted of the offense of deceptive business practices shall be fined not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.”

Section 1673. Section 45-6-319, MCA, is amended to read:

“45-6-319. Chain distributor schemes. (1) As used in this section, the following definitions apply:

(a) “Chain distributor scheme” means a sales device whereby a person, under a condition that ~~he~~ *the person* make an investment, is granted a license or right to recruit for consideration one or more additional persons who are also granted ~~such a~~ license or right upon condition of making an investment and may further perpetuate the chain of persons who are granted ~~such a~~ license or right upon ~~such the~~ condition.

(b) “Person” means a natural person, corporation, partnership, trust, or other entity; and, in the case of an entity, ~~it shall include~~ *includes* any other entity ~~which that~~ has a majority interest in ~~such the~~ entity or effectively controls ~~such the~~ other entity as well as the individual officers, directors, and other persons in act of control of the activities of each entity.

(2) It is unlawful for ~~any a~~ person to promote, sell, or encourage participation in any chain distributor scheme.

(3) ~~Any~~ A person violating the provisions of this section shall, upon conviction, be imprisoned in the state prison for a period not to exceed 1 year or *be* fined not to exceed \$1,000, or both.

(4) ~~Any~~ A person convicted of a second offense under this section shall be imprisoned in the state prison for a period not to exceed 5 years or *be* fined not to exceed \$5,000, or both.”

Section 1674. Section 45-6-326, MCA, is amended to read:

“45-6-326. Obscuring the identity of a machine. (1) A person commits the offense of obscuring the identity of a machine if ~~he~~ *the person*:

(a) removes, defaces, covers, alters, destroys, or otherwise obscures the manufacturer’s serial number or any other distinguishing identification number or mark upon any machine, vehicle, electrical device, or firearm with the purpose to conceal, misrepresent, or transfer any ~~such~~ machine, vehicle, electrical device, or firearm; or

(b) possesses with the purpose to conceal, misrepresent, or transfer any machine, vehicle, device, or firearm knowing that the serial number or other identification number or mark has been removed or otherwise obscured.

(2) A person convicted of obscuring the identity of a machine shall be fined not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

(3) The fact of possession or transfer of any ~~such~~ machine, vehicle, electrical device, or firearm *described in subsection (1)* creates a presumption that the person knew the serial number or other identification number or mark had been removed or otherwise obscured.”

Section 1675. Section 45-6-327, MCA, is amended to read:

“45-6-327. Illegal branding or altering or obscuring a brand. (1) A person commits the offense of illegal branding or altering or obscuring a brand if ~~he~~ *the person* marks or brands any commonly domesticated hoofed animal or removes, covers, alters, or defaces ~~any an~~ existing mark or brand on any commonly domesticated hoofed animal with the purpose to obtain or exert

unauthorized control over ~~said~~ *the* animal or with the purpose to conceal, misrepresent, transfer, or prevent identification of ~~said~~ *the* animal.

(2) A person convicted of the offense of illegal branding or altering or obscuring a brand shall be imprisoned in the state prison for any term not to exceed 10 years or be fined an amount not to exceed \$50,000, or both."

Section 1676. Section 45-7-101, MCA, is amended to read:

"45-7-101. Bribery in official and political matters. (1) A person commits the offense of bribery if ~~he~~ *the person* purposely or knowingly offers, confers, or agrees to confer upon another or solicits, accepts, or agrees to accept from another:

(a) any pecuniary benefit as a consideration for the recipient's decision, opinion, recommendation, vote, or other exercise of discretion as a public servant, party official, or voter;

(b) any benefit as consideration for the recipient's decision, vote, recommendation, or other exercise of official discretion in a judicial or administrative proceeding; or

(c) any benefit as consideration for a violation of a known duty as a public servant or party official.

(2) It is no defense to prosecution under this section that a person whom the offender sought to influence was not qualified to act in the desired way whether because ~~he~~ *the person* had not yet assumed office or lacked jurisdiction or for any other reason.

(3) A person convicted of the offense of bribery shall be imprisoned in the state prison for any term not to exceed 10 years or be fined an amount not to exceed \$50,000, or both, and shall forever be disqualified from holding any public office in this state."

Section 1677. Section 45-7-103, MCA, is amended to read:

"45-7-103. Compensation for past official behavior. (1) A person commits an offense under this section if ~~he~~ *the person* knowingly solicits, accepts, or agrees to accept any pecuniary benefit as compensation for having, as a public servant, given a decision, opinion, recommendation, or vote favorable to another, for having otherwise exercised a discretion in another's favor, or for having violated ~~his~~ *the person's* duty. A person commits an offense under this section if ~~he~~ *the person* knowingly offers, confers, or agrees to confer compensation ~~which~~ *that* is prohibited by this section.

(2) A person convicted under this section shall be fined not to exceed \$500 or imprisoned in the county jail for any term not to exceed 6 months, or both."

Section 1678. Section 45-7-104, MCA, is amended to read:

"45-7-104. Gifts to public servants by persons subject to their jurisdiction. (1) ~~No~~ A public servant in any department or agency exercising regulatory function, conducting inspections or investigations, carrying on a civil or criminal litigation on behalf of the government, or having custody of prisoners ~~shall~~ *may not* solicit, accept, or agree to accept any pecuniary benefit from a person known to be subject to ~~such~~ *the* regulation, inspection, investigation, or custody or against whom ~~such~~ *litigation* is known to be pending or contemplated.

(2) ~~No~~ A public servant having any discretionary function to perform in connection with contracts, purchases, payments, claims, or other pecuniary transactions of the government ~~shall~~ *may not* solicit, accept, or agree to accept

any pecuniary benefit from any person known to be interested in or likely to become interested in any ~~such~~ contract, purchase, payment, claim, or transaction.

(3) ~~No~~ A public servant having judicial or administrative authority and ~~no~~ a public servant employed by or in a court or other tribunal having ~~such~~ *judicial or administrative* authority or participating in the enforcement of its decision ~~shall~~ *may not* solicit, accept, or agree to accept any pecuniary benefit from a person known to be interested in or likely to become interested in any matter before ~~such~~ *the* public servant or tribunal with which ~~he~~ *the public servant or tribunal* is associated.

(4) ~~No~~ A legislator or public servant employed by the legislature or by any committee or agency ~~thereof~~ *shall of the legislature may not* solicit, accept, or agree to accept any pecuniary benefit from a person known to be interested in or likely to become interested in any matter before the legislature or any committee or agency ~~thereof~~ *of the legislature*.

(5) This section ~~shall~~ *does* not apply to:

(a) fees prescribed by law to be received by a public servant or any other benefit for which the recipient gives legitimate consideration or to which ~~he~~ *the public servant* is otherwise entitled; or

(b) trivial benefits incidental to personal, professional, or business contacts and involving no substantial risk of undermining official impartiality.

(6) ~~No~~ A person ~~shall~~ *may not* knowingly confer or offer or agree to confer any benefit prohibited by subsections (1) through (5).

(7) A person convicted of an offense under this section shall be fined not to exceed \$500 or be imprisoned in the county jail for any term not to exceed 6 months, or both.”

Section 1679. Section 45-7-201, MCA, is amended to read:

“45-7-201. Perjury. (1) A person commits the offense of perjury if in any official proceeding ~~he~~ *the person* knowingly makes a false statement under oath or equivalent affirmation or swears or affirms the truth of a statement previously made; when the statement is material.

(2) A person convicted of perjury shall be punished by imprisonment in the state prison for any term not to exceed 10 years or ~~shall~~ be punished by a fine of not more than \$50,000, or ~~by both such fine and imprisonment~~.

(3) Falsification is material, regardless of the admissibility of the statement under rules of evidence, if it could have affected the course or outcome of the proceeding. It is no defense that the declarant mistakenly believed the falsification to be immaterial. Whether a falsification is material in a given factual situation is a question of law.

(4) It is not a defense to prosecution under this section that the oath or affirmation was administered or taken in an irregular manner or that the declarant was not competent to make the statement. A document purporting to be made upon oath or affirmation at any time when the offender presents it as being so verified ~~shall~~ *must* be ~~deemed~~ *considered* to have been ~~duly~~ sworn or affirmed.

(5) ~~No~~ A person ~~shall~~ *may not* be guilty of an offense under this section if ~~he~~ *the person* retracted the falsification in the course of the proceeding in which it was made before it became manifest that the falsification was or would be exposed and before the falsification substantially affected the proceeding.

(6) ~~Where~~ *When* the defendant made inconsistent statements under oath or equivalent affirmation, both having been made within the period of the statute of limitations, the prosecution may proceed by setting forth the inconsistent statements in a single count alleging in the alternative that one or the other was false and not believed by the defendant. In ~~such that~~ case, it ~~shall is~~ not be necessary for the prosecution to prove which statement was false but only that one or the other was false and not believed by the defendant to be true.

(7) ~~No~~ A person ~~shall~~ *may not* be convicted of an offense under this section ~~where when~~ proof of falsity rests solely upon the testimony of a single person other than the defendant.”

Section 1680. Section 45-7-203, MCA, is amended to read:

“45-7-203. Unsworn falsification to authorities. (1) A person commits an offense under this section if, with *the* purpose to mislead a public servant in performing ~~his an~~ official function, ~~he the~~ person:

(a) makes any written false statement ~~which he that the~~ person does not believe to be true;

(b) purposely creates a false impression in a written application for any pecuniary or other benefit by omitting information necessary to prevent statements ~~therein~~ from being misleading;

(c) submits or invites reliance on any writing ~~which he that the~~ person knows to be forged, altered, or otherwise lacking in authenticity; or

(d) submits or invites reliance on any sample, specimen, map, boundary mark, or other object ~~which he that the~~ person knows to be false.

(2) A person convicted of an offense under this section shall be fined not to exceed \$500 or be imprisoned in the county jail for any term not to exceed 6 months, or both.”

Section 1681. Section 45-7-204, MCA, is amended to read:

“45-7-204. False alarms to agencies of public safety. (1) A person commits an offense under this section if ~~he the~~ person knowingly causes a false alarm of fire or other emergency to be transmitted to or within any organization, official or volunteer, ~~which that~~ deals with emergencies involving danger to life or property.

(2) A person convicted of an offense under this section shall be fined not to exceed \$500 or be imprisoned in the county jail for any term not to exceed 6 months, or both.”

Section 1682. Section 45-7-205, MCA, is amended to read:

“45-7-205. False reports to law enforcement authorities. (1) A person commits an offense under this section if ~~he the~~ person knowingly:

(a) gives false information to any law enforcement officer with the purpose to implicate another;

(b) reports to law enforcement authorities an offense or other incident within their concern knowing that it did not occur; or

(c) pretends to furnish ~~such law enforcement~~ authorities with information relating to an offense or incident when ~~he the~~ person knows ~~he that the~~ person has no information relating to ~~such the~~ offense or incident.

(2) A person convicted under this section shall be fined not to exceed \$500 or be imprisoned in the county jail for any term not to exceed 6 months, or both.”

Section 1683. Section 45-7-206, MCA, is amended to read:

“45-7-206. Tampering with witnesses and informants. (1) A person commits the offense of tampering with witnesses and informants if, believing that an official proceeding or investigation is pending or about to be instituted, ~~he~~ *the person* purposely or knowingly attempts to induce or otherwise cause a witness or informant to:

- (a) testify or inform falsely;
- (b) withhold any testimony, information, document, or thing;
- (c) elude legal process summoning ~~him~~ *the witness or informant* to testify or supply evidence; or
- (d) ~~absent himself from~~ *not appear at* any proceeding or investigation to which ~~he~~ *the witness or informant* has been summoned.

(2) A person convicted of tampering with witnesses or informants shall be imprisoned in the state prison for any term not to exceed 10 years or be fined an amount not to exceed \$50,000, or both.”

Section 1684. Section 45-7-207, MCA, is amended to read:

“45-7-207. Tampering with or fabricating physical evidence. (1) A person commits the offense of tampering with or fabricating physical evidence if, believing that an official proceeding or investigation is pending or about to be instituted, ~~he~~ *the person*:

- (a) alters, destroys, conceals, or removes any record, document, or thing with purpose to impair its verity or availability in ~~such~~ *the* proceeding or investigation; or
- (b) makes, presents, or uses any record, document, or thing knowing it to be false and with purpose to mislead any person who is or may be engaged in ~~such~~ *the* proceeding or investigation.

(2) A person convicted of tampering with or fabricating physical evidence shall be imprisoned in the state prison for a term not to exceed 10 years or be fined an amount not to exceed \$50,000, or both.”

Section 1685. Section 45-7-301, MCA, is amended to read:

“45-7-301. Resisting arrest. (1) A person commits the offense of resisting arrest if ~~he~~ *the person* knowingly prevents or attempts to prevent a peace officer from effecting an arrest by:

- (a) using or threatening to use physical force or violence against the peace officer or another; or
- (b) using any other means ~~which~~ *that* creates a risk of causing physical injury to the peace officer or another.

(2) It is no defense to a prosecution under this section that the arrest was unlawful, ~~provided if~~ the peace officer was acting under color of ~~his~~ *the officer's* official authority.

(3) A person convicted of the offense of resisting arrest shall be fined not to exceed \$500 or be imprisoned in the county jail for any term not to exceed 6 months, or both.”

Section 1686. Section 45-7-303, MCA, is amended to read:

“45-7-303. Obstructing justice. (1) For the purpose of this section “an offender” means a person who has been or is liable to be arrested, charged, convicted, or punished for a public offense.

(2) A person commits the offense of obstructing justice if, knowing ~~a~~ *another* person is an offender, ~~he~~ *the person* purposely:

(a) harbors or conceals an offender;

(b) warns an offender of impending discovery or apprehension, except this does not apply to a warning given in connection with an effort to bring an offender into compliance with the law;

(c) provides an offender with money, transportation, weapon, disguise, or other means of avoiding discovery or apprehension;

(d) prevents or obstructs by means of force, deception, or intimidation anyone from performing an act that might aid in the discovery or apprehension of an offender;

(e) suppresses by act of concealment, alteration, or destruction any physical evidence that might aid in the discovery or apprehension of an offender; or

(f) aids an offender who is subject to official detention to escape from ~~such~~ official detention.

(3) A person convicted of obstructing justice shall be:

(a) imprisoned in the state prison for a term not to exceed 10 years if the offender has been or is liable to be charged with a felony; or

(b) fined not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both, if the offender has been or is liable to be charged with a misdemeanor.”

Section 1687. Section 45-7-304, MCA, is amended to read:

“45-7-304. Failure to aid a peace officer. (1) A peace officer may order a person to cooperate ~~where~~ *when* it is reasonable for the peace officer to enlist the cooperation of ~~such~~ *that* person in:

(a) effectuating or securing an arrest of another pursuant to 46-6-402; or

(b) preventing the commission by another of an offense.

(2) A person commits the offense of failure to aid a peace officer if ~~he~~ *the person* knowingly refuses to obey ~~such~~ an order *described in subsection (1)*.

(3) A person convicted of the offense of failure to aid a peace officer shall be fined not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.”

Section 1688. Section 45-7-305, MCA, is amended to read:

“45-7-305. Compounding a of felony. (1) A person commits the offense of compounding a felony if ~~he~~ *the person* knowingly accepts or agrees to accept any pecuniary benefit in consideration for:

(a) refraining from seeking prosecution of a felony; or

(b) refraining from reporting to law enforcement authorities the commission or suspected commission of any felony or information relating to a felony.

(2) A person convicted of compounding a felony shall be fined not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.”

Section 1689. Section 45-7-308, MCA, is amended to read:

“45-7-308. Bail-jumping. (1) A person commits the offense of bail-jumping if, having been set at liberty by court order, with or without security, upon condition that ~~he~~ *the person* will subsequently appear at a specified time and

place, ~~he~~ *the person* purposely fails without lawful excuse to appear at that time and place.

(2) This section ~~shall~~ *may* not interfere with the exercise by any court of its power to punish for contempt.

(3) This section ~~shall~~ *does* not apply to a person set at liberty by court order upon condition that ~~he~~ *the person* will appear in connection with a charge of having committed a misdemeanor, except ~~that it shall apply where~~ *applies when* the judge has released the defendant on ~~his~~ *the defendant's* own recognizance.

(4) A person convicted of bail-jumping in connection with a felony shall be imprisoned in the state prison for a term not to exceed 10 years. In all other cases, ~~he~~ *the person* shall be fined not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both."

Section 1690. Section 45-7-309, MCA, is amended to read:

"45-7-309. Criminal contempt. (1) A person commits the offense of criminal contempt when ~~he~~ *the person* knowingly engages in any of the following conduct:

(a) disorderly, contemptuous, or insolent behavior committed during the sitting of a court in its immediate view and presence and directly tending to interrupt its proceedings or to impair the respect due to its authority;

(b) breach of the peace, noise, or other disturbance directly tending to interrupt a court's proceeding;

(c) purposely disobeying or refusing any lawful process or other mandate of a court;

(d) unlawfully refusing to be sworn as a witness in any court proceeding or, after being sworn, refusing to answer any legal and proper interrogatory;

(e) purposely publishing a false or grossly inaccurate report of a court's proceeding; or

(f) purposely failing to obey any mandate, process, or notice relative to juries issued pursuant to Title 3, chapter 15.

(2) A person convicted of the offense of criminal contempt shall be fined not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both."

Section 1691. Section 45-7-401, MCA, is amended to read:

"45-7-401. Official misconduct. (1) A public servant commits the offense of official misconduct when in ~~his~~ *an* official capacity ~~he~~ *the public servant* commits any of the following acts:

(a) purposely or negligently fails to perform any mandatory duty as required by law or by a court of competent jurisdiction;

(b) knowingly performs an act in ~~his~~ *an* official capacity ~~which~~ ~~he~~ *that the public servant* knows is forbidden by law;

(c) with the purpose to obtain *a personal advantage or an advantage for himself or another*, performs an act in excess of ~~his~~ *the public servant's* lawful authority;

(d) solicits or knowingly accepts for the performance of any act a fee or reward ~~which~~ ~~he~~ *that the public servant* knows is not authorized by law; or

(e) knowingly conducts a meeting of a public agency in violation of 2-3-203.

(2) A public servant convicted of the offense of official misconduct shall be fined not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

(3) The district court ~~shall have~~ *has* exclusive jurisdiction in prosecutions under this section. Any action for official misconduct must be commenced by an information filed after leave to file has been granted by the district court or after a grand jury indictment has been found.

(4) A public servant who has been charged as provided in subsection (3) may be suspended from ~~his~~ office without pay pending final judgment. Upon final judgment of conviction, ~~he~~ *the public servant* shall permanently forfeit ~~his~~ *the public servant's* office. Upon acquittal, ~~he~~ *shall the public servant must* be reinstated in ~~his~~ office and ~~shall~~ *must* receive all backpay.

(5) This section does not affect any power conferred by law to impeach or remove any public servant or any proceeding authorized by law to carry into effect ~~such an~~ *an* impeachment or removal."

Section 1692. Section 45-7-501, MCA, is amended to read:

"45-7-501. Employer misconduct. (1) A person who is an employer, as defined in 39-71-117, commits the offense of employer misconduct if ~~he~~ *the person* knowingly or purposely:

(a) avoids ~~his~~ *the person's* responsibility to provide coverage for ~~his~~ *the person's* employees as required by 39-71-401;

(b) misrepresents or falsifies employment records or information, including but not limited to understating the amount of payroll or the number of ~~his~~ *the person's* employees; or

(c) refuses to pay premiums that ~~he~~ *the person* is obligated to pay under compensation plan No. 2, as provided in Title 39, chapter 71, part 22, or compensation plan No. 3, as provided in Title 39, chapter 71, part 23.

(2) A person convicted of the offense of employer misconduct shall be fined an amount not to exceed \$50,000 or *be* imprisoned in the state prison for any term not to exceed 10 years, or both."

Section 1693. Section 45-8-101, MCA, is amended to read:

"45-8-101. Disorderly conduct. (1) A person commits the offense of disorderly conduct if ~~he~~ *the person* knowingly disturbs the peace by:

(a) quarreling, challenging to fight, or fighting;

(b) making loud or unusual noises;

(c) using threatening, profane, or abusive language;

(d) discharging firearms, except at a shooting range during established hours of operation;

(e) rendering vehicular or pedestrian traffic impassable;

(f) rendering the free ingress or egress to public or private places impassable;

(g) disturbing or disrupting any lawful assembly or public meeting;

(h) transmitting a false report or warning of a fire or other catastrophe in ~~such a~~ *where* its occurrence would endanger human life;

(i) creating a hazardous or physically offensive condition by any act that serves no legitimate purpose; or

(j) transmitting a false report or warning of an impending explosion in ~~such~~ a place ~~that~~ *where* its occurrence would endanger human life.

(2) Except as provided in subsection (3), a person convicted of the offense of disorderly conduct shall be fined not to exceed \$100 or be imprisoned in the county jail for a term not to exceed 10 days, or both.

(3) A person convicted of a violation of subsection (1)(j) shall be fined not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both.”

Section 1694. Section 45-8-103, MCA, is amended to read:

“45-8-103. Riot. (1) A person commits the offense of riot if ~~he~~ *the person* purposely and knowingly disturbs the peace by engaging in an act of violence or threat to commit an act of violence as part of an assemblage of five or more persons, ~~which~~ *and the* act or threat presents a clear and present danger of or results in damage to property or injury to persons.

(2) Except as provided in subsection (3), a person convicted of the offense of riot shall be fined not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

(3) A person who commits the offense of riot by engaging in an act of violence while incarcerated at any state adult correctional facility or city or county jail shall be imprisoned for not less than 1 year or more than 5 years.”

Section 1695. Section 45-8-104, MCA, is amended to read:

“45-8-104. Incitement to riot. (1) A person commits the offense of incitement to riot if ~~he~~ *the person* purposely and knowingly commits an act or engages in conduct that urges other persons to riot. ~~Such~~ *The* act or conduct ~~shall~~ *may* not include the mere oral or written advocacy of ideas or expression of belief ~~which advocacy or expression~~ *that* does not urge the commission of an act of immediate violence.

(2) Except as provided in subsection (3), a person convicted of the offense of incitement to riot shall be fined not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

(3) A person who commits the offense of incitement to riot while incarcerated at any state adult correctional facility shall be imprisoned for not less than 1 year or more than 5 years.”

Section 1696. Section 45-8-106, MCA, is amended to read:

“45-8-106. Bringing armed ~~men~~ individuals into the state. (1) A person commits the offense of bringing armed ~~men~~ *individuals* into the state when ~~he~~ *the person* knowingly brings or aids in bringing into this state an armed ~~person~~ *individual* or armed body of ~~men~~ *individuals* for the purpose of engaging in criminal or socially disruptive activities or to usurp the powers of law enforcement authorities.

(2) A person convicted of the offense of bringing armed ~~men~~ *individuals* into the state shall be imprisoned in the state prison for a term not to exceed 10 years or be fined an amount not to exceed \$50,000, or both.”

Section 1697. Section 45-8-111, MCA, is amended to read:

“45-8-111. Public nuisance. (1) “Public nuisance” means:

(a) a condition ~~which~~ *that* endangers safety or health, is offensive to the senses, or obstructs the free use of property so as to interfere with the

comfortable enjoyment of life or property by an entire community or neighborhood or by any considerable number of persons;

(b) any premises where persons gather for the purpose of engaging in unlawful conduct; or

(c) a condition ~~which~~ *that* renders dangerous for passage any public highway or right-of-way or waters used by the public.

(2) A person commits the offense of maintaining a public nuisance if ~~he~~ *the person* knowingly creates, conducts, or maintains a public nuisance.

(3) Any act ~~which~~ *that* affects an entire community or neighborhood or any considerable number of persons, (as specified in subsection (1)(a)), is no less a nuisance because the extent of the annoyance or damage inflicted upon individuals is unequal.

(4) ~~No~~ *An* agricultural or farming operation, a place, an establishment, or a facility or any of its appurtenances or the operation ~~thereof of those things~~ *is not* or ~~becomes~~ *does not become* a public nuisance because of ~~the~~ *its* normal operation ~~thereof~~ as a result of changed residential or commercial conditions in or around its locality if the agricultural or farming operation, place, establishment, or facility has been in operation longer than the complaining resident has been in possession or commercial establishment has been in operation.

(5) Noises resulting from the shooting activities at a shooting range during established hours of operation are not considered a public nuisance.

(6) A person convicted of maintaining a public nuisance shall be fined not to exceed \$500 or *be* imprisoned in the county jail for a term not to exceed 6 months, or both. Each day of ~~such~~ *the* conduct constitutes a separate offense.”

Section 1698. Section 45-8-112, MCA, is amended to read:

“45-8-112. Action to abate a public nuisance. (1) ~~Every~~ *A* public nuisance may be abated and the persons maintaining ~~such~~ *the* nuisance and the possessor of the premises who permits the ~~same~~ *nuisance* to be maintained may be enjoined from ~~such~~ *the* conduct by an action in equity in the name of the state of Montana by the county attorney or any resident of the state.

(2) Upon the filing of the complaint in ~~such~~ *the* action, the judge may issue a temporary injunction.

(3) In ~~such~~ *an* action, evidence of the general reputation of the premises is admissible for the purpose of proving the existence of the nuisance.

(4) If the existence of the nuisance is established, an order of abatement ~~shall~~ *must* be entered as part of the judgment in the case. The judge issuing the order may, ~~in his discretion~~:

(a) confiscate all fixtures used on the premises to maintain the nuisance and either sell them and transmit the proceeds to the county general fund, destroy them, or return them to their rightful ownership;

(b) close the premises for any period not to exceed 1 year, during which period the premises ~~shall~~ *must* remain in the custody of the court;

(c) allow the premises to be opened upon posting bond sufficient in amount to ~~assure~~ *ensure* compliance with the order of abatement. The bond ~~shall~~ *must* be forfeited if the nuisance is continued or resumed. The procedure for forfeiture or discharge of the bond ~~shall be~~ *is* as provided in 46-9-502 and 46-9-503; ~~or~~.

(d) *impose* any combination of ~~the above~~ *subsections (4)(a) through (4)(c).*”

Section 1699. Section 45-8-113, MCA, is amended to read:

“45-8-113. Creating a hazard. (1) A person commits the offense of creating a hazard if ~~he~~ *the person* knowingly:

(a) discards in any place where it might attract children a container having a compartment of more than 1 1/2 cubic feet capacity and a door or lid that locks or fastens automatically when closed and cannot easily be opened from the inside and fails to remove the door, lid, or locking or fastening device;

(b) being the owner or otherwise having possession of property upon which there is a well, cistern, cesspool, mine shaft, or other hole of a depth of 4 feet or more and a top width of 12 inches or more, fails to cover or fence it with a suitable protective construction;

(c) tampers with an aircraft without the consent of the owner;

(d) being the owner or otherwise having possession of property upon which there is a steam engine or steam boiler, continues to use a steam engine or steam boiler ~~which~~ *that* is in an unsafe condition;

(e) being a person in the act of game hunting, acts in a negligent manner or knowingly fails to give all reasonable assistance to any person whom ~~he~~ *the person* has injured; or

(f) deposits any hard substance upon or between any railroad tracks ~~which~~ *that* will tend to derail railroad cars or other vehicles.

(2) A person convicted of the offense of creating a hazard shall be fined not to exceed \$500 or *be* imprisoned in the county jail for a term not to exceed 6 months, or both.”

Section 1700. Section 45-8-114, MCA, is amended to read:

“45-8-114. Failure to yield party line. (1) Any person who fails to relinquish a telephone party line or public pay telephone after ~~he~~ *the person* has been requested to do so to permit another to place an emergency call to a fire department or police department or for medical aid or ambulance service shall be imprisoned for a term not to exceed 10 days or *be* fined not to exceed \$25, or both.

(2) It is a defense to prosecution under subsection (1) that the accused did not know or did not have reason to know of the emergency in question or that the accused was ~~himself~~ using the telephone party line or public pay telephone for ~~such~~ an emergency call.

(3) Any person who requests another to relinquish a telephone party line or public pay telephone on the pretext that ~~he~~ *the person* ~~must~~ *needs to* place an emergency call, knowing ~~such~~ *the* pretext to be false, shall be imprisoned for a term not to exceed 10 days or *be* fined not to exceed \$25, or both.

(4) ~~Every~~ *Each* telephone company doing business in this state shall print a copy of subsections (1), (2), and (3) ~~of this section~~ in each telephone directory published by it after January 1, 1974.”

Section 1701. Section 45-8-115, MCA, is amended to read:

“45-8-115. Illegal posting of state and federal land. (1) A person commits the offense of illegal posting of state or federal land if, without authorization, ~~he~~ *the person* knowingly posts land that is under the ownership or control of the state or federal government to restrict access or use of state or federal land.

(2) A person convicted of illegal posting of state or federal land shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.”

Section 1702. Section 45-8-201, MCA, is amended to read:

“45-8-201. Obscenity. (1) A person commits the offense of obscenity when, with knowledge of the obscene nature ~~thereof of the material, he the person~~ purposely or knowingly:

(a) sells, delivers, or provides or offers or agrees to sell, deliver, or provide any obscene writing, picture, record, or other representation or embodiment of the obscene to anyone under ~~the age of 18 years of age~~;

(b) presents or directs an obscene play, dance, or other performance, or participates in that portion ~~thereof which of the performance that~~ makes it obscene, to anyone under ~~the age of 18 years of age~~;

(c) publishes, exhibits, or otherwise makes available anything obscene to anyone under ~~the age of 18 years of age~~;

(d) performs an obscene act or otherwise presents an obscene exhibition of ~~his the person's~~ body to anyone under ~~the age of 18 years of age~~;

(e) creates, buys, procures, or possesses obscene matter or material with the purpose to disseminate it to anyone under ~~the age of 18 years of age~~; or

(f) advertises or otherwise promotes the sale of obscene material or materials represented or held out by ~~him the person~~ to be obscene.

(2) A thing is obscene if:

(a) (i) it is a representation or description of perverted ultimate sexual acts, actual or simulated;

(ii) it is a patently offensive representation or description of normal ultimate sexual acts, actual or simulated; or

(iii) it is a patently offensive representation or description of masturbation, excretory functions, or lewd exhibition of the genitals; and

(b) taken as a whole the material:

(i) applying contemporary community standards, appeals to the prurient interest in sex;

(ii) portrays conduct described in subsection (2)(a)(i), (2)(a)(ii), or (2)(a)(iii) in a patently offensive way; and

(iii) lacks serious literary, artistic, political, or scientific value.

(3) In any prosecution for an offense under this section, evidence ~~shall be~~ *is* admissible to show:

(a) the predominant appeal of the material and what effect, if any, it would probably have on the behavior of people;

(b) the artistic, literary, scientific, educational, or other merits of the material;

(c) the degree of public acceptance of the material in the community;

(d) *the* appeal to prurient interest or absence ~~thereof of that appeal~~ in advertising or other promotion of the material; or

(e) *the* purpose of the author, creator, publisher, or disseminator.

(4) A person convicted of obscenity shall be fined at least \$500 but not more than \$1,000 or *be* imprisoned in the county jail for a term not to exceed 6 months, or both.

(5) Cities, towns, or counties may adopt ordinances or resolutions ~~which~~ *that* are more restrictive as to obscenity than the provisions of 45-8-206 and this section.”

Section 1703. Section 45-8-203, MCA, is amended to read:

“45-8-203. Certain motion picture theater employees not liable for prosecution. (1) (a) As used in this section, “employee” means any person regularly employed by the owner or operator of a motion picture theater if ~~he~~ *the person* has no financial interest other than salary or wages in the ownership or operation of the motion picture theater, has no financial interest in or control over the selection of the motion pictures shown in the theater, and is working within the motion picture theater where ~~he~~ *the person* is regularly employed.

(b) ~~“Employee”~~ *The term* does not include a manager of the motion picture theater.

(2) ~~No~~ *An* employee is *not* liable to prosecution under 45-8-201 and 45-8-206 or under any city or county ordinance for exhibiting or possessing with intent to exhibit any obscene motion picture provided the employee is acting within the scope of ~~his~~ regular employment at a showing open to the public.”

Section 1704. Section 45-8-207, MCA, is amended to read:

“45-8-207. Notice of violation. Before a county attorney may prosecute a person for a continuing violation of 45-8-206, ~~he~~ *the county attorney* shall determine that the material or performance is obscene to minors, give the alleged violator actual notice of the determination and notice that ~~he~~ *the person* will be prosecuted if ~~he~~ *the person* does not desist, and determine that the violation continued for at least 3 days after notice was received. The person may seek a declaratory judgment on the question *of* whether the material or performance is obscene to minors. The statute of limitations for the offense is tolled while the declaratory judgment or an appeal from it is pending.”

Section 1705. Section 45-8-210, MCA, is amended to read:

“45-8-210. Causing animals to fight — owners, trainers, and spectators — penalties — exception — definition. (1) A person commits the offense of causing animals to fight if ~~he~~ *the person*:

(a) owns, possesses, keeps, or trains any animal with the intent that ~~such~~ *the* animal fight or be engaged in an exhibition of fighting with another animal;

(b) allows or causes any animal to fight with another animal or causes any animal to menace or injure another animal for the purpose of sport, amusement, or gain;

(c) knowingly permits any act in violation of subsection (1)(a) or (1)(b) to take place on any premises under ~~his~~ *the person’s* charge or control; or aids or abets any ~~such~~ *act described in subsection (1)(a) or (1)(b)*;

(d) participates in any exhibition in which animals are fighting for the purpose of sport, amusement, or gain.

(2) A person convicted of violating this section is guilty of a felony and shall be fined an amount not to exceed \$5,000 or *be* imprisoned in the state prison for a term of not less than 1 year or more than 5 years, or both ~~such fine and imprisonment~~.

(3) Nothing in this section prohibits the following:

- (a) accepted husbandry practices used in the raising of livestock or poultry;
 - (b) the use of animals in the normal and usual course of rodeo events; or
 - (c) the use of animals in hunting and training as permitted by law.
- (4) For purposes of this section, "animal" means any cock, bird, dog, or mammal except ~~man~~ *a human*."

Section 1706. Section 45-8-214, MCA, is amended to read:

"45-8-214. Bribery in contests. (1) A person commits the offense of bribery in contests if ~~he~~ *the person* purposely or knowingly offers, confers, or agrees to confer upon another or solicits, accepts, or agrees to accept from another:

(a) any pecuniary benefit as a consideration for the recipient's failure to use ~~his~~ *the recipient's* best efforts in connection with any professional or amateur athletic contest, sporting event, or exhibition; or

(b) any benefit as consideration for a violation of a known duty as a person participating in, officiating, or connected with any professional or amateur athletic contest, sporting event, or exhibition.

(2) A person convicted of the offense of bribery in contests shall be fined not to exceed \$5,000 or be imprisoned in the state prison for a term not to exceed 10 years, or both."

Section 1707. Section 45-8-215, MCA, is amended to read:

"45-8-215. Desecration of flags. (1) In this section, *the term* "flag" means anything ~~which~~ *that* is or purports to be the official flag of the United States, the United States shield, the United States coat of arms, the Montana state flag, or a copy, picture, or representation of any of ~~them~~ *the described articles*.

(2) A person commits the offense of desecration of flags if ~~he~~ *the person* purposely or knowingly:

(a) publicly mutilates, defiles, or casts contempt upon the flag;

(b) places on or attaches to the flag any work, mark, design, or advertisement not properly a part of ~~such~~ *the* flag or exposes to public view a flag so altered;

(c) manufactures or exposes to public view an article of merchandise or a wrapper or receptacle for merchandise upon which the flag is depicted; or

(d) uses the flag for commercial advertising purposes.

(3) A person convicted of the offense of desecration of flags shall be imprisoned in the state prison for any term not to exceed 10 years or be fined an amount not to exceed \$50,000, or both.

(4) This section does not apply to flags depicted on written or printed documents or periodicals or on stationery, ornaments, pictures, or jewelry; ~~provided if~~ *provided if* there are not unauthorized words or designs on ~~such~~ *the* flags and ~~provided if~~ *provided if* the flag is not connected with any advertisement."

Section 1708. Section 45-8-316, MCA, is amended to read:

"45-8-316. Carrying concealed weapons. (1) ~~Every~~ A person who carries or bears concealed upon ~~his~~ *the individual's* person a dirk, dagger, pistol, revolver, slingshot, sword cane, billy, knuckles made of any metal or hard substance, knife having a blade 4 inches long or longer, razor, not including a safety razor, or other deadly weapon shall be punished by a fine not exceeding \$500 or *be* imprisonment in the county jail for a period not exceeding 6 months, or both.

(2) A person who has previously been convicted of an offense, committed on a different occasion than the offense under this section, in this state or any other jurisdiction for which a sentence to a term of imprisonment in excess of 1 year could have been imposed and who carries or bears concealed upon ~~his~~ *the individual's* person any of the weapons described in subsection (1) shall be punished by a fine not exceeding \$1,000 or *be* imprisoned in the state prison for a period not exceeding 5 years, or both."

Section 1709. Section 45-8-325, MCA, is amended to read:

"45-8-325. Permittee change of county of residence — notification to sheriffs and chief of police. A person with a permit to carry a concealed weapon who changes ~~his~~ *the person's* county of residence shall within 10 days of the change inform the sheriffs of both the old and new counties of residence of ~~his~~ *the* change of residence and that ~~he~~ *the person* holds the permit. If ~~his~~ *the person's* residence changes either from or to a city or town with a police force, ~~he~~ *the person* shall also inform the chief of police in each of those cities or towns that has a police force."

Section 1710. Section 45-8-327, MCA, is amended to read:

"45-8-327. Carrying a concealed weapon while under the influence. A person commits the offense of carrying a concealed weapon while under the influence if ~~he~~ *the person* purposely or knowingly carries a concealed weapon while under the influence of an intoxicating substance. It is not a defense that the person had a valid permit to carry a concealed weapon. A person convicted of the offense shall be imprisoned in the county jail for a term not to exceed 6 months or *be* fined an amount not to exceed \$500, or both."

Section 1711. Section 45-8-331, MCA, is amended to read:

"45-8-331. Switchblade knives. (1) ~~Every~~ A person who carries or bears upon ~~his~~ *the individual's* person, who carries or bears within or on any motor vehicle or other means of conveyance owned or operated by ~~him~~ *the person*, or who owns, possesses, uses, stores, gives away, sells, or offers for sale a switchblade knife shall be punished by a fine not exceeding \$500 or by imprisonment in the county jail for a period not exceeding 6 months, or ~~by~~ both such fine and imprisonment.

(2) A bona fide collector whose collection is registered with the sheriff of the county in which ~~said~~ *the* collection is located is ~~hereby~~ exempted from the provisions of this section.

(3) For the purpose of this section, a switchblade knife is defined as any knife ~~which~~ *that* has a blade 1 1/2 inches long or longer ~~which~~ *that* opens automatically by hand pressure applied to a button, spring, or other device in the handle of the knife."

Section 1712. Section 45-8-333, MCA, is amended to read:

"45-8-333. Reckless or malicious use of explosives. ~~Every~~ A person who shall recklessly or maliciously ~~use~~ *uses*, ~~handle~~ *handles*, or ~~have~~ *has* in ~~his~~ *or her* ~~the person's~~ possession any blasting powder, giant or Hercules powder, giant caps, or other highly explosive substance ~~whereby~~ *through which* any human being is intimidated, terrified, or endangered ~~shall be~~ *is* guilty of a misdemeanor."

Section 1713. Section 45-8-334, MCA, is amended to read:

"45-8-334. Possession of a destructive device. (1) A person who, with the purpose to commit a felony, has in ~~his~~ *the person's* possession any destructive device on a public street or highway, in or near any theater, hall,

school, college, church, hotel, other public building, or private habitation, in, on, or near any aircraft, railway passenger train, car, vessel engaged in carrying passengers for hire, or other public place ordinarily passed by human beings is guilty of the offense of possession of a destructive device.

(2) A person convicted of the offense of possession of a destructive device shall be imprisoned in the state prison for a period of not more than 10 years or be fined an amount of not more than \$50,000, or both.”

Section 1714. Section 45-8-335, MCA, is amended to read:

“45-8-335. Possession of explosives. (1) A person commits the offense of possession of explosives if ~~he~~ *the person* possesses, manufactures, transports, buys, or sells an explosive compound, flammable material, or timing, detonating, or similar device for use with an explosive compound or incendiary device and:

(a) has the purpose to use ~~such~~ *the* explosive, material, or device to commit an offense; or

(b) knows that another has the purpose to use ~~such~~ *the* explosive, material, or device to commit an offense.

(2) A person convicted of the offense of possession of explosives shall be imprisoned in the state prison for any term not to exceed 20 years or be fined an amount not to exceed \$50,000, or both.”

Section 1715. Section 45-8-336, MCA, is amended to read:

“45-8-336. Possession of a silencer. (1) A person commits the offense of possession of a silencer if ~~he~~ *the person* possesses, manufactures, transports, buys, or sells a silencer and has the purpose to use it to commit an offense or knows that another person has such a purpose.

(2) A person convicted of the offense of possession of a silencer is punishable by imprisonment in the state prison for a term of not less than 5 years or more than 30 years or *by* a fine of not less than \$1,000 or more than \$20,000 or ~~by~~ both ~~such fine and imprisonment.~~”

Section 1716. Section 45-8-339, MCA, is amended to read:

“45-8-339. Carrying firearms on train — penalty. (1) Except as authorized by the management of a railroad, it is unlawful for a person not authorized to carry a weapon in the course of ~~his~~ *the person's* official duties to knowingly or purposely carry or transport firearms on a train in this state unless, prior to boarding, the person has delivered all firearms and ammunition, if any, to the operator of the train.

(2) A person violating this section shall be punished by a fine not exceeding \$500 or *by* imprisonment in the county jail for a period not exceeding 6 months, or both.”

Section 1717. Section 45-8-340, MCA, is amended to read:

“45-8-340. Sawed-off firearm — penalty. (1) A person commits the offense of possession of a sawed-off firearm if ~~he~~ *the person* knowingly possesses a rifle or shotgun that when originally manufactured had a barrel length of:

(a) 16 inches or more and an overall length of 26 inches or more in the case of a rifle; or

(b) 18 inches or more and an overall length of 26 inches or more in the case of a shotgun; and

(c) the firearm has been modified in a manner so that the barrel length, overall length, or both, are less than specified in subsection (1)(a) or (1)(b).

(2) The barrel length is the distance from the muzzle to the rear-most point of the chamber.

(3) This section does not apply to firearms possessed:

(a) by a peace officer of this state or one of its political subdivisions;

(b) by an officer of the United States government authorized to carry weapons;

(c) by a person in actual service as a *member of the national guardsman guard*;

(d) by a person called to the aid of one of the persons named in subsections (3)(a) through (3)(c);

(e) for educational or scientific purposes in which the firearms are incapable of being fired;

(f) by a person who has a valid federal tax stamp for the firearm, issued by the bureau of alcohol, tobacco, and firearms; or

(g) by a bona fide collector of firearms if the firearm is a muzzleloading, sawed-off firearm manufactured before 1900.

(4) A person convicted of the offense of possession of a sawed-off firearm ~~must~~ *shall* be fined not less than \$200 or more than \$500 or *be* imprisoned in the county jail for not less than 5 days or more than 6 months, or both, upon a first conviction. If a person has one or more prior convictions under this section or one or more prior felony convictions under a law of this state, another state, or the United States, ~~he must~~ *the person shall* be fined an amount not to exceed \$1,000 or *be* imprisoned in the state prison for a term not to exceed 5 years, or both.”

Section 1718. Section 45-8-405, MCA, is amended to read:

“45-8-405. Pattern of criminal street gang activity. (1) For purposes of this part, “pattern of criminal street gang activity” means the commission, solicitation, conspiracy, *or* attempt, ~~the~~ *the* adjudication as a delinquent youth for the commission, attempt, or solicitation, ~~or~~ *the* conviction of two or more of the offenses listed in subsection (2) within a 3-year period, ~~and that the~~ *which* offenses were committed on separate occasions.

(2) The offenses that form a pattern of criminal street gang activity include:

(a) deliberate homicide, as defined in 45-5-102;

(b) assault with a weapon, as defined in 45-5-213;

(c) intimidation, as defined in 45-5-203;

(d) kidnapping, as defined in 45-5-302;

(e) aggravated kidnapping, as defined in 45-5-303;

(f) robbery, as defined in 45-5-401;

(g) sexual intercourse without consent, as defined in 45-5-503;

(h) aggravated promotion of prostitution, as defined in 45-5-603;

(i) criminal mischief, as defined in 45-6-101;

(j) arson, as defined in 45-6-103;

(k) burglary, as defined in 45-6-204;

(l) theft, as defined in 45-6-301;

- (m) forgery, as defined in 45-6-325;
- (n) tampering with witnesses and informants, as defined in 45-7-206;
- (o) bringing armed ~~men~~ *individuals* into the state, as defined in 45-8-106;
- (p) unlawful possession of a firearm by a convicted person, as defined in 45-8-313;
- (q) carrying a concealed weapon, as defined in 45-8-316;
- (r) possession of a deadly weapon by a prisoner, as defined in 45-8-318;
- (s) possession of a destructive device, as defined in 45-8-334;
- (t) possession of explosives, as defined in 45-8-335;
- (u) possession of a sawed-off firearm, as defined in 45-8-340;
- (v) the sale, possession for sale, transportation, manufacture, offer for sale, offer to manufacture, or other offense involving a dangerous drug as prohibited by Title 45, chapter 9;
- (w) use of threat to coerce criminal street gang membership or use of violence to coerce criminal street gang membership provided in 45-8-403.”

Section 1719. Section 45-9-104, MCA, is amended to read:

“45-9-104. Fraudulently obtaining dangerous drugs. A person commits the offense of fraudulently obtaining dangerous drugs if ~~he~~ *the person* obtains or attempts to obtain a dangerous drug, as defined in 50-32-101, by:

- (1) fraud, deceit, misrepresentation, or subterfuge;
- (2) falsely assuming the title of or representing ~~himself to be~~ *that the person is* a manufacturer, wholesaler, practitioner, pharmacist, owner of a pharmacy, or other person authorized to possess dangerous drugs;
- (3) the use of a forged, altered, or fictitious prescription;
- (4) the use of a false name or a false address on a prescription; or
- (5) the concealment of a material fact.”

Section 1720. Section 45-9-105, MCA, is amended to read:

“45-9-105. Altering labels on dangerous drugs. A person commits the offense of altering labels on dangerous drugs if ~~he~~ *the person* affixes a false, forged, or altered label to or otherwise misrepresents a package or receptacle containing a dangerous drug, as defined in 50-32-101.”

Section 1721. Section 45-9-106, MCA, is amended to read:

“45-9-106. Penalty for fraudulently obtaining dangerous drugs or altering the labels of dangerous drugs. (1) A person convicted of altering labels on dangerous drugs shall be imprisoned in the county jail for a term not to exceed 6 months.

(2) A person convicted of fraudulently obtaining dangerous drugs included in Schedule I, Schedule II, Schedule III, Schedule IV, or Schedule V in 50-32-222, 50-32-224, 50-32-226, 50-32-229, or 50-32-232 shall:

- (a) upon ~~his~~ *a* first conviction be imprisoned in the state prison for a term of not less than 1 year or not more than 5 years or *be* fined an amount not to exceed \$50,000, or both;
- (b) upon ~~his~~ *a* second conviction be imprisoned in the state prison for a term of not less than 5 years or not more than 10 years or *be* fined an amount not to exceed \$50,000, or both.”

Section 1722. Section 45-9-114, MCA, is amended to read:

“45-9-114. Criminal advertisement of imitation dangerous drug — penalty. (1) A person commits the offense of criminal advertisement of an imitation dangerous drug if ~~he~~ *the person* knowingly or purposely places in any newspaper, magazine, handbill, or other publication or posts or distributes any advertisement or solicitation to promote the manufacture, sale, exchange, or distribution of an imitation dangerous drug.

(2) A person convicted of criminal advertisement of an imitation dangerous drug under this section is punishable by a fine not to exceed \$100,000 or by imprisonment in the state prison for a term of not more than 10 years, or ~~by both such fine and imprisonment.~~”

Section 1723. Section 45-9-115, MCA, is amended to read:

“45-9-115. Criminal manufacture of imitation dangerous drug — penalty. (1) A person commits the offense of criminal manufacture of an imitation dangerous drug if ~~he~~ *the person* knowingly or purposely manufactures, prepares, or cultivates any imitation dangerous drug.

(2) A person convicted of criminal manufacture of an imitation dangerous drug ~~under this section~~ is punishable by a fine not to exceed \$100,000 or by imprisonment in the state prison for a term of not more than 10 years, or ~~by both such fine and imprisonment.~~”

Section 1724. Section 45-9-121, MCA, is amended to read:

“45-9-121. Criminal possession of toxic substances — penalty. (1) A person commits the offense of criminal possession of a toxic substance if ~~he~~ *the person* inhales or ingests or possesses with the purpose to inhale or ingest, for the purpose of altering ~~his~~ *the person’s* mental or physical state, any substance with toxic effects that is not manufactured for human consumption or inhalation, including but not limited to glue, fingernail polish, paint and paint thinners, petroleum products, aerosol propellants, and chemical solvents.

(2) The provisions of subsection (1) do not apply to a bona fide institution of higher education conducting research with human volunteers pursuant to guidelines adopted by the institution or any federal or state agency.

(3) A person convicted under this section shall be imprisoned in the county jail for a term not to exceed 6 months or be fined an amount not to exceed \$500, or both.

(4) The youth court has jurisdiction of any violation of subsection (1) by a person under 18 years of age.”

Section 1725. Section 45-9-127, MCA, is amended to read:

“45-9-127. Carrying dangerous drugs on train — penalty. (1) Except as provided in Title 50, chapter 46, a person commits the offense of carrying dangerous drugs on a train in this state if ~~he~~ *the person* is knowingly or purposely in criminal possession of a dangerous drug and boards any train.

(2) A person convicted of carrying dangerous drugs on a train in this state is subject to the penalties provided in 45-9-102.”

Section 1726. Section 45-10-102, MCA, is amended to read:

“45-10-102. Determination of what constitutes paraphernalia. In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

(1) statements by an owner or by anyone in control of the object concerning its use;

- (2) prior convictions, if any, of an owner or of anyone in control of the object; under any state or federal law relating to any controlled substance or dangerous drug;
- (3) the proximity of the object; in time and space; to a direct violation of this part;
- (4) the proximity of the object to dangerous drugs;
- (5) the existence of any residue of dangerous drugs on the object;
- (6) direct or circumstantial evidence of the intent of an owner or of anyone in control of the object to deliver it to persons whom ~~he~~ *the person* knows; or should reasonably know; intend to use the object to facilitate a violation of 45-10-103 through 45-10-106. The innocence of an owner or of anyone in control of the object as to a direct violation of 45-10-103 through 45-10-106 does not prevent a finding that the object is intended for use or designed for use as drug paraphernalia.
- (7) instructions, oral or written, provided with the object concerning its use;
- (8) descriptive materials accompanying the object ~~which~~ *that* explain or depict its use;
- (9) national and local advertising concerning its use;
- (10) the manner in which the object is displayed for sale;
- (11) whether the owner or anyone in control of the object is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
- (12) direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise;
- (13) the existence and scope of legitimate uses for the object in the community;
- (14) expert testimony concerning its use.”

Section 1727. Section 45-10-105, MCA, is amended to read:

“45-10-105. Delivery of drug paraphernalia to a minor. Any person 18 years of age or ~~over~~ *older* who violates 45-10-104 by delivering drug paraphernalia to a person under 18 years of age who is at least 3 years ~~his junior~~ *younger* is guilty of a misdemeanor and upon conviction shall be imprisoned in the county jail for not more than 1 year; *or be fined not more than \$1,000, or both.*”

Section 1728. Section 46-2-101, MCA, is amended to read:

“46-2-101. State criminal jurisdiction. (1) A person is subject to prosecution in this state for an offense ~~which he~~ *that the person* commits while either within or outside the state by ~~his~~ *the person's* own conduct or that of another for which ~~he~~ *the person* is legally accountable if:

- (a) the offense is committed either wholly or partly within the state;
- (b) the conduct outside the state constitutes an attempt to commit an offense within the state and an act in furtherance of the offense occurs in the state; or
- (c) the conduct within the state constitutes an attempt, solicitation, or conspiracy to commit in another jurisdiction an offense under the laws of this state and ~~such~~ *the* other jurisdiction.

(2) An offense is committed partly within this state if either the conduct ~~which that~~ is an element of the offense or the result ~~which that~~ is an element

occurs within the state. In homicide, the “result” is either the physical contact ~~which that~~ causes death or the death itself, ~~and if~~. If the body of a homicide victim is found within the state, the death is presumed to have occurred within the state.

(3) An offense ~~which that~~ is based on an omission to perform a duty imposed by the law of this state is committed within the state, regardless of the location of the offender at the time of the omission.

(4) This state includes the land and water and the air space above ~~such the~~ land and water with respect to which the state has legislative jurisdiction.”

Section 1729. Section 46-4-101, MCA, is amended to read:

“46-4-101. Jurisdiction — death and cause of death in different counties. (1) The coroner of the county where a dead human body is found has jurisdiction if:

- (a) the place of death is unknown;
- (b) the dead human body was shipped into the county without proper permits; or
- (c) the death occurred while the deceased was in transit in the state.

(2) When death occurs as a direct result of acts or events that occurred in another county, the coroner of the county where the acts or events causing death occurred has jurisdiction. If a coroner that has jurisdiction of a death fails to act, the state medical examiner has jurisdiction.

(3) A county coroner has primary jurisdiction in the county in which ~~he the coroner~~ is appointed or elected to serve; ~~however~~ *However*, a qualified coroner may serve in another county upon the request of the coroner or county attorney of that county. A coroner may travel to another county to inquire into a death pursuant to 46-4-122.”

Section 1730. Section 46-4-110, MCA, is amended to read:

“46-4-110. Powers of coroner. In the performance of ~~his~~ duties under this chapter, the coroner may:

(1) pronounce the fact of death of any human being under circumstances in which ~~he the coroner~~ has a duty to inquire pursuant to 46-4-122;

(2) certify and amend death certificates as considered necessary in circumstances under which ~~he the coroner~~ has a duty to inquire pursuant to 46-4-122;

(3) issue subpoenas pursuant to 46-4-112;

(4) order autopsies as provided in 46-4-103;

(5) conduct examinations and tests as considered necessary to determine the cause, manner, and circumstances of death and identification of a dead human body as provided in 46-4-101 and 46-4-113;

(6) order a dead human body to be disinterred or removed from its place of disposition, with or without the consent of the next of kin, under circumstances in which ~~he the coroner~~ has a duty to inquire pursuant to 46-4-122;

(7) conduct inquests pursuant to 46-4-201; and

(8) order cessation of any activity by any person or agency, other than the law enforcement agency having jurisdiction, that may obstruct or hinder the orderly conduct of an inquiry or the collection of information or evidence needed for an inquiry.”

Section 1731. Section 46-4-111, MCA, is amended to read:

“46-4-111. Coroner’s authority to seize and preserve evidence. (1) A county coroner may enter any room, dwelling, building, or other place in which ~~he~~ *the coroner* has probable cause to believe that a dead human body or evidence of the circumstances of a death that requires investigation may be found. If refused entry, a coroner who is investigating a death pursuant to ~~his~~ *the coroner’s* authority may apply to a judge authorized to issue search warrants for a warrant to enter the premises and to search for and seize evidence of the cause of a death, including a dead human body.

(2) The application for a search warrant must:

(a) state facts sufficient to show probable cause that a human body or evidence of the circumstances of death is present in the place to be searched;

(b) particularly describe the place to be searched; and

(c) particularly describe the things to be seized.

(3) To preserve evidence of the cause of death, a coroner may:

(a) place under ~~his~~ *the coroner’s* custody and control any dwelling, building, item, vehicle, aircraft, railroad engine or train, vessel, enclosure, or open area for a period of not more than 10 days; and

(b) forbid entrance by an unauthorized person into any area specified in subsection (3)(a).

(4) A person may not enter an area that is restricted pursuant to subsection (3) without the permission of the coroner or the law enforcement agency having jurisdiction if there is also a criminal investigation in progress.”

Section 1732. Section 46-4-113, MCA, is amended to read:

“46-4-113. Examinations and tests. The coroner may direct a properly qualified expert to conduct any test or examination that ~~he~~ *the coroner* reasonably believes is necessary to determine the cause, manner, and circumstances of a death or to identify a dead human body. The coroner may also require examination by the next of kin or any other person when necessary to identify a dead human body.”

Section 1733. Section 46-4-202, MCA, is amended to read:

“46-4-202. Summoning and swearing in of jurors — instructions. (1) ~~For~~ *When* holding an inquest, the coroner shall summon a jury of at least 6 but not more than 12 persons qualified by law to serve as jurors and selected at random from a list of eligible jurors that is furnished to the coroner annually by the county clerk of court.

(2) The jury selected by the coroner must be sworn by the coroner to inquire who the person was and when, where, and by what means ~~he came to his death~~ *the person died* and into the circumstances attending ~~his~~ *the person’s* death and to render a true verdict on the death according to the evidence offered to them or arising from the inspection of the body.

(3) The coroner shall instruct the jurors as to their duties.”

Section 1734. Section 46-4-205, MCA, is amended to read:

“46-4-205. Verdict of jury — form. The jury may view the body, and the county attorney may require the jury to view the body. The jury shall review the death scene and may do so by videotape, photographs, or slide transparencies. After viewing the body and the death scene and hearing the testimony, the jury

shall render its verdict, which must be by majority vote, and certify the ~~same~~ *the verdict* in writing signed by each juror. The verdict must set forth:

- (1) who the deceased person is;
- (2) when and where ~~he the deceased came to his death~~ *died*;
- (3) if ~~he the deceased came to his death~~ *died* by criminal means; and
- (4) if ~~he the deceased~~ *was killed or his the deceased's* death was occasioned by the act of another by criminal means, who committed the act, if known. If the jury finds that the death was not by criminal means, that fact must be stated on the verdict form."

Section 1735. Section 46-4-207, MCA, is amended to read:

"46-4-207. Coroner's register. The county coroner shall keep an official register, in which ~~he must~~ *the coroner shall* enter the date of holding all inquests, the cause and circumstances of death, if known, and the name of the deceased, when known, and, when not, ~~such a~~ description of the deceased ~~as that~~ may be sufficient for identification."

Section 1736. Section 46-6-412, MCA, is amended to read:

"46-6-412. Arrest by officer of the United States customs service or immigration and naturalization service. An officer of the United States customs service or immigration and naturalization service may make an arrest without a warrant if the officer is on duty and one or more of the following situations exist:

- (1) A person commits or attempts to commit an offense in the officer's presence.
- (2) The officer believes on reasonable grounds that the person is committing an offense or that the person committed an offense and the circumstances require ~~his the person's~~ immediate arrest.
- (3) The officer believes on reasonable grounds that a warrant for the person's arrest has been issued in this state.
- (4) The officer believes on reasonable grounds that a felony warrant for the person's arrest has been issued in another jurisdiction."

Section 1737. Section 46-7-101, MCA, is amended to read:

"46-7-101. Appearance of arrested person — use of two-way electronic audio-video communication. (1) A person arrested, whether with or without a warrant, must be taken without unnecessary delay before the nearest and most accessible judge for an initial appearance.

(2) A defendant's initial appearance before a judge may, in the discretion of the court, be satisfied either by the defendant's physical appearance before the court or by two-way electronic audio-video communication. The audio-video communication must operate so that the defendant and the judge can see each other simultaneously and converse with each other and so that the defendant and ~~his the defendant's~~ counsel, if any, can communicate privately. A judge may order a defendant's physical appearance in court for an initial appearance hearing."

Section 1738. Section 46-9-111, MCA, is amended to read:

"46-9-111. Release on own recognizance. Any person in custody, if otherwise eligible for bail, may be released on ~~his the person's~~ personal recognizance subject to ~~such~~ conditions ~~as that~~ the court may reasonably prescribe to ~~assure his~~ *ensure the person's* appearance when required. Any

person released as herein provided shall in this section must be fully apprised by the court of the penalty provided for failure to comply with the terms of his the person's recognizance."

Section 1739. Section 46-9-203, MCA, is amended to read:

"46-9-203. Report to county attorney concerning drug users. A city judge, judge of a municipal court, or justice of the peace shall report immediately to the county attorney of the county wherein his in which the judge's or justice's court is located any knowledge or information acquired by him the judge or justice in a trial of a cause or hearing before him the judge or justice, which knowledge or information that shows or tends to show that any person is a drug user or drug addict. If such the person is under arrest or liberated on bail at the time the knowledge or information is acquired, such the person may not be liberated, if under arrest, or the bail discharged by the judge or justice of the peace until the report is made to the county attorney."

Section 1740. Section 46-9-206, MCA, is amended to read:

"46-9-206. Setting bail — appearance or use of two-way electronic audio-video communication. The requirement that a defendant be taken before a judge for setting of bail may, in the discretion of the court, be satisfied either by the defendant's physical appearance before the court or by two-way electronic audio-video communication. The audio-video communication must operate so that the defendant and the judge can see each other simultaneously and converse with each other, so that the defendant and his the defendant's counsel, if any, can communicate privately, and so that the defendant and his the defendant's counsel are both physically present in the same place during the two-way electronic audio-video communication. The defendant may waive the requirement that his the defendant's counsel be in the defendant's physical presence during the two-way electronic audio-video communication. A judge may order a defendant's physical appearance in court for the hearing of an application for admission to bail."

Section 1741. Section 46-9-301, MCA, is amended to read:

"46-9-301. Determining the amount of bail. In all cases that in which bail is determined to be necessary, bail must be reasonable in amount and the amount shall must be:

- (1) sufficient to ensure the presence of the defendant in a pending criminal proceeding;
- (2) sufficient to assure ensure compliance with the conditions set forth in the bail;
- (3) sufficient to protect any person from bodily injury;
- (4) not oppressive;
- (5) commensurate with the nature of the offense charged;
- (6) considerate of the financial ability of the accused;
- (7) considerate of the defendant's prior record;
- (8) considerate of the length of time the defendant has resided in the community and of his the defendant's ties to the community;
- (9) considerate of the defendant's family relationships and ties;
- (10) considerate of the defendant's employment status; and
- (11) sufficient to include the charge imposed in 46-18-236."

Section 1742. Section 46-9-502, MCA, is amended to read:

“46-9-502. Conditions performed — bail discharged. When the conditions of bail have been performed and the accused has been discharged from ~~his~~ *the accused’s* obligations in the cause, the court shall return to ~~him~~ *the accused* or ~~his~~ *the accused’s* sureties the deposit of any cash, stocks, or bonds. If the bail is real estate, the court shall notify in writing the county clerk and recorder and the lien of the bail bond on the real estate ~~shall~~ *must* be discharged. If the bail is a written undertaking or a commercial surety bond, it ~~shall~~ *must* be discharged and the sureties exonerated.”

Section 1743. Section 46-11-301, MCA, is amended to read:

“46-11-301. Summoning grand jury. (1) A grand jury may only be drawn and summoned when the district judge, in ~~his~~ *the judge’s* discretion, considers a grand jury to be in the public interest and orders the grand jury to be drawn or summoned. The composition and drawing of a grand jury must be in accordance with the provisions of Title 3, chapter 15, part 6.

(2) The district judge may direct the selection of one or more alternate jurors, who shall sit as regular jurors before an indictment is found or a grand jury investigation is concluded. A member of the jury who becomes unable to perform the juror’s duty may be replaced by an alternate.”

Section 1744. Section 46-11-303, MCA, is amended to read:

“46-11-303. Foreman Lead juror. The district court shall appoint one of the jurors to be ~~foreman~~ *lead juror*. The ~~foreman~~ *lead juror* has the power to administer oaths or affirmations and shall sign all indictments. The ~~foreman~~ *lead juror* or another juror designated by the ~~foreman~~ *lead juror* shall keep a record of the number of jurors concurring in the finding of every indictment and shall file the record with the clerk of court, but the record may not be made public except on order of the district court.”

Section 1745. Section 46-11-313, MCA, is amended to read:

“46-11-313. Subpoena of witnesses. (1) A subpoena requiring the attendance of a witness before the grand jury may be signed and issued by the county attorney, by the ~~foreman~~ *lead juror* of the grand jury, or by the judge of the district court.

(2) The fees and mileage of witnesses subpoenaed pursuant to this section must be the same as those for witnesses in criminal actions.

(3) All provisions relating to subpoenas in criminal actions apply to subpoenas issued pursuant to this section, including the provisions of Title 46, chapter 15, part 1.”

Section 1746. Section 46-11-331, MCA, is amended to read:

“46-11-331. Finding an indictment. (1) The grand jury shall find an indictment when all the evidence before it taken together would in its judgment warrant a conviction by a trial jury. An indictment may be found only upon the concurrence of at least eight grand jurors.

(2) If a complaint or information is pending against the defendant and eight jurors do not concur in finding an indictment, the ~~foreman~~ *lead juror* shall report the decision to the district court judge.”

Section 1747. Section 46-11-332, MCA, is amended to read:

“46-11-332. Presenting the indictment. (1) An indictment, when found by the grand jury, must be signed by and presented by the ~~foreman~~ *lead juror* to the district court in the presence of the grand jury and must be filed with the

clerk. The district court shall then issue an arrest warrant or summons for the defendant.

(2) If a complaint or information is pending against the defendant and eight jurors do not concur in finding an indictment, the ~~foreman~~ *lead juror* shall report the decision to the district court judge.”

Section 1748. Section 46-11-401, MCA, is amended to read:

“46-11-401. Form of charge. (1) The charge must be in writing and in the name of the state or the appropriate county or municipality and must specify the court in which the charge is filed. The charge must be a plain, concise, and definite statement of the offense charged, including the name of the offense, whether the offense is a misdemeanor or felony, the name of the person charged, and the time and place of the offense as definitely as can be determined. The charge must state for each count the official or customary citation of the statute, rule, regulation, or other provision of law that the defendant is alleged to have violated.

(2) If the charge is by information or indictment, it must include endorsed on the information or indictment the names of the witnesses for the prosecution, if known.

(3) If the charge is by complaint, it must be signed by a sworn peace officer, under oath by a person having knowledge of the facts, or by the prosecutor.

(4) If the charge is by information, it must be signed by the prosecutor. If the charge is by indictment, it must be signed by the ~~foreman~~ *lead juror* of the grand jury.

(5) The court, on motion of the defendant, may strike surplusage from an indictment or information.

(6) A charge may not be dismissed because of a formal defect that does not tend to prejudice a substantial right of the defendant.”

Section 1749. Section 46-12-104, MCA, is amended to read:

“46-12-104. Bringing defendant into court. The court may direct any official who has custody of the defendant to bring ~~him~~ *the defendant* before the court to be arraigned.”

Section 1750. Section 46-12-203, MCA, is amended to read:

“46-12-203. Time allowed to answer. If on the arraignment the defendant requires it, ~~he~~ *the defendant* must be allowed a reasonable time, not less than 1 day, to answer or otherwise plead to the indictment, information, or complaint. The answer may include appropriate pretrial motions.”

Section 1751. Section 46-16-603, MCA, is amended to read:

“46-16-603. Form of verdict. (1) The jury shall return a verdict as instructed by the court. The verdict must be unanimous in all criminal actions. The verdict must be signed by the ~~foreman~~ *lead juror* and returned by the jury to the judge in open court.

(2) If there are two or more defendants, the jury, at any time during its deliberations, may return a verdict or verdicts with respect to a defendant or defendants as to whom it has agreed. If the jury cannot agree with respect to all, the defendant or defendants as to whom it does not agree may be tried again.”

Section 1752. Section 46-16-606, MCA, is amended to read:

“46-16-606. Reasonable doubt as to which offense convicts only of least offense. When it appears beyond a reasonable doubt that the defendant

has committed an offense but there is reasonable doubt as to whether ~~he~~ *the defendant* is guilty of a given offense or one or more lesser included offenses, ~~he~~ *the defendant* may only be convicted of the greatest included offense about which there is no reasonable doubt.”

Section 1753. Section 46-17-302, MCA, is amended to read:

“46-17-302. Execution of judgment. (1) The judgment must be executed by the sheriff, constable, marshal, or ~~police~~ *police officer* of the jurisdiction in which the conviction was had.

(2) When a judgment of imprisonment is entered, a certified copy ~~thereof~~ *of the judgment* must be delivered to the sheriff or other officer, which is a sufficient warrant for its execution.

(3) If a judgment is rendered imposing a fine only without imprisonment for nonpayment and the defendant is not detained for any other legal cause, ~~he~~ *the defendant* must be discharged as soon as the judgment is given.

(4) A judgment that the defendant pay a fine may also direct that ~~he~~ *the defendant* be imprisoned until the fine ~~be~~ *is* satisfied in the proportion of 1 day’s imprisonment for every \$25 of the fine. When the judgment is rendered, the defendant must be held in custody the time specified in the judgment unless the fine is paid.

(5) Any officer charged with the collection of fines under the provisions of this chapter ~~must~~ *shall* return the execution to the judge within 30 days from its delivery to ~~him~~ *the officer* and pay over to the judge the money collected, deducting ~~his~~ *the officer’s* fees for the collection.”

Section 1754. Section 46-18-232, MCA, is amended to read:

“46-18-232. Payment of costs by defendant. (1) A court may require a convicted defendant in a felony or misdemeanor case to pay costs, as defined in 25-10-201, plus costs of jury service as a part of ~~his~~ *the* sentence. ~~Such~~ *The* costs ~~shall~~ *must* be limited to expenses specifically incurred by the prosecution in connection with the proceedings against the defendant.

(2) The court may not sentence a defendant to pay costs unless the defendant is or will be able to pay them. In determining the amount and method of payment of costs, the court shall take into account the financial resources of the defendant and the nature of the burden that payment of costs will impose.

(3) A defendant who has been sentenced to pay costs and who is not in default in the payment ~~thereof~~ may at any time petition the court that sentenced ~~him~~ *the defendant* for remission of the payment of costs or of any unpaid portion ~~thereof~~ *of the costs*. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or ~~his~~ *the defendant’s* immediate family, the court may remit all or part of the amount due in costs or modify the method of payment.”

Section 1755. Section 46-18-233, MCA, is amended to read:

“46-18-233. Fine or costs as a condition on suspended or deferred sentence. (1) Whenever a defendant is sentenced to pay a fine or costs under 46-18-231 or 46-18-232 and the imposition or execution of the rest of ~~his~~ *the defendant’s* sentence is deferred or suspended, the court may make payment of the fine or costs a condition for probation.

(2) A suspended or deferred sentence may not be revoked if the defendant defaults on the payment of the fine and the default is not attributable to an

intentional refusal to obey the order of the court or a failure to make a good faith effort to make the payment.”

Section 1756. Section 46-18-702, MCA, is amended to read:

“46-18-702. Disposition of prisoner’s earnings. The earnings of the prisoner ~~shall~~ *must* be collected by the sheriff. From ~~such~~ *those* earnings, the sheriff shall pay the prisoner’s board and personal expenses both inside and outside the jail and, to the extent directed by the court, pay the support of ~~his~~ *the* prisoner’s dependents, if any. Any balance ~~shall~~ *must* be retained until ~~his~~ *the* prisoner’s discharge.”

Section 1757. Section 46-18-703, MCA, is amended to read:

“46-18-703. Transfer to another county. The court may by order authorize the sheriff of the sentencing county to arrange with a sheriff of any other county within the state of Montana to have the convicted person transferred to the other county where it appears the convicted person can continue ~~his~~ *the person’s* regular employment in the latter county. When ~~such~~ *the* transfer has been made to another county, the sheriff of the sentencing county shall still collect all ~~moneys~~ *money* earned by the convicted person and shall dispose of ~~said moneys~~ *the money* as provided by 46-18-702.”

Section 1758. Section 46-18-705, MCA, is amended to read:

“46-18-705. Effect of violation of conditions. In cases ~~where~~ *in which* the convicted person violates the conditions of ~~said~~ *a* sentence, ~~he~~ *shall* ~~the~~ *the person* *must* be returned to the court. The court may then require that the balance of ~~his~~ *the person’s* sentence be spent in full confinement, and further, the court may cancel any diminution of sentence granted under this part.”

Section 1759. Section 46-19-203, MCA, is amended to read:

“46-19-203. Procedure for determining if woman is pregnant. If there is good reason to suppose *that* a woman against whom a judgment of death is rendered is pregnant, the sheriff of the county, with the concurrence of the judge of the court by which the judgment was rendered, ~~must~~ *shall* summon a jury of three physicians to inquire into the supposed pregnancy. Immediate notice of this inquiry must be given to the county attorney of the county who must attend the inquiry and may produce ~~his own~~ *his own* witnesses.”

Section 1760. Section 46-19-204, MCA, is amended to read:

“46-19-204. Proceedings following determination regarding pregnancy. If it is found by the inquiry *referred to in 46-19-203* that the woman is not pregnant, the warden of the Montana state prison shall execute the judgment. If it is found that the woman is pregnant, the warden shall suspend the execution of judgment and transmit the inquisition to the governor. When the governor is satisfied that the woman is no longer pregnant, ~~he~~ *the governor* may issue a death warrant appointing a day for the execution of the judgment. The warrant must recite the conviction, the judgment, the method of execution, that execution of judgment was suspended due to pregnancy, that the governor is satisfied that the woman is no longer pregnant, the appointed date for the execution, and the duration of the warrant.”

Section 1761. Section 46-19-301, MCA, is amended to read:

“46-19-301. Western Interstate Corrections Compact — contents. The Western Interstate Corrections Compact as contained herein is hereby enacted into law and entered into on behalf of this state with any and all other states legally joining therein in a form substantially as follows:

WESTERN INTERSTATE CORRECTIONS COMPACT

Article I. Purpose and Policy

The party states, desiring by common action to improve their institutional facilities and provide programs of sufficiently high quality for the confinement, treatment, and rehabilitation of various types of offenders, declare that it is the policy of each of the party states to provide such facilities and programs on the basis of cooperation with one another, thereby serving the best interests of such offenders and of society. The purpose of this compact is to provide for the development and execution of such programs of cooperation for the confinement, treatment, and rehabilitation of offenders.

Article II. Definitions

As used in this compact, unless the context clearly requires otherwise:

(1) "state" means a state of the United States or, subject to the limitation contained in Article VII, Guam;

(2) "sending state" means a state party to this compact in which conviction was had;

(3) "receiving state" means a state party to this compact to which an inmate is sent for confinement other than a state in which conviction was had;

(4) "inmate" means a male or female offender who is under sentence to or confined in a prison or other correctional institution;

(5) "institution" means any prison, reformatory, or other correctional facility (including but not limited to a facility for the mentally ill or mentally defective) in which inmates may lawfully be confined.

Article III. Contracts

(1) Each party state may make one or more contracts with any one or more of the other party states for the confinement of inmates on behalf of a sending state in institutions situated within receiving states. Any such contract shall provide for:

(a) its duration;

(b) payments to be made to the receiving state by the sending state for inmate maintenance, extraordinary medical and dental expenses, and any participation in or receipt by inmates of rehabilitative or correctional services, facilities, programs, or treatment not reasonably included as part of normal maintenance;

(c) participation in programs of inmate employment, if any; the disposition or crediting of any payments received by inmates on account thereof; and the crediting of proceeds from or disposal of any products resulting therefrom;

(d) delivery and retaking of inmates;

(e) such other matters as may be necessary and appropriate to fix the obligations, responsibilities, and rights of the sending and receiving states.

(2) Prior to the construction or completion of construction of any institution or addition thereto by a party state, any other party state or states may contract therewith for the enlargement of the planned capacity of the institution or addition thereto, or for the inclusion therein of particular equipment or structures, and for the reservation of a specific ~~per centum~~ *percent* of the capacity of the institution to be kept available for use by inmates of the sending state or states so contracting. Any sending state so contracting may, to the extent that moneys are legally available therefor, pay to the receiving state a

reasonable sum as consideration for such enlargement of capacity or provision of equipment or structures and reservation of capacity. Such payment may be in a lump sum or in installments as provided in the contract.

(3) The terms and provisions of this compact shall be a part of any contract entered into by the authority of or pursuant thereto, and nothing in any such contract shall be inconsistent therewith.

Article IV. Procedures and Rights

(1) Whenever the duly constituted judicial or administrative authorities in a state party to this compact, and which has entered into a contract pursuant to Article III, shall decide that confinement in or transfer of an inmate to an institution within the territory of another party state is necessary in order to provide adequate quarters and care or desirable in order to provide an appropriate program of rehabilitation or treatment, said officials may direct that the confinement be within an institution within the territory of said other party state, the receiving state to act in that regard solely as agent for the sending state.

(2) The appropriate officials of any state party to this compact shall have access at all reasonable times to any institution in which it has a contractual right to confine inmates for the purpose of inspecting the facilities thereof and visiting such of its inmates as may be confined in the institution.

(3) Inmates confined in an institution pursuant to the terms of this compact shall at all times be subject to the jurisdiction of the sending state and may at any time be removed therefrom for transfer to a prison or other institution within the sending state, for transfer to another institution in which the sending state may have a contractual or other right to confine inmates, for release on probation or parole, for discharge, or for any other purpose permitted by the laws of the sending state; provided that the sending state shall continue to be obligated to such payments as may be required pursuant to the terms of any contract entered into under the terms of Article III.

(4) Each receiving state shall provide regular reports to each sending state on the inmates of that sending state in institutions pursuant to this compact including a conduct record of each inmate and certify said record to the official designated by the sending state in order that each inmate may have the benefit of ~~his or her~~ *the inmate's* record in determining and altering the disposition of said inmate in accordance with the law which may obtain in the sending state and in order that the same may be a source of information for the sending state.

(5) All inmates who may be confined in an institution pursuant to the provisions of this compact shall be treated in a reasonable and humane manner and shall be cared for and treated equally with such similar inmates of the receiving state as may be confined in the same institution. The fact of confinement in a receiving state shall not deprive any inmate so confined of any legal rights which said inmate would have had if confined in an appropriate institution of the sending state.

(6) Any hearing or hearings to which an inmate confined pursuant to this compact may be entitled by the laws of the sending state may be had before the appropriate authorities of the sending state or of the receiving state if authorized by the sending state. The receiving state shall provide adequate facilities for such hearings as may be conducted by the appropriate officials of a sending state. In the event such hearing or hearings are had before officials of the receiving state, the governing law shall be that of the sending state and a record of the hearing or hearings as prescribed by the sending state shall be

made. Said record together with any recommendations of the hearing officials shall be transmitted forthwith to the official or officials before whom the hearing would have been had if it had taken place in the sending state. In any and all proceedings had pursuant to the provisions of this subdivision, the officials of the receiving state shall act solely as agents of the sending state and no final determination shall be made in any matter except by the appropriate officials of the sending state. Costs of records made pursuant to this subsection shall be borne by the sending state.

(7) Any inmate confined pursuant to this compact shall be released within the territory of the sending state unless the inmate and the sending and receiving states shall agree upon release in some other place. The sending state shall bear the cost of such return to its territory.

(8) Any inmate confined pursuant to the terms of this compact shall have any and all rights to participate in and derive any benefits, incur or be relieved of any obligations, or have such obligations modified or ~~his~~ *the inmate's* status changed on account of any action or proceeding in which ~~he~~ *the inmate* could have participated if confined in any appropriate institution of the sending state located within such state.

(9) The parent, guardian, trustee, or other person or persons entitled under the laws of the sending state to act for, advise, or otherwise function with respect to any inmate shall not be deprived of or restricted in ~~his~~ *the person's* exercise of any power in respect of any inmate confined pursuant to the terms of this compact.

Article V. Acts Not Reviewable in Receiving State — Extradition

(1) Any decision of the sending state in respect of any matter over which it retains jurisdiction pursuant to this compact shall be conclusive upon and not reviewable within the receiving state, but if at the time the sending state seeks to remove an inmate from an institution in the receiving state there is pending against the inmate within such state any criminal charge or if the inmate is suspected of having committed within such state a criminal offense, the inmate shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment, or detention for such offense. The duly accredited officers of the sending state shall be permitted to transport inmates pursuant to this compact through any and all states party to this compact without interference.

(2) An inmate who escapes from an institution in which ~~he~~ *the inmate* is confined pursuant to this compact shall be deemed a fugitive from the sending state and from the state in which the institution is situated. In the case of an escape to a jurisdiction other than the sending or receiving state, the responsibility for institution of extradition proceedings shall be that of the sending state, but nothing contained herein shall be construed to prevent or affect the activities of officers and agencies of any jurisdiction directed toward the apprehension and return of an escapee.

Article VI. Federal Aid

Any state party to this compact may accept federal aid for use in connection with any institution or program, the use of which is or may be affected by this compact or any contract pursuant hereto, and any inmate in a receiving state pursuant to this compact may participate in any such federally aided program or activity for which the sending and receiving states have made contractual provision, provided that, if such program or activity is not part of the customary

correctional regimen, the express consent of the appropriate official of the sending state shall be required therefor.

Article VII. Entry into Force

This compact shall enter into force and become effective and binding upon the states so acting when it has been enacted into law by any two contiguous states from among the states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nebraska, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming. For the purposes of this article, Alaska and Hawaii shall be deemed contiguous to each other; to any and all of the states of California, Oregon, and Washington; and to Guam. Thereafter, this compact shall enter into force and become effective and binding as to any other of said states or any other state contiguous to at least one party state upon similar action by such state. Guam may become party to this compact by taking action similar to that provided for joinder by any other eligible party state and upon the consent of congress to such joinder. For the purposes of this article, Guam shall be deemed contiguous to Alaska, Hawaii, California, Oregon, and Washington.

Article VIII. Withdrawal and Termination

This compact shall continue in force and remain binding upon a party state until it shall have enacted a statute repealing the same and providing for the sending of formal written notice of withdrawal from the compact to the appropriate officials of all other party states. An actual withdrawal shall not take effect until 2 years after the notices provided in said statute have been sent. Such withdrawal shall not relieve the withdrawing state from its obligations assumed hereunder prior to the effective date of withdrawal. Before the effective date of withdrawal, a withdrawing state shall remove to its territory, at its own expense, such inmates as it may have confined pursuant to the provisions of this compact.

Article IX. Other Arrangements Unaffected

Nothing contained in this compact shall be construed to abrogate or impair any agreement or other arrangement which a party state may have with a nonparty state for the confinement, rehabilitation, or treatment of inmates or to repeal any other laws of a party state authorizing the making of cooperative institutional arrangements.

Article X. Construction and Severability

The provisions of this compact shall be liberally construed and shall be severable. If any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.”

Section 1762. Section 46-19-401, MCA, is amended to read:

“46-19-401. Compact adopted — text. The Interstate Corrections Compact is entered into by this state with any and all other states legally joining therein in the form substantially as follows:

INTERSTATE CORRECTIONS COMPACT

Article I. Purpose and Policy

The party states, desiring by common action to fully utilize and improve their institutional facilities and provide adequate programs for the confinement, treatment and rehabilitation of various types of offenders, declare that it is the policy of each of the party states to provide such facilities and programs on a basis of cooperation with one another, thereby serving the best interests of such offenders and of society and effecting economies in capital expenditures and operational costs. The purpose of this compact is to provide for the mutual development and execution of such programs of cooperation for the confinement, treatment and rehabilitation of offenders with the most economical use of human and material resources.

Article II. Definitions

As used in this compact, unless the context requires otherwise:

(a) "State" means a state of the United States; the United States of America; a territory or possession of the United States; the District of Columbia; the Commonwealth of Puerto Rico.

(b) "Sending state" means a state party to this compact in which conviction or court commitment was had.

(c) "Receiving state" means a state party to this compact to which an inmate is sent for confinement other than a state in which conviction or court commitment was had.

(d) "Inmate" means a male or female offender who is committed under sentence to or confined in a penal or correctional institution.

(e) "Institution" means any penal or correctional facility, including but not limited to a facility for the mentally ill or mentally defective, in which inmates may lawfully be confined.

Article III. Contracts

(a) Each party state may make one or more contracts with any one or more of the other party states for the confinement of inmates on behalf of a sending state in institutions situated within receiving states. Any such contract shall provide for:

1. Its duration.

2. Payments to be made to the receiving state by the sending state for inmate maintenance, extraordinary medical and dental expenses, and any participation in or receipt by inmates of rehabilitative or correctional services, facilities, programs or treatment not reasonably included as part of normal maintenance.

3. Participation in programs of inmate employment, if any; the disposition or crediting of any payments received by inmates on account thereof; and the crediting of proceeds from or disposal of any products resulting therefrom.

4. Delivery and retaking of inmates.

5. Such other matters as may be necessary and appropriate to fix the obligations, responsibilities and rights of the sending and receiving states.

(b) The terms and provisions of this compact shall be a part of any contract entered into by the authority of or pursuant thereto, and nothing in any such contract shall be inconsistent therewith.

Article IV. Procedures and Rights

(a) Whenever the duly constituted authorities in a state party to this compact, and which has entered into a contract pursuant to Article III, shall decide that confinement in, or transfer of an inmate to, an institution within the territory of another party state is necessary or desirable in order to provide adequate quarters and care or an appropriate program of rehabilitation or treatment, said officials may direct that the confinement be within an institution within the territory of said other party state, the receiving state to act in that regard solely as agent for the sending state.

(b) The appropriate officials of any state party to this compact shall have access, at all reasonable times, to any institution in which it has a contractual right to confine inmates for the purpose of inspecting the facilities thereof and visiting such of its inmates as may be confined in the institution.

(c) Inmates confined in an institution pursuant to the terms of this compact shall at all times be subject to the jurisdiction of the sending state and may at any time be removed therefrom for transfer to a prison or other institution within the sending state. For transfer to another institution in which the sending state may have a contractual or other right to confine inmates, for release on probation or parole, for discharge, or for any other purpose permitted by the laws of the sending state; provided that the sending state shall continue to be obligated to such payments as may be required pursuant to the terms of any contract entered into under the terms of Article III.

(d) Each receiving state shall provide regular reports to each sending state on the inmates of that sending state in institutions pursuant to this compact including a conduct record of each inmate and certify said record to the official designated by the sending state, in order that each inmate may have official review of ~~his or her~~ *the inmate's* record in determining and altering the disposition of said inmate in accordance with the law which may obtain in the sending state and in order that the same may be a source of information for the sending state.

(e) All inmates who may be confined in an institution pursuant to the provisions of this compact shall be treated in a reasonable and humane manner and shall be treated equally with such similar inmates of the receiving state as may be confined in the same institution. The fact of confinement in a receiving state shall not deprive any inmate so confined of any legal rights which said inmate would have had if confined in an appropriate institution of the sending state.

(f) Any hearing or hearings to which an inmate confined pursuant to this compact may be entitled by the laws of the sending state may be had before the appropriate authorities of the sending state, or of the receiving state if authorized by the sending state. The receiving state shall provide adequate facilities for such hearings as may be conducted by the appropriate officials of a sending state. In the event such hearing or hearings are had before officials of the receiving state, the governing law shall be that of the sending state and a record of the hearing or hearings as prescribed by the sending state shall be made. Said record together with any recommendations of the hearing officials shall be transmitted forthwith to the official or officials before whom the hearing would have been had if it had taken place in the sending state. In any and all proceedings had pursuant to the provisions of this subsection, the officials of the receiving state shall act solely as agents of the sending state and no final

determination shall be made in any matter except by the appropriate officials of the sending state.

(g) Any inmate confined pursuant to this compact shall be released within the territory of the sending state unless the inmate, and the sending and receiving states, shall agree upon release in some other place. The sending state shall bear the cost of such return to its territory.

(h) Any inmate confined pursuant to the terms of this compact shall have any and all rights to participate in and derive any benefits or incur or be relieved of any obligations or have such obligations modified or ~~his~~ *the inmate's* status changed on account of any action or proceeding in which ~~he~~ *the inmate* could have participated if confined in any appropriate institution of the sending state located within such state.

(i) The parent, guardian, trustee, or other person or persons entitled under the laws of the sending state to act for, advise, or otherwise function with respect to any inmate shall not be deprived of or restricted in ~~his~~ *the inmate's* exercise of any power in respect of any inmate confined pursuant to the terms of this compact.

Article V. Acts Not Reviewable in Receiving State — Extradition

(a) Any decision of the sending state in respect of any matter over which it retains jurisdiction pursuant to this compact shall be conclusive upon and not reviewable within the receiving state, but if at the time the sending state seeks to remove an inmate from an institution in the receiving state there is pending against the inmate within such state any criminal charge or if the inmate is formally accused of having committed within such state a criminal offense, the inmate shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment or detention for such offense. The duly accredited officers of the sending state shall be permitted to transport inmates pursuant to this compact through any and all states party to this compact without interference.

(b) An inmate who escapes from an institution in which ~~he~~ *the inmate* is confined pursuant to this compact shall be deemed a fugitive from the sending state and from the state in which the institution is situated. In the case of an escape to a jurisdiction other than the sending or receiving state, the responsibility for institution of extradition or rendition proceedings shall be that of the sending state, but nothing contained herein shall be construed to prevent or affect the activities of officers and agencies of any jurisdiction directed toward the apprehension and return of an escapee.

Article VI. Federal Aid

Any state party to this compact may accept federal aid for use in connection with any institution or program, the use of which is or may be affected by this compact or any contract pursuant hereto and any inmate in a receiving state pursuant to this compact may participate in any such federally aided program or activity for which the sending and receiving states have made contractual provision, provided that if such program or activity is not part of the customary correctional regimen, the express consent of the appropriate official of the sending state shall be required therefor.

Article VII. Entry Into Force

This compact shall enter into force and become effective and binding upon the states so acting when it has been enacted into law by any two states.

Thereafter, this compact shall enter into force and become effective and binding as to any other of said states upon similar action by such state.

Article VIII. Withdrawal and Termination

This compact shall continue in force and remain binding upon a party state until it shall have enacted a statute repealing the same and providing for the sending of formal written notice of withdrawal from the compact to the appropriate officials of all other party states. An actual withdrawal shall not take effect until one year after the notices provided in said statute have been sent. Such withdrawal shall not relieve the withdrawing state from its obligations assumed hereunder prior to the effective date of withdrawal. Before the effective date of withdrawal, a withdrawing state shall remove to its territory, at its own expense, such inmates as it may have confined pursuant to the provisions of this compact.

Article IX. Other Arrangements Unaffected

Nothing contained in this compact shall be construed to abrogate or impair any agreement or other arrangement which a party state may have with a nonparty state for the confinement, rehabilitation or treatment of inmates nor to repeal any other laws of a party state authorizing the making of cooperative institutional arrangements.

Article X. Construction and Severability

The provisions of this compact shall be liberally construed and shall be severable. If any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.”

Section 1763. Section 46-20-204, MCA, is amended to read:

“46-20-204. Stay of execution and relief pending appeal. (1) If an appeal is taken, a sentence of death ~~shall~~ *must* be stayed by order of the trial court until final order by the supreme court.

(2) If an appeal is taken and the defendant is admitted to bail, a sentence of imprisonment ~~shall~~ *must* be stayed by the trial court.

(3) If an appeal is taken, a sentence to pay a fine or a fine and costs ~~shall~~ *must* be stayed by the trial court or by the reviewing court.

(4) If an appeal is taken and the accused was admitted to probation, ~~he the~~ *accused* shall remain on probation or post bail.”

Section 1764. Section 46-20-707, MCA, is amended to read:

“46-20-707. Discharge of defendant on reversal of judgment. If a judgment against the defendant is reversed without ordering a new trial, the appellate court ~~must~~ *shall*:

(1) if ~~he the~~ *the defendant* is in custody, direct ~~him~~ *the defendant* to be discharged ~~therefrom~~ *from custody*;

(2) if ~~he the~~ *the defendant* is on bail, direct that ~~his~~ *the defendant's* bail be exonerated; or

(3) if money was deposited instead of bail, direct that it be refunded to the defendant.”

Section 1765. Section 46-22-103, MCA, is amended to read:

“46-22-103. Writ for purpose of bail. When a person is imprisoned or detained in custody on any criminal charge for want of bail, ~~such~~ *the* person is entitled to a writ of habeas corpus for the purpose of giving bail upon averring that fact in ~~his~~ *the person’s* petition, without alleging that ~~he~~ *the person* is illegally confined.”

Section 1766. Section 46-23-207, MCA, is amended to read:

“46-23-207. Penalty for disobedience. Any person who ~~shall~~ without just cause ~~fail~~ *fails* or ~~refuse~~ *refuses* to attend and testify, to answer any lawful inquiry, or to produce records, books, papers, and other documents if it is in ~~his~~ *the person’s* power to do so in obedience to a subpoena of the board or any member ~~thereof of the board~~ shall be punished by a fine of not more than \$200, ~~or~~ by imprisonment for not longer than 60 days, or by both ~~such fine and imprisonment~~. Each day ~~such that a violation continues shall be deemed is considered~~ to be a separate offense.”

Section 1767. Section 46-23-316, MCA, is amended to read:

“46-23-316. Governor’s report to legislature. The governor shall, as provided in 5-11-210, report to the legislature each case of remission of fine or forfeiture, respite, commutation, or pardon granted since the ~~last~~ previous report, stating the name of the convict, the crime of which ~~he~~ *the convict* was convicted, the sentence and its date, the date of remission, commutation, pardon, or respite, with the reason for granting the same, and the objection, if any, of any of the members of the board made ~~thereto to the action.~~”

Section 1768. Section 46-23-1022, MCA, is amended to read:

“46-23-1022. Parole services. (1) To assist parolees the department may, in addition to other services, provide the following:

- (a) employment counseling, job placement, and assistance in residential placement;
- (b) family and individual counseling and treatment placement;
- (c) financial counseling;
- (d) vocational and educational counseling and placement; and
- (e) referral services to any other state or local agencies.

(2) The department may purchase necessary services for a parolee if they are otherwise unavailable and the parolee is unable to pay for them. It may assess all or part of the costs of such services to a parolee in accordance with ~~his~~ *the parolee’s* ability to pay for them.”

Section 1769. Section 46-24-204, MCA, is amended to read:

“46-24-204. Scheduling changes. (1) As soon as practicable, the prosecuting attorney shall notify a victim or witness of any scheduling changes that may affect the appearance of the victim or witness at a criminal justice proceeding that ~~he~~ *the victim or witness* is scheduled to attend.

(2) For the purpose of providing notification, the prosecuting attorney shall have available a system for promptly alerting a victim or witness that a scheduling change has been made.”

Section 1770. Section 46-30-101, MCA, is amended to read:

“46-30-101. Definitions. ~~Where appearing~~ *As used* in this chapter, the term:

(1) “executive authority” includes the governor and any person performing the functions of governor in a state other than this state or the ~~chairman~~ *presiding officer* of a recognized Indian tribe within the state of Montana;

(2) “governor” includes any person performing the functions of governor by authority of the law of this state;

(3) “state”, referring to a state other than this state, includes any other state or territory, organized or unorganized, of the United States of America or an Indian reservation within the state of Montana.”

Section 1771. Section 46-30-202, MCA, is amended to read:

“46-30-202. Prosecution pending in this state at time of requisition.

If a criminal prosecution has been instituted against ~~such a~~ person under the laws of this state and is still pending, the governor, ~~in his discretion, either~~ may surrender ~~him~~ *the person* on demand of the executive authority of another state or hold ~~him~~ *the person* until ~~he~~ *the person* has been tried and discharged or convicted and punished in this state.”

Section 1772. Section 46-30-211, MCA, is amended to read:

“46-30-211. Demand — form. (1) ~~No~~ A demand for the extradition of a person charged with a crime in another state ~~shall~~ *may not* be recognized by the governor unless *it is* in writing alleging that the accused was present in the demanding state at the time of the commission of the alleged crime and that ~~thereafter he~~ *after the crime the person* fled from the state, except in cases arising under 46-30-204, and accompanied by:

(a) a copy of an indictment found or information supported by *an* affidavit in the state having jurisdiction of the crime;

(b) a copy of an affidavit made before a magistrate ~~there in that state,~~ together with a copy of any warrant ~~which that~~ was issued ~~thereon~~; or

(c) a copy of a judgment of conviction or of a sentence imposed in execution ~~thereof of the judgment or sentence,~~ together with a statement by the executive authority of the demanding state that the person claimed has escaped from confinement or has broken the terms of ~~his~~ *the person's* bail, probation, or parole.

(2) The indictment, information, or affidavit made before the magistrate must substantially charge the person demanded with having committed a crime under the law of that state. The copy of the indictment, information, affidavit, judgment of conviction, or sentence must be authenticated by the executive authority making the demand.”

Section 1773. Section 46-30-212, MCA, is amended to read:

“46-30-212. Investigation by governor. When a demand ~~shall be~~ *is* made upon the governor of this state by the executive authority of another state for the surrender of a person ~~so~~ charged with crime, the governor may call upon the attorney general or any prosecuting officer in this state to investigate or assist in investigating the demand and to report to ~~him~~ *the governor* the situation and circumstances of the person ~~so~~ demanded and whether ~~he~~ *the person* ought to be surrendered.”

Section 1774. Section 46-30-213, MCA, is amended to read:

“46-30-213. Issuance of arrest warrant by governor. If the governor decides that the demand should be complied with, ~~he~~ *the governor* shall sign a

warrant of arrest, which ~~shall~~ *must* be sealed with the state seal and be directed to any peace officer or other person whom ~~he~~ *the governor* may think fit to entrust with the execution ~~thereof of the warrant~~. The warrant must substantially recite the facts necessary to the validity of its issuance.”

Section 1775. Section 46-30-214, MCA, is amended to read:

“46-30-214. Recall of warrant or alias warrant. The governor may recall ~~his~~ *the governor’s* warrant of arrest or may issue another warrant whenever ~~he~~ *deems the governor considers it proper.*”

Section 1776. Section 46-30-215, MCA, is amended to read:

“46-30-215. Execution of warrant. ~~Such~~ *The* warrant ~~shall~~ *must* authorize the peace officer or other person to whom *it is* directed to arrest the accused at any time and any place where ~~he~~ *the accused* may be found within the state, to command the aid of all peace officers or other persons in the execution of the warrant, and to deliver the accused, subject to the provisions of this chapter, to the duly authorized agent of the demanding state.”

Section 1777. Section 46-30-217, MCA, is amended to read:

“46-30-217. Rights of accused persons — habeas corpus. (1) ~~No~~ *A* person arrested upon ~~such~~ *a* warrant *pursuant to this chapter* may not be delivered over to the agent whom the executive authority demanding ~~him~~ *the person* has appointed to receive ~~him~~ *the person* unless ~~he~~ *the person* is first taken without delay before a judge of a court of record in this state, who shall inform ~~him~~ *the person* of the demand made for ~~his~~ *the person’s* surrender and of the crime with which ~~he~~ *the person* is charged and that ~~he~~ *the person* has the right to demand and procure legal counsel.

(2) If the prisoner or ~~his~~ *the prisoner’s* counsel states that ~~he~~ *the prisoner* or ~~they~~ *the prisoner and counsel* desire to test the legality of ~~his~~ *the prisoner’s* arrest, the judge of the court of record shall fix a reasonable time to be allowed ~~him~~ *the prisoner* within which to apply for a writ of habeas corpus. When the writ is applied for, notice ~~thereof of the writ~~ and of the time and place of hearing ~~thereon~~ *shall on the writ* must be given to the prosecuting officer of the county in which the arrest was made and in which the accused is in custody and to the agent of the demanding state.”

Section 1778. Section 46-30-218, MCA, is amended to read:

“46-30-218. Penalty for violating accused’s rights. ~~Any~~ *An* officer who ~~shall deliver~~ *delivers* to the agent for extradition of the demanding state a person in ~~his~~ custody under the governor’s warrant in willful disobedience of 46-30-217 shall be guilty of a misdemeanor and on conviction shall be fined not more than \$1,000 or be imprisoned not more than 6 months, or both.”

Section 1779. Section 46-30-225, MCA, is amended to read:

“46-30-225. Guilt or innocence of accused, when inquired into. The guilt or innocence of the accused as to the crime of which ~~he~~ *the accused* is charged may not be inquired into by the governor or in any proceeding after the demand for extradition provided for in 46-30-211 has been presented to the governor except as it may be involved in identifying the person held as the person charged with the crime.”

Section 1780. Section 46-30-226, MCA, is amended to read:

“46-30-226. Confinement of accused in jail on route. (1) The officer or persons executing the governor’s warrant of arrest or the agent of the demanding state to whom the prisoner may have been delivered may, when

necessary, confine the prisoner in the jail of any county or city through which ~~he~~ *the prisoner* may pass. The keeper of ~~such the~~ jail ~~must shall~~ receive and safely keep the prisoner until the officer or person having charge of ~~him~~ *the prisoner* is ready to proceed on ~~his the~~ route; ~~such~~ *However, the officer or person, however, being* is chargeable with the expense of keeping *the prisoner*.

(2) The officer or agent of a demanding state to whom a prisoner may have been delivered following extradition proceedings in another state or to whom a prisoner may have been delivered after waiving extradition in ~~such the~~ other state and who is passing through this state with ~~such a~~ prisoner for the purpose of immediately returning ~~such the~~ prisoner to the demanding state may, when necessary, confine the prisoner in the jail of any county or city through which ~~he~~ *the officer or agent* may pass. The keeper of ~~such the~~ jail ~~must shall~~ receive and safely keep the prisoner until the officer or agent having charge of ~~him~~ *the prisoner* is ready to proceed on ~~his the~~ route; ~~such~~ *However, the officer or agent, however, being* is chargeable with the expense of keeping; ~~provided, however the~~ *prisoner. However, that such the officer or agent shall produce and show to the keeper of such the jail satisfactory written evidence of the fact that he the officer or agent is actually transporting such the prisoner to the demanding state after a requisition by the executive authority of such the demanding state. Such The prisoner shall is not be entitled to demand a new requisition while in this state."*

Section 1781. Section 46-30-227, MCA, is amended to read:

"46-30-227. Arrest of accused before making of requisition. (1) A judge or magistrate of this state shall issue a warrant directed to any peace officer commanding the officer to apprehend the person named ~~therein in the~~ *warrant* wherever the person may be found in this state and to bring the person before the ~~same issuer~~ or any other judge, magistrate, or court ~~who or which that~~ may be available in or convenient of access to the place where the arrest is made to answer the charge or complaint and affidavit whenever:

(a) a person within this state is charged on the oath of a credible person before the judge or magistrate with the commission of a crime in another state and, except in cases arising under 46-30-204, with having fled from justice or with having been convicted of a crime in that state and having escaped from confinement or having broken the terms of ~~his the person's~~ bail, probation, or parole; or

(b) a complaint is made before the judge or magistrate setting forth on the affidavit of a credible person in another state that a crime has been committed in the other state and that the accused is believed to be in this state and has been charged in the other state with:

(i) the commission of the crime and, except in cases arising under 46-30-204, having fled from justice; or

(ii) having been convicted of a crime in that state and having escaped from bail, probation, or parole.

(2) A certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued ~~shall must~~ be attached to the warrant."

Section 1782. Section 46-30-228, MCA, is amended to read:

"46-30-228. Written waiver of extradition proceedings. (1) Any person of this state charged with having committed any crime in another state or alleged to have escaped from confinement or broken the terms of ~~his the person's~~ bail, probation, or parole may waive the issuance and service of the warrant provided for in 46-30-213 and 46-30-215 and all other procedures incidental to

extradition proceedings by executing or subscribing in the presence of a judge of any court of record within this state a writing which states that ~~he~~ *the person* consents to return to the demanding state. Before ~~such a~~ waiver ~~shall be~~ *is* executed or subscribed by ~~such~~ *the person*, it ~~shall be~~ *is* the duty of ~~such~~ *the* judge to inform ~~such~~ *the person* of ~~his~~ *the person's* rights to the issuance and service of a warrant of extradition and to obtain a writ of habeas corpus as provided for in 46-30-217.

(2) If and when ~~such~~ consent has been duly executed, it ~~shall forthwith~~ *must, without delay,* be forwarded to the office of the governor of this state and filed ~~therein in the governor's office.~~ The judge shall direct the officer having ~~such~~ *the person* in custody to deliver ~~forthwith~~ *such, without delay, the* person to the duly accredited agent or agents of the demanding state and shall deliver or cause to be delivered to ~~such~~ *the* agent or agents a copy of ~~such~~ *the* consent.

(3) ~~Nothing in this~~ *This section shall be deemed to does not* limit the rights of the accused person to return voluntarily and without formality to the demanding state, nor ~~shall~~ *may* this waiver procedure be ~~deemed~~ *considered* to be an exclusive procedure or to limit the powers, rights, or duties of the officers of the demanding state or of this state."

Section 1783. Section 46-30-229, MCA, is amended to read:

"46-30-229. Prior waiver of extradition. (1) A person who is alleged to have violated the terms of ~~his~~ *the person's* bail, probation, parole, or any other conditional release from another state and who is held in this state may be released to the duly authorized agent of that other state without the warrant provided for in 46-30-213 if the following has occurred:

(a) a district court in this state has held a hearing at which the state has presented:

(i) a certified copy of an agreement to waive extradition, signed by the person; or an order from the other state releasing the person on the condition that ~~he~~ *the person* waive extradition;

(ii) a certified copy of the warrant or order from the other state directing the return of the person for violating the terms of ~~his~~ *the person's* release; and

(iii) evidence that the person is the same person named in the warrant or order; and

(b) the district court has found that there is probable cause to believe that the person is the same person charged in the warrant or order. Whenever a district court makes this finding, it shall, except as provided in subsection (2), order that the person be remanded to custody and delivered to agents of the other state. The court shall also advise the person of ~~his~~ *the* right to contest the order by filing a writ of habeas corpus.

(2) If the person wishes to test the validity of the order issued pursuant to subsection (1)(b), the court shall fix a reasonable time for ~~him~~ *the person* to apply for a writ of habeas corpus before ~~he~~ *the person* may be released to agents from the other state."

Section 1784. Section 46-30-301, MCA, is amended to read:

"46-30-301. Arrest of accused without warrant. The arrest of a person may *also* be lawfully made ~~also~~ by any peace officer or a private person without a warrant upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term of 1 year or more. When arrested under this section, the accused must be taken before a judge or magistrate with all practicable speed and complaint must be

made against ~~him~~ *the accused* under oath setting forth the ground for the arrest as *provided* in 46-30-227. After the complaint is made, ~~his~~ *the accused's* answer must be heard as if ~~he~~ *the accused* had been arrested on a warrant."

Section 1785. Section 46-30-302, MCA, is amended to read:

"46-30-302. Commitment to await requisition. If from the examination before the judge or magistrate it appears that the person held is the person charged with having committed the crime alleged and, except in cases arising under 46-30-204, that ~~he~~ *the person* has fled from justice, the judge or magistrate ~~must~~ *shall* by a warrant reciting the accusation commit ~~him~~ *the person* to the county jail for ~~such~~ a time not exceeding 30 days and specified in the warrant ~~as~~ *that* will enable the arrest of the accused to be made under a warrant of the governor on a requisition of the executive authority of the state having jurisdiction of the offense; unless the accused ~~give~~ *posts* bail as provided in 46-30-303 or until ~~he~~ *shall be the accused is* legally discharged."

Section 1786. Section 46-30-303, MCA, is amended to read:

"46-30-303. Bail while awaiting requisition. Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, a judge or magistrate in this state may admit the person arrested to bail by bond or undertaking with sufficient sureties and in ~~such~~ a sum ~~as he deems that the judge or magistrate considers~~ proper, conditioned for ~~his~~ *the prisoner's* appearance before ~~him~~ *the judge or magistrate* at a time specified in ~~such~~ *the* bond or undertaking and for ~~his~~ *the prisoner's* surrender to be arrested upon the warrant of the governor of this state."

Section 1787. Section 46-30-304, MCA, is amended to read:

"46-30-304. Extension of time of commitment or bail. If the accused is not arrested under the warrant of the governor by the expiration of the time specified in the warrant, bond, or undertaking, a judge or magistrate may discharge ~~him~~ *the accused* or may recommit ~~him~~ *the accused* for a further period of 60 days or a supreme court justice or district court judge may again take bail for ~~his~~ *the accused's* appearance and surrender, as provided in 46-30-303, for a period not to exceed 60 days after the date of the new bond or undertaking."

Section 1788. Section 46-30-305, MCA, is amended to read:

"46-30-305. Forfeiture of bail. If the prisoner is admitted to bail and fails to appear and surrender ~~himself~~ according to the conditions of ~~his~~ *the prisoner's* bond, the judge or magistrate by proper order shall declare the bond forfeited and order ~~his~~ *the prisoner's* immediate arrest without warrant if ~~he~~ *be the prisoner is* within this state. Recovery may be had on ~~such~~ *the* bond in the name of the state as in the case of other bonds or undertakings given by the accused in criminal proceedings within this state."

Section 1789. Section 46-30-402, MCA, is amended to read:

"46-30-402. Requisition by governor. Whenever the governor of this state ~~shall demand~~ *demands* a person charged with crime or with escaping from confinement or breaking the terms of ~~his~~ *the person's* bail, probation, or parole in this state from the chief executive of any other state or from the chief justice or an associate justice of the supreme court of the District of Columbia authorized to receive ~~such~~ a demand under the laws of the United States, ~~he~~ *the governor* shall issue a warrant under the seal of this state to some agent commanding ~~him~~ *the agent* to receive the person ~~so~~ charged if delivered to ~~him~~ *the agent* and

convey ~~him~~ *the person* to the proper officer of the county in this state in which the offense was committed.”

Section 1790. Section 46-30-403, MCA, is amended to read:

“46-30-403. Extradition of persons held in another state. When it is desired to have returned to this state a person charged in this state with a crime and ~~such~~ *the person* is imprisoned or is held under criminal proceedings then pending against ~~him~~ *the person* in another state, the governor of this state may agree with the executive authority of ~~such~~ *the* other state for the extradition of ~~such~~ *the person* before the conclusion of ~~such~~ *the* proceedings or ~~his~~ *the person's* term of sentence in ~~such~~ *the* other state, upon condition that ~~such~~ *the person* be returned to ~~such~~ *the* other state at the expense of this state as soon as the prosecution in this state is terminated.”

Section 1791. Section 46-30-404, MCA, is amended to read:

“46-30-404. Immunity from service of civil process. A person brought into this state on or after waiver of extradition based on a criminal charge ~~shall~~ *is not be* subject to service of personal process in civil actions arising out of the same facts as the criminal proceeding ~~to answer which he~~ *that the person* is being or has been returned ~~to answer~~ until ~~he~~ *the person* has been convicted in the criminal proceedings or, if acquitted, until ~~he~~ *the person* has had reasonable opportunity to return to the state from which ~~he~~ *the person* was extradited.”

Section 1792. Section 46-30-405, MCA, is amended to read:

“46-30-405. No immunity from other criminal prosecutions. After a person has been brought back to this state by extradition proceedings, ~~he~~ *the person* may be tried in this state for other crimes ~~which he~~ *that the person* may be charged with having committed here as well as that specified in the requisition for ~~his~~ *the person's* extradition.”

Section 1793. Section 46-30-412, MCA, is amended to read:

“46-30-412. Restrictions on compensation for assisting return of fugitive. No compensation, fee, or reward of any kind may be paid to or received by a public officer of this state or other person for a service rendered in procuring from the governor the demand mentioned in 46-30-411(1), for the surrender of the fugitive, or for conveying ~~him~~ *the fugitive* to this state or detaining ~~him~~ *therein the fugitive in this state*; except as provided in 46-30-411.”

Section 1794. Section 46-31-101, MCA, is amended to read:

“46-31-101. Agreement on detainees — enactment and text. The agreement on detainees is hereby enacted into law and entered into by this state with all other jurisdictions legally joining therein in the form substantially as follows:

The contracting states solemnly agree that:

Article I

The party states find that charges outstanding against a prisoner, detainees based on untried indictments, informations, or complaints, and difficulties in securing speedy trial of persons already incarcerated in other jurisdictions produce uncertainties which obstruct programs of prisoner treatment and rehabilitation. Accordingly, it is the policy of the party states and the purpose of this agreement to encourage the expeditious and orderly disposition of such charges and determination of the proper status of any and all detainees based on untried indictments, informations, or complaints. The party states also find that proceedings with reference to such charges and detainees, when emanating

from another jurisdiction, cannot properly be had in the absence of cooperative procedures. It is the further purpose of this agreement to provide such cooperative procedures.

Article II

As used in this agreement:

(1) "state" shall mean a state of the United States, the United States of America, a territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico;

(2) "sending state" shall mean a state in which a prisoner is incarcerated at the time that ~~he~~ *the prisoner* initiates a request for final disposition pursuant to Article III hereof or at the time that a request for custody or availability is initiated pursuant to Article IV hereof;

(3) "receiving state" shall mean the state in which trial is to be had on an indictment, information, or complaint pursuant to Article III or Article IV hereof.

Article III

(1) Whenever a person has entered upon a term of imprisonment in a penal or correctional institution of a party state and whenever during the continuance of the term of imprisonment there is pending in any other party state any untried indictment, information, or complaint on the basis of which a detainer has been lodged against the prisoner, ~~he~~ *the prisoner* shall be brought to trial within 180 days after ~~he~~ *the prisoner* shall have caused to be delivered to the prosecuting officer and the appropriate court of the prosecuting officer's jurisdiction written notice of the place of ~~his~~ imprisonment and ~~his~~ *the prisoner's* request for a final disposition to be made of the indictment, information, or complaint; provided that for good cause shown in open court, the prisoner or ~~his~~ *the prisoner's* counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance. The request of the prisoner shall be accompanied by a certificate of the appropriate official having custody of the prisoner, stating the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner, and any decisions of the state parole agency relating to the prisoner.

(2) The written notice and request for final disposition referred to in subsection (1) hereof shall be given or sent by the prisoner to the warden, commissioner of corrections, or other official having custody of ~~him~~ *the prisoner*, who shall promptly forward it together with the certificate to the appropriate prosecuting official and court by registered or certified mail, return receipt requested.

(3) The warden, commissioner of corrections, or other official having custody of the prisoner shall promptly inform ~~him~~ *the prisoner* of the source and contents of any detainer lodged against ~~him~~ *the prisoner* and shall also inform ~~him~~ *the prisoner* of ~~his~~ *the* right to make a request for final disposition of the indictment, information, or complaint on which the detainer is based.

(4) Any request for final disposition made by a prisoner pursuant to subsection (1) hereof shall operate as a request for final disposition of all untried indictments, informations, or complaints on the basis of which detainers have been lodged against the prisoner from the state to whose prosecuting official the request for final disposition is specifically directed. The warden, commissioner of corrections, or other official having custody of the prisoner shall forthwith

notify all appropriate prosecuting officers and courts in the several jurisdictions within the state to which the prisoner's request for final disposition is being sent of the proceeding being initiated by the prisoner. Any notification sent pursuant to this subsection shall be accompanied by copies of the prisoner's written notice, request, and the certificate. If trial is not had on any indictment, information, or complaint contemplated hereby prior to the return of the prisoner to the original place of imprisonment, such indictment, information, or complaint shall not be of any further force or effect, and the court shall enter an order dismissing the same with prejudice.

(5) Any request for final disposition made by a prisoner pursuant to subsection (1) hereof shall also be deemed to be a waiver of extradition with respect to any charge or proceeding contemplated thereby or included therein by reason of subsection (4) hereof and a waiver of extradition to the receiving state to serve any sentence there imposed upon ~~him~~ *the prisoner* after completion of ~~his~~ *the prisoner's* term of imprisonment in the sending state. The request for final disposition shall also constitute a consent by the prisoner to the production of ~~his~~ *the prisoner's* body in any court where ~~his~~ *the prisoner's* presence may be required in order to effectuate the purposes of this agreement and a further consent voluntarily to be returned to the original place of imprisonment in accordance with the provisions of this agreement. Nothing in this paragraph shall prevent the imposition of a concurrent sentence if otherwise permitted by law.

(6) Escape from custody by the prisoner subsequent to ~~his~~ *the prisoner's* execution of the request for final disposition referred to in subsection (1) hereof shall void the request.

Article IV

(1) The appropriate officer of the jurisdiction in which an untried indictment, information, or complaint is pending shall be entitled to have a prisoner against whom ~~he~~ *the officer* has lodged a detainer and who is serving a term of imprisonment in any party state made available in accordance with Article V(1) hereof upon presentation of a written request for temporary custody or availability to the appropriate authorities of the state in which the prisoner is incarcerated; provided that the court having jurisdiction of such indictment, information, or complaint shall have duly approved, recorded, and transmitted the request; and provided further that there shall be a period of 30 days after receipt by the appropriate authorities before the request be honored, within which period the governor of the sending state may disapprove the request for temporary custody or availability either upon ~~his~~ *the governor's* own motion or upon motion of the prisoner.

(2) Upon receipt of the officer's written request as provided in subsection (1) hereof, the appropriate authorities having the prisoner in custody shall furnish the officer with a certificate stating the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner, and any decisions of the state parole agency relating to the prisoner. Said authorities simultaneously shall furnish all other officers and appropriate courts in the receiving state who have lodged detainers against the prisoner with similar certificates and with notices informing them of the request for custody or availability and of the reasons therefor.

(3) In respect of any proceeding made possible by this article, trial shall be commenced within 120 days of the arrival of the prisoner in the receiving state,

but for good cause shown in open court, the prisoner or ~~his~~ *the prisoner's* counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance.

(4) Nothing contained in this article shall be construed to deprive any prisoner of any right which ~~he~~ *the prisoner* may have to contest the legality of ~~his~~ *the prisoner's* delivery as provided in subsection (1), but such delivery may not be opposed or denied on the ground that the executive authority of the sending state has not affirmatively consented to or ordered such delivery.

(5) If trial is not had on any indictment, information, or complaint contemplated hereby prior to the prisoner's being returned to the original place of imprisonment pursuant to Article V(5) hereof, such indictment, information, or complaint shall not be of any further force or effect and the court shall enter an order dismissing the same with prejudice.

Article V

(1) In response to a request made under Article III or Article IV hereof, the appropriate authority in a sending state shall offer to deliver temporary custody of such prisoner to the appropriate authority in the state where such indictment, information, or complaint is pending against such person in order that speedy and efficient prosecution may be had. If the request for final disposition is made by the prisoner, the offer of temporary custody shall accompany the written notice provided for in Article III of this agreement. In the case of a federal prisoner, the appropriate authority in the receiving state shall be entitled to temporary custody as provided by this agreement or to the prisoner's presence in federal custody at the place for trial, whichever custodial arrangement may be approved by the custodian.

(2) The officer or other representative of a state accepting an offer of temporary custody shall present the following upon demand:

(a) proper identification and evidence of ~~his~~ *the officer's or representative's* authority to act for the state into whose temporary custody the prisoner is to be given;

(b) a duly certified copy of the indictment, information, or complaint on the basis of which the detainer has been lodged and on the basis of which the request for temporary custody of the prisoner has been made.

(3) If the appropriate authority shall refuse or fail to accept temporary custody of said person or in the event that an action on the indictment, information, or complaint on the basis of which the detainer has been lodged is not brought to trial within the periods provided by this chapter, the appropriate court of the jurisdiction where the indictment, information, or complaint has been pending shall enter an order dismissing the same with prejudice and any detainer based thereon shall cease to be of any force or effect.

(4) The temporary custody referred to in this agreement shall be only for the purpose of permitting prosecution on the charge or charges contained in one or more untried indictments, informations, or complaints which form the basis of the detainer or detainers or for prosecution on any other charge or charges arising out of the same transaction. Except for ~~his~~ *the prisoner's* attendance at court and while being transported to or from any place at which ~~his~~ *the prisoner's* presence may be required, the prisoner shall be held in a suitable jail or other facility regularly used for persons awaiting prosecution.

(5) At the earliest practicable time consonant with the purposes of this agreement, the prisoner shall be returned to the sending state.

(6) During the continuance of temporary custody or while the prisoner is otherwise being made available for trial as required by this agreement, time being served on the sentence shall continue to run, but good time shall be earned by the prisoner only if, and to the extent that, the law and practice of the jurisdiction which imposed the sentence may allow.

(7) For all purposes other than that for which temporary custody as provided in this agreement is exercised, the prisoner shall be deemed to remain in the custody of and subject to the jurisdiction of the sending state and any escape from temporary custody may be dealt with in the same manner as an escape from the original place of imprisonment or in any other manner permitted by law.

(8) From the time that a party state receives custody of a prisoner pursuant to this agreement until such prisoner is returned to the territory and custody of the sending state, the state in which the one or more untried indictments, informations, or complaints are pending or in which trial is being had shall be responsible for the prisoner and shall also pay all costs of transporting, caring for, keeping, and returning the prisoner. The provisions of this subsection shall govern unless the states concerned shall have entered into a supplementary agreement providing for a different allocation of costs and responsibilities as between or among themselves. Nothing herein contained shall be construed to alter or affect any internal relationship among the departments, agencies, and officers of and in the government of a party state or between a party state and its subdivisions as to the payment of costs or responsibilities therefor.

Article VI

(1) In determining the duration and expiration dates of the time periods provided in Articles III and IV of this agreement, the running of said time periods shall be tolled whenever and for as long as the prisoner is unable to stand trial, as determined by the court having jurisdiction of the matter.

(2) No provision of this agreement and no remedy made available by this agreement shall apply to any person who is adjudged to be mentally ill.

Article VII

Each state party to this agreement shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this agreement and who shall provide within and without the state information necessary to the effective operation of this agreement.

Article VIII

This agreement shall enter into full force and effect as to a party state when such state has enacted the same into law. A state party to this agreement may withdraw herefrom by enacting a statute repealing the same. However, the withdrawal of any state shall not affect the status of any proceedings already initiated by inmates or by state officers at the time such withdrawal takes effect, nor shall it affect their rights in respect thereof.

Article IX

This agreement shall be liberally construed so as to effectuate its purposes. The provisions of this agreement shall be severable, and if any phrase, clause, sentence, or provision of this agreement is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person, or circumstances is held invalid, the validity of the remainder of this agreement and the applicability thereof to any

government, agency, person, or circumstance shall not be affected thereby. If this agreement shall be held contrary to the constitution of any state party hereto, the agreement shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.”

Section 1795. Section 46-31-204, MCA, is amended to read:

“46-31-204. Penalty for escape from custody on detainer. Every prisoner confined in state prison for a term less than for life who has been lawfully delivered into the temporary custody of appropriate officers of a party state for trial on a charge or detainer based on an untried indictment, information, or complaint and who escapes ~~therefrom~~ is punishable by a fine in an amount not to exceed \$50,000; or by imprisonment in the state prison for a term of not less than 1 year or more than 10 years, or by both; ~~said~~ *The* second term of imprisonment ~~to~~ *must* commence from the time ~~he~~ *the prisoner* would otherwise have been discharged from ~~said~~ prison.”

Section 1796. Section 49-1-101, MCA, is amended to read:

“49-1-101. Right of protection from personal injury. Besides the personal rights mentioned or recognized in other statutes and subject to the qualifications and restrictions provided by law, every person has the right of protection from bodily restraint or harm, personal insult, defamation, and injury to ~~his~~ *the person's* personal relations.”

Section 1797. Section 49-1-202, MCA, is amended to read:

“49-1-202. Right to hold elected office. Every elector is eligible to the office for which ~~he~~ *the elector* is an elector, except where otherwise specially provided.”

Section 1798. Section 49-2-202, MCA, is amended to read:

“49-2-202. Authority to require posted notice. The commission may require any employer, employment agency, labor union, educational institution, or financial institution or the owner, lessee, manager, agent, or employee of any public accommodation or housing accommodation subject to this chapter to post, in a conspicuous place on ~~his~~ *the* premises or in the accommodation, a notice to be prepared or approved by the commission containing relevant information that the commission considers necessary to explain this chapter. Any person or institution subject to this section who refuses to comply with an order of the commission respecting the posting of a notice is guilty of a misdemeanor and ~~punishable shall be punished~~ by a fine of not more than \$50.”

Section 1799. Section 49-2-301, MCA, is amended to read:

“49-2-301. Retaliation prohibited. It is an unlawful discriminatory practice for a person, educational institution, financial institution, or governmental entity or agency to discharge, expel, blacklist, or otherwise discriminate against an individual because ~~he~~ *the individual* has opposed any practices forbidden under this chapter or because ~~he~~ *the individual* has filed a complaint, testified, assisted, or participated in any manner in an investigation or proceeding under this chapter.”

Section 1800. Section 49-2-310, MCA, is amended to read:

“49-2-310. Maternity leave — unlawful acts of employers. It shall be unlawful for an employer or ~~his~~ *an employer's* agent to:

(1) terminate a woman's employment because of ~~her~~ *the woman's* pregnancy;

(2) refuse to grant to the employee a reasonable leave of absence for ~~such~~ *the* pregnancy;

(3) deny to the employee who is disabled as a result of pregnancy any compensation to which ~~she~~ *the employee* is entitled as a result of the accumulation of disability or leave benefits accrued pursuant to plans maintained by ~~her~~ *the employer*, provided that the employer may require disability as a result of pregnancy to be verified by medical certification that the employee is not able to perform ~~her~~ employment duties; or

(4) require that an employee take a mandatory maternity leave for an unreasonable length of time.”

Section 1801. Section 49-2-311, MCA, is amended to read:

“49-2-311. Reinstatement to job following pregnancy-related leave of absence. Upon signifying ~~her~~ *an* intent to return at the end of ~~her~~ *a pregnancy-related* leave of absence, ~~such~~ *the* employee ~~shall~~ *must* be reinstated to ~~her~~ *the employee’s* original job or to an equivalent position with equivalent pay and accumulated seniority, retirement, fringe benefits, and other service credits unless, in the case of a private employer, the employer’s circumstances have so changed as to make it impossible or unreasonable to do so.”

Section 1802. Section 49-3-209, MCA, is amended to read:

“49-3-209. Retaliation prohibited. It is an unlawful discriminatory practice for a state or local governmental agency to discharge, expel, blacklist, or otherwise discriminate against an individual because ~~he~~ *the individual* has opposed any practices forbidden under this chapter or because ~~he~~ *the individual* has filed a complaint, testified, assisted, or participated in any manner in an investigation or proceeding under this chapter.”

Section 1803. Section 49-4-102, MCA, is amended to read:

“49-4-102. Penalty and civil remedy. A person who practices discrimination in violation of 49-4-101 commits a misdemeanor and is also liable in a district court action for civil damages and ~~attorney’s~~ *attorney* fees by the person discriminated against. ~~Should~~ *If* the person who allegedly practiced discrimination ~~prevail~~ *prevails* in the civil action, ~~he~~ *shall* ~~be~~ *the person is* entitled to recover reasonable ~~attorney’s~~ *attorney* fees from the person who alleged the discrimination.”

Section 1804. Section 49-4-502, MCA, is amended to read:

“49-4-502. Definitions. As used in this part, the following definitions apply:

(1) “Appointing authority” means the presiding judge or justice of any court, the ~~chairman~~ *presiding officer* of any board, commission, or authority, the director or commissioner of any department or agency, or any other person presiding at any hearing or other proceeding in which a qualified interpreter is required pursuant to this part.

(2) “Deaf person” means a person whose hearing is totally impaired or whose hearing is so seriously impaired as to prohibit the person from understanding oral communications. The term further includes, but is not limited to, a person who, because of loss of hearing, cannot communicate spoken language.

(3) “Intermediary interpreter” means a knowledgeable deaf person who, because of the person’s intimate acquaintance with deaf persons who use mainly natural gestures for communicating, can be used as an intermediary between the deaf person and a qualified interpreter.

(4) "Principal party in interest" means a person who is a named party in any proceeding or who will be directly affected by the decision or action ~~which~~ *that* may be made or taken.

(5) "Qualified interpreter" means an interpreter listed by the department of public health and human services as provided in 49-4-507."

Section 1805. Section 49-4-503, MCA, is amended to read:

"49-4-503. Deaf person as participant in judicial or administrative proceeding — interpreter to be used. A qualified interpreter ~~shall~~ *must* be appointed as follows:

(1) In any case before any court or a grand jury in which a deaf person is a party, either as a complainant, defendant, or witness, the court shall appoint a qualified interpreter to interpret the proceedings to the deaf person and interpret ~~his~~ *the deaf person's* testimony or statements and to assist in preparation with counsel.

(2) At all stages in any proceeding of a judicial or quasi-judicial nature before any agency of the state or governing body or agency of a local government in which a deaf person is a principal party in interest, either as a complainant, defendant, witness, or supplicant, the agency or governing body shall appoint a qualified interpreter to interpret the proceedings to the deaf person and to interpret ~~his~~ *the deaf person's* testimony or statements.

(3) (a) In any proceedings in which a deaf person may be subjected to confinement or criminal sanction or in any proceeding preliminary ~~thereto~~, including a coroner's inquest, grand jury proceedings, and proceedings relating to mental health commitments, the presiding judicial officer shall appoint a qualified interpreter to assist the deaf person throughout the proceedings.

(b) Upon arresting a deaf person for an alleged violation of a criminal law and prior to interrogating or taking a statement of the deaf person, the arresting law enforcement official shall make available to the person, at the earliest possible time, a qualified interpreter to assist the person throughout ~~such~~ *the* interrogation or taking of a statement.

(c) ~~No~~ A statement, written or oral, made by a person who is deaf in reply to a question of a law enforcement officer or any other person having a prosecutorial function in any criminal or quasi-criminal proceeding may *not* be used against that deaf person unless either the statement was made or elicited through a qualified interpreter and was made knowingly, voluntarily, and intelligently or, in the case of waiver, the court makes a special finding that any statement made by the deaf person was made knowingly, voluntarily, and intelligently.

(d) This subsection (3) does not apply to apprehensions, arrests, or statements involving a violation of the traffic laws of Montana."

Section 1806. Section 49-4-504, MCA, is amended to read:

"49-4-504. Preliminary determination. The appointing authority may not appoint a qualified interpreter in any case until ~~he~~ *the appointing authority* makes a preliminary determination that the qualified interpreter is able to accurately communicate with and translate information to and from the deaf person in the case."

Section 1807. Section 49-4-505, MCA, is amended to read:

"49-4-505. Intermediary interpreter to be used. If a qualified interpreter states that ~~he~~ *the interpreter* is unable to render a satisfactory interpretation and that an intermediary interpreter will improve the quality of

interpretation, the appointing authority shall appoint an intermediary interpreter to assist the qualified interpreter subject to the same provisions that govern a qualified interpreter under this part.”

Section 1808. Section 49-4-508, MCA, is amended to read:

“49-4-508. Oath of interpreter. ~~Every~~ *An* interpreter appointed to interpret for a deaf person, before entering upon ~~his~~ *the interpreter’s* duties, shall take an oath that ~~he~~ *the interpreter* will make a true interpretation in an understandable manner to the person for whom ~~he~~ *the interpreter* is appointed and that ~~he~~ *the interpreter* will repeat the statements of ~~such~~ *the* person in the English language to the best of ~~his~~ *the interpreter’s* skill and judgment.”

Section 1809. Section 49-4-509, MCA, is amended to read:

“49-4-509. Compensation. An interpreter appointed to interpret for the deaf is entitled to receive a reasonable fee for ~~his~~ *the interpreter’s* services, together with ~~his~~ actual expenses for travel and transportation. The appointing authority shall set the fee. When the interpreter is appointed in a criminal proceeding, the fee ~~shall~~ *must* be paid out of the county general funds, and when the interpreter is otherwise appointed, the fees ~~shall~~ *must* be paid out of funds available to the appointing authority.”

Section 1810. Section 50-2-120, MCA, is amended to read:

“50-2-120. Assistance from law enforcement officials. A state or local health officer may request a sheriff, constable, or other peace officer to assist ~~him~~ *the health officer* in carrying out the provisions of this chapter. If the officer does not render the service, ~~he~~ *the officer* is guilty of a misdemeanor and may be removed from office.”

Section 1811. Section 50-2-121, MCA, is amended to read:

“50-2-121. Removal of diseased prisoner from jail by local health officer. (1) On written order of a local health officer, a diseased prisoner who is held in a jail and who is considered dangerous to the health of other prisoners may be removed to a hospital or other place of safety.

(2) If the prisoner was committed to jail by order of a court, the order for removal and treatment ~~shall~~ *must* be signed by the local health officer and filed with the court.

(3) When the prisoner recovers from the disease, ~~he~~ *shall* ~~the prisoner must~~ be returned to the jail.

(4) A prisoner removed to a hospital or clinic for treatment ~~shall~~ *may* not be considered to have committed an escape.”

Section 1812. Section 50-2-122, MCA, is amended to read:

“50-2-122. Obstructing local health officer in the performance of his duties unlawful. It is unlawful to:

(1) hinder a local health officer in the performance of ~~his~~ duties under this chapter;

(2) remove or deface any placard or notice posted by the local health officer; or

(3) violate a quarantine regulation.”

Section 1813. Section 50-2-124, MCA, is amended to read:

“50-2-124. Penalties for violations. (1) A person who does not comply with rules adopted by a local board is guilty of a misdemeanor. On conviction, ~~he~~ *the person* shall be fined not less than \$10 or more than \$200.

(2) Except as provided in *50-2-123* and subsection (1) of this section ~~and 50-2-123~~, a person who violates the provisions of this chapter or rules adopted by the department under the provisions of this chapter is guilty of a misdemeanor. On conviction, ~~he~~ *the person* shall be fined not less than \$10 or more than \$500; ~~or be~~ imprisoned for not more than 90 days, or both.

(3) Each day of violation constitutes a separate offense.

(4) Fines, except justice's court fines, ~~shall~~ *must* be paid to the county treasurer of the county in which the violation occurs."

Section 1814. Section 50-5-212, MCA, is amended to read:

"50-5-212. Organ procurement program required. The administrator of a hospital licensed under this chapter shall as a condition of licensure under 50-5-201:

(1) establish a written protocol for the identification of potential organ donors that:

(a) ~~assures~~ *ensures* that families of potential organ donors are made aware of the option of organ or tissue donation and their option to decline;

(b) encourages discretion and sensitivity with respect to the circumstances, views, and beliefs of families of potential organ donors; and

(c) requires that a qualified organ procurement agency be notified of potential organ donors;

(2) designate and train a person or persons to represent ~~him~~ *the administrator* for purposes of requesting an anatomical gift as provided in 72-17-213; and

(3) make known to the public that the hospital has an organ procurement program as described in subsection (1)."

Section 1815. Section 50-5-1105, MCA, is amended to read:

"50-5-1105. Long-term care facility to adopt and post residents' rights. (1) The administrator of each long-term care facility shall:

(a) adopt a written statement of rights applicable to all residents of its facility, including as a minimum the rights listed in 50-5-1104;

(b) provide each resident, at the time of ~~his~~ admission to the facility, a copy of the facility's statement of residents' rights, receipt of which the resident or ~~his~~ *the resident's* authorized representative shall acknowledge in writing;

(c) provide each resident with a written statement of any change in residents' rights at the time the change is implemented, receipt of which the resident or ~~his~~ *the resident's* authorized representative shall acknowledge in writing; and

(d) train and involve staff members in the implementation of residents' rights as expressed in the statement adopted by the facility.

(2) Each staff member shall affirm in writing that ~~he~~ *the member* has read and understands the facility's statement of residents' rights.

(3) The administrator of the facility shall post in a conspicuous place visible to the public a copy of the facility's statement of residents' rights, presented in a format that can be read easily by the residents and by the public."

Section 1816. Section 50-5-1106, MCA, is amended to read:

“50-5-1106. Resident’s rights devolve to authorized representative.

The rights and responsibilities listed in 50-5-1104 and 50-5-1105 devolve to the resident’s authorized representative when the resident:

- (1) exhibits a communication barrier;
- (2) has been found by ~~his~~ *the resident’s* physician to be medically incapable of understanding these rights; or
- (3) has been adjudicated incompetent by a district court.”

Section 1817. Section 50-6-313, MCA, is amended to read:

“50-6-313. Inspections. (1) The department shall make necessary investigations and inspections for enforcement of this part.

(2) The department shall make regular inspections as the rules of the department may direct and special inspections ~~which~~ *that* it considers necessary.

(3) The department has free access at all reasonable hours to the place of business of any person operating an emergency medical service in order to make necessary inspections. These inspections may include the inspection of any equipment or records pertaining to the activities of the emergency medical service.

(4) A person may not refuse entry or access to an authorized representative of the department who presents appropriate credentials and requests entry for the purpose of conducting an inspection necessitated under this section. A person may not obstruct, hamper, or interfere with an inspection that is properly conducted pursuant to this section.

(5) Upon request, the owner or operator of an emergency medical service must receive a report stating all facts that relate to ~~his~~ *the owner’s or operator’s* compliance with the provisions of this part as determined by the department, based upon its inspection.”

Section 1818. Section 50-6-317, MCA, is amended to read:

“50-6-317. Liability protection. (1) A physician or registered nurse licensed under the laws of this state who gives instructions for medical care to a member of an emergency medical service without compensation or for compensation not exceeding \$5,000 in any 12-month period and whose professional practice is not primarily in an emergency or trauma room or ward is not liable for civil damages for an injury resulting from the instructions, except damages for an injury resulting from the gross negligence of the physician or nurse, if the instructions given by the physician or nurse are:

(a) consistent with the protocols and the medical control plan approved by the department in licensing the emergency medical service; and

(b) consistent with the level of certification or licensure of the emergency medical services personnel instructed by the physician or nurse.

(2) An offline medical director is not liable for civil damages for an injury resulting from the performance of ~~his~~ *the director’s* duties, except damages for an injury resulting from the gross negligence of the director.”

Section 1819. Section 50-9-103, MCA, is amended to read:

“50-9-103. Declaration relating to use of life-sustaining treatment — designee. (1) An individual of sound mind and 18 years of age or older may execute at any time a declaration governing the withholding or withdrawal of life-sustaining treatment. The declarant may designate another individual of

sound mind and 18 years of age or older to make decisions governing the withholding or withdrawal of life-sustaining treatment. The declaration must be signed by the declarant or another at the declarant's direction and must be witnessed by two individuals. A health care provider may presume, in the absence of actual notice to the contrary, that the declaration complies with this chapter and is valid.

(2) A declaration directing a physician or advanced practice registered nurse to withhold or withdraw life-sustaining treatment may, but need not, be in the following form:

DECLARATION

If I should have an incurable or irreversible condition that, without the administration of life-sustaining treatment, will, in the opinion of my attending physician or attending advanced practice registered nurse, cause my death within a relatively short time and I am no longer able to make decisions regarding my medical treatment, I direct my attending physician or attending advanced practice registered nurse, pursuant to the Montana Rights of the Terminally Ill Act, to withhold or withdraw treatment that only prolongs the process of dying and is not necessary to my comfort or to alleviate pain.

Signed this ____ day of _____, ____.

Signature _____

City, County, and State of Residence _____

The declarant voluntarily signed this document in my presence.

Witness _____

Address _____

Witness _____

Address _____

(3) A declaration that designates another individual to make decisions governing the withholding or withdrawal of life-sustaining treatment may, but need not, be in the following form:

DECLARATION

If I should have an incurable and irreversible condition that, without the administration of life-sustaining treatment, will, in the opinion of my attending physician or attending advanced practice registered nurse, cause my death within a relatively short time and I am no longer able to make decisions regarding my medical treatment, I appoint _____ or, if ~~he or she~~ *that person* is not reasonably available or is unwilling to serve, _____, to make decisions on my behalf regarding withholding or withdrawal of treatment that only prolongs the process of dying and is not necessary for my comfort or to alleviate pain, pursuant to the Montana Rights of the Terminally Ill Act.

If the individual I have appointed is not reasonably available or is unwilling to serve, I direct my attending physician or attending advanced practice registered nurse, pursuant to the Montana Rights of the Terminally Ill Act, to withhold or withdraw treatment that only prolongs the process of dying and is not necessary for my comfort or to alleviate pain.

Signed this ____ day of _____, ____.

Signature _____

City, County, and State of Residence _____

The declarant voluntarily signed this document in my presence.

Witness _____

Address _____

Witness _____

Address _____

Name and address of designee.

Name _____

Address _____

(4) If the designation of an attorney-in-fact pursuant to 72-5-501 and 72-5-502, or the judicial appointment of an individual, contains written authorization to make decisions regarding the withholding or withdrawal of life-sustaining treatment, that designation or appointment constitutes, for the purposes of this part, a declaration designating another individual to act for the declarant pursuant to subsection (1).

(5) A health care provider who is furnished a copy of the declaration shall make it a part of the declarant's medical record and, if unwilling to comply with the declaration, shall advise the declarant and any individual designated to act for the declarant promptly."

Section 1820. Section 50-15-108, MCA, is amended to read:

"50-15-108. Duty to furnish information. (1) ~~Any~~ A person having knowledge of the fact shall furnish information ~~he~~ *that the person* possesses about a birth, death, fetal death, marriage, dissolution of marriage, or invalid marriage upon demand of the department.

(2) The person in charge of any institution or facility for the care of persons shall record and report all data required by this chapter relating to inmates or patients of the institution or facility."

Section 1821. Section 50-15-114, MCA, is amended to read:

"50-15-114. Unlawful acts and penalties. (1) It is unlawful to disclose data in the vital statistics records of the department, local registrars, or county clerk and recorder unless disclosure is authorized by law.

(2) A person shall be fined not more than \$1,000; *or be imprisoned for* not more than 1 year, or both, if:

(a) ~~he~~ *the person* willfully and knowingly makes any false statement in a report, record, or certificate required to be filed by law or in an application for an amendment ~~thereof of a report, record, or certificate~~ or willfully and knowingly supplies false information intending that the information be used in the preparation of any report, record, or certificate or amendment;

(b) without lawful authority and with the intent to deceive, ~~he~~ *the person* makes, alters, amends, or mutilates any report, record, or certificate required to be filed under law or a certified copy of the report, record, or certificate;

(c) ~~he~~ *the person* willfully and knowingly uses or attempts to use or furnish to another for use, for any purpose of deception, any certificate, record, report, or certified copy made, altered, amended, or mutilated;

(d) with the intention to deceive, ~~he~~ *the person* willfully uses or attempts to use any birth certificate or certified copy of a birth record knowing that ~~such~~ *the* certificate or certified copy was issued upon a record ~~which~~ *that* is false in whole or in part or ~~which~~ *that* relates to the birth of another person;

(e) ~~he~~ *the person* willfully and knowingly furnishes a birth certificate or certified copy of a birth record with the intention that it be used by a person other than the person to whom the birth record relates.

(3) A person shall be fined not less than \$25 or more than \$500, imprisoned for not more than 30 days, or both, if *the person*:

(a) ~~he~~ knowingly transports or accepts for transportation, interment, or other disposition a dead body without an accompanying permit as provided by law;

(b) ~~he~~ refuses to provide information required by law;

(c) ~~he~~ willfully neglects or violates any of the provisions of law or refuses to perform any of the duties imposed upon him by law.”

Section 1822. Section 50-15-302, MCA, is amended to read:

“50-15-302. Clerk to report decree of dissolution or declaration of invalidity of marriage. (1) At the same time a decree of dissolution or declaration of invalidity of marriage is filed, the clerk of court shall prepare a report to the department on the form prescribed by the department. Parties to the action or their attorneys shall supply the clerk with necessary information.

(2) The report ~~shall~~ *must* include the:

(a) name, age, birthplace, residence, race or color, and occupation of each party;

(b) number, date, and place of any previous marriage of either party;

(c) number of children under 18 years of age in custody of either party and residing with ~~him~~ *the party*;

(d) grounds for the action;

(e) number of the cause of action;

(f) county and judicial district where the action is filed; and

(g) date of judgment and the party ~~which~~ *that* was granted it.”

Section 1823. Section 50-15-402, MCA, is amended to read:

“50-15-402. Copy to be forwarded to deceased’s county of residence. If a state resident dies outside the county of ~~his~~ residence, the clerk and recorder shall send a certified copy of the death certificate to the clerk and recorder of the deceased’s county of residence. The copy ~~shall~~ *must* be considered the same as the original.”

Section 1824. Section 50-16-522, MCA, is amended to read:

“50-16-522. Representative of deceased patient. A personal representative of a deceased patient may exercise all of the deceased patient’s rights under this part. If there is no personal representative or upon discharge of the personal representative, a deceased patient’s rights under this part may be exercised by the surviving spouse, a parent, an adult child, an adult sibling, or any other person who is authorized by law to act for ~~him~~ *the deceased patient*.”

Section 1825. Section 50-16-543, MCA, is amended to read:

“50-16-543. Request for correction or amendment. (1) For purposes of accuracy or completeness, a patient may request in writing that a health care provider correct or amend its record of the patient’s health care information to which ~~he~~ *the provider* has access under 50-16-541.

(2) As promptly as required under the circumstances but no later than 10 days after receiving a request from a patient to correct or amend its record of the patient's health care information, the health care provider shall:

(a) make the requested correction or amendment and inform the patient of the action and of the patient's right to have the correction or amendment sent to previous recipients of the health care information in question;

(b) inform the patient if the record no longer exists or cannot be found;

(c) if the health care provider does not maintain the record, inform the patient and provide ~~him~~ *the patient* with the name and address, if known, of the person who maintains the record;

(d) if the record is in use or unusual circumstances have delayed the handling of the correction or amendment request, inform the patient and specify in writing the earliest date, not later than 21 days after receiving the request, when the correction or amendment will be made or when the request will otherwise be disposed of; or

(e) inform the patient in writing of the provider's refusal to correct or amend the record as requested, the reason for the refusal, and the patient's right to add a statement of disagreement and to have that statement sent to previous recipients of the disputed health care information."

Section 1826. Section 50-16-544, MCA, is amended to read:

"50-16-544. Procedure for adding correction, amendment, or statement of disagreement. (1) In making a correction or amendment, the health care provider shall:

(a) add the amending information as a part of the health record; and

(b) mark the challenged entries as corrected or amended entries and indicate the place in the record where the corrected or amended information is located, in a manner practicable under the circumstances.

(2) If the health care provider maintaining the record of the patient's health care information refuses to make the patient's proposed correction or amendment, the provider shall:

(a) permit the patient to file as a part of the record of ~~his~~ *the patient's* health care information a concise statement of the correction or amendment requested and the reasons ~~therefor~~ *for the correction or amendment*; and

(b) mark the challenged entry to indicate that the patient claims the entry is inaccurate or incomplete and indicate the place in the record where the statement of disagreement is located, in a manner practicable under the circumstances."

Section 1827. Section 50-16-553, MCA, is amended to read:

"50-16-553. Civil remedies. (1) A person aggrieved by a violation of this part may maintain an action for relief as provided in this section.

(2) The court may order the health care provider or other person to comply with this part and may order any other appropriate relief.

(3) A health care provider who relies in good faith upon a certification pursuant to 50-16-536(2) is not liable for disclosures made in reliance on that certification.

(4) ~~No~~ A disciplinary or punitive action may *not* be taken against a health care provider or ~~his~~ *the provider's* employee or agent who brings evidence of a violation of this part to the attention of the patient or an appropriate authority.

(5) In an action by a patient alleging that health care information was improperly withheld under 50-16-541 and 50-16-542, the burden of proof is on the health care provider to establish that the information was properly withheld.

(6) If the court determines that there is a violation of this part, the aggrieved person is entitled to recover damages for pecuniary losses sustained as a result of the violation and, in addition, if the violation results from willful or grossly negligent conduct, the aggrieved person may recover not in excess of \$5,000, exclusive of any pecuniary loss.

(7) If a plaintiff prevails, the court may assess reasonable attorney fees and all other expenses reasonably incurred in the litigation.

(8) An action under this part is barred unless the action is commenced within 3 years after the cause of action accrues.”

Section 1828. Section 50-17-112, MCA, is amended to read:

“50-17-112. Procedure to obtain release from commitment. (1) One hundred and eighty days or more after the date of his commitment, a person committed under 50-17-107 or 50-17-108 may apply to the court that ordered his *the person’s* commitment for a release.

(2) Not fewer than 3 or more than 7 days after receipt of the request, the court shall hold a hearing.

(3) Following the hearing, the court shall:

(a) order his *the person’s* discharge if it finds he *that the person* has completed an approved course of treatment or does not have tuberculosis; or

(b) dismiss the request if it finds he *that the person* still has tuberculosis or he *that the person* has refused to submit to an examination to determine whether he *the person* has tuberculosis or has not yet completed an approved course of treatment.”

Section 1829. Section 50-18-106, MCA, is amended to read:

“50-18-106. Duty to report cases. If a physician or other person knows or has reason to suspect that a person who has a sexually transmitted disease is ~~conducting himself behaving~~ in a way ~~which~~ *that* might expose another to infection, he *the physician or person* shall immediately notify the local health officer of the name and address of the diseased person and the essential facts in the case.”

Section 1830. Section 50-20-106, MCA, is amended to read:

“50-20-106. Informed consent. (1) An abortion may not be performed without the informed consent of the woman upon whom the abortion is to be performed. The informed consent must be received at least 24 hours prior to the abortion and certified prior to or at the time of the abortion.

(2) Informed consent must be certified by a written statement in a form prescribed by the department and signed by the physician and the woman upon whom the abortion is to be performed in which the physician certifies that the physician has made the full disclosure provided in 50-20-104(5) and in which the woman upon whom the abortion is to be performed acknowledges that the disclosures have been made to the woman and that the woman voluntarily consents to the abortion.

(3) If a woman chooses to review the written materials described in 50-20-304, the materials must be provided to her *the woman* at least 24 hours

before the abortion or be mailed to the woman by certified mail, with delivery restricted to the addressee, at least 72 hours before the abortion.

(4) The information required in 50-20-104(5)(a) may be provided by telephone without conducting a physical examination or tests of the patient. The information may be based on facts supplied to the physician by the woman and other relevant information that is reasonably available to the physician. The information may not be provided by a tape recording but must be provided during a consultation in which the physician is able to ask questions of the woman and the woman is able to ask questions of the physician. If a physical examination, tests, or the availability of other information subsequently indicates, in the medical judgment of the physician, a revision of information previously provided to the patient, the revised information may be communicated to the patient at any time prior to the performance of the abortion.

(5) The information required in 50-20-104(5)(b) may be provided by a tape recording if provision is made to record or otherwise register specifically whether the woman does or does not choose to review the printed materials.

(6) The informed consent or consent provided for in this section is not required if a licensed physician certifies that the abortion is necessary because of a medical emergency as defined in 50-20-303.

(7) An executive officer, administrative agency, or public employee of the state or of any local governmental body may not issue any order requiring an abortion or coerce any woman to have an abortion. A person may not coerce any woman to have an abortion.

(8) ~~Violation~~ *A violation* of subsections (1) through (7) is a misdemeanor.”

Section 1831. Section 50-20-108, MCA, is amended to read:

“50-20-108. Protection of premature infants born alive. (1) A person commits an offense, as defined in 45-5-102 through 45-5-104, if ~~he~~ *the person* purposely, knowingly, or negligently causes the death of a premature infant born alive, if ~~such~~ *the* infant is viable.

(2) Whenever a premature infant ~~which~~ *that* is the subject of abortion is born alive and is viable, it becomes a dependent and neglected child subject to the provisions of state law, unless:

(a) the termination of the pregnancy is necessary to preserve the life of the mother; or

(b) the mother and ~~her~~ *the mother's* spouse or either of them have agreed in writing in advance of the abortion or within 72 hours thereafter to accept the parental rights and responsibilities of the premature infant if it survives the abortion procedure.

(3) ~~No~~ *A person may not* use any premature infant born alive for any type of scientific research or other kind of experimentation except as necessary to protect or preserve the life and health of ~~such~~ *the* premature infant born alive.

(4) ~~Violation~~ *A violation* of subsection (3) ~~of this section~~ is a felony.”

Section 1832. Section 50-21-104, MCA, is amended to read:

“50-21-104. Autopsies. All autopsies of a human body ~~shall~~ *must* be performed by a physician legally authorized to practice medicine in this state. Upon completion, the physician shall send a written report of ~~his~~ *the physician's* findings, including the cause of death if determined, to the:

(1) physician attending the person at the time of death if other than the physician performing the autopsy;

(2) ~~upon the request of any such hospital or skilled nursing facility, to the hospital or skilled nursing facility, upon request,~~ where the person died or where ~~he the person~~ was confined during ~~his the person's~~ last illness to be retained as part of the permanent record of the hospital or skilled nursing facility;

(3) to the next of kin of the decedent or the representative of the decedent's estate upon request; and to ~~such~~ any other person lawfully requesting the report."

Section 1833. Section 50-21-106, MCA, is amended to read:

"50-21-106. Penalty for unauthorized postmortem examinations. Unless authorized by law, any person who performs an autopsy, dissection, or other postmortem examination or causes it to be made is guilty of a misdemeanor. Upon conviction, ~~he the person~~ shall be punished by a fine not exceeding \$500."

Section 1834. Section 50-23-102, MCA, is amended to read:

"50-23-102. Prohibition of possession of wild animals — exceptions. ~~No~~ A person may *not* possess a wild animal unless ~~he the person~~ possessed it for at least 6 months prior to January 1, 1982, or it is used in a fur-bearing enterprise, contained in a zoological exhibition in ~~such~~ a manner that it may not come in physical contact with members of the public, or acquired by an educational institution for scientific research."

Section 1835. Section 50-30-107, MCA, is amended to read:

"50-30-107. Powers and duties of department's agents. (1) For enforcement of this chapter, officers or employees duly designated by the department, upon presenting appropriate credentials to the owner, operator, or agent in charge, are authorized to:

(a) enter at reasonable times a factory, warehouse, or establishment in which hazardous substances are manufactured, processed, packed, or held for introduction into commerce or are held after ~~such~~ introduction;

(b) enter a vehicle being used to transport or hold hazardous substances in commerce;

(c) inspect at reasonable times, within reasonable limits, and in a reasonable manner a factory, warehouse, establishment, or vehicle and all pertinent equipment, finished and unfinished materials, and labeling ~~therein in the factory, warehouse, establishment, or vehicle;~~ and

(d) obtain samples of materials or packages or labeling ~~thereof~~.

(2) If the officer or employee obtains a sample, prior to leaving the premises ~~he the officer or employee~~ shall pay or offer to pay the owner, operator, or agent in charge for the sample and give a receipt describing the samples obtained."

Section 1836. Section 50-30-204, MCA, is amended to read:

"50-30-204. Toxic defined. "Toxic" means a substance, (other than a radioactive substance), ~~which that~~ has the capacity to produce personal injury or illness to ~~man~~ humans through ingestion, inhalation, or absorption through any body surface."

Section 1837. Section 50-30-205, MCA, is amended to read:

"50-30-205. Highly toxic defined. (1) "Highly toxic" means a substance ~~which that~~ falls within any of the following categories:

(a) produces death within 14 days in one-half or more of a group of 10 or more laboratory white rats each weighing between 200 and 300 grams at a single dose of 50 milligrams or less per kilogram of body weight when orally administered;

(b) produces death within 14 days in one-half or more of a group of 10 or more laboratory white rats each weighing between 200 and 300 grams when inhaled continuously for a period of 1 hour or less at an atmosphere concentration of 200 parts per million or less by volume of gas or vapor or 2 milligrams per liter or less by volume of mist or dust if that concentration is likely to be encountered by ~~man~~ *humans* when the substance is used in a reasonably foreseeable manner; or

(c) produces death within 14 days in one-half or more of a group of 10 or more rabbits tested in a dosage of 200 milligrams or less per kilogram of body weight when administered by continuous contact with the bare skin for 24 hours or less.

(2) If the department finds that available data on human experience with a substance indicates results different from those obtained on animals in the ~~above-named~~ dosages or concentrations *described in subsection (1)*, the human data ~~shall~~ *must* take precedence.”

Section 1838. Section 50-30-301, MCA, is amended to read:

“50-30-301. Prohibited acts. The following acts and ~~the~~ causing thereof *the following acts* are prohibited:

(1) the introduction or delivery for introduction into commerce of any misbranded hazardous substance or banned hazardous substance;

(2) the alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the label of or the doing of any other act with respect to a hazardous substance if ~~such~~ *the* act is done while the substance is in commerce or while the substance is held for sale, (whether or not the first sale), after shipment in commerce and results in the hazardous substance being a misbranded hazardous substance or a banned hazardous substance;

(3) the receipt in commerce of any misbranded hazardous substance or banned hazardous substance and the delivery or proffered delivery ~~thereof~~ *of the substance* for pay or otherwise;

(4) the giving of a guarantee or undertaking referred to in 50-30-305(2), ~~which guarantee or undertaking~~ *that* is false, except by a person who relies upon a guarantee or undertaking to the same effect signed by and containing the name and address of the person residing in the United States from whom ~~he~~ *the person* received in good faith the hazardous substance;

(5) the failure to permit entry or inspection as authorized by 50-30-107(1) or to permit access to any copying of any record as authorized by 50-30-108;

(6) the introduction or delivery for introduction into commerce or the receipt in commerce and subsequent delivery or proffered delivery for pay or otherwise of a hazardous substance in a reused food, drug, or cosmetic container or in a container ~~which~~ *that*, though not a reused container, is identifiable as a food, drug, or cosmetic container by its labeling or by other identification;

(7) the use by any person to ~~his~~ *the person's* own advantage or revealing other than to the department or officers or employees of the agency or to the courts when relevant in any judicial proceeding under this chapter of any information acquired under authority of 50-30-106 and 50-30-107 concerning any method or process ~~which~~ *that* as a trade secret is entitled to protection.”

Section 1839. Section 50-30-302, MCA, is amended to read:

“50-30-302. Notice and hearing required prior to prosecution. Before a violation of this chapter is reported to a county attorney for the institution of a criminal proceeding, the person against whom the proceeding is contemplated ~~shall~~ *must* be given appropriate notice and an opportunity to present ~~his~~ *the person’s* views before the department, either orally or in writing and either in person or by attorney, with regard to the contemplated proceeding.”

Section 1840. Section 50-30-305, MCA, is amended to read:

“50-30-305. Exceptions to penalty. ~~No~~ A person is *not* subject to the penalties of 50-30-304:

(1) for having violated 50-30-301(3) if the receipt, delivery, or proffered delivery of the hazardous substance was made in good faith unless ~~he~~ *the person* refuses to furnish on request of an officer or employee duly designated by the department the name and address of the person from whom ~~he~~ *the person* purchased or received the hazardous substance and copies of all documents pertaining to the delivery of the hazardous substance to ~~him~~ *the person*; or

(2) for having violated 50-30-301(1) if ~~he~~ *the person* establishes a guarantee or undertaking signed by and containing the name and address of the person residing in the United States from whom ~~he~~ *the person* received in good faith the hazardous substance to the effect that the hazardous substance is not a misbranded or banned hazardous substance within the meaning of those terms in this chapter.”

Section 1841. Section 50-30-307, MCA, is amended to read:

“50-30-307. Detainer of misbranded or banned hazardous substance. (1) If a duly authorized agent of the department finds or has probable cause to believe that a hazardous substance is misbranded or is a banned hazardous substance within the meaning of this chapter, ~~he~~ *the agent* shall affix to the article a tag or other appropriate marking giving notice that the article is or is suspected of being misbranded or is a banned hazardous substance and has been detained or embargoed and warning all persons not to remove or dispose of the article by sale or otherwise until permission for removal or disposal is given by the agent or the court. It is unlawful for a person to remove or dispose of a detained or embargoed article by sale or otherwise without permission.

(2) If an article detained or embargoed under subsection (1) is found by the agent to be misbranded or a banned hazardous substance, ~~he~~ *the agent* shall petition the judge of the city, justice’s, or district court in whose jurisdiction the article is detained or embargoed for an order of condemnation of the article. If the agent finds that an article ~~so~~ detained or embargoed is not misbranded or a banned hazardous substance, ~~he~~ *the agent* shall remove the tag or other marking.

(3) (a) If the court finds that a detained or embargoed article is misbranded or a banned hazardous substance, the article ~~shall~~ *must*, after entry of the decree, be destroyed at the expense of the claimant ~~thereof of the article~~ under supervision of the agent; and all court costs and fees and storage and other proper expenses are to be taxed against the claimant of the article or ~~his~~ *the claimant’s* agent.

(b) If the misbranding can be corrected by proper labeling of the article, the court, after entry of the decree and after the costs, fees, and expenses have been paid and a good and sufficient bond, conditioned that the article will be ~~so~~ *properly* labeled, has been executed, may by order direct that the article be delivered to the claimant ~~thereof of the article~~ for the labeling under the

supervision of an agent of the department. The expense of the supervision ~~shall~~ *must* be paid by the claimant. The article ~~shall~~ *must* be returned to the claimant on the representation to the court by the department that the article is no longer in violation of this chapter and that the expenses of the supervision have been paid.”

Section 1842. Section 50-31-108, MCA, is amended to read:

“50-31-108. Regulations concerning additives. (1) The department, upon its own motion or upon the petition of any interested party requesting that ~~such a regulation rule~~ be established, whenever public health or other considerations in the state ~~so~~ require, is authorized to adopt, amend, or repeal ~~regulations rules~~, whether or not in accordance with regulations promulgated under the federal act, prescribing tolerances for any added poisonous or deleterious substances for food additives, for pesticide chemicals in or on raw agricultural commodities, or for color additives, including but not limited to zero tolerances and exemptions from tolerances in the case of pesticide chemicals in or on raw agricultural commodities, and prescribing the conditions under which a food additive or a color additive may be safely used and exemptions ~~where such~~ *when the* food additive or color additive is to be used solely for investigational or experimental purposes.

(2) ~~It shall be incumbent upon such~~ A petitioner ~~to~~ *shall* establish by data submitted to the department that a necessity exists for ~~such regulation the rule~~ and that its effect will not be detrimental to the public health. If the data furnished by the petitioner is not sufficient to allow the department to determine whether ~~such the~~ regulation should be promulgated, the department may require additional data to be submitted and failure to comply with the request ~~shall be~~ *is* sufficient grounds to deny the request.

(3) In adopting, amending, or repealing ~~regulations rules~~ relating to ~~such the~~ substances, the department shall consider among other relevant factors the following, which the petitioner, if any, shall furnish:

(a) the name and all pertinent information concerning ~~such the~~ substance, including, ~~where when~~ *when* available,;

(i) its chemical identity and composition,;

(ii) a statement of the conditions of the proposed use, including directions, recommendations, and suggestions and including specimens of proposed labeling,; *and*

(iii) all relevant data bearing on the physical or other technical effect and the quantity required to produce ~~such the~~ effect;

(b) the probable composition of or other relevant exposure from the article and of any substance formed in or on a food, drug, or cosmetic resulting from the use of ~~such the~~ substance;

(c) the probable consumption of ~~such the~~ substance in the diet of ~~man~~ *humans* and animals taking into account any chemically or pharmacologically related substance in ~~such the~~ diet;

(d) safety factors ~~which that~~, in the opinion of experts qualified by scientific training and experience to evaluate the safety of ~~such the~~ substances for the use or uses for which they are proposed to be used, are generally recognized as appropriate for the use of animal experimentation data;

(e) the availability of any needed practicable methods of analysis for determining the identity and quantity of:

- (i) ~~such~~ *the* substance in or on an article;
- (ii) any substance formed in or on ~~such~~ *the* article because of the use of ~~such~~ *the* substance; and
- (iii) the pure substance and all intermediates and impurities; and
- (f) facts supporting a contention that the proposed use of ~~such~~ *the* substance will serve a useful purpose.”

Section 1843. Section 50-31-504, MCA, is amended to read:

“50-31-504. Notice and hearing required prior to prosecution. Before a violation of this chapter is reported to a state or county attorney for the institution of a criminal proceeding, the person against whom the proceeding is contemplated ~~shall~~ *must* be given appropriate notice and an opportunity to present ~~his~~ *the person’s* views before the department or its designated agent, either orally or in writing and either in person or by attorney, with regard to the contemplated proceeding.”

Section 1844. Section 50-31-507, MCA, is amended to read:

“50-31-507. Exceptions to penalties. (1) ~~No~~ A person ~~shall be~~ *is not* subject to the penalties of 50-31-506 for having violated ~~subsection (1) or (3) of 50-31-501(1) or (3)~~ if ~~he~~ *the person* establishes a guaranty or undertaking signed by and containing the name and address of the person residing in the state of Montana from whom ~~he~~ *the person* received in good faith the article to the effect that ~~such~~ *the* article is not adulterated or misbranded within the meaning of this chapter, designating this chapter.

(2) ~~No~~ *The* publisher, radiobroadcast licensee, or agency or medium for the dissemination of an advertisement, except the manufacturer, packer, distributor, or seller of the article to which a false advertisement relates, ~~shall be~~ *is not* liable under 50-31-506 by reason of the dissemination by ~~him~~ *the person* of ~~such~~ *the* false advertisement, unless ~~he~~ *the person* has refused, on the request of the department, to furnish the department the name and post-office address of the manufacturer, packer, distributor, seller, or advertising agency residing in the state of Montana who causes ~~him~~ *the person* to disseminate ~~such~~ *the* advertisement.”

Section 1845. Section 50-31-509, MCA, is amended to read:

“50-31-509. Detainer of adulterated or misbranded articles. (1) If an agent of the department finds or has probable cause to believe that any food, drug, device, or cosmetic is adulterated or so misbranded as to be dangerous or fraudulent within the meaning of this chapter, ~~he~~ *the agent* shall affix to the article a tag or other appropriate marking giving notice that the article is or is suspected of being adulterated or misbranded and has been detained or embargoed and warning all persons not to remove or dispose of the article by sale or otherwise until permission for removal or disposal is given by the agent or the court. It is unlawful for a person to remove or dispose of a detained or embargoed article by sale or otherwise without permission. The owner of an embargoed article or another authorized person and the department may enter into a disposal agreement providing for the disposal, reconditioning, or other disposition of the embargoed article. If ~~such~~ an agreement is executed or if the embargo is otherwise removed by the department or the court, neither the department nor the state may be held liable for damages caused by ~~such~~ *the* embargo provided that probable cause existed for its imposition.

(2) If an article detained or embargoed under subsection (1) is found by the agent to be adulterated or misbranded and a disposal agreement is not executed

as provided in subsection (1), the agent shall petition the justice of *the* peace, city judge, or district court in whose jurisdiction the article is detained or embargoed for an order for condemnation of the article. If the agent finds that an article so detained or embargoed is not adulterated or misbranded, ~~he~~ *the agent* shall remove the tag or other marking.

(3) If the court finds that a detained or embargoed article is adulterated or misbranded, the article ~~shall~~ *must*, after entry of the decree, be destroyed at the expense of the claimant ~~thereof of the article~~ under the supervision of the agent and all court costs and fees and storage and other proper expenses ~~shall~~ *must* be taxed against the claimant of the article or ~~his~~ *the claimant's* agent.

(4) If the adulteration or misbranding can be corrected by proper labeling or processing of the article, the court, after entry of the decree and after the costs, fees, and expenses have been paid and a good and sufficient bond, conditioned that the article will be ~~so~~ labeled or processed, has been executed, may by order direct that the article be delivered to the claimant ~~thereof of the article~~ for the labeling or processing under the supervision of an agent of the department. The expense of the supervision ~~shall~~ *must* be paid by claimant. The article ~~shall~~ *must* be returned to the claimant on the representation to the court by the department that the article is no longer in violation of this chapter and that the expenses of the supervision have been paid.”

Section 1846. Section 50-32-302, MCA, is amended to read:

“50-32-302. Exceptions to registration requirement. The following persons need not register and may lawfully possess dangerous drugs under this chapter:

(1) an agent or employee of any registered manufacturer, distributor, or dispenser of any dangerous drug if ~~he~~ *the agent or employee* is acting in the usual course of ~~his~~ business or employment;

(2) a common or contract carrier or ~~warehouseman~~ *warehouse operator* or an employee ~~thereof of the carrier or warehouse operator~~, whose possession of any dangerous drug is in the usual course of business or employment;

(3) an ultimate user or a person in possession of any dangerous drug pursuant to a lawful order of a practitioner or in lawful possession of a Schedule V drug;

(4) officers and employees of the state, or a political subdivision of the state, while acting in the course of their official duties.”

Section 1847. Section 50-32-311, MCA, is amended to read:

“50-32-311. Revocation or suspension of registration. (1) A registration under 50-32-301 to manufacture, distribute, or dispense a dangerous drug may be suspended or revoked by the board upon a finding that the registrant has:

(a) furnished false or fraudulent material information in any application filed under this chapter;

(b) been convicted of a felony under any state or federal law relating to any dangerous drug or controlled substance; or

(c) had ~~his~~ *the registrant's* federal registration suspended or revoked to manufacture, distribute, or dispense controlled substances.

(2) The board may limit revocation or suspension of a registration to the particular dangerous drug with respect to which grounds for revocation or suspension exist.

(3) If the board suspends or revokes a registration, all dangerous drugs owned or possessed by the registrant at the time of suspension or the effective date of the revocation order may be placed under seal. ~~No~~ A disposition may *not* be made of drugs under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application ~~therefor~~, orders the sale of perishable drugs and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all dangerous drugs may be forfeited to the state.

(4) The board shall promptly cause the bureau to be notified of all orders suspending or revoking registration and all forfeitures of dangerous drugs.”

Section 1848. Section 50-32-401, MCA, is amended to read:

“50-32-401. Report required for precursor to controlled substance.

(1) A manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any of the following substances to a person in this state ~~must~~ *shall* submit a report to the department of justice detailing all ~~such~~ transactions:

- (a) phenyl-2-propanone;
- (b) methylamine;
- (c) d-lysergic acid;
- (d) ergotamine tartrate;
- (e) diethyl malonate;
- (f) malonic acid;
- (g) ethyl malonate;
- (h) barbituric acid; and
- (i) piperidine.

(2) The department of justice may adopt, amend, or repeal rules in accordance with the Montana Administrative Procedure Act that add or delete substances ~~to~~ *on* the list of regulated substances ~~detailed~~ in subsection (1); if the substance is a precursor to a dangerous drug as defined in 50-32-101.

(3) This section does not apply to any of the following:

(a) a pharmacist or other authorized person who sells or furnishes the substance upon the prescription of a physician, dentist, podiatrist, or veterinarian;

(b) a physician, dentist, podiatrist, or veterinarian who administers or furnishes the substance to ~~his~~ patients;

(c) a manufacturer or wholesaler licensed by the board of pharmacy who sells, transfers, or otherwise furnishes the substance to a licensed pharmacist, physician, dentist, podiatrist, or veterinarian;

(d) transfers of the substances listed in subsection (1) within any college or university to an employee or student of the college or university for the purpose of teaching or research authorized by the college or university.”

Section 1849. Section 50-41-105, MCA, is amended to read:

“50-41-105. Physician not subject to disciplinary action. A physician may not be subjected to disciplinary action by the board of medical examiners for prescribing or administering ~~laetrile~~ to a patient under ~~his~~ *the physician's* care as an adjunct to recognized, customary, or accepted modes of therapy in the treatment of any malignancy, disease, illness, or physical condition.”

Section 1850. Section 50-42-105, MCA, is amended to read:

“50-42-105. Physician not subject to disciplinary action. A physician may not be subjected to disciplinary action by the board of medical examiners for prescribing or administering DMSO to a patient under ~~his~~ *the physician’s* care as an adjunct to recognized, customary, or accepted modes of therapy in the treatment of any malignancy, disease, illness, or physical condition.”

Section 1851. Section 50-43-106, MCA, is amended to read:

“50-43-106. Physician not subject to disciplinary action. A physician may not be disciplined by the board of medical examiners for prescribing or administering calcium-EAP, harnosal, or phosetamin to a patient under ~~his~~ *the physician’s* care in the treatment of any malignancy, disease, illness, or physical condition.”

Section 1852. Section 50-50-215, MCA, is amended to read:

“50-50-215. Refusal by local health officer — appeal to board. (1) The local health officer may ~~only~~ refuse to validate a license issued under this chapter; *only* upon a finding that the requirements of this chapter and any rules implementing it are not satisfied. If the local health officer refuses to validate the license, ~~he~~ *the officer* shall notify the applicant and the department in writing stating ~~his~~ *the officer’s* reasons.

(2) The applicant or any person aggrieved by the decision of the local health officer not to validate a license may appeal the decision to the local board of health within 30 days after receiving written notice of the local health officer’s decision.

(3) The hearing before the local board of health ~~shall~~ *must* be held pursuant to the contested case provisions of the Montana Administrative Procedure Act.”

Section 1853. Section 50-50-304, MCA, is amended to read:

“50-50-304. Discovery of food capable of causing food-borne illness. If a state or local health officer, sanitarian, or other authorized person finds food that is capable of causing food-borne illness, ~~he~~ *that person* shall issue a report in writing recommending that the food be withheld from sale to the public. A duplicate copy of the report, properly authenticated, is admissible in evidence in any action or proceeding where the condition of the food at the time of the inspection is material.”

Section 1854. Section 50-50-402, MCA, is amended to read:

“50-50-402. Plant owner not responsible for violation of game laws. A person who owns or operates a frozen food plant ~~which~~ *that* offers individual compartments to the public is not responsible for violation of game laws by persons who rent locker space from ~~him~~ *the owner or operator*.”

Section 1855. Section 50-50-403, MCA, is amended to read:

“50-50-403. Liability of frozen food plant operators restricted. The liability for loss of food by the owner or operator of a frozen food plant ~~which~~ *that* offers individual compartments to the public is limited to negligence in operation or negligence of ~~his~~ *the owner’s or operator’s* employees.”

Section 1856. Section 50-51-107, MCA, is amended to read:

“50-51-107. Provision of nursing services or personal-care services by the facility prohibited. (1) Hotels, motels, boardinghouses, roominghouses, or similar accommodations may not provide professional nursing services or personal-care services. A resident of a hotel, motel, boardinghouse, roominghouse, or similar accommodation may have

personal-care, medical, or nursing-related services provided for ~~him~~ *the resident* in ~~such~~ *the* facility by a third-party provider.

(2) Whenever a complaint is filed with the department that a person in need of professional nursing services is residing in a roominghouse or other similar accommodation not licensed to provide ~~such~~ *that* service, the department shall investigate and may require appropriate care or placement of ~~such~~ *the* person if it is found that professional nursing services are needed.”

Section 1857. Section 50-51-204, MCA, is amended to read:

“50-51-204. License fee — late fee. (1) There ~~shall~~ *must* be paid to the department with each application for ~~such~~ *a* license or for renewal of ~~such~~ *a* license an annual license fee of \$40. The department shall deposit 85% of the fees collected under this section into the local board inspection fund account created in 50-2-108, 11.25% of the fees into the general fund, and 3.75% of the fees into the account provided for in 50-51-110.

(2) In addition to the license fee required under subsection (1), the department shall collect a late fee from any licensee who has failed to submit a license renewal fee prior to the expiration of ~~his~~ *the licensee’s* current license and who operates an establishment governed by this part in the next licensing year. The late fee is \$25 and must be deposited in the account provided for in 50-51-110.”

Section 1858. Section 50-51-215, MCA, is amended to read:

“50-51-215. Refusal by local health officer — appeal to board. (1) The local health officer may ~~only~~ refuse to validate a license issued under this chapter; *only* upon a finding that the requirements of this chapter and any rules implementing it are not satisfied. If the local health officer refuses to validate the license, ~~he~~ *the officer* shall notify the applicant and the department in writing stating ~~his~~ *the officer’s* reasons.

(2) The applicant or any person aggrieved by the decision of the local health officer not to validate a license may appeal the decision to the local board of health within 30 days after receiving written notice of the local health officer’s decision.

(3) The hearing before the local board of health ~~shall~~ *must* be held pursuant to the contested case provisions of the Montana Administrative Procedure Act.”

Section 1859. Section 50-52-202, MCA, is amended to read:

“50-52-202. License fee — late fee. (1) Each application ~~shall~~ *must* be accompanied by a fee of \$40.

(2) The department shall deposit 85% of the fees collected under subsection (1) into the local board inspection fund account created in 50-2-108, 11.25% of the fees into the general fund, and 3.75% of the fees ~~collected under subsection~~ ~~(1)~~ into the account provided for in 50-52-210.

(3) In addition to the license fee required under subsection (1), the department shall collect a late fee from any licensee who has failed to submit a license renewal fee prior to the expiration of ~~his~~ *the licensee’s* current license and who operates an establishment governed by this part in the next licensing year. The late fee is \$25 and must be deposited in the account provided for in 50-52-210.”

Section 1860. Section 50-52-209, MCA, is amended to read:

“50-52-209. Refusal by local health officer — appeal to board. (1) The local health officer may ~~only~~ refuse to validate a license issued under this

chapter, *only* upon a finding that the requirements of this chapter and any rules implementing it are not satisfied. If the local health officer refuses to validate the license, ~~he~~ *the officer* shall notify the applicant and the department in writing stating ~~his~~ *the officer's* reasons.

(2) The applicant or any person aggrieved by the decision of the local health officer not to validate a license may appeal the decision to the local board of health within 30 days after receiving written notice of the local health officer's decision.

(3) The hearing before the local board of health ~~shall~~ *must* be held pursuant to the contested case provisions of the Montana Administrative Procedure Act."

Section 1861. Section 50-60-502, MCA, is amended to read:

"50-60-502. No penalties for hiring unlicensed plumbers. This part ~~shall~~ *may* not be construed as imposing any penalty on ~~any a~~ person for hiring or contracting with an unlicensed person to do work in the field of plumbing. However, ~~any a~~ person who ~~shall himself engage~~ *engages* in the field of plumbing at a time when ~~he~~ *the person* is not duly licensed ~~shall be~~ *is* subject to the penalties imposed by this part and Title 37, chapter 69."

Section 1862. Section 50-60-515, MCA, is amended to read:

"50-60-515. Penalty for violations — exceptions. A person who works ~~at~~ *in* the field of plumbing or maintains or conducts a plumbing business or an individual who connects or disconnects plumbing from a public water or sewer system in violation of any provisions of this part or at a time when ~~he~~ *the person* is not exempt from the provisions of this part pursuant to the provisions of a duly enacted and subsisting ordinance of a city or town is guilty of a misdemeanor and, upon conviction ~~thereof~~ in any court of competent jurisdiction, shall be punished by a fine of not less than \$10 and not more than \$100 for each separate offense. However, this part ~~shall~~ *may* not be construed to apply to or affect plumbing or pipefitting as indicated in the *exceptions under 37-69-102 and 50-60-503 exceptions.*"

Section 1863. Section 50-61-116, MCA, is amended to read:

"50-61-116. Lessee who corrects violations entitled to reimbursement. The occupant or lessee of any building who is required to erect fire escapes under the provisions of this chapter is entitled to ~~reimburse himself~~ *reimbursement* for the cost and expense of erecting the fire escapes out of the rent or lease money of the premises, and the reimbursement is not a breach of any existing lease, contract, or covenant ~~thereof~~ or grounds for any action or damage ouster."

Section 1864. Section 50-62-104, MCA, is amended to read:

"50-62-104. Answer of owner or occupant. (1) The owner of any building ~~so~~ condemned or any occupant or lessee upon whom ~~such~~ *the condemnation* notice or order ~~shall be~~ *is* served, within 20 days from the date of ~~such~~ service, may file with the clerk of the district court and serve upon the department of justice or any officer mentioned in 50-62-101 written objections to ~~said~~ *the* order in the form of a verified answer denying the existence of any of the facts ~~therein~~ cited ~~which he~~ *in the notice or order that the person* desires to ~~controvert~~ *contest*.

(2) If an answer ~~be~~ *is* filed and served, the court shall hear and determine the issues ~~so~~ raised and give judgment ~~thereon~~."

Section 1865. Section 50-62-110, MCA, is amended to read:

“50-62-110. Appeal to department of justice. If the owner or occupant ~~deems himself~~ *feels* aggrieved by an order of an officer under this chapter, ~~he the~~ *owner or occupant* may appeal to the department of justice within 24 hours and the cause of the complaint ~~shall at once~~ *must* be investigated, *in a timely manner*, by direction of the department. Unless ~~such the~~ *the* order is revoked by the department, it ~~shall remain~~ *remains* in force and ~~forthwith~~ *must* be complied with by ~~such the~~ *the* owner or occupant.”

Section 1866. Section 50-63-403, MCA, is amended to read:

“50-63-403. Agencies to keep information confidential. The insured’s right of individual privacy requires agencies and agency personnel receiving information furnished pursuant to 50-63-401 and 50-63-402 to hold the information in confidence unless:

- (1) the insured waives ~~his the~~ *the* right of individual privacy; or
- (2) release of the information is required pursuant to a criminal or civil proceeding.”

Section 1867. Section 50-70-107, MCA, is amended to read:

“50-70-107. Duty of physicians and others to report occupational disease. (1) Before the 11th day after discovery, ~~every a~~ *every* a physician, person in charge of a hospital or clinic, or state employee shall report an occupational disease to the department.

(2) The report ~~shall~~ *must* be on forms prescribed by the department and include:

- (a) name and address of the diseased person;
- (b) name and business address of the employer;
- (c) business of the employer;
- (d) place of the person’s employment;
- (e) length of time the person was employed at the place where ~~he the person~~ *the person* became ill;
- (f) nature of the disease;
- (g) other information required by the department.

(3) Reports made under this section are neither public records nor open to public inspection. They are not admissible as evidence in any legal action or at a hearing under workers’ compensation laws of this state.”

Section 1868. Section 50-70-115, MCA, is amended to read:

“50-70-115. Inspection. (1) The department may enter and inspect at a reasonable time property, premises, or a place, except a private residence, where a person is or will be employed to ascertain the state of compliance with this chapter and rules adopted under it.

(2) A person may not refuse entry or access to the department when it requests entry for purposes of inspection. A person may not obstruct, hamper, or interfere with an inspection.

(3) ~~At his~~ *Upon* request, the owner or operator of the premises ~~shall receive~~ *must be given* a report setting forth facts found ~~which that~~ *that* relate to compliance status.”

Section 1869. Section 50-71-201, MCA, is amended to read:

“50-71-201. Employer to provide safe workplace and to purchase, furnish, and require use of health and safety items — safe practices. Each employer shall:

(1) furnish a place of employment that is safe for each of ~~his~~ *the employer’s* employees;

(2) with the exception of footwear, purchase, furnish, and require the use of health and safety devices, safeguards, protective safety clothing, or other health and safety items, including but not limited to air masks, hardhats, and protective gloves, that may be required by state or federal law, the employer, or the terms of an employment contract; unless the terms of a collective bargaining agreement provide otherwise;

(3) adopt and use practices, means, methods, operations, and processes that are reasonably adequate to render the place of employment safe; and

(4) do any other thing reasonably necessary to protect the life, health, and safety of ~~his~~ *the employer’s* employees.”

Section 1870. Section 50-71-203, MCA, is amended to read:

“50-71-203. Removal of or refusal to use health and safety items prohibited. A person may not:

(1) remove, displace, damage, destroy, carry off, or refuse to use any health and safety device, safeguard, protective clothing, or other health and safety item furnished for ~~his~~ use by ~~his~~ *the person’s* employer;

(2) interfere with the use of any required health and safety device, safeguard, protective clothing, or other health and safety item by any other person;

(3) interfere with the use of a method or process adopted for the protection of an employee in the place of employment; or

(4) fail to do any other thing reasonably necessary to protect the life, health, and safety of employees.”

Section 1871. Section 50-71-303, MCA, is amended to read:

“50-71-303. Procedure to compel testimony or production of evidence. (1) The department or any member ~~thereof of the department~~ before whom testimony is to be given or produced, in the case of refusal of any witness to attend or testify or produce any papers required by ~~such a~~ subpoena, may in applying to the district court in and for the county in which the proceeding is pending show that the witness has been subpoenaed in the manner prescribed and the witness has failed or refused to attend or produce the papers required by the subpoena or has refused to answer questions ~~propounded~~ *directed* to ~~him~~ *the witness* in the course of ~~such the~~ proceeding and ask the court to compel the witness to attend and testify or produce ~~such the~~ papers before the department.

(2) The court, upon ~~such~~ application, shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court ~~then and there~~ to show cause why the witness has not attended and testified or produced the papers before the department or any member ~~thereof of the department~~.

(3) A copy of the order ~~shall~~ *must* be served upon the witness.

(4) If it is apparent to the court that the subpoena was regularly issued by the department or member ~~thereof of the department~~, the court ~~thereupon~~ shall enter an order that the witness appear before the department or member ~~thereof of the department~~ at a time and place to be fixed in ~~such the~~ order and

testify and produce the required papers, and upon failure to obey the order, the witness shall *must* be dealt with as for contempt of court.”

Section 1872. Section 50-71-325, MCA, is amended to read:

“50-71-325. Department authorized to prohibit further use of equipment constituting violation. (1) The department, upon finding any violation of any duly adopted safety code, order, or rule involving failure to install or maintain any safety appliance, device, or safeguard required by ~~such~~ *the* safety order, code, or rule, may prohibit the further use of the machine, equipment, or apparatus constituting ~~such~~ *the* violation. ~~and, when such~~ *If the* use is prohibited, ~~the department~~ shall post notice in an appropriate place in plain view of any person likely to use the ~~same~~ *machine, equipment, or apparatus* calling attention to the unsafe condition, defect, or lack of safeguard and the fact that the further use ~~thereof~~ is prohibited.

(2) The notice required by subsection (1) ~~of this section shall~~ *may* not be removed until the required safety appliance, device, or safeguard complies with the requirement of the safety order or safety code.

(3) ~~Every~~ *A* person who, after the notice required by subsection (1) ~~of this section~~ is posted as provided in that subsection, uses or operates any place of employment, machine, device, apparatus, or equipment referred to in subsection (1) ~~of this section~~ before it is made safe and the required safeguards or safety appliances or devices are provided or who defaces or destroys or removes any notice required by subsection (1) ~~of this section~~ without the authority of the department or who fails or refuses to file a report of accident as required by 39-71-307(1) is guilty of a misdemeanor and, in addition to the punishment provided for misdemeanors, is subject to a civil penalty in an amount of not more than \$1,000. This civil penalty may be imposed and collected by the department in an action brought in the name of the state in the county in which the employer resides or in which ~~he~~ *the employer* employs workers. Any penalty collected under this subsection shall *must* be paid into the department’s state special revenue account.

(4) ~~Any~~ *A* person aggrieved by an order prohibiting the use of the machine, equipment, apparatus, or place of employment as provided for in this section may request a hearing before the department within 20 days after entry of ~~such~~ *the* order. The department shall ~~then~~ affirm, modify, or revoke the order, and all procedures of this chapter ~~relative~~ *related* to entry of orders, rehearing, and appeal shall apply.”

Section 1873. Section 50-71-334, MCA, is amended to read:

“50-71-334. Judicial review. (1) The orders of the department, its rules, findings, and decisions made and entered under the provisions of this chapter may be reviewed by the courts within the time and in the manner specified in this section and not otherwise.

(2) Within 30 days after an application for rehearing is denied or, if the application is granted, within 30 days after rendition of the decision on the rehearing, any *affected* party ~~affected thereby~~ may appeal to the district court for the county in which ~~is situated~~ the place of employment ~~complained of~~ *is located* for the purpose of having the lawfulness of the original order or decision or the order or decision on rehearing inquired into and determined.

(3) To give the district court jurisdiction, it is sufficient that a notice be filed with the clerk of the court to the effect that an appeal is taken to the district court from the order or decision of the department and describing the order or decision sufficiently for purposes of identification. The notice shall *must* be

signed by the party appealing or ~~his~~ *the party's* attorney, and a copy thereof ~~shall~~ *must* be served by certified mail upon the department.

(4) Within 10 days after the receipt of the notice, the department shall file with the clerk of court the record of proceedings before the department, including a transcript of all the evidence ~~adduced upon~~ *introduced at* the hearing and any rehearing before the department. The district court, on application for good cause shown, may extend the time within which the department shall file the record, transcript, and evidence.

(5) The cause ~~shall~~ *must* be tried in the same manner as a civil action, provided that ~~no~~ new or additional evidence may *not* be introduced in the court, but the cause ~~shall~~ *must* be heard on the record to the court as certified to it by the department.

(6) The appeal ~~shall~~ *may* not be extended further than to determine whether or not:

- (a) the department acted without or in excess of its powers or in violation of the law;
- (b) the order or decision was procured by fraud;
- (c) the order, decision, or rule is unreasonable;
- (d) if findings of fact are made, the finding of fact supports the order or decision under review.

(7) An appeal may be taken from the decree of the district court to the supreme court as in all other civil cases."

Section 1874. Section 50-72-204, MCA, is amended to read:

"50-72-204. Debarment of persons from mine when death or serious injury likely. If, upon any inspection of a mine ~~which~~ *that* is subject to this chapter, authorized representatives of the department find that the conditions or practices in the mine are such that a danger exists ~~which~~ *that* could reasonably be expected to cause death or serious physical harm immediately or before the ~~imminence~~ *threat* of ~~such~~ *the* danger can be eliminated, ~~such~~ *the* representatives shall determine the extent of the area of ~~such~~ *the* mine throughout which the danger exists. ~~and thereupon~~ *Upon that determination, the representatives of the department shall* issue an order requiring the operator of ~~such~~ *the* mine to cause all persons to be withdrawn from and to be ~~debarred~~ *barred* from entering ~~such~~ *the* area, except the persons ~~designated below~~ whose presence in ~~such~~ *the* area is necessary to eliminate the danger described in ~~such~~ *order as follows*:

- (1) any person whose presence in ~~such~~ *the* area is necessary in the judgment of the operator of the mine to eliminate the danger described in the order;
- (2) any public official whose official duties require ~~him~~ *the official* to enter ~~such~~ *the* area;
- (3) any legal or technical consultant or any representative of the employees of the mine who is a person qualified to make mine examinations or is accompanied by ~~such~~ *a qualified* person and whose presence in ~~such~~ *the* area is necessary, in the judgment of the operator of the mine, for the proper investigation of the conditions described in the order."

Section 1875. Section 50-72-205, MCA, is amended to read:

"50-72-205. Procedure when noncompliance not likely to cause death or serious injury. (1) If, upon any inspection or investigation, an authorized representative finds that there has been a failure to comply with a

mandatory standard ~~which that~~ is applicable to ~~such a~~ mine, but that ~~such the~~ failure to comply has not created a danger that could reasonably be expected to cause death or serious physical harm in ~~such the~~ mine immediately or before the ~~imminence threat~~ of ~~such the~~ danger can be eliminated, ~~he the representative~~ shall ~~find determine~~ what would be a reasonable period of time within which ~~such the~~ violation should be totally abated and ~~thereupon~~ issue a notice fixing a reasonable time for the abatement of the violation.

(2) If, upon the expiration of ~~such the~~ period of time as originally fixed or extended, the authorized representative finds that ~~such the~~ violation has not been totally abated and if ~~he the representative~~ also finds that ~~such the~~ period of time should not be further extended, ~~he the representative~~ shall also ~~find determine~~ the extent of the area ~~which that~~ is affected by ~~such the~~ violation. ~~Thereupon~~ *After the determination*, the department shall make an order requiring the operator of ~~such the~~ mine to cause all persons in ~~such that~~ area to be withdrawn from and to be ~~debarred barred~~ from entering ~~such the~~ area, ~~excepting~~ *except for* the following persons whose presence in ~~such the~~ area is necessary to abate the violation described in the order:

(a) any person whose presence in ~~such the~~ area is necessary in the judgment of the operator of the mine to abate the violation described in the order;

(b) any public official whose official duties require ~~him the official~~ to enter ~~such the~~ area;

(c) any legal or technical consultant or any representative of the employees of the mine who is a person qualified to make examinations or is accompanied by ~~such a~~ *qualified* person and whose presence in ~~such the~~ area is necessary, in the judgment of the operator of the mine, for the proper investigation of the conditions described in the order.”

Section 1876. Section 50-73-102, MCA, is amended to read:

“50-73-102. Definitions. As used in this chapter, the following definitions apply:

(1) “Department” means the department of labor and industry and the state coal mine inspectors employed by the department.

(2) “Excavations” and “workings” mean all parts of a mine excavated or being excavated, including shafts, slopes, tunnels, entries, rooms, and working places, whether abandoned or in use.

(3) “Gassy mine” means a mine is considered to be potentially gassy. The department may further define this term in its rules.

(4) “Mine” and “coal mine” mean all parts of the property of a mining plant under one management ~~which that~~ contribute, directly or indirectly, to the mining or handling of coal.

(5) “Mine examiner” means a person charged with the examination of the condition of the mine before the miners are permitted to enter it and who is commonly known as the “fire boss”.

(6) “Mine ~~foreman~~ *supervisor*” means a person who is charged with the general direction of the underground work or both the underground work and the outside work of a coal mine and who is commonly known and designated as “mine boss”.

(7) “Operator”, as applied to the party in control of a mine under this chapter, means the person, firm, or body corporate ~~which that~~ is the immediate

proprietor as owner or lessee of the plant and, as such, is responsible for the condition and management ~~thereof~~ *of the mine*.

(8) "Shaft" means any vertical opening through the strata ~~which~~ *that* is or may be used for the purpose of ventilation or escape or for hoisting or lowering of ~~men~~ *people* or material in connection with the mining of coal.

(9) "Slope" and "drift" mean respectively an incline or horizontal way, opening, or tunnel to a seam of coal to be used for the same purpose as a shaft."

Section 1877. Section 50-73-205, MCA, is amended to read:

"50-73-205. Copies of maps for department. The original or true copies of all maps ~~shall~~ *must* be kept in the office at the mine, and true copies ~~shall~~ *must* also be furnished the department within 30 days after their completion. The maps delivered to the department ~~shall~~ become the property of the state. ~~They shall~~ *The maps must* be kept at the office of the department and ~~be~~ *are* open to inspection by all persons interested in them. An examination ~~shall~~ *may* only be made in the presence of a department inspector, and ~~he shall~~ *the inspector may* not permit any copies of ~~them~~ *the maps* to be made without the written consent of the operator or owner of the property, under penalty of removal from office."

Section 1878. Section 50-73-207, MCA, is amended to read:

"50-73-207. Annual surveys in mines having only five men people on shift. The department shall require an extension of the last preceding survey once every 12 months of every mine in active operation in which five ~~men~~ *people* or less are employed on any one shift."

Section 1879. Section 50-73-305, MCA, is amended to read:

"50-73-305. Specific prohibitions and safety precautions. (1) A person may not enter a mine ~~which~~ *that* is generating firedamp in great enough quantities to be detected by a safety lamp until the mine examiners make a report to the department.

(2) A person, unless accompanied by the mine examiner, may not go beyond a danger signal until all standing gas discovered has been removed or diluted and rendered harmless by a current of air. A person ordered to withdraw by the mine ~~foreman~~ *supervisor* or mine examiner from the mine on account of the interruption of the ventilation may not reenter the mine until given permission to do so by the mine ~~foreman~~ *supervisor*.

(3) A person other than the mine examiner may not remove any caution board or danger signal placed at the entrance to any working place or at the entrance to any old workings in a mine.

(4) A person may not erase or change a mark of reference or monument made in connection with a measurement, change marks or dates on any caution board, erase or change the dates at room or entry face when made by the mine examiner, take for ~~his~~ *the person's* use a life check not issued to ~~him~~ *the person* under rules adopted by the department, change the checks on cars, wrongfully check a car, or do any act with intent to defraud.

(5) A person may not take anything containing fire into an underground mine, except as provided for in rules adopted by the department.

(6) A person may not place refuse in or obstruct an airway or breakthrough used as an airway. A worker or other person may not damage or alter a water gauge, barometer, aircourse, brattice equipment, machinery, or livestock, obstruct or throw open any airway, handle or disturb any part of the machinery of the hoisting engine of a mine, open a door of a mine and neglect to close it,

endanger the miners or those working ~~therein~~ *in the mine*, disobey an order given in pursuance of law, or do a willful act endangering the lives or health of persons working there or the security of a mine or machinery.”

Section 1880. Section 50-73-307, MCA, is amended to read:

“50-73-307. Operator to make and preserve a record of all injuries. ~~Every~~ *An* operator of a coal mine or ~~his~~ *the operator’s* agent shall make and preserve for the information of the department, upon uniform blanks furnished by the department, a record of all injuries sustained by any employees on the premises.”

Section 1881. Section 50-73-401, MCA, is amended to read:

“50-73-401. Coal mine inspector. (1) The department shall employ an adequate number of qualified coal mine inspectors for the enforcement of this chapter and shall prescribe their duties.

(2) A person is not eligible to be a state coal mine inspector unless ~~he~~ *the person* is a citizen of the United States, *is* a resident of this state, and has been actually employed in coal mining *for 5 years before* ~~his~~ *the* appointment.

(3) A state coal mine inspector may not act as *the* agent for a corporation, superintendent, or manager of a mine and ~~shall in no manner~~ *may not* be in the employ of mining companies, ~~nor shall he be~~ *or* interested in any way in coal mining operations, either as owner, lessee, or otherwise.”

Section 1882. Section 50-73-404, MCA, is amended to read:

“50-73-404. Right of employees’ representative and mine owner to accompany department during inspection. The employees’ representative has the right to accompany the department in making an official mine inspection. The owner or operator has the right to personally accompany the department while inspecting ~~his~~ *the owner’s or operator’s* property or to designate someone to accompany the department.”

Section 1883. Section 50-73-410, MCA, is amended to read:

“50-73-410. Department inspection upon advisement of accident, injury, or fatality. (1) When advised by an operator of any accident in a coal mine involving loss of life or serious personal injury, the department shall, if it considers it necessary from the facts reported and in all cases of loss of life, immediately have an inspector go to the scene of the accident within 48 hours of notification.

(2) The department may also make any original or supplementary investigation ~~which~~ *that* it considers necessary as to the nature and cause of an accident and shall make a record of the circumstances and of the result of the investigations for its files.

(3) The inspection team ~~shall~~ *must* include a department coal mine inspector, the employer or ~~his~~ *the employer’s* designee, and a representative of the employees.”

Section 1884. Section 50-73-411, MCA, is amended to read:

“50-73-411. Miners’ organization authorized to investigate fatal accident. The representative of the miners’ organization or some person delegated by ~~him~~ *the representative* may enter any coal mine for the purpose of investigating the causes of a fatal accident.”

Section 1885. Section 50-73-412, MCA, is amended to read:

“50-73-412. Debarment of persons from mine when death or serious injury likely. If, upon an inspection of a mine, the department finds that the conditions or practices in the mine ~~are such that~~ *create a danger exists which that* could reasonably be expected to cause death or serious physical harm immediately or before the danger can be eliminated, the department shall determine the extent of the area of the mine throughout which the danger exists and order the operator of the mine to have all persons withdrawn from and excluded from entering the area, except the persons ~~designated below~~ whose presence in the area is necessary to eliminate the danger described in the order *as follows:*

- (1) a person whose presence in the area is necessary in the judgment of the operator of the mine to eliminate the danger;
- (2) a public official whose official duties require ~~him~~ *the official* to enter the area;
- (3) a legal or technical consultant or a representative of the employees of the mine who is a person qualified to make mine examinations or is accompanied by ~~such~~ *a qualified* person and whose presence in the area is necessary, in the judgment of the operator of the mine, for the proper investigation of the conditions in the area.”

Section 1886. Section 50-73-413, MCA, is amended to read:

“50-73-413. Procedure when noncompliance not likely to cause death or serious injury. If upon an inspection or investigation the department finds that there has been a failure to comply with a mandatory standard ~~which that~~ *is applicable to the mine, but that the failure to comply has not created a danger that could reasonably be expected to cause death or serious physical harm in the mine immediately or before the imminence threat* of the danger can be eliminated, it shall determine what would be a reasonable period of time within which the violation should be totally abated and issue a notice fixing a reasonable time for the abatement of the violation. If, upon the expiration of the period of time as originally fixed or extended, the department finds that the violation has not been totally abated and if it also finds that the period of time should not be further extended, it shall also find the extent of the area ~~which that~~ *is affected by the violation.* The department shall order the operator of the mine to have all persons in the area to be withdrawn from and excluded from entering the area, excepting the following persons whose presence in the area is necessary to abate the violation described in the order:

- (1) a person whose presence in the area is necessary in the judgment of the operator of the mine to abate the violation;
- (2) a public official whose official duties require ~~him~~ *the official* to enter the area;
- (3) a legal or technical consultant or a representative of the employees of the mine who is a person qualified to make examinations or is accompanied by ~~such~~ *a qualified* person and whose presence in the area is necessary, in the judgment of the operator of the mine, for the proper investigation of the conditions in the area.”

Section 1887. Section 50-74-203, MCA, is amended to read:

“50-74-203. Qualifications of boiler inspectors. ~~No~~ *A* person is *not* eligible to hold the office of inspector of boilers and steam engines who has not had at least 10 years of actual experience in the operation of steam engines, steam boilers, and steam machinery and who has not held for at least 3 years

immediately preceding ~~his~~ *the person's* appointment a first-class stationary engineer's license of the state of Montana or who is directly or indirectly interested in the manufacture or sale of boilers or steam machinery or any patented article required to be sold relating ~~thereto~~ *boilers or steam machinery.*"

Section 1888. Section 50-74-214, MCA, is amended to read:

"50-74-214. Engineer to assist in inspection. It ~~shall be~~ *is* the duty of the engineer operating any boiler or boilers to assist the inspectors in their examination of the ~~same~~ *boilers* and point out any defects known to ~~him~~ *the engineer* in the boilers or machinery under ~~his~~ *the engineer's* charge. ~~Any~~ *If an engineer does not* ~~complying~~ *comply* with this section, ~~shall have his~~ *the engineer's* license ~~must be~~ *revoked or suspended.*"

Section 1889. Section 50-74-215, MCA, is amended to read:

"50-74-215. Interior and exterior examination of boiler. (1) The inspector must ~~satisfy himself~~ *be satisfied* by a thorough interior and exterior examination that the:

(a) boilers are well-made and of good and suitable material;

(b) ~~that the~~ openings for the passage of water and steam, respectively, and all pipes and tubes exposed to heat are of the proper dimensions and free from obstructions;

(c) ~~that the~~ flues are circular in shape;

(d) ~~that the~~ fire line of the furnace is at least 2 inches below prescribed minimum waterline of the boilers;

(e) ~~that the~~ arrangements for delivering the feed water are such that the boilers cannot be injured ~~thereby~~ *by the feed water*; and

(f) ~~that such~~ boilers and the steam connections may be safely employed without danger to life.

(2) ~~No~~ A boiler or steam pipe or any of the connections ~~thereto which~~ *to a boiler or steam pipe* that are made in whole or in part of bad material or are unsafe from any cause ~~shall~~ *may not* be approved. Nothing ~~herein~~ *shall in this section* may be construed to prevent the use of any boiler or steam generator, ~~which may that~~ *is* not be constructed of riveted iron or steel plates, when the inspector has satisfactory evidence that ~~such the~~ boiler or steam generator is equal in strength to and as safe from explosion as boilers of the best quality, constructed of iron or steel plates."

Section 1890. Section 50-74-217, MCA, is amended to read:

"50-74-217. Other inspection requirements. The inspector must ~~satisfy himself~~ *be satisfied* that:

(1) the safety valves are of suitable relieving capacity ratings, sufficient in number and area, and properly arranged and ~~are~~ properly adjusted so as not to allow a greater pressure in a boiler than the amount prescribed by the inspection certificate;

(2) there are a sufficient number of gauge cocks properly inserted to indicate the amount of water and suitable gauges that will correctly record the pressure of steam; and

(3) adequate and certain provisions for an ample supply of water to feed the boiler at all times and suitable means for blowing out are provided so as to thoroughly remove mud and sediment from all parts of the boiler when it is under pressure of steam."

Section 1891. Section 50-74-311, MCA, is amended to read:

“50-74-311. Waiting period before reexamination permitted. In case of the failure of any applicant to successfully pass an examination, 45 days must elapse before ~~he~~ *the applicant can* may again be examined for license.”

Section 1892. Section 50-76-101, MCA, is amended to read:

“50-76-101. ~~Where~~ When chapter not to apply. (1) This chapter ~~shall~~ *does* not apply to hoisting engines, air compressors, or elevators under federal control or to operating elevators in completed private or public buildings.

(2) The provisions of this chapter ~~shall do~~ not apply to forklifts and front-end and rear-end loaders or line trucks and bucket trucks.

(3) For the purposes of this section, “line trucks” are hoisting and digging devices mounted on a standard manufacturer’s truck chassis with an all-weather cab capable of transporting a driver and two or more ~~crewmen~~ *crew members*. Line trucks are equipped with a hydraulically operated, telescoping boom ~~which~~ *that* uses a nonmetallic cable for hoisting. Line trucks may be equipped with a rotary digging device and are capable of attaining maximum allowable highway speeds. “Bucket trucks” are personnel-lifting devices designed to lift personnel to work stations above ground. Bucket trucks are not designed for the purposes intended for a line truck.”

Section 1893. Section 50-76-108, MCA, is amended to read:

“50-76-108. Renewal of application by rejected candidate. ~~Any~~ *A* person who has applied for a license under this chapter and has been rejected may renew ~~his~~ *the* application for a license within the time and in the manner prescribed in 50-74-312.”

Section 1894. Section 50-77-102, MCA, is amended to read:

“50-77-102. Temporary floors for protection of ~~workmen~~ workers. (1) ~~It shall be~~ *is* the duty of ~~every an~~ owner, person, or corporation ~~who shall have~~ *that has* the direct and immediate supervision or control of the construction or remodeling of any building having more than three framed floors, whether some or all of ~~said~~ *the* floors are above or below the established street grade, to provide and lay upon the upper side of the joists or girders, or both, of the first floor below the riveters and structural steel setters a plank floor, which ~~shall~~ *must* be laid to form a good substantial temporary floor for the protection of employees and all persons engaged above or below or on ~~such~~ *the* temporary floor in ~~such~~ *the* building.

(2) ~~Where~~ *If* the permanent floor is in place on the floor ~~herein~~ required to be planked, a temporary protective floor ~~shall~~ *may* not be required.

(3) If the floor or permanent floor of the second floor, any other floor above the second *floor*, or *the* roof is being placed previous to the permanent floor immediately below the floor ~~which~~ *that* is being arched or planked, a good substantial temporary floor ~~shall~~ *must* be laid on the joists and girders of the next lower floor.

(4) For the purpose of this section, the lowest framed floor in the building ~~shall be~~ *is* considered the first floor.”

Section 1895. Section 50-78-204, MCA, is amended to read:

“50-78-204. Employee rights. (1) An employee who may be exposed to hazardous chemicals must be informed of the potential or actual exposure and must be provided access to the workplace chemical list and to the material safety data sheet for each hazardous chemical. An employer who does not provide an

employee with information on a hazardous chemical within 5 working days of the request for information, as required by this chapter, may not require the employee to work with the hazardous chemical until the information is made available.

(2) Each employee must receive training from ~~his~~ *the* employer, as provided in 50-78-305 or in the OSHA standard, on the hazards of workplace chemicals and on protective measures for handling those chemicals.

(3) Each employee required to work with a hazardous chemical must be provided with appropriate personal protective equipment.

(4) ~~No~~ An employer ~~shall~~ *may not* discharge, cause to be discharged, discipline, discriminate against, or initiate any adverse personnel action against any employee who exercises ~~his~~ *the employee's* rights, testifies, or assists others in exercising their rights or duties under this chapter.

(5) A waiver by an employee of the benefits, rights, or requirements of this chapter is against public policy and is void. An employer's request or requirement that an employee waive any rights under this chapter as a condition of employment is a violation of this chapter.

(6) A designated representative may act on behalf of an employee in pursuing any right or enforcement remedy under this chapter."

Section 1896. Section 50-78-305, MCA, is amended to read:

"50-78-305. Employee education program. (1) Each employer shall provide, at least annually, an education and training program for all ~~his~~ *of the employer's* employees using or handling hazardous chemicals. Additional instruction must be provided whenever the potential for exposure to hazardous chemicals is altered or whenever new and significant information is received by the employer concerning the hazards of a chemical. New or newly assigned employees must be provided training before working with or in a work area containing a hazardous chemical.

(2) The programs must provide instruction in:

(a) interpreting labels and material safety data sheets and the relationship between these two methods of hazard communication;

(b) the location and acute and chronic effects of hazardous chemicals used by the employees; and

(c) the safe handling, protective equipment, first-aid treatment, and cleanup and disposal procedures for hazardous chemicals.

(3) The employer shall keep a record of the dates of training sessions given to employees and the names of the employees attending."

Section 1897. Section 50-78-402, MCA, is amended to read:

"50-78-402. Complaints, investigation, and penalties. (1) An employee in a workplace covered by the OSHA standard who believes ~~his~~ *the* employer is not complying with the provisions of the OSHA standard may report the alleged violation to the federal occupational safety and health administration.

(2) An employee who believes an employer is not complying with the provisions of this chapter may submit a written complaint to the local health officer, as defined and described in Title 50, chapter 2, part 1.

(3) If the local health officer chooses to act on the complaint, ~~he~~ *the officer* shall:

(a) within 5 working days of receipt of the complaint, investigate the complaint and, in the event of an apparent violation, seek a corrective response from the employer;

(b) within 10 working days of receipt of a complaint, complete a report that details the findings of the investigation and the response of the employer;

(c) upon completion of the report, submit copies to the employee requesting the investigation, the county attorney, and the employer; and

(d) if the evidence suggests that the employer has violated the provisions of this chapter and the health officer does not receive a corrective response within 10 days of notifying the employer of the violation, file a complaint in the appropriate court or request appropriate action by the county attorney to prosecute the alleged violation.

(4) An employee may submit a written complaint to the county attorney.

(5) The county attorney shall investigate any complaint received and, if a violation appears to have occurred and the county attorney does not receive a corrective response within 10 days of notifying the employer of the violation, initiate appropriate court proceedings to prosecute the violation.

(6) A person found to be knowingly in violation of this chapter is guilty of a misdemeanor. Each day of violation is a separate offense.”

Section 1898. Section 50-79-501, MCA, is amended to read:

“50-79-501. Northwest Interstate Compact on Low-Level Radioactive Waste Management. The legislature of the state of Montana approves and ratifies the compact designated as the “Northwest Interstate Compact on Low-Level Radioactive Waste Management”, which compact is as follows:

NORTHWEST INTERSTATE COMPACT ON LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT

ARTICLE I — Policy and Purpose

The party states recognize that low-level radioactive wastes are generated by essential activities and services that benefit the citizens of the states. It is further recognized that the protection of the health and safety of the citizens of the party states and the most economical management of low-level radioactive wastes can be accomplished through cooperation of the states in minimizing the amount of handling and transportation required to dispose of such wastes and through the cooperation of the states in providing facilities that serve the region. It is the policy of the party states to undertake the necessary cooperation to protect the health and safety of the citizens of the party states and to provide for the most economical management of low-level radioactive wastes on a continuing basis. It is the purpose of this compact to provide the means for such a cooperative effort among the party states so that the protection of the citizens of the states and the maintenance of the viability of the states’ economies will be enhanced while sharing the responsibilities of radioactive low-level waste management.

ARTICLE II — Definitions

As used in this compact:

(1) “Facility” means any site, location, structure, or property, excluding federal waste facilities, used or to be used for the storage, treatment, or disposal of low-level waste.

(2) “Low-level waste” means waste material which contains radioactive nuclides emitting primarily beta or gamma radiation, or both, in concentrations or quantities which exceed applicable federal or state standards for unrestricted release. Low-level waste does not include waste containing more than 10 nanocuries of transuranic contaminants per gram of material, spent reactor fuel, or material classified as either high-level waste or waste which is unsuited for disposal by near-surface burial under any applicable federal regulations.

(3) “Generator” means any person, partnership, association, corporation, or any other entity whatsoever which, as a part of its activities, produces low-level radioactive waste.

(4) “Host state” means a state in which a facility is located.

ARTICLE III — Regulatory Practices

Each party state hereby agrees to adopt practices which will require low-level waste shipments originating within its borders and destined for a facility within another party state to conform to the applicable packaging and transportation requirements and regulations of the host state. Such practices shall include:

(1) maintaining an inventory of all generators within the state that have shipped or expect to ship low-level waste to facilities in another party state;

(2) periodic unannounced inspection of the premises of such generators and the waste management activities thereon;

(3) authorization of the containers in which such waste may be shipped and a requirement that generators use only that type of container authorized by the state;

(4) assurance that inspections of the carriers which transport such waste are conducted by proper authorities and appropriate enforcement action is taken for violations;

(5) after receiving notification from a host state that a generator within the party state is in violation of applicable packaging or transportation standards, taking appropriate action to assure that such violations do not recur. Such action may include inspection of every individual low-level waste shipment by that generator.

Each party state may impose fees upon generators and shippers to recover the cost of the inspections and other practices under this article. Nothing in this article shall be construed to limit any party state’s authority to impose additional or more stringent standards on generators or carriers than those required under this article.

ARTICLE IV — Regional Facilities

(1) Facilities located in any party state, other than facilities established or maintained by individual low-level waste generators for the management of their own low-level waste, shall accept low-level waste generated in any party state if such waste has been packaged and transported according to applicable laws and regulations.

(2) No facility located in any party state may accept low-level waste generated outside the region comprising the party states, except as provided in Article V.

(3) Until such time as paragraph (2) of this article takes effect as provided in Article VI, facilities located in any party state may accept low-level waste generated outside of any of the party states only if such waste is accompanied by

a certificate of compliance issued by an official of the state in which such waste shipment originated. Such certificate must be in such form as may be required by the host state and shall contain at least the following:

- (a) the generator's name and address;
 - (b) a description of the contents of the low-level waste container;
 - (c) a statement that the low-level waste being shipped has been inspected by the official who issued the certificate or by ~~his~~ *the official's* agent or by a representative of the United States Nuclear Regulatory Commission and was found to have been packaged in compliance with applicable federal regulations and such additional requirements as may be imposed by the host state;
 - (d) a binding agreement by the state of origin to reimburse any party state for any liability or expense incurred as a result of an accidental release of such waste during shipment or after such waste reaches the facility.
- (4) Each party state shall cooperate with the other party states in determining the appropriate site of any facility that might be required within the region comprising the party states in order to maximize public health and safety while minimizing the use of any one party state as the host of such facilities on a permanent basis. Each party state further agrees that decisions regarding low-level waste management facilities in its region will be reached through a good faith process which takes into account the burdens borne by each of the party states as well as the benefits each has received.
- (5) The party states recognize that the issue of hazardous chemical waste management is similar in many respects to that of low-level waste management. Therefore, in consideration of the state of Washington allowing access to its low-level waste disposal facility by generators in other party states, party states such as Oregon and Idaho, which host hazardous chemical waste disposal facilities, will allow access to such facilities by generators within other party states. Nothing in this compact may be construed to prevent any party state from limiting the nature and type of hazardous chemical or low-level wastes to be accepted at facilities within its borders or from ordering the closure of such facilities, so long as such action by a host state is applied equally to all generators within the region composed of the party states.
- (6) Any host state may establish a schedule of fees and requirements related to its facilities to assure that closure, perpetual care, and maintenance and contingency requirements are met, including adequate bonding.

ARTICLE V — Northwest Low-Level Waste Compact Committee

The Governor of each party state shall designate one official of that state as the person responsible for administration of this compact. The officials so designated shall together comprise the Northwest Low-Level Waste Compact Committee. The committee shall meet as required to consider matters arising under this compact. The parties shall inform the committee of existing regulations concerning low-level waste management in their states and shall afford all parties a reasonable opportunity to review and comment upon any proposed modifications in such regulations. Notwithstanding any provision of Article IV to the contrary, the committee may enter into arrangements with states, provinces, individual generators, or regional compact entities outside the region comprising the party states for access to facilities on such terms and conditions as the committee may deem appropriate. However, it shall require a two-thirds vote of all such members, including the affirmative vote of the member of any party state in which a facility affected by such arrangement is located, for the committee to enter into such arrangement.

ARTICLE VI — Eligible Parties and Effective Date

(1) Each of the following states is eligible to become a party to this compact: Alaska, Hawaii, Idaho, Montana, Oregon, Utah, Washington, and Wyoming. As to any eligible party, this compact shall become effective upon enactment into law by that party, but it shall not become initially effective until enacted into law by two states. Any party state may withdraw from this compact by enacting a statute repealing its approval.

(2) After the compact has initially taken effect pursuant to paragraph (1) of this article, any eligible party state may become a party to this compact by the execution of an executive order by the Governor of the state. Any state which becomes a party in this manner shall cease to be a party upon the final adjournment of the next general or regular session of its Legislature or July 1, 1983, whichever occurs first, unless the compact has by then been enacted as a statute by that state.

(3) Paragraph (2) of Article IV of this compact shall take effect on July 1, 1983, if consent is given by Congress. As provided in Public Law 96-573, Congress may withdraw its consent to the compact after every 5-year period.

ARTICLE VII — Severability

If any provision of this compact or its application to any person or circumstance is held to be invalid, all other provisions of this compact and the application of all of its provisions to all other persons and circumstances shall remain valid, and to this end the provisions of this compact are severable.”

Section 1899. Section 52-2-723, MCA, is amended to read:

“52-2-723. Requirements for licensure. (1) The department shall include in the minimum standards for day-care centers the following requirements:

(a) The applicant, ~~his~~ *the applicant’s* employees, and all those persons who will come in direct contact with the children are of good character.

(b) The staff of the day-care facility is sufficient in number as provided by rule to provide adequate supervision and care of the children in the facility.

(c) Essential programs and practices carried on by the facility staff are developed and carried out with due regard for the protection of the health, safety, development, and well-being of the children.

(d) Applicant and staff are qualified by practical experience or education or training to give good care and treatment to the children.

(e) Intake records are kept on each child admitted for care.

(f) The applicant and staff limit admissions to the maximum number indicated on the current license.

(g) The applicant will arrange for the necessary precautions to guard against communicable diseases.

(h) Public liability insurance and fire insurance are currently in force for the protection of the operator, ~~his~~ *the* staff, and the facility.

(i) ~~Specify the~~ *The* ages and numbers of children that may be cared for in a day-care facility *are specified*.

(2) It is the duty of the department or its authorized representative to assist applicants in meeting the minimum requirements.”

Section 1900. Section 52-3-602, MCA, is amended to read:

“52-3-602. Definitions. In this part, the following definitions apply:

(1) "Local ombudsman" means a person officially designated by the long-term care ombudsman to act as ~~his~~ *the long-term care ombudsman's* local representative.

(2) "Long-term care facility" means a facility or part ~~thereof~~ *of a facility* that provides skilled nursing care, intermediate nursing care, or personal care, as these terms are defined in 50-5-101.

(3) "Long-term care ombudsman" means the individual appointed under 42 U.S.C. 3027(a)(12) to fulfill the federal requirement that the state provide an advocate for residents of long-term care facilities."

Section 1901. Section 52-5-105, MCA, is amended to read:

"52-5-105. Superintendents to manage facilities. Each facility provided for in 52-5-101 is under the immediate management and control of a superintendent. If the parent or legal guardian of a resident of a facility cannot be located, the superintendent or ~~his~~ *the superintendent's* designee may consent to necessary medical treatment for the resident of the facility under ~~his~~ *the superintendent's* management and control."

Section 1902. Section 52-5-114, MCA, is amended to read:

"52-5-114. Penalty for aiding resident in leaving or not returning to a youth correctional facility. (1) A person is guilty of an offense if ~~he~~ *the person* purposely or knowingly:

(a) permits or assists a resident of a youth correctional facility to leave a facility without permission;

(b) permits or assists a resident's failure to return to a youth correctional facility from which ~~he~~ *the resident* had permission to leave;

(c) furnishes or attempts to furnish to ~~such~~ a resident a tool, weapon, or other article with the intent of aiding ~~him~~ *the resident* to leave without permission or to not return; or

(d) harbors or conceals a resident who has left without permission.

(2) Upon conviction of a violation of subsection (1), a person shall be punished by imprisonment for a term of not less than 6 months or more than 2 years or by a fine not exceeding \$1,000, or by both ~~such fine and imprisonment.~~"

Section 1903. Section 53-2-107, MCA, is amended to read:

"53-2-107. Fraudulent obtaining of public assistance treated as theft. Whoever knowingly obtains by means of a willfully false statement, representation, or impersonation or other fraudulent device public assistance to which ~~he~~ *the person* is not entitled is guilty of theft as provided in 45-6-301."

Section 1904. Section 53-5-901, MCA, is amended to read:

"53-5-901. Medicare assignments — notice required. (1) A health care provider shall give notice to a medicare patient as to whether or not the provider accepts payment for services on the basis of an assignment, pursuant to section 1842(b)(3)(B)(ii) of the federal Social Security Act, (42 U.S.C. 1395u(b)(3)(B)(ii)), the terms of which provide that the full charge for services is the amount of the ~~medicare-approved~~ *medicare-approved* rate for payment of the applicable service plus any deductible, coinsurance, or copayment required to be paid by the patient.

(2) The notice required under subsection (1) must be posted by each health care provider in a conspicuous area in ~~his~~ *the provider's* place of business.

(3) For purposes of this section, "health care provider" means a person, firm, corporation, association, or institution that provides goods or services subject to reimbursement under the federal medicare program in accordance with Title XVIII of the federal Social Security Act, (42 U.S.C. 1395, et seq.)."

Section 1905. Section 53-19-106, MCA, is amended to read:

"53-19-106. Eligibility for services. (1) The department, in its discretion and in accordance with this part and Title VII of the federal Rehabilitation Act of 1973, (29 U.S.C. 796, et seq.), as may be amended, may determine eligibility of persons for services under this part.

(2) To be eligible for services under this part, a person must have a disability of such severity that, to secure and maintain employment or to function independently, ~~he~~ *the person* requires intensive vocational or comprehensive rehabilitation services.

(3) A person with severe disabilities not receiving other vocational and rehabilitation services provided by the department has priority for services provided under this part."

Section 1906. Section 53-19-110, MCA, is amended to read:

"53-19-110. Eligibility for residential services in a community home for persons with severe disabilities. (1) The department, in its discretion and in accordance with this part, may determine eligibility for residential services in a community home for persons with severe disabilities, based on the residential needs of the person and on the availability of residential services. Any person with a severe disability, as defined in 52-4-202, may be considered for placement in a community home, regardless of the source of funding for ~~his~~ *the person's* residential services.

(2) A person who has a primary diagnosis of mental illness or who receives mental health services under Title 53, chapter 21, is not eligible for placement in a community home for persons with severe disabilities unless ~~he~~ *the person* is eligible for and receiving services under this part and Title VII of the federal Rehabilitation Act of 1973, (29 U.S.C. 796, et seq.), as may be amended, or Title XIX of the Social Security Act, (42 U.S.C. 1396, et seq.), as may be amended."

Section 1907. Section 53-20-131, MCA, is amended to read:

"53-20-131. Placement in nonstate facility. (1) Consistent with other provisions of this part, a person admitted to a residential facility under this part for a period of more than 30 days may be committed by the court to the custody of friends or next of kin residing outside the state or transferred to an out-of-state facility for the habilitation of persons who are persons with developmental disabilities if the out-of-state facility agrees to receive the person. ~~Such a~~ *The* commitment or transfer may not be for a longer period of time than is permitted within Montana. If the person is indigent, the expense of supporting ~~him~~ *the person* in an out-of-state facility and the expense of transportation must be borne by the state of Montana.

(2) The transfer of persons admitted to a residential facility ~~out~~ *outside* of Montana under the provisions of this part or into Montana under the laws of another jurisdiction must be governed by the provisions of the Interstate Compact on Mental Health."

Section 1908. Section 53-20-145, MCA, is amended to read:

"53-20-145. Right to be free from unnecessary or excessive medication. Residents have a right to be free from unnecessary or excessive medication. Medication may not be administered unless at the written order of a

physician. The individual treatment planning team and the attending physician are responsible for all medication given or administered to a resident. The use of medication may not exceed standards of use that are advocated by the United States food and drug administration. Notation of each individual's medication must be kept in ~~his~~ *the individual's* medical records. A pharmacist or a registered nurse shall review monthly the record of each resident on medication for potential adverse reactions, allergies, interactions, contraindications, rationality, and laboratory test modifications and shall advise the physician of any problems. Medications must be reviewed quarterly by the attending or staff physician. At least monthly, an attending physician shall review the drug regimen of each patient on psychotropic medication. All prescriptions must be written with a termination date that may not exceed 90 days. Medication for newly admitted residents must be reviewed and reordered as necessary upon admission and then every 30 days for the first 90 days. Medications may not be used as punishment, for the convenience of staff, as a substitute for a habilitation program, or in quantities that interfere with the resident's treatment program. ~~Nothing in this~~ *This section may not* be interpreted to relieve a physician or other professional or medical staff person from any obligation to adequately monitor the medication of a resident, with due consideration to the nature of the medication, the purpose for which it is given, and the condition of the resident."

Section 1909. Section 53-20-164, MCA, is amended to read:

"53-20-164. Resident labor. The following rules govern resident labor:

(1) A resident may not be required to perform labor that involves the operation and maintenance of the facility or for which the facility is under contract with an outside organization. Privileges or release from the facility may not be conditioned upon the performance of labor covered by this provision. Residents may voluntarily engage in ~~such~~ *the labor described in this subsection* if the labor is compensated in accordance with the minimum wage laws of the Fair Labor Standards Act of 1938, 29 U.S.C. 206, as amended.

(2) A resident may not be involved in the ~~care~~ (feeding, clothing, bathing), training, or supervision of other residents unless ~~he~~ *the resident*:

- (a) has volunteered;
- (b) has been specifically trained in the necessary skills;
- (c) has the humane judgment required for ~~such~~ *the* activities;
- (d) is adequately supervised; and

(e) is reimbursed in accordance with the minimum wage laws of the Fair Labor Standards Act of 1938, 29 U.S.C. 206, as amended.

(3) Residents may be required to perform vocational training tasks that do not involve the operation and maintenance of the facility, subject to a presumption that an assignment of longer than 3 months to any task is not a training task, provided *that* the specific task or any change in task assignment is:

(a) an integrated part of the resident's habilitation plan and approved as a habilitation activity by the qualified mental retardation professional and the individual treatment planning team responsible for supervising the resident's habilitation; and

(b) supervised by a staff member to oversee the habilitation aspects of the activity.

(4) Residents may voluntarily engage in habilitative labor at nonprogram hours for which the facility would otherwise have to pay an employee, ~~provided if~~ the specific labor or any change in labor is:

(a) an integrated part of the resident's habilitation plan and approved as a habilitation activity by the qualified mental retardation professional and the individual treatment planning team responsible for supervising the resident's habilitation;

(b) supervised by a staff member to oversee the habilitation aspects of the activity; and

(c) compensated in accordance with the minimum wage laws of the Fair Labor Standards Act of 1938, 29 U.S.C. 206, as amended.

(5) If a resident performs habilitative labor that involves the operation and maintenance of a facility but due to physical or mental disability is unable to perform the labor as efficiently as a person not so physically or mentally disabled, then the resident may be compensated at a rate that bears the same approximate relation to the statutory minimum wage as ~~his~~ *the resident's* ability to perform that particular job bears to the ability of a person not so afflicted.

(6) Residents may be required to perform tasks of a personal housekeeping nature, such as the making of one's own bed.

(7) Deductions or payments for care and other charges may not deprive a resident of a reasonable amount of the compensation received pursuant to this section for personal and incidental purchases and expenses.

(8) Staffing must be sufficient so that the facility is not dependent upon the use of residents or volunteers for the care, maintenance, or habilitation of other residents or for income-producing services. The facility shall formulate a written policy to protect the residents from exploitation when they are engaged in productive work."

Section 1910. Section 53-20-209, MCA, is amended to read:

"53-20-209. Eligibility for services. (1) ~~Any~~ A person suspected of *having* a developmental disability ~~shall be~~ *is* eligible for an evaluation to determine whether the person is a person with developmental disabilities.

(2) If the department determines through a screening process that a person with developmental disabilities is in need of available services and those services can be provided to ~~him~~ *the person*, the department may provide services available under ~~this part and~~ Title 53, chapter 20, part 3, *and this part.*"

Section 1911. Section 53-21-105, MCA, is amended to read:

"53-21-105. Certification of professional persons required. ~~No~~ A person may *not* act in a professional capacity as provided for in this part unless ~~he~~ *the person* is a professional person as defined in 53-21-102."

Section 1912. Section 53-21-114, MCA, is amended to read:

"53-21-114. Notice of rights to be given. (1) Whenever a person is involuntarily detained pursuant to 53-21-121 through 53-21-126, the person ~~shall~~ *must* at the time of detention be informed of ~~his~~ *the person's* constitutional rights and ~~his~~ *the person's* rights under this part. Within 3 days of ~~such~~ detention, ~~he~~ *the person* must also be informed in writing by the county attorney of ~~such~~ *the enumerated* rights.

(2) ~~Every~~ A respondent *who* is subject to an order for short-term treatment or long-term care and treatment ~~shall~~ *must* be advised in writing of ~~his~~ *the* right

to appeal the order by the court at the conclusion of any hearing the result of which ~~such~~ an order may be entered.”

Section 1913. Section 53-21-117, MCA, is amended to read:

“53-21-117. Right to representation by own attorney. The respondent or the friend of respondent appointed by the court may secure an attorney of ~~his~~ *the person’s* own choice and at ~~his~~ *the person’s* own expense to represent the respondent.”

Section 1914. Section 53-21-118, MCA, is amended to read:

“53-21-118. Right to examination by professional person of own choosing. (1) The respondent, ~~his~~ *the respondent’s* attorney, or the friend of respondent appointed by the court may secure a professional person of ~~his~~ *the individual’s* own choice to examine the respondent and to testify at the hearing before the court or jury as to the results of ~~his~~ *the professional person’s* examination.

(2) If the person wishing to secure the testimony of a professional person is unable to do so because of financial reasons and if the respondent joins in the request for the examination, the court shall appoint a professional person other than the professional person requesting the commitment to perform the examination. Whenever possible, the court shall allow the respondent a reasonable choice of an available professional person qualified to perform the requested examination who will be compensated from the public funds of the county where the respondent resides.”

Section 1915. Section 53-21-119, MCA, is amended to read:

“53-21-119. Waiver of rights. (1) A person may waive ~~his~~ *the person’s* rights, or if the person is not capable of making an intentional and knowing decision, these rights may be waived by ~~his~~ *the person’s* counsel and friend of respondent acting together if a record is made of the reasons for the waiver. The right to counsel may not be waived. The right to treatment provided for in this part may not be waived.

(2) The right of the respondent to be physically present at a hearing may also be waived by ~~his~~ *the respondent’s* attorney and the friend of respondent with the concurrence of the professional person and the judge upon a finding supported by facts that:

(a) the presence of the respondent at the hearing would be likely to seriously adversely affect ~~his~~ *the respondent’s* mental condition; and

(b) an alternative location for the hearing in surroundings familiar to the respondent would not prevent ~~such~~ *the* adverse effects on ~~his~~ *the respondent’s* mental condition.

(3) (a) In the case of a minor, provided that a record is made of the reasons for the waiver, ~~his~~ *the minor’s* rights may be waived by the mutual consent of ~~his~~ *the minor’s* counsel and parents or guardian or guardian ad litem if there are no parents or guardian.

(b) If there is an apparent conflict of interest between a minor and ~~his~~ *the minor’s* parents or guardian, the court shall appoint a guardian ad litem for ~~him~~ *the minor.*”

Section 1916. Section 53-21-125, MCA, is amended to read:

“53-21-125. Request for jury trial. At any time prior to the date set for hearing, the respondent, through ~~his~~ counsel, may request a jury trial, ~~whereupon and upon the request,~~ the time set for hearing ~~shall~~ *must* be vacated

and the matter set on the court's jury calendar at the earliest date possible, the matter taking precedence over all other matters. If there is not a jury in attendance, a jury ~~shall~~ *must* be selected in the manner provided in 3-15-506 and a date *must be* set for trial by a jury ~~not later than~~ *within* 7 days, exclusive of Saturdays, Sundays, and holidays."

Section 1917. Section 53-21-133, MCA, is amended to read:

"53-21-133. Transfer to nonstate facilities. (1) If a person is committed under the provisions of this part and is eligible for hospital care or treatment by an agency of the United States and if a certificate of notification from ~~such~~ *the* agency showing that facilities are available and that the person is eligible for care or treatment ~~therein~~ is received, the court may order the person to be placed in the custody of the agency for hospitalization. The chief officer of any hospital or institution operated by ~~such~~ an agency and in which a person is ~~so~~ hospitalized ~~shall be~~ *is* vested with the same powers as the superintendent of the state hospital with respect to detention, custody, transfer, conditional release, or discharge of the person. Jurisdiction ~~shall~~ *must* be retained in the appropriate courts of this state ~~to~~ inquire into the mental condition of persons ~~so~~ hospitalized *under this section* and to determine the necessity for continuance of their hospitalization.

(2) Consistent with other provisions of this part, a person committed under this part for a period of 3 months or longer may be committed by the court to the custody of friends or next of kin residing outside the state or to a mental health facility located outside the state if the out-of-state facility agrees to receive the patient. ~~No such~~ *The* commitment ~~shall~~ *may not* be for a longer period of time than is permitted within the state. If the patient is indigent, the expense of supporting ~~him~~ *the patient* in an out-of-state facility and the expense of transportation ~~shall~~ *must* be borne by the state of Montana.

(3) The transfer out of Montana of persons committed under the provisions of this part or into Montana under the laws of another jurisdiction ~~shall~~ *must* be governed by the provisions of the Interstate Compact on Mental Health."

Section 1918. Section 53-21-141, MCA, is amended to read:

"53-21-141. Civil and legal rights of person committed. (1) Unless specifically stated in an order by the court, a person involuntarily committed to a facility for a period of evaluation or treatment does not forfeit any legal right or suffer any legal disability by reason of the provisions of this part ~~except insofar~~ as it may be necessary to detain the person for treatment, evaluation, or care. All communication between an alleged mentally ill person and a professional person is privileged under normal privileged communication rules unless it is clearly explained to the person in advance that the purpose of an interview is for evaluation and not treatment.

(2) Whenever a person is committed to a mental health facility for a period of 3 months or longer, the court ordering the commitment may make an order stating specifically any legal rights ~~which~~ *that* are denied the respondent and any legal disabilities ~~which~~ *that* are imposed on ~~him~~ *the respondent*. As part of its order, the court may appoint a person to act as conservator of the respondent's property. Any conservatorship created pursuant to this section terminates upon the conclusion of the involuntary commitment if not sooner terminated by the court. A conservatorship or guardianship extending beyond the period of involuntary commitment may not be created except according to the procedures set forth under Montana law for the appointment of conservators and guardians generally. In the case of a person admitted to a program or

facility for the purpose of receiving mental health services, an individual employed by or receiving remuneration from the program or facility may not act as the person's guardian or representative unless the program or facility can demonstrate that no other person is available or willing to act as the person's guardian or representative.

(3) A person who has been committed to a mental health facility pursuant to this part is automatically restored upon the termination of the commitment to all of ~~his~~ *the person's* civil and legal rights ~~which~~ *that* may have been lost when ~~he~~ *the person* was committed. ~~This~~ *However, this* subsection does not affect, ~~however,~~ a guardianship or conservatorship created independently of the commitment proceedings according to the provisions of Montana law relating to the appointment of conservators and guardians generally. A person who leaves a mental health facility following a period of evaluation and treatment ~~shall~~ *must* be given a written statement setting forth the substance of this subsection.

(4) A person committed to a mental health facility prior to July 1, 1975, enjoys all the rights and privileges of a person committed after that date."

Section 1919. Section 53-21-142, MCA, is amended to read:

"53-21-142. Rights of persons admitted to facility. Patients admitted to a mental health facility, whether voluntarily or involuntarily, ~~shall~~ have the following rights:

(1) Patients have a right to privacy and dignity.

(2) Patients have a right to the least restrictive conditions necessary to achieve the purposes of commitment. Patients must be accorded the right to appropriate treatment and related services in a setting and under conditions that:

(a) are the most supportive of the patient's personal liberty; and

(b) restrict the patient's liberty only to the extent necessary and consistent with the patient's treatment need, applicable requirements of law, and judicial orders.

(3) Patients ~~shall~~ *have the same* rights to visitation and reasonable access to telephone communications, including the right to converse with others privately, except to the extent that the professional person responsible for formulation of a particular patient's treatment plan writes an order imposing special restrictions. The written order must be renewed after each periodic review of the treatment plan if any restrictions are to be continued. Patients ~~shall~~ have an unrestricted right to visitation with attorneys, with spiritual counselors, and with private physicians and other professional persons.

(4) Patients ~~shall~~ have an unrestricted right to send sealed mail. Patients ~~shall~~ have an unrestricted right to receive sealed mail from their attorneys, private physicians and other professional persons, the mental disabilities board of visitors, courts, and government officials. Patients ~~shall~~ have a right to receive sealed mail from others except to the extent that a professional person responsible for formulation of a particular patient's treatment plan writes an order imposing special restrictions on receipt of sealed mail. The written order must be renewed after each periodic review of the treatment plan if any restrictions are to be continued.

(5) Patients have an unrestricted right to have access to letter-writing materials, including postage, and have a right to have staff members of the facility assist persons who are unable to write, prepare, and mail correspondence.

(6) Patients have a right to wear their own clothes and to keep and use their own personal possessions, including toilet articles, except ~~insofar as such to the extent that~~ clothes or personal possessions may be determined by a professional person in charge of the patient's treatment plan to be dangerous or otherwise inappropriate to the treatment regimen. The facility has an obligation to supply an adequate allowance of clothing to any patients who do not have suitable clothing of their own. Patients ~~shall~~ *must* have the opportunity to select from various types of neat, clean, and seasonable clothing. ~~Such~~ *The* clothing ~~shall~~ *must* be considered the patient's throughout ~~his~~ *the patient's* stay at the facility. The facility shall make provision for the laundering of patient clothing.

(7) Patients have the right to keep and be allowed to spend a reasonable sum of their own money.

(8) Patients have the right to religious worship. Provisions for ~~such~~ worship ~~shall~~ *must* be made available to all patients on a nondiscriminatory basis. ~~No~~ *An* individual ~~shall~~ *may not* be required to engage in any religious activities.

(9) Patients have a right to regular physical exercise several times a week. ~~Moreover, it shall be the duty of the~~ *The* facility ~~to~~ *shall* provide facilities and equipment for ~~such~~ *physical* exercise. Patients have a right to be outdoors at regular and frequent intervals in the absence of contrary medical considerations.

(10) Patients have the right to be provided, with adequate supervision, suitable opportunities for interaction with members of the opposite sex except to the extent that a professional person in charge of the patient's treatment plan writes an order stating that ~~such~~ *the* interaction is inappropriate to the treatment regimen.

(11) Patients have a right to receive prompt and adequate medical treatment for any physical ailments. In providing medical care, the mental health facility shall take advantage of whatever community-based facilities are appropriate and available and shall coordinate the patient's treatment for mental illness with ~~his~~ *the patient's* medical treatment.

(12) Patients have a right to a diet that will provide at a minimum the recommended daily dietary allowances as developed by the national academy of sciences. Provisions ~~shall~~ *must* be made for special therapeutic diets and for substitutes at the request of the patient or the friend of respondent in accordance with the religious requirements of any patient's faith. Denial of a nutritionally adequate diet ~~shall~~ *may not* be used as punishment.

(13) Patients have a right to a humane psychological and physical environment within the mental health facilities. These facilities ~~shall~~ *must* be designed to afford patients with comfort and safety, promote dignity, and ensure privacy. The facilities ~~shall~~ *must* be designed to make a positive contribution to the efficient attainment of the treatment goals set for the patient. In order to ~~assure~~ *ensure* the accomplishment of this goal:

(a) regular housekeeping and maintenance procedures ~~which~~ *that* will ensure that the facility is maintained in a safe, clean, and attractive condition ~~shall~~ *must* be developed and implemented;

(b) there must be special provision made for geriatric and other nonambulatory patients to ~~assure~~ *ensure* their safety and comfort, including special fittings on toilets and wheelchairs. Appropriate provision ~~shall~~ *must* be made to permit nonambulatory patients to communicate their needs to the facility staff.

(c) pursuant to an established routine maintenance and repair program, the physical plant of ~~every each~~ facility ~~shall must~~ be kept in a continuous state of good repair and operation in accordance with the needs of the health, comfort, safety, and well-being of the patients;

(d) ~~every each~~ facility must meet all fire and safety standards established by the state and locality. In addition, any hospital ~~shall must~~ meet ~~such the~~ provisions of the life safety code of the national fire protection association ~~as that~~ are applicable to hospitals. ~~Any A~~ hospital ~~shall must~~ meet all standards established by the state for general hospitals ~~insofar as to the extent that~~ they are relevant to psychiatric facilities.

(14) A patient at a facility has the right:

(a) to be informed of the rights described in this section at the time of ~~his~~ admission and periodically ~~thereafter after admission~~; in language and terms appropriate to the patient's condition and ability to understand;

(b) to assert grievances with respect to infringement of the rights described in this section, including the right to have a grievance considered in a fair and timely manner according to an impartial grievance procedure that must be provided for by the facility; and

(c) to exercise the rights described in this section without reprisal and may not be denied admission to the facility as reprisal for the exercise of the rights described in this section.

(15) In order to assist a person admitted to a program or facility in the exercise or protection of the patient's rights, the patient's attorney, advocate, or legal representatives ~~shall have~~ *must be given* reasonable access to:

(a) the patient;

(b) the program or facility areas where the patient has received treatment or has resided or the areas to which ~~he~~ *the patient* has had access; and

(c) pursuant to the written authorization of the patient, records and information pertaining to the patient's diagnosis, treatment, and related services.

(16) A person admitted to a facility ~~shall have~~ *must be given* access to any available individual or service that provides advocacy for the protection of the person's rights and that assists the person in understanding, exercising, and protecting ~~his~~ *the person's* rights as described in this section.

(17) This section may not:

(a) obligate a professional person to administer treatment contrary to the professional's clinical judgment;

(b) prevent a facility from discharging a patient for whom appropriate treatment, consistent with the clinical judgment of a professional person responsible for the patient's treatment, is or has become impossible to administer because of the patient's refusal to consent to the treatment;

(c) require a facility to admit a person who has, on prior occasions, repeatedly withheld consent to appropriate treatment; or

(d) obligate a facility to treat a person admitted to the facility solely for diagnostic evaluation."

Section 1920. Section 53-21-146, MCA, is amended to read:

"53-21-146. Right to be free from physical restraint and isolation. Patients have a right to be free from physical restraint and isolation. Except for

emergency situations in which it is likely that patients could harm themselves or others and in which less restrictive means of restraint are not feasible, patients may be physically restrained or placed in isolation only on a professional person's written order ~~which that~~ explains the rationale for ~~such the~~ action. The written order may be entered only after the professional person has personally seen the patient concerned and evaluated ~~whatever the~~ episode or situation ~~that is said~~ *alleged* to call for restraint or isolation. Emergency use of restraints or isolation ~~shall may not~~ be for ~~no~~ more than 1 hour, by which time a professional person ~~shall must~~ have been consulted and ~~shall must~~ have entered an appropriate order in writing. ~~Such The~~ written order ~~shall be~~ *is* effective for no more than 24 hours and must be renewed if restraint and isolation are to be continued. Whenever a patient is subject to restraint or isolation, adequate care ~~shall must~~ be taken to monitor ~~his the patient's~~ physical and psychiatric condition and to provide for ~~his the patient's~~ physical needs and comfort. Physical restraint may not be used as punishment, for the convenience of the staff, or as a substitute for a treatment program."

Section 1921. Section 53-21-148, MCA, is amended to read:

"53-21-148. Right not to be subjected to hazardous treatment.

Patients have a right not to be subjected to treatment procedures such as lobotomy, aversive reinforcement conditioning, or other unusual or hazardous treatment procedures without their express and informed consent after consultation with counsel, the legal guardian, if any, the friend of respondent appointed by the court, and any other interested party of the patient's choice. At least one of those consulted ~~must shall~~ consent to the treatment, along with the patient's counsel. If there is no friend of respondent or if the friend of respondent appointed by the court is no longer available, then a friend of respondent who is in no way connected with the facility or with the department ~~shall must~~ be appointed before any ~~such enumerated~~ treatment procedure can be employed. At least 10 days prior to the commencement of the extraordinary treatment program, the facility shall send notice of intent to employ extraordinary treatment procedures to the patient, ~~his the patient's~~ next of kin, if known, the legal guardian, if any, the attorney who most recently represented ~~him the~~ *patient*, and the friend of respondent appointed by the court."

Section 1922. Section 53-21-163, MCA, is amended to read:

"53-21-163. Examination following commitment. No later than *Within*

30 days after a patient is committed to a mental health facility, the professional person in charge of the facility or ~~his the professional person's~~ appointed, professionally qualified agent shall reexamine the committed patient and shall determine whether ~~he the patient~~ continues to require commitment to the facility and whether a treatment plan complying with this part has been implemented. If the patient no longer requires commitment to the facility in accordance with the standards for commitment, ~~he the patient~~ must be released immediately unless ~~he the patient~~ agrees to continue with treatment on a voluntary basis. If for sound professional reasons a treatment plan has not been implemented, this fact ~~shall must~~ be reported immediately to the professional person in charge of the facility, the director of the department, the mental disabilities board of visitors, and the patient's counsel."

Section 1923. Section 53-21-167, MCA, is amended to read:

"53-21-167. Patient labor. The following rules ~~shall~~ govern patient labor:

(1) ~~No~~ A patient ~~shall may not~~ be required to perform labor ~~which that~~ involves the operation and maintenance of a facility or for which the facility is

under contract with an outside organization. Privileges or release from the facility ~~shall~~ *may* not be conditioned upon the performance of labor covered by this provision. Patients may voluntarily engage in ~~such~~ *the* labor if the labor is compensated in accordance with the minimum wage laws of the Fair Labor Standards Act of 1938, 29 U.S.C. 206, as amended.

(2) (a) Patients may be required to perform therapeutic tasks ~~which~~ *that* do not involve the operation and maintenance of the facility, ~~provided if~~ the specific task or any change in assignment is:

(i) an integrated part of the patient's treatment plan and approved as a therapeutic activity by a professional person responsible for supervising the patient's treatment; and

(ii) supervised by a staff member to oversee the therapeutic aspects of the activity.

(b) Patients may voluntarily engage in therapeutic labor for which the facility would otherwise have to pay an employee; ~~provided if~~ the specific labor or any change in labor assignment is:

(i) an integrated part of the patient's treatment plan and approved as a therapeutic activity by a professional person responsible for supervising the patient's treatment;

(ii) supervised by a staff member to oversee the therapeutic aspects of the activity; and

(iii) compensated in accordance with the minimum wage laws of the Fair Labor Standards Act of 1938, 29 U.S.C. 206, as amended.

(3) If any patient performs therapeutic labor ~~which~~ *that* involves the operation and maintenance of a facility but due to physical or mental disability is unable to perform the labor as efficiently as a person not so physically or mentally disabled, then the patient may be compensated at a rate ~~which~~ *that* bears the same approximate relation to the statutory minimum wage as ~~his~~ *the patient's* ability to perform that particular job bears to the ability of a person not so afflicted.

(4) Patients may be required to perform tasks of a personal housekeeping nature, such as the making of one's own bed.

(5) Deductions or payments for care and other charges ~~shall~~ *may* not deprive a patient of a reasonable amount of the compensation received pursuant to this section for personal and incidental purchases and expenses."

Section 1924. Section 53-21-168, MCA, is amended to read:

"53-21-168. Statement of rights to be furnished and posted. Each patient shall promptly upon ~~his~~ admission receive in language ~~he~~ *the patient* understands a written statement of all of ~~his~~ *the patient's* rights under this part, including the right to treatment, the right to the development of a treatment plan, the right to and the availability of legal counsel, and the rules for patient labor. In addition, a copy of the ~~foregoing~~ statement ~~shall~~ *of rights must* be posted in each ward."

Section 1925. Section 53-21-183, MCA, is amended to read:

"53-21-183. Release conditioned on receipt of outpatient care. (1) When, in the opinion of the professional person in charge of a mental health facility providing involuntary treatment, the committed person can be appropriately served by outpatient care prior to the expiration of the period of commitment, then outpatient care may be required as a condition for early

release for a period ~~which~~ *that*, when added to the inpatient treatment period, except as provided in 53-21-198, may not exceed the period of commitment. If the mental health facility designated to provide outpatient care is other than the facility providing involuntary treatment, the *designated* outpatient facility ~~so designated must~~ *shall* agree in writing to assume ~~such~~ *the* responsibility.

(2) The mental health facility designated to provide outpatient care or the professional person in charge of the patient's case may modify the conditions for continued release when the modification is in the best interest of the patient. This includes the authorization to transfer the patient to another mental health facility designated to provide outpatient care, ~~provided if~~ *if* the transfer is in the best interest of the patient and the *designated* outpatient facility ~~so designated~~ agrees in writing to assume responsibility. Notice of an intended transfer ~~shall~~ *must* be given to the professional person in charge of the mental health facility that provided the involuntary treatment.

(3) Notice in writing to the court ~~which~~ *that* committed the patient for treatment and the county attorney who initiated the action ~~shall~~ *must* be provided by the professional person in charge of ~~him~~ *the patient* at least 5 days prior to ~~his~~ *the patient's* release from commitment or outpatient care.

(4) ~~This section and Sections 53-21-195 through 53-21-198 and this section~~ do not apply to a temporary release, certified ~~as such~~ by the professional person in charge of the mental health facility, from the facility for the purposes of a home visit not exceeding 30 days."

Section 1926. Section 53-21-187, MCA, is amended to read:

"53-21-187. Clothing for patients discharged or conditionally released. A patient may not be discharged or conditionally released from a mental health facility without suitable clothing adapted to the season in which ~~he~~ *the patient* is discharged."

Section 1927. Section 53-22-101, MCA, is amended to read:

"53-22-101. Enactment of compact. The Interstate Compact on Mental Health as contained ~~herein in this section~~ is hereby enacted into law and entered into by this state with all other jurisdictions legally joining therein in the form substantially as follows:

The contracting states solemnly agree that:

Article I

The party states find that the proper and expeditious treatment of the mentally ill and mentally deficient can be facilitated by cooperative action, to the benefit of the patients, their families, and society as a whole. Further, the party states find that the necessity of and desirability for furnishing such care and treatment bears no primary relation to the residence or citizenship of the patient but that, on the contrary, the controlling factors of community safety and humanitarianism require that facilities and services be made available for all who are in need of them. Consequently, it is the purpose of this compact and of the party states to provide the necessary legal basis for the institutionalization or other appropriate care and treatment of the mentally ill and mentally deficient under a system that recognizes the paramount importance of patient welfare and to establish the responsibilities of the party states in terms of such welfare.

Article II

As used in this compact:

(1) "sending state" means a party state from which a patient is transported pursuant to the provisions of the compact or from which it is contemplated that a patient may be so sent;

(2) "receiving state" means a party state to which a patient is transported pursuant to the provisions of the compact or to which it is contemplated that a patient may be so sent;

(3) "institution" means any hospital or other facility maintained by a party state or political subdivision thereof for the care and treatment of mental illness or mental deficiency;

(4) "patient" means any person subject to or eligible, as determined by the laws of the sending state, for institutionalization or other care, treatment, or supervision pursuant to the provisions of this compact;

(5) "aftercare" means care, treatment, and services provided a patient, as defined herein, on convalescent status or conditional release;

(6) "mental illness" means mental disease to such extent that a person so afflicted requires care and treatment for ~~his~~ *the person's* own welfare, the welfare of others, or of the community;

(7) "mental deficiency" means mental deficiency as defined by appropriate clinical authorities to such extent that a person so afflicted is incapable of managing ~~himself~~ *the person* and ~~his~~ *the person's* affairs but shall not include mental illness as defined herein; and

(8) "state" means any state, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

Article III

(1) Whenever a person physically present in any party state shall be in need of institutionalization by reason of mental illness or mental deficiency, ~~he~~ *the person* shall be eligible for care and treatment in an institution in that state irrespective of ~~his~~ *the person's* residence, settlement, or citizenship qualifications.

(2) The provisions of subsection (1) of this article to the contrary notwithstanding, any patient may be transferred to an institution in another state whenever there are factors based upon clinical determinations indicating that the care and treatment of said patient would be facilitated or improved thereby. Any such institutionalization may be for the entire period of care and treatment or for any portion or portions thereof. The factors referred to in this subsection shall include the patient's full record with due regard for the location of the patient's family, character of the illness and probable duration thereof, and such other factors as shall be considered appropriate.

(3) No state shall be obliged to receive any patient pursuant to the provisions of subsection (2) of this article unless the sending state gives advance notice of its intention to send the patient, furnishes all available medical and other pertinent records concerning the patient, gives the qualified medical or other appropriate clinical authorities of the receiving state an opportunity to examine the patient if said authorities so wish, and unless the receiving state agrees to accept the patient.

(4) In the event that the laws of the receiving state establish a system of priorities for the admission of patients, an interstate patient under this compact shall receive the same priority as a local patient and shall be taken in the same order and at the same time that ~~he~~ *the patient* would be taken if ~~he~~ *the patient* were a local patient.

(5) Pursuant to this compact, the determination as to the suitable place of institutionalization for a patient may be reviewed at any time and such further transfer of the patient may be made as seems likely to be in the best interest of the patient.

Article IV

(1) Whenever, pursuant to the laws of the state in which a patient is physically present, it shall be determined that the patient should receive aftercare or supervision, such care or supervision may be provided in a receiving state. If the medical or other appropriate clinical authorities having responsibility for the care and treatment of the patient in the sending state shall have reason to believe that aftercare in another state would be in the best interest of the patient and would not jeopardize the public safety, they shall request the appropriate authorities in the receiving state to investigate the desirability of affording the patient such aftercare in said receiving state, and such investigation shall be made with all reasonable speed. The request for investigation shall be accompanied by complete information concerning the patient's intended place of residence and the identity of the person in whose charge it is proposed to place the patient, the complete medical history of the patient, and such other documents as may be pertinent.

(2) If the medical or other appropriate clinical authorities having responsibility for the care and treatment of the patient in the sending state and the appropriate authorities in the receiving state find that the best interest of the patient would be served thereby and if the public safety would not be jeopardized thereby, the patient may receive aftercare or supervision in the receiving state.

(3) In supervising, treating, or caring for a patient on aftercare pursuant to the terms of this article, a receiving state shall employ the same standards of visitation, examination, care, and treatment that it employs for similar local patients.

Article V

Whenever a dangerous or potentially dangerous patient escapes from an institution in any party state, that state shall promptly notify all appropriate authorities within and without the jurisdiction of the escapee in a manner reasonably calculated to facilitate the speedy apprehension of the escapee. Immediately upon the apprehension and identification of any such dangerous or potentially dangerous patient, ~~he~~ *the patient* shall be detained in the state where found pending disposition in accordance with law.

Article VI

The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the patient, shall be permitted to transport any patient being moved pursuant to this compact through any and all states party to this compact without interference.

Article VII

(1) No person shall be deemed a patient of more than one institution at any given time. Completion of transfer of any patient to an institution in a receiving state shall have the effect of making the person a patient of the institution in the receiving state.

(2) The sending state shall pay all costs of and incidental to the transportation of any patient pursuant to this compact, but any two or more

party states may, by making a specific arrangement for that purpose, arrange for a different allocation of costs as among themselves.

(3) No provision of this compact shall be construed to alter or affect any internal relationships among the departments, agencies, and officers of and in the government of a party state or between a party state and its subdivisions as to the payment of costs or responsibilities therefor.

(4) Nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency, or other entity in regard to costs for which such party state or subdivision thereof may be responsible pursuant to any provision of this compact.

(5) Nothing in this compact shall be construed to invalidate any reciprocal agreement between a party state and a nonparty state relating to institutionalization, care, or treatment of the mentally ill or mentally deficient or any statutory authority pursuant to which such agreements may be made.

Article VIII

(1) Nothing in this compact shall be construed to abridge, diminish, or in any way impair the rights, duties, and responsibilities of any patient's guardian on ~~his~~ *the guardian's* own behalf or in respect of any patient for whom ~~he~~ *the guardian* may serve, except that, where the transfer of any patient to another jurisdiction makes advisable the appointment of a supplemental or substitute guardian, any court of competent jurisdiction in the receiving state may make such supplemental or substitute appointment and the court which appointed the previous guardian shall, upon being duly advised of the new appointment and upon the satisfactory completion of such accounting and other acts as such court may by law require, relieve the previous guardian of power and responsibility to whatever extent shall be appropriate in the circumstances. In the case of any patient having settlement in the sending state, the court of competent jurisdiction in the sending state shall have the sole discretion to relieve a guardian appointed by it or continue ~~his~~ *the guardian's* power and responsibility, whichever it shall deem advisable. The court in the receiving state may, in its discretion, confirm or reappoint the person or persons previously serving as guardian in the sending state in lieu of making a supplemental or substitute appointment.

(2) The term "guardian" as used in subsection (1) of this article shall include any guardian, trustee, legal committee, conservator, or other person or agency however denominated who is charged by law with power to act for or responsibility for the person or property of a patient.

Article IX

(1) No provisions of this compact except Article V shall apply to any person institutionalized while under sentence in a penal or correctional institution or while subject to trial on a criminal charge or whose institutionalization is due to the commission of an offense for which, in the absence of mental illness or mental deficiency, said person would be subject to incarceration in a penal or correctional institution.

(2) To every extent possible it shall be the policy of states party to this compact that no patient shall be placed or detained in any prison, jail, or lockup, but such patient shall with all expedition be taken to a suitable institutional facility for mental illness or mental deficiency.

Article X

(1) Each party state shall appoint a compact administrator who, on behalf of ~~his~~ *the administrator's* state, shall act as general coordinator of activities under the compact in ~~his~~ *that* state and who shall receive copies of all reports, correspondence, and other documents relating to any patient processed under the compact by ~~his~~ *that* state either in the capacity of a sending or receiving state. The compact administrator or ~~his~~ *the administrator's* duly designated representative shall be the official with whom other party states shall deal in any matter relating to the compact or any patient processed thereunder.

(2) The compact administrators of the respective party states shall have power to promulgate reasonable rules to carry out more effectively the terms and provisions of this compact.

Article XI

The duly constituted administrative authorities of any two or more party states may enter into supplementary agreements for the provision of any service or facility or for the maintenance of any institution on a joint or cooperative basis whenever the states concerned find that such agreements will improve services, facilities, or institutional care and treatment in the fields of mental illness or mental deficiency. No such supplementary agreement shall be construed so as to relieve any party state of any obligation which it otherwise would have under other provisions of this compact.

Article XII

This compact shall enter into full force and effect as to any state when enacted by it into law, and such state shall thereafter be a party thereto with any and all states legally joining therein.

Article XIII

(1) A state party to this compact may withdraw therefrom by enacting a statute repealing the same. Such withdrawal shall take effect 1 year after notice thereof has been communicated officially and in writing to the governors and compact administrators of all other party states. However, the withdrawal of any state shall not change the status of any patient who has been sent to said state or sent out of said state pursuant to the provisions of the compact.

(2) Withdrawal from any agreement permitted by Article VII(2) as to costs or from any supplementary agreement made pursuant to Article XI shall be in accordance with the terms of such agreement.

Article XIV

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters."

Section 1928. Section 53-22-105, MCA, is amended to read:

"53-22-105. Court review. The compact administrator is ~~hereby~~ directed to consult with the immediate family of any proposed transferee and, in the case

of a proposed transferee from an institution in this state to an institution in another party state, to *not* make ~~no~~ a transfer out of the state without approval of the district or probate court. Before granting ~~such~~ approval, the court shall hold ~~such~~ hearings ~~as~~ *that* it considers appropriate. In addition, the court shall designate some appropriate person to deliver written notice of the proposed transferee's right to a hearing to the proposed transferee and ~~his~~ *the transferee's* guardian ad litem. The person serving ~~such~~ *the* notices shall make a written return to the court that ~~such~~ *service* has been ~~done~~ *made*. At the conclusion of ~~such~~ *the* hearing, if any, the court may approve the proposed transfer, order the release of the proposed transferee, or enter any other suitable order."

Section 1929. Section 53-30-104, MCA, is amended to read:

"53-30-104. Punishment of inmates. ~~No barbarous~~ *Barbarous* punishments may *not* be prescribed for an inmate of the state prison, ~~nor shall~~ *and* an inmate, as punishment, *may not* be deprived of ~~his~~ *the inmate's* normal provision of food while being compelled to work the usual number of hours per day."

Section 1930. Section 53-30-142, MCA, is amended to read:

"53-30-142. Escape from extended confinement. Purposeful or knowing failure of an inmate to remain within the extended limits of ~~his~~ confinement or to return within the time prescribed by prison officials to the place of confinement designated by the department is an escape punishable as provided in 45-7-306."

Section 1931. Section 60-4-205, MCA, is amended to read:

"60-4-205. Private sale if no bid or offer. (1) If, after proper notice is published, the department ~~receives neither~~ *does not receive* a bid at public sale ~~nor~~ *or* an offer from the original owner or ~~his~~ *the owner's* successor in interest, it may at any time ~~thereafter~~ sell the interest at private sale. At the sale, the department may accept as the purchase price an amount of money not less than 90% of the appraised value.

(2) Title to an interest may not pass from the state until the purchaser has paid the full amount of the purchase price into the state treasury to the credit of the department."

Section 1932. Section 60-5-111, MCA, is amended to read:

"60-5-111. Violations — penalties. (1) On any controlled-access highway or facility, it is unlawful for any person to construct, operate, or maintain any road or private driveway connecting with the highway or facility without first obtaining permission in writing from the highway authority having jurisdiction and, with the exception of an interstate highway, from the local governing body.

(2) ~~Any~~ *A* person who violates any of the provisions of this section is guilty of a misdemeanor. Upon arrest and conviction ~~therefor~~, ~~he~~ *the person* shall be punished by a fine of not less than \$5 or more than \$100 or by imprisonment in the city or county jail for not less than 5 days or more than 90 days, or ~~by~~ *both* fine and imprisonment."

Section 1933. Section 60-7-204, MCA, is amended to read:

"60-7-204. Flagmen *Flag* escorts — prohibitions against nighttime herding on public highways. A person who owns, controls, or possesses livestock may not herd or drive ~~a herd of livestock numbering~~ more than 10 *livestock* on an interstate or state primary highway ~~designated as such by the transportation commission~~ unless the livestock is preceded and followed by ~~flagmen~~ *flag person* escorts for the purpose of warning other highway users.

Livestock may not be herded or driven on an interstate or state primary highway during nighttime, as that term is defined in 1-1-301, except in a case of emergency. In the case of an emergency during the nighttime, the ~~flagmen~~ *flag person* escorts shall use adequate warning lights, such as but not limited to portable lamps, lanterns, or rotating beacons. This section does not apply during daytime at posted livestock crossings on highways.”

Section 1934. Section 60-11-201, MCA, is amended to read:

“60-11-201. Agreements for rail passenger service application. The governor or ~~his~~ *the governor’s* authorized representative may negotiate with the proper authority representing any other state to establish an agreement to enable Montana, in concert with other states, to submit an application to the rail passenger corporation for institution of rail passenger service under the provisions of the Rail Passenger Service Act, (45 U.S.C. 563(b)), or any interstate or federal proposal for the purpose of maintaining or augmenting rail passenger service in the state. The governor may not participate in the submission of an application until the base agreement and any application have been approved by the legislature. However, the governor or ~~his~~ *the governor’s* authorized representative may enter into agreements to expand Amtrak rail passenger service under 45 U.S.C. 563(b), as that statute reads on July 1, 1985, subject to appropriation by the legislature.”

Section 1935. Section 61-2-105, MCA, is amended to read:

“61-2-105. Local programs. Except as provided in this part, all highway traffic safety programs of political subdivisions must be approved by the governor and ~~no~~ funds may *not* be spent unless ~~his~~ *the governor’s* approval is obtained. All local and state officials shall cooperate with the governor and department to accomplish the purposes of this part. The governor shall administer the highway traffic safety programs of this state and its political subdivisions in accordance with this part and federal rules.”

Section 1936. Section 61-2-106, MCA, is amended to read:

“61-2-106. County drinking and driving prevention program. (1) The governing body of a county may appoint a task force to study the problem of alcohol-related traffic accidents and recommend a program designed to:

- (a) prevent driving while under the influence of alcohol;
- (b) reduce alcohol-related traffic accidents; and
- (c) educate the public on the dangers of driving after consuming alcoholic beverages or other chemical substances that impair judgment or motor functions.

(2) A task force appointed under subsection (1) shall conduct its study and submit its recommendations within 6 months from the date it was appointed. Task force meetings are open to the public. The task force shall give notice by publication in the community meeting announcement section of a newspaper of general circulation in the county.

(3) The county governing body may by resolution adopt the recommendations of the task force appointed under subsection (1). The proposed program must be approved by the governor as provided in 61-2-105.

(4) The ~~chairman~~ *presiding officer* of the task force shall submit to the county governing body:

- (a) a budget and a financial report for each fiscal year; and
- (b) an annual report containing but not limited to:

- (i) an evaluation of the effectiveness of the program;
 - (ii) the number of arrests and convictions in the county for driving under the influence of alcohol and the sentences imposed for these convictions;
 - (iii) the number of alcohol-related traffic accidents in the county; and
 - (iv) any other information requested by the county governing body or considered appropriate by the task force.
- (5) A copy of the annual report may be submitted to the department.”

Section 1937. Section 61-2-201, MCA, is amended to read:

“61-2-201. Vehicle Equipment Safety Compact. This part shall be known and may be cited as the “Vehicle Equipment Safety Compact”.

Article I. Findings and Purposes

- (1) The party states find that:
- (a) accidents and deaths on their streets and highways present a very serious human and economic problem with a major deleterious effect on the public welfare;
 - (b) there is a vital need for the development of greater interjurisdictional cooperation to achieve the necessary uniformity in the laws, rules, regulations, and codes relating to vehicle equipment, and to accomplish this by such means as will minimize the time between the development of demonstrably and scientifically sound safety features and their incorporation into vehicles.
- (2) The purposes of this compact are to:
- (a) promote uniformity in regulation of and standards for equipment;
 - (b) secure uniformity of law and administrative practice in vehicular regulation and related safety standards to permit incorporation of desirable equipment changes in vehicles in the interest of greater traffic safety;
 - (c) provide means for the encouragement and utilization of research which will facilitate the achievement of the foregoing purposes, with due regard for the findings set forth in subsection (1) of this article.
- (3) It is the intent of this compact to emphasize performance requirements and not to determine the specific detail of engineering in the manufacture of vehicles or equipment except to the extent necessary for the meeting of such performance requirements.

Article II. Definitions

As used in this compact:

- (1) “Vehicle” means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.
- (2) “State” means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.
- (3) “Equipment” means any part of a vehicle or any accessory for use thereon which affects the safety of operation of such vehicle or the safety of the occupants.

Article III. The Commission

- (1) There is hereby created an agency of the party states to be known as the “Vehicle Equipment Safety Commission”, hereinafter called the commission. The commission shall be composed of one commissioner from each party state who shall be appointed, serve, and be subject to removal in accordance with the

laws of the state which ~~he~~ *the commissioner* represents. If authorized by the laws of ~~his~~ *the commissioner's* party state, a commissioner may provide for the discharge of ~~his~~ *the commissioner's* duties and the performance of ~~his~~ *the commissioner's* functions on the commission, either for the duration of ~~his~~ *the commissioner's* membership or for any lesser period of time, by an alternate. No such alternate shall be entitled to serve unless notification of ~~his~~ *the alternate's* identity and appointment shall have been given to the commission in such form as the commission may require. Each commissioner, and each alternate when serving in the place and stead of a commissioner, shall be entitled to be reimbursed by the commission for expenses actually incurred in attending commission meetings or while engaged in the business of the commission.

(2) The commissioners shall be entitled to one vote each on the commission. No action of the commission shall be binding unless taken at a meeting at which a majority of the total number of votes on the commission are cast in favor thereof. Action of the commission shall be only at a meeting at which a majority of the commissioners, or their alternates, are present.

(3) The commission shall have a seal.

(4) The commission shall elect annually, from among its members, a ~~chairman~~ *presiding officer*, a ~~vice-chairman~~ *vice presiding officer*, and a treasurer. The commission may appoint an executive director and fix ~~his~~ *the director's* duties and compensation. Such executive director shall serve at the pleasure of the commission, and together with the treasurer shall be bonded in such amount as the commission shall determine. The executive director also shall serve as secretary. If there be no executive director, the commission shall elect a secretary in addition to the other officers provided by this subdivision.

(5) Irrespective of the civil service, personnel, or other merit system laws of any of the party states, the executive director with the approval of the commission, or the commission if there be no executive director, shall appoint, remove, or discharge such personnel as may be necessary for the performance of the commission's functions, and shall fix the duties and compensation of such personnel.

(6) The commission may establish and maintain independently or in conjunction with any one or more of the party states a suitable retirement system for its full time employees. Employees of the commission shall be eligible for social security coverage in respect of old age and survivor's insurance provided that the commission takes such steps as may be necessary pursuant to the laws of the United States to participate in such program of insurance as a governmental agency or unit. The commission may establish and maintain or participate in such additional programs of employee benefits as may be appropriate.

(7) The commission may borrow, accept, or contract for the services of personnel from any party state, the United States, or any subdivision or agency of the aforementioned governments, or from any agency of two or more of the party states or their subdivisions.

(8) The commission may accept for any of its purposes and functions under this compact any and all donations and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any state, the United States, or any other governmental agency and may receive, utilize, and dispose of the same.

(9) The commission may establish and maintain such facilities as may be necessary for the transacting of its business. The commission may acquire, hold, and convey real and personal property and any interest therein.

(10) The commission shall adopt bylaws for the conduct of its business and shall have the power to amend and rescind these bylaws. The commission shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto with the appropriate agency or officer in each of the party states. The bylaws shall provide for appropriate notice to the commissioners of all commission meetings and hearings and the business to be transacted at such meetings or hearings. Such notice shall also be given to such agencies or officers of each party state as the laws of such party state may provide.

(11) The commission annually shall make to the governor and legislature of each party state a report covering the activities of the commission for the preceding year, and embodying such recommendations as may have been issued by the commission. The commission may make such additional reports as it may deem desirable.

Article IV. Research and Testing

The commission shall have power to:

(1) collect, correlate, analyze, and evaluate information resulting or derivable from research and testing activities in equipment and related fields;

(2) recommend and encourage the undertaking of research and testing in any aspect of equipment or related matters when, in its judgment, appropriate or sufficient research or testing has not been undertaken;

(3) contract for such equipment research and testing as one or more governmental agencies may agree to have contracted for by the commission, provided that such governmental agency or agencies shall make available the funds necessary for such research and testing;

(4) recommend to the party states changes in law or policy with emphasis on uniformity of laws and administrative rules, regulations, or codes which would promote effective governmental action or coordination in the prevention of equipment-related highway accidents or the mitigation of equipment-related highway safety problems.

Article V. Vehicular Equipment

(1) In the interest of vehicular and public safety, the commission may study the need for or desirability of the establishment of or changes in performance requirements or restrictions for any item of equipment. As a result of such study, the commission may publish a report relating to any item or items of equipment, and the issuance of such a report shall be a condition precedent to any proceedings or other action provided or authorized by this article. No less than 60 days after the publication of a report containing the results of such study, the commission upon due notice shall hold a hearing or hearings at such place or places as it may determine.

(2) Following the hearing or hearings provided for in subsection (1) of this article, and with due regard for standards recommended by appropriate professional and technical associations and agencies, the commission may issue rules, regulations, or codes embodying performance requirements or restrictions for any item or items of equipment covered in the report, which in the opinion of the commission will be fair and equitable and effectuate the purposes of this compact.

(3) Each party state obligates itself to give due consideration to any and all rules, regulations, and codes issued by the commission and hereby declares its policy and intent to be the promotion of uniformity in the laws of the several party states relating to equipment.

(4) The commission shall send prompt notice of its action in issuing any rule, regulation, or code pursuant to this article to the appropriate motor vehicle agency of each party state and such notice shall contain the complete text of the rule, regulation, or code.

(5) If the constitution of a party state requires, or if its statutes provide, the approval of the legislature by appropriate resolution or act may be made a condition precedent to the taking effect in such party state of any rule, regulation, or code. In such event, the commissioner of such party state shall submit any commission rule, regulation, or code to the legislature as promptly as may be in lieu of administrative acceptance or rejection thereof by the party state.

(6) Except as otherwise specifically provided in or pursuant to subsections (5) and (7) of this article, the appropriate motor vehicle agency of a party state shall in accordance with its constitution or procedural laws adopt the rule, regulation, or code within 6 months of the sending of the notice and, upon such adoption, the rule, regulation, or code shall have the force and effect of law therein.

(7) The appropriate motor vehicle agency of a party state may decline to adopt a rule, regulation, or code issued by the commission pursuant to this article if such agency specifically finds, after public hearing on due notice, that a variation from the commission's rule, regulation, or code is necessary to the public safety, and incorporates in such finding the reasons upon which it is based. Any such finding shall be subject to review by such procedure for review of administrative determinations as may be applicable pursuant to the laws of the party state. Upon request, the commission shall be furnished with a copy of the transcript of any hearings held pursuant to this subsection.

Article VI. Finance

(1) The commission shall submit to the executive head or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that party state for presentation to the legislature thereof.

(2) Each of the commission's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. The total amount of appropriations under any such budget shall be apportioned among the party states as follows: one-third in equal shares and the remainder in proportion to the number of motor vehicles registered in each party state. In determining the number of such registrations, the commission may employ such source or sources of information as in its judgment present the most equitable and accurate comparisons among the party states. Each of the commission's budgets of estimated expenditures and requests for appropriations shall indicate the source or sources used in obtaining information concerning vehicular registrations.

(3) The commission shall not pledge the credit of any party state. The commission may meet any of its obligations in whole or in part with funds available to it under Article III(8) of this compact, provided that the commission takes specific action setting aside such funds prior to incurring any obligation to be met in whole or in part in such manner. Except where the commission makes

use of funds available to it under Article III(8) hereof, the commission shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same.

(4) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its rules. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a qualified public accountant and the report of the audit shall be included in and become part of the annual reports of the commission.

(5) The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any persons authorized by the commission.

(6) Nothing contained herein shall be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the commission.

Article VII. Conflict of Interest

(1) The commission shall adopt rules and regulations with respect to conflict of interest for the commissioners of the party states, and their alternates, if any, and for the staff of the commission and contractors with the commission to the end that no member or employee or contractor shall have a pecuniary or other incompatible interest in the manufacture, sale, or distribution of motor vehicles or vehicular equipment or in any facility or enterprise employed by the commission or on its behalf for testing, conduct of investigations, or research. In addition to any penalty for violation of such rules and regulations as may be applicable under the laws of the violator's jurisdiction of residence, employment, or business, any violation of a commission rule or regulation adopted pursuant to this article shall require the immediate discharge of any violating employee and the immediate vacating of membership, or relinquishing of status as a member on the commission by any commissioner or alternate. In the case of a contractor, any violation of any such rule or regulation shall make any contract of the violator with the commission subject to cancellation by the commission.

(2) Nothing contained in this article shall be deemed to prevent a contractor for the commission from using any facilities subject to ~~his~~ *the contractor's* control in the performance of the contract even though such facilities are not devoted solely to work of or done on behalf of the commission, or to prevent such a contractor from receiving remuneration or profit from the use of such facilities.

Article VIII. Advisory and Technical Committees

The commission may establish such advisory and technical committees as it may deem necessary, membership on which may include private citizens and public officials, and may cooperate with and use the services of any such committees and the organizations which the members represent in furthering any of its activities.

Article IX. Entry Into Force and Withdrawal

(1) This compact shall enter into force when enacted into law by any six or more states. Thereafter, this compact shall become effective as to any other state upon its enactment thereof.

(2) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until 1 year after the executive head of the withdrawing state has given notice in writing of the

withdrawal to the executive heads of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

Article X. Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating herein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.”

Section 1938. Section 61-2-204, MCA, is amended to read:

“61-2-204. State commissioner on vehicle equipment safety commission. Notwithstanding section 1, Chapter 272, Laws of 1971, the commissioner of this state on the vehicle equipment safety commission is the highway patrol chief who shall serve during ~~his~~ *the* continuance as ~~such officer~~ *highway patrol chief*. The commissioner appointed pursuant to this section may designate an alternate from among the officers and employees of ~~his agency~~ *the highway patrol* to serve in ~~his~~ *the commissioner’s* place on the vehicle equipment safety commission. Subject to the provisions of the compact and bylaws of the vehicle equipment safety commission, the authority and responsibilities of the alternate are as determined by the commissioner ~~designating him.~~”

Section 1939. Section 61-2-207, MCA, is amended to read:

“61-2-207. Documents filed and notices given by equipment safety commission. Filing of documents as required by Article III(10) of the compact ~~shall~~ *must* be with the department. ~~Any and all~~ *All* notices required by commission bylaws to be given pursuant to Article III(10) of the compact ~~shall~~ *must* be given to the commissioner of this state and ~~his~~ *the commissioner’s* alternate.”

Section 1940. Section 61-4-106, MCA, is amended to read:

“61-4-106. Transfer of license. A registered dealer or wholesaler who sells or disposes of ~~his~~ *the dealer’s or wholesaler’s* entire business to another person may have ~~his~~ *the dealer’s or wholesaler’s* certificate of registration transferred to the purchaser upon filing with the department a statement containing the name of the registered dealer or wholesaler, the number under which the business is registered, the name of the purchaser, and the location of the place of business ~~so~~ sold. Upon the filing of the statement, accompanied by a filing fee of \$2, the department shall note upon the registration record of the dealer or wholesaler the change of ownership. A certificate of registration may not be transferred unless the entire business of the dealer or wholesaler holding the certificate of registration is sold and disposed of, and a certificate of registration may not be transferred to any person other than the purchasers of the business.”

Section 1941. Section 61-4-132, MCA, is amended to read:

“61-4-132. Right of designated family member to succeed in dealership ownership. (1) Any designated family member of a deceased or incapacitated dealer may succeed the dealer in the ownership or operation of the dealership under the existing franchise or distribution agreement ~~provided~~

he if the family member gives the manufacturer, factory branch, distributor, or importer of new motor vehicles written notice of his the intention to do so within 120 days of the dealer's death or incapacity and unless there exists good cause for refusal to honor such the succession on the part of the manufacturer, factory branch, distributor, or importer.

(2) The manufacturer, factory branch, distributor, or importer may request, and the designated family member shall provide, upon request, personal and financial data that is reasonably necessary to determine whether the succession should be honored."

Section 1942. Section 61-4-209, MCA, is amended to read:

"61-4-209. Cease and desist orders. When the department has reasonable cause to believe, from information furnished to or from an investigation made by it, that any person is engaged in any business regulated by this part without being licensed as required, it shall immediately issue and serve upon such the person, by certified mail, a cease and desist order, requiring him the person to cease and desist from further engaging in that business. Upon failure of that person to comply with the order, the department shall file an action in the district court of Lewis and Clark County to restrain and enjoin the person from engaging in the business. The court in the action shall proceed as in other actions for injunctions."

Section 1943. Section 61-4-406, MCA, is amended to read:

"61-4-406. Suit for injury to business or property. In addition to the criminal and civil penalties herein provided in this part, any person who shall be is injured in his the person's business or property by any other person or corporation or association or partnership by reason of anything forbidden or declared to be unlawful by this part may sue therefor for damages in any court having jurisdiction thereof in the county where the defendant resides or is found or any agent resides or is found or where service may be obtained, without respect to the amount in controversy, and recover twofold twice the amount of damages by him sustained and the costs of suit. Whenever it shall appear appears to the court before which any proceedings under this part may be pending that the ends of justice require that other parties shall must be brought before the court, the court may cause them to be made parties defendant and summoned, whether or not they reside in the county where such the action is pending or not."

Section 1944. Section 61-5-116, MCA, is amended to read:

"61-5-116. License to be carried and exhibited on demand. Every A licensee shall must have his the licensee's driver's license in his the licensee's immediate possession at all times when operating a motor vehicle and shall display the same license upon demand of a justice of the peace, a city or municipal judge, a peace officer, a highway patrol officer, or a field deputy or inspector of the department. However, no a person charged with violating this section shall may not be convicted if he the person produces in court or the office of the arresting officer a driver's license theretofore issued to him person and valid at the time of his the person's arrest."

Section 1945. Section 61-5-304, MCA, is amended to read:

"61-5-304. Permitting unauthorized minor to drive. No A person shall may not cause or knowingly permit his the person's child or ward under the age of 18 years of age to drive a motor vehicle upon any highway when such the minor is not authorized hereunder to drive or in violation of any of the provisions of parts 1 through 3 of this chapter."

Section 1946. Section 61-5-401, MCA, is amended to read:

“61-5-401. Driver License Compact. This part shall be known and may be cited as the “Driver License Compact”.

Article I. Findings and Declaration of Policy

(1) The party states find that:

(a) the safety of their streets and highways is materially affected by the degree of compliance with state laws and local ordinances relating to the operation of motor vehicles;

(b) violation of such a law or ordinance is evidence that the violator engages in conduct which is likely to endanger the safety of persons and property;

(c) the continuance in force of a license to drive is predicated upon compliance with laws and ordinances relating to the operation of motor vehicles in whichever jurisdiction the vehicle is operated.

(2) It is the policy of each of the party states to:

(a) promote compliance with the laws, ordinances, and administrative rules relating to the operation of motor vehicles by their operators in each of the jurisdictions where such operators drive motor vehicles;

(b) make the reciprocal recognition of licenses to drive and eligibility therefor more just and equitable by considering the overall compliance with motor vehicle laws, ordinances, and administrative rules as a condition precedent to the continuance or issuance of any license by reason of which the licensee is authorized or permitted to operate a motor vehicle in any of the party states.

Article II. Definitions

As used in this compact:

(1) “state” means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico;

(2) “home state” means the state which has issued and has the power to suspend or revoke the use of the license or permit to operate a motor vehicle;

(3) “conviction” means a conviction of any offense related to the use or operation of a motor vehicle which is prohibited by state law, municipal ordinance, or administrative rule, or a forfeiture of bail, bond, or other security deposited to secure appearance by a person charged with having committed any such offense, and which conviction or forfeiture is required to be reported to the licensing authority.

Article III. Reports of Conviction

The licensing authority of a party state shall report each conviction of a person from another party state occurring within its jurisdiction to the licensing authority of the home state of the licensee. Such report shall clearly identify the person convicted; describe the violation specifying the section of the statute, code, or ordinance violated; identify the court in which action was taken; indicate whether a plea of guilty or not guilty was entered or the conviction was a result of the forfeiture of bail, bond, or other security; and include any special findings made in connection therewith.

Article IV. Effect of Conviction

(1) The licensing authority in the home state, for the purposes of suspension, revocation, or limitation of the license to operate a motor vehicle, shall give the same effect to the conduct reported, pursuant to Article III of this compact, as it

would if such conduct had occurred in the home state, in the case of convictions for:

(a) manslaughter or negligent homicide resulting from the operation of a motor vehicle;

(b) driving a motor vehicle while under the influence of intoxicating liquor or a narcotic drug, or under the influence of any other drug to a degree which renders the driver incapable of safely driving a motor vehicle;

(c) any felony in the commission of which a motor vehicle is used;

(d) failure to stop and render aid in the event of a motor vehicle accident resulting in the death or personal injury of another.

(2) As to other convictions, reported pursuant to Article III, the licensing authority in the home state shall give such effect to the conduct as is provided by the laws of the home state.

(3) If the laws of a party state do not provide for offenses or violations denominated or described in precisely the words employed in subdivision (1) of this article, such party state shall construe the denominations and descriptions appearing in subdivision (1) hereof as being applicable to and identifying those offenses or violations of a substantially similar nature, and the laws of such party state shall contain such provisions as may be necessary to ensure that full force and effect is given to this article.

Article V. Applications for New Licenses

Upon application for a license to drive, the licensing authority in a party state shall ascertain whether the applicant has ever held, or is the holder of a license to drive issued by any other party state. The licensing authority in the state where application is made shall not issue a license to drive to the applicant if:

(1) the applicant has held such a license, but the same has been suspended by reason, in whole or in part, of a violation and if such suspension period has not terminated;

(2) the applicant has held such a license, but the same has been revoked by reason, in whole or in part, of a violation and if such revocation has not terminated, except that after the expiration of 1 year from the date the license was revoked, such person may make application for a new license if permitted by law. The licensing authority may refuse to issue a license to any such applicant if, after investigation, the licensing authority determines that it will not be safe to grant to such person the privilege of driving a motor vehicle on the public highways.

(3) the applicant is the holder of a license to drive issued by another party state and currently in force unless the applicant surrenders such license.

Article VI. Applicability of Other Laws

Except as expressly required by provisions of this compact, nothing contained herein shall be construed to affect the right of any party state to apply any of its other laws relating to licenses to drive to any person or circumstance or to invalidate or prevent any driver license agreement or other cooperative arrangement between a party state and a nonparty state.

Article VII. Compact Administrator and Interchange of Information

(1) The head of the licensing authority of each party state shall be the administrator of this compact for ~~his~~ *the administrator's* state. The

administrators, acting jointly, shall have the power to formulate all necessary and proper procedures for the exchange of information under this compact.

(2) The administrator of each party state shall furnish to the administrator of each other party state any information or documents reasonably necessary to facilitate the administration of this compact.

Article VIII. Entry Into Force and Withdrawal

(1) This compact shall enter into force and become effective as to any state when it has enacted the same into law.

(2) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until 6 months after the executive head of the withdrawing state has given notice of the withdrawal to the executive heads of all other party states. No withdrawal shall affect the validity or applicability by the licensing authorities of states remaining party to the compact of any report of conviction occurring prior to the withdrawal.

Article IX. Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.”

Section 1947. Section 61-5-403, MCA, is amended to read:

“61-5-403. Reimbursement of compact administrator. The compact administrator provided for in Article VII of the compact shall ~~is~~ not be entitled to any additional compensation on account of ~~his~~ *the* service as ~~such~~ administrator but ~~shall be~~ *is* entitled to expenses incurred in connection with ~~his~~ duties and responsibilities as ~~such~~ administrator in the same manner as for expenses incurred in connection with any other duties or responsibilities of ~~his~~ *the administrator's* office or employment.”

Section 1948. Section 61-6-103, MCA, is amended to read:

“61-6-103. Motor vehicle liability policy defined. (1) A “motor vehicle liability policy”, as the term is used in this part, means an owner’s or operator’s policy of liability insurance, certified as provided in 61-6-133 or 61-6-134 as proof of financial responsibility and issued, except as otherwise provided in 61-6-134, by an insurance carrier duly authorized to transact business in this state, to or for the benefit of the person named ~~therein~~ *in the policy* as insured.

(2) The owner’s policy of liability insurance must:

(a) designate by explicit description or by appropriate reference all motor vehicles with respect to which coverage is ~~thereby~~ to be granted *by the policy*; and

(b) insure the person named ~~therein~~ *in the policy* and any other person, as insured, using any motor vehicle or motor vehicles with the express or implied permission of the named insured, against loss from the liability imposed by law for damages arising out of the ownership, maintenance, or use of the motor

vehicle or motor vehicles within the United States of America or the Dominion of Canada, subject to limits exclusive of interest and costs, with respect to each motor vehicle, as follows:

(i) \$25,000 because of bodily injury to or death of one person in any one accident and subject to ~~said that~~ limit for one person;

(ii) \$50,000 because of bodily injury to or death of two or more persons in any one accident; and

(iii) \$10,000 because of injury to or destruction of property of others in any one accident.

(3) An operator's policy of liability insurance must insure the person named as insured ~~therein in the policy~~ against loss from the liability imposed upon ~~him~~ *the insured* by law for damages arising out of the use by ~~him~~ *the insured* of any motor vehicle not owned by ~~him~~ *the insured*, within the same territorial limits and subject to the same limits of liability as ~~that~~ are set forth ~~above in subsection (2)~~ with respect to the operator's policy of liability insurance.

(4) A motor vehicle liability policy must state the name and address of the named insured, the coverage afforded by the policy, the premium charged ~~therefor~~, the policy period, and the limits of liability and contain an agreement or be endorsed that insurance is provided ~~thereunder~~ *under the policy* in accordance with the coverage defined in this part ~~as respects~~ *with respect to* bodily injury and death or property damage, or both, and is subject to all the provisions of this part.

(5) A motor vehicle liability policy need not insure any liability under any workers' compensation law or any liability on account of bodily injury to or death of an employee of the insured while engaged in the employment, other than domestic, of the insured or while engaged in the operation, maintenance, or repair of a motor vehicle or any liability for damage to property owned by, rented to, in charge of, or transported by the insured.

(6) A motor vehicle liability policy is subject to the following provisions, which need not be contained ~~therein in the policy~~:

(a) The liability of the insurance carrier with respect to the insurance required by this part becomes absolute whenever injury or damage covered by the motor vehicle liability policy occurs. The policy may not be canceled or annulled as to the liability by any agreement between the insurance carrier and the insured after the occurrence of the injury or damage. ~~No~~ A statement made by the insured or on ~~his~~ *the insured's* behalf and ~~no~~ a violation of the policy may *not* defeat or void the policy.

(b) The satisfaction by the insured of a judgment for the injury or damage may not be a condition precedent to the right or duty of the insurance carrier to make payment on account of the injury or damage.

(c) The insurance carrier has the right to settle any claim covered by the policy, and if the settlement is made in good faith, the amount is deductible from the limits of liability specified in subsection (2)(b).

(d) The policy, the written application ~~therefor~~ *for the policy*, if any, and any rider or endorsement ~~which that~~ does not conflict with the provisions of this part constitute the entire contract between the parties.

(7) A motor vehicle policy is not subject to cancellation, termination, nonrenewal, or premium increase due to injury or damage incurred by the insured or operator unless the insured or operator is found to have violated a traffic law or ordinance of the state or a city, is found negligent or contributorily

negligent in a court of law or by the arbitration proceedings contained in chapter 5 of Title 27, or pays damages to another party, whether by settlement or otherwise. ~~In no event may a~~ A premium *may not* be increased during the term of the policy unless there is a change in exposure.

(8) Any policy ~~which~~ *that* grants the coverage required for a motor vehicle liability policy may also grant any lawful coverage in excess of or in addition to the coverage specified for a motor vehicle liability policy, and the excess or additional coverage is not subject to the provisions of this part. With respect to a policy ~~which~~ *that* grants the excess or additional coverage, the term "motor vehicle liability policy" applies only to that part of the coverage ~~which~~ *that* is required by this section.

(9) Any motor vehicle liability policy may provide that the insured shall reimburse the insurance carrier for any payment the insurance carrier would not have been obligated to make under the terms of the policy except for the provisions of this part.

(10) Any motor vehicle liability policy may provide for the prorating of the insurance ~~thereunder~~ *under the policy* with other valid and collectible insurance.

(11) The requirements for a motor vehicle liability policy may be fulfilled by the policies of one or more insurance carriers, which policies together meet ~~such~~ *the* requirements.

(12) Any binder issued pending the issuance of a motor vehicle liability policy fulfills the requirements for ~~such~~ a policy.

(13) A reduced limits endorsement may not be issued by any company to be attached to any policy issued in compliance with this section."

Section 1949. Section 61-6-121, MCA, is amended to read:

"61-6-121. Courts to report nonpayment of judgments. (1) Whenever ~~any~~ a person fails within 60 days to satisfy ~~any~~ a judgment, upon the written request of the judgment creditor or ~~his~~ *the creditor's* attorney, ~~it shall be the duty~~ of the clerk of the court, or of the judge of a court ~~which has no~~ *that does not have* a clerk, in which any ~~such~~ judgment is rendered within this state ~~to~~ *shall* forward to the department immediately after the expiration of ~~said~~ *the* 60 days a certified copy of ~~such~~ *the* judgment.

(2) If the defendant named in any certified copy of a judgment reported to the department is a nonresident, the department shall transmit a certified copy of the judgment to the official in charge of the issuance of licenses and registration certificates of the state of which the defendant is a resident."

Section 1950. Section 61-6-131, MCA, is amended to read:

"61-6-131. When proof of financial responsibility required. (1) Whenever the department under any of the laws of this state revokes the license of any person, ~~such~~ *the* license ~~shall~~ *must* remain revoked and ~~shall~~ *may* not at ~~any time thereafter~~ be renewed ~~nor shall any~~ *and a license may not be thereafter* issued to ~~such~~ *the* person until permitted under the motor vehicle laws of this state and not then unless and until ~~he~~ *shall give the person* ~~and thereafter~~ *maintain* maintains proof of financial responsibility.

(2) If a person is not licensed, but by the final order or judgment is convicted of or forfeits any bail or collateral deposited to secure an appearance for trial for any offense requiring the revocation of a license, ~~no~~ *a license shall may not be* thereafter issued to ~~such~~ *the* person until ~~he~~ *shall give the person* ~~gives~~ *and* thereafter ~~maintain~~ *maintains* proof of financial responsibility.

(3) Whenever the department revokes a nonresident's operating privilege by reason of a conviction or forfeiture of bail, ~~such the privilege shall remain so~~ *remains* revoked unless ~~such the person shall have~~ *has* previously given or ~~shall~~ immediately ~~give~~ *gives* and ~~thereafter maintain~~ *maintains* proof of financial responsibility."

Section 1951. Section 61-6-132, MCA, is amended to read:

"61-6-132. Alternate methods of giving proof. (1) Proof of financial responsibility when required under this part with respect to a motor vehicle or with respect to a person who is not the owner of a motor vehicle may be given by filing:

- (a) a certificate of insurance as provided in 61-6-133 or 61-6-134;
- (b) a bond as provided in 61-6-137;
- (c) a certificate or deposit of money or securities as provided in 61-6-138; or

(d) a certificate of self-insurance, as provided in 61-6-143, supplemented by an agreement by the self-insurer that, with respect to accidents occurring while the certificate is in force, ~~he the self-insurer~~ will pay the same judgments and in the same amounts that an insurer would have been obligated to pay under an owner's motor vehicle liability policy if it had issued ~~such~~ a policy to ~~said the~~ self-insurer.

(2) ~~No~~ A motor vehicle ~~shall may not~~ be or continue to be registered in the name of any person required to file proof of financial responsibility unless ~~such the~~ proof ~~shall be~~ *is* furnished for ~~such the~~ motor vehicle."

Section 1952. Section 61-6-136, MCA, is amended to read:

"61-6-136. Other policies not affected. (1) This part ~~shall not be held to~~ *does not* apply to or affect policies of automobile insurance against liability ~~which may now or hereafter be that are~~ required by any other law of this state, and ~~such those~~ policies, if they contain an agreement or are endorsed to conform to the requirements of this part, may be certified as proof of financial responsibility under this part.

(2) This part ~~shall not be held to~~ *does not* apply to or affect policies insuring solely the insured named in the policy against liability resulting from the maintenance or use by persons in the insured's employ or on ~~his the insured's~~ behalf of motor vehicles not owned by the insured."

Section 1953. Section 61-6-137, MCA, is amended to read:

"61-6-137. Bond as proof of responsibility. (1) Proof of financial responsibility may be furnished by filing with the department the bond of a surety company ~~duly~~ authorized to transact business in the state or a bond with at least two individual sureties each owning real estate within this state and together having equities equal in value to at least twice the amount of ~~such the~~ bond, ~~which The~~ real estate ~~shall must~~ be scheduled in the bond approved by a judge of a court of record. The bond ~~shall must~~ be conditioned for payments in amounts and under the same circumstances ~~as that~~ would be required in a motor vehicle liability policy and ~~shall may~~ not be cancelable except after 10 days' written notice to the department. Upon the filing of notice to this effect by the department in the office of the county clerk and recorder of the county ~~wherein such in which the~~ real estate is located, the bond ~~shall constitute~~ *constitutes* a lien in favor of the state upon the ~~scheduled~~ real estate ~~so scheduled~~ of any surety, ~~which The~~ lien ~~shall exist~~ *exists* in favor of any holder of a judgment against the person who has filed the bond.

(2) The person in whose favor the lien exists may, for ~~his~~ *the person's* own use and benefit and at ~~his~~ *the person's* sole expense, bring an action or actions in the name of the state against the company or persons executing the bond, including an action or proceeding to foreclose any lien that may exist upon the real estate of any person who has executed ~~such~~ *the* bond. The provisions of the Montana Rules of Civil Procedure, except ~~insofar as to the extent that~~ they are inconsistent with the provisions of this part, are applicable to and constitute the rules of practice in the foreclosure actions or proceedings. The provisions of the Montana Rules of Civil Procedure relative to new trials and appeals, except ~~insofar as to the extent that~~ they are inconsistent with the provisions of this part, apply to the actions or proceedings."

Section 1954. Section 61-6-138, MCA, is amended to read:

"61-6-138. Money or securities as proof of responsibility. (1) Proof of financial responsibility may be evidenced by the certificate of the state treasurer that the person named ~~therein in the certificate~~ has deposited with ~~him~~ *the treasurer* \$55,000 in cash, or securities ~~such as that~~ may legally be purchased by savings banks or for trust funds of a market value of \$55,000. The state treasurer ~~shall~~ *may* not accept any ~~such~~ deposit and issue a certificate ~~therefor~~ and the department ~~shall~~ *may* not accept ~~such~~ *the* certificate unless accompanied by evidence that there are no unsatisfied judgments of any character against the depositor in the county where the depositor resides.

(2) ~~Such~~ *The* deposit ~~shall~~ *must* be held by the state treasurer to satisfy, in accordance with the provisions of this part, any execution on a judgment issued against ~~such~~ *the* person making the deposit, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use ~~thereof of property~~, resulting from the ownership, maintenance, use, or operation of a motor vehicle after ~~such~~ *the* deposit was made. Money or securities so deposited ~~shall~~ *may* not be subject to attachment or execution unless ~~such~~ *the* attachment or execution ~~shall~~ *arise* out of a suit for damages as ~~aforsaid~~ *described in this subsection.*"

Section 1955. Section 61-6-142, MCA, is amended to read:

"61-6-142. Duration of proof — when money or securities may be canceled or returned. (1) The department shall direct and the state treasurer shall return to the person entitled ~~thereto~~ any money or securities deposited pursuant to this part as proof of financial responsibility, or the department shall waive the requirement of filing proof under this part, in any of the following events:

(a) at any time after 3 years from the date ~~such~~ *the* proof was required when during the 3-year period preceding the request the department has not received record of a conviction or a forfeiture of bail ~~which~~ *that* would require or permit the suspension or revocation of the license or nonresident's operating privilege of the person by or for whom ~~such~~ *the* proof was furnished;

(b) in the event of the death of the person on whose behalf ~~such~~ *the* proof was filed or the permanent incapacity of ~~such~~ *the* person to operate a motor vehicle; or

(c) in the event the person who has given proof surrenders ~~his~~ *the person's* license to the department.

(2) However, the department ~~shall~~ *may* not consent to the return of any money or securities ~~in the event if~~ any action for damages upon a liability covered by ~~such~~ *the* proof is then pending or any judgment upon any ~~such~~

liability is then unsatisfied; or ~~in the event if~~ the person who has deposited ~~such the~~ money or securities has, within 1 year immediately preceding ~~such the~~ request, been involved as an operator or owner in any motor vehicle accident resulting in injury or damage to the person or property of others. An affidavit of the applicant as to the nonexistence of ~~such the~~ facts; or that ~~he the~~ applicant has been released from all of his liability; or has been finally adjudicated not to be liable for ~~such the~~ injury or damage; ~~shall be~~ *is* sufficient evidence thereof in the absence of evidence to the contrary in the records of the department.

(3) Whenever any person whose proof has been canceled or returned under subsection (1)(c) of ~~this section~~ applies for a license within a period of 3 years from the date proof was originally required, ~~any such the~~ application ~~shall~~ *must* be refused unless the applicant complies with the insurance or bond requirements under 61-6-301 and 61-6-302.”

Section 1956. Section 61-6-201, MCA, is amended to read:

“61-6-201. Liability of owner for negligence of employee driver. The owner of ~~every a~~ vehicle running or traveling upon any highway or road for the conveyance of passengers is liable for all damage to person or property done by any person in ~~his the~~ owner’s employment as a driver while driving ~~such the~~ vehicle, whether done willfully or negligently or otherwise, in the same manner as ~~such that~~ driver would be liable.”

Section 1957. Section 61-6-303, MCA, is amended to read:

“61-6-303. Exempt vehicles. The following vehicles and their drivers are exempt from the provisions of 61-6-301:

- (1) a vehicle owned by the United States government or any state or political subdivision;
- (2) a vehicle for which cash, securities, or a bond has been deposited or filed with the department upon ~~such~~ terms and conditions providing the same benefits available under a required motor vehicle liability insurance policy;
- (3) a vehicle owned by a self-insurer certified as provided in 61-6-143;
- (4) an implement of husbandry or special mobile equipment that is only incidentally operated on a highway or property open to use by the public;
- (5) a vehicle operated upon a highway only for the purpose of crossing ~~such the~~ highway from one property to another;
- (6) a commercial vehicle registered or proportionally registered in this and any other jurisdiction, ~~provided that if the~~ vehicle is covered by a motor vehicle liability insurance policy complying with the laws of another jurisdiction in which it is registered;
- (7) a motorcycle or quadricycle;
- (8) a vehicle moved solely by human or animal power;
- (9) a vehicle owned by a nonresident if it is currently registered in the owner’s resident jurisdiction and ~~he the~~ owner is in compliance with the motor vehicle liability insurance requirements, if any, of that jurisdiction.”

Section 1958. Section 61-7-104, MCA, is amended to read:

“61-7-104. Accident involving damage to vehicle. (1) The driver of any vehicle involved in an accident resulting only in damage to a vehicle ~~which that~~ is driven or attended by any person shall immediately stop ~~such the~~ vehicle at the scene of ~~such the~~ accident or as close ~~thereto to the scene~~ as possible and shall ~~forthwith~~ return to and ~~in every event shall~~ remain at the scene of ~~such the~~

accident until ~~he~~ *the person* has fulfilled the requirements of 61-7-105. ~~Every such~~ *The stop shall must* be made without obstructing traffic more than is necessary.

(2) Any person failing to stop or comply with ~~said~~ *the* requirements under ~~such circumstances of subsection (1) is~~ *shall be* guilty of a misdemeanor.”

Section 1959. Section 61-7-105, MCA, is amended to read:

“61-7-105. Duty to give information and render aid. The driver of any vehicle involved in an accident resulting in injury to or death of any person or damage to any vehicle ~~which~~ *that* is driven or attended by any person shall give ~~his~~ *the driver’s* name, address, and the registration number of the vehicle ~~he~~ *the driver* is driving and shall upon request and if available ~~exhibit his~~ *show a* driver’s license to the person struck or the driver or occupant of or person attending any vehicle collided with. ~~and~~ *The driver* shall render to any person injured in ~~such~~ *the* accident reasonable assistance, including the ~~carrying~~ *transporting*, or the making of arrangements for the ~~carrying~~ *transporting*; of ~~such~~ *the* person to a physician, surgeon, or hospital for medical or surgical treatment if it is apparent that ~~such~~ *the* treatment is necessary or if ~~such~~ *carrying transportation* is requested by the injured person.”

Section 1960. Section 61-7-107, MCA, is amended to read:

“61-7-107. Duty upon striking fixtures or other property upon a highway. The driver of any vehicle involved in an accident resulting only in damage to fixtures or other property legally upon or adjacent to a highway shall take reasonable steps to locate and notify the owner or person in charge of ~~such~~ *the* property of ~~such fact~~ *the accident*, and of ~~his~~ *the driver’s* name and address, and of the registration number of the vehicle ~~he is~~ *being* driving and shall upon request and if available exhibit ~~his~~ *a* driver’s license and shall ~~make~~ report of ~~such~~ *the* accident when and as required in 61-7-109.”

Section 1961. Section 61-7-112, MCA, is amended to read:

“61-7-112. Coroners and medical examiners to report. Each coroner, medical examiner, or other official performing ~~like~~ *similar* functions shall, on or before the 10th day of each month, report in writing to the department the deaths of all persons within ~~his~~ *the official’s* respective jurisdiction during the preceding calendar month as the result of traffic accidents, giving the time and place of each accident and the circumstances relating ~~thereto~~ *to the accident*.”

Section 1962. Section 61-8-107, MCA, is amended to read:

“61-8-107. Police vehicles and authorized emergency vehicles. (1) The driver of a police vehicle or authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, but subject to the conditions ~~herein stated in this section~~.

(2) The driver of a police vehicle or authorized emergency vehicle may:

(a) park or stand, irrespective of the provisions of this chapter;

(b) proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;

(c) exceed the speed limits ~~so~~ *as long as* ~~he~~ *the driver* does not endanger life or property;

(d) disregard regulations governing direction of movement or turning in specified directions.

(3) The exemptions granted to a police vehicle or authorized emergency vehicle apply only when the vehicle is making use of an audible or visual signal, or both, meeting the requirements of 61-9-402.

(4) The foregoing provisions shall of this section do not relieve the driver of a police vehicle or authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such and the provisions do not protect the driver from the consequences of his the driver's reckless disregard for the safety of others."

Section 1963. Section 61-8-408, MCA, is amended to read:

"61-8-408. Multiple convictions prohibited. When the same acts may establish the commission of an offense under both 61-8-401 and 61-8-406, a person charged with such the conduct may be prosecuted for a violation of both 61-8-401 and 61-8-406. However, he the person may only be convicted of an offense under either 61-8-401 or 61-8-406."

Section 1964. Section 61-8-604, MCA, is amended to read:

"61-8-604. Clinging to vehicles. No A person riding upon any bicycle, coaster, roller skates, sled, or toy vehicle shall may not attach the same conveyance or himself be attached to any vehicle upon a roadway, but a bicycle trailer or bicycle semitrailer may be attached to a bicycle if that trailer or semitrailer has been designed for such attachment."

Section 1965. Section 61-8-703, MCA, is amended to read:

"61-8-703. Arrest without a warrant in radar cases. (1) The driver of any such a motor vehicle may be arrested without a warrant under this section provided if the arresting officer is in uniform or displays his the officer's badge of authority and has either:

(a) observed the recording of the speed of the vehicle by radio microwaves or other electrical device; or

(b) received, from the officer who has observed the speed of the vehicle recorded by the radio microwaves or other electrical device, a radio message giving the license number or other sufficient identification of the vehicle and the recorded speed, dispatched immediately after the speed of the vehicle was recorded.

(2) The arrest without a warrant of any such driver must be made immediately after such the observation or radio message and as the result of uninterrupted pursuit."

Section 1966. Section 61-8-723, MCA, is amended to read:

"61-8-723. Offenses committed by persons under the 18 years of age of eighteen. A person under 18 years of age who is convicted of an offense under this title shall may not be punished by incarceration, but shall be punished by:

(1) a fine not to exceed the fine that could be imposed on him the person if he the person were an adult, provided that such the person may not be imprisoned for failure to pay such the fine;

(2) revocation of his the person's driver's license by the court or suspension of the license for a period set by the court;

(3) impoundment by a law enforcement officer designated by the court of the motor vehicle operated by the person for a period of time not exceeding 60 days if the court finds that he the person either owns the vehicle or is the only person who uses the vehicle; or

(4) any combination of subsections (1) through (3).”

Section 1967. Section 61-12-202, MCA, is amended to read:

“61-12-202. Training of department peace officers — rules. (1) The department shall provide ~~such~~ training as required to qualify ~~those~~ employees to competently perform their duties under this part and shall adopt ~~such~~ rules ~~as that~~ are required and necessary for qualification of those employees as peace officers.

(2) An employee may not make arrests until ~~he~~ *the employee* has successfully completed ~~such~~ *the* training as required by the department.”

Section 1968. Section 61-12-301, MCA, is amended to read:

“61-12-301. Terms defined. ~~The following words and phrases, when As used in this part, shall for the purpose of this part have the meanings respectively ascribed to them in this section, except in those instances where unless the context of the part clearly indicates that they shall have a different meaning requires otherwise, the following definitions apply:~~

(1) “Agent” means ~~whoever a person who~~ solicits the purchase of service contracts, ~~as herein defined,~~ or transmits for another ~~any such a service contract~~ or application ~~therefor for a service contract~~ to or from the company; or *who* acts or aids in any manner in the delivery or negotiation of any ~~such service contract,~~ or of the renewal or continuance ~~thereof of a service contract.~~

(2) “Bail bond service” means any act or acts by a company, ~~as herein defined,~~ the purpose of which is to furnish or procure for any person accused of violation of any law of this state a cash deposit, bond, or other undertaking required by law in order that the accused might enjoy ~~his~~ *the accused’s* personal freedom pending trial.

(3) “Buying and selling service” means any act or acts of a company, ~~as herein defined,~~ whereby the holder of a service contract with ~~any such the~~ company is aided in any way in the purchase or sale of an automobile.

(4) “Commissioner” means the commissioner of insurance of the state of Montana or ~~his~~ *the commissioner’s* assistants or deputies or other persons authorized to act for ~~him~~ *the commissioner.*

(5) “Company” means any person, firm, partnership, company, association, or corporation engaged in selling, furnishing, or procuring, either as principal or agent, for a consideration, motor club service ~~as herein defined.~~

(6) “Discount service” means any act or acts by a company, ~~as herein defined,~~ resulting in the giving of special discounts, rebates, or reductions of price on gasoline, oil, repairs, insurance, parts, accessories, or service for motor vehicles to holders of service contracts with ~~any such the~~ company.

(7) “Emergency road service” means any act or acts by a company, ~~as herein defined,~~ consisting of the adjustment, repair, or replacement of the equipment, tires, or mechanical parts of any automobile so as to permit it to be operated under its own power.

(8) “Financial service” means any act or acts by a company, ~~as herein defined,~~ whereby loans or other advances of money, with or without security, are made to holders of service contracts with ~~any such the~~ company.

(9) “Legal service” means any act or acts by a company, ~~as herein defined,~~ consisting of the hiring, retaining, engaging, or appointing of an attorney or other person to give professional advice to or represent holders of service contracts with ~~any such the~~ company in ~~any~~ court, as the result of liability

incurred by the right of action accruing to the holder of a service contract as a result of the ownership, operation, use, or maintenance of a motor vehicle.

(10) "Map service" means any act or acts by a company, ~~as herein defined,~~ by which road maps are furnished without cost to holders of service contracts with ~~any such~~ the company.

(11) "Motor club service" means the rendering, furnishing, or procuring of towing service, emergency road service, insurance service, bail bond service, legal service, discount service, financial service, buying and selling service, theft service, map service, and touring service, or any three or more ~~thereof, as herein defined,~~ *enumerated services* to any person or persons in connection with the ownership, operation, use, or maintenance of a motor vehicle by ~~such the~~ other person or persons in consideration of ~~such the~~ other person or persons being or becoming a member or members of any company rendering, procuring, or furnishing the ~~same services,~~ or being or becoming in any manner affiliated ~~therewith with the company,~~ or being or becoming entitled to receive membership or other motor club service ~~therefrom from the company~~ by virtue of any agreement or understanding with ~~any such~~ the company.

(12) "Service contract" means any agreement or understanding whereby any company, ~~as herein defined,~~ for a consideration promises to render, furnish, or procure for any other person or persons, whether they be members of ~~such the~~ company or otherwise, motor club service, ~~as herein defined.~~

(13) "Theft service" means any act or acts by a company, ~~as herein defined,~~ the purpose of which is to locate, identify, or recover a motor vehicle owned or controlled by the holder of a service contract with ~~any such the~~ company ~~which that~~ has been or may be stolen or to detect or apprehend the person guilty of ~~such the~~ theft.

(14) "Touring service" means any act or acts by a company, ~~as herein defined,~~ by which touring information is furnished without cost to holders of service contracts with ~~any such the~~ company.

(15) "Towing service" means any act or acts by a company, ~~as herein defined,~~ consisting of the drafting or moving of a motor vehicle from one place to another under other than its own power."

Section 1969. Section 61-12-306, MCA, is amended to read:

"61-12-306. Revocation of license. If the commissioner ~~shall,~~ at any time for cause shown and after a hearing, ~~determine~~ *determines* that a company has violated any provision ~~or provisions~~ of this part, ~~or~~ that it is insolvent or that its assets are less than its liabilities, ~~or~~ that it or its officers refuse to submit to an examination, ~~or~~ that it is transacting business fraudulently, or that its management or business methods are improper or hazardous to the holders of its service contracts, ~~he the commissioner shall thereupon~~ *the commissioner shall thereupon* revoke or suspend its license and shall give notice ~~thereof of the suspension or revocation~~ to the public in ~~such a manner as he may deem that the commissioner considers proper."~~

Section 1970. Section 61-12-307, MCA, is amended to read:

"61-12-307. Financial statement to be filed. ~~Every~~ A company shall annually, on or before February 1 of each year, file with the commissioner a financial statement in ~~such the~~ form and detail ~~as he that the commissioner~~ may prescribe, executed on oath by its president or other principal officer, showing its financial condition on December 31 of the preceding year."

Section 1971. Section 61-12-308, MCA, is amended to read:

“61-12-308. Service contract to be filed with commissioner. ~~No~~ A service contract ~~shall may not~~ be executed, issued, or delivered in this state until a copy of the form ~~thereof of the contract~~ has been on file for 30 days with the commissioner, unless before the expiration of ~~said 30 days he shall have the~~ *commissioner has* approved the form in writing; ~~nor shall any~~ A service contract *may not* be executed, issued, or delivered at any time in this state if the commissioner notified the company in writing within ~~said 30 days the 30-day~~ *period* that in ~~his the commissioner’s~~ *the commissioner’s* opinion the form of the contract does not comply with the laws of this state, specifying the reasons ~~therefor for the~~ *opinion.*”

Section 1972. Section 61-12-314, MCA, is amended to read:

“61-12-314. Applicability. ~~Nothing in this~~ *This part shall does not* apply to a duly authorized attorney at law acting in the usual course of ~~his the~~ *the* profession or to any insurance company, bonding company, or surety company, ~~now or hereafter duly and regularly~~ licensed and doing business as ~~such the~~ *the licensed* company under the laws of the state.”

Section 1973. Section 61-12-407, MCA, is amended to read:

“61-12-407. Transmitting return of sale and balance of proceeds. (1) When any vehicle is sold as provided in 61-12-404, the sheriff or the city police shall transmit to the department and to the county treasurer or to the city treasurer, respectively, a return of sale setting forth a description of the vehicle, the purchase price, the name and address of the purchaser, the costs incurred in the sale, and the costs and expenses incurred in the removal, storage, and custody of the vehicle.

(2) With the return of sale, the sheriff shall transmit to the county treasurer or the city police shall transmit to the city treasurer the balance of the proceeds of the sale after deducting the costs incurred in the sale and the costs and expenses incurred in the removal, storage, and custody of the vehicle.

(3) Upon receipt of the return of sale and ~~such the~~ balance from:

(a) the county sheriff, the county treasurer shall file the return in ~~his the~~ *the treasurer’s* office and deposit the balance in the county road fund on all vehicles seized by the sheriff or highway patrol; or

(b) the city police, the city treasurer shall file the return in ~~his the~~ *the treasurer’s* office and deposit the balance in the city street fund on all vehicles seized by the city police.”

Section 1974. Section 67-1-211, MCA, is amended to read:

“67-1-211. Alcohol concentration standards — evidence admissible — administration of tests. (1) If a person acting or attempting to act as a crewmember of an aircraft has an alcohol concentration of 0.04% by weight or more as defined in 61-8-407, it may be inferred that the person is under the influence of alcohol and is in violation of 67-1-204.

(2) Evidence of any measured amount or detected presence of alcohol in the person at the time of the act alleged under subsection (1) and any other competent evidence bearing on the question of whether the person was under the influence of alcohol, drugs, or a combination of the two at the time of the act alleged is admissible in any criminal action or proceeding arising out of acts alleged to have been committed in violation of 67-1-204.

(3) In any criminal action or proceeding arising out of acts alleged to have been committed in violation of 67-1-204, the court or jury may consider federal regulations governing aeronautics.

(4) A person who operates an aircraft over the lands and waters of this state is considered to have given consent to a test of ~~his~~ *the person's* blood, breath, or urine for the purpose of determining any measured amount or detected presence of alcohol in ~~his~~ *the person's* body if arrested by a peace officer for operating, attempting to operate, or being in actual physical control of an aircraft while under the influence of alcohol, drugs, or a combination of the two. The test must be administered at the direction of a peace officer who has reasonable grounds to believe the person was operating, attempting to operate, or in actual physical control of an aircraft while under the influence of alcohol, drugs, or a combination of the two. The arresting officer may designate which of the ~~aforsaid~~ tests must be administered. A person who is unconscious or who is otherwise in a condition rendering ~~him~~ *the person* incapable of refusal is considered not to have withdrawn the consent provided by this subsection.

(5) If a person charged with a violation of 67-1-204 refuses to submit to a test of ~~his~~ *the person's* blood, breath, or urine for the purpose of determining any measured amount or detected presence of alcohol in ~~his~~ *the person's* body, ~~none a~~ *a* test will *not* be given, but proof of refusal is admissible in any criminal action or proceeding arising out of acts alleged to have been committed in violation of 67-1-204.

(6) The provisions relating to administration of tests provided in 61-8-405 and the definition of alcohol concentration provided in 61-8-407 apply to any testing done to determine any measured amount or detected presence of alcohol in a person and the alcohol concentration of a person charged with violation of 67-1-204.”

Section 1975. Section 67-2-503, MCA, is amended to read:

“67-2-503. Use of reports. The reports of investigations or hearings may not be admitted in evidence or used for any purpose in any suit, action, or proceedings growing out of a matter referred to in the investigation, hearing, or report, except in case of criminal or other proceedings instituted in behalf of the department or this state under this title and other laws of this state relating to aeronautics. An officer or employee of the department may not be required to testify to any facts ascertained in or information gained by reason of ~~his~~ *the officer's or employee's* official capacity or be required to testify as an expert witness in a suit, action, or proceeding involving an aircraft. The department may, in its discretion, make available to appropriate federal and state agencies information and material developed in the course of its hearings and investigations.”

Section 1976. Section 67-3-102, MCA, is amended to read:

“67-3-102. Exceptions. The provisions of ~~subsections (2) and (3) of~~ 67-3-101(2) *and (3)* do not apply to:

(1) an aircraft ~~which~~ *that* has been licensed by a foreign country with which the United States has a reciprocal agreement covering the operations of that licensed aircraft;

(2) an aircraft ~~which~~ *that* is owned by a nonresident of this state who is lawfully entitled to operate the aircraft in the state of ~~his~~ residence;

(3) an aircraft engaged principally in commercial flying constituting an act of interstate or foreign commerce;

(4) an aircrew operating military or public aircraft or an aircraft licensed by a foreign country with which the United States has a reciprocal agreement covering the operation of that licensed aircraft;

(5) a person operating model aircraft or a person piloting an aircraft ~~which~~ *that* is equipped with fully functioning dual controls when a licensed instructor is in full charge of one set of the controls and the flight is solely for instruction or for the demonstration of the aircraft to a prospective purchaser;

(6) a nonresident operating aircraft in this state who is lawfully entitled to operate aircraft in the state of residence;

(7) an aircrew while operating or taking part in the operation of an aircraft engaged principally in commercial flying constituting an act of interstate or foreign commerce.”

Section 1977. Section 67-3-201, MCA, is amended to read:

“67-3-201. Aircraft registration and licensing required. (1) Except as provided in 67-3-102 and in subsection (6) of this section, a person may not operate or cause or authorize to be operated a civil aircraft within this state unless the aircraft has an appropriate effective registration, license, certificate, or permit issued or approved by the United States government ~~which~~ *that* has been registered with the department and the registration with the department is in force.

(2) Aircraft customarily kept in this state must be registered on or before March 1 of each year with the department, which ~~must~~ *shall* charge a fee ~~therefor~~ *for registration* according to the fee schedule in 67-3-206. The registration must be renewed annually on or before March 1 *of* each year.

(3) Section 67-3-202 and subsections (2) and (4) through (6) of this section do not apply to:

(a) aircraft owned and operated by the federal government, the state, or any political subdivision ~~thereof~~ *of the state*;

(b) aircraft owned and held by an aircraft dealer solely for the purpose of resale;

(c) aircraft operated by an airline company and regularly scheduled for the primary purpose of carrying persons or property for hire in interstate or international transportation; or

(d) dismantled or otherwise nonflyable aircraft.

(4) An aircraft must be registered in a particular county of the state. This county must be the county of the owner’s principal residence; if the owner is a natural person; or the owner’s principal place of doing business in the state; if the owner is not a natural person. However, if the owner declares by affidavit that the aircraft is customarily kept at a landing facility in another county within the state, ~~he~~ *the owner* may register the aircraft as property within ~~such~~ *the* other county.

(5) Aircraft not registered in the state but entering the state to engage in commercial operations ~~shall~~ *must* be registered prior to commencing operation.

(6) Owners of ultralight aircraft for which no appropriate effective license, certificate, or permit is issued by the United States government shall pay the fee required in 67-3-206 and file with the department an appropriate registration recognized and approved by the United States government.”

Section 1978. Section 67-11-104, MCA, is amended to read:

“67-11-104. Commissioners. (1) The powers of each authority ~~shall be~~ *are* vested in the commissioners ~~thereof~~ *of the authority*. A majority of the commissioners of an authority ~~shall~~ constitute a quorum for the purpose of conducting business of the authority and exercising its powers and for all other

purposes. Action may be taken by the authority upon a vote of not less than a majority of the commissioners present.

(2) There ~~shall must~~ be elected a ~~chairman~~ *presiding officer* and ~~vice-chairman~~ *vice presiding officer* from among the commissioners. An authority may employ an executive director, secretary, technical experts, and ~~such~~ other officers, agents, and employees, permanent and temporary, ~~as that~~ it may require and shall determine their qualifications, duties, and compensation. An authority may delegate to one or more of its agents or employees ~~such~~ powers or duties ~~as that it may deem~~ *considers* proper.

(3) A commissioner of an authority ~~shall be~~ *is* entitled to the necessary ~~expense~~ *expenses*, including travel expenses, as provided for in 2-18-501 through 2-18-503, incurred in the discharge of ~~his~~ duties. Each commissioner shall hold office until ~~his a~~ successor has been appointed and has qualified. The certificates of the appointment and reappointment of commissioners ~~shall must~~ be filed with the authority.”

Section 1979. Section 69-1-106, MCA, is amended to read:

“69-1-106. Vacancies. Any vacancy occurring in the commission ~~shall must~~ be filled by appointment by the governor. ~~Such~~ *The* appointee shall hold office until the next general election and until ~~his a~~ successor is elected and qualified. At the biennial election following the occurrence of any vacancy in the commission, there ~~shall must~~ be elected one member to fill out the unexpired term for which ~~such the~~ vacancy exists.”

Section 1980. Section 69-1-107, MCA, is amended to read:

“69-1-107. Chairman Presiding officer of commission. A ~~chairman~~ *shall presiding officer must* be selected by the commission from its membership at the first meeting of each year after a general election.”

Section 1981. Section 69-1-108, MCA, is amended to read:

“69-1-108. Secretary of commission. (1) The commission shall, immediately after its members have qualified, appoint a secretary to serve ~~during~~ *at* the pleasure of the commission. The secretary ~~shall must~~ be a qualified elector of the state.

(2) The secretary ~~shall~~:

(a) *shall* keep a full and complete record of all proceedings of the commission;

(b) ~~be is~~ the custodian of its records and file and *shall* preserve at the office of the commission all books, maps, documents, and papers entrusted to ~~his the~~ *secretary's* care and ~~be is~~ responsible to the commission for the ~~same~~ *books, maps, documents, and papers*; and

(c) *shall* perform ~~such~~ other duties ~~as that~~ the commission may prescribe.”

Section 1982. Section 69-1-111, MCA, is amended to read:

“69-1-111. Reimbursement for expenses. The commission, secretary, and ~~such~~ clerks, experts, and persons ~~as that~~ may be employed ~~shall be~~ *are* entitled to receive from the state their expenses while traveling on the business of the commission, as provided for in 2-18-501 through 2-18-503. ~~Such~~ *The* expenditure ~~shall must~~ be sworn to by the person who incurred the expenses and be approved by the ~~chairman~~ *presiding officer* of the commission or ~~his the~~ *presiding officer's* designee.”

Section 1983. Section 69-1-113, MCA, is amended to read:

“69-1-113. Removal or suspension of commissioner. If ~~any a~~ commissioner fails to perform ~~his~~ *the commissioner’s* duties as provided in this title, ~~he~~ *the commissioner* may be removed from office as provided by 45-7-401. Upon complaint made and good cause shown, the governor may suspend any commissioner, and if, in ~~his~~ *the governor’s* judgment the exigencies of the case require, the governor may appoint temporarily some competent person to perform the duties of the suspended commissioner during the period of the suspension.”

Section 1984. Section 69-1-222, MCA, is amended to read:

“69-1-222. Annual report. The consumer counsel shall prepare and submit a yearly report and ~~such~~ other interim reports ~~he~~ *that the consumer counsel* determines advisable concerning ~~his~~ *the consumer counsel’s* activities during the year and may recommend appropriate remedial legislation to the committee.”

Section 1985. Section 69-2-102, MCA, is amended to read:

“69-2-102. Role of commission when consumer counsel protests. In any case involving an application by a regulated entity to the commission for authority to increase its rates ~~which~~ *that* is actively contested by the consumer counsel, the commission shall leave representation of the interests of consumers to the consumer counsel when ~~he~~ *the consumer counsel* timely petitions to become a party to ~~such~~ *the* case. ~~Nothing contained herein prohibits~~ *This section does not prohibit* the commission or its staff from investigating and interrogating in any hearing to clarify the case or present an issue. Evidence may be introduced by the commission on an issue that has not been adequately addressed by any party if the commission first requests counsel of record to address ~~such~~ *the* issue and ~~such~~ counsel fails to introduce sufficient or adequate evidence.”

Section 1986. Section 69-2-203, MCA, is amended to read:

“69-2-203. Investigatory powers of counsel. (1) The consumer counsel has all the investigatory powers necessary to perform ~~his~~ *the counsel’s* duties as provided ~~herein~~ *in this section* and all discovery powers sanctioned by the Montana Rules of Civil Procedure and the Montana Administrative Procedure Act. It is the specific intent of this section to provide the authority and availability of the process of discovery to the consumer counsel in administrative contested-case procedure. Violations of discovery procedure ~~shall~~ *must* be heard and administered by the district court. In the event of an appeal to district court for enforcement of discovery procedures, the time limits imposed by 69-3-302 and 69-3-303 ~~shall~~ *be* are suspended pending order of the district court.

(2) The consumer counsel may examine in any commission proceedings, under oath, any officer, director, manager, or employee of any regulated company and *may* inspect the business and corporate records of any regulated company in accordance with the law to aid in the exercise of ~~his~~ *the consumer counsel’s* duties.”

Section 1987. Section 69-2-204, MCA, is amended to read:

“69-2-204. Representation of consuming public. (1) The consumer counsel shall meet and confer with members or representatives of the consuming public at ~~such~~ times and places ~~as~~ *he* ~~that~~ *the consumer counsel* determines appropriate.

(2) The consumer counsel has ~~such~~ other powers necessary to fully represent the interests of the consuming public before the commission as may be granted and promulgated by the committee; in accordance with the provisions of the Montana Administrative Procedure Act.”

Section 1988. Section 69-3-106, MCA, is amended to read:

“69-3-106. Supervision of management of public utilities. (1) The commission ~~shall have~~ *has the* authority to inquire into the management of the business of all public utilities, shall keep itself informed as to the manner and method in which the ~~same~~ *business* is conducted, and ~~shall have~~ *has* the right to obtain from any public utility all necessary information to enable the commission to perform its duties.

(2) The commission, any commissioner, or any person or persons employed by the commission for that purpose ~~shall~~, upon demand, ~~have~~ *has* the right to inspect the books, accounts, papers, records, and memoranda of any public utility and to examine, under oath, any officer, agent, or employee of ~~such the~~ public utility in relation to its business and affairs. Any person, other than one of ~~said~~ the commissioners, who ~~shall make such~~ *makes the* demand shall produce ~~his the person's~~ authority to make ~~such the~~ inspection.

(3) The commission may require by order or subpoena, to be served on any public utility in the same manner that a summons is served in a civil action in the district court, the production, within this state and at ~~such a~~ time and place as ~~that~~ it may designate, of any books, accounts, papers, or records kept by ~~such a~~ public utility in any office or place ~~without outside of~~ the state or verified copies in lieu ~~thereof of the books, accounts, papers, or records~~, if the commission ~~shall so order orders, in order so that~~ that an examination ~~thereof of the books, accounts, papers, or records~~ may be made by the commission or under its direction. Any public utility failing or refusing to comply with any ~~such an~~ order or subpoena ~~shall be is~~ subject to the liability ~~named provided for~~ in 69-3-206.”

Section 1989. Section 69-3-208, MCA, is amended to read:

“69-3-208. Effect of failure by utility to cooperate with commission. ~~Any~~ An officer, agent, or employee of any public utility ~~shall be is~~ subject to the penalty prescribed in 69-3-206 whenever the officer, agent, or employee ~~shall~~:

(1) willfully ~~fail fails~~ or ~~refuse refuses~~ to fill out and return any blanks as required by this chapter;

(2) willfully ~~fail fails~~ or ~~refuse refuses~~ to answer any questions ~~therein propounded contained in blanks as provided in this chapter~~;

(3) knowingly or willfully ~~give gives~~ a false answer to any ~~such~~ questions or ~~evade evades~~ the answer to ~~such the~~ questions, where the fact inquired of is within ~~his the officer's, agent's, or employee's~~ knowledge; or

(4) upon proper demand, willfully ~~fail fails~~ or ~~refuse refuses~~ to exhibit to any commission or any commissioners or any person also authorized to examine the same, any book, paper, or account of ~~such the~~ public utility ~~which that~~ is in ~~his the officer's, agent's, or employee's~~ possession or under ~~his the officer's, agent's, or employee's~~ control.”

Section 1990. Section 69-3-326, MCA, is amended to read:

“69-3-326. Conduct of hearing. At the hearing, both the complainant and the public utility ~~shall have~~ the right to appear by counsel or otherwise and *to be* fully heard. Either party ~~shall be is~~ entitled to an order by the commission for the appearance of witnesses or the production of books, papers, and documents containing material testimony. Witnesses appearing upon the order of the

commission ~~shall be~~ *are* entitled to the same fees and mileage as witnesses in civil cases in the courts of the state, and the ~~same shall fees and mileage must be~~ paid out of the state treasury in the same manner as other claims against the state are paid. ~~No fees~~ *Fees* or mileage ~~shall may not~~ be allowed unless the ~~chairman presiding officer~~ of the commission ~~shall certify~~ *certifies* to the correctness of the claim.”

Section 1991. Section 69-3-329, MCA, is amended to read:

“69-3-329. Immunity for witnesses. (1) ~~No~~ A person ~~shall may not~~ be excused from testifying or from producing books and papers in any proceedings based upon or growing out of any alleged violation of the provisions of this chapter on the ground of or for the reason that the testimony or evidence, documentary or otherwise, required of ~~him~~ *the person* may tend to incriminate or subject ~~him~~ *the person* to penalty or forfeiture. Except as provided in subsection (2), ~~no~~ a person having ~~so~~ testified ~~shall may not~~ be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which ~~he~~ *the person* may have testified or produced any documentary evidence.

(2) ~~No~~ A person ~~so~~ testifying ~~shall be exempted~~ *is not exempt* from prosecution or punishment for perjury ~~in so testifying.~~”

Section 1992. Section 69-3-703, MCA, is amended to read:

“69-3-703. Utility investment in or purchase of conservation — approval by commission. (1) A utility may:

(a) purchase conservation from a person or private firm; or

(b) directly engage in conservation investments.

(2) The conservation purchases or investments provided for in subsection (1) are subject to approval by the commission.

(3) Cost-effective conservation measures approved by the commission may, at the customer’s discretion, be installed by ~~either~~:

(a) a person or a private firm;

(b) the customer ~~himself~~; or

(c) the utility.”

Section 1993. Section 69-4-203, MCA, is amended to read:

“69-4-203. Scope of law. Section 69-4-201 ~~shall~~ *does* not apply to:

(1) interstate railroad electrification construction except where the wires of the railroad cross or are crossed by wires belonging to others; ~~and or~~

(2) any electrical construction of any person using the construction for power wires ~~where if~~:

(a) the construction and wires and the power plant furnishing electricity ~~therefor to the wires~~ are wholly owned by this person and the electricity conducted ~~thereby~~ is produced and used solely by this person on ~~his~~ *the person’s* own premises and not sold or delivered to any other person off ~~his~~ *the person’s* premises;

(b) the wires or construction are not over or across any highway or public place or the property of others; and

(c) these wires have a potential of less than 450 volts between any phases.”

Section 1994. Section 69-4-353, MCA, is amended to read:

“69-4-353. Conversion of facilities on public property — notice to landowners. (1) Upon completion of the conversion of the overhead electric or communication facilities on public lands and right-of-way to underground, the public utility shall file a verified statement of the costs of ~~such~~ *the* conversion with the governing body.

(2) The governing body shall mail to each landowner and purchaser of property under contract for deed a notice stating that:

(a) service from the underground facilities is available;

(b) the landowner has 60 days after the date of the mailing of ~~such~~ *the* notice to convert all overhead electric or communication facilities providing service to any structure or improvement located on ~~his~~ *the landowner's* lot or parcel to underground service facilities; and

(c) after the 60-day period following the date of the mailing of the notice, the governing body will order the public utility to disconnect and remove all overhead electric and communication facilities providing service to any structure or improvement within the area.”

Section 1995. Section 69-4-355, MCA, is amended to read:

“69-4-355. Procedure upon failure to effect conversion on private property. If the owner of any structure or improvement served from the overhead electric or communication service facilities within an underground assessment district does not grant the utility a permit or easement referred to in 69-4-354 or if ~~such~~ an owner fails to convert to underground service facilities within 60 days after the mailing to ~~him~~ *the owner* of the notice provided by 69-4-353, the governing body shall order the public utility to complete the conversion and to disconnect and remove all overhead facilities, including service facilities, providing service to ~~such~~ *the* structure or improvement.”

Section 1996. Section 69-4-1103, MCA, is amended to read:

“69-4-1103. Liability for bypass or tampering. (1) A person who bypasses or tampers, either for ~~his~~ *the person's* own benefit or the benefit of another, is liable to the affected utility as provided in 69-4-1104 for services actually provided by the utility. Collection under subsection (2) precludes collection under this subsection.

(2) A person who receives utility services, knowing that the measurement of ~~such~~ *the* services is being affected by bypassing or tampering, is liable to the affected utility as provided in 69-4-1104 for services actually provided by the utility. Collection under subsection (1) precludes collection under this subsection.”

Section 1997. Section 69-11-101, MCA, is amended to read:

“69-11-101. Definitions. (1) ~~Everyone~~ *A person* who offers to the public to carry persons, property, or messages, excepting only telegraphic or telephonic messages, is a “common carrier” of whatever ~~he~~ *thus the person* offers to carry.

(2) The “contract of carriage” is a contract for the conveyance of property, persons, or messages from one place to another.”

Section 1998. Section 69-11-103, MCA, is amended to read:

“69-11-103. Time schedules to be followed. A common carrier ~~must~~ *shall* start at ~~such~~ *the* time and place ~~as he~~ *that the carrier* announces to the public unless detained by accident or the elements or in order to connect with carriers on other lines of travel.”

Section 1999. Section 69-11-104, MCA, is amended to read:

“69-11-104. Right to compensation. A common carrier is entitled to a reasonable compensation, and no more, which ~~he~~ *the carrier* may require to be paid in advance. If payment ~~thereof~~ is refused, ~~he~~ *the carrier* may refuse to carry.”

Section 2000. Section 69-11-105, MCA, is amended to read:

“69-11-105. Effect of agreements on rights and obligations of carrier and other parties. (1) The obligations of a common carrier cannot be limited by general notice on ~~his~~ *the carrier’s* part, but may be limited by special contract.

(2) A common carrier cannot be exonerated, by any agreement made in anticipation ~~thereof~~ *of liability*, from liability for the gross negligence, fraud, or willful wrong of ~~himself~~ *the carrier* or ~~his~~ *the carrier’s* servants.

(3) A passenger, consignor, or consignee, by accepting a ticket, bill of lading, or written contract for carriage; with a knowledge of its terms, assents to the rate of hire and the time, place, and manner of delivery ~~therein~~ *stated in the document*, but ~~his~~ *the passenger’s, consignor’s, or consignee’s* assent to any other modification of the carrier’s rights or obligations contained in ~~such~~ *the* instrument can be manifested only by ~~his~~ *the passenger’s, consignor’s, or consignee’s* signature to the ~~same~~ *instrument*, except as otherwise provided in the Uniform Commercial Code.”

Section 2001. Section 69-11-106, MCA, is amended to read:

“69-11-106. Gratuitous carriers. (1) Carriers without reward are subject to the same rules as employees without reward, except as is otherwise provided by this chapter.

(2) A carrier without reward who has begun to perform ~~his~~ *the carrier’s* undertaking ~~must~~ *shall* complete it in ~~like~~ *the same* manner as if ~~he~~ *the carrier* had received a reward unless ~~he~~ *the carrier* restores the person or thing carried to as favorable a position as before ~~he~~ *commenced* ~~his~~ *the carriage was commenced*.

(3) A carrier of persons without reward ~~must~~ *shall* use ordinary care and diligence for their safe carriage. A carrier of property without reward ~~must~~ *shall* use at least slight care and diligence.”

Section 2002. Section 69-11-107, MCA, is amended to read:

“69-11-107. General duty of care of carriers for reward. (1) A carrier of persons for reward ~~must~~ *shall* use the utmost care and diligence for their safe carriage, ~~must~~ *shall* provide everything necessary for that purpose, and ~~must~~ *shall* exercise to that end a reasonable degree of skill.

(2) A carrier of property for reward ~~must~~ *shall* use at least ordinary care and diligence in the performance of all ~~his~~ *the carrier’s* duties.

(3) A carrier of messages for reward ~~must~~ *shall* use great care and diligence in the transmission and delivery of messages.”

Section 2003. Section 69-11-108, MCA, is amended to read:

“69-11-108. Prohibition on confiscation of fuel. (1) It ~~shall be~~ *is* unlawful for any person, railway company, or common carrier to confiscate or take for ~~his~~ *the person’s* or its own use or for the use of another any coal or other fuel in transit except when ~~such~~ *the* coal or other fuel is necessary for the preservation of life or property or is required for the moving of trains of ~~such~~ *the* common carrier. In a suit under this section to recover the penalty and damages, the burden of proof ~~shall be~~ *is* on the person, railroad company, or common carrier confiscating the coal or other fuel to show that ~~such~~ *the* coal or other fuel

was necessary for the preservation of life or property or was required for the moving of trains of ~~such the~~ common carrier.

(2) Any person, railroad company, or common carrier who ~~shall confiscate~~ *confiscates* or ~~take takes~~ any coal or fuel, either for ~~his the person's~~ or its own use or for the use of another, ~~shall be is~~ liable to the consignee or owner of ~~such the~~ coal or fuel in double the value of ~~such the~~ coal or fuel at the point of shipment and ~~such other damages as that~~ may be caused by the confiscation of ~~such the~~ coal or fuel. ~~Such The liability shall be is~~ exclusive of and in addition to any and all charges for the transportation of ~~such the~~ coal or fuel, which charges for the transportation ~~shall must~~ be paid by the party confiscating ~~such the~~ coal or fuel. In every case ~~wherein in which~~ coal or other fuel is taken or used by any ~~such~~ person, railroad company, or common carrier, it ~~shall be is~~ the duty of ~~such the~~ person, railroad company, or common carrier to notify the consignee by telegram or letter, immediately, of the taking of ~~such the~~ coal or fuel and to pay and compensate ~~him therefor the consignee~~ within 30 days from the time of the taking.

(3) Any person, corporation, or common carrier who ~~shall violate~~ *violates* the provisions of this section ~~shall be is~~ guilty of a misdemeanor and upon conviction ~~thereof~~ shall be fined not less than \$50 or more than \$200."

Section 2004. Section 69-11-109, MCA, is amended to read:

"69-11-109. Provision for transportation of passengers and property for free or reduced rates. (1) ~~(a) No provisions~~ *A provision* of the laws of this state ~~may not~~ prevent any person, association, company, or corporation engaged as a common carrier of persons or property in this state from carrying, storing, or handling ~~property at~~ free or at reduced rates:

(i) *property* for the United States, for state or municipal governments, or for charitable institutions;

(ii) *property which that* is being transported to or from fairs and expositions for exhibit ~~thereat at~~ *fairs or expositions*; or

(iii) cars used by the government of the United States or the state for the transportation of fish and ~~from carrying free or at reduced rates~~ agents and employees employed in ~~such that~~ transportation;

(b) ~~and nothing therein contained prevents such~~ *The laws of this state may not prevent any* person, association, company, or corporation from issuing free transportation or selling tickets at reduced rates to the classes of persons listed in 69-11-208.

(2) When free transportation or a ticket at a reduced rate is issued to any officer or any president or member of the faculty of any educational institution referred to in 69-11-208(1)(q), it ~~shall may only~~ be issued ~~only~~ upon the application of the secretary of state and the transportation or ticket ~~shall must~~ be delivered to the secretary of state for delivery to the person or persons applying ~~therefor for the free or reduced ticket~~. The secretary of state shall keep record of all transportation and tickets at reduced rates ~~so~~ received and delivered by ~~him the secretary of state~~. The state officer and the president and faculty of the state educational institutions, when traveling upon any free transportation, may not charge any mileage against the state, or if traveling upon a ticket sold at reduced fare, they may not charge mileage in excess of the cost of the ticket.

(3) The carrying free or at reduced rates of property or persons in any of the classes ~~above~~ specified ~~shall in this section must~~ be held to be a reasonable

classification by common carriers for ~~such~~ *those* purposes and not to be unjust discrimination. The carriage and transportation by any common carrier at free or reduced rates in any of the cases ~~above~~ *specified in this section* is not a violation of any of the provisions of the laws of Montana and does not subject the common carrier to any penalty ~~therefor~~.”

Section 2005. Section 69-11-121, MCA, is amended to read:

“69-11-121. Detriment caused by carrier. (1) The detriment caused by the breach of a carrier’s obligation to accept freight, messages, or passengers is ~~deemed considered~~ to be the difference between the amount ~~which he~~ *that the carrier* had a right to charge for the carriage and the amount ~~which that~~ it would be necessary to pay for the same service when it ought to be performed.

(2) The detriment caused by the breach of a carrier’s obligation to deliver freight ~~where he~~ *when the carrier* has not converted ~~it~~ *the freight* to ~~his~~ *the carrier’s* own use is ~~deemed considered~~ to be the value ~~thereof of the freight~~ at the place and on the day at which it should have been delivered, deducting the freightage to which ~~he~~ *the carrier* would have been entitled if ~~he~~ *the carrier* had completed the delivery.

(3) The detriment caused by a carrier’s delay in the delivery of freight is ~~deemed considered~~ to be the depreciation in the intrinsic value of the freight during the delay and also the depreciation, if any, in the market value ~~thereof of the freight, otherwise~~ *other* than by reason of a depreciation in ~~its~~ *the freight’s* intrinsic value, at the place where it ought to have been delivered and between the day at which it ought to have been delivered and the day of its actual delivery.

(4) The damages prescribed by this section are exclusive of exemplary damages and interest ~~except where~~ *when* those are expressly mentioned. Notwithstanding the provisions of this section, ~~no~~ *a person can* ~~may not~~ recover a greater amount in damages for the breach of an obligation than ~~he~~ *the person* could have gained by the full performance ~~thereof of the obligation~~ on both sides, except as provided in 27-1-303.”

Section 2006. Section 69-11-201, MCA, is amended to read:

“69-11-201. Requirements for carriers of persons for reward. (1) A carrier of persons for reward is bound to provide vehicles safe and fit for the purposes to which they are put and is not excused for default in this respect by any degree of care.

(2) A carrier of persons for reward ~~must~~ *may* not overcrowd or overload ~~his~~ *the carrier’s* vehicle.

(3) A carrier of persons for reward ~~must~~ *shall* give to passengers all ~~such~~ accommodations ~~as that~~ are usual and reasonable, ~~must~~ *shall* treat them with civility, and *shall* give them a reasonable degree of attention.

(4) A carrier of persons for reward ~~must~~ *shall* travel at a reasonable rate of speed, without any unreasonable delay or deviation from ~~his~~ *the carrier’s* proper route.”

Section 2007. Section 69-11-203, MCA, is amended to read:

“69-11-203. Transport of passengers. (1) A common carrier of persons ~~must~~ *shall* provide a sufficient number of vehicles to accommodate all the passengers who can be reasonably expected to require carriage at any one time.

(2) A common carrier of persons ~~must~~ *shall* provide every passenger with a seat. ~~He must~~ *The carrier may* not overload ~~his~~ *the carrier's* vehicle by receiving and carrying more passengers than its rated capacity allows.

(3) A common carrier of persons may make rules for the conduct of ~~his~~ *the carrier's* business and may require passengers to conform to ~~them~~ *the rules* if they are lawful, public, uniform in their application, and reasonable."

Section 2008. Section 69-11-204, MCA, is amended to read:

"69-11-204. Carriage of baggage by carriers of persons. (1) Baggage may consist of any articles intended for the use of a passenger while traveling or for ~~his~~ *the passenger's* personal equipment.

(2) A common carrier of persons, unless ~~his~~ *the carrier's* vehicle is fitted for the reception of persons exclusively, ~~must~~ *shall* receive and carry a reasonable amount of baggage for each passenger without charge, except for an excess of weight over 100 pounds ~~to a~~ *per* passenger; ~~but~~ *However*, if ~~such~~ *the* carrier is a proprietor of a stage line, ~~he~~ *the carrier* may not receive and carry for each passenger by ~~such~~ *the* stage line, without charge, more than 60 pounds of baggage.

(3) The liability of a carrier for baggage received by ~~him~~ *the carrier* with a passenger is the same as that of a common carrier of property.

(4) A common carrier ~~must~~ *shall* deliver ~~every~~ a passenger's baggage, whether within the prescribed weight or not, immediately upon the arrival of the passenger at ~~his~~ *the passenger's* destination and, unless the vehicle would be overcrowded or overloaded ~~thereby~~, ~~must~~ *shall* carry ~~it~~ *the baggage* on the same vehicle ~~by which he carries~~ *carrying* the passenger to whom it ~~belonged;~~ *belongs*. ~~except~~ *However*, ~~that where~~ *when* baggage is transported by rail, it must be checked and carried in a regular baggage car, and whenever passengers neglect or refuse to have their baggage ~~so~~ checked and transported, it is carried at their risk."

Section 2009. Section 69-11-206, MCA, is amended to read:

"69-11-206. Lien for payment of fare. A common carrier has a lien upon the baggage of a passenger for the payment of ~~such~~ *the* fare ~~as he~~ *that the carrier* is entitled to from ~~him~~ *the passenger*. This lien is ~~regulated~~ *governed* by the law on liens."

Section 2010. Section 69-11-208, MCA, is amended to read:

"69-11-208. Classes of persons who may receive free transportation.

(1) The persons to whom free tickets, free passes, free transportation, and discriminating reduced rates may be issued, furnished, or given are the following:

(a) the officers, agents, employees, attorneys, physicians, and surgeons of ~~such~~ *the* common carriers of passengers and the officers and employees of other common carriers upon the exchange of passes or tickets;

(b) the families of the persons included in subsection (1)(a);

(c) the general officers of any ~~such~~ common carriers;

(d) employees of sleeping car and express car companies and linemen of telegraph and telephone companies, railway mail service employees, post-office inspectors, customs inspectors, and immigration inspectors, ~~newsboys and newsgirls~~ *news salespersons* on trains, and baggage agents;

(e) persons injured in wrecks and physicians and nurses attending ~~such~~ *the* persons;

(f) passengers traveling with the object of providing relief in cases of railroad accident, general epidemic, pestilence, or other calamitous visitation calamity;

(g) necessary caretakers of livestock, vegetables, and fruit, including return transportation to forwarding stations;

(h) the officers, agents, or regularly accredited representatives of labor organizations composed wholly of employees of railway companies;

(i) inmates of homes for the reform or rescue of the disadvantaged, including those about to enter and those returning home after discharge, and boards of managers, including officers and superintendents, of ~~such~~ the homes;

(j) superannuated and pensioned employees and members of their families and surviving spouses of ~~such~~ the members;

(k) employees crippled and disabled in the service of the common carrier of passengers;

(l) ~~policemen~~ police officers and firefighters of any city, wearing the insignia of their office, within the limits of ~~such~~ the city;

(m) ministers of religion, newspaper employees in exchange for advertising, traveling secretaries of Young Men's Christian Associations and Young Women's Christian Associations a YMCA or YWCA, inmates of hospitals and charitable and eleemosynary institutions, and persons exclusively engaged in charitable and eleemosynary work;

(n) indigent, destitute, and homeless persons; while being transported by charitable societies or hospitals; and necessary agents and employees in ~~such~~ the transportation;

(o) school children; going to and from public or parochial schools;

(p) military personnel going to or coming from institutions for their keeping;

(q) executive, judicial, or legislative officers of this state, including the members of the faculty of the different educational institutions of this state;

(r) the furloughed employees of common carriers authorized by 69-11-207 to issue free transportation and members of their families;

(s) persons who have become disabled or infirm in the service of a common carrier or members of families of persons who have become disabled or infirm in the service of any ~~such~~ common carrier;

(t) families of persons killed and surviving spouses who have not remarried and minor children during minority of persons who died while in the service of any ~~such~~ common carrier;

(u) witnesses attending any legal investigation in which ~~such~~ the carrier is interested;

(v) the remains of persons who died while in the employment of a common carrier; and

(w) ~~ex-employees~~ former employees traveling for the purpose of entering the service of any ~~such~~ common carrier.

(2) The provisions of ~~this section and 69-11-207 shall and this section may~~ not be construed to prohibit the interchange of passes for the persons to whom free tickets, free passes, or free transportation may be furnished or given under the provisions of this section. ~~Nothing in this~~ The provisions of section or 69-11-207 ~~shall or this section may not~~ be construed to invalidate any existing contract between a street railway company and a city ~~where when~~ a condition of

a franchise grant requires the furnishing of transportation to ~~police~~ *police officers*, firefighters, and officers while in the performance of official duties.”

Section 2011. Section 69-11-209, MCA, is amended to read:

“69-11-209. Ejection of passengers. (1) A passenger who refuses to pay ~~his~~ *the* fare or conform to any lawful regulation of the carrier may be ejected from the vehicle by the carrier. This must be done with as little violence as possible and at any usual stopping place or near some dwelling house.

(2) After having ejected a passenger, a carrier has no right to require the payment of any part of ~~his~~ *the passenger’s* fare.”

Section 2012. Section 69-11-301, MCA, is amended to read:

“69-11-301. Requirements for carriers of messages for reward. (1) A carrier of messages for reward, other than by telegraph or telephone, ~~must~~ *shall* deliver them at the place to which they are addressed or to the person for whom they are intended.

(2) ~~Such~~ *the* carrier by telegraph or telephone ~~must~~ *shall* deliver ~~them~~ *the messages* at ~~such~~ *the* place and to ~~such~~ *the* person provided the place of address or the person for whom they are intended is within a distance of 2 miles from the main office of the carrier in the city or town to which the messages are transmitted. The carrier is not required, in making the delivery, to pay on ~~his~~ *the carrier’s* route toll or ferriage, but for any distance beyond 1 mile from ~~such~~ *the* office, compensation may be charged for a messenger employed by the carrier.”

Section 2013. Section 69-11-302, MCA, is amended to read:

“69-11-302. Order of transmission of messages. (1) A carrier of messages by telegraph or telephone ~~must~~ *shall*, if it is practicable, transmit every ~~such~~ message immediately upon its receipt. If this is not practicable and several messages accumulate ~~upon his hands~~, ~~he~~ *must* ~~the carrier~~ *shall* transmit them in the following order:

(a) messages from public agents of the United States or of this state on public business;

(b) messages giving information relating to the sickness or death of any person;

(c) messages intended in good faith for immediate publication in newspapers and not for any secret use;

(d) other messages in the order in which they were received.

(2) A common carrier of messages, otherwise than by telegraph or telephone, ~~must~~ *shall* transmit them in the order in which ~~he~~ *the carrier* receives them, except messages from agents of the United States or of this state on public business, to which ~~he~~ *must* ~~the carrier~~ *shall* always give priority.”

Section 2014. Section 69-11-303, MCA, is amended to read:

“69-11-303. Damages for refused or delayed message. ~~Every~~ A person whose message is refused or postponed contrary to the provisions of this chapter is entitled to recover from the carrier ~~his~~ *the person’s* actual damages and ~~an additional \$50 in addition thereto.~~”

Section 2015. Section 69-11-304, MCA, is amended to read:

“69-11-304. Loss of valuable letters. A common carrier is not responsible for loss or miscarriage of a letter or package having the form of a letter containing money or notes, bills of exchange, or other papers of value unless ~~he~~ *the carrier* is informed at the time of its receipt of the value of its contents.”

Section 2016. Section 69-11-402, MCA, is amended to read:

“69-11-402. Relationship of carrier to consignor and consignee. (1) A carrier ~~must~~ *shall* comply with the directions of the consignor or consignee to the same extent as an employee is bound to comply with those of ~~his~~ *the employee’s* employer.

(2) When the directions of a consignor and consignee are conflicting, the carrier ~~must~~ *shall* comply with those of the consignor in respect to all matters except the delivery of the freight, as to which ~~he~~ *the carrier* ~~must~~ *shall* comply with the directions of the consignee, unless the consignor has specially forbidden the carrier to receive orders from the consignee inconsistent with ~~his~~ *the consigner’s* own.”

Section 2017. Section 69-11-403, MCA, is amended to read:

“69-11-403. Acceptance of freight. A common carrier ~~must~~ *shall*, if able to do so, accept and carry whatever is offered to ~~him~~ *the carrier*, at a reasonable time and place, of a kind that ~~he~~ *the carrier* undertakes or is accustomed to carry.”

Section 2018. Section 69-11-404, MCA, is amended to read:

“69-11-404. Delivery of freight. (1) A carrier of property ~~must~~ *shall* deliver ~~it~~ *the property* to the consignee at the place to which it is addressed and in the manner usual at that place.

(2) If there is no usage to the contrary at the place of delivery, freight must be delivered as follows:

(a) If carried on a railway owned or managed by the carrier, it may be delivered at the station nearest to the place to which it is addressed.

(b) If carried by water, it may be delivered at a wharf or other suitable landing, at or within a reasonable distance from the place of address.

(c) In other cases, it must be delivered to the consignee or ~~his~~ *the consignee’s* agent, personally, if either can be found with reasonable diligence.

(3) If, for any reason, a carrier does not deliver freight to the consignee or ~~his~~ *the consignee’s* agent personally, ~~he~~ *the carrier* ~~shall~~ *shall* give notice to the consignee of its arrival and keep the ~~same~~ *freight* in safety, upon ~~his~~ *the carrier’s* responsibility as a ~~warehouseman~~ *warehouse agent*, until the consignee has had a reasonable time to remove it. If the place of residence or business of the consignee ~~he~~ *is* unknown to the carrier, ~~he~~ *the carrier* may give the notice by letter ~~dropped in~~ *mailed* at the nearest post office.”

Section 2019. Section 69-11-405, MCA, is amended to read:

“69-11-405. Procedure to terminate carrier’s liability. If a consignee does not accept and remove freight within a reasonable time after the carrier has fulfilled ~~his~~ *the carrier’s* obligation to deliver or duly offered to fulfill the ~~same~~ *obligation*, the carrier may ~~exonerate himself~~ *be exonerated* from further liability by placing the freight in a suitable warehouse on storage, on account of the consignee, and giving notice ~~thereof of that action~~ *thereof* to ~~him~~ *the consignee*.”

Section 2020. Section 69-11-406, MCA, is amended to read:

“69-11-406. Payment of freightage. (1) A carrier may require ~~his~~ *his* freightage to be paid upon ~~his~~ *receiving* ~~receipt~~ *receipt* of the freight, but if ~~he~~ *the carrier* does not demand it then, ~~he~~ *the carrier* ~~cannot~~ *may not* require the payment until ~~he~~ *the carrier* is ready to deliver the freight to the consignee.

(2) The consignor of freight is presumed to be liable for the freightage, but if the contract between ~~him~~ *the consignor* and the carrier provides that the consignee shall pay ~~it~~ *the freightage* and the carrier allows the consignee to take the freight, ~~he~~ *the carrier may not* ~~cannot~~ afterwards recover the freightage from the consignor.

(3) The consignee of freight is liable for the freightage if ~~he~~ *the consignee* accepts the freight with notice of the intention of the consignor that ~~he~~ *the consignee* should pay it.”

Section 2021. Section 69-11-408, MCA, is amended to read:

“69-11-408. Apportionment of freightage by contract. (1) If freightage is apportioned by a bill of lading or other contract made between a consignor and carrier, the carrier is entitled to payment, according to the apportionment, for ~~so~~ *as much as he* ~~the carrier~~ delivers.

(2) If a part of the freight is accepted by a consignee without a specific objection that the rest is not delivered, the freightage must be apportioned and paid as to that part, though not apportioned in the original contract.”

Section 2022. Section 69-11-409, MCA, is amended to read:

“69-11-409. Adjustment of freightage for change in time or place of delivery. (1) If a consignee voluntarily receives freight at a place short of the ~~one~~ *place* appointed for delivery, the carrier is entitled to a just proportion of the freightage according to distance. If the carrier, ~~being~~ *is* ready and willing, ~~and~~ offers to complete the transit, ~~he~~ *the carrier* is entitled to the full freightage. If ~~he~~ *the carrier* does not ~~thus~~ offer completion and the consignee ~~receive~~ *receives* the freight only from necessity, the carrier is not entitled to any freightage.

(2) If freight is carried further or more expeditiously than was agreed upon by the parties, the carrier is not entitled to additional compensation and cannot refuse to deliver ~~it~~ *the freight*, on demand of the consignee, at the place and time of its arrival.”

Section 2023. Section 69-11-411, MCA, is amended to read:

“69-11-411. Sale of perishable property for freightage. If, from any cause other than want of ordinary care and diligence on ~~his~~ *the carrier's* part, a common carrier is unable to deliver perishable property transported by ~~him~~ *the carrier* and collect ~~his~~ *the carrier's* charges ~~thereon~~, ~~he~~ *the carrier* may cause the property to be sold in open market to satisfy ~~his~~ *the carrier's* lien for freightage.”

Section 2024. Section 69-11-421, MCA, is amended to read:

“69-11-421. Liability of inland carriers for loss. (1) Any common carrier, railroad, or transportation company subject to the provisions of 69-11-421 through 69-11-427, receiving property for transportation from a point in Montana to any other point in Montana, shall issue a receipt or bill of lading ~~therefor~~ *for the property* and ~~shall be~~ *is* liable to the lawful holder ~~thereof~~ *of the bill of lading* for any loss, damage, or injury to ~~such~~ *the* property caused by it or by any common carrier, railroad, or transportation company to which ~~such~~ *the* property may be delivered or over whose line or lines ~~such~~ *the* property may pass within the state when transported on a through bill of lading. ~~No~~ *A* contract, receipt, rule, or other limitation of any character ~~whatsoever~~ *shall may not* exempt ~~such~~ *the* common carrier, railroad, or transportation company from the liability ~~hereby~~ *imposed by this section*.

(2) Except as provided in 69-11-422, ~~any~~ *a* common carrier, railroad, or transportation company receiving property for transportation from a point in Montana to a point in Montana or any common carrier, railroad, or

transportation company delivering property so received and transported is liable to the lawful holder of ~~said the~~ receipt or bill of lading or to any party entitled to recover ~~thereon on the receipt or bill of lading~~, whether ~~such the~~ receipt or bill of lading has been issued or not, for the full actual loss, damage, or injury to ~~such the~~ property caused by it or by any common carrier, railroad, or transportation company to which ~~such the~~ property may be delivered or over whose line or lines ~~such the~~ property may pass within the state when transported on a through bill of lading, notwithstanding any limitation of liability or limitation of the amount of recovery or representation or agreement as to value in any ~~such~~ receipt or bill of lading or in any contract or rule or in any tariff filed with the public service commission. Any ~~such~~ limitation, without respect to the manner or form in which it is sought to be made, is unlawful and void, except:

- (a) an inherent defect, vice, or weakness or a spontaneous action of the property itself;
 - (b) the act of a public enemy of the United States or of this state;
 - (c) the act of the law;
 - (d) an irresistible superhuman cause;
 - (e) the act or default of the shipper or owner; or
 - (f) for natural shrinkage.
- (3) Nothing in 69-11-421 through 69-11-426 deprives any holder of ~~such a~~ receipt or bill of lading of any remedy or right of action.
- (4) The liability imposed by this section also applies in the case of property reconsigned or diverted in accordance with the applicable tariffs filed as provided in this part.
- (5) A common carrier is liable, even in the cases excepted by subsection (2), if ~~his the carrier's~~ ordinary negligence exposes the property to the cause of the loss."

Section 2025. Section 69-11-424, MCA, is amended to read:

"69-11-424. Examination of shipment. (1) ~~The consignee within~~ *Within* 15 days after delivery, ~~must the consignee shall~~ ask for an inspection of any damaged shipment, and the carrier ~~must shall~~ make an inspection within 5 working days ~~thereafter after being asked~~.

(2) The consignee ~~shall have~~ *must be given* the opportunity to examine the condition of the package in which the goods are shipped prior to signing the delivery receipt.

(3) The consignee may detain the driver at *the* consignee's expense, not to exceed a minimum charge to be fixed by the commission, while ~~he the consignee~~ examines the shipment for possible concealed damage. During ~~such the~~ examination, the freight bill may still be noted as to the extent of the damage or loss, if any. If examination discloses damage, the examination charge may be included in the consignee's claim for damage in proportion to the amount of the claim."

Section 2026. Section 69-11-428, MCA, is amended to read:

"69-11-428. Liability for delay. A common carrier is liable for delay only when it is caused by ~~his the carrier's~~ want of ordinary care and diligence."

Section 2027. Section 69-11-429, MCA, is amended to read:

“69-11-429. Liability for valuable cargo. (1) ~~A common carrier~~ *Unless a common carrier has knowledge of the nature of the freight upon its receipt by mark upon the package or otherwise, a common carrier is not liable for more than \$50 upon the loss or injury of any one package of:*

(a) gold, silver, platina, or precious stones or of imitations thereof of those items in a manufactured or unmanufactured state;

(b) of timepieces of any description;

(c) of negotiable paper or other valuable writings;

(d) of pictures, glass, or chinaware;

(e) of statuary, silk, or laces; or

(f) of plated ware of any kind ~~is not liable for more than \$50 upon the loss or injury of any one package of such articles unless he has notice upon his receipt thereof by mark upon the package or otherwise of the nature of the freight;~~

(2) ~~nor is such~~ *A common carrier is not liable upon with regard to any package carried for more than the value of the articles named in the receipt or the bill of lading.”*

Section 2028. Section 69-12-203, MCA, is amended to read:

“69-12-203. Supervisor of motor carriers. (1) The commission shall appoint a supervisor of motor carriers who ~~shall have~~ *has* general responsibility to the commission for enforcement of the provisions of this chapter. The supervisor ~~shall must~~ be either an attorney admitted to practice law in Montana or a person qualified by at least 5 years of suitable experience and training in appropriate phases of the motor carrier industry. ~~He~~ *the supervisor* shall serve at the pleasure of the commission and at an annual salary to be set by the commission.

(2) The supervisor shall direct all enforcement activities ~~in~~ *on* behalf of the commission, including the investigation and prosecution of violations of this chapter, ~~as amended~~, or the rules or orders prescribed ~~thereunder~~ *under this chapter* by the commission.

(3) The supervisor and whatever field inspectors may be employed by the commission to assist ~~him~~ *shall be deemed the supervisor are considered* peace officers for the purpose of making arrests in connection with violations of this chapter, ~~as amended~~, and issuing summonses, accepting bail, and serving warrants of arrest. The supervisor and field inspectors are empowered to make reasonable inspections of cargoes carried by commercial motor vehicles and require production of manifests, bills of lading, leases, and other documents relating to the cargo, driver, routing, or ownership of ~~such~~ *the* vehicles. The scope of the inspections is limited to the enforcement of the provisions of Title 69, chapter 12.”

Section 2029. Section 69-12-401, MCA, is amended to read:

“69-12-401. Compliance with state law. It ~~shall be~~ *is* unlawful for any corporation or person; ~~its~~ *or his* ~~the corporation’s or person’s~~ officers, agents, employees, or servants; to operate any motor vehicle for the transportation of persons ~~and/or~~ *or* property for hire on any public highway in this state except in accordance with the provisions of this chapter.”

Section 2030. Section 69-14-113, MCA, is amended to read:

“69-14-113. Attendance and examination of witnesses. (1) ~~The commission in~~ *In* making any examination or investigation provided for in this chapter, ~~the commission~~ *may* issue subpoenas for the attendance of witnesses ~~as~~

prescribed by such rules as that it may prescribe adopt. Witness fees shall *must* be the same as those provided for witnesses in civil actions before the district court, as provided in 26-2-501. However, ~~no~~ a witness furnished with free transportation may *not* receive mileage for the distance ~~he may have~~ *the witness* traveled on ~~such~~ *the* free transportation. ~~No~~ A person may *not* be excused from attending or testifying or producing any books, papers, documents, or any *other* thing ~~or things~~ before any court, ~~or~~ magistrate, ~~or~~ commissioner, or board upon any investigation, proceeding, or trial under the provisions of this chapter or for any violation of any of ~~them~~ *the provisions of this chapter* upon the ground or for the reason that the testimony or evidence, documentary or otherwise, required of ~~him~~ *the person* may tend to convict ~~him~~ *the person* of a crime or subject ~~him~~ *the person* to a penalty or forfeiture. ~~No~~ A person shall *may not* be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which ~~he~~ *the person* may ~~so~~ testify or produce evidence, and ~~no~~ testimony or evidence ~~so~~ given or produced shall *may not* be received against ~~him~~ *the person* upon any civil or criminal proceeding, action, or investigation.

(2) (a) The process issued by the commission shall *must* be under seal and extend to all parts of the state. The commission shall ~~have power to~~ *may* issue process in ~~like~~ *the same* manner as courts of record. ~~Such~~ *The* process may be served by any person authorized to serve process of courts of record or by any person appointed by the commission for ~~such~~ *that* purpose.

(b) ~~In the event~~ *If* the process issued by the commission is a subpoena for the attendance of a witness and ~~he~~ *the witness* fails, neglects, or refuses to obey the ~~same~~ *subpoena*, the commission is ~~hereby authorized to~~ *may* file a petition with any district court in the state, setting ~~up~~ *forth* the facts and the necessity of having the witness appear in the trial. The court shall ~~thereupon~~ summarily direct that a subpoena be issued out of the court requiring the attendance of any person as a witness before the court. The commission may ~~thereupon~~ examine ~~such~~ *the* witness before the court, under oath, respecting any inquiry or investigation being made by the commission pursuant to the provisions of this chapter. The court shall likewise, when any petition is filed stating the necessity ~~therefor~~ *for production*, order the production by any person or corporation, for examination in the court, of any books, papers, records, or files necessary or pertinent to any inquiry or investigation then being made by the commission.”

Section 2031. Section 69-14-131, MCA, is amended to read:

“69-14-131. Enforcement duties of commission. The commission shall see that the provisions of this chapter and all laws of this state concerning railroads are enforced and obeyed and that violations ~~thereof~~ *of those laws* are promptly prosecuted and penalties due the state ~~therefor~~ *are* recovered and collected. The commission shall report all ~~such~~ violations, with the facts in its possession, to the attorney general or other officer charged with the enforcement of the laws and request ~~him~~ *the officer* to institute the proper proceedings. All suits between the state and any railroad shall *must* have precedence in all courts over all civil causes, *except for* criminal business and original proceedings in the supreme court ~~excepted~~.”

Section 2032. Section 69-14-132, MCA, is amended to read:

“69-14-132. Legal assistance for commission. The attorney general is the attorney of the commission, and the county attorney of ~~every~~ *each* county in the state shall, on the request and at the direction of the attorney general, assist in all cases, proceedings, and investigations undertaken by the commission

under this chapter in ~~his~~ *the county attorney's* own county. However, the commission may employ special counsel, with the approval of the attorney general, to assist in any case, matter, proceeding, or investigation instituted under this chapter. The attorney general, upon direction of the commission, and the county attorney of each county in this state, upon direction of the attorney general, shall institute and prosecute and appear and defend any action or proceeding arising under this chapter. All suits and proceedings filed in any court of this state under this chapter shall *must* have precedence over all other business in the court except criminal business and original proceedings in the supreme court."

Section 2033. Section 69-14-134, MCA, is amended to read:

"69-14-134. Court enforcement of commission actions. (1) The district court has jurisdiction to enforce, by proper decree, injunction, or order, the rates, classifications, rulings, orders, and regulations made or established by the commission under the provisions of this chapter. The proceeding ~~therefor~~ shall *must* be by equitable action in the name of the state and shall *must* be instituted by the attorney general or county attorney, whenever advised by the commission that any railroad, railway, or common carrier is violating or refusing to comply with any ~~such~~ rule, order, rate, classification, or regulation made by the commission and applicable to ~~such~~ *the* railroad, railway, or common carrier. ~~Such~~ *The* proceedings shall *must* have precedence over all other business in ~~such~~ *the* courts except criminal business.

(2) In any action, the burden of proof ~~shall rest~~ *rests* upon the defendant, who ~~must~~ *shall* show by clear and satisfactory evidence that the rule, order, regulation, rate, or classification involved is unreasonable and unjust as to ~~it~~ *the defendant*. If, in ~~such~~ *the* action, it is the decision of the court that the rule, regulation, order, rate, or classification is not unreasonable or unjust and that in refusing compliance ~~therewith~~ the railroad, railway, or common carrier is ~~thereby~~ failing or omitting the performance of any duty, debt, or obligation, the court shall decree a mandatory and perpetual injunction compelling obedience to and compliance with the rule, regulation, order, rate, or classification by the defendant and its officers, agents, servants, and employees and may grant ~~such~~ other relief ~~as~~ *that* is just and proper. Any violation of ~~such~~ *the* decree renders the defendant and any officer, agent, servant, or employee of the defendant who is in any manner instrumental in ~~such~~ *the* violation guilty of contempt, punishable by a fine not exceeding \$1,000 for each offense or by imprisonment of the person guilty of contempt until ~~he~~ *the person* sufficiently purges ~~himself~~ *therefrom* ~~the contempt~~. ~~Such~~ *The* decree remains in effect until the rule, regulation, order, rate, or classification ~~shall be~~ *is* modified or vacated by the commission. ~~Nothing contained herein shall~~ *This section may not* be construed to deprive either party to ~~such~~ *the* proceedings of the right to trial by jury as provided by the seventh amendment to the constitution of the United States or as provided by the constitution of this state.

(3) An appeal ~~shall lie~~ *may be made* to the supreme court from the decree in ~~such~~ *the* action, and the cause shall *must* have precedence over all other civil actions of a different nature pending in the supreme court except original proceedings in the supreme court."

Section 2034. Section 69-14-207, MCA, is amended to read:

"69-14-207. Expulsion of passengers refusing to pay fare. If ~~any~~ *a* passenger refuses to pay ~~his~~ *the passenger's* fare or to exhibit or surrender ~~his~~ *the passenger's* ticket when reasonably requested to do so, the conductor and

employees of the corporation may put ~~him~~ *the passenger* and ~~his~~ *the passenger's* baggage out of the cars, *without* using ~~no~~ unnecessary force, at any usual stopping place or near any dwelling house, on stopping the train."

Section 2035. Section 69-14-208, MCA, is amended to read:

"69-14-208. Officers and employees of corporation to wear badges.

(1) ~~Every~~ A conductor, baggage master, engineer, ~~brakeman~~ *brake tender*, or other employee of any railroad corporation employed on a passenger train or at stations for passengers ~~must~~ *shall* wear, upon ~~his~~ *the person's* hat or cap or in some conspicuous place on the breast of ~~his~~ *the person's* coat, a badge indicating ~~his~~ *the person's* office or station and the initial letters of the name of the corporation by which ~~he~~ *the person* is employed.

(2) ~~No~~ A collector or conductor without ~~such~~ *a* badge is *not* authorized to demand or to receive from any passenger any fare, toll, or ticket or exercise any of the powers of ~~his~~ *the person's* office or station, and ~~no~~ *any* other officer or employee without ~~such~~ *a* badge ~~has~~ *does not have* any authority to meddle or interfere with any passenger or property."

Section 2036. Section 69-14-210, MCA, is amended to read:

"69-14-210. Baggage checks. A check must be affixed to every package or parcel of baggage when taken for transportation by ~~any~~ *an* agent or employee of ~~such~~ *a* railroad corporation, and a duplicate ~~thereof~~ *check must be* given to the passenger or person delivering the ~~same~~ *package or parcel* in ~~his~~ *the passenger's* behalf. If ~~such~~ *the* check is refused on demand, the railroad corporation ~~must~~ *shall* pay to ~~such~~ *the* passenger the sum of \$20, to be recovered in an action for damages, and ~~no~~ *a* fare or toll ~~must~~ *may not be* collected or received from ~~such~~ *the* passenger, and if ~~such~~ *the* passenger has paid ~~his~~ *the* fare, the ~~same~~ *fare* must be returned by the conductor in charge of the train. On producing the check, if ~~his~~ *the* baggage is not delivered to ~~him~~ *the person* by the agent or employee of the railroad corporation, ~~he~~ *the person* may recover the value ~~thereof~~ *of the baggage* from the corporation."

Section 2037. Section 69-14-211, MCA, is amended to read:

"69-14-211. Certificate of authority for ticket agents. (1) ~~It shall be~~ *is* the duty of the owners of any railroad or steamboat for the transportation of passengers to provide each agent who may be authorized to sell, within the state, tickets or other evidence entitling the holder ~~thereof~~ to travel upon their railroad or steamboat with a certificate setting forth the authority of ~~such~~ *the* agent to make ~~such~~ sales. The certificate ~~shall~~ *must* be duly attested by the corporate seal of any corporate owner of ~~such~~ *the* railroad or steamboat and ~~shall~~, for the information of travelers, *must* be kept posted in a conspicuous place in the office of ~~such~~ *the* agent.

(2) ~~It shall be~~ *is* the duty of ~~every~~ *an* agent residing or acting within this state who ~~shall be~~ *is* authorized to sell ~~therein~~ tickets or other evidence of the holder's title to travel upon any railroad or steamboat to exhibit to any person desiring to purchase a ticket or to any officer of the law who may request ~~him~~ *the agent* to do so ~~such~~ *the* certificate of ~~his~~ authority ~~thus~~ to sell."

Section 2038. Section 69-14-215, MCA, is amended to read:

"69-14-215. Issuance of bills of lading by railroad station agents — penalty. (1) All railway companies operating in the state ~~which~~ *that* do not permit bills of lading to be issued by employees other than agents ~~shall be~~ *are* required to have bills of lading issued by the station agent at the nearest station where a station agent is regularly maintained in the direction toward which the

shipment is destined. The conductor of the train ~~which~~ *that* receives the shipment at its point of origin shall deliver to the agent at the nearest station at which an agent is maintained through which the shipment moves, immediately upon the arrival of the train carrying the shipment at the agency station, all data necessary for the issuance of a bill of lading for the shipment. The agent shall immediately issue the bill of lading and shall deliver the ~~same~~ *bill of lading* to the shipper or ~~his~~ *the shipper's* agent or shall, within 24 hours after the receipt of the data from the conductor, for shipment of 20,000 pounds or ~~over~~ *more*, deposit the bill of lading in a United States post office, addressed and registered ~~or~~ certified to the consignor of the shipment or ~~his~~ *the consignor's* agent or attorney ~~to~~ *his* ~~at the consignor's, agent's, or attorney's~~ proper post-office address. A bill of lading for shipments of less than 20,000 pounds may be mailed without the use of registered ~~or~~ certified mail.

(2) ~~Any~~ *A* railway company operating in Montana ~~violating that violates~~ any provisions of this section is guilty of a misdemeanor and liable ~~to~~ *for* a fine of not less than \$50 or more than \$1,000."

Section 2039. Section 69-14-238, MCA, is amended to read:

"69-14-238. Equipment for track motor cars. (1) ~~Every~~ *A* person, firm, or corporation operating or controlling ~~any~~ *a* railroad running through or within this state as a common carrier shall:

(a) equip each of its track motor cars with:

(i) a windshield of safety glass and a device for wiping rain, snow, and other moisture ~~therefrom; such from the windshield, and the device shall must~~ be maintained in good order and ~~so must be~~ constructed ~~as to be controlled by the operator of said the~~ track motor car; and

(ii) upon request of the ~~foreman~~ *lead supervisor*, a canopy or top of ~~such construction as to constructed so that it~~ adequately ~~protect~~ *protects* the occupants ~~thereof of the track motor car~~ from the rays of the sun, rain, snow, or other inclement weather;

(b) equip each of its track motor cars used during the period from 30 minutes before sunset to 30 minutes after sunrise with:

(i) an electric headlight of ~~such construction~~ *constructed* and with sufficient candlepower to be plainly visible at a distance of not less than 300 feet in advance of ~~such the~~ track motor car, any track obstruction, landmark, warning sign, or grade crossing; and

(ii) a red rear electric light of sufficient candlepower to be plainly visible at a distance of not less than 300 feet.

(2) ~~Every~~ *Each* violation of this section is a misdemeanor."

Section 2040. Section 69-14-502, MCA, is amended to read:

"69-14-502. Organization of board of directors. (1) A majority of ~~said~~ directors shall form a board and ~~be is~~ competent to fill vacancies ~~therein on the board~~, make bylaws, and transact all business of the corporation. The directors elected at any election shall, ~~so as soon thereafter~~ as may be convenient, choose one of their number to be president and shall appoint a secretary and a treasurer of the corporation. The directors, before entering upon their duties, shall each take an oath or affirmation faithfully to discharge ~~his~~ *their* duties. They may from time to time make ~~such~~ dividends of the actual net profits of ~~said the~~ corporation ~~as that they may think~~ *determine* proper and shall hold their offices until their successors are elected and qualified.

(2) A new election ~~shall~~ *must be held* annually ~~held~~ for directors; at ~~such a~~ time and place ~~as that~~ the stockholders at their first meeting ~~shall~~ determine or ~~as that~~ the bylaws of the corporation may require.”

Section 2041. Section 69-14-505, MCA, is amended to read:

“69-14-505. Procedure in case of delinquency in payment of installments. (1) If any installment of stock ~~shall remain~~ *remains* unpaid for 60 days after the time specified for payment ~~thereof~~, whether ~~such~~ *the* stock is held by the original subscriber or ~~his~~ *the subscriber's* assignee, trustee, or successor in interest, the directors may sell the stock ~~so unpaid~~ at public auction for the installment then due ~~thereon~~, ~~first~~ *after* giving 30 days' public notice of the time and place of sale in some newspaper of general circulation in this state and by written notice sent by mail within 5 days after default ~~made~~ to each stockholder who is in default and whose name appears upon the books of the corporation; ~~directed~~. *The written notice must be sent to him the stockholder at his the stockholder's place of residence or if that is not known to the secretary, then to his the stockholder's address as last reported by the secretary of the corporation.* ~~Where~~ *If* any stock ~~shall have~~ belonged to a ~~deceased~~ *deceased* person ~~deceased~~, the claim for installments ~~shall~~ *is* not be liable to sale ~~hereunder until~~ *unless there is* a failure by the personal representative of the deceased owner to pay the installments due in *the* regular course of administration.

(2) If any ~~residue~~ of money ~~shall remain~~ *remains* after paying the amount due on ~~said~~ *the* stock, the ~~same~~ *money must*, on demand, be paid over to the owner.

(3) After the first election of directors, ~~no~~ *a person save other than* the personal representatives of deceased persons, ~~as aforesaid~~, ~~shall~~ *may not* vote on any share on which any installment is in default by reason of the nonpayment ~~thereof~~, after the expiration of the 30 days' notice of sale ~~hereinbefore provided for~~.”

Section 2042. Section 69-14-709, MCA, is amended to read:

“69-14-709. Allowance of attorney's fee attorney fees. (1) Except as provided in subsection (2), whenever any of the livestock referred to in this part ~~shall be~~ *are* injured or killed or ~~as therein recited~~ and the owner ~~thereof shall~~ *thereafter institute* ~~brings~~ an action for the recovery of the loss or damage ~~so~~ sustained by ~~him~~, the court in which ~~such the~~ *the* action ~~shall be~~ *is* brought shall ~~tax~~ *impose*, as a part of the costs ~~therein~~, a reasonable sum to be fixed by the court as a fee to the attorney of the prevailing or successful party for conducting ~~such the~~ *the* action. ~~Said~~ *The* fee ~~so fixed and allowed shall~~ *must* be collected in ~~like the same~~ *the same* manner as other costs.

(2) ~~No such~~ *A fee shall may not* be allowed by the court or collected from the defendant when it ~~shall appear~~ *appears* from the pleadings or proof in ~~any such~~ *an* action that the defendant prior to the institution of ~~such the~~ *the* action offered or agreed to pay to the plaintiff ~~therein~~, in settlement of the loss or damages claimed, a sum equal to or in excess of the amount recovered as damages in ~~said the~~ *the* action or unless the plaintiff, at least 40 days prior to the commencement of the action, ~~shall have~~ *has* made a demand, in writing, upon the defendant, ~~his~~ *the defendant's* agent, or ~~the defendant's~~ *the defendant's* attorney for the ~~sum of~~ *sum of* money claimed as indemnity for the killing of ~~said the~~ *the* livestock.”

Section 2043. Section 69-14-710, MCA, is amended to read:

“69-14-710. Tender or deposit of value of animal. If a corporation, association, company, or person ~~so~~ owning, controlling, or operating a railroad or branch ~~thereof of a railroad~~ kills or injures an animal as ~~aforesaid described~~

in 69-14-707 and tenders to the owner thereof or to his *the owner's* agent in that behalf the amount which they consider that the corporation, association, company, or person considers to be the value thereof of the animal or the damage thereto to the animal, as the case may be or if the railroad, corporation, association, company, or person deposits with the department of livestock such that amount for the owner thereof of the animal and the owner or his *the owner's* agent refuses to accept the amount in settlement thereof, then the owner shall pay all costs incurred in any action instituted, after the tender or deposit, to recover the value or damage unless he *the owner* recovers in the action more than the amount so tendered."

Section 2044. Section 69-14-711, MCA, is amended to read:

"69-14-711. Payment of damages to department of livestock. (1) If livestock are killed by railroad corporations in violation of 69-14-701 and if the owner of the livestock does not claim or assert a claim against the railroad or railroad corporation for the value of the livestock killed within 6 months from the date the animal is killed, the department of livestock shall demand from the railroad or railroad corporation payment in damages for livestock. The department shall institute and prosecute, in the name of the state, actions against the railroad or railroad companies in a court of competent jurisdiction to recover damages if the railroad fails, neglects, or refuses to make payment of the amount of the claim filed by the department.

(2) The money recovered shall *must* be paid to the department and shall *must* be held by the department for a period of 2 years after the date of its receipt. If the lawful owner of the animal killed does not present and prove his *the owner's* claim to the net proceeds received from the animal killed within the 2 years, the money shall *must* be paid to the state treasurer and credited to the stock estray fund. If the owner of the animal killed proves his *the owner's* claim within the 2 years, the department may pay the claimant the amount of money to which he *the claimant* is entitled for the animal killed by the railroad or railroad company, the damages for which have been collected by the department.

(3) In actions prosecuted *under this section* for the recovery of the value of livestock killed ~~under this section~~, the prevailing or successful party shall recover all costs. If the owner of an animal killed has not presented his *a* claim against the railroad or railroad company which *that* caused it to be killed, a settlement made by the department constitutes a bar against an action by the owner of the animal."

Section 2045. Section 69-14-901, MCA, is amended to read:

"69-14-901. Authorization to locate and erect grain warehouse or elevator on railroad right-of-way. (1) Any person, firm, or corporation desirous of erecting and operating at or contiguous to any railway station or siding a warehouse or elevator for the purchase, sale, shipment, or storage of grain, (including flaxseed), for the public for hire may make application in writing, containing a description of that portion of the right-of-way of ~~said~~ *the* railroad on which ~~such~~ *the* person, firm, or corporation desires to erect a warehouse or elevator, the size and capacity of the warehouse or elevator proposed to be erected, and the time for which it is desired to maintain ~~such~~ *the* warehouse or elevator. *The application must be made* to the person, firm, or corporation owning, leasing, or operating the railroad at ~~such~~ *the* station or siding, for the right, privilege, and easement of erecting and maintaining for the time stated in ~~such~~ *the* application and for reasonable compensation for ~~such~~ *the*

warehouse or elevator, ~~as aforesaid,~~ upon the right-of-way pertaining to ~~such the~~ railway at ~~such the~~ siding or station and within and between the outside switches of the yard of ~~such the~~ railway station or siding; ~~and upon~~ Upon paying or securing in the manner hereinafter prescribed in this section reasonable compensation for the right, privilege, and easement aforesaid, ~~shall the person, firm, or corporation is~~ absolutely and unconditionally be entitled to the same right, privilege, and easement.

(2) The application ~~shall must~~ also state the amount the applicant deems ~~considers~~ reasonable compensation for the right, privilege, and easement ~~he the~~ applicant desires to acquire, and ~~said the~~ applicant shall tender and pay to ~~such the~~ person, firm, or corporation from whom ~~such the~~ easement is sought the sum stated in ~~such the~~ application.

(3) If the person, firm, or corporation owning, leasing, or operating the railroad is not willing ~~to allow that~~ the portion of the right-of-way selected by the applicant ~~should to~~ be appropriated for ~~such the stated~~ purpose and the parties cannot agree as to the quantity and location of the land upon which ~~such the~~ grain warehouse or grain elevator ~~shall is to~~ be erected, the matter ~~shall must~~ be determined by the district court in the same manner and by the same proceeding for determining the amount of compensation to be paid ~~where when~~ the parties cannot agree as to the amount."

Section 2046. Section 69-14-924, MCA, is amended to read:

"69-14-924. Liability of railroad for repairs. ~~Any~~ A person making the repairs upon or cleaning or cooping the cars of any railroad or railway company as ~~herein~~ provided in this part may recover the amounts expended ~~therefor~~ in an action at law upon the refusal of the railroad or railway company to reimburse ~~him the person.~~"

Section 2047. Section 69-14-932, MCA, is amended to read:

"69-14-932. First right to purchase or match offer — lease preference — negotiation process — exception. (1) A person or entity that has a leasehold site between a point 8.5 feet from the centerline of the track nearest the edge of the right-of-way and 300 feet from the track centerline and that uses the leasehold for transporting grain, seed, or related agricultural input commodities, regardless of the status of train operations, has a right of first refusal to purchase the land ~~in the event~~ if the owner seeks to sell the land or transfer the leasehold estate.

(2) The leaseholder of a leasehold site described in subsection (1) must be given the opportunity to match a competing lease offer upon expiration of an existing lease. If the leaseholder matches the new lease offer, the lease must be given to the leaseholder. When a person other than the current leaseholder becomes the lessee of a leasehold site described in subsection (1) or the lease is terminated by the lessor for reasons other than nonpayment or other material breach of the lease, the lessor or new lessee shall compensate the former leaseholder for the fair market value of improvements made by the former leaseholder.

(3) The owner of the land may not sell or offer for sale an interest in the leased land or dispossess the leaseholder for reasons other than nonpayment or other material breach of the lease unless ~~he~~ the owner first extends to the leaseholder a written offer to sell the leased land to the leaseholder at fair market value. The leaseholder shall respond to the offer within 60 days of receipt of the offer.

(4) The owner shall negotiate in good faith with the leaseholder for a period not to exceed 90 days following the leaseholder's response to the written offer provided for in subsection (3). The land may not be sold or transferred during the response and negotiation periods.

(5) (a) If the owner and the leaseholder cannot agree on the fair market value, they shall appoint a certified appraiser to establish the fair market value.

(b) ~~In the event that~~ If the owner and leaseholder cannot agree on an appraiser, each shall appoint a certified appraiser who shall make an independent appraisal. If the appraisals are within 5% of each other, the average of the two appraisals ~~must constitute~~ *constitutes* the fair market value.

(c) If the two appraisals differ by more than 5%, the two appraisers ~~must~~ *shall* appoint a third certified appraiser whose appraisal ~~must establish~~ *establishes* the fair market value.

(d) If the leaseholder fails to close the purchase of the leasehold estate for any reason within 45 days after the fair market value of the land has been established by the appraisal process provided for in this section, the right of first refusal is extinguished and the owner is free to transfer the property to a person or entity other than the leaseholder.

(e) The owner may transfer a title under this section by quitclaim deed rather than warranty deed.

(6) This section does not apply to the sale of an entire operating railroad line by one operating railroad to another entity for the purpose of operating a railroad."

Section 2048. Section 69-14-1002, MCA, is amended to read:

"69-14-1002. Compensation of employees on removal of railroad division point or terminal. (1) Except as provided in subsection (2), when any railroad or railway company operating its line of road in, into, or through the state ~~shall move~~ *moves* any of its division points or terminals, it ~~shall be~~ *is* liable to any employee of ~~such the~~ railroad or railway company for any damage sustained by ~~such the~~ employee by reason of any decrease in value of any real property actually occupied by ~~such the~~ employee as ~~his the~~ *the employee's* place of residence, ~~which decrease in value shall be that is~~ *caused by reason of* the removal of ~~such the~~ division point or terminal; ~~provided However, such the~~ *provided However, such the* employee ~~shall must~~ *shall* have a *freehold estate* in ~~such the~~ property ~~so damaged an estate of freehold. Such The~~ *damages shall be* *are* collectible in any court of competent jurisdiction.

(2) When any railroad or railway company in good faith determines upon a change or removal of any division point or terminal and in good faith posts prominently ~~about~~ *at* its station house, shops, and yards a statement of its intention to do so; in ~~such a~~ *such a* manner ~~as to give that gives~~ *that gives* reasonable notice thereof to ~~such the~~ employee, it ~~shall is~~ *is* not be liable, as ~~hereinbefore~~ *hereinbefore* provided in *subsection (1)*, for any decrease in value of any interest in any property purchased after the time of ~~such the~~ posting ~~provided that such if the~~ *provided that such if the* division point or terminal ~~shall be is~~ *is* changed or removed within 6 months after the date of ~~such the~~ *the* posting."

Section 2049. Section 69-14-1003, MCA, is amended to read:

"69-14-1003. Railroad personnel as law officers. ~~Every~~ *A* conductor, engineer, or other person in charge of the operation of cars, trains, or locomotives upon any railroad is, while ~~so~~ *so* engaged or employed, ~~constituted~~ *constituted* a public executive officer of the class of peace officers and of the grade of constable

in each county ~~wherein his~~ *in which the* train, cars, or locomotives ~~may from time to time happen to be~~ *are located* and has the same authority as other peace officers to, with or without a warrant, arrest and prosecute persons trespassing or illegally obtaining passage on the railroad. The railroad personnel mentioned ~~herein shall in this section are~~ not be entitled to receive fees for any arrest or prosecution ~~which that~~ may be made or prosecuted under this section. None of the railroad personnel ~~herein named shall be mentioned in this section are~~ authorized to hold ~~said the~~ office or exercise its functions unless at the time they are citizens of the United States and have been citizens of this state for at least 1 year preceding their exercising the functions ~~thereof of the office.~~"

Section 2050. Section 69-14-1005, MCA, is amended to read:

"69-14-1005. Medical aid for injured trainmen. (1) ~~In case any~~ *If a* railroad ~~trainman~~ *train operator* or employee of any railroad doing business in this state ~~shall be~~ *is* injured during ~~his the operator's or employee's~~ regular course of employment, any employee of ~~said the~~ railroad is ~~hereby~~ empowered and authorized to call upon and retain the services of the nearest practicing physician or surgeon to care for and treat ~~any such the injured trainman~~ *train operator* or employee; during and until ~~such the time as that~~ one of the regularly employed and paid physicians or surgeons of ~~such the~~ railroad corporation is able to render ~~such~~ service.

(2) ~~In cases where~~ *If* the services of any physician or surgeon other than the regularly employed physician or surgeon of the railroad corporation are retained and hired; as provided in this section, ~~such the~~ physician or surgeon ~~shall must~~ be compensated and paid a reasonable fee for ~~such the~~ services performed by ~~him~~.

(3) If ~~any a~~ railroad corporation refuses or neglects to pay for the services of ~~any such a~~ physician as ~~hereinbefore~~ provided ~~for in subsection (2)~~ within a reasonable time after ~~such the~~ physician or surgeon has rendered the services ~~therefor, such the~~ railroad corporation ~~shall be~~ *is* guilty of a misdemeanor."

Section 2051. Section 69-14-1006, MCA, is amended to read:

"69-14-1006. Liability for death or injury to railroad employees. (1) ~~Every~~ A person or corporation operating a railroad in this state ~~shall be~~ *is* liable in damages to any person suffering injury while ~~he the person~~ is employed by ~~such the~~ person or corporation ~~so~~ operating ~~any such the~~ railroad or, in case of the death of ~~such an~~ employee, instantaneously or otherwise, to ~~his or her the~~ employee's personal representative, for the benefit of the surviving ~~widow or husband spouse~~ and children of ~~such the~~ employee and, if none, then of ~~such the~~ employee's parents and, if none, then of the next of kin dependent upon ~~such the~~ employee; *The damages must be* for ~~such an~~ injury or death resulting in whole or in part from the negligence of any of the officers, agents, or employees of ~~such the~~ person or corporation ~~so~~ operating ~~such the~~ railroad, in or about the handling, movement, or operation of any train, engine, or car on or over ~~such the~~ railroad or by reason of any defect or insufficiency, due to its negligence, in its cars, engines, appliances, machinery, track, roadbed, works, boats, wharves, or other equipment.

(2) (a) In all actions brought against any ~~such~~ person or corporation ~~so~~ operating ~~such the~~ railroad, under or by virtue of any of the provisions of this section, the fact that the employee may have been guilty of contributory negligence ~~shall may~~ not bar a recovery, but the damages ~~shall must~~ be diminished by the jury in proportion to the amount of negligence attributable to ~~such the~~ employee; ~~provided~~ *However,* that no ~~such an~~ employee who ~~may be~~ *is*

injured or killed ~~shall may not~~ be held to have been guilty of contributory negligence in any case ~~where in which~~ the violation by ~~such the~~ person or corporation, ~~so operating such the~~ railroad, of any statute enacted for the safety of employees contributed to the injury or death of ~~such the~~ employee.

(b) An employee of ~~any such a~~ person or corporation ~~so operating such the~~ railroad ~~shall may not be deemed considered~~ to have assumed any risk incident to ~~his the~~ employee's employment when ~~such the~~ risk arises by reason of the negligence of ~~his the~~ employer or of any person in the service of ~~such the~~ employer.

(3) ~~Any~~ A contract, rule, or device ~~whatsoever~~, the purpose or intent of which ~~shall be is~~ to enable ~~any such a~~ person or corporation ~~so operating such a~~ railroad to exempt itself from any liability created by this section, ~~shall is~~, to that extent, be void. In ~~any an~~ action brought against ~~any such a~~ person or corporation ~~so operating such a~~ railroad, under or by virtue of any of the provisions of this section, ~~such the~~ person or corporation may set off ~~therein~~ any sum it has contributed or paid to any insurance, relief benefit, or indemnity that may have been paid to the injured employee or the person entitled ~~thereto to the~~ payment on account of the injury or death for which ~~said the~~ action is brought."

Section 2052. Section 70-1-109, MCA, is amended to read:

"70-1-109. Choice of law as to personal property. If there is no law to the contrary in the place where personal property is situated, it is ~~deemed considered~~ to follow the person of its owner and is governed by the law of ~~his the~~ owner's domicile."

Section 2053. Section 70-1-303, MCA, is amended to read:

"70-1-303. When ownership absolute. The ownership of property is absolute when a single person has the absolute dominion over it and may use it or dispose of it according to ~~his the~~ person's pleasure, subject only to general laws."

Section 2054. Section 70-1-310, MCA, is amended to read:

"70-1-310. Action by or against joint tenants or tenants in common. All persons holding as tenants in common, joint tenants, or any number less than all may jointly or severally commence or defend any civil action or proceeding for the enforcement or protection of the rights of ~~such that~~ party. In all cases, one tenant in common or ~~one~~ joint tenant ~~can~~ may sue ~~his a~~ cotenant."

Section 2055. Section 70-1-510, MCA, is amended to read:

"70-1-510. Delivery to grantee necessarily absolute. A grant cannot be delivered to the grantee conditionally. Delivery to ~~him the~~ grantee or to ~~his the~~ grantee's agent ~~as such~~ is necessarily absolute, and the instrument takes effect ~~thereupon upon~~ delivery, discharged of any condition on which the delivery is made."

Section 2056. Section 70-1-512, MCA, is amended to read:

"70-1-512. Constructive delivery. Though a grant ~~be is~~ not actually delivered into the possession of the grantee, it is ~~yet to be deemed considered~~ constructively delivered in the following cases:

(1) ~~where when~~ the instrument is, by the agreement of the parties at the time of execution, understood to be delivered and under ~~such~~ circumstances that the grantee is entitled to immediate delivery; or

(2) ~~where when~~ it is delivered to a stranger for the benefit of the grantee, and ~~his the~~ grantee's assent is shown or may be presumed."

Section 2057. Section 70-1-518, MCA, is amended to read:

“70-1-518. Meaning of heirs and issue in certain remainders. ~~Where~~ *When* a future interest is limited by a grant to take effect on the death of any person without heirs or heirs of ~~his~~ *the person’s* body or without issue or in equivalent words, ~~such~~ *the* words must be taken to mean successors or issue living at the death of the person named as ancestor.”

Section 2058. Section 70-1-704, MCA, is amended to read:

“70-1-704. Creation or exercise of a power to appoint to an estate. A person may be given a power to appoint a legal or equitable interest in property to ~~his~~ *the person’s* own estate by will or deed. The donee of ~~such a~~ *the* power is considered to have a general power of appointment exercisable in favor of any person. Permissible exercise of the power as created may include but is not limited to:

(1) direction to the personal representative of the donee to administer the interest as if it were an interest in the property of the donee;

(2) direction to the personal representative to use the interest to satisfy the donee’s devises or claims for debts and taxes; or

(3) appointment of the interest to any person to whom the donee might give or devise ~~his~~ *the donee’s* own property.”

Section 2059. Section 70-2-102, MCA, is amended to read:

“70-2-102. Transfer and succession. A thing in action arising out of the violation of a right of property or out of an obligation may be transferred by the owner. Upon the death of the owner, it passes to ~~his~~ *the owner’s* personal representatives except ~~where~~ *when* in the cases provided in this ~~code~~ *title* it passes to ~~his~~ *the owner’s* devisees or successor in office.”

Section 2060. Section 70-3-104, MCA, is amended to read:

“70-3-104. Unsolicited goods considered gift. Unless otherwise agreed, ~~where~~ *when* unsolicited goods are delivered to a person, ~~he~~ *the person* may refuse delivery of the goods, or if the goods are delivered, the person is not bound to return the goods to the sender. If unsolicited goods are either addressed to or intended for the recipient, they ~~shall~~ *must* be ~~deemed~~ *considered* a gift, and the recipient may use or dispose of them in any manner without obligation to the sender.”

Section 2061. Section 70-3-202, MCA, is amended to read:

“70-3-202. When gift presumed to be in view of death. A gift made during the last illness of the giver or under circumstances ~~which~~ *that* would impress ~~him~~ *the giver* with an expectation of speedy death is presumed to be a gift in view of death.”

Section 2062. Section 70-3-203, MCA, is amended to read:

“70-3-203. Revocation. A gift in view of death may be revoked by the giver at any time and is revoked by ~~his~~ *the giver’s* recovery from the illness or escape from the peril under the presence of ~~which~~ *that* it was made or by the occurrence of any event which would operate as a revocation of a will made at the same time.”

Section 2063. Section 70-4-102, MCA, is amended to read:

“70-4-102. Uniting several things — to whom whole belongs. When things belonging to different owners have been united so as to form a single thing and cannot be separated without injury, the whole belongs to the owner of

the thing ~~which that~~ forms the principal part, ~~who must, however~~ *However, that person shall* reimburse the value of the residue to the other owner or surrender the whole to ~~him the other owner.~~

Section 2064. Section 70-4-103, MCA, is amended to read:

“70-4-103. Rules for determination of principal part. (1) That part is ~~deemed considered~~ to be the principal to which the other has been united only for the use, ornament, or completion of the ~~former principal part~~ unless the ~~latter other~~ is the more valuable and has been united without the knowledge of its owner, who may, in ~~the latter that~~ case, require it to be separated and returned to ~~him the owner~~ although some injury ~~should result results~~ to the thing to which it has been united.

(2) If neither part can be considered the principal within the rule prescribed by subsection (1), the more valuable or, if the values are nearly equal, the most considerable in bulk is to be ~~deemed considered~~ the principal part.”

Section 2065. Section 70-4-202, MCA, is amended to read:

“70-4-202. Uniting of materials of maker and other. Where ~~one~~ *When a person* has made use of materials ~~which that~~ in part belong to ~~him the person~~ and in part to another in order to form a thing of a new description; without having destroyed any of the materials but in ~~such~~ a way that they cannot be separated without inconvenience, the thing formed is common to both proprietors in proportion, as respects the one, of the materials belonging to ~~him the person~~ and, as respects the other, of the materials belonging to ~~him the other~~ and the price of ~~his the other's~~ workmanship.”

Section 2066. Section 70-4-203, MCA, is amended to read:

“70-4-203. Uniting of materials of several owners. When a thing has been formed by the ~~admixture combination~~ of several materials of different owners and ~~neither none of the materials~~ can be considered the principal substance, an owner without whose consent the ~~admixture combination~~ was made may require a separation if the materials can be separated without inconvenience. If they cannot be ~~thus~~ separated, the owners acquire the thing in common, in proportion to the quantity, quality, and value of their materials, but if the materials of one were far superior to those of the others, both in quantity and value, ~~he the person~~ may claim the thing on reimbursing to the others the value of their materials.”

Section 2067. Section 70-4-204, MCA, is amended to read:

“70-4-204. Use of materials without consent — owner prevails. The ~~foregoing sections of this chapter~~ *Title 70, chapter 4, part 1, and 70-4-201 through 70-4-203* are not applicable to cases in which one willfully uses the materials of another without ~~his the other's~~ consent, but in ~~such those~~ cases, the product belongs to the owner of material if its identity can be traced.”

Section 2068. Section 70-4-205, MCA, is amended to read:

“70-4-205. Owner of materials wrongfully used — election of remedies. ~~In all cases where one~~ *If a person* whose material has been used without ~~his the person's~~ knowledge in order to form a product of a different description can claim an interest in ~~such the~~ product, ~~he the person~~ has an option to demand either restitution of ~~his the person's~~ material in kind, in the same quantity, weight, measure, and quality, or the value ~~thereof of the material~~ or, ~~where he if the person~~ is entitled to the product, the value ~~thereof of the product~~ in place of the product.”

Section 2069. Section 70-4-206, MCA, is amended to read:

“70-4-206. Wrongdoer liable in damages. One who wrongfully employs materials belonging to another is liable to ~~him~~ *the other* in damages as well as under the foregoing provisions of ~~this chapter Title 70, chapter 4, part 1, and 70-4-201 through 70-4-205.~~”

Section 2070. Section 70-5-102, MCA, is amended to read:

“70-5-102. Finder not bound to take charge — status as depositary. ~~One~~ *A person* who finds a thing lost is not bound to take charge of it, but if ~~he~~ *the person* does so, ~~he~~ *the person* is ~~thenceforth~~ a depositary for the owner, with the rights and obligations of a depositary for hire.”

Section 2071. Section 70-5-103, MCA, is amended to read:

“70-5-103. Duty to inform owner when known. If ~~any a~~ *a* person finds ~~any~~ money, goods, things in action, or other personal property or saves ~~any a~~ domestic animal from drowning or starvation when the property is of a value of \$10 or more and ~~he~~ *the person* knows or suspects who the owner is, ~~he must~~ *the person shall* use reasonable diligence to inform the owner ~~thereof~~ and make restitution without compensation, further than a reasonable charge for saving and taking care ~~thereof of the property.~~ If ~~he~~ *the person* fails to do so, ~~he~~ *the person* is liable in damages to the owner and ~~has no~~ *does not have a* claim to any reward offered by the owner for the recovery of the thing or to any compensation for ~~his~~ *the person’s* trouble or expenses.”

Section 2072. Section 70-5-105, MCA, is amended to read:

“70-5-105. Compensation of finder. The finder of a thing is entitled to compensation for all expenses necessarily incurred by ~~him~~ *the finder* in its preservation and for any other service necessarily performed by ~~him~~ *the finder* about it and to a reasonable reward for keeping it.”

Section 2073. Section 70-5-106, MCA, is amended to read:

“70-5-106. Exoneration of finder by storage of thing found. The finder of a thing may ~~exonerate himself~~ *be exonerated* from liability at any time by placing it ~~on~~ *in* storage with any responsible person of good character at a reasonable expense.”

Section 2074. Section 70-5-107, MCA, is amended to read:

“70-5-107. Exoneration of owner by surrender of thing to finder. The owner of a thing found may ~~exonerate himself~~ *be exonerated* from the claims of the finder by surrendering it to ~~him~~ *the finder* in satisfaction ~~thereof of the claims.~~”

Section 2075. Section 70-6-102, MCA, is amended to read:

“70-6-102. Voluntary deposit — how made. A voluntary deposit is made by one giving to another, with ~~his~~ *the other’s* consent, the possession of personal property to keep for the benefit of the former or of a third party. The person giving is called the depositor and the person receiving the depositary.”

Section 2076. Section 70-6-108, MCA, is amended to read:

“70-6-108. Deposit for exchange — title passes. A deposit for exchange transfers to the depositary the title to the thing deposited and creates between ~~him~~ *the depositary* and the depositor the relation of debtor and creditor ~~merely.~~”

Section 2077. Section 70-6-201, MCA, is amended to read:

“70-6-201. Depositary not to use or open thing deposited. A depositary may not use the thing deposited or permit it to be used for any purpose without the consent of the depositor. ~~He~~ *A depositary* may not, if it is purposely fastened

by the depositor, open it without the consent of the ~~latter~~ *depositor*, except in case of necessity.”

Section 2078. Section 70-6-202, MCA, is amended to read:

“70-6-202. Liability for damage from wrongful use. A depositary is liable for any damage happening to the thing deposited during ~~his~~ *the depositary’s* wrongful use ~~thereof of the thing~~ unless ~~such~~ the damage ~~must~~ inevitably *would* have happened ~~though if~~ the property had not been used.”

Section 2079. Section 70-6-203, MCA, is amended to read:

“70-6-203. Loss or injury of thing deposited. If a thing is lost during its deposit and the depositary refuses to inform the depositor of the circumstances under which the loss or injury occurred so far as ~~he~~ *the depositary* has information concerning them or willfully misrepresents the circumstances to ~~him~~ *the depositor*, the depositary is presumed to have willfully or by gross negligence permitted the loss or injury to occur.”

Section 2080. Section 70-6-204, MCA, is amended to read:

“70-6-204. Extent of depositary’s liability for negligence. The liability of a depositary for negligence cannot exceed the amount ~~which he~~ *that the depositary* is informed by the depositor or has reason to suppose the thing deposited to be worth.”

Section 2081. Section 70-6-205, MCA, is amended to read:

“70-6-205. Sale of thing in danger of perishing. If a thing deposited is in actual danger of perishing before instructions can be obtained from the depositor, the depositary may sell it for the best price obtainable and retain the proceeds as a deposit, giving immediate notice of ~~his~~ *the* proceedings to the depositor.”

Section 2082. Section 70-6-207, MCA, is amended to read:

“70-6-207. Service rendered by depositary. So far as any service is rendered by a depositary or required from ~~him~~ *a depositary*, ~~his~~ *the depositary’s* duties and liabilities are prescribed by the law on employment and service.”

Section 2083. Section 70-6-208, MCA, is amended to read:

“70-6-208. Notice to owner of adverse claim. A depositary ~~must~~ *shall* give prompt notice to the person for whose benefit the deposit was made of any proceedings taken adversely to ~~his~~ *the person’s* interest in the thing deposited ~~which that~~ may tend to excuse the depositary from delivering the thing to ~~him~~ *the person*.”

Section 2084. Section 70-6-209, MCA, is amended to read:

“70-6-209. Notice to true owner of thing wrongfully detained. A depositary, who believes that a thing deposited with ~~him~~ *the depositary* is wrongfully detained from its true owner, may give ~~him~~ *the owner* notice of the deposit, and if within a reasonable time afterwards ~~he~~ *the owner* does not claim it and sufficiently establish ~~his~~ *a right thereto to the thing* and indemnify the depositary against the claim of the depositor, the depositary is exonerated from liability to the person to whom ~~he~~ *the depositary* gave the notice upon returning the thing to the depositor or assuming, in good faith, a new obligation changing ~~his~~ *the depositary’s* position in respect to the thing to ~~his~~ *the depositary’s* prejudice.”

Section 2085. Section 70-6-210, MCA, is amended to read:

“70-6-210. Depositor to indemnify depositary — damage — expenses. A depositor ~~must~~ *shall* indemnify the depositary for:

(1) all damage caused to ~~him~~ *the depositary* by the defects or vices of the thing deposited; and

(2) all expenses necessarily incurred by ~~him~~ *the depositary* about the thing, other than ~~such as are~~ *expenses* involved in the nature of the undertaking.”

Section 2086. Section 70-6-211, MCA, is amended to read:

“70-6-211. Depositary to deliver on demand. A depositary ~~must~~ *shall* deliver the thing to the person for whose benefit it was deposited, on demand, whether the deposit was made for a specified time or not, unless ~~he~~ *the depositary* has a lien upon the thing deposited or has been forbidden or prevented from doing so by the real owner ~~thereof of the thing~~ or by the act of the law and has given the notice required by 70-6-208.”

Section 2087. Section 70-6-213, MCA, is amended to read:

“70-6-213. Place of delivery. A depositary ~~must~~ *shall* deliver the thing deposited at ~~his~~ *the depositary’s* residence or place of business as may be most convenient for ~~him~~ *the depositary*.”

Section 2088. Section 70-6-214, MCA, is amended to read:

“70-6-214. Delivery of thing owned jointly. If a thing deposited is owned jointly or in common by persons who cannot agree upon the manner of its delivery, the depositary may deliver to each ~~his~~ *person a* proper share ~~thereof of the thing~~ if it can be done without injury to the thing.”

Section 2089. Section 70-6-303, MCA, is amended to read:

“70-6-303. When duties of gratuitous depositary cease. The duties of a gratuitous depositary cease upon ~~his~~ *the depositary’s*:

(1) restoring the thing deposited to its owner; or

(2) giving reasonable notice to the owner to remove it and the owner failing to do so within a reasonable time. ~~But~~ *However*, an involuntary depositary under 70-6-103(2) ~~cannot~~ *may not* give ~~such~~ notice until the emergency ~~which that~~ gave rise to the deposit is past.”

Section 2090. Section 70-6-412, MCA, is amended to read:

“70-6-412. Application of proceeds of sale. (1) After paying the expenses of sale, including the publication of notice, the storage or commission merchant or the carrier ~~shall be~~ *is* authorized, out of the proceeds arising from the sale of the property, to retain the amount due ~~him~~ *the merchant or carrier* for storage or freight ~~money~~, or both, due upon any ~~such~~ property, and the excess, if any, must be paid over to the person entitled to the proceeds ~~thereof~~.

(2) All sales under this part ~~shall~~ vest the title to the property sold in the purchaser ~~thereof of the property~~.”

Section 2091. Section 70-6-420, MCA, is amended to read:

“70-6-420. Default in payment of storage space rental fees — notice — sale of contents. (1) A person who rents storage space to another may sell at public auction the contents of the storage space if the owner of the contents is more than 30 days in default in paying rental fees on the space.

(2) At the expiration of the period of default provided for in subsection (1), the person renting the storage space shall send written notice by certified mail to the last-known address of the owner of the contents *stating* that ~~he~~ *the owner* has 30 days from the date of the certified letter to pay the past due rental fees

and to claim the contents of the storage space or the contents will be sold at public auction. The notice must contain the date, time, and place of the auction if the ~~past due~~ *past-due* rental fees are not paid. If the certified notice is returned undelivered, notice must be given as provided in Rule 4 of the Montana Rules of Civil Procedure.

(3) Prior to an auction provided for in subsection (1), notice of the date, time, place, terms, and description of the property must be published in a newspaper in the county in which the property to be sold is located. The notice must be published once a week for 2 weeks prior to the day of the sale. If there is no newspaper published in the county in which the property to be sold is located, then the notice may be published in a newspaper of general circulation in the county.

(4) (a) Proceeds of the auction must first be applied to the costs of the sale, then to the unpaid storage rental fees, and the excess, if any, must be paid to the owner. If the owner or the person entitled to the proceeds cannot be located, the proceeds escheat to the state as provided in Title 72, chapter 14.

(b) All sales under this section vest title to the property sold in the purchaser of the property."

Section 2092. Section 70-6-501, MCA, is amended to read:

"70-6-501. Innkeeper's liability as to property of guests — dollar limitation. (1) An innkeeper is liable for all losses of or injuries to personal property placed by ~~his~~ *the* guests under ~~his~~ *the innkeeper's* care unless occasioned by an irresistible superhuman cause, by a public enemy, by the negligence of the owner, or by the act of someone whom ~~he~~ *the innkeeper* brought into the inn.

(2) The liability provided for in subsection (1) may not exceed \$500 for all personal property of each registered guest unless the innkeeper consents in writing with the guest to assume a greater liability. An innkeeper whose liability is so limited shall notify the guest at the time of registration, in writing, that this limitation applies."

Section 2093. Section 70-6-502, MCA, is amended to read:

"70-6-502. No liability without negligence. ~~No~~ A hotelkeeper or innkeeper ~~shall be~~ *is not* liable to any guest for the loss of wearing apparel, goods, or personal effects ~~where~~ *when* it ~~shall appear~~ *appears* that ~~such~~ *the* loss occurred without the fault or negligence of ~~such~~ *the* hotelkeeper or ~~his~~ *the innkeeper or the hotelkeeper's or innkeeper's* employees."

Section 2094. Section 70-6-504, MCA, is amended to read:

"70-6-504. How exempted from liability — safe. If an innkeeper keeps a fireproof safe and gives notice to a guest, either personally or by placing a printed notice in a prominent place in the room occupied by the guest, that ~~he~~ *the innkeeper* keeps ~~such~~ *a fireproof* safe and will not be liable for *any loss of or injury to* money, jewelry, documents, or other articles of value and small ~~compass~~ *size* unless placed ~~therein~~ *in the safe*, ~~he~~ *the innkeeper* is not liable, except so far as ~~his~~ *the innkeeper's* own acts contribute ~~thereto, for any~~ *to the* loss of or injury to ~~such~~ *the* articles not deposited with ~~him~~ *the innkeeper* and not required by the guest for present use."

Section 2095. Section 70-6-505, MCA, is amended to read:

"70-6-505. Storage of property in outbuilding — nonliability. ~~No~~ An innkeeper ~~shall be~~ *is not* liable for the loss or destruction by fire of the property received by ~~him~~ *the innkeeper* from a guest; ~~that is~~ *stored or being kept*, with the

knowledge of ~~such the~~ guest; in a barn or other outbuilding, ~~where if it shall appear appears~~ that ~~such the~~ loss or destruction is the work of an incendiary and occurred without the fault or negligence of ~~such the~~ innkeeper or ~~his the~~ innkeeper's servants."

Section 2096. Section 70-7-101, MCA, is amended to read:

"70-7-101. Optional loan — use or exchange — applicability of entire chapter. A loan ~~which that~~ the borrower is allowed by the lender to treat as a loan for use or for exchange, at ~~his the~~ borrower's option, is subject to all of the provisions of this chapter."

Section 2097. Section 70-7-102, MCA, is amended to read:

"70-7-102. Loan for use defined. A loan for use is a contract by which one gives to another the temporary use and possession of personal property; and the latter agrees to return the same thing to ~~him the~~ loaning person at a future time; without reward for its use."

Section 2098. Section 70-7-106, MCA, is amended to read:

"70-7-106. Skill required of borrower. A borrower for use is bound to have and to exercise ~~such~~ skill in the care of the thing lent ~~as he that the~~ borrower causes the lender to believe ~~him that the~~ borrower possesses to possess."

Section 2099. Section 70-7-107, MCA, is amended to read:

"70-7-107. Borrower to repair injuries. A borrower for use ~~must shall~~ repair all deteriorations or injuries to the thing lent ~~which that~~ are occasioned by ~~his the~~ borrower's negligence, however slight."

Section 2100. Section 70-7-110, MCA, is amended to read:

"70-7-110. Who to bear expenses. The borrower of a thing for use ~~must shall~~ bear all its expenses during the loan; except ~~such as those that~~ are necessarily incurred by ~~him the~~ borrower to preserve it from unexpected and unusual injury. ~~For such expenses he~~ The borrower is entitled to compensation for those expenses from the lender, who may, however, exonerate ~~himself be~~ exonerated by surrendering the thing to the borrower."

Section 2101. Section 70-7-111, MCA, is amended to read:

"70-7-111. Lender liable for concealed defects. The lender of a thing for use ~~must shall~~ indemnify the borrower for damage caused by defects or vices in it ~~which he the~~ thing that the lender knew at the time of lending and concealed from the borrower."

Section 2102. Section 70-7-112, MCA, is amended to read:

"70-7-112. Right of lender to require return — indemnification of borrower. The lender of a thing for use may at any time require its return, even though ~~he the~~ lender lent it for a specified time or purpose. ~~But~~ However, if on the faith of ~~such~~ an agreement the borrower has made ~~such~~ arrangements that a return of the thing before the period agreed upon would cause ~~him the~~ borrower loss exceeding the benefit derived by ~~him the~~ borrower from the loan, the lender ~~must shall~~ indemnify ~~him the~~ borrower for ~~such the~~ loss if ~~he the~~ lender compels ~~such a~~ return; and the borrower ~~not having~~ has not in any manner violated ~~his the~~ borrower's duty."

Section 2103. Section 70-7-203, MCA, is amended to read:

"70-7-203. Title to property lent — expenses — increase. ~~By a loan for exchange, the~~ The title to the thing lent by a loan for exchange is transferred to

the borrower, and ~~he must bear~~ *the borrower shall bear* all its expenses and is entitled to all its increase.”

Section 2104. Section 70-7-204, MCA, is amended to read:

“70-7-204. Contract not to be modified by lender. A lender for exchange cannot require the borrower to fulfill ~~his~~ *the borrower’s* obligations at a time or in a manner different from that which was originally agreed upon.”

Section 2105. Section 70-8-201, MCA, is amended to read:

“70-8-201. Contract for letting of ship. The contract by which a ship is let is termed a charter party. ~~By it~~ *As part of the contract*, the owner may either let the capacity or burden of the ship, continuing the employment of the owner’s master, crew, and equipments, or may surrender the entire ship to the charterer, who then provides them ~~himself~~. The master or part owner may be a charterer.”

Section 2106. Section 70-9-402, MCA, is amended to read:

“70-9-402. Storage of unclaimed property. When ~~any~~ goods, merchandise, or other property has been received by ~~any~~ a railroad or express company or other common carrier, commission merchants, or ~~warehousemen~~ *warehouse operator* for transportation or safekeeping and ~~are~~ *is* not delivered to the owner, consignee, or other authorized person, the carrier, commission merchant, or ~~warehouseman~~ *warehouse operator* may hold or store the ~~same~~ *goods, merchandise, or property* with some responsible person until the freight and all just and reasonable charges are paid.”

Section 2107. Section 70-9-403, MCA, is amended to read:

“70-9-403. Property unclaimed within 90 days to be sold — notice — surplus. (1) If ~~no person calls~~ *a person does not call* for the property within 90 days from the receipt ~~thereof of the property~~ and ~~pays~~ *pay* freight and charges ~~thereon on the property~~, the carrier, commission merchant, or ~~warehouseman~~ *warehouse operator* may sell ~~such~~ *the* property or ~~so~~ *as* much ~~thereof of the property~~, at auction to the highest bidder, as will pay freight and charges, ~~first having given~~ *after giving* 20 days’ notice of the time and place of sale to the owner, consignee, or consignor, when known, and by advertisement in a daily paper ~~for~~ 10 days (or if in a weekly paper, ~~for~~ 4 weeks), published where ~~such~~ *the* sale is to take place.

(2) If any surplus is left after paying freight, storage, cost of advertising, and other reasonable charges, the ~~same~~ *surplus* must be paid ~~over~~ to the owner of ~~such~~ *the* property at any time ~~thereafter~~, upon demand being made ~~therefor~~ or within 60 days after the sale.”

Section 2108. Section 70-9-404, MCA, is amended to read:

“70-9-404. Surplus proceeds unclaimed — disposition. If the owner or ~~his~~ *the owner’s* agent fails to demand ~~such~~ *the* surplus within 60 days of the time of ~~such~~ sale, then it must be paid into the county treasury, subject to the order of the owner.”

Section 2109. Section 70-9-405, MCA, is amended to read:

“70-9-405. Responsibility of carrier and bailee after storage. After the storage of goods, merchandise, or property as provided in this part, the responsibility of the carrier ceases; ~~nor is~~ *and* the person with whom the ~~same~~ *goods, merchandise, or property* is stored ~~is~~ *not* liable for any loss or damage on account ~~thereof of the storage~~ unless the ~~same~~ *loss or damage* results from ~~his~~ *the person’s* negligence or want of proper care.”

Section 2110. Section 70-9-406, MCA, is amended to read:

“70-9-406. Sale of property upon which advances are due. When ~~any a~~ commission merchant or ~~warehouseman~~ *warehouse operator* receives on consignment produce, merchandise, or other property and makes advances ~~thereon on the produce, merchandise, or property,~~ either to the owner or for freight and charges, ~~he the person~~ may, if the ~~same is~~ *freight and charges are* not paid to ~~him~~ within 90 days from the date of ~~such the~~ advances, cause the produce, merchandise, or property on which the advances were made to be advertised and sold as provided in this part.”

Section 2111. Section 70-9-502, MCA, is amended to read:

“70-9-502. Disposition of surplus proceeds. ~~In case~~ *If* any balance arising from ~~such the~~ sale ~~shall is~~ not be claimed by the rightful owner within 1 week from the day of ~~said the~~ sale, the ~~same shall~~ *balance must* be paid into the treasury of the county in which ~~such the~~ sale took place, and if the ~~same be the~~ *balance is* not claimed by the owner ~~thereof or his the owner's~~ legal representatives within 1 year ~~thereafter after the sale,~~ the ~~same shall~~ *balance must* be paid into the general fund of ~~said the~~ county.”

Section 2112. Section 70-15-205, MCA, is amended to read:

“70-15-205. Remainder limited upon fee tail valid — vesting. ~~Where~~ *When* a remainder in fee is limited upon any estate ~~which that~~ would by the common law be adjudged a fee tail, ~~such the~~ remainder is valid as a contingent limitation upon a fee and vests in possession on the death of the first taker without issue living at the time of ~~his the~~ *first taker's* death.”

Section 2113. Section 70-15-210, MCA, is amended to read:

“70-15-210. Reversion. A reversion is the residue of an estate left by operation of law in the grantor or ~~his the grantor's~~ successors or in the successors of a testator, commencing in possession on the determination of a particular estate granted or devised.”

Section 2114. Section 70-15-301, MCA, is amended to read:

“70-15-301. Power defined. A “power”, as the term is used in this part, is an authority to do some act in relation to real property or to the creation or revocation of an estate ~~therein in~~ or a charge ~~thereon on the real property,~~ ~~which~~ *that* the owner granting or reserving ~~such the~~ power might ~~himself personally~~ perform for any purpose.”

Section 2115. Section 70-15-303, MCA, is amended to read:

“70-15-303. Married persons — execution. (1) A married person may execute a power during marriage without the concurrence of the spouse unless otherwise prescribed by the terms of the power.

(2) ~~No power can be executed by a married woman before she attains her majority which could not be executed by a married man before he attains his majority.”~~

Section 2116. Section 70-16-102, MCA, is amended to read:

“70-16-102. Rights of life tenant. The owner of a life estate may use the land in the same manner as the owner of a fee simple, except that ~~he must do no~~ *the owner of the life estate may not do* an act to the injury of the inheritance.”

Section 2117. Section 70-16-104, MCA, is amended to read:

“70-16-104. Rights of tenant for years or at will. (1) A tenant for years or at will, unless ~~he the~~ *tenant* is a wrongdoer by holding over, may occupy the

buildings, take the annual products of the soil, and work mines and quarries open at the commencement of ~~his~~ *the* tenancy; ~~and a~~ A tenant at will or for an indefinite term may cultivate and harvest the crops growing at the end of ~~his~~ *the* tenancy.

(2) A tenant for years or at will has no other rights to the property than those given to ~~him~~ *the tenant* by the agreement or instrument by which ~~his~~ *the* tenancy is acquired or by subsection (1).

(3) Subsection (2) does not apply to arrangements governed by *Title 70*, chapter 24 of ~~this title~~.

Section 2118. Section 70-16-105, MCA, is amended to read:

“70-16-105. Remedy of remainderman or reversioner person having remainder or reversion. A person having an estate in fee, in remainder or reversion; may maintain an action for any injury done to the inheritance, notwithstanding an intervening estate for life or years and although, after its commission, ~~his~~ *the person's* estate is transferred and ~~he has no~~ *the person does not have an* interest in the property at the commencement of the action.”

Section 2119. Section 70-16-106, MCA, is amended to read:

“70-16-106. Action for waste — treble damages. If a guardian, tenant for life or years, joint tenant, or tenant in common of real property commits waste ~~thereon of the property~~, any person aggrieved by the waste may bring an action against ~~him~~ *therefor, that person. in which action there may be* *The judgment in the action may be* for treble damages.”

Section 2120. Section 70-16-203, MCA, is amended to read:

“70-16-203. Adjoining owner's right to lateral and subjacent support — excavations. Each coterminous owner is entitled to the lateral and subjacent support ~~which his~~ *that the owner's* land receives from the adjoining land, subject to the right of the owner of the adjoining land to make proper and usual excavations on the ~~same~~ *adjoining land* for the purposes of construction, on using ordinary care and skill and taking reasonable precautions to sustain the land of the other and giving previous reasonable notice to the other of ~~his~~ *the* intention to make ~~such~~ *the* excavations.”

Section 2121. Section 70-16-204, MCA, is amended to read:

“70-16-204. Trees on or near boundary. (1) Trees whose trunks stand partly on the land of two or more coterminous owners belong to them in common.

(2) Trees whose trunks stand wholly upon the land of one owner belong exclusively to ~~him~~ *that landowner*, although their roots grow into the land of another.”

Section 2122. Section 70-16-205, MCA, is amended to read:

“70-16-205. Monuments and fences — mutual obligation of adjoining owners. (1) Coterminous owners are mutually bound equally to maintain:

(a) the boundaries and monuments between them;

(b) the fences between them, unless one of them chooses to let ~~his~~ *that owner's* land lie without fencing, in which case if ~~he~~ *that owner* afterwards encloses it, ~~he~~ *that owner* ~~must~~ *shall* refund to the other *owner* a just proportion of the value, at that time, of any division fence made by the ~~latter~~ *other owner*. However, using land for grazing or pasturage of any kind ~~whatsoever~~ must be considered a usage of the land, and the land ~~must~~ *may* not be considered as lying idle under the provisions of this section.

(2) Except as provided by prescription, custom, or agreement between coterminous owners, each coterminous owner shall maintain all fencing to the right of the midpoint of the common boundary line as viewed from ~~his~~ *the owner's* land. If the land of one owner is entirely surrounded by the land of another, each owner shall maintain all fencing to the right, as viewed from ~~his~~ *the owner's* land, of the northeastern corner of the surrounded land or, if there is more than one northeastern corner, then from the northernmost northeastern corner to a point midway around the surrounded land. If there is a substantial difference in terrain or topographical features of the land between the coterminous owners, responsibility for maintaining the fence must be determined by mutual agreement with consideration given to factors such as cost and time."

Section 2123. Section 70-16-207, MCA, is amended to read:

"70-16-207. Occupant of land adjoining enclosure of another — when required to share expense of partition fence. If any occupant of land adjoining the enclosure of another ~~enclose~~ *encloses* the ~~same~~ *land*, upon the enclosure of ~~such~~ *the* other person, ~~he~~ *must the occupant shall* within 3 months ~~thereafter~~ build ~~his~~ *the occupant's* proportion of ~~such~~ *the* partition fence or refund to the owner ~~thereof~~ *of the fence* an equal proportion of the value, at that time, of any partition fence of ~~such~~ *the* adjoining occupant."

Section 2124. Section 70-16-208, MCA, is amended to read:

"70-16-208. Partition fence when common occupancy ceases. Whenever any lands belonging to different persons in severalty have been enclosed and occupied in common or without a partition fence between them and one of ~~such~~ *the* occupants desires to occupy ~~his~~ *that occupant's* part in severalty, the other occupant ~~must~~ *shall*, within 6 months after being notified in writing, build and maintain ~~his~~ *the other occupant's* proportion of ~~such~~ *the* partition fence as may be necessary for that purpose, and in case of neglect or refusal so to do, the person giving ~~such~~ *the* notice may build ~~such~~ *the* fence at the expense of the person ~~so~~ *neglecting or refusing*; ~~the~~ *The* amount expended ~~to~~ *may* be recovered in an action, together with all damages ~~he~~ *that person* may sustain on account of ~~such~~ *the* neglect or refusal."

Section 2125. Section 70-16-209, MCA, is amended to read:

"70-16-209. Repair or rebuilding of partition fences. ~~In case any~~ *If a* person neglects or refuses to repair or rebuild any partition fence ~~which~~ *that* by law ~~he~~ *the person* ought to build or maintain, the occupant of the adjoining land may, after giving 60 days' notice that a new fence should be erected or 5 days' notice in writing that the repairing of ~~such~~ *the* fence is necessary, build or repair ~~such~~ *the* fence at the expense of the party ~~so~~ *neglecting or refusing*; ~~the~~ *The* amount ~~so~~ *expended to* ~~may~~ *be* recovered from ~~him~~; ~~and~~ *the neglecting or refusing party so neglecting or refusing*; after receipt by ~~him~~ of the notice ~~above~~ *provided*, ~~and the neglecting or refusing party~~ *is* liable to the party injured for all damages ~~he may sustain thereby~~ *sustained by the neglect or refusal*."

Section 2126. Section 70-16-210, MCA, is amended to read:

"70-16-210. Removal of partition fence. If the occupants of adjoining lands build their respective portions of a partition fence and either of them at any time desires to ~~suffer~~ *let* the land occupied by ~~him~~ *that person* ~~to~~ lie open, ~~he~~ *that person* may, after having given to the occupants of the adjoining land at least 6 months' notice of ~~his~~ *the* intention so to do, remove ~~his~~ *that person's* proportion of the partition fence unless ~~such~~ *the* adjoining occupant pays or tenders to ~~him~~ *that person* the value ~~thereof~~ *of the fence*. If ~~such~~ *the* fence ~~be~~ *is*

removed without notice or after payment or tender of the value ~~as aforesaid~~, the person removing the ~~same~~ fence is liable to the person injured for all damages ~~he the injured person~~ may sustain ~~thereby~~.”

Section 2127. Section 70-17-205, MCA, is amended to read:

“70-17-205. Nonliability for prior or subsequent breach. ~~No one~~ A person, merely by reason of having acquired an estate subject to a covenant running with the land, is *not* liable for a breach of the covenant before ~~he the person~~ acquired the estate or after ~~he the person~~ has parted with ~~it the estate~~ or ceased to enjoy its benefits.”

Section 2128. Section 70-18-101, MCA, is amended to read:

“70-18-101. Fixture attached by other — accession by owner. When a person affixes ~~his the person's~~ property to the land of another, without an agreement permitting ~~him the person~~ to remove it, the thing affixed, except as provided in 70-18-102 and in the Uniform Commercial Code, belongs to the owner of the land unless ~~he the owner of the land~~ chooses to require the ~~former person~~ to remove it.”

Section 2129. Section 70-18-102, MCA, is amended to read:

“70-18-102. Removal of fixture by tenant. A tenant may remove from the demised premises, any time during the continuance of ~~his the tenant's~~ term, anything affixed ~~thereto to the premises~~ for purposes of trade, manufacture, ornament, or domestic use if the removal can be effected without injury to the premises unless the thing has, by the manner in which it is affixed, become an integral part of the premises.”

Section 2130. Section 70-19-102, MCA, is amended to read:

“70-19-102. Action affecting title or possession — filing as constructive notice. (1) In an action affecting the title or right of possession of real property or in an action between husband and wife, the plaintiff, at the time of filing the complaint, and the defendant, at the time of filing ~~his the~~ answer, when affirmative relief is claimed in ~~such the~~ answer, or at any time afterward may file in the office of the clerk and recorder of the county in which the property is situated a notice of the pendency of the action containing the names of the parties and the object of the action or defense and a description of the property in that county affected ~~thereby by the action or defense~~.

(2) From the time of filing of ~~such the~~ notice only ~~shall is~~ a purchaser or encumbrancer of the property affected ~~thereby be deemed considered~~ to have constructive notice of the pendency of the action and only of its pendency against parties designated by their real names.”

Section 2131. Section 70-19-202, MCA, is amended to read:

“70-19-202. Abuse of property held jointly or in common — action — mining property. If ~~any a person shall assume and exercise~~ *assumes and exercises* exclusive ownership over or ~~take takes away, destroy destroys, lessen lessens~~ in value, or otherwise ~~injure injures or abuse abuses~~ any property held in joint tenancy or tenancy in common, the party aggrieved ~~shall have his~~ *has* action for the injury in the same manner as ~~he the aggrieved party~~ would have if ~~such the~~ joint tenancy or tenancy in common did not exist; ~~provided that nothing herein contained shall~~ *However, this section does not* prevent one cotenant or joint tenant or any number of cotenants or joint tenants acting together ~~less than all~~ from entering on the common property at any point or points not then in the actual occupancy of the nonjoining cotenants or joint tenants and enjoying all rights of occupancy of the property, without waste and,

in the case of mining property, from mining the *same property* in a minerlike manner and extracting, milling, and disposing of the ore from the common property, paying its or their own expenses and subject to accounting to the nonjoining cotenant or joint tenant for the net profits of ~~such the~~ mining operations, ~~if any made, and all~~ All liens for labor and materials incurred in ~~such the~~ mining shall attach only to the undivided interest or interests of the working cotenants or joint tenants, but nothing herein shall prevent in this section prevents or preclude precludes the cotenant or joint tenant, not joining in the operation of ~~such the~~ mining property, from receiving his, its, or their the cotenant's or joint tenant's proportionate share of all ore or ores on the dump upon payment or tendering payment of the actual cost of mining the *same property*."

Section 2132. Section 70-19-204, MCA, is amended to read:

"70-19-204. Order for inspection or survey. (1) Whenever ~~any a~~ person ~~shall have~~ has any right to or interest in any lead, lode, or mining claim ~~which that~~ is in the possession of another person and it ~~shall be~~ is necessary for the ascertainment, enforcement, or protection of ~~such that~~ right or interest that an inspection, examination, or survey of ~~such the~~ lead, mine, lode, or mining claim should be ~~had or~~ made or whenever any inspection, examination, or survey of ~~any such the~~ lead, mine, lode, or mining claim ~~shall be~~ is necessary to protect, ascertain, or enforce the right or interest of any person in another lead, mine, lode, or mining claim and the person in possession of the ~~same shall refuse other~~ lead, mine, lode, or mining claim refuses for a period of 3 days after demand therefor in writing to allow ~~such the~~ inspection, examination, or survey to be had or made, the *demanding party* ~~so desiring the same~~ may present to the district court or a judge thereof of the county ~~wherein in which~~ the lead, mine, lead, lode, or mining claim is ~~situated located~~ a petition under oath setting out ~~his the~~ party's interest in the premises, describing the ~~same premises, setting out~~ that the premises are in the possession of a party, naming ~~him the~~ party, *setting out* the reason why ~~such the~~ examination, inspection, or survey is necessary, *setting out* the demand made on the person in possession so to permit ~~such the~~ examination, inspection, or survey; and ~~his the person's~~ refusal ~~so to do~~.

(2) The court or judge shall ~~thereupon~~ appoint a time and place for hearing ~~such a~~ petition and shall order notice thereof to be served upon the adverse party. ~~which~~ The notice shall *must* be served at least 1 day before the day of hearing. ~~On~~ At the hearing, either party may read affidavits or produce oral testimony, and if the ~~court or~~ judge is satisfied that the facts stated in the petition are true, ~~he the~~ judge shall make an order for an inspection, examination, or survey of the lead, mine, lode, or mining claim in question in ~~such a~~ manner, at ~~such a~~ time, and by ~~such~~ persons as *that* are mentioned in the order. ~~Such~~ Upon the order the person shall ~~thereupon~~ have free access to ~~such the~~ lead, mine, lead, lode, or mining claim for the purpose of making ~~such the~~ inspection, examination, or survey, and any interference with ~~such the~~ person while acting under ~~such the~~ order shall be *is* contempt of court.

(3) If the order of the court is made while an action is pending between the parties to the order, the costs of obtaining the order shall ~~abide~~ *must* await the result of the action, but all costs of making ~~such the~~ examination or survey shall *must* be paid by the petitioner."

Section 2133. Section 70-19-301, MCA, is amended to read:

"70-19-301. Application to lands conveyed by state. The provisions of parts 3 and 4 shall apply to all lands sold and conveyed before July 1, 1955, by

the state of Montana for which a valid consideration was received by the state; provided that the state, at the time of ~~any such~~ *the* sale or conveyance, was not precluded by the constitution of Montana or by the terms of the grant of ~~such the~~ lands by the United States from selling and disposing of the ~~same;~~ *land.* ~~and provided further, that no~~ *An* occupant of a public way or other ground dedicated or appropriated by the state to public use and not subject to sale ~~shall~~ *may not* acquire by reason of ~~his~~ *the* occupancy any title ~~thereto~~ *to the public way or ground.*”

Section 2134. Section 70-19-303, MCA, is amended to read:

“70-19-303. Statute of limitations for actions by grantee — joinder of state. (1) ~~No~~ *An* action ~~can~~ *may not* be brought for or in respect to real property by any person claiming under letters patent or grants from this state unless the plaintiff; ~~his~~ *or the plaintiff's* ancestor, predecessor, or grantor was seized or possessed of the property in question within 10 years before the commencement of the action.

(2) In ~~any such~~ *an* action *described in subsection (1)*, the state of Montana may be made a party defendant and ~~shall have~~ *has* only the defenses ~~thereto~~ *as that* are available to other parties defendant to the action, provided that ~~no~~ *a* judgment in any ~~such~~ *action* ~~shall~~ *may not* include damages, attorney fees, or court costs against the state of Montana.”

Section 2135. Section 70-19-304, MCA, is amended to read:

“70-19-304. Statute of limitations for action for recovery of property under void conveyance from state. When letters patent or grants of real property issued or made by the state are declared void by the determination of a competent court, an action for the recovery of the property ~~so~~ conveyed may be brought, either by the state or by any subsequent patentee or grantee of the property; ~~his~~ *or the patentee's or grantee's* heirs, or assigns; *only* within 10 years after ~~such the~~ *the* determination, ~~but not after that period.~~”

Section 2136. Section 70-19-305, MCA, is amended to read:

“70-19-305. Certificate of purchase from state or United States prima facie evidence of ownership. A certificate of purchase or of location of any lands in this state issued or made in pursuance of any law of the United States or of this state is prima facie evidence that the holder or assignee of ~~such the~~ *the* certificate is the owner of the land described ~~therein~~ *in the certificate*, but this evidence may be overcome by proof that at the time of the location or time of filing a preemption claim on which the certificate may have been issued, the land was in the adverse possession of the adverse party or those under whom ~~he~~ *the adverse party* claims or that the adverse party is holding the land for mining purposes.”

Section 2137. Section 70-19-401, MCA, is amended to read:

“70-19-401. Action for recovery — possession within 5 years required. ~~No~~ *An* action for the recovery of real property or for the possession ~~thereof~~ *of real property* *may not* be maintained unless it ~~appear~~ *appears* that the plaintiff; ~~his~~ *or the plaintiff's* ancestor, predecessor, or grantor was seized or possessed of the property in question within 5 years before the commencement of the action.”

Section 2138. Section 70-19-407, MCA, is amended to read:

“70-19-407. Occupancy under claim founded on instrument or judgment — when considered adverse. When it appears that the occupant or those under whom ~~he~~ *the occupant* claims entered into the possession of the

property under claim of title, exclusive of other right, founding ~~such~~ *the* claim upon a written instrument as being a conveyance of the property in question or upon the decree or judgment of a competent court and that there has been a continued occupation and possession of the property included in ~~such~~ *the* instrument, decree, or judgment or of some part of the property under ~~such~~ *the* claim for 5 years, the property ~~so~~ included is ~~deemed~~ *considered* to have been held adversely, except that when ~~it~~ *the property* consists of a tract divided into lots, the possession of one lot is not ~~deemed~~ *considered* a possession of any other lot of the same tract.”

Section 2139. Section 70-19-412, MCA, is amended to read:

“70-19-412. Relation of landlord and tenant as affecting adverse possession. When the relation of landlord and tenant has existed between any persons, the possession of the tenant is ~~deemed~~ *considered* the possession of the landlord until the expiration of 5 years from the termination of the tenancy or, ~~where~~ *when* there has been no written lease, until the expiration of 5 years from the time of the last payment of rent, notwithstanding ~~such~~ *that the* tenant may have acquired another title or may have claimed to hold adversely to ~~his~~ *the* landlord. ~~But such~~ *However, the enumerated* presumptions ~~cannot~~ *may not* be made after the periods prescribed in this section.”

Section 2140. Section 70-20-101, MCA, is amended to read:

“70-20-101. Transfer to be in writing — statute of frauds. ~~No~~ *An* estate or interest in real property, other than an estate at will or for a term not exceeding 1 year, ~~can~~ *may not* be created, granted, assigned, surrendered, or declared otherwise than by operation of law or a conveyance or other instrument in writing, subscribed by the party creating, granting, assigning, surrendering, or declaring it or by ~~his~~ *the party's* lawful agent ~~thereunto~~ authorized by writing.”

Section 2141. Section 70-20-102, MCA, is amended to read:

“70-20-102. Exceptions to statute of frauds. Section 70-20-101 ~~must~~ *may not* be construed to:

- (1) affect the power of a testator in the disposition of ~~his~~ *the testator's* real property by a last will and testament;
- (2) prevent any trust from arising or being extinguished by implication or operation of law; or
- (3) abridge the power of any court to compel the specific performance of an agreement, in case of ~~part~~ *partial* performance ~~thereof~~ *of the agreement.*”

Section 2142. Section 70-20-105, MCA, is amended to read:

“70-20-105. Joint tenancy — how created. (1) A joint tenancy as to any interest in real property may be established by the owner ~~thereof~~ *of the interest* by designating in the instrument of conveyance or transfer the names of ~~such~~ *the* joint tenants, including ~~his~~ *the person's* own, without the necessity of any transfer or conveyance to or through a third person.

(2) All joint tenancies created in this manner prior to July 1, 1963, are sufficient in law to create a joint tenancy.”

Section 2143. Section 70-20-108, MCA, is amended to read:

“70-20-108. Attorney-in-fact — how ~~must~~ *to* execute for principal. When an attorney-in-fact executes an instrument transferring an estate in real property, ~~he~~ *must* ~~the~~ *attorney-in-fact shall* subscribe the name of ~~his~~ *the* principal to it and ~~his~~ *the attorney-in-fact's* own name as attorney-in-fact.”

Section 2144. Section 70-20-109, MCA, is amended to read:

“70-20-109. Change of owner’s name after acquisition — later conveyance to include former name. ~~Any~~ A person in whom the title of real estate is vested, who shall afterwards from any cause ~~have his or her~~ *has the person’s* name changed, shall, in any conveyances of ~~said the~~ real estate ~~so held,~~ set forth the name in which ~~he or she~~ *the person* derived title to ~~said the~~ real estate, and a failure to comply with the provisions of this section ~~shall subject~~ *any such subjects* the person to a penalty of \$50, to be collected by the county attorney of the county in which the real estate is situated and ~~by him~~ *paid by the person* into the treasury of ~~said the~~ county for the benefit of the common schools ~~thereof of the county.”~~

Section 2145. Section 70-20-113, MCA, is amended to read:

“70-20-113. Definitions — notice of presence of smoke detectors upon sale of dwelling. (1) In this section, the following definitions apply:

(a) “Dwelling” means a building or portion of a building, including a mobile home or house trailer, that contains not more than two dwelling units.

(b) “Dwelling unit” means a building or portion of a building that contains living facilities with provision for sleeping, eating, cooking, and sanitation for not more than one family.

(c) “Smoke detector” means a device that detects visible or invisible particles or combustion.

(2) Upon the sale or transfer of ownership of a dwelling not otherwise required to have a smoke detector, the seller shall provide a written notice to the buyer in a buy-sell agreement or at the time of the sale to the buyer that the dwelling is equipped or is not equipped with smoke detectors or other fire detection devices.

(3) Neither the seller nor ~~his~~ *the seller’s* agent is liable in a civil action for failure to comply with, or negligence in complying with, the requirements of this section. Evidence of failure to comply with, or negligence in complying with, this section is not admissible in a civil action.”

Section 2146. Section 70-20-302, MCA, is amended to read:

“70-20-302. After-acquired title to pass by operation of law. ~~Where~~ *When* a person purports by proper instrument to grant real property in fee simple and subsequently acquires any title or claim of title ~~thereto to the real property,~~ the ~~same real property~~ passes by operation of law to the grantee or ~~his~~ *the grantee’s* successors.”

Section 2147. Section 70-20-303, MCA, is amended to read:

“70-20-303. Grant conclusive — exception for good faith purchaser. ~~Every~~ *A* grant of an estate in real property is conclusive against the grantor, ~~also~~ *and* against every one subsequently claiming under ~~him~~ *the grantor*; except a purchaser or encumbrancer who in good faith and for a valuable consideration acquires a title or lien by an instrument that is first duly recorded.”

Section 2148. Section 70-20-304, MCA, is amended to read:

“70-20-304. Implied covenants — free from encumbrance. (1) ~~From~~ *The* use of the word “grant” in any conveyance by which an estate of inheritance or fee simple or possessory title is to be passed, ~~implies only~~ *implies only* the following covenants and none other on the part of the grantor for ~~himself~~ *the grantor* and ~~his~~ *the grantor’s* heirs to the grantee; ~~his~~ *and the grantee’s* heirs;

and assigns ~~are implied~~ unless restrained by express terms contained in ~~such the~~ conveyance:

(a) that ~~previous~~ *prior* to the time of the execution of ~~such the~~ conveyance the grantor has not conveyed the same estate or any right, title, or interest ~~therein in that estate~~ to any person other than the grantee; *and*

(b) that ~~such the~~ estate is at the time of the execution of ~~such the~~ conveyance free from encumbrances done, made, or suffered by the grantor or any person claiming under ~~him the~~ grantor.

(2) ~~Such~~ *The enumerated* covenants may be sued upon in the same manner as if they had been expressly inserted in the conveyance.”

Section 2149. Section 70-20-311, MCA, is amended to read:

“70-20-311. Grant on condition subsequent. When a grant is made upon condition subsequent and is subsequently defeated by the nonperformance of the condition, the person otherwise entitled to hold under the grant ~~must shall~~ reconvey the property to the grantor or ~~his the~~ grantor’s successors by grant duly acknowledged for *the* record.”

Section 2150. Section 70-20-313, MCA, is amended to read:

“70-20-313. Grant by owner for life or years. A grant made by an owner of an estate for life or years, purporting to transfer a greater estate than ~~he the~~ owner could lawfully transfer, does not work a forfeiture of ~~his the~~ owner’s estate but passes to the grantee all the estate ~~which that~~ the grantor could lawfully transfer.”

Section 2151. Section 70-20-314, MCA, is amended to read:

“70-20-314. Grant of property occupied by tenant. When real property is occupied by a tenant, a grant of any estate ~~therein in the property~~ by ~~his the~~ tenant’s landlord is valid without an ~~attornment of agreement to continue the tenancy~~ by the tenant to the grantee; ~~but~~ *However*, the payment of rent to ~~such the~~ grantor by ~~his the~~ tenant before notice of the grant is binding upon the grantee, and the tenant is not liable to the grantee for any breach of the condition of the lease until ~~he the~~ tenant has had notice of the grant.”

Section 2152. Section 70-20-316, MCA, is amended to read:

“70-20-316. Deeds made prior to 1900 — presumption grantor had no wife. When a deed to real property has been made, executed, and acknowledged prior to the year 1900 by a grantor without recital in the body of the deed or acknowledgment as to whether or not the grantor is married or single and the wife of ~~such the~~ grantor, if any, not joining in the conveyance or otherwise releasing or conveying ~~her the~~ wife’s dower, the presumption ~~shall be~~ *is* that the person conveying ~~such the~~ land had no wife living at the date of ~~such~~ conveyance and that ~~such the~~ land was conveyed free of all right of dower, inchoate or vested.”

Section 2153. Section 70-20-402, MCA, is amended to read:

“70-20-402. Instrument not void as to purchaser with notice — exception. ~~No~~ *An* instrument is *not* to be avoided under 70-20-401 in favor of a subsequent purchaser or encumbrancer having notice ~~thereof~~ at the time ~~his the~~ purchase was made or ~~his the~~ lien *was* acquired unless the person in whose favor the instrument was made was a privy to the fraud intended.”

Section 2154. Section 70-20-403, MCA, is amended to read:

“70-20-403. Grant by person with power to revoke — power executed. (1) ~~Where~~ *When* a power to revoke or modify an instrument affecting

the title to or enjoyment of an estate in real property is reserved to the grantor or given to any other person, a subsequent grant of or charge upon the estate by the person having the power of revocation in favor of a purchaser or encumbrancer for value operates as a revocation of the original instrument, to the extent of the power, in favor of ~~such~~ *the* purchaser or encumbrancer.

(2) ~~Where~~ *When* a person having a power of revocation within the provisions of subsection (1) is not entitled to execute it until after the time at which ~~he~~ *the person* makes ~~such a~~ *the* grant or charge as described in that subsection, the power is ~~deemed~~ *considered* to be executed as soon as ~~he~~ *the person* is entitled to execute it.”

Section 2155. Section 70-21-210, MCA, is amended to read:

“70-21-210. Clerk to endorse fee. The county clerk ~~must~~ *shall* in all cases endorse the amount of ~~his~~ *the* fee for recording on the instrument recorded.”

Section 2156. Section 70-21-307, MCA, is amended to read:

“70-21-307. Effect of conveyance to grantee as trustee when no trust conditions provided. Any conveyance of real property ~~hereafter~~ placed of record in any office of ~~any a~~ county clerk and recorder in which the name of the grantee is followed by the word “trustee”, “as trustee”, or some similar fiduciary term and in which ~~no~~ terms and conditions of ~~such the~~ purported trust or any limitation on the power of the grantee to convey ~~shall be~~ *is not* set forth so that any person dealing with ~~such the~~ real property could learn ~~therefrom~~ *from the conveyance* what, if any, limitation exists upon the authority of the grantee with regard to the reconveyance or encumbrance of ~~such the~~ property ~~shall~~ *must* be considered as though ~~such the~~ property had been conveyed to ~~such the~~ grantee without any limitation upon ~~his the~~ *the grantee’s* authority to reconvey or encumber as fully as though the word “trustee”, “as trustee”, or any equivalent fiduciary expression had not been used in connection with ~~his the~~ *the grantee’s* name; ~~and the~~ *The* use of the word “trustee” or “as trustee” or any equivalent fiduciary expression purporting a trust contained in ~~such the~~ conveyance ~~shall~~ *does not* have ~~no~~ force or effect in charging any purchaser or encumbrancer ~~thereof~~ with notice of any limitation of power on the part of the person ~~so~~ named as trustee to deal with ~~such the~~ lands as ~~his the~~ *the person’s* own.”

Section 2157. Section 70-22-104, MCA, is amended to read:

“70-22-104. Filing of corner record required. A surveyor shall complete, sign, stamp with ~~his the~~ *the surveyor’s* seal, and file with the county clerk and recorder of the county where the corner is situated a written record of corner establishment or restoration to be known as a “corner record” for every public land survey corner and accessory to ~~such the~~ corner ~~which that~~ is established, reestablished, monumented, remonumented, restored, rehabilitated, perpetuated, or used as control in any survey by ~~such the~~ surveyor and within 90 days ~~thereafter~~ *after the establishment* unless the corner and its accessories are substantially as described in an existing corner record filed in accordance with the provisions of this part.”

Section 2158. Section 70-22-108, MCA, is amended to read:

“70-22-108. Corner records to be certified. ~~No~~ *A* corner record ~~shall~~ *may* not be filed unless the ~~same the~~ *record* is signed by a registered surveyor and stamped with ~~his the~~ *the surveyor’s* seal, or in the case of an agency of the United States government or the state of Montana, the certificate may be signed by the survey party chief making the survey and approved, signed, and sealed by the registered surveyor in responsible charge of the agency.”

Section 2159. Section 70-22-110, MCA, is amended to read:

“70-22-110. Surveyor to rehabilitate monument. ~~In every case where~~ *If* a corner record of a public land survey corner is required to be filed under the provisions of this part, the surveyor ~~must~~ *shall* reconstruct or rehabilitate the monument of ~~such the~~ corner and accessories to ~~such the~~ corner so that the ~~same~~ *shall be* monument is left by ~~him the~~ *the* surveyor in ~~such a~~ physical condition so that it remains as permanent a monument as is reasonably possible and so that the ~~same~~ *monument* may be reasonably expected to be located with facility at all times in the future.”

Section 2160. Section 70-23-402, MCA, is amended to read:

“70-23-402. Exclusive ownership and possession of unit — joint ownership. (1) Each unit owner ~~shall be~~ *is* entitled to the exclusive ownership and possession of ~~his the~~ *the* owner’s unit.

(2) A unit may be jointly or commonly owned by more than one person.”

Section 2161. Section 70-23-502, MCA, is amended to read:

“70-23-502. Certain work on unit by owner prohibited. A unit owner ~~shall may not~~ *may not* make ~~no a~~ repair or alteration or perform any other work on ~~his the~~ *the* owner’s unit ~~which that~~ would jeopardize the soundness or safety of the property, reduce the value ~~thereof of the~~ *property*, or impair any easement or hereditament unless the consent of all the other unit owners affected is first obtained.”

Section 2162. Section 70-23-505, MCA, is amended to read:

“70-23-505. Abandonment or waiver of use not to effect exemption. ~~No~~ A unit owner may ~~exempt himself not be~~ *exempted* from liability for ~~his the~~ *the* owner’s contribution towards the common expenses by waiver of the use or enjoyment of any of the common elements or by abandonment of ~~his the~~ *the* owner’s unit.”

Section 2163. Section 70-23-506, MCA, is amended to read:

“70-23-506. Compliance with bylaws, rules, and covenants required — action. Each unit owner shall comply with the bylaws and with the administrative rules adopted pursuant ~~thereto to the~~ *to the* bylaws and with the covenants, conditions, and restrictions in the declaration or in the deed to ~~his the~~ *the* owner’s unit. Failure to comply ~~therewith shall be~~ *with the* bylaws, rules, covenants, conditions, and restrictions is grounds for an action maintainable by the association of unit owners or by an aggrieved unit owner.”

Section 2164. Section 70-23-604, MCA, is amended to read:

“70-23-604. Construction or materialman’s lien — no effect on nonconsenting owner — exception. ~~No labor~~ *Labor* performed or materials furnished with the consent or at the request of a unit owner; ~~his or the~~ *the* owner’s agent, contractor, or subcontractor ~~shall may not~~ *may not* be the basis for the filing of a construction or materialman’s lien against the unit of any other unit owner not consenting to or requesting the labor to be performed or the materials to be furnished, except that consent ~~shall must~~ *must* be considered given by the owner of any unit in the case of emergency repairs ~~thereto~~ *performed or* furnished with the consent or at the request of the manager.”

Section 2165. Section 70-23-605, MCA, is amended to read:

“70-23-605. Lien effective against two or more units — release from. If a lien becomes effective against two or more units, the owner of each unit subject to ~~such a the~~ *the* lien ~~shall have~~ *has* the right to have ~~his the~~ *the* owner’s unit

released from the lien by payment of the amount of the lien attributable to ~~his~~ *the owner's* unit. The amount of the lien attributable to a unit and the payment required to satisfy ~~such~~ a lien, in the absence of agreement, ~~shall must~~ be determined by application of the percentage established in the declaration. ~~Such~~ A partial payment, satisfaction, or discharge ~~shall may~~ not prevent the lienor from proceeding to enforce ~~his~~ *the lienor's* rights against any unit and the undivided interest in the common element ~~appertaining thereto~~ *pertaining to a unit* not so released by a payment, satisfaction, or discharge."

Section 2166. Section 70-23-610, MCA, is amended to read:

"70-23-610. Purchaser at foreclosure sale not totally liable for prior common expenses. ~~Where~~ *When* the purchaser of a unit obtains title to the unit as a result of foreclosure of the first mortgage or trust indenture, ~~such the~~ purchaser; ~~his and the purchaser's~~ successors; and assigns ~~shall are~~ not be liable for any of the common expenses chargeable to ~~such the~~ unit ~~which that~~ became due prior to the acquisition of title to ~~such the~~ unit by ~~such the~~ purchaser. ~~Such~~ *The* unpaid share of common expenses ~~shall be~~ *is* a common expense of all the unit owners, including ~~such the~~ purchaser; ~~his and the purchaser's~~ successors; and assigns."

Section 2167. Section 70-23-611, MCA, is amended to read:

"70-23-611. Joint liability of grantor and grantee for unpaid common expenses. In a voluntary conveyance of a unit, the grantee is jointly and severally liable with the grantor for all unpaid charges against the ~~latter~~ *grantor* for ~~his the grantor's~~ proportionate share of the common expenses up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee ~~therefor for the~~ *common expenses*. However, upon request of a prospective purchaser, the manager shall make and deliver a statement of the unpaid charges against the prospective grantor, and the grantee in that case is not liable for nor is the unit when conveyed subject to a lien filed ~~thereafter~~ for any unpaid charges against the grantor in excess of the amount ~~therein~~ set forth *in the statement*."

Section 2168. Section 70-23-612, MCA, is amended to read:

"70-23-612. Insurance of building — premiums as common expenses. (1) The manager as trustee for the unit owners shall, if required by the declaration, *by* the bylaws, or by a majority of the unit owners, insure the building against loss or damage by fire and ~~such~~ other hazards as ~~shall be~~ required, without prejudice to the right of each unit owner to insure ~~his the~~ *the owner's* own unit for ~~his the owner's~~ own benefit.

(2) The premiums for ~~such~~ insurance on the building are common expenses."

Section 2169. Section 70-23-613, MCA, is amended to read:

"70-23-613. Disclosure by seller — seller to furnish documents — delay period. (1) Whenever a person, corporation, or other legal entity constitutes a majority of the unit owners, the seller or ~~his the sellers's~~ agent, prior to signing any buy-sell agreement, shall give to any person purchasing or expressing a desire to purchase one of the project units notice that:

(a) the seller or other person constitutes a majority of the unit owners;

(b) any bylaws and administrative regulations governing the operation of the development and the association, as adopted by the association, have been adopted by the seller or other person acting as a majority of the unit owners; and

(c) any change in the bylaws or administrative regulations occurring while the seller or other person constitutes a majority of the unit owners may be made

only with the approval of the seller or other person constituting a majority of unit owners.

(2) Upon the request of any person purchasing or expressing a desire to purchase one of the project units, the seller or ~~his~~ *the seller's* agent shall furnish to that buyer or prospective buyer, prior to signing any buy-sell agreement, a copy of the Unit Ownership Act, the bylaws of the association, and any administrative regulations governing the operation of the project or the association.

(3) Any buy-sell agreement ~~shall~~ *must* provide that it is not effective until 72 hours after the prospective purchaser has received the documents required in subsection (2), and during that delay, the prospective purchaser may withdraw ~~his~~ *the* offer without penalty."

Section 2170. Section 70-23-902, MCA, is amended to read:

"70-23-902. Change of agent for service of process. If the association of unit owners wishes to designate a person other than the one named in the declaration to receive service of process in the cases provided in 70-23-901, it shall record an amendment to the declaration. The amendment ~~shall~~ *must* be certified by the presiding officer and the secretary of the association of unit owners and ~~shall~~ *must* state the name of the successor with ~~his~~ *the successor's* residence or place of business as required by 70-23-301(7) and that the person named in the amendment was designated by resolution duly adopted by the association of unit owners."

Section 2171. Section 70-24-204, MCA, is amended to read:

"70-24-204. Effect of unsigned or undelivered rental agreement. (1) If the landlord does not sign and deliver a written rental agreement signed and delivered to ~~him~~ *the landlord* by the tenant, acceptance of rent without reservation by the landlord gives the rental agreement the same effect as if it had been signed and delivered by the landlord.

(2) If the tenant does not sign and deliver a written rental agreement signed and delivered to ~~him~~ *the tenant* by the landlord, acceptance of possession and payment of rent without reservation gives the rental agreement the same effect as if it had been signed and delivered by the tenant.

(3) If a rental agreement given effect by the operation of this section provides for a term longer than 1 year, it is effective for only 1 year."

Section 2172. Section 70-24-301, MCA, is amended to read:

"70-24-301. Duty to disclose name of person responsible. (1) A landlord or a person authorized to enter into a rental agreement on ~~his~~ *the landlord's* behalf shall disclose to the tenant in writing at or before the commencement of the tenancy the name and address of:

(a) the person authorized to manage the premises; and

(b) the owner of the premises or a person authorized to act for the owner for the purpose of service of process and receiving notices and demands.

(2) The information required to be furnished by this section ~~shall~~ *must* be kept current and in writing, and this section extends to and is enforceable against any successor landlord, owner, or manager.

(3) A person who fails to comply with subsection (1) becomes an agent of each person who is a landlord for the purpose of:

(a) service of process and receiving notices and demands; and

(b) performing the obligations of the landlord under this chapter and under the rental agreement and expending or making available for that purpose all rent collected from the premises.”

Section 2173. Section 70-24-304, MCA, is amended to read:

“70-24-304. Transfer of premises or termination of management — relief from liability. (1) Unless otherwise agreed, a landlord who conveys, in a good faith sale to a bona fide purchaser, premises that include a dwelling unit subject to a rental agreement is relieved of liability under the rental agreement and this chapter as to events occurring after written notice to the tenant of the conveyance. ~~He~~ *The landlord* remains liable to the tenant for all security recoverable by the tenant pursuant to *Title 70*, chapter 25, ~~of this title~~ and all prepaid rent.

(2) Unless otherwise agreed, a manager of premises that include a dwelling unit is relieved of liability under the rental agreement and this chapter as to events occurring after written notice to the tenant of the termination of ~~his~~ *the manager’s* management.”

Section 2174. Section 70-24-312, MCA, is amended to read:

“70-24-312. Access to premises by landlord. (1) A tenant may not unreasonably withhold consent to the landlord or the landlord’s agent to enter into the dwelling unit in order to inspect the premises, make necessary or agreed repairs, decorations, alterations, or improvements, supply necessary or agreed services, or exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, ~~workmen~~ *workers*, or contractors.

(2) A landlord may enter the dwelling unit without consent of the tenant in *the case of an* emergency.

(3) A landlord may not abuse the right of access or use it to harass the tenant. Except in *the case of an* emergency or unless it is impracticable to do so, the landlord shall give the tenant at least 24 hours’ notice of the intent to enter and may enter only at reasonable times.

(4) A landlord has no other right of access except:

- (a) pursuant to court order;
- (b) as permitted by 70-24-425 and 70-24-426(2); or
- (c) when the tenant has abandoned or surrendered the premises.

(5) A tenant may not remove a lock or replace or add a lock not supplied by the landlord to the premises without the written permission of the landlord. If a tenant removes a lock or replaces or adds a lock not supplied by the landlord to the premises, the tenant shall provide the landlord with a key to ensure that the landlord will have the right of access as provided by this chapter.”

Section 2175. Section 70-24-322, MCA, is amended to read:

“70-24-322. Tenant to occupy as dwelling unit only — extended absence. (1) Unless otherwise agreed, a tenant shall occupy ~~his~~ *the tenant’s* dwelling unit only as a dwelling unit.

(2) The rental agreement may require that the tenant notify the landlord of an anticipated extended absence from the premises in excess of 7 days no later than the first day of the extended absence.”

Section 2176. Section 70-24-403, MCA, is amended to read:

“70-24-403. Prohibited provision in rental agreement — unenforceability — damages. (1) A provision prohibited by 70-24-202 *that is* included in a rental agreement is unenforceable.

(2) If a party purposefully uses a rental agreement containing provisions known by ~~him~~ *the party* to be prohibited, the other party may recover, in addition to ~~his~~ *the other party’s* actual damages, an amount up to 3 months’ periodic rent.”

Section 2177. Section 70-24-405, MCA, is amended to read:

“70-24-405. Failure of landlord to deliver possession — tenant’s remedies. (1) If the landlord fails to deliver possession of the dwelling unit to the tenant as provided in 70-24-302, rent abates until possession is delivered and the tenant may:

(a) terminate the rental agreement upon at least 5 days’ written notice to the landlord, and, upon termination, the landlord shall return all prepaid rent and security; or

(b) demand performance of the rental agreement by the landlord and, if the tenant elects, maintain an action for possession of the dwelling unit against the landlord or a person wrongfully in possession and recover the actual damages sustained by ~~him~~ *the tenant*.

(2) If a person’s failure to deliver possession is purposeful and not in good faith, an aggrieved party may recover from that person an amount not more than 3 months’ periodic rent or treble damages, whichever is greater.”

Section 2178. Section 70-24-408, MCA, is amended to read:

“70-24-408. Purposeful or negligent failure to provide essential services — tenant’s remedies. (1) If contrary to the rental agreement or 70-24-303 the landlord purposefully or negligently fails to supply heat, running water, hot water, electric, gas, or other essential services, the tenant may give written notice to the landlord specifying the breach and may:

(a) procure reasonable amounts of heat, hot water, running water, electricity, gas, and other essential services during the period of the landlord’s noncompliance and deduct their actual and reasonable cost from the rent;

(b) recover damages based upon the diminution in the fair rental value of the dwelling unit; or

(c) procure reasonable substitute housing during the period of the landlord’s noncompliance, in which case the tenant is excused from paying rent for the period of the landlord’s noncompliance.

(2) If the tenant proceeds under this section, ~~he~~ *the tenant* may not proceed under 70-24-406 or 70-24-407 as to that breach.

(3) Rights of the tenant under this section do not arise until ~~he~~ *the tenant* has given notice to the landlord and the landlord has had a reasonable opportunity to correct the conditions or if the conditions were caused by the act or omission of the tenant, a member of ~~his~~ *the tenant’s* family, or *any* other person on the premises with ~~his~~ *the tenant’s* consent.”

Section 2179. Section 70-24-409, MCA, is amended to read:

“70-24-409. Fire or casualty damage — rights of tenant. (1) If the dwelling unit or premises are damaged or destroyed by fire or casualty to an extent that enjoyment of the dwelling unit is substantially impaired, the tenant may:

(a) immediately vacate the premises and notify the landlord in writing within 14 days ~~thereafter~~ of ~~his~~ *the tenant's* intention to terminate the rental agreement, in which case the rental agreement terminates as of the date of vacating; or

(b) if continued occupancy is lawful, vacate any part of the dwelling unit rendered unusable by the fire or casualty, in which case the tenant's liability for rent is reduced in proportion to the diminution in the fair rental value of the dwelling unit.

(2) This section does not apply when the fire and casualty damage was caused by the purposeful or negligent act of the tenant; ~~or the tenant's family;~~ or guests.

(3) If the rental agreement is terminated, the landlord shall return all security recoverable pursuant to *Title 70*, chapter 25, ~~of this title~~ and all prepaid rent. Accounting for rent in the event of termination or apportionment ~~shall~~ *must* be made as of the date of the fire or casualty."

Section 2180. Section 70-24-421, MCA, is amended to read:

"70-24-421. Action for nonpayment of rent — tenant's counterclaim.

(1) In an action for possession based upon nonpayment of the rent or in an action for rent when the tenant is in possession, the tenant may counterclaim for any amount ~~he~~ *the tenant* may recover under the rental agreement or this chapter. The court from time to time may order the tenant to pay into court all or part of the rent accrued and thereafter accruing and shall determine the amount due to each party. The party to whom a net amount is owed ~~shall~~ *must* be paid first from the money paid into court and the balance by the other party. The court may at any time release money paid into the court to either party if the parties so agree or if the court finds a party entitled to the sums released. If no rent remains due after application of this section, judgment ~~shall~~ *must* be entered for the tenant in the action for possession.

(2) In an action for rent when the tenant is not in possession, ~~he~~ *the tenant* may counterclaim as provided in subsection (1) ~~of this section~~ but is not required to pay any rent into court."

Section 2181. Section 70-25-101, MCA, is amended to read:

"70-25-101. Definitions. As used in this chapter, the following definitions apply:

(1) "Cleaning expenses" means the actual and necessary cost of cleaning done by an owner or ~~his~~ *the owner's* selected representative for cleaning needs not attributable to normal wear brought about by the tenant's failure to bring the premises to the condition it was at the time of renting.

(2) "Damage" means any and all tangible loss, injury, or deterioration of a leasehold premises caused by the willful or accidental acts of the tenant occupying ~~same~~ *the leasehold premises* or by the tenant's family, licensees, or invitees, as well as any and all tangible loss, injury, or deterioration resulting from the tenant's omissions or failure to perform any duty imposed upon the tenant by law with respect to the leasehold.

(3) "Leasehold premises" means the premises occupied by the tenant together with all common areas, recreational facilities, parking areas, and storage facilities to which the tenant has access, as well as all personal property owned or controlled by the landlord the use of which is permitted to the tenant.

(4) "Security deposit" means value given, in money or its equivalent, to secure the payment of rent by the tenant under a leasehold agreement or to

secure payment for damage to and cleaning of the leasehold premises. If a leasehold agreement or an agreement incident ~~thereto~~ *to a leasehold agreement* requires the tenant or prospective tenant to provide or maintain in effect any deposit to the landlord for part or all of the term of the leasehold agreement, the deposit ~~shall~~ *must* be presumed to be a security deposit. A fee or charge for cleaning and damages, no matter how designated, is presumed to be a security deposit."

Section 2182. Section 70-26-101, MCA, is amended to read:

"70-26-101. Letting of parts of rooms prohibited. ~~One~~ *A person* who hires part of a room for a dwelling is entitled to the whole of the room, notwithstanding any agreement to the contrary, and if a landlord lets a room as a dwelling for more than one family, the person to whom ~~he~~ *the landlord* first lets any part of it is entitled to the possession of the whole room for the term agreed upon, and every tenant in the building under the same landlord is relieved from all obligation to pay rent to ~~him~~ *the landlord* while ~~such~~ *the* double letting of any room continues."

Section 2183. Section 70-26-102, MCA, is amended to read:

"70-26-102. Transferee of rental property to have same rights as transferor. A person to whom any real property is transferred or devised, upon which rent has been reserved, or to whom any ~~such~~ rent is transferred is entitled to the same remedies for recovery of rent, for nonperformance of any of the terms of the lease, or of any waste or cause of forfeiture as ~~his~~ *the person's* grantor or deviser might have had."

Section 2184. Section 70-26-104, MCA, is amended to read:

"70-26-104. Notice of action by third person served on tenant — duty to inform landlord. ~~Every~~ *A* tenant who receives notice of ~~any~~ *a* proceeding to recover the real property occupied by ~~him~~ *the tenant* or the possession ~~thereof~~ *must* of the real property ~~shall~~ immediately inform ~~his~~ *the* landlord of the ~~same~~ *notice* and ~~shall~~ also deliver to the landlord the notice, if in writing, and is responsible to the landlord for all damages ~~which he~~ *that the* landlord may sustain by reason of any omission to inform ~~him~~ *the* landlord of the notice or to deliver it to ~~him~~ *the* landlord if in writing."

Section 2185. Section 70-26-105, MCA, is amended to read:

"70-26-105. Assignee of lessee — remedies of lessor against. Whatever remedies the lessor of any real property has against ~~his~~ *the lessor's* immediate lessee for the breach of any agreement in the lease or for recovery of the possession, ~~he~~ *the lessor* has against the assignees of the lessee for any cause of action accruing while they are ~~such~~ assignees, except ~~where~~ *when* the assignment is made by way of security for a loan and is not accompanied by possession of the premises."

Section 2186. Section 70-26-106, MCA, is amended to read:

"70-26-106. Rights of lessee and his assignees against lessor and his assignees. Whatever remedies the lessee of any real property may have against ~~his~~ *the lessee's* immediate lessor for the breach of any agreement in the lease, ~~he~~ *the lessee* may have against the assigns of the lessor and the assigns of the lessee may have against the lessor and ~~his~~ *the lessor's* assigns, except upon covenants against encumbrances or relating to the title or possession of the premises."

Section 2187. Section 70-26-108, MCA, is amended to read:

"70-26-108. Rent dependent on life — recovery. Rent dependent on the life of a person may be recovered after as well as before ~~his~~ *the person's* death."

Section 2188. Section 70-26-203, MCA, is amended to read:

“70-26-203. Failure of lessor to repair — lessee’s remedies. (1) If within a reasonable time after notice to the lessor of dilapidations ~~which he~~ *that the lessor* ought to repair, ~~he~~ *the lessor* neglects to do so, and if the cost of ~~such the~~ repairs does not require an expenditure greater than 1 month’s rent of the premises, the lessee may perform ~~such the~~ repairs ~~himself~~ and deduct the expenses of ~~such the~~ repairs from the rent; or the lessee may vacate the premises, in which case ~~he~~ *the lessee* is discharged from further payment of rent or performance of other conditions.

(2) Subsection (1) does not apply to real property leased under an arrangement governed by *Title 70*, chapter 24 ~~of this title.~~”

Section 2189. Section 70-26-204, MCA, is amended to read:

“70-26-204. Renewal of lease by lessee’s continued possession. If a lessee of real property leased under an arrangement not governed by *Title 70*, chapter 24, ~~of this title~~ remains in possession ~~thereof of the property~~ after the expiration of the hiring and the lessor accepts a rent from ~~him~~ *the lessee*, the parties are presumed to have renewed the hiring on the same terms and for the same time, not exceeding 1 month when the rent is payable monthly, or in any case 1 year.”

Section 2190. Section 70-26-205, MCA, is amended to read:

“70-26-205. Notice required to terminate lease. (1) A hiring of real property for a term not specified by the parties is presumed to be renewed as stated in 70-26-204 at the end of the term implied by law unless one of the parties gives notice to the other of ~~his~~ *the* intention to terminate the hiring at least as long before the expiration ~~thereof of the hiring~~ as the term of the hiring itself, not exceeding 1 month.

(2) Subsection (1) does not apply to real property leased under an arrangement governed by *Title 70*, chapter 24 ~~of this title.~~”

Section 2191. Section 70-26-206, MCA, is amended to read:

“70-26-206. Rights of tenant for years or at will. (1) A tenant for years or at will, unless ~~he~~ *the tenant* is a wrongdoer by holding over, may occupy the buildings, take the annual products of the soil, and work mines and quarries open at the commencement of ~~his~~ *the* tenancy; and ~~a tenant at will or for an indefinite term~~ may cultivate and harvest the crops growing at the end of ~~his~~ *the* tenancy.

(2) A tenant for years or at will has no other rights to the property than those given to ~~him~~ *the tenant* by the agreement or instrument by which ~~his~~ *the* tenancy is acquired or by subsection (1).

(3) Subsection (2) does not apply to arrangements governed by *Title 70*, chapter 24 ~~of this title.~~”

Section 2192. Section 70-27-108, MCA, is amended to read:

“70-27-108. Unlawful detainer defined. A tenant of real property or mining claim, for a term less than life, is guilty of unlawful detainer:

(1) when ~~he~~ *the tenant* continues in possession, in person or by subtenant, of the property or any part ~~thereof of the property~~ after the expiration of the term for which it is let to ~~him~~ *the tenant* without the permission of the landlord or the successor in estate of ~~his~~ *the* landlord, if any ~~there be~~, but in case of a tenancy at will, it must first be terminated by notice, as prescribed in 70-27-104;

(2) ~~where he~~ *when the tenant* continues in possession, in person or by subtenant, without permission of ~~his the~~ landlord or the successor in estate of ~~his the~~ landlord, if any ~~there be~~, after default in the payment of rent, pursuant to the lease or agreement under which the property is held, and 3 days' notice in writing requiring its payment, stating the amount ~~which that~~ is due, or possession of the property ~~shall have~~ *has* been served upon ~~him the tenant~~ and, if ~~there be~~ *is* a subtenant in actual occupation of the premises, also upon ~~such the~~ subtenant. ~~Such~~ *The* notice may be served at any time within 1 year after the rent becomes due. In all cases of tenancy upon agricultural lands ~~where when~~ the tenant has held over and retained possession for more than 60 days after the expiration of ~~his the~~ term without any demand of possession or notice to quit by the landlord or the successor in estate of ~~his the~~ landlord, if any ~~there be~~, ~~he shall be deemed the tenant is considered~~ to be holding by permission of the landlord or the successor in estate of ~~his the~~ landlord and ~~shall be~~ *is* entitled to hold under the terms of the lease for another full year and ~~shall may~~ not be guilty of an unlawful detainer during ~~said the~~ year, and ~~such the~~ holding over ~~for the period aforesaid shall must~~ be taken and construed as a consent on the part of a tenant to hold for another year;

(3) ~~when he~~ *the tenant* continues in possession, in person or by subtenant, after a neglect or failure to perform other conditions or covenants of the lease or agreement under which the property is held, including any covenant not to assign or sublet, ~~other than the one~~ for the payment of rent, and 3 days' notice in writing, requiring the performance of ~~such~~ conditions or covenants or the possession of the property, ~~shall have~~ *has* been served upon ~~him the tenant~~ and, if ~~there be~~ *is* a subtenant in actual occupation of the premises, also upon ~~such the~~ subtenant. Within 3 days after the serving of the notice, the tenant or any subtenant in actual occupation of the premises or any mortgagee of the term or other person interested in its continuance may perform the conditions or covenants of the lease or pay the stipulated rent, as the case may be, and ~~thereby~~ save the lease from forfeiture. If the covenants and conditions of the lease violated by the lessee cannot afterward be performed, then ~~no~~ notice, as ~~last~~ prescribed ~~herein in this subsection~~, need ~~not~~ be given to ~~said the~~ lessee or ~~his the~~ subtenant demanding the performance of the violated covenant or conditions of the lease. A tenant may take proceedings similar to those prescribed in this chapter to obtain possession of the premises let to an undertenant in case of ~~his the undertenant's~~ unlawful detention of the premises ~~underlet to him~~. Any tenant or subtenant assigning or subletting or committing waste upon the demised premises contrary to the covenants of ~~his the~~ lease thereby terminates the lease, and the landlord or ~~his the landlord's~~ successor in estate ~~shall~~, upon service of 3 days' notice to quit upon the person or persons in possession, ~~be is~~ entitled to restitution of possession of ~~such the~~ demised premises under the provisions of this chapter."

Section 2193. Section 70-27-110, MCA, is amended to read:

"70-27-110. Service of notice — how made. (1) The notices required by 70-27-108 may be served, either:

(a) by delivering a copy to the tenant personally;

(b) if ~~he be~~ *the tenant is* absent from ~~his the tenant's~~ place of residence and from ~~his the tenant's~~ usual place of business, by leaving a copy with some person of suitable age and discretion at either place and sending a copy through the mail addressed to the tenant at ~~his the tenant's~~ place of residence; or

(c) if ~~such~~ *the* place of residence and business cannot be ascertained or a person of suitable age or discretion ~~there~~ cannot be found *there*, then by affixing a copy in a conspicuous place on the property and also delivering a copy to a person *residing* there ~~residing~~ if ~~such~~ a person can be found and also sending a copy through the mail addressed to the tenant at the place where the property is situated.

(2) Service upon a subtenant may be made in the same manner.”

Section 2194. Section 70-27-111, MCA, is amended to read:

“70-27-111. Parties defendant. (1) ~~No~~ A person other than the tenant of the premises and subtenant, if there ~~be~~ *is* one, in the actual occupation of the premises when the complaint is filed need be made parties defendant in the proceeding, nor shall any proceeding abate or the plaintiff be nonsuited for the nonjoinder of any person who might have been made a party defendant; ~~but~~ *However*, when it appears that any of the parties served with process or appearing in the proceeding is guilty of the offense charged, judgment must be rendered against ~~such~~ *that* party.

(2) ~~In case~~ *If* a defendant has become a subtenant of the premises in controversy after the service of the notice provided for by 70-27-108(2) upon the tenant of the premises, the fact that ~~such~~ *the* notice was not served on each subtenant ~~shall~~ *does not* constitute ~~no~~ a defense to the action.

(3) ~~In case~~ *If* a married person is a tenant or subtenant, failure to join ~~such~~ *the* person’s spouse ~~shall~~ *does not* constitute ~~no~~ a defense; ~~but in case~~ *However*, if the spouse is not joined, an execution issued upon a personal judgment against the tenant or subtenant ~~can only~~ *may* be enforced *only* against property on the premises at the commencement of the action or against property that is owned solely by the tenant or subtenant and not by ~~his~~ *the tenant’s or subtenant’s* spouse.

(4) All persons who enter the premises under the tenant after the commencement of the action ~~shall be~~ *are* bound by the judgment the same as if ~~he or~~ they had been made party to the action.”

Section 2195. Section 70-27-203, MCA, is amended to read:

“70-27-203. Showings required on trial. On the trial of any proceeding for any forcible entry or forcible detainer, the plaintiff ~~shall~~ *is only* be required to show, in addition to the forcible entry or forcible detainer complained of, that ~~he~~ *the plaintiff* was peaceably in the actual possession at the time of the forcible entry or was entitled to the possession at the time of the forcible detainer. The defendant may show in ~~his~~ defense that ~~he~~ *the defendant* or ~~his~~ *the defendant’s* ancestors or those whose interest in ~~such~~ *the* premises ~~he~~ *the defendant* claims have been in the quiet possession ~~thereof of the premises~~ for the space of 1 whole year ~~together next~~ before the commencement of the proceedings and that ~~his~~ *the defendant’s* interest ~~therein~~ *in the premises* is not then ended or determined, and ~~such~~ *the* showing is a bar to the proceedings.”

Section 2196. Section 70-27-205, MCA, is amended to read:

“70-27-205. Verdict, judgment, and execution. (1) If upon the trial the verdict of the jury or, if the case ~~be~~ *is* tried without a jury, the finding of the court ~~be~~ *is* in favor of the plaintiff and against the defendant, judgment ~~shall~~ *must* be entered for the restitution of the premises; ~~and if~~ *If* the proceeding ~~be~~ *is* for an unlawful detainer after neglect or failure to perform the conditions or covenants of the lease or agreement under which the property is held or after default in the

payment of rent, the judgment ~~shall~~ *must* also declare the forfeiture of ~~such the~~ lease or agreement.

(2) The jury, or the court if the proceeding ~~be is~~ tried without a jury, shall also assess the damages occasioned to the plaintiff by any forcible entry or by any forcible or unlawful detainer alleged in the complaint and proved on the trial and find the amount of any rent due if the alleged unlawful detainer ~~be is~~ after default in the payment of rent; ~~and the~~ *The* judgment ~~shall must~~ be rendered against the defendant, guilty of the forcible entry or forcible or unlawful detainer, for three times the amount of the damages ~~thus~~ assessed and of the rent found due.

(3) When the proceeding is for an unlawful detainer after default in the payment of the rent and the lease or agreement under which the rent is payable has not by its terms expired, execution upon the judgment ~~shall may~~ not be issued until the expiration of 5 days after the entry of the judgment, within which time the tenant or any subtenant or any mortgagee of the term or other party interested in its continuance may pay into court for the landlord the amount found due as rent with interest ~~thereon~~ and the amount of damages found by the jury or the court for the unlawful detainer and the costs of the proceeding, and ~~thereupon upon the payment,~~ the judgment ~~shall be is~~ satisfied and the tenant *must* be restored to ~~his the~~ *the tenant's* estate; ~~but~~ *However,* if the payment, ~~as here provided,~~ *be is* not made within the 5 days, the judgment may be enforced for its full amount and for the possession of the premises. In all other cases the judgment may be enforced immediately.”

Section 2197. Section 70-27-207, MCA, is amended to read:

“70-27-207. Holdover or collusion after notice — treble rent. If any tenant or any person in collusion with the tenant holds over any lands or tenements after demand made and 1 month’s notice *given* in writing ~~given,~~ requiring the possession ~~thereof of the land or tenement,~~ ~~such the~~ person holding over ~~must shall~~ pay to the landlord treble rent during the time ~~he the person~~ continues in possession after ~~such the~~ notice.”

Section 2198. Section 70-27-208, MCA, is amended to read:

“70-27-208. Holdover after tenant’s notice to quit — treble rent. If any tenant gives notice of ~~his the~~ intention to quit the premises and does not deliver up the possession at the time specified in the notice, ~~he must the tenant~~ *shall* pay to the landlord treble rent during the time ~~he the tenant~~ continues in possession after ~~such the~~ notice.”

Section 2199. Section 70-27-210, MCA, is amended to read:

“70-27-210. Relief against forfeiture of lease in case of hardship. (1) The court may relieve a tenant against a forfeiture of a lease and restore ~~him the~~ *the tenant* to ~~his the~~ *the tenant's* former estate in the case of hardship ~~where when~~ application for ~~such~~ relief is made within 30 days after the forfeiture is declared by the judgment of the court, as provided in 70-27-205.

(2) The application may be made by a tenant or subtenant or mortgagee of the term or any person interested in the continuance of the term. It must be made upon petition, setting forth the facts upon which relief is sought, and *must* be verified by the applicant.

(3) Notice of the application with a copy of the petition must be served on the plaintiff in the judgment, who may appear and contest the application.

(4) ~~In no case shall the~~ *The* application *may not* be granted except on condition that full payment of rent due or full performance of conditions or covenants stipulated, ~~so as far as the same is practicable, be is made.~~

Section 2200. Section 70-28-104, MCA, is amended to read:

“70-28-104. Parties defendant — unknown claimants. (1) In any action brought under 70-28-101 and 70-28-103, the plaintiff may join as defendants any or all persons, known or unknown, claiming or who might claim any right, title, estate, or interest in or lien or encumbrance upon the real property described in the complaint adverse to plaintiff’s ownership or any cloud upon plaintiff’s title, whether ~~such~~ *the* claim or possible claim be present or contingent, including the person or persons in possession if the plaintiff is not in possession.

(2) If the plaintiff ~~shall desire~~ *desires* to obtain a complete adjudication of the title to the real estate described in the complaint, ~~he~~ *the plaintiff* may name as defendants all known persons who assert or who might assert any claim as ~~in this section above specified in subsection (1) and may join as defendants all persons unknown who might make any such claim by adding in the caption of the complaint in such the action the words “and all other persons, unknown, claiming or who might claim any right, title, estate, or interest in or lien or encumbrance upon the real property described in the complaint adverse to plaintiff’s ownership or any cloud upon plaintiff’s title thereto, whether such the claim or possible claim be is present or contingent”.~~

Section 2201. Section 70-28-106, MCA, is amended to read:

“70-28-106. Notice of action to be filed with clerk and recorder. Before any order for the publication of summons is granted as provided in Rule 4, M.R.Civ.P., the plaintiff shall file, in the office of the clerk and recorder of each county in which any of the property involved in ~~such~~ *the* action is situated, a notice of the pendency of ~~such~~ *the* action, signed by the plaintiff or ~~his~~ *the plaintiff’s* attorney, ~~which~~ *The* notice ~~shall must~~ contain:

- (1) the title of the court in which ~~such~~ *the* action is filed;
- (2) the full caption of the cause;
- (3) a complete description of all the property involved in ~~such~~ *the* action; and
- (4) a statement of the relief sought by *the* plaintiff.”

Section 2202. Section 70-28-108, MCA, is amended to read:

“70-28-108. Prerequisites to decree against defendant not present. Before *the* plaintiff ~~shall be is~~ entitled to a decree in ~~such an~~ action against any defendant who ~~shall does~~ not appear ~~therein in the action, he must~~ *the plaintiff shall* produce evidence sufficient to prima facie entitle ~~him~~ *the plaintiff* to relief, ~~and~~ *The* relief ~~shall may~~ be granted only to the extent to which ~~such the~~ evidence ~~shall~~ prima facie ~~prove him~~ *proves the plaintiff* to be entitled to the ~~same; relief.~~ ~~but~~ *However,* this provision ~~shall may~~ not affect the procedure in or manner of trial of ~~such the~~ actions as between the plaintiff and any defendant who ~~shall appear appears~~ in ~~such the~~ action.”

Section 2203. Section 70-28-110, MCA, is amended to read:

“70-28-110. When value of improvements may be allowed as setoff. When damages are claimed for withholding the property recovered upon which permanent improvements have been made by a defendant or those under whom ~~he~~ *the defendant* claims, holding under color of title adversely to the claim of

plaintiff, in good faith, the value of ~~such~~ *the* improvements must be allowed as setoff against ~~such~~ *the* damage.”

Section 2204. Section 70-28-111, MCA, is amended to read:

“70-28-111. Termination of plaintiff’s right during action — damages for withholding. In an action for the recovery of real property ~~where~~ *when* the plaintiff shows a right to recover at the time the action was commenced but it appears that ~~his~~ *the plaintiff’s* right has terminated during the pendency of the action, the verdict and judgment must be according to the fact and the plaintiff may recover damages for withholding the property.”

Section 2205. Section 70-28-112, MCA, is amended to read:

“70-28-112. Costs. If the defendant in ~~such a quiet title~~ *action disclaim disclaims* in ~~his~~ *the* answer any interest or estate in the property or ~~suffer allows~~ *judgment to be taken against him the defendant* without answer, the plaintiff ~~shall may~~ *not* recover costs. ~~But However,~~ *in actions which that* the plaintiff has brought under ~~section 2326 of the Revised Statutes of the United States 30 U.S.C. 30~~ *to determine an adverse claim, the plaintiff shall recover costs if the defendant does not relinquish in the proper United States land office or disclaim in writing any interest or estate in the property within 20 days from the filing of said the adverse claim in such the land office.*”

Section 2206. Section 70-28-113, MCA, is amended to read:

“70-28-113. Order for survey or measurement. (1) The court in which an action is pending for the recovery of real property or mining claims or for damages for an injury or to quiet title or to determine adverse claims ~~thereto to real property or mining claims~~ *or a judge thereof in the action* may on motion, upon notice by either party, for good cause shown, grant an order allowing to ~~such the~~ *party the* right to enter into or upon the property or mining claim and make survey or measurement ~~thereof of the property or claim~~ *or of any tunnels, shafts, or drifts therein in the property or claim* for the purpose of the action even though entry for ~~such that~~ *purpose* has to be made through other lands or mining claims belonging to parties to the action.

(2) The order must describe the property, and a copy ~~thereof of the order~~ *must be served on the owner or occupant, and thereupon such. Upon service, the party may enter the property, with necessary surveyors and assistants, and make such the survey and measurement; but However, if unnecessary damage be is done to the property, he the party is liable therefor for the damage.*”

Section 2207. Section 70-28-201, MCA, is amended to read:

“70-28-201. Action authorized. Whenever the government of the United States has granted lands in the state of Montana to the heirs of a deceased entryman, any person who claims an estate of inheritance or interest in ~~such the~~ *lands may bring and maintain an action in rem against all the world in the district court for the county in which such the real property is situated to establish his the person’s title to such the property and to determine all adverse claims thereto to the title. Any number of separate parcels of land claimed by the plaintiff may be included in the same action.*”

Section 2208. Section 70-28-206, MCA, is amended to read:

“70-28-206. Affidavit to accompany complaint. (1) At the time of filing the complaint, the plaintiff shall file with the ~~same his~~ *complaint the plaintiff’s* affidavit fully and explicitly setting forth and showing:

(a) the character of ~~his the plaintiff’s~~ *estate, right, title, interest, or claim in the property;*

(b) whether or not ~~he~~ *the plaintiff* has ever made any conveyance of ~~his~~ *the plaintiff's* interest in ~~said~~ *the* property or any part ~~thereof~~ *of the property* and, if so, when and to whom; ~~the conveyance was made and~~ also a statement of ~~any and~~ all existing mortgages, deeds of trust, judgments, or other liens ~~thereon~~ *on the property*;

(c) when and where the deceased entryman of ~~said~~ *the* property died;

(d) what kin or relationship the claimant bore to the entryman at the time of ~~his~~ *the entryman's* death; and

(e) the names and residences of any other persons who are next of kin or entitled to succeed to any portion of the lands, the subject of ~~said~~ *the* action, and the names of and residences of all persons who have liens upon the property or any part ~~thereof~~ *of the property* adversely to the plaintiff if ~~he~~ *the plaintiff* knows or has been informed or has been able to discover any ~~such~~ *adverse* person.

(2) If the plaintiff is unable to state any one or more of the matters ~~herein~~ required *in subsection (1)*, ~~he~~ *the plaintiff* shall set forth and show fully and explicitly the reasons for ~~such~~ *the* inability.

(3) ~~Such~~ *The* affidavit ~~shall constitute~~ *constitutes* a part of the judicial record.

(4) If the plaintiff ~~be~~ *is* a person under guardianship, the affidavit ~~shall~~ *must* be made by ~~his~~ *the* guardian.”

Section 2209. Section 70-28-209, MCA, is amended to read:

“70-28-209. Personal service of summons — service by mail. (1) If the affidavit discloses the name of any person next of kin or relationship to the deceased entryman or entitled to succeed to any part of ~~said~~ *the* property or the name of a person who claims or may claim an interest by mortgage, trust deed, judgment, or other lien, the summons ~~shall~~ *must* also be personally served upon ~~such~~ *that* person, if ~~he~~ *the person* can be found within the state, together with a copy of the complaint and a copy of ~~said~~ *the* affidavit, during the period of the publication of the summons, and ~~there must be attached~~ *to the copy of the summons delivered to any such the person there shall be appended* a copy of the memorandum provided in 70-28-208.

(2) If ~~such~~ *the* person resides out of the state, a copy of the summons, memorandum, complaint, and affidavit ~~shall~~ *must* be, within 10 days after the first publication of the summons, deposited in the United States post office, enclosed in a sealed envelope, postage prepaid, addressed to ~~such~~ *the* person at the address given in the affidavit or, if ~~no~~ *an* address ~~be~~ *is not* given ~~therein~~ *in the affidavit*, then at the county seat of the county in which the action was brought. If ~~such~~ *the* person resides within the state and could not with due diligence be found within the state within the period of the publication of the summons, then ~~said~~ *the* notice ~~aforsaid~~ *shall* ~~described in this subsection~~ *must* be mailed to ~~him~~ *the person*, as ~~above~~ *provided in this subsection*, ~~forthwith~~ upon the expiration of ~~said~~ *the* period of ~~said~~ *publication*.”

Section 2210. Section 70-28-212, MCA, is amended to read:

“70-28-212. Time for appearance by defendant — answer. At any time within the first 60 days from the first publication of the summons or within ~~such~~ *a* further time, not exceeding 30 days, as ~~that~~ *the* court may for good cause grant, any person having or claiming any estate, right, title, or interest in or to or lien upon ~~said~~ *the* property or any part ~~thereof~~ *of the property* may appear and ~~make~~ *himself* ~~become~~ a party to the action by pleading to the complaint. All answers

must be verified and set forth specifically the kin or relationship of the deceased entryman and the estate, right, title, interest, or lien so claimed.”

Section 2211. Section 70-28-213, MCA, is amended to read:

“70-28-213. Recording of notice by plaintiff and defendant. (1) The plaintiff ~~must~~ *shall*, at the time of filing the complaint, and every defendant to claim or claiming any affirmative relief ~~must~~ *shall*, at the time of filing ~~his~~ *an* answer, record in the office of the county clerk and recorder of the county in which the property is situated a notice of the pendency of the action containing the object of the action or the defense and a particular description of the property affected ~~thereby~~ *by the action*.

(2) The clerk and recorder shall record the ~~same~~ *filing* in a book of the miscellaneous records of ~~his~~ *the clerk's* office and *shall* make a reference as to the date and time of the filing of ~~such~~ *the* notice and, when recorded, to the book and page record ~~thereof~~.”

Section 2212. Section 70-28-215, MCA, is amended to read:

“70-28-215. Judgment — nature and effect — recording. (1) The judgment ~~shall~~ *must* ascertain and determine the heirship of ~~said~~ *the* deceased entryman and all estates, rights, titles, interests, and claims in and to ~~said~~ *the* property and every part ~~thereof~~ *of the property*, whether the ~~same~~ *be* ~~estates, rights, titles, interests, and claims~~ *are* legal or equitable, present or future, vested or contingent, or whether the ~~same~~ *estates, rights, titles, interests, and claims* ~~consists~~ *consist* of mortgages or liens of any description, ~~and shall~~ *The judgment must* be binding and conclusive upon every person who, at the time of the commencement of the action, had or claimed to have any estate, right, title, or interest in or to ~~said~~ *the* property or any part ~~thereof~~ *of the property* and upon every person claiming under ~~him~~ *the person* by title subsequent to the commencement of the action.

(2) A certified copy of the judgment in ~~such~~ *the* action ~~shall~~ *must* be recorded in the office of the clerk and recorder of the county in which ~~said~~ *the* action was commenced, and any party or the successor in interest of any party to ~~said~~ *the* action may ~~at his option~~ file for record in the office of the clerk and recorder of ~~such~~ *the* county the entire judicial record in ~~said~~ *the* action.”

Section 2213. Section 70-28-303, MCA, is amended to read:

“70-28-303. Notice requirements. Upon petition by a claimant for a deed to a lot on entry townsite land, the claimant shall provide published notice of ~~his~~ *the* claim, notice filed with the county clerk and recorder, and personal service as may be required for quiet title actions under Title 70, chapter 28, part 1.”

Section 2214. Section 70-29-102, MCA, is amended to read:

“70-29-102. Action by minor. (1) An action for the partition of real property ~~shall~~ *may* not be brought by a minor, except by the written authority of the district judge of the county in which the property or a part ~~thereof~~ *of the property* is situated. The authority ~~shall~~ *may* not be given unless the district judge is satisfied, by affidavit or other competent evidence, that the interests of the minor will be promoted by bringing the action.

(2) A judgment for a partition ~~shall~~ *may* not be rendered in ~~such~~ *an* action unless the court is satisfied that the interests of the minor will be promoted ~~thereby~~ and that fact is expressly recited in the judgment.

(3) A guardian ad litem for a minor party, in an action for partition, ~~can~~ *may* be appointed only by the court or judge and ~~must~~ *shall* give an undertaking in a sum fixed by the judge for the faithful discharge of ~~his~~ *the guardian ad litem's*

trust, ~~which~~ *The* undertaking must be approved by the judge and filed with the clerk.”

Section 2215. Section 70-29-105, MCA, is amended to read:

“70-29-105. Who may be joined as defendants. (1) The plaintiff may, ~~at his election,~~ make a tenant in dower, for life or for years, of the entire property or a creditor or other person having a lien or interest ~~which~~ *that* attaches to the entire property a defendant in the action. In that case the final judgment may either award to ~~such a party his or her~~ *the party's* entire right and interest or the proceeds ~~thereof of the right or interest~~ or may reserve and leave unaffected ~~his or her the party's~~ right or interest or any portion ~~thereof of the right or interest~~.

(2) A person specified in this section who is not made a party is not affected by the judgment in the action.”

Section 2216. Section 70-29-108, MCA, is amended to read:

“70-29-108. Lienholders of record to be notified. (1) The plaintiff ~~must~~ *shall* cause a notice to be served a reasonable time ~~previous prior~~ to the day for appearance before the referee appointed, as provided in 70-29-107, on each person having outstanding liens of record who is not a party to the action to appear before the referee at a specified time and place to make proof by ~~his the~~ *the person's* own affidavit or otherwise of the amount due or to become due, contingently or absolutely, ~~thereon on the lien~~.

(2) ~~In case such~~ *If the person be is* absent or ~~his the person's~~ residence ~~be is~~ unknown, service may be made by publication or notice to ~~his the person's~~ agents, under the direction of the court, in ~~such a proper manner as may be proper~~.

(3) The report of the referee ~~thereon~~ must be made to the court and must be confirmed, modified, or set aside and a new reference ordered, as the justice of the case may require.”

Section 2217. Section 70-29-201, MCA, is amended to read:

“70-29-201. Trial of title or interest of parties. The right of the several parties, plaintiff as well as defendant, may be put in issue, tried, and determined in ~~such the~~ *the* partition action. The title or interest of the plaintiff in the property, as stated in the complaint, may be controverted by the answer. The title or interest of any defendant in the property, as stated in the complaint, may also be controverted by ~~his the defendant's~~ answer or the answer of any other defendant, and the title or interest of any defendant, as stated in ~~his that~~ *that defendant's* answer, may be controverted by the answer of any other defendant and the issues joined as prescribed in Title 25, which may be tried before a jury if the court ~~so direct~~ *directs*.”

Section 2218. Section 70-29-208, MCA, is amended to read:

“70-29-208. Allotment of land to grantee of tenant in common. Whenever it ~~shall appear~~ *appears* in an action for the partition of lands that one or more of the tenants in common, being the owner of an undivided interest in the tract of land sought to be partitioned, has sold to another person a specific tract by metes and bounds out of the common land and executed to the purchaser a deed of conveyance, purporting to convey the whole title to ~~such the~~ specific tract to the purchaser in fee and in severalty, the land described in ~~such the~~ deed ~~shall must~~ be allotted and set apart in partition to ~~such the~~ purchaser, ~~his or the purchaser's~~ heirs, or assigns or in ~~such other another~~ manner ~~as shall make such that makes the deed~~ effectual as a conveyance of the whole title to ~~such the~~ segregated parcel if ~~such the~~ tract or tracts of land can be ~~so~~ allotted or

set apart without material injury to the rights and interests of the other cotenants who may not have joined in ~~such~~ *the* conveyance.”

Section 2219. Section 70-29-209, MCA, is amended to read:

“70-29-209. Compensation of one party by another in certain cases of partition. (1) When it appears that a partition cannot be made equal between the parties according to their respective rights without prejudice to the rights and interests of some of them and a partition ~~be is~~ ordered, the court may adjudge compensation to be made by one party to another on account of the inequality, ~~but such~~ *However, the* compensation ~~shall~~ *may* not be required to be made to others by owners unknown or by a minor unless it appears that ~~such the~~ minor has personal property sufficient for that purpose and that ~~his the~~ *the* minor’s interest will be promoted ~~thereby~~.

(2) In all cases, the court ~~has power to~~ *may* make compensatory adjustment between the respective parties according to the ordinary principles of equity.”

Section 2220. Section 70-29-212, MCA, is amended to read:

“70-29-212. Judgment upon confirmation of report — effect. (1) The court may confirm, change, modify, or set aside the report and if necessary appoint new referees.

(2) Upon the report being confirmed, judgment must be rendered that ~~such the~~ partition ~~be is~~ effectual forever, ~~which~~ *The* judgment is binding and conclusive on all:

(a) persons named as parties to the action and their legal representatives, who have at the time any interest in the property divided or any part ~~thereof of the property~~, as owners in fee or as tenants for life or for years or as entitled to the reversion, remainder, or the inheritance of ~~such the~~ property or any part ~~thereof of the property~~ after the determination of a particular estate ~~therein in the property~~, and who by any contingency may be entitled to a beneficial interest in the property or who have an interest in any undivided share ~~thereof of the property~~; as tenants for years or for life;

(b) persons interested in the property, who may be unknown, to whom notice has been given of the action for partition by publication; *and*

(c) other persons claiming from ~~such the~~ parties or persons or either of them.

(3) ~~No~~ *A* judgment is *not* invalidated by reason of the death of any party before final judgment or decree, but ~~such the~~ judgment or decree is as conclusive against the heirs, legal representatives, or assigns of ~~such the~~ decedent as if it had been entered before ~~his the~~ *the* decedent’s death.”

Section 2221. Section 70-29-216, MCA, is amended to read:

“70-29-216. Abstract of title — when cost of allowed — filing and inspection. (1) If it appears to the court that it was necessary to have made an abstract of the title to the property to be partitioned and ~~such the~~ abstract ~~shall have~~ *has* been procured by the plaintiff or if the plaintiff ~~shall have~~ *has* failed to have the ~~same abstract~~ made before the commencement of the action and any one of the defendants ~~shall have~~ *has* had ~~such the~~ abstract ~~afterward~~ made, the cost of the abstract, with interest ~~thereon on the cost~~ from the time the ~~same abstract~~ is subject to the inspection of the respective parties to the action, must be allowed and taxed.

(2) Whenever ~~such the~~ abstract is procured by the plaintiff, before the commencement of the action ~~he must~~ *the plaintiff shall* file with ~~his the~~ complaint a notice that an abstract of the title has been made and is subject to

the inspection and use of all the parties to the action, designating ~~therein~~ *in the notice* where the abstract will be kept for inspection. ~~But~~ *However*, if the plaintiff ~~shall have~~ *has* failed to procure ~~such~~ *the* abstract before commencing the action and any defendant ~~shall procure~~ *procures* the ~~same~~ *abstract* to be made, ~~he~~ *the defendant* shall, as soon as ~~he~~ *the defendant* has directed ~~it~~ *the abstract* to be made, file a notice ~~thereof~~ *of the procurement* in the action with the clerk of the court, stating who is making the ~~same~~ *abstract* and where it will be kept when finished.

(3) The court or judge ~~thereof~~ may direct, from time to time during the progress of the action, who ~~shall~~ *must* have the custody of the abstract.”

Section 2222. Section 70-29-217, MCA, is amended to read:

“70-29-217. Abstract — how made and verified. The abstract mentioned in 70-29-216 may be made by any competent searcher of records and need not be certified by the county clerk and recorder or other officer, but instead ~~thereof~~ *of certification* it must be verified by the affidavit of the person making it to the effect that ~~he~~ *the person* believes it to be correct; ~~but~~ *However*, the ~~same~~ *abstract* may be corrected from time to time, if found incorrect, under the direction of the court.”

Section 2223. Section 70-29-219, MCA, is amended to read:

“70-29-219. Expenses of referees and surveyor. The expenses of the referees, including those of a surveyor and ~~his~~ *the surveyor’s* assistants, when employed, must be ascertained and allowed by the court, and the amount ~~thereof~~ *of those expenses*, together with the fees allowed by the court in its discretion to the referees, must be apportioned among the different parties to the action equitably.”

Section 2224. Section 70-29-221, MCA, is amended to read:

“70-29-221. Expenses of previous litigation. If it ~~appear~~ *appears* that other actions or proceedings have been necessarily prosecuted or defended by any one of the tenants in common for the protection, confirmation, or perfecting of the title or setting the boundaries or making a survey or surveys of the estate partitioned, the court shall allow to the parties to the action who have paid the expense of ~~such~~ *the* litigation or other proceedings all the expenses necessarily incurred ~~therein~~ *in the litigation or proceedings*, except counsel fees, ~~which shall~~ *that* have accrued to the common benefit of the other tenants in common, with interest ~~thereon~~ *on the expenses* from the date of making the expenditures, and the ~~same~~ *expenses* must be pleaded and allowed by the court and included in the final judgment and ~~shall~~ *be* a lien upon the share of each tenant, respectively, in proportion to ~~his~~ *the tenant’s* interest and ~~shall~~ *must* be enforced in the same manner as ~~that~~ *taxable costs of partition* are taxed and collected.”

Section 2225. Section 70-29-304, MCA, is amended to read:

“70-29-304. Party or encumbrancer as purchaser. When a party entitled to a share of the property or an encumbrancer entitled to have ~~his~~ *a* lien paid out of the sale becomes a purchaser, the referees may take ~~his~~ *the purchaser’s* receipt for ~~so~~ *as* much of the proceeds of the sale as belongs to ~~him~~ *the purchaser*.”

Section 2226. Section 70-29-306, MCA, is amended to read:

“70-29-306. Security for sales on credit. The referees may take separate mortgages and other securities for the whole or convenient portions of the purchase money of ~~such~~ *parts of the property* as ~~that~~ *are* directed by the court to be sold on credit for the:

- (1) shares of any known owner of full age, in the name of ~~such~~ *the* owner;
- (2) shares of a minor, in the name of the guardian of ~~such~~ *the* minor; and
- (3) other shares, in the name of the clerk of the court of the county and ~~his~~ *the clerk's* successors in office."

Section 2227. Section 70-29-307, MCA, is amended to read:

"70-29-307. Security taken and investment made in name of clerk. When the security of the proceeds of sale is taken or when an investment of any ~~such~~ proceeds is made, it must be done, except as ~~herein~~ otherwise provided *in this part*, in the name of the clerk of the court where the papers are filed and ~~his~~ *the clerk's* successors in office, who must hold the ~~same~~ *proceeds* for the use and benefit of the persons interested; subject to the order of the court."

Section 2228. Section 70-29-326, MCA, is amended to read:

"70-29-326. Tenant for life or years — compensation upon sale. (1) The person entitled to a tenancy for life or years or who has a right or inchoate right of dower, *and* whose estate has been sold; is entitled to receive ~~such~~ *a* sum as *that* may be ~~deemed considered~~ a reasonable satisfaction for ~~such~~ *the* estate and ~~which~~ *that* the person ~~so~~ entitled may consent to accept instead ~~thereof~~ *of the right* by an instrument in writing filed with the clerk of the court. Upon the filing of ~~such~~ *the* consent, the clerk ~~must~~ *shall* enter the ~~same~~ *consent* in the minutes of the court.

(2) If ~~such~~ *the* consent ~~be~~ *is* not given, filed, and entered, as provided in subsection (1), at or before a judgment of sale is rendered, the court ~~must~~ *shall* ascertain and determine what proportion of the proceeds of the sale, after deducting expenses, will be a just and reasonable sum to be allowed on account of ~~such~~ *the* estate and ~~must~~ *shall* order the ~~same~~ *sum* to be paid to ~~such~~ *the* party or deposited in court for ~~him~~ *or her* ~~the~~ *party*, as the case may require.

(3) If the persons entitled to ~~such~~ *the* estate for life or years ~~be~~ *are* unknown, the court ~~must~~ *shall* provide for the protection of their rights in the same manner, ~~as far as may be~~, as if they were known and had appeared."

Section 2229. Section 70-29-327, MCA, is amended to read:

"70-29-327. Minor's share of proceeds — payment to guardian. When the share of a minor is sold, the proceeds of the sale may be paid by the referee making the sale to ~~his~~ *the minor's* general guardian or the special guardian appointed for ~~him~~ *the minor* in the action upon giving the security required by law or directed by order of the court."

Section 2230. Section 70-29-330, MCA, is amended to read:

"70-29-330. Duty of clerk as to security and investments. The clerk of court in whose name a security is taken or by whom an investment is made and ~~his~~ *the clerk's* successors in office ~~must~~:

- (1) *must* receive the interest and principal as it becomes due and *shall* apply and invest the ~~same~~ *interest and principal* as the court may direct;
- (2) *shall* deposit with the county treasurer all securities taken; and
- (3) *shall* keep an account of investments and ~~moneys~~ *money* received by ~~him~~ *thereon* and the disposition ~~thereof~~ *of the investments and money* in a book provided and kept for that purpose in the clerk's office; *that is* free for inspection by all persons."

Section 2231. Section 70-31-302, MCA, is amended to read:

“70-31-302. Reimbursement of closing costs and taxes incurred by owner. ~~Any~~ *An* agency acquiring real property for a program or project (for which federal financial assistance will be available to pay all or any part of the cost of the program or project) shall, as soon as practicable after the date of payment of the purchase price or the date of deposit into court of funds to satisfy the award of compensation in a condemnation proceeding to acquire real property, whichever is the earlier, reimburse the owner to the extent the acquiring agency ~~deems~~ *considers* fair and reasonable for:

(1) expenses ~~he~~ *the owner* necessarily incurred for recording fees, transfer taxes, and similar expenses incidental to conveying ~~such~~ *the* real property to the acquiring agency;

(2) penalty costs for prepayment for any preexisting recorded mortgage or deed of trust entered into in good faith encumbering ~~such~~ *the* real property; and

(3) the pro rata portion of real property taxes paid ~~which~~ *that* are allocable to a period subsequent to the date of vesting title in the acquiring agency or the effective date of possession of ~~such~~ *the* real property by the acquiring agency, whichever is ~~the~~ *the* earlier.”

Section 2232. Section 70-31-303, MCA, is amended to read:

“70-31-303. Inverse condemnation — reimbursement of expenses of proceeding. ~~Where~~ *When* an inverse condemnation proceeding is instituted by the owner of any right, title, or interest in real property because of the alleged taking of ~~his~~ *the owner's* property for any program or project (for which federal financial assistance will be available to pay all or any part of the cost of the program or project), the court rendering a judgment for the plaintiff in ~~such~~ *the* proceeding and awarding compensation for the taking of property or ~~the~~ attorney for the acquiring agency effecting a settlement of any ~~such~~ proceeding shall determine and award or allow to ~~such~~ *the* plaintiff as a part of ~~such~~ *the* judgment or settlement ~~such~~ *a sum as that* will, in the opinion of the court or ~~such~~ *the* attorney, reimburse ~~such~~ *the* plaintiff for ~~his~~ *the plaintiff's* reasonable costs, disbursements, and expenses including reasonable attorney, appraisal, and engineering fees actually incurred because of ~~such~~ *the* proceeding.”

Section 2233. Section 70-31-304, MCA, is amended to read:

“70-31-304. Reimbursement of costs when condemnation proceedings dismissed or abandoned. ~~Where~~ *When* a condemnation proceeding is instituted by an agency to acquire real property for a program or project (for which federal financial assistance is available) and the final judgment is that the real property cannot be acquired by condemnation or that the proceeding is abandoned, the owner of any right, title, or interest in ~~such~~ *the* real property ~~shall~~ *must* be paid ~~such~~ *a sum as that* will, in the opinion of the court, reimburse ~~such~~ *the* owner for ~~his~~ *the owner's* reasonable attorney, appraisal, and engineering fees actually incurred because of the condemnation proceedings. The award of ~~such~~ *sums will the sum must* be paid by the agency ~~which~~ *that* sought to condemn the property.”

Section 2234. Section 70-31-305, MCA, is amended to read:

“70-31-305. Acquisition of buildings and improvements affected. (1) ~~Where~~ *When* any interest in real property is acquired for a program or project (for which federal assistance will be available to pay all or any part of the cost of the program or project), the acquiring agency shall acquire an equal interest in all buildings, structures, or other improvements *that are* located upon the real property ~~so~~ *acquired* and ~~which~~ *that* are required to be removed from ~~such~~ *the*

real property or ~~which~~ *that* the acquiring agency determines will be adversely affected by the use to which ~~such~~ *the* real property will be put.

(2) For the purpose of determining the just compensation to be paid for any building, structure, or other improvement required to be acquired by subsection (1) ~~of this section, such~~ *the* building, structure, or other improvement ~~shall be deemed is considered~~ to be a part of the real property to be acquired notwithstanding the right or obligation of a tenant, as against the owner of any other interest in the real property, to remove ~~such~~ *the* building, structure, or improvement at the expiration of ~~his~~ *the tenant's* term; ~~and the~~ *The* fair market value ~~which~~ *such* ~~that~~ *the* building, structure, or improvement contributes to the fair market value of the real property to be acquired or the fair market value of ~~such~~ *the* building, structure, or improvement for removal from the real property, whichever is the greater, ~~shall~~ *must* be paid to the tenant ~~therefor~~.

(3) Payment for ~~such~~ buildings, structures, or improvements as set forth in subsection (2) ~~shall~~ *may* not result in duplication of any payments otherwise authorized by state law. ~~No such~~ *A* payment ~~shall~~ *may not* be made unless the owner of the land involved disclaims all interest in the improvements of the tenant. In consideration for any ~~such~~ payment, the tenant shall assign, transfer, and release all ~~his~~ *of the tenant's* right, title, and interest in and to ~~such~~ *the* improvements. ~~Nothing in this subsection or subsection~~ *Subsection (2) shall or this subsection may not* be construed to deprive the tenant of any rights to reject payment and to obtain payment for ~~such~~ *the* property interests in accordance with other laws of the state."

Section 2235. Section 70-32-103, MCA, is amended to read:

"70-32-103. From whose property homestead may be selected. If the claimant ~~be~~ *is* married, the homestead may be selected from the property of either spouse. When the claimant is not married, the homestead may be selected from any of ~~his or her~~ *the claimant's* property."

Section 2236. Section 70-32-209, MCA, is amended to read:

"70-32-209. Order dividing land — execution against remainder over exemption. If from the report it appears to the judge that the land claimed can be divided without material injury, ~~he~~ *must* ~~the judge shall~~ by an order direct the appraisers to set off to the claimant ~~so~~ *as* much of the land, including the residence, ~~as~~ *that* will amount in value to the homestead exemption, and the execution may be enforced against the remainder of the land."

Section 2237. Section 70-32-210, MCA, is amended to read:

"70-32-210. Sale when land cannot be divided. If from the report it appears to the judge that the land claimed exceeds in value the amount of the homestead exemption and that it cannot be divided, ~~he~~ *must* ~~the judge shall~~ make an order directing its sale under execution."

Section 2238. Section 71-1-113, MCA, is amended to read:

"71-1-113. Limit on the amount of funds on reserve. Except as provided in 71-1-114, if a lending institution requires a borrower under a mortgage or trust indenture of real property to include in ~~his~~ *the borrower's* regular payment additional payment into a reserve fund held by the lending institution for the future payment of property taxes, insurance premiums, and other expenses, the amount of funds on reserve may not exceed 110% of the projected amount needed to pay ~~such~~ *those* expenses."

Section 2239. Section 71-1-204, MCA, is amended to read:

“71-1-204. Form of mortgage. A mortgage of real property may be made in substantially the following form:

“This mortgage, made the day of, in the year, by A.B., of, mortgagor, to C.D., of, mortgagee, witnesseth:

That the mortgagor mortgages to the mortgagee (here describe the property), as security for the payment to ~~him~~ *the mortgagor* of dollars, on (or before) the day of, in the year, with interest ~~thereon~~ *on that amount* (or as security for the payment of an obligation, describing it, etc.).

.....
A.B.”

Section 2240. Section 71-1-207, MCA, is amended to read:

“71-1-207. Recording of mortgages and assignments. (1) Mortgages of real property may be acknowledged or proved, certified, and recorded in ~~like the same~~ *like the same* manner and with ~~like the same~~ *like the same* effect as grants ~~thereof of real property~~.

(2) An assignment of a real estate mortgage may be recorded in ~~like the same~~ *like the same* manner as a real estate mortgage, and the record ~~thereof shall operate~~ *operates* as ~~due and~~ legal notice to the mortgagor and all persons subsequently deriving title to the mortgage from the assignor as well as to all other persons, including subsequent purchasers, encumbrancers, mortgagees, or other lienholders. ~~Any such~~ *An assignment shall must* contain the assignee’s post-office address at ~~his~~ *the assignee’s* place of residence and ~~shall may~~ *shall* not be ~~entitled to be~~ recorded or filed unless it contains ~~such the~~ *the* post-office address.”

Section 2241. Section 71-1-209, MCA, is amended to read:

“71-1-209. Recording defeasance necessary to affect grant. When a grant of real property purports to be an absolute conveyance but is intended to be defeasible on the performance of certain conditions, ~~such the~~ *the* grant is not defeated or affected as against any person other than the grantee or ~~his the~~ *the* grantee’s heirs or devisees or persons having actual notice unless an instrument of defeasance, duly executed and acknowledged, ~~shall have~~ *has* been recorded in the office of the county clerk of the county where the property is situated.”

Section 2242. Section 71-1-210, MCA, is amended to read:

“71-1-210. Period of mortgage — renewal. ~~Every~~ *A* mortgage of real property made, acknowledged, and recorded as provided by the laws of this state ~~shall be is~~ *is* good as against all from the time it is ~~so~~ recorded until 8 years after the maturity of the entire debt or obligation secured ~~thereby~~ and no longer; unless the mortgagee; ~~his or the mortgagee’s~~ *the mortgagee’s* heirs, executors, administrators, representatives, or assigns ~~shall~~, within 60 days after the expiration of ~~said the~~ *the* 8 years, file in the office of the county clerk where ~~said the~~ *the* mortgage is recorded an affidavit setting forth the date of ~~said the~~ *the* mortgage, when and where recorded, the amount of the debt secured ~~thereby~~, and the amount remaining unpaid and that the mortgage is not renewed for the purpose of hindering, delaying, or defrauding creditors of the mortgagor or owner of the land. ~~and upon~~ *Upon* the filing of ~~said the~~ *the* affidavit, the mortgage ~~shall be is~~ *is* valid against all persons for a ~~further period of an additional~~ *further period of an additional* 8 years.”

Section 2243. Section 71-1-211, MCA, is amended to read:

“71-1-211. Satisfaction of mortgage — record thereof. (1) A mortgage ~~shall must~~ *must* be discharged upon the record ~~thereof~~ by the county clerk in whose custody it ~~shall be is~~ *is* recorded whenever there ~~shall be is~~ *is* presented to ~~him the~~ *the* clerk a certificate executed by the mortgagee, ~~his the~~ *the* mortgagee’s personal

representative or assignee, acknowledged or proved and certified as *prescribed* in this code ~~prescribed to entitle chapter that entitles~~ a conveyance to be recorded, specifying that ~~such the~~ mortgage has been paid or otherwise satisfied or discharged.

(2) Every ~~such~~ certificate and the proof and acknowledgment thereof ~~shall~~ *must* be recorded at full length, and a reference ~~shall~~ *must* be made to the book and page containing ~~such the~~ record in the mortgagor and mortgage indexes as to the discharge of ~~such the~~ mortgage.”

Section 2244. Section 71-1-213, MCA, is amended to read:

“71-1-213. Discharge or release by other than mortgagee. (1) If ~~the a~~ discharge or release is made by the personal representative of the mortgagee, it must be accompanied by a certified copy of ~~his the personal representative’s~~ authority unless ~~such the~~ authority is already ~~of record~~ recorded in the office of the county clerk and recorder where the mortgage is recorded.

(2) If the discharge or release is made by an assignee, it must be accompanied by the assignment of the mortgage unless the assignment is already ~~of record~~ recorded in the office of the county clerk and recorder where the mortgage is recorded.

(3) If the discharge or release is executed by an ~~attorney-in-fact~~ *attorney-in-fact*, the discharge or release must have attached to it the power of attorney under which it is made unless the power of attorney is already ~~of record~~ recorded in the office of the county clerk and recorder where the mortgage is recorded.

(4) If the discharge or release is executed by the heir or heirs of the mortgagee, the discharge or release must be accompanied by a certified copy of an order or decree of a court of competent jurisdiction showing ~~such the~~ authority unless the order or decree is already ~~of record~~ recorded in the office of the county clerk and recorder where the mortgage is recorded.

(5) Foreign administrators and executors may discharge or release mortgages of record in Montana if the discharge or release of mortgages is accompanied by an authenticated copy of their letters of administration or letters testamentary, with the certificate of the clerk of the court in which the appointment was made that the ~~same the letters~~ have not been revoked and are in full force, ~~which~~ *The* certificate and certified copy of letters ~~shall~~ *must* be recorded with the discharge or release of the mortgage. When presented and recorded, the discharge or release has the same effect as if the mortgage was discharged or released by the mortgagee.”

Section 2245. Section 71-1-229, MCA, is amended to read:

“71-1-229. Possession of lands *land* prior to foreclosure upon default and during period of redemption. The purchaser of ~~lands land~~ at mortgage foreclosure is not entitled to the possession ~~thereof of the land~~ as against the execution debtor during the period of redemption allowed by law while the execution debtor personally occupies the land as a home for ~~himself the execution debtor~~ and ~~his the debtor’s~~ family. It is unlawful to insert in any mortgage of real estate any provision intended to constitute a waiver by the owner of real estate personally occupying land as a home for ~~himself the owner~~ and ~~the owner’s~~ family of the provision of this section or any provision intended to give the mortgagee possession of the land or premises prior to foreclosure upon default of tax, principal, or interest payments. The intention ~~hereof of this section~~ is to ~~insure~~ *ensure* to ~~such the~~ owner the possession of ~~his the~~ land prior to foreclosure and during the year of redemption.”

Section 2246. Section 71-1-230, MCA, is amended to read:

“71-1-230. Action to redeem mortgage. An action to redeem a mortgage of real property, with or without an account of rents and profits, may be brought by the mortgagor or those claiming under ~~him~~ *the mortgagor* against the mortgagee in possession or those claiming under ~~him~~ *the mortgagee*; unless ~~he~~ *the mortgagee in possession* or ~~they~~ *those claiming under the mortgagee* have continuously maintained an adverse possession of the mortgaged premises for 10 years after breach of some condition of the mortgage.”

Section 2247. Section 71-1-231, MCA, is amended to read:

“71-1-231. Redemption by multiple mortgagors. If there is more than one ~~such~~ mortgagor or more than one person claiming under a mortgagor, some of whom are not entitled to maintain ~~such~~ an action under the provisions of 71-1-230 or Title 27, chapter 2, any one of them who is entitled to maintain ~~such~~ an action may redeem ~~therein in the action~~ a divided or undivided part of the mortgaged premises; ~~according as his~~ *the person's* interest ~~may appear~~ *appears*, and have an accounting for a part of the rents and profits proportionate to ~~his~~ *the person's* interest in the mortgaged premises; on payment of a part of the mortgage money bearing the same proportion to the whole of ~~such~~ *the* money as the value of ~~his~~ *person's* divided or undivided interest in the premises bears to the whole of ~~such~~ *the* premises.”

Section 2248. Section 71-1-232, MCA, is amended to read:

“71-1-232. Deficiency judgment not allowed on foreclosure of purchase price mortgage. Upon the foreclosure of any mortgage, executed to any vendor of real property or to ~~his~~ *the vendor's* heirs, executors, administrators, or assigns for the balance of the purchase price of ~~such~~ *the* real property, the mortgagee ~~shall~~ *is* not be entitled to a deficiency judgment on account of ~~such~~ *the* mortgage or note or obligation secured by the ~~same~~ *the* mortgage.”

Section 2249. Section 71-1-234, MCA, is amended to read:

“71-1-234. Attorney's Attorney fee — petition and notice. If the mortgagee ~~shall demand~~ *demands* attorneys' attorney fees in case of the sale of real estate under and by virtue of the power of sale contained in any mortgage or deed of trust in this state, except in case of the sale of real estate by virtue of a power of sale conferred upon a trustee under a trust indenture as defined in the Small Tract Financing Act of Montana, ~~he~~ *the mortgagee* shall petition the district court of the county in which ~~said~~ *the* real estate or any part ~~thereof~~ *may be of the real estate* is situated to fix the amount of ~~such~~ *the* attorney's fee, attorney fees. ~~and a~~ A copy of ~~such~~ *the* petition shall *must* be served upon all parties having or claiming an interest of record in the property to be sold or ~~such~~ *of them as those parties* that may be found within the state, ~~which copy of said petition must be served~~ at least 10 days before the day fixed for hearing, ~~and notice~~ *Notice* of the time and place of ~~such~~ *the* hearing shall *must* be served at the same time as the copy of ~~said~~ *the* petition is served. ~~Such~~ A petition shall *must* be acted upon by the district court before the notice of sale by publication or posting, as ~~hereinbefore~~ provided for *in this part*, ~~shall be~~ *is* given.”

Section 2250. Section 71-1-312, MCA, is amended to read:

“71-1-312. Discontinuance of foreclosure proceedings when entire amount of default paid. (1) Whenever all or a portion of any obligation secured by a trust indenture has, prior to the maturity date fixed in ~~such~~ *the* obligation, become due or been declared due by reason of a breach or default in the performance of any obligation secured by the trust indenture, including a

default in the payment of interest or of any installment of principal or by reason of failure of the grantor to pay, in accordance with the terms of ~~such the~~ trust indenture, taxes, assessments, premiums for insurance, or advances made by the beneficiary in accordance with the terms of ~~such the~~ obligation or of ~~such the~~ trust indenture, the grantor or ~~his the~~ grantor's successor in interest in the trust property or any part ~~thereof of the trust property~~ or any other person having a subordinate lien or encumbrance of record ~~thereon on the trust property~~ or any beneficiary under a subordinate trust indenture, at any time prior to the time fixed by the trustee for the trustee's sale if the power of sale is to be exercised, may pay to the beneficiary or ~~his the~~ beneficiary's successor in interest the entire amount then due under the terms of ~~such the~~ trust indenture and the obligation secured ~~thereby (by the indenture,~~ including costs and expenses actually incurred and reasonable trustee's fees and ~~attorney's attorney fees),~~ other than ~~such the~~ portion of the principal ~~as that~~ would not then be due ~~had no if a default had not occurred and thereby cure the existing default theretofore existing.~~

(2) ~~Thereupon~~ Upon the payment described in subsection (1), all prior proceedings ~~theretofore~~ had or instituted to foreclose the trust indenture ~~shall~~ must be canceled and the obligation and the trust indenture ~~shall~~ must be reinstated and ~~shall be and remain~~ remains in force and effect the same as if ~~no such an~~ acceleration had *not* occurred.

(3) If the default is cured and the obligation and the trust indenture reinstated in the manner ~~hereinabove~~ provided, the beneficiary or ~~his the~~ beneficiary's assignee shall, on demand of any person having an interest in the trust property, execute, acknowledge, and deliver to ~~him the person~~ a request that the trustee execute, acknowledge, and deliver a cancellation of the recorded notice of sale under ~~such the~~ trust indenture.

(4) Any beneficiary under a trust indenture or ~~his the~~ beneficiary's assignee who, for a period of 30 days after ~~such the~~ demand, refuses to request the trustee to execute, acknowledge, and deliver ~~such a~~ cancellation ~~shall be is~~ liable to the person entitled to ~~such the~~ request for all damages resulting from ~~such the~~ refusal.

(5) A cancellation of a recorded notice of sale ~~shall,~~ when executed and acknowledged, ~~be is~~ entitled to be recorded and ~~shall be is~~ sufficient if it sets forth a reference to the trust indenture and the book and page where the ~~same indenture~~ is recorded, a reference to the notice of sale and to the book and page where the ~~same indenture~~ is recorded, and a statement that ~~such the~~ notice of sale is canceled."

Section 2251. Section 71-1-315, MCA, is amended to read:

"71-1-315. Notice — sale — payment. A trust deed may be foreclosed by advertisement and sale in the *following* manner ~~hereinafter provided~~:

(1) The trustee shall give notice of the sale in the following manner:

(a) At least 120 days before the date fixed for the trustee's sale, a copy of the recorded notice of sale ~~shall must~~ be mailed by ~~registered or~~ certified mail to:

(i) the grantor, at the grantor's address as set forth in the trust indenture or ~~(in the event no if the grantor's address of the grantor is not set forth in the trust indenture)~~ at the grantor's ~~last known~~ last-known address;

(ii) each person designated in the trust indenture to receive notice of sale whose address is set forth ~~therein in the trust indenture,~~ at ~~such that~~ address;

(iii) each person who has filed for record a request for a copy of notice of sale within the time and in the manner ~~hereinafter~~ provided *in this section*, at the address of ~~such the~~ person as set forth in ~~such the~~ request;

(iv) any successor in interest to the grantor whose interest and address appear of record at the filing date and time of the notice of sale, at ~~such that~~ address;

(v) any person ~~having~~ *who has* a lien or interest subsequent to the interest of the trustee and whose lien or interest and address appear of record at the filing date and time of the notice of sale, at ~~such that~~ address.

(b) At least 20 days before the date fixed for the trustee's sale, a copy of the recorded notice of sale ~~shall must~~ be posted in some conspicuous place on the property to be sold. Upon request of the trustee, the notice of sale ~~shall must~~ be posted by a sheriff or constable of the county ~~wherein in which~~ the property to be sold is located.

(c) A copy of the notice of sale ~~shall must~~ be published in a newspaper of general circulation published in any county in which the property or some part ~~thereof of the property~~ is situated, at least once each week for 3 successive weeks. If there is no ~~such~~ newspaper *of general circulation published in the county*, then copies of the notice of sale ~~shall must~~ be posted in at least three public places in each county in which the property or some part ~~thereof of the property~~ is situated. The posting or the last publication ~~shall must~~ be made at least 20 days before the date fixed for the trustee's sale.

(2) On or before the date of sale, there ~~shall must~~ be recorded in the office of the clerk and recorder of each county where the property or some part ~~thereof of the property~~ is situated, affidavits of mailing, posting, and publication showing compliance with the requirements of this section.

(3) On the date and at the time and place designated in the notice of sale, the trustee or ~~his the trustee's~~ attorney shall sell the property at public auction to the highest bidder. The property may be sold in one parcel or in separate parcels, and any person, including the beneficiary under the trust indenture but excluding the trustee, may bid at the sale. The person making the sale may, for any cause ~~he deems the person considers~~ expedient, postpone the sale for a period not exceeding 15 days by public proclamation at the time and place fixed in the notice of sale. No other notice of the postponed sale need be given. ~~In the event~~ If a sale cannot be held at the scheduled time by reason of the automatic stay provision of the United States Bankruptcy Code, 11 U.S.C. 362, or of a stay order issued by any court of competent jurisdiction, the person making the sale may, as often as ~~he the person~~ considers expedient, postpone the sale. Each postponement may not exceed 30 days, and all postponements, in the aggregate, may not exceed 120 days. Each postponement must be effected by a public proclamation at the time and place fixed in the notice of sale or fixed by previous postponement. No other notice of the postponed sale need be given.

(4) The purchaser at the sale shall pay the price bid in cash, and upon receipt of payment, the trustee shall execute and deliver a trustee's deed to the purchaser. ~~In the event~~ If the purchaser refuses to pay the purchase price, the person conducting the sale ~~shall have~~ *has* the right to resell the property at any time to the highest bidder. The party refusing to pay ~~shall be~~ *is* liable for any loss occasioned ~~thereby by the refusal~~, and the person making the sale may also, ~~in his discretion, thereafter~~ reject any other bid of ~~such the refusing~~ person."

Section 2252. Section 71-1-317, MCA, is amended to read:

"71-1-317. Deficiency judgment not allowed. When a trust indenture executed in conformity with this part is foreclosed by advertisement and sale, ~~no~~ other or further action, suit, or proceedings ~~shall may not~~ be taken or judgment entered for any deficiency against the grantor or ~~his the grantor's~~ surety,

guarantor, or successor in interest, if any, on the note, bond, or other obligation secured by the trust indenture or against any other person obligated on ~~such the~~ note, bond, or other obligation.”

Section 2253. Section 71-1-318, MCA, is amended to read:

“71-1-318. Trustee’s deed. (1) The trustee’s deed to the purchaser at the trustee’s sale may contain, in addition to a description of the property conveyed, recitals of compliance with the requirements of this part relating to the exercise of the power of sale and the sale, including recitals of the facts concerning the default, the notice given, the conduct of the sale, and the receipt of the purchase money from the purchaser.

(2) When the trustee’s deed is recorded in the deed records of the county or counties where the property described in the deed is situated, the recitals contained in the deed and in the affidavits required under 71-1-315(2) ~~shall be~~ *are* prima facie evidence in any court of the truth of the matters set forth ~~therein~~ *in the recitals*, except that the ~~same shall be the recitals are~~ *recitals are* conclusive evidence in favor of subsequent bona fide purchasers and encumbrancers for value and without notice.

(3) The trustee’s deed ~~shall operate~~ *operates* to convey to the purchaser, without right of redemption, the trustee’s title and all right, title, interest, and claim of the grantor and ~~his the grantor’s~~ successors in interest and of all persons claiming by, through, or under them in and to the property sold, including all ~~such~~ right, title, interest, and claim in and to ~~such the~~ property acquired by the grantor or ~~his the grantor’s~~ successors in interest subsequent to the execution of the trust indenture.”

Section 2254. Section 71-2-101, MCA, is amended to read:

“71-2-101. Definitions. (1) “Pledge” is a deposit of personal property by way of security for the performance of another’s act.

(2) A pledgor and pledgee may agree upon a third person with whom to deposit the property pledged, who, if ~~he the third person~~ *she the third person* accepts the deposit, is called a “pledge holder”.”

Section 2255. Section 71-2-106, MCA, is amended to read:

“71-2-106. Obligations of pledge holder. (1) A pledge holder for reward ~~cannot exonerate himself may not be self-exonerated~~ from ~~his the pledge holder’s~~ undertaking; ~~and a~~ A gratuitous pledge holder ~~can do so may be self-exonerated~~ only by giving reasonable notice to the pledgor and pledgee to appoint a new pledge holder and, ~~in case of their failure if they~~ to agree, by depositing the property pledged with some impartial person, who will then be entitled to a reasonable compensation for ~~his that person’s~~ *her that person’s* care of the ~~same~~ *property*.

(2) A pledge holder ~~must shall~~ enforce all the rights of the pledgee unless authorized by ~~him the pledgee~~ *her the pledgee* to waive ~~them~~ *those* rights.”

Section 2256. Section 71-2-107, MCA, is amended to read:

“71-2-107. Property pledged to extent of lien. ~~One~~ A person who has a lien upon property may pledge it to the extent of ~~his the person’s~~ *her the person’s* lien.”

Section 2257. Section 71-2-108, MCA, is amended to read:

“71-2-108. When pledge may not be withdrawn. ~~One~~ A person who pledges property as security for the obligation of another cannot withdraw the property pledged ~~otherwise than as except in the manner that a personal~~ pledgor for ~~himself~~ *himself* might, and if ~~he the person~~ *she the person* receives from the debtor a consideration

for the pledge, ~~he~~ *the person cannot may not* withdraw it without ~~his~~ *the debtor's* consent."

Section 2258. Section 71-2-109, MCA, is amended to read:

"71-2-109. When real owner cannot defeat pledge. ~~One~~ *A person* who has allowed another to assume the apparent ownership of property for the purpose of making any transfer of it ~~cannot may not~~ set up ~~his~~ *the person's* own title to defeat a pledge of the property made by the other to a pledgee who received the property in good faith in the ordinary course of business and for value."

Section 2259. Section 71-2-110, MCA, is amended to read:

"71-2-110. Debtor's misrepresentation of value of pledge. ~~Where~~ *When* a debtor has obtained credit or an extension of time by a fraudulent misrepresentation of the value of property pledged by or for ~~him~~ *the debtor*, the creditor may demand a further pledge to correspond with the value represented and in default ~~thereof of a further pledge~~ may recover ~~his~~ *the* debt immediately, though it ~~be~~ *is* not actually due."

Section 2260. Section 71-3-101, MCA, is amended to read:

"71-3-101. Definitions. *For purposes of this part, the following definitions apply:*

(1) A "general lien" is one which the holder ~~thereof of the lien~~ is entitled to enforce as a security for the performance of all the obligations or all of a particular class of obligations ~~which that~~ exist in ~~his~~ *the holder's* favor against the owner of the property.

(2) A "lien" is a charge imposed in some mode other than by a transfer in trust upon specific property by which it is made security for the performance of an act. Liens are either general or special.

(3) A "special lien" is one ~~which that~~ the holder ~~thereof of the lien~~ can enforce only as security for the performance of a particular act or obligation and of ~~such~~ *the* obligations as ~~that~~ may be incidental ~~thereto to the particular act or obligation.~~

Section 2261. Section 71-3-107, MCA, is amended to read:

"71-3-107. Prior liens. ~~Where~~ *When* the holder of a special lien is compelled to satisfy a prior lien for ~~his~~ *the holder's* own protection, ~~he~~ *the holder* may enforce payment of the amount ~~so paid by him~~ as a part of the claim for which ~~his~~ *the holder's* own lien exists."

Section 2262. Section 71-3-112, MCA, is amended to read:

"71-3-112. Holder of lien not entitled to compensation. Except as otherwise provided by the Uniform Commercial Code, one who holds property by virtue of a lien ~~thereon on the property~~ is not entitled to compensation from the owner ~~thereof of the property~~ for any trouble or expense ~~which he that~~ *the person* incurs respecting ~~it the property~~, except to the same extent as a borrower under 70-7-110 and 70-7-111."

Section 2263. Section 71-3-115, MCA, is amended to read:

"71-3-115. Order of resort to different funds. ~~Where one~~ *When a person* has a lien upon several things and other persons have subordinate liens upon or interests in some but not all of the same things, the person having the prior lien, if ~~he~~ *the prior lienor* can do so without risk of *personal* loss ~~to himself~~ or of injustice to other persons, ~~must~~ *shall* resort to the property in the following order, on the demand of any *interested* party ~~interested~~:

- (1) to the things upon which ~~he~~ *the person* has an exclusive lien;
- (2) to the things ~~which that~~ are subject to the fewest subordinate liens;
- (3) in ~~like the same~~ manner inversely to the number of subordinate liens upon the same thing; and
- (4) when several things are within one of the ~~foregoing~~ classes *described in subsections (2) and (3)* and subject to the same number of liens, resort must be had:
 - (a) first, to the things ~~which that~~ have not been transferred since the prior lien was created;
 - (b) second, to the things ~~which that~~ have been ~~so~~ transferred *since the prior lien was created* without a valuable consideration; and
 - (c) third, to the things ~~which that~~ have been ~~so~~ transferred for a valuable consideration in the inverse order of the transfer.”

Section 2264. Section 71-3-117, MCA, is amended to read:

“71-3-117. Right to redeem. Except as otherwise provided by the Uniform Commercial Code, ~~every a~~ person having an interest in property subject to a lien has a right to redeem it from the lien at any time after the claim is due and before ~~his the person’s~~ right of redemption is foreclosed.”

Section 2265. Section 71-3-118, MCA, is amended to read:

“71-3-118. Rights of inferior lienor. ~~One A~~ person who has a lien inferior to another upon the same property has a right to:

- (1) redeem the property in the same manner as its owner might from the superior lien; and
- (2) be subrogated to all the benefits of the superior lien, when necessary for the protection of ~~his the person’s~~ interests, upon satisfying the claim secured ~~thereby by the superior lien.~~”

Section 2266. Section 71-3-203, MCA, is amended to read:

“71-3-203. Execution of notices and certificates. Certification by the secretary of the treasury of the United States, ~~or his by the secretary’s~~ delegate, or by any official or entity of the United States responsible for filing or certifying ~~of~~ notice of any lien, ~~of~~ notices of liens, certificates, or other notices affecting federal liens entitles them to be filed. No other attestation, certification, or acknowledgment is necessary.”

Section 2267. Section 71-3-301, MCA, is amended to read:

“71-3-301. Priority when assignment of property made. In all assignments of property made by any person to trustees or assignees on account of the inability of the person, at the time of the assignment, to pay ~~his the person’s~~ debts or in proceedings of insolvency, the wages of the miners, mechanics, ~~salesmen salespersons~~, servants, clerks, or laborers employed by ~~such the~~ person, to the amount actually owed and for services rendered within the previous 4 months, are preferred claims and must be paid by ~~such the~~ trustees or assignees before any other creditor of the assignor.”

Section 2268. Section 71-3-303, MCA, is amended to read:

“71-3-303. Priority in cases of execution or attachment. In case of executions, attachments, and writs of similar nature issued against any person, except for claims for labor done, any miners, mechanics, ~~salesmen salespersons~~, servants, clerks, or laborers who have claims against the defendant for labor done may give notice of their claims and the amount ~~thereof of their claims~~,

sworn to by the person making the claim, to the parties plaintiff and defendant to the action in which ~~such the~~ execution, attachment, or other writ has been issued and upon the officer executing the ~~same the attachment or writ~~. Service of notice ~~herein~~ required by this section may be made upon the officer charged with the execution of ~~such the~~ writ in one or more cases that may be pending against ~~such the~~ person, who shall ~~forthwith~~ serve ~~such a copy of the~~ notice and claim, ~~by copy,~~ upon the parties plaintiff and defendant, if ~~they are~~ found in the county where ~~such the~~ action is pending, or upon their respective attorneys employed in ~~such the~~ case or cases pending.”

Section 2269. Section 71-3-304, MCA, is amended to read:

“71-3-304. Service of notice. (1) The officer serving ~~said the~~ notice and claim ~~described in 71-3-303~~ shall ~~forthwith~~, after service of ~~the same~~, make return ~~thereof of service~~ showing ~~such the~~ service; and where and how it was made.

(2) Service may be made in any case at any time before the actual sale of the property levied upon in ~~such the~~ pending action, and unless ~~such the~~ claim is disputed by the debtor or a creditor or party plaintiff, ~~such the~~ levying officer ~~must shall~~ pay ~~such the~~ person out of the proceeds of the sale the amount ~~he the~~ person is entitled to receive for services rendered within the 4 months ~~next~~ preceding the levy of the writ, not exceeding the amount actually owed.”

Section 2270. Section 71-3-305, MCA, is amended to read:

“71-3-305. Proceeding if claim disputed. (1) If any or all of the claims ~~so~~ presented and claiming preference under this part are disputed by either the debtor or a creditor, the person presenting the ~~same must the claim shall~~ commence an action within 10 days after notice of ~~such the~~ dispute is served upon ~~such the~~ claimant, as provided in subsection (2), for the recovery ~~thereof of the claim~~. The officer ~~must shall~~ retain possession of ~~so as~~ much of the proceeds of the sale as may be necessary to satisfy ~~such the~~ claim and costs until the final determination of ~~such the~~ action. ~~In case~~ If judgment ~~be had is given~~, the costs are a preferred claim, which may include a reasonable ~~attorney’s fee~~ attorney fees.

(2) The debtor or creditor intending to dispute any claim presented under the provisions of 71-3-303 shall, within 10 days after receiving notice of ~~such the~~ claim, serve upon the claimant and officer holding ~~such the~~ execution, attachment, or other writ a statement in writing, verified by the oath of the debtor or person disputing ~~such the~~ claim for services, setting forth that no part of ~~said the~~ claim, not exceeding a sum specified, is justly due from the debtor to the claimant for services rendered within the 4 months ~~next~~ preceding the levy of the execution, attachment, or other writ, ~~as the case may be~~.

(3) If the claimant brings suit on a claim ~~which that~~ is disputed in part only and fails to recover a sum exceeding that which was admitted to be due, ~~he shall~~ the claimant may not recover costs, but costs ~~shall must~~ be adjudged against ~~him~~ the claimant. ~~Where such~~ If the claimant fails to bring suit upon ~~his a~~ claim, ~~which that~~ is disputed in part only, ~~he shall be deemed the claimant is~~ considered to have waived ~~that the disputed~~ portion of ~~his the~~ claim ~~disputed~~.”

Section 2271. Section 71-3-401, MCA, is amended to read:

“71-3-401. Who may have lien — priority. (1) ~~Any~~ A person who performs services for another in the capacity of a farm or ranch laborer has a lien on all crops of every kind grown, raised, or harvested by the person for whom the services were performed during that time as security for the payment of any wages due or owing to ~~such persons~~ the person for services ~~so~~ performed.

(2) The lien has priority over all other liens, chattel mortgages, or encumbrances except feed sufficient for 3 months for 1 horse, 2 cows and their calves, 4 hogs, and 50 domestic fowls and seed grain and threshers' liens. The wages for which a lien may be claimed may not be in excess of \$1,000 or for a period of time exceeding 60 days next preceding the date of filing the lien. ~~In case any such~~ *If a person without cause quits his the* employment before the expiration of the time for which ~~he the person~~ *he the person* is employed, ~~he the person~~ *he the person* is not entitled to a lien as ~~herein~~ *provided in this part*.

(3) If several persons have or obtain liens under the provisions of this part against property of the same employer, they have no priority among themselves but all must be paid pro rata from the proceeds of any foreclosure sale according to the provisions of this part."

Section 2272. Section 71-3-404, MCA, is amended to read:

"71-3-404. Notice to other lienholders. (1) A person intending to foreclose a lien secured under the provisions of this part shall give a written notice to the owner or the person against whom the lien is claimed and all chattel mortgagees, encumbrancers, and all other lienholders who appear on record in the office of the secretary of state that in not less than 10 days from the date of notice ~~he the person~~ *he the person* will institute proceedings for the foreclosure of ~~his the person's~~ *his the person's* lien. Any other labor lienholder to whom notice is given may join in the foreclosure proceedings and is entitled to a pro rata share of the proceeds of the foreclosure sale; as provided in this part. However, ~~if the a~~ *if the a* notified labor lienholder *who* does not join in the proceedings, ~~he is~~ *he is* not entitled to share pro rata in the proceeds of the sale.

(2) The lien notice required ~~herein~~ *by this section* must be given by certified mail and directed to the last-known address of the owner or the person against whom the lien is claimed and to the addresses of the chattel mortgagees, encumbrancers, and all other lienholders as their addresses appear of record. The return of the foreclosure sale must be accompanied by proof of the giving of notice as required to be given in this section."

Section 2273. Section 71-3-523, MCA, is amended to read:

"71-3-523. Who may claim a construction lien — limitation. A person who furnishes services or materials pursuant to a real estate improvement contract may claim a construction lien, only to the extent provided in this part, to secure the payment of ~~his the person's~~ *his the person's* contract price."

Section 2274. Section 71-3-524, MCA, is amended to read:

"71-3-524. Limitation of lien for materials supplied. (1) A lien for furnishing materials arises only if:

(a) (i) the materials are supplied with the intent that they be used in the course of construction of or incorporated into the improvement in connection with which the lien arises; and

(ii) the intent described in subsection (1)(a)(i) ~~can~~ *can* be shown by a contract of sale, *by* a delivery order, *by* delivery to the site by the lien claimant or at ~~his the lien claimant's~~ *his the lien claimant's* direction, or by other evidence; and

(b) the materials are:

(i) incorporated in the improvement or consumed as normal wastage in construction operations;

(ii) specifically fabricated for incorporation into the improvement and not readily resalable in the ordinary course of the fabricator's business, even though the materials are not actually incorporated into the improvement;

(iii) used for the construction or operation of machinery or equipment used in the course of construction and not remaining in the improvement, subject to diminution by the salvage value of those materials; or

(iv) tools, appliances, or machinery used on the particular improvement. However, a lien for supplying tools, appliances, or machinery used on the improvement is limited as provided by subsection (3).

(2) The delivery of materials to the site of the improvement, whether by the lien claimant or by another, creates a presumption that they were used in the course of construction or were incorporated into the improvement.

(3) A lien arising for the supplying of tools, appliances, or machinery under subsection (1)(b)(iv) is limited as follows:

(a) if they are rented, the lien is for the reasonable rental value for the period of actual use, including any reasonable periods of nonuse provided for in the rental contract; and

(b) if they are purchased, the lien is for the price but arises only if they were purchased for use in the course of the particular improvement and have no substantial value after the completion of the improvement on which they were used.”

Section 2275. Section 71-3-525, MCA, is amended to read:

“71-3-525. Extent of lien. (1) A construction lien extends to the interest of the contracting owner in the real estate, as the interest exists at the commencement of work or is ~~thereafter~~ *subsequently* acquired in the real estate, subject to the provisions of this section.

(2) (a) If an improvement is located wholly on one or more platted lots belonging to the contracting owner, the lien applies to the improvement and to the lots on which the improvement is located.

(b) If an improvement is not located wholly on one or more platted lots, the lien applies to the improvement and to the smallest identifiable tract or parcel of land on which the improvement is located.

(3) If the improvement is to leased premises, the lien attaches to the improvement and to the leasehold term. Except as provided in subsection (4), it does not attach to the lessor’s interest unless ~~he~~ *the lessor* contracted for or agreed to the improvement before it was begun.

(4) (a) A construction lien is not impaired to the extent of the value of the work or improvement that is severable from the real estate if the improvement is to premises held by:

- (i) a contracting owner who owns less than a fee simple interest; or
- (ii) a lessee and the lease is forfeited by the lessee.

(b) If the work or improvement may be removed without harm to the rest of the real estate, the lienholder may have the value determined, the work or improvement sold separately, and the proceeds delivered to ~~him~~ *the lienholder* to satisfy the construction lien. The purchaser shall remove the work or improvement within 45 days of the sale.

(5) If a contracting owner contracts for improvements on real estate not owned by ~~him~~ *the contracting owner* as part of an improvement on ~~his~~ *the contracting owner’s* real estate or for the purpose of directly benefiting ~~his~~ *the contracting owner’s* real estate, there is a lien against the contracting owner’s real estate being improved or directly benefited in favor of persons furnishing

services or materials to the same extent as if the improvement had been on the contracting owner's real estate."

Section 2276. Section 71-3-526, MCA, is amended to read:

"71-3-526. Amount of lien. (1) A person who has furnished services or materials pursuant to a real estate improvement contract is entitled to a lien for the unpaid part of ~~his~~ *the person's* contract price, subject to the provisions of 71-3-524.

(2) A person's lien is reduced by the sum of the liens of persons claiming construction liens through ~~him~~ *that person*."

Section 2277. Section 71-3-533, MCA, is amended to read:

"71-3-533. Notice of completion. (1) The contracting owner may file a notice of completion at any time after the completion of any work or improvement.

(2) The following acts or events constitute completion of any work or improvement for the purpose of filing a notice of completion:

(a) the written acceptance by the contracting owner, ~~his~~ *the contracting owner's* agent, or *the* representative of the building, improvement, or structure. The filing of a notice of completion ~~shall~~ *may* not be considered as an acceptance of the building, improvement, or other structure.

(b) the cessation from labor for 30 days upon any building, improvement, or structure; or the alteration, addition to, or repair ~~thereof of the building, improvement, or structure~~.

(3) The notice of completion, together with an affidavit of publication as ~~hereinafter~~ *required shall in this section, must* be filed in the office of the county clerk and recorder of the county where the property is situated, and the notice ~~shall~~ *must* set forth:

(a) the date when the work or improvement was completed or the date on which cessation from labor occurred first and the period of its duration;

(b) the contracting owner's name and address and the nature of the title, if any, of the person signing the notice;

(c) a description of the property sufficient for identification;

(d) the name of the contractor, if any.

(4) The notice ~~shall~~ *must* be verified by the contracting owner or ~~his~~ *the* owner's agent.

(5) A copy of the notice of completion ~~shall~~ *must* be published once each week for 3 successive weeks in a newspaper of general circulation in the county where the land on which the work or improvement was performed is situated.

(6) The contracting owner shall give a copy of the notice of completion to any person who has given the contracting owner a notice of a right to claim a lien."

Section 2278. Section 71-3-537, MCA, is amended to read:

"71-3-537. Acknowledgment of satisfaction of lien — penalty. Whenever any indebtedness ~~which~~ *that* is a lien upon any ~~such~~ real estate, structure, building, or other improvement is paid and satisfied, it is the duty of the creditors to acknowledge satisfaction ~~thereof as of the indebtedness in case of the same manner as a mortgage, and if any~~ *If a* creditor fails to acknowledge satisfaction, ~~as aforesaid, he~~ *the* creditor is liable to any person injured by ~~such~~ *the* failure to the amount of ~~such~~ *the* injury and the costs of action."

Section 2279. Section 71-3-541, MCA, is amended to read:

“71-3-541. Priority among holders of construction liens. (1) There is equal priority between or among construction lien claimants who contribute to the same real estate improvement project, regardless of the date on which each lien claimant first contributed services or materials and regardless of the date on which ~~he~~ *the claimant* filed ~~his~~ *the* notice of lien. When the proceeds of a foreclosure sale are not sufficient to pay all construction lien claimants in full, each claimant ~~will~~ *must* receive a pro rata share of the proceeds based on the amount of ~~his~~ *the claimant’s* respective lien.

(2) Construction liens attaching at different times have priority in the order of attachment.”

Section 2280. Section 71-3-542, MCA, is amended to read:

“71-3-542. Priority of construction liens as against claims other than construction lien claims. (1) A construction lien arising under this part has priority over any other interest, lien, mortgage, or encumbrance that may attach to the building, structure, or improvement or on the real property on which the building, structure, or improvement is located and ~~which~~ *that* is filed after the construction lien attaches.

(2) An interest, lien, mortgage, or encumbrance that is filed before the construction lien attaches has priority over a construction lien arising under this part, except as provided in subsections (3) and (4).

(3) A construction lien has priority, to the extent of the value of the work or improvement that is severable, over an interest, lien, mortgage, or encumbrance that is filed before the construction lien attaches. If the work or improvement may be removed without harm to the rest of the real property, the lienholder may have the value determined, the work or improvement sold separately on foreclosure, and the proceeds delivered to ~~him~~ *the lienholder* to satisfy the construction lien.

(4) A construction lien has priority over any interest, lien, mortgage, or encumbrance that is filed before the construction lien attaches if that interest, lien, mortgage, or encumbrance was taken to secure advances made for the purpose of paying for the particular real estate improvement ~~being liened to~~ *which the lien was attached.*”

Section 2281. Section 71-3-601, MCA, is amended to read:

“71-3-601. Definition of lumber — who may have lien. (1) The term “lumber”, as used in this part, ~~shall be held and be construed to mean~~ *means* all logs or other timber sawed or split for use, including beams, joists, planks, boards, shingles, laths, staves, hoops, and every article of ~~whatsoever~~ *any* nature or description manufactured from sawlogs or other timber.

(2) ~~Every~~ *A* person, general partnership, limited partnership, corporation, or association performing labor ~~done upon; or who shall assist~~ *that assists* in obtaining or securing sawlogs, piling, railroad ties, cordwood, or other timber, has a lien upon the ~~same product~~ *same product* and upon all other sawlogs, piling, railroad ties, cordwood, or other timber ~~which that;~~ *which that;* at the time of the filing of the claim or lien ~~hereinafter provided for in subsection (3);~~ *belonged to the person or corporation for whom the labor was performed; for the work or labor done upon or in obtaining or securing the particular sawlogs, piling, railroad ties, cordwood, or other timber described in said the claim or lien described. The lien exists whether such the work or labor was done at the instance request of the owner, of the same or his the owner’s agent, or a contractor or subcontractor, or*

any person ~~in~~ on behalf of ~~such~~ *the* owner or ~~his~~ *the owner's* agent or a contractor or subcontractor. The cook in a logging camp ~~shall~~ *must* be regarded as a person who assists in obtaining or securing any of the timber ~~herein~~ mentioned *in this subsection*.

(3) ~~Every~~ A person performing work or labor or assisting in manufacturing sawlogs and other timber into lumber and shingles has a lien upon ~~such~~ *the* lumber while the ~~same~~ *lumber* remains at the mill where it was manufactured or in the possession or under the control of the manufacturer, whether ~~such~~ *the* work or labor was done at the ~~instance~~ *request* of the owner of ~~such~~ *the* logs, or ~~his~~ *the owner's* agent, or any contractor or subcontractor of ~~such~~ *the* owner.

(4) ~~Any~~ A person who ~~shall~~ *permit* ~~permits~~ another to go upon ~~his~~ *the* person's timberland and cut ~~thereon~~ sawlogs, piling, railroad ties, cordwood, or other timber has a lien upon the ~~same~~ *sawlogs, piling, railroad ties, cordwood, or other timber* for the price agreed to be paid for ~~such~~ *the* privilege or for the price ~~such~~ *the* privilege would be reasonably worth ~~in case~~ *if* there was no express agreement fixing the price."

Section 2282. Section 71-3-605, MCA, is amended to read:

"71-3-605. How to obtain lien — form of claim. (1) ~~Every~~ A person, within 30 days after the close of the rendition of the services or after the close of the work or labor mentioned in 71-3-601, claiming the benefit ~~hereof~~ *must of this part* shall file for record with the county in which ~~such~~ *the* sawlogs, piling, railroad ties, cordwood, or other timber ~~were~~ *was* cut or in which ~~such~~ *the* lumber or shingles were manufactured a claim containing a statement of ~~his~~ *the* person's demand and the amount ~~thereof~~, after deducting as nearly as possible all just credits and offsets, with the name of the person by whom ~~he~~ *the person* was employed; *and* with a statement of the terms and conditions of ~~his~~ *the* person's contract, if any. ~~In case~~ *If* there is no express contract, the claim ~~shall~~ *must* state what ~~such~~ *the* service, work, or labor is reasonably worth. It ~~shall~~ *must* also contain a description of the property to be charged with a lien sufficient for identification with reasonable certainty, ~~which~~ *and* the claim must be verified by the oath of ~~himself~~ *the person* or some other person to the effect that the affiant believes the ~~same~~ *claim* to be true.

(2) The claim ~~shall~~ *must* be substantially in the following form:

...., Claimant, vs.

Notice is hereby given that of County, state of Montana, claims a lien upon a of, being about in quantity, which were cut or manufactured in County, state of Montana, are marked ~~thus~~, and are now lying in a for labor performed upon and assistance rendered in ~~said~~ *the*; that the name of the owner or reputed owner is; that employed ~~said~~ to perform ~~such~~ *the* labor and render ~~such~~ *the* assistance upon the following terms and conditions, ~~to wit:~~ The ~~said~~ agreed to pay the ~~said~~ for ~~such~~ *the* labor and assistance; that ~~said~~ *the* contract has been faithfully performed and fully complied with on the part of ~~said~~, who performed labor upon and assisted in ~~said~~ for a period of; that ~~said~~ *the* labor and assistance were ~~so~~ performed and rendered upon ~~said~~ between the day of and the day of, and the rendition of ~~said~~ *the* service was closed on the day of, and 30 days have not elapsed since that time; that the amount of *the* claimant's demand for ~~said~~ services is; that no part ~~thereof~~ *of the demand* has been paid except, and there is now due and remaining unpaid ~~thereon~~, after deducting all just credits and offsets, the sum of, in which amount ~~he~~ *the claimant* claims a lien upon ~~said~~; that ~~said~~ *claimant* also claims a lien on all ~~said~~ now owned by ~~said~~

... of said *the* county; to secure payment for the work and labor performed in obtaining or securing the said logs, piling, railroad ties, cordwood, or other timber, lumber, or shingles herein described.

...., Claimant.

State of Montana,

County of

...., being first duly sworn, on oath says that ~~he~~ *the claimant* is named in the foregoing claim, has heard the ~~same~~ *claim* read, and knows the contents ~~thereof of the claim~~, and believes the same to be true.

Subscribed and sworn to before me this day of

.....

.....”

Section 2283. Section 71-3-608, MCA, is amended to read:

“71-3-608. Duties of county clerk. The county clerk ~~must~~ *shall* file any claim presented under the provisions of this part, endorse ~~thereon on the claim~~ the time of receiving the same receipt, and keep the same claim in his ~~the clerk’s~~ office for the inspection of all persons, and shall enter in a book, properly ruled and kept for such ~~that~~ purpose, the names of all the parties, ~~such names to be~~ alphabetically arranged, the amount of the lien, and the time of filing the ~~same~~ *lien.*”

Section 2284. Section 71-3-611, MCA, is amended to read:

“71-3-611. Enforcement of lien. (1) The liens provided for in this part shall ~~must~~ be enforced by a civil action in the district court of the county ~~wherein~~ *in which* the lien was filed and shall ~~must~~ be governed by the laws regulating the proceedings in civil actions ~~touching~~ *relating to* the mode and manner of trial and the proceedings and laws to secure property; so as to hold it for the satisfaction of any lien that may be against it.

(2) ~~Any~~ *A* person who shall ~~bring~~ *brings* a civil action to enforce the lien provided for, ~~any a~~ person having a lien as provided for, or a person who shall be ~~is~~ made a party to any such civil action has the right to demand that such ~~the~~ lien be enforced against the whole or any part of the sawlogs, piling, railroad ties, cordwood, or other timber or manufactured lumber or shingles upon which ~~he~~ *the person* has performed labor, or ~~which he~~ *that the person* has assisted in securing or obtaining, or ~~which he~~ *that the person* has cut on his ~~the person’s~~ timberland, ~~any of which occurred~~ during the 3 months next preceding the filing of his ~~the person’s~~ lien, for all his ~~the person’s~~ labor upon or for all his ~~the person’s~~ assistance in obtaining or securing said ~~the~~ sawlogs, piling, railroad ties, cordwood, or other timber or in manufacturing said ~~the~~ lumber into shingles during the whole or any part of the 3 months mentioned in 71-3-603; or for timber cut during the whole or any part of the 3 months ~~above mentioned~~.

(3) ~~Where~~ *When* proceedings are commenced against any lot of sawlogs, piling, railroad ties, cordwood, or other timber or lumber or shingles; ~~as herein provided~~, and some of the lienors claim liens against these specific sawlogs, piling, railroad ties, cordwood, or other timber or lumber or shingles proceeded against and others against the same generally to secure their claim for work and labor, the priority of the liens shall ~~must~~ be determined as ~~hereinbefore~~ provided *in this part.*”

Section 2285. Section 71-3-612, MCA, is amended to read:

“71-3-612. Requirements to be bona fide purchaser. It shall *must* be conclusively presumed by the court that a party purchasing the property subject to the lien within the 30 days given ~~herein in this part~~ to claimants ~~wherein in which~~ to file their liens is not an innocent third party nor that ~~he the party~~ has become a bona fide owner of the property subject to the lien unless it ~~shall appear~~ *appears* that ~~he the party~~ has paid full value for the property and has seen that the purchase money of the property has been applied to the payment of ~~such~~ bona fide claims as *that* are entitled to liens upon the same property under the provisions of this part, according to the priorities ~~herein~~ established *in this part*.”

Section 2286. Section 71-3-614, MCA, is amended to read:

“71-3-614. Judgment and execution. In each civil action, judgment must be rendered in favor of each person having a lien for the amount due to ~~him the person~~, and the court shall order any property subject to the lien to be sold by the sheriff of the proper county in the same manner that personal property is sold on execution, ~~and the~~. *The* court shall apportion the proceeds of ~~such the~~ sale to the payment of each judgment according to the priorities established in this part, pro rata in its class, according to the amount of ~~such each~~ judgment.”

Section 2287. Section 71-3-616, MCA, is amended to read:

“71-3-616. Penalty for destroying means of identification of property. ~~Any A~~ person who ~~shall~~ *removes, injure injures, or destroy destroys* or who ~~shall~~ *renders* difficult, uncertain, or impossible of identification any sawlogs, piling, railroad ties, cordwood, shingles, or other timber upon which there is a lien as ~~herein~~ provided *in this part*, without the express consent of the person entitled to ~~such the~~ lien, ~~shall be~~ *is* liable to a lienholder for the damages to the amount secured by ~~his the~~ lienholder’s lien, ~~and If it being~~ *damage is* shown to the court in a civil action to enforce ~~said the~~ lien, ~~it shall be the duty of the court to~~ *shall* enter a personal judgment for the amount in ~~such the~~ action against the person, ~~provided he be if the person is~~ a party to ~~such the~~ action, or the damages may be recovered by a civil action against ~~such that~~ person.”

Section 2288. Section 71-3-701, MCA, is amended to read:

“71-3-701. Lien for seed or grain. ~~Any A~~ person, company, association, or corporation ~~who that~~ furnishes to another seed to be sown or planted or funds or means with which to purchase seed to be sown or planted or to be used in the production or cultivation of a crop or crops on the lands owned or contracted to be purchased, used, leased, occupied, or rented by ~~him the other person~~ or held under government entry, upon filing the statement provided for in 71-3-703, has a lien not exceeding the purchase price of the seed or grain furnished upon the crop produced from the seed or grain furnished, or any part ~~thereof of the crop~~, and upon the seed or grain threshed from the crop to secure the payment of the amount or the value of the seed or grain furnished or the funds or means advanced to purchase the seed or grain.”

Section 2289. Section 71-3-703, MCA, is amended to read:

“71-3-703. How to obtain lien. ~~Any A~~ person, company, association, or corporation ~~who is~~ entitled to a lien under 71-3-701 shall, within 90 days after the seed or grain is furnished or the funds, means, or money *is* advanced for the seed or grain, file in the office of the secretary of state a statement of agricultural lien as provided in 71-3-125. Unless the person entitled to a lien files the lien statement within the time required, ~~he the person~~ is considered to have waived the right to a lien.”

Section 2290. Section 71-3-712, MCA, is amended to read:

“71-3-712. How lien obtained. Any person, company, association, or corporation ~~who~~ is entitled to a lien under 71-3-711 shall, within 30 days after the insurance is issued, file in the office of the secretary of state a statement of agricultural lien as provided in 71-3-125. A mutual company may file a lien for the largest amount that may become due under its assessment power, and ~~in the event that~~ if the amount assessed is not as large as the amount of the lien claimed, the amount assessed and due is the amount the mutual insurance company is entitled to under this lien. Unless the person, company, association, or corporation entitled to a lien files the agricultural lien statement within the time required, ~~he~~ *the person* or ~~it~~ *entity* is considered to have waived the right to a lien.”

Section 2291. Section 71-3-801, MCA, is amended to read:

“71-3-801. Who may have lien — amount. (1) All ~~threshermen~~ *threshers* or swathers owning or operating threshing or swathing machines and all owners of combine harvesters and threshers ~~shall~~ have a lien upon the grain and other crops swathed or threshed by ~~said the~~ threshing or swathing machine or cut and threshed by ~~said the~~ combine harvester and thresher for and on account of the services rendered and the labor performed by them on ~~said the~~ grain and crops ~~swathed or threshed.~~ *The* lien may be claimed by the owner of ~~said the~~ grain for the reasonable value of ~~such the~~ services if ~~same services~~ are performed by ~~him~~ *the owner*. Liens on grain and other crops ~~shall must~~ be charged for at the prevailing price for that particular locality in which ~~such the~~ grain or other crop is threshed, harvested, or combined, ~~provided if~~ notices are given and ~~the~~ lien is filed within the time provided by this part.

(2) If the prevailing price for threshing, harvesting, or combining grain or other ~~crop~~ *crops* is disputed by the ~~thresherman~~ *thresher* or swather and the owner of the grain or other crop, the matter may be submitted to arbitration under the provisions of Title 27, chapter 5.”

Section 2292. Section 71-3-802, MCA, is amended to read:

“71-3-802. How lien obtained. (1) A person entitled to a lien under 71-3-801 shall file with the office of the secretary of state a statement of agricultural lien, as provided in 71-3-125, within 30 days after the last service was rendered or labor performed in the threshing of grain or other crops or the cutting and harvesting and threshing by the combined harvester and thresher.

(2) If the grain or other crops cut, harvested, and threshed are being hauled from the machine or combine ~~direct~~ *directly* to the elevator or to any other purchaser, the ~~threshermen~~ *thresher*, swather, or owner of the combine desiring to claim a lien shall also serve written notices upon the ~~elevatorman~~ *elevator operator* or other private purchaser that ~~he~~ *the person* will claim and file a lien upon the grain or other crops for ~~his~~ *the person's* services or labor performed in threshing or combining and threshing the grain or crops. A copy of the statement of agricultural lien mailed by certified mail is sufficient notice to the ~~elevatorman~~ *elevator operator* or other private purchaser.”

Section 2293. Section 71-3-1004, MCA, is amended to read:

“71-3-1004. How lien perfected. ~~Every~~ A person, corporation, or partnership claiming a lien under this part shall file with the county clerk of the county in which ~~such the~~ land, leasehold, or pipeline or some part ~~thereof of the~~ *land, leasehold, or pipeline* is situated a statement verified by affidavit setting forth the amount claimed and the items ~~thereof of the claim~~, the dates on which labor was performed or material or services furnished, the name of the owner of

the leasehold or pipeline, if known, the name of the claimant and *his the claimant's* mailing address, a description of the leasehold or pipeline, and if the claimant *be is* a claimant under 71-3-1003, the name of the person for whom the labor was immediately performed or the material or services were immediately furnished. ~~Such~~ *The* statement must be filed within 6 months after the date upon which ~~said the~~ material or services were last furnished or labor *was* last performed under contract.”

Section 2294. Section 71-3-1009, MCA, is amended to read:

“71-3-1009. Liability fixed. ~~Nothing in this~~ *This part shall may not* be construed to fix a greater liability against the owner of the land or leasehold interest ~~therein in the land~~ than the price or sum stipulated by ~~such the~~ owner to be paid for ~~such the~~ materials or services furnished or labor performed. However, the risk of all payments made to the original contractor ~~shall must~~ be upon ~~such the~~ owner if ~~such the~~ payments *be are* made after written notice from a person other than an original contractor is received by ~~such the~~ owner at ~~his the owner's~~ residence or principal place of business, ~~which The~~ notice ~~shall must~~ set forth the name and address of the claimant and the amount and nature of ~~his the~~ claim. Payment by the owner to the original contractor of all or any part of the contract price, prior to the receipt of ~~such the~~ notice, ~~shall must~~ operate to discharge and satisfy all liens attaching to the property of ~~such the~~ owner by virtue of this part to the extent of ~~such the~~ payment. The owner ~~shall does~~ not have the right to offset obligations of the original contractor unless ~~such the~~ obligations arise out of the original contract.”

Section 2295. Section 71-3-1011, MCA, is amended to read:

“71-3-1011. Notice to purchaser of oil and gas. ~~Anything Notwithstanding any other provision~~ in this part ~~to the contrary notwithstanding~~, any lien claimed by virtue of this part ~~insofar as it may extend that extends~~ to oil or gas or the proceeds of the sale of oil or gas ~~shall is~~ not be effective against any purchaser of ~~such the~~ oil or gas until written notice of ~~such the~~ claim has been delivered to ~~such the~~ purchaser at ~~his the purchaser's~~ residence or principal place of business. ~~Such The~~ notice ~~shall must~~ state the name of the claimant, ~~his the claimant's~~ address, the amount for which the lien is claimed, and a description of the interest upon which the lien is claimed. ~~Such The~~ notice ~~shall must~~ be delivered personally to the purchaser or by registered or certified letter deposited in the United States mail. Until ~~such a~~ notice is delivered ~~as above provided~~, ~~no such a~~ purchaser ~~shall be is not~~ liable to the claimant for any oil or gas produced from the interest upon which the lien is claimed or the proceeds ~~thereof of the oil and gas~~, except to the extent of ~~such that~~ part of the purchase price of ~~such the~~ oil or gas or the proceeds ~~thereof as of the oil and gas that~~ may be owing by ~~such the~~ purchaser at the time of delivery of ~~such the~~ written notice. ~~Such The~~ purchaser shall withhold payments for ~~such the~~ oil or gas ~~runs~~ to the extent of the lien amount claimed until delivery of notice in writing that the claim has been paid.”

Section 2296. Section 71-3-1203, MCA, is amended to read:

“71-3-1203. Enforcement of lien — sale. If payment for ~~such~~ work, labor, feed, or services *performed or feed or* material furnished is not made within 30 days after the performance ~~or furnishing~~ of the ~~same work, labor, or services or furnishing of the feed or material~~, the person entitled to a lien under the provisions of this part may enforce ~~said the~~ lien in the following manner:

(1) ~~He~~ *The person* shall deliver to the sheriff or a constable of the county in which the property is located an affidavit of the amount of ~~his the person's~~ claim

against ~~said~~ *the* property, a description of the property, and the name of the owner ~~thereof of the property~~ or of the person at whose request the work, labor, or services were performed or the ~~materials feed or material was~~ furnished.

(2) Upon receipt of ~~such~~ *the* affidavit, the sheriff or constable shall proceed to advertise and sell at public auction ~~so as~~ much of the property covered by ~~said~~ *the* lien as will satisfy ~~same~~ *the* lien.

(3) ~~Such~~ *The* sale ~~shall~~ *must* be advertised, conducted, and held in the same manner as prescribed in 25-13-701(1)(b).

(4) Before the sheriff or constable sells the property at public auction, ~~he~~ *the* ~~sheriff or constable~~ shall give notice of the sale to the owner or person at whose request the work, labor, or services were performed or the ~~materials feed or material was~~ furnished.

(a) Notice to the owner must be given at least 10 days before the sale.

(b) The notice must state:

(i) the time and place of the sale;

(ii) the amount of the claim against the property;

(iii) a description of the property;

(iv) the name of the owner or person who contracted for the services or materials; and

(v) the name of the person claiming the lien.

(c) The notice may be given by personal service or by mailing by certified mail a copy of the notice to the last-known ~~post office~~ *post-office* address of the owner or person who contracted for the *work, labor, or services performed or materials the feed or material furnished*.

(d) If the sheriff or constable is not able to effect personal service or service by mail because the location and mailing address of the owner or ~~the contracting person who contracted for the services or materials~~ are unknown, the sheriff or constable may give notice by posting notice of the sale in three public places in the county in which the property is located.

(5) ~~The sheriff shall apply the~~ proceeds of the sale ~~shall be applied by the sheriff to the discharge of the lien and the cost of the proceedings in selling the property and enforcing the lien, and the remainder, if any, or such a part as that~~ is required to discharge the claims, ~~shall~~ *must* be turned over by the sheriff to the holders, in the order of their precedence, of the chattel mortgages or other lien claimants of record against ~~said~~ *the* property, and the balance of the proceeds ~~shall~~ *must* be turned over to the owner of the property.

(6) However, before ~~making seizure of~~ *seizing* any property under the provisions of this section, the sheriff may require an indemnity bond from the lienor that may not exceed double the amount of the claim against ~~said~~ *the* property. ~~said~~ *The* bond and the surety or sureties ~~thereon to on the bond must~~ be approved by ~~said~~ *the* sheriff."

Section 2297. Section 71-3-1301, MCA, is amended to read:

"71-3-1301. Lien of seller of real property — waiver. (1) ~~One~~ *A* person who sells real property has a vendor's lien ~~thereon on the real property,~~ independent of possession, for ~~so~~ *as* much of the price as remains unpaid and unsecured ~~otherwise other~~ than by the personal obligation of the buyer.

(2) ~~Where~~ *When* a buyer of real property gives to the seller a written contract for payment of all or part of the price, an absolute transfer of ~~such~~ *the* contract by

the seller waives ~~his~~ *the seller's* lien to the extent of the sum payable under the contract; ~~but~~ *However*, a transfer of ~~such~~ *the* contract in trust to pay debts and return the surplus is not a waiver of the lien."

Section 2298. Section 71-3-1302, MCA, is amended to read:

"71-3-1302. Purchaser's lien on real property. ~~One~~ *A person* who pays to the owner any part of the price of real property; under an agreement for the sale ~~thereof of real property~~; has a special lien upon the property, independent of possession, for ~~such~~ *the* part of the amount paid ~~as he may be that the person is~~ entitled to recover ~~back~~, in case of a failure of consideration."

Section 2299. Section 71-3-1401, MCA, is amended to read:

"71-3-1401. Lien of hotelkeepers. ~~Hotelmen~~ *Hotelkeepers* and boardinghouse and lodginghouse keepers ~~shall~~ have a lien upon the baggage and other property of value brought into ~~such~~ *the* hotel, inn, boardinghouse, or lodginghouse by ~~such~~ *a* guest, or boarder, or lodger for ~~his~~ *the* guest's, boarder's, or lodger's accommodation, board, or lodging and room rent and ~~such~~ extras as ~~that~~ are furnished at ~~his~~ *the* guest's, boarder's, or lodger's request, with the right of the possession of ~~such~~ *the* baggage or other property of value until all ~~such~~ charges are paid. ~~Nothing herein contained shall~~ *This section may not be* construed to give a lien upon property sold on the installment plan, title to which is to remain in the vendor until final payment."

Section 2300. Section 71-3-1402, MCA, is amended to read:

"71-3-1402. Enforcement of lien. Any hotelkeeper or innkeeper who ~~shall~~ *have* has a lien upon any of the goods, baggage, or other chattel property of ~~his~~ *the* hotelkeeper's or innkeeper's guests may, at the expiration of 6 months from the date of the departure of ~~such~~ *the* guest from ~~such~~ *the* hotel or inn, sell and dispose of the ~~same~~ *baggage or property* at public auction and to the highest bidder for cash or ~~so~~ *as* much ~~thereof as may be that is~~ necessary to pay the sum due ~~such~~ *the* hotelkeeper or innkeeper, together with the cost of storage, advertisement, and sale."

Section 2301. Section 71-3-1403, MCA, is amended to read:

"71-3-1403. Notice of sale. Before proceeding to the sale of the property of any guest, as provided in 71-3-1402, ~~such~~ *the* hotelkeeper or innkeeper shall cause a notice of ~~such~~ *the* sale, containing a description of the property to be sold and the time and place where ~~such~~ *the* property will be sold, to be published once each week for 2 successive weeks in a newspaper published in the city or town in which ~~such~~ *the* hotel or inn is situated ~~but or, if there be none a newspaper is not published in the city or town, then in some a newspaper published nearest such town or to the city or town. and in case~~ *If* any balance arising from ~~such~~ *the* sale ~~shall is not be claimed by the rightful owner within 30 days from the day of such the sale, the same shall balance must be paid into the treasury of the county in which such the sale took place. If such the balance be is not claimed by the owner thereof or his the owner's legal representatives within 1 year thereafter, the same shall balance must be paid into the school fund of such the county.~~

Section 2302. Section 71-3-1501, MCA, is amended to read:

"71-3-1501. Lien of factor. A factor has a general lien, dependent on possession, for all that is due to ~~him~~ *as* ~~such~~ *the* factor; upon all articles of commercial value that are entrusted to ~~him~~ *the* factor by the same principal."

Section 2303. Section 71-3-1502, MCA, is amended to read:

"71-3-1502. Banker's lien. A banker has a general lien, dependent on possession, upon all property in ~~his~~ *the* banker's hands belonging to a customer;

for the balance due to ~~him~~ *the banker* from ~~such~~ *the customer* in the course of the business.”

Section 2304. Section 71-3-1503, MCA, is amended to read:

“71-3-1503. Officer’s lien. An officer who levies an attachment or execution upon personal property acquires a special lien, dependent on possession, upon ~~such~~ *that* property, which authorizes ~~him~~ *the officer* to hold it until the process is discharged or satisfied or a judicial sale of the property is had.”

Section 2305. Section 71-3-1505, MCA, is amended to read:

“71-3-1505. Lien for rental on frozen food compartments. A person who operates a frozen food plant ~~which~~ *that* offers individual compartments to the public has a lien on the property in ~~his~~ *the person’s* possession for rentals or other charges due. Liens may be foreclosed in the same way provided for chattel mortgages.”

Section 2306. Section 72-1-111, MCA, is amended to read:

“72-1-111. Remedies for fraud — statute of limitations. (1) Whenever fraud has been perpetrated in connection with any proceeding or in any statement filed under this code or if fraud is used to avoid or circumvent the provisions or purposes of this code, ~~any~~ *a person injured thereby by the fraud* may obtain appropriate relief, including restitution against the perpetrator of the fraud or any person benefiting from the fraud, whether innocent or not, (other than a bona fide purchaser for value and without notice).

(2) Any proceeding must be commenced within 2 years after the discovery of the fraud, but ~~no~~ *a proceeding may not* be brought against one not a perpetrator of the fraud later than 5 years after the time of commission of the fraud.

(3) This section has no bearing on remedies relating to fraud practiced on a decedent during ~~his~~ *the decedent’s* lifetime ~~which~~ *that* affects the succession of ~~his~~ *the decedent’s* estate.”

Section 2307. Section 72-1-301, MCA, is amended to read:

“72-1-301. Notice — method and time of giving. (1) If notice of a hearing on any petition is required and except for specific notice requirements as otherwise provided, the petitioner shall cause notice of the time and place of hearing of any petition to be given to any interested person or ~~his~~ *the person’s* attorney if ~~he~~ *the person* has appeared by attorney or requested that notice be sent to ~~his~~ *the person’s* attorney. Notice ~~shall~~ *must* be given:

(a) by mailing a copy ~~thereof~~ *of the notice* at least 14 days before the time set for the hearing by certified, ~~registered,~~ *mail* or ordinary first-class mail addressed to the person being notified at the post-office address given in ~~his~~ *the person’s* demand for notice, if any, or at ~~his~~ *the person’s* office or place of residence, if known;

(b) by delivering a copy ~~thereof~~ *of the notice* to the person being notified personally at least 14 days before the time set for the hearing; or

(c) if the address or identity of any person is not known and cannot be ascertained with reasonable diligence, by publishing *the notice* in a weekly paper once a week for 3 consecutive weeks and, if in a newspaper published more often than once a week, by publishing on at least 3 different days of publication; ~~and it shall. There must be so published that there must be~~ at least 10 days from the first to the last day of publication, both the first and last day being included.

(2) The court for good cause shown may provide for a different method or time of giving notice for any hearing.

(3) Proof of the giving of notice ~~shall~~ *must* be made on or before the hearing and filed in the proceeding.”

Section 2308. Section 72-1-302, MCA, is amended to read:

“72-1-302. Waiver of notice. A person, including a guardian ad litem, conservator, or other fiduciary, may waive notice by a writing signed by ~~him~~ *the person* or ~~his~~ *the person’s* attorney and filed in the proceeding.”

Section 2309. Section 72-1-303, MCA, is amended to read:

“72-1-303. Pleadings — when orders or notice binding one binds another — representation. In formal proceedings involving trusts or estates of decedents, minors, protected persons, or incapacitated persons and in judicially supervised settlements, the following apply:

(1) Interests to be affected ~~shall~~ *must* be described in pleadings ~~which~~ *that* give reasonable information to owners by name or class, by reference to the instrument creating the interests, or in other appropriate manner.

(2) Persons are bound by orders binding others in the following cases:

(a) Orders binding the sole holder or all coholders of a power of revocation or a presently exercisable general power of appointment, including one in the form of a power of amendment, bind other persons to the extent their interests, (as objects, takers in default, or otherwise), are subject to the power.

(b) (i) To the extent there is no conflict of interest between them or among persons represented, orders binding a:

(A) conservator bind the person whose estate ~~he~~ *the conservator* controls;

(B) ~~orders binding a~~ guardian bind the ward if ~~no~~ *a* conservator of ~~his~~ *the ward’s* estate has *not* been appointed;

(C) ~~orders binding a~~ trustee bind beneficiaries of the trust in proceedings to probate a will establishing or adding to a trust, to review the acts or accounts of a prior fiduciary, and in proceedings involving creditors or other third parties; and

(D) ~~orders binding a~~ personal representative bind persons interested in the undistributed assets of a decedent’s estate in actions or proceedings by or against the estate.

(ii) If there is no conflict of interest and ~~no~~ *a* conservator or guardian has *not* been appointed, a parent may represent ~~his~~ *the parent’s* minor child.

(c) An unborn or unascertained person who is not otherwise represented is bound by an order to the extent ~~his~~ *the person’s* interest is adequately represented by another party having a substantially identical interest in the proceeding.

(3) Notice is required as follows:

(a) Notice as prescribed by 72-1-301 ~~shall~~ *must* be given to every interested person or to one who can bind an interested person as described in *subsection (2)(a) or (2)(b) above*. Notice may be given both to a person and to another who may bind ~~him~~ *the person*.

(b) Notice is given to unborn or unascertained persons, who are not represented under *subsection (2)(a) or (2)(b) above*, by giving notice to all known persons whose interests in the proceedings are substantially identical to those of the unborn or unascertained persons.

(4) At any point in a proceeding, a court may appoint a guardian ad litem to represent the interest of a minor, an incapacitated, unborn, or unascertained person, or a person whose identity or address is unknown, if the court determines that representation of the interest otherwise would be inadequate. If not precluded by conflict of interests, a guardian ad litem may be appointed to represent several persons or interests. The court shall set out its reasons for appointing a guardian ad litem as a part of the record of the proceeding.”

Section 2310. Section 72-2-903, MCA, is amended to read:

“72-2-903. Requirements. (1) An international will must be made in writing. It need not be *personally* written by the testator ~~himself~~. It may be written in any language, by hand, or by any other means.

(2) The testator shall declare in the presence of two witnesses and of a person authorized to act in connection with international wills that the document is ~~his~~ *the testator’s* will and that ~~he~~ *the testator* knows the contents of the will. The testator need not inform the witnesses or the authorized person of the contents of the will.

(3) In the presence of the witnesses and of the authorized person, the testator shall sign the will or, if ~~he~~ *the testator* has previously signed it, shall acknowledge ~~his~~ *the testator’s* signature.

(4) If the testator is unable to sign, the absence of ~~his~~ *the testator’s* signature does not affect the validity of the international will if the testator indicates the reason for ~~his~~ *the testator’s* inability to sign and the authorized person makes note of the inability on the will. In that case, it is permissible for any other person present, including the authorized person or one of the witnesses, at the direction of the testator, to sign the testator’s name for ~~him~~ *the testator* if the authorized person makes note of this on the will, but it is not required that any person sign the testator’s name for ~~him~~ *the testator*.

(5) The witnesses and the authorized person shall there and then attest the will by signing in the presence of the testator.”

Section 2311. Section 72-2-904, MCA, is amended to read:

“72-2-904. Other points of form. (1) The signatures must be placed at the end of the will. If the will consists of several sheets, each sheet must be signed by the testator or, if ~~he~~ *the testator* is unable to sign, by the person signing on ~~his~~ *the testator’s* behalf or, if there is no such person, by the authorized person. In addition, each sheet must be numbered.

(2) The date of the will must be the date of its signature by the authorized person.

(3) The authorized person shall ask the testator whether ~~he~~ *the testator* wished to make a declaration concerning the safekeeping of ~~his~~ *the testator’s* will. If so and at the express request of the testator, the place where ~~he~~ *the testator* intends to have ~~his~~ *the* will kept must be mentioned in the certificate provided for in 72-2-905.

(4) A will executed in compliance with 72-2-903 is not invalid merely because it does not comply with this section.”

Section 2312. Section 72-2-905, MCA, is amended to read:

“72-2-905. Certificate. The authorized person shall attach to the will a certificate to be signed by ~~him~~ *the authorized person* establishing that the requirements of this part for valid execution of an international will have been fulfilled. The authorized person shall keep a copy of the certificate and deliver

another to the testator. The certificate must be substantially in the following form:

CERTIFICATE

(Convention of October 26, 1973)

I, _____ (name, address, and capacity), a person authorized to act in connection with international wills, certify that on _____ (date) at _____ (place) (testator) _____ (name, address, date, and place of birth) in my presence and that of the witnesses

(a) _____ (name, address, date, and place of birth)

(b) _____ (name, address, date, and place of birth) has declared that the attached document is ~~his~~ *the testator's* will and that ~~he~~ *the testator* knows the contents ~~thereof~~ *of the will*.

I furthermore certify that:

(a) in my presence and in that of the witnesses

(1) the testator has signed the will or has acknowledged ~~his~~ *the testator's* signature previously affixed;

(2) following a declaration of the testator stating that ~~he~~ *the testator* was unable to sign ~~his~~ *the* will for the following reason _____, I have mentioned this declaration on the will, and the signature has been affixed by _____ (name and address);

(b) the witnesses and I have signed the will;

* (c) each page of the will has been signed by _____ and numbered;

(d) I have satisfied myself as to the identity of the testator and of the witnesses as designated above;

(e) the witnesses met the conditions requisite to act as such according to the law under which I am acting;

* (f) the testator has requested me to include the following statement concerning the safekeeping of ~~his~~ *the* will:

PLACE OF EXECUTION

DATE

SIGNATURE and, if necessary, SEAL

* to be completed if appropriate"

Section 2313. Section 72-2-909, MCA, is amended to read:

"72-2-909. International will information registration. The secretary of state shall establish a registry system by which authorized persons may register in a central information center information regarding the execution of international wills, keeping that information in strictest confidence until the death of the maker and then making it available to any person desiring information about any will who presents a death certificate or other satisfactory evidence of the testator's death to the center. Information that may be received, preserved in confidence until death, and reported as indicated is limited to the name, social security or individual-identifying number established by law, address, and date and place of birth of the testator and the intended place of deposit or safekeeping of the instrument pending the death of the maker. The secretary of state, at the request of the authorized person, may cause the information ~~he~~ *that the secretary of state* receives about the execution of any international will to be transmitted to the registry system of another

jurisdiction as identified by the testator if that other registry system adheres to rules protecting the confidentiality of the information similar to those established in this state.”

Section 2314. Section 72-3-101, MCA, is amended to read:

“72-3-101. Devolution of estate at death — restrictions. (1) The power of a person to leave property by will and the rights of creditors, devisees, and heirs to ~~his~~ *the person’s* property are subject to the restrictions and limitations contained in this code to facilitate the prompt settlement of estates.

(2) Upon the death of a person, ~~his~~ *the decedent’s* real and personal property devolves to the persons to whom it is devised by ~~his~~ *the decedent’s* last will or to those indicated as substitutes for them in cases involving lapse, renunciation, or other circumstances affecting the devolution of testate estates or, in the absence of testamentary disposition, to ~~his~~ *the decedent’s* heirs or to those indicated as substitutes for them in cases involving renunciation or other circumstances affecting devolution of intestate estates, subject to homestead allowance, exempt property, and family allowance, to rights of creditors, elective share of the surviving spouse, and to administration.”

Section 2315. Section 72-3-106, MCA, is amended to read:

“72-3-106. Interested person’s right to demand notice of order or filing. (1) ~~Any~~ A person desiring notice of ~~any~~ *an* order or filing pertaining to a decedent’s estate in which ~~he~~ *the person* has a financial or property interest may file a demand for notice with the court at any time after the death of the decedent stating:

- (a) the name of the decedent;
- (b) the nature of ~~his~~ *the demandant’s* interest in the estate; and
- (c) the demandant’s address or that of ~~his~~ *the demandant’s* attorney.

(2) The clerk shall mail a copy of the demand to the personal representative if one has been appointed.

(3) After filing of a demand, ~~no~~ *an* order or filing to which the demand relates ~~shall may not~~ be made or accepted without notice as prescribed in 72-1-301 to the demandant or ~~his~~ *the demandant’s* attorney. The validity of an order ~~which~~ *that* is issued or filing ~~which~~ *that* is accepted without compliance with this requirement ~~shall may~~ not be affected by the error, but the petitioner receiving the order or the person making the filing may be liable for any damage caused by the absence of notice.

(4) The requirement of notice arising from a demand under this provision may be waived in writing by the demandant and ~~shall~~ *must* cease upon the termination of ~~his~~ *the demandant’s* interest in the estate.”

Section 2316. Section 72-3-112, MCA, is amended to read:

“72-3-112. Venue for estate proceedings. (1) Venue for the first informal or formal testacy or appointment proceedings after a decedent’s death is:

- (a) in the county where the decedent had ~~his~~ *the decedent’s* domicile at the time of ~~his~~ death; or
- (b) if the decedent was not domiciled in this state, in any county where property of the decedent was located at the time of ~~his~~ death.

(2) Venue for all subsequent proceedings within the exclusive jurisdiction of the court is in the place where the initial proceeding occurred unless the initial

proceeding has been transferred as provided in 72-1-203 or subsection (3) of this section.

(3) If the first proceeding was informal, on application of an interested person and after notice to the proponent in the first proceeding, the court, upon finding that venue is elsewhere, may transfer the proceeding and the file to the other court.”

Section 2317. Section 72-3-123, MCA, is amended to read:

“72-3-123. Statutes of limitation on decedent’s cause of action — applicability. ~~No~~ A statute of limitation running on a cause of action belonging to a decedent, which had not been barred as of the date of ~~his~~ *the decedent’s* death, ~~shall may not~~ apply to bar a cause of action surviving the decedent’s death sooner than 4 months after death. A cause of action ~~which~~ *that*, but for this section, would have been barred less than 4 months after death is barred after 4 months unless tolled.”

Section 2318. Section 72-3-201, MCA, is amended to read:

“72-3-201. Applications to be verified. Applications for informal probate or informal appointment ~~shall must~~ be directed to the clerk and verified by the applicant to be accurate and complete to the best of ~~his~~ *the applicant’s* knowledge and belief as to the information required by 72-3-202 through 72-3-205.”

Section 2319. Section 72-3-202, MCA, is amended to read:

“72-3-202. Required contents of application. Every application for informal probate of a will or for informal appointment of a personal representative, other than a special, ancillary, or successor representative, ~~shall must~~ contain the following:

- (1) a statement of the interest of the applicant;
- (2) the name and date of death of the decedent, ~~his~~ *the decedent’s* age, and the county and state of ~~his~~ *the decedent’s* domicile at the time of death and the names and addresses of the spouse, children, heirs, and devisees and the ages of any who are minors so far as known or ascertainable with reasonable diligence by the applicant;
- (3) if the decedent was not domiciled in the state at the time of ~~his~~ death, a statement showing venue;
- (4) a statement identifying and indicating the address of any personal representative of the decedent appointed in this state or elsewhere whose appointment has not been terminated;
- (5) a statement indicating whether the applicant has received a demand for notice or is aware of any demand for notice of any probate or appointment proceeding concerning the decedent that may have been filed in this state or elsewhere.”

Section 2320. Section 72-3-204, MCA, is amended to read:

“72-3-204. Appointment in intestacy — additional information required. An application for informal appointment of an administrator in intestacy ~~shall must~~ state in addition to the statements required by 72-3-202:

- (1) that after the exercise of reasonable diligence, the applicant is unaware of any unrevoked testamentary instrument relating to property having a situs in this state under 72-1-201 or a statement why any ~~such~~ instrument of which ~~he~~ *the applicant* may be aware is not being probated;

(2) the priority of the person whose appointment is sought and the names of any other persons having a prior or equal right to the appointment under 72-3-501 through 72-3-508.”

Section 2321. Section 72-3-211, MCA, is amended to read:

“72-3-211. Informal probate — notice requirements. (1) The moving party ~~must~~ *shall* give notice, as described by 72-1-301, of ~~his~~ *the* application for informal probate:

- (a) to any person demanding it pursuant to 72-3-106; and
 - (b) to any personal representative of the decedent whose appointment has not been terminated.
- (2) No other notice of informal probate is required.”

Section 2322. Section 72-3-214, MCA, is amended to read:

“72-3-214. Power of clerk to deny informal probate — effect of denial. (1) If the clerk is not satisfied that a will is entitled to be probated in informal proceedings because of failure to meet the requirements of 72-3-212 and 72-3-213 or any other reason, ~~he~~ *the clerk* may decline the application.

(2) A declination of informal probate is not an adjudication and does not preclude formal probate proceedings.”

Section 2323. Section 72-3-221, MCA, is amended to read:

“72-3-221. Informal appointment — notice requirements. (1) The moving party ~~must~~ *shall* give notice, as described by 72-1-301, of ~~his~~ *the party's* intention to seek an appointment informally:

- (a) to any person demanding it pursuant to 72-3-106; and
 - (b) to any person having a prior or equal right to appointment not waived in writing and filed with the court.
- (2) No other notice of an informal appointment proceeding is required.”

Section 2324. Section 72-3-223, MCA, is amended to read:

“72-3-223. Rules for denial of informal appointment. (1) Unless 72-3-523 controls, the application must be denied if it indicates:

(a) that a personal representative who has not filed a written statement of resignation, as provided in 72-3-525, has been appointed in this or another county of this state;

(b) that, ~~unless the applicant is the domiciliary personal representative or his~~ *the domiciliary personal representative's* nominee), the decedent was not domiciled in this state and that a personal representative whose appointment has not been terminated has been appointed by a court in the state of domicile; or

(c) that other requirements of 72-3-222 have not been met.

(2) If an application for informal appointment indicates the existence of a possible unrevoked testamentary instrument ~~which~~ *that* may relate to property subject to the laws of this state and ~~which~~ *that* is not filed for probate in this court, the clerk shall decline the application.”

Section 2325. Section 72-3-224, MCA, is amended to read:

“72-3-224. Informal appointment — power of clerk to deny — effect of denial. (1) If the clerk is not satisfied that a requested informal appointment of a personal representative should be made because of failure to meet the

requirements of 72-3-222, 72-3-223, and 72-3-225 or for any other reason, ~~he~~ *the clerk* may decline the application.

(2) A declination of informal appointment is not an adjudication and does not preclude appointment in formal proceedings.”

Section 2326. Section 72-3-225, MCA, is amended to read:

“72-3-225. Duty of clerk to make appointment — effect. (1) Upon receipt of an application for informal appointment of a personal representative other than a special administrator as provided in 72-3-701, if at least 120 hours have elapsed since the decedent’s death, the clerk, after making the findings required by 72-3-222 and 72-3-223, shall appoint the applicant subject to qualification and acceptance. ~~provided that~~ *However*, if the decedent was a nonresident, the clerk shall delay the order of appointment until 30 days have elapsed since death unless the personal representative appointed at the decedent’s domicile is the applicant or unless the decedent’s will directs that ~~his~~ *the decedent’s* estate be subject to the laws of this state.

(2) The status of personal representative and the powers and duties pertaining to the office are fully established by informal appointment. An appointment and the office of personal representative created ~~thereby~~ *by the appointment* ~~is~~ *are* subject to termination, as provided in 72-3-521 through 72-3-526, but ~~is~~ *are* not subject to retroactive vacation.”

Section 2327. Section 72-3-302, MCA, is amended to read:

“72-3-302. Formal testacy proceedings — nature — how and when commenced. (1) A formal testacy proceeding is litigation to determine whether a decedent left a valid will.

(2) A formal testacy proceeding may be commenced by an interested person filing a petition:

(a) as described in 72-3-301(1) in which ~~he~~ *the person* requests that the court, after notice and hearing, enter an order probating a will;

(b) to set aside an informal probate of a will or to prevent informal probate of a will ~~which~~ *that* is the subject of a pending application; or

(c) for an order that the decedent died intestate.

(3) A petition may seek formal probate of a will without regard to whether the ~~same~~ *will* or a conflicting will has been informally probated.

(4) A formal testacy proceeding may but need not involve a request for appointment of a personal representative.”

Section 2328. Section 72-3-304, MCA, is amended to read:

“72-3-304. Effect of formal proceeding on power of informally appointed personal representative. Unless a petition in a formal testacy proceeding also requests confirmation of the previous informal appointment, a previously appointed personal representative, after receipt of notice of the commencement of a formal probate proceeding, ~~must~~ *shall* refrain from exercising ~~his~~ *the personal representative’s* power to make any further distribution of the estate during the pendency of the formal proceeding. A petitioner who seeks the appointment of a different personal representative in a formal proceeding also may request an order restraining the acting personal representative from exercising any of the powers of ~~his~~ *that* office and requesting the appointment of a special administrator. In the absence of a request or if the request is denied, the commencement of a formal proceeding

has no effect on the powers and duties of a previously appointed personal representative other than those relating to distribution.”

Section 2329. Section 72-3-306, MCA, is amended to read:

“72-3-306. Notice and procedure when fact of death in doubt. (1) If it appears by the petition or otherwise that the fact of the death of the alleged decedent may be in doubt or on the written demand of any interested person, a copy of the notice of the hearing on said ~~the~~ petition shall ~~must~~ be sent by registered or certified mail to the alleged decedent at ~~his~~ *the alleged decedent’s last known last-known* address. The court shall direct the petitioner to report the results of or make and report back concerning a reasonably diligent search for the alleged decedent in any manner that may seem advisable, including any ~~or all~~ of the following methods:

(a) by inserting in one or more suitable periodicals a notice requesting information from any person having knowledge of the whereabouts of the alleged decedent;

(b) by notifying law enforcement officials and public welfare agencies in appropriate locations of the disappearance of the alleged decedent;

(c) by engaging the services of an investigator.

(2) The costs of any search ~~so directed~~ shall ~~must~~ be paid by the petitioner if there is no administration or by the estate of the decedent ~~in case if~~ there is administration.”

Section 2330. Section 72-3-308, MCA, is amended to read:

“72-3-308. Written objections to probate. Any party to a formal proceeding who opposes the probate of a will for any reason shall state in ~~his~~ *the* pleadings ~~his~~ *the party’s* objections to probate of the will.”

Section 2331. Section 72-3-312, MCA, is amended to read:

“72-3-312. Effect of final order in another state. A final order of a court of another state determining testacy, the validity or construction of a will, made in a proceeding involving notice to and an opportunity for contest by all interested persons must be accepted as determinative by the courts of this state if it includes or is based upon a finding that the decedent was domiciled at ~~his~~ *the decedent’s* death in the state where the order was made.”

Section 2332. Section 72-3-313, MCA, is amended to read:

“72-3-313. Order for formal probate. (1) After the time required for any notice has expired, upon proof of notice, and after any hearing that may be necessary, if the court finds that the testator is dead, *that* venue is proper, and that the proceeding was commenced within the limitation prescribed by 72-3-122, it shall determine the decedent’s domicile at death, ~~his~~ *the decedent’s* heirs, and ~~his~~ *the decedent’s* state of testacy. Any will found to be valid and unrevoked shall ~~must~~ be formally probated.

(2) Termination of any previous informal appointment of a personal representative, which may be appropriate in view of the relief requested and findings, is governed by 72-3-523.

(3) The petition shall ~~must~~ be dismissed or appropriate amendment allowed if the court is not satisfied that the alleged decedent is dead.”

Section 2333. Section 72-3-403, MCA, is amended to read:

“72-3-403. Effect on other proceedings and previously appointed personal representative. (1) The pendency of a proceeding for supervised

administration of a decedent's estate stays action on any informal application then pending or thereafter filed *after the pending proceeding*.

(2) If a will has been previously probated in informal proceedings, the effect of the filing of a petition for supervised administration is as provided for formal testacy proceedings by 72-3-303 and 72-3-304.

(3) After ~~he~~ *a personal representative* has received notice of the filing of a petition for supervised administration, a personal representative who has been appointed previously ~~shall~~ *may* not exercise ~~his~~ *the* power to distribute any estate. The filing of the petition does not affect ~~his~~ *the personal representative's* other powers and duties unless the court restricts the exercise of any of them pending *a* full hearing on the petition."

Section 2334. Section 72-3-404, MCA, is amended to read:

"72-3-404. Powers and duties of personal representative. (1) A supervised personal representative is responsible to the court, as well as to the interested parties, and is subject to directions concerning the estate made by the court on its own motion or on the motion of any interested party.

(2) Except as otherwise provided in this part or as otherwise ordered by the court, a supervised personal representative has the same duties and powers as a personal representative who is not supervised.

(3) Unless restricted by the court, a supervised personal representative has, without interim orders approving exercise of a power, all powers of personal representatives under this code, but ~~he~~ *shall the personal representative may* not exercise ~~his~~ *the* power to make any distribution of the estate without prior order of the court. Any other restriction on the power of a personal representative ~~which~~ *that* may be ordered by the court must be endorsed on ~~his~~ *the personal representative's* letters of appointment and unless so endorsed is ineffective as to persons dealing in good faith with the personal representative."

Section 2335. Section 72-3-504, MCA, is amended to read:

"72-3-504. Renunciation — nomination of other — two or more persons sharing priority. (1) A person entitled to letters under ~~(2) through (6)~~ *of 72-3-502(2) through (6)* may nominate a qualified person to act as personal representative.

(2) Any person entitled to letters may renounce ~~his~~ *the person's* right to nominate or to an appointment by appropriate writing filed with the court.

(3) When two or more persons share a priority, those of them who do not renounce ~~must~~ *shall* concur in nominating another to act for them or in applying for appointment. If they are unable to concur in nominating another to act for them or in applying for appointment, the court may appoint any qualified person."

Section 2336. Section 72-3-511, MCA, is amended to read:

"72-3-511. Acceptance of appointment — consent to jurisdiction. By accepting appointment, a personal representative submits personally to the jurisdiction of the court in any proceeding relating to the estate that may be instituted by any interested person. Notice of any proceeding ~~shall~~ *must* be delivered to the personal representative or mailed to ~~him~~ *the personal representative* by ordinary first-class mail at ~~his~~ *the* address as listed in the application or petition for appointment or as ~~thereafter~~ reported to the court and to ~~his~~ *the personal representative's* address as then known to the petitioner."

Section 2337. Section 72-3-513, MCA, is amended to read:

“72-3-513. Bond — when required. (1) ~~No bond~~ *Bond is not* required of a personal representative appointed in informal proceedings, except:

(a) upon the appointment of a special administrator;

(b) when an executor or other personal representative is appointed to administer an estate under a will containing an express requirement of bond; or

(c) when bond is required under 72-3-514.

(2) Bond may be required by court order at the time of appointment of a personal representative appointed in any formal proceeding, except that bond is not required of a personal representative appointed in formal proceedings if the will relieves the personal representative of bond unless bond has been requested by an interested party and the court is satisfied that it is desirable. Bond required by any will may be dispensed with in formal proceedings upon determination by the court that it is not necessary.

(3) ~~No bond~~ *Bond is not* required of any personal representative who, pursuant to statute, has deposited cash or collateral with an agency of this state to secure performance of ~~his~~ *the personal representative’s duties.*”

Section 2338. Section 72-3-514, MCA, is amended to read:

“72-3-514. Demand for bond by interested person. (1) Any person apparently having an interest in the estate worth in excess of \$1,000 or any creditor having a claim in excess of \$1,000 may make a written demand that a personal representative give bond. The demand must be filed with the clerk and a copy mailed to the personal representative, if appointment and qualification have occurred. ~~Thereupon~~ *Upon filing of the demand,* bond is required, but the requirement ceases if the person demanding bond ceases to be interested in the estate or if bond is excused as provided in 72-3-513 or 72-3-515.

(2) After ~~he~~ *the personal representative* has received notice and until the filing of the bond or cessation of the requirement of bond, the personal representative shall refrain from exercising any powers of ~~his~~ *the personal representative’s* office except as necessary to preserve the estate.

(3) Failure of the personal representative to meet a requirement of bond by giving suitable bond within 30 days after receipt of notice is cause for ~~his~~ removal and appointment of a successor personal representative.”

Section 2339. Section 72-3-515, MCA, is amended to read:

“72-3-515. Bond amount — security — reduction. (1) If bond is required and the provisions of the will or order do not specify the amount, unless stated in ~~his~~ *the* application or petition, the person qualifying shall file a statement under oath with the clerk indicating ~~his~~ *the person’s* best estimate of the value of the personal estate of the decedent and of the income expected from the personal and real estate during the next year, and ~~he~~ *the person* shall execute and file a bond with the clerk or give other suitable security in an amount not less than the estimate.

(2) The clerk shall determine that the bond is duly executed by a corporate surety or one or more individual sureties whose performance is secured by pledge of personal property, mortgage on real property, or other adequate security.

(3) The clerk may permit the amount of the bond to be reduced by the value of assets of the estate deposited with a domestic financial institution in a manner that prevents their unauthorized disposition. On petition of the personal representative or another interested person, the court may excuse a

requirement of bond, increase or reduce the amount of the bond, release sureties, or permit the substitution of another bond with the same or different sureties.”

Section 2340. Section 72-3-516, MCA, is amended to read:

“72-3-516. Terms of bond — liability of surety. (1) The following requirements and provisions apply to any bond required by this part:

(a) Bonds ~~shall~~ *must* name the state as obligee for the benefit of the persons interested in the estate and ~~shall~~ *must* be conditioned upon the faithful discharge by the fiduciary of all duties according to law.

(b) Unless otherwise provided by the terms of the approved bond, sureties are jointly and severally liable with the personal representative and with each other. The address of sureties ~~shall~~ *must* be stated in the bond.

(c) By executing an approved bond of a personal representative, the surety consents to the jurisdiction of the probate court ~~which~~ *that* issued letters to the primary obligor in any proceedings pertaining to the fiduciary duties of the personal representative and naming the surety as a party. Notice of any proceeding ~~shall~~ *must* be delivered to the surety or mailed to ~~him~~ *the surety* by registered or certified mail at ~~his~~ *the surety's* address as listed with the court where the bond is filed and to ~~his~~ *the surety's* address as then known to the petitioner.

(d) On petition of a successor personal representative, any other personal representative of the same decedent, or any interested person, a proceeding in the court may be initiated against a surety for breach of the obligation of the bond of the personal representative.

(e) The bond of the personal representative is not void after the first recovery but may be proceeded against from time to time until the whole penalty is exhausted.

(2) No action or proceeding may be commenced against the surety on any matter as to which an action or proceeding against the primary obligor is barred by adjudication or limitation.”

Section 2341. Section 72-3-521, MCA, is amended to read:

“72-3-521. Termination of appointment — general effect. Termination of appointment of a personal representative occurs as indicated in 72-3-522 through 72-3-526, inclusive. Termination ends the right and power pertaining to the office of personal representative as conferred by this code or any will, except that a personal representative, at any time prior to distribution or until restrained or enjoined by court order, may perform acts necessary to protect the estate and may deliver the assets to a successor representative. Termination does not discharge a personal representative from liability for transactions or omissions occurring before termination or relieve ~~him~~ *the personal representative* of the duty to preserve assets subject to ~~his~~ *the personal representative's* control, to account ~~therefor~~ *for the assets*, and to deliver the assets. Termination does not affect the jurisdiction of the court over the personal representative but terminates ~~his~~ *the personal representative's* authority to represent the estate in any pending or future proceeding.”

Section 2342. Section 72-3-522, MCA, is amended to read:

“72-3-522. Termination of appointment — death or disability. (1) The death of a personal representative or the appointment of a conservator for the estate of a personal representative terminates ~~his~~ *the personal representative's* appointment.

(2) Until appointment and qualification of a successor or special representative to replace the deceased or protected representative, the representative of the estate of the deceased or protected personal representative, if any, has the duty to protect the estate possessed and being administered by ~~his~~ *the representative's* decedent or ward at the time ~~his~~ *the* appointment terminates, has the power to perform acts necessary for protection, and shall account for and deliver the estate assets to a successor or special personal representative upon ~~his~~ *that person's* appointment and qualification."

Section 2343. Section 72-3-523, MCA, is amended to read:

"72-3-523. Termination of appointment — change of testacy status.

Except as otherwise ordered in formal proceedings, the probate of a will subsequent to the appointment of a personal representative in intestacy or under a will ~~which~~ *that* is superseded by formal probate of another will or the vacation of an informal probate of a will subsequent to the appointment of the personal representative ~~thereunder~~ *under the will* does not terminate the appointment of the personal representative although ~~his~~ *the personal representative's* powers may be reduced as provided in 72-3-304. Termination occurs upon appointment in informal or formal appointment proceedings of a person entitled to appointment under the later assumption concerning testacy. If ~~no~~ *a* request for new appointment is *not* made within 30 days after expiration of time for appeal from the order in formal testacy proceedings or from the informal probate changing the assumption concerning testacy, the previously appointed personal representative upon request may be appointed personal representative under the subsequently probated will or as in intestacy, as the case may be."

Section 2344. Section 72-3-525, MCA, is amended to read:

"72-3-525. Termination of appointment — voluntary. A personal representative may resign ~~his~~ *the* position by filing a written statement of resignation with the clerk after ~~he~~ *the personal representative* has given at least 15 days' written notice to the persons known to be interested in the estate. If no one applies or petitions for appointment of a successor representative within the time indicated in the notice, the filed statement of resignation is ineffective as a termination of appointment and in any event is effective only upon the appointment and qualification of a successor representative and delivery of the assets to ~~him~~ *the successor representative*."

Section 2345. Section 72-3-526, MCA, is amended to read:

"72-3-526. Termination of appointment — removal for cause. (1) A person interested in the estate may petition for removal of a personal representative for cause at any time. Upon filing of the petition, the court shall fix a time and place for hearing. Notice ~~shall~~ *must* be given by the petitioner to the personal representative and to other persons as the court may order. Except as otherwise ordered as provided in 72-3-617, after receipt of notice of removal proceedings, the personal representative ~~shall~~ *may* not act except to account, to correct maladministration, or preserve the estate. If removal is ordered, the court also shall direct by order the disposition of the assets remaining in the name of or under the control of the personal representative being removed.

(2) Cause for removal exists:

(a) when removal would be in the best interests of the estate; or

(b) if it is shown that a personal representative or the person seeking ~~his~~ *the personal representative's* appointment intentionally misrepresented material facts in the proceedings leading to ~~his~~ *the* appointment or that the personal

representative has disregarded an order of the court, has become incapable of discharging the duties of ~~his~~ *the* office, or has mismanaged the estate or failed to perform any duty pertaining to the office.

(3) Unless the decedent's will directs otherwise, a personal representative appointed at the decedent's domicile, incident to securing *self-appointment* or appointment of ~~himself or his~~ *the personal representative's* nominee as ancillary personal representative, may obtain removal of another who was appointed personal representative in this state to administer local assets."

Section 2346. Section 72-3-527, MCA, is amended to read:

"72-3-527. Successor personal representative. (1) Parts 2 and 3 of this chapter govern proceedings for appointment of a personal representative to succeed one whose appointment has been terminated.

(2) After appointment and qualification, a successor personal representative may be substituted in all actions and proceedings to which the former personal representative was a party, and ~~no~~ *a* notice, process, or claim ~~which that~~ was given or served upon the former personal representative ~~need is not required to~~ be given to or served upon the successor in order to preserve any position or right the person giving the notice or filing the claim may ~~thereby~~ have obtained or preserved with reference to the former personal representative.

(3) Except as otherwise ordered by the court, the successor personal representative has the powers and duties in respect to the continued administration ~~which that~~ the former personal representative would have had if ~~his the former personal representative's~~ appointment had not been terminated."

Section 2347. Section 72-3-601, MCA, is amended to read:

"72-3-601. Time of accrual of duties and powers — power of executor prior to appointment — ratification. (1) The duties and powers of a personal representative commence upon ~~his~~ appointment. The powers of a personal representative relate back in time to give acts by the person appointed ~~which that~~ are beneficial to the estate occurring prior to appointment the same effect as those occurring ~~thereafter~~ *after appointment*.

(2) Prior to appointment, a person named executor in a will may carry out written instructions of the decedent relating to ~~his the decedent's~~ body, funeral, and burial arrangements.

(3) A personal representative may ratify and accept acts on behalf of the estate done by others ~~where when~~ the acts would have been proper for a personal representative."

Section 2348. Section 72-3-602, MCA, is amended to read:

"72-3-602. Priority among different letters. A person to whom general letters are issued first has exclusive authority under the letters until ~~his the person's~~ appointment is terminated or modified. If, through error, general letters are afterwards issued to another, the first appointed representative may recover any property of the estate in the hands of the representative subsequently appointed, but the acts of the ~~latter~~ *subsequent representative* done in good faith before notice of the first letters are not void for want of validity of appointment."

Section 2349. Section 72-3-603, MCA, is amended to read:

"72-3-603. Notice of appointment to heirs and devisees. (1) Not later than 30 days after ~~his~~ appointment, every personal representative, except any

special administrator, shall give information of ~~his~~ *the* appointment to the heirs and devisees, including, if there has been no formal testacy proceeding and if the personal representative was appointed on the assumption that the decedent died intestate, the devisees in any will mentioned in the application for appointment of a personal representative. The information ~~shall~~ *must* be delivered or sent by ordinary mail to each of the heirs and devisees whose address is reasonably available to the personal representative. The duty does not extend to require information to persons who have been adjudicated in a prior formal testacy proceeding to have no interest in the estate.

(2) (a) The information must:

(i) include the name and address of the personal representative;

(ii) indicate that it is being sent to persons who have or may have some interest in the estate being administered;

(iii) indicate whether bond has been filed; and

(iv) describe the court where papers relating to the estate are on file.

(b) The information must state that the estate is being administered by the personal representative under the uniform probate code without supervision by the court but that recipients are entitled to information regarding the administration from the personal representative and may petition the court in any matter relating to the estate, including distribution of assets and expenses of administration.

(3) The personal representative's failure to give this information is a breach of ~~his~~ *the personal representative's* duty to the persons concerned but does not affect the validity of ~~his~~ *the personal representative's* appointment, ~~his~~ powers, or other duties.

(4) A personal representative may inform other persons of ~~his~~ *the* appointment by delivery or ordinary first-class mail."

Section 2350. Section 72-3-604, MCA, is amended to read:

"72-3-604. Standing to sue. Except as to proceedings ~~which~~ *that* do not survive the death of the decedent, a personal representative of a decedent domiciled in this state at ~~his~~ death has the same standing to sue and be sued in the courts of this state and the courts of any other jurisdiction as ~~his~~ *the* decedent had immediately prior to death."

Section 2351. Section 72-3-605, MCA, is amended to read:

"72-3-605. Personal representative to proceed without court order — power to invoke jurisdiction. A personal representative shall proceed expeditiously with the settlement and distribution of a decedent's estate and, except as otherwise specified under this code or ordered in regard to a supervised personal representative, do so without adjudication, order, or direction of the court, but ~~he~~ *the personal representative* may invoke the jurisdiction of the court, in proceedings authorized by this code, to resolve questions concerning the estate or its administration."

Section 2352. Section 72-3-606, MCA, is amended to read:

"72-3-606. Possession and protection of estate. (1) Except as otherwise provided by a decedent's will and subject to the provisions of *Title 72*, chapter 12, part 7, ~~every~~ *a* personal representative has a right to and shall take possession or control of the decedent's property, except that any real property or tangible personal property may be left with or surrendered to the person presumptively entitled ~~thereto~~ *to the property* unless or until, in the judgment of the personal

representative, possession of the property by ~~him~~ *the personal representative* will be necessary for purposes of administration. The request by a personal representative for delivery of ~~any~~ property possessed by an heir or devisee is conclusive evidence, in any action against the heir or devisee for possession ~~thereof of the property~~, that the possession of the property by the personal representative is necessary for purposes of administration.

(2) The personal representative shall pay taxes on and take all steps reasonably necessary for the management, protection, and preservation of the estate in ~~his~~ *the personal representative's* possession. ~~He~~ *The personal representative* may maintain an action to recover possession of property or to determine the title ~~thereto to property~~."

Section 2353. Section 72-3-610, MCA, is amended to read:

"72-3-610. General duties — fiduciary. A personal representative is a fiduciary who shall observe the standards of care applicable to trustees under the laws of the state of Montana. A personal representative is under a duty to settle and distribute the estate of the decedent in accordance with the terms of any probated and effective will and this code and as expeditiously and efficiently as is consistent with the best interests of the estate. ~~He~~ *The personal representative* shall use the authority conferred upon ~~him~~ *the personal representative* by this code, the terms of the will, if any, and any order in proceedings to which ~~he~~ *the personal representative* is party for the best interests of successors to the estate."

Section 2354. Section 72-3-611, MCA, is amended to read:

"72-3-611. No surcharge for authorized acts generally — limitation.

(1) A personal representative ~~shall~~ *may* not be surcharged for acts of administration or distribution if the conduct in question was authorized at the time. Subject to other obligations of administration and of this code, an informally probated will is authority to administer and distribute the estate according to its terms. Subject to the provisions of this code, an order of appointment of a personal representative, whether issued in informal or formal proceedings, is authority to distribute apparently intestate assets to the heirs of the decedent if, at the time of distribution, the personal representative is not aware of a pending testacy proceeding, a proceeding to vacate an order entered in an earlier testacy proceeding, a formal proceeding questioning ~~his~~ *the personal representative's* appointment or fitness to continue, or a supervised administration proceeding.

(2) ~~Nothing in this~~ *This section affects does not affect* the duty of the personal representative to administer and distribute the estate in accordance with the rights of claimants, the surviving spouse, any minor and dependent children, and any pretermitted child of the decedent as described elsewhere in this code."

Section 2355. Section 72-3-612, MCA, is amended to read:

"72-3-612. No individual liability — exceptions — certain claims to be brought against personal representative. (1) Unless otherwise provided in the contract, a personal representative is not individually liable on a contract properly entered into in ~~his~~ *the personal representative's* fiduciary capacity in the course of administration of the estate unless ~~he~~ *the personal representative* fails to reveal ~~his~~ *the* representative capacity and identify the estate in the contract.

(2) A personal representative is individually liable for obligations arising from ownership or control of the estate or for torts committed in the course of

administration of the estate only if ~~he~~ *the personal representative* is personally at fault.

(3) Claims based on contracts entered into by a personal representative in ~~his~~ *a* fiduciary capacity, on obligations arising from ownership or control of the estate, or on torts committed in the course of estate administration may be asserted against the estate by proceeding against the personal representative in ~~his~~ *the personal representative's* fiduciary capacity, whether or not the personal representative is individually liable ~~therefor~~.

(4) Issues of liability as between the estate and the personal representative individually may be determined in a proceeding for accounting, surcharge, or indemnification or other appropriate proceeding.”

Section 2356. Section 72-3-614, MCA, is amended to read:

“72-3-614. Power to recover property ~~which that~~ is subject of void or voidable transfer. The property liable for the payment of unsecured debts of a decedent includes all property transferred by ~~him~~ *the decedent* by any means ~~which that~~ is in law void or voidable as against ~~his~~ *the decedent's* creditors, and subject to prior liens, the right to recover this property, so far as necessary for the payment of unsecured debts of the decedent, is exclusively in the personal representative.”

Section 2357. Section 72-3-615, MCA, is amended to read:

“72-3-615. Transaction involving conflict of interest — voidable — exceptions. Any sale or encumbrance to the personal representative, ~~his~~ *the personal representative's* spouse, agent, or attorney, or any corporation or trust in which ~~he~~ *the personal representative* has a substantial beneficial interest or any transaction ~~which that~~ is affected by a substantial conflict of interest on the part of the personal representative is voidable by any person interested in the estate except one who has consented after fair disclosure; unless:

(1) the will or a contract entered into by the decedent expressly authorized the transaction; or

(2) the transaction is approved by the court after notice to interested persons.”

Section 2358. Section 72-3-616, MCA, is amended to read:

“72-3-616. Improper exercise of power — breach of fiduciary duty. (1) If any exercise of power concerning the estate is improper, the personal representative is liable to interested persons for damage or loss resulting from breach of ~~his~~ *the personal representative's* fiduciary duty to the same extent as a trustee of an express trust.

(2) The rights of purchasers and others dealing with a personal representative ~~shall~~ *must* be determined as provided in 72-3-615 and 72-3-618.”

Section 2359. Section 72-3-617, MCA, is amended to read:

“72-3-617. Order restraining personal representative. (1) On petition of any person who appears to have an interest in the estate, the court by temporary order may restrain a personal representative from performing specified acts of administration, disbursement, or distribution or exercise of any powers or discharge of any duties of ~~his~~ *the office* or make any other order to secure proper performance of ~~his~~ *the personal representative's* duty if it appears to the court that the personal representative otherwise may take some action ~~which that~~ would jeopardize unreasonably the interest of the applicant or of

some other interested person. Persons with whom the personal representative may transact business may be made parties.

(2) The matter ~~shall~~ *must* be set for hearing within 10 days unless the parties otherwise agree. Notice as the court directs ~~shall~~ *must* be given to the personal representative and ~~his~~ *the personal representative's* attorney of record, if any, and to any other parties named defendant in the petition."

Section 2360. Section 72-3-621, MCA, is amended to read:

"72-3-621. Powers and duties of successor personal representative.

A successor personal representative has the same power and duty as the original personal representative to complete the administration and distribution of the estate as expeditiously as possible, but ~~he~~ ~~shall~~ *the successor personal representative* may not exercise any power expressly made personal to the executor named in the will."

Section 2361. Section 72-3-623, MCA, is amended to read:

"72-3-623. Persons dealing with single corepresentative — protection. Persons dealing with a corepresentative, if actually unaware that another has been appointed to serve with ~~him~~ *the corepresentative* or if advised by the personal representative with whom they deal that ~~he~~ *the personal representative* has authority to act alone for any of the reasons mentioned ~~herein~~ *in this part*, are as fully protected as if the person with whom they dealt had been the sole personal representative."

Section 2362. Section 72-3-632, MCA, is amended to read:

"72-3-632. Expenses of personal representative in estate litigation. If ~~any~~ *a* personal representative or person nominated as personal representative defends or prosecutes ~~any~~ *a* proceeding in good faith, whether successful or not, ~~he~~ *the personal representative* is entitled to receive from the estate ~~his~~ *the personal representative's* necessary expenses and disbursements, including reasonable ~~attorneys'~~ *attorney* fees incurred."

Section 2363. Section 72-3-634, MCA, is amended to read:

"72-3-634. Proceedings for review of employment of agents and compensation of personal representatives and employees. (1) Upon the filing of a motion for settlement of fees by the court filed by an interested person, the personal representative, or the person employed by the personal representative and after notice to all interested persons, the propriety of employment of any person by a personal representative, including any attorney, auditor, investment ~~adviser~~ *adviser*, or other specialized agent or assistant, the reasonableness of the compensation of any person ~~so~~ employed, or the reasonableness of the compensation determined by the personal representative for ~~his~~ *the personal representative's* own services ~~shall~~ *must* be reviewed and determined by the court.

(2) In ~~any~~ *a* dispute concerning fees, the court shall set the fee.

(3) ~~Any~~ *A* person who has received excessive compensation from an estate for services rendered may be ordered to make appropriate refunds."

Section 2364. Section 72-3-703, MCA, is amended to read:

"72-3-703. Special administrator appointed informally — powers and duties. A special administrator appointed by the clerk in informal proceedings pursuant to 72-3-701(1) has the duty to collect and manage the assets of the estate, to preserve them, to account ~~therefor~~ *for them*, and to deliver them to the general personal representative upon ~~his~~ *the personal*

representative's qualification. The special administrator has the power of a personal representative under the code necessary to perform ~~his~~ *the special administrator's* duties."

Section 2365. Section 72-3-801, MCA, is amended to read:

"72-3-801. Notice to creditors. (1) Unless notice has already been given under this section, a personal representative upon ~~his~~ appointment shall publish a notice once a week for 3 successive weeks in a newspaper of general circulation in the county announcing ~~his~~ *the personal representative's* appointment and address and notifying creditors of the estate to present their claims within 4 months after the date of the first publication of the notice or be forever barred.

(2) A personal representative may give written notice by mail or other delivery to any creditor, notifying the creditor to present ~~his~~ *the creditor's* claim within 4 months from the published notice if given as provided in subsection (1) or within 30 days from the mailing or other delivery of the notice, whichever is later, or be forever barred. Written notice must be the notice described in subsection (1) or a similar notice.

(3) The personal representative is not liable to any creditor or to any successor of the decedent for giving or failing to give notice under this section."

Section 2366. Section 72-3-803, MCA, is amended to read:

"72-3-803. Nonclaim — limitations on presentation of claims — exceptions. (1) All claims against a decedent's estate ~~which~~ *that* arose before the death of the decedent, including claims of the state and any subdivision ~~thereof of the state~~, whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract, tort, or other legal basis, if not barred earlier by other statute of limitations, are barred against the estate, the personal representative, and the heirs and devisees of the decedent; unless presented within the earlier of the following time limitations:

(a) within 1 year after the decedent's death; or

(b) within the time provided by 72-3-801(2) for creditors who are given actual notice and within the time provided in 72-3-801(1) for all creditors barred by publication. However, claims barred by the nonclaim statute at the decedent's domicile before the giving of notice to creditors in this state are also barred in this state.

(2) All claims against a decedent's estate ~~which~~ *that* arise at or after the death of the decedent, including claims of the state and any subdivision ~~thereof of the state~~, whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract, tort, or other legal basis, are barred against the estate, the personal representative, and the heirs and devisees of the decedent unless presented as follows:

(a) a claim based on a contract with the personal representative, within 4 months after performance by the personal representative is due;

(b) any other claim, within the later of 4 months after it arises or the time specified in subsection (1)(a).

(3) ~~Nothing in this~~ *This section affects or prevents does not affect or prevent:*

(a) any proceeding to enforce any mortgage, pledge, or other lien upon property of the estate;

(b) to the limits of the insurance protection only, any proceeding to establish liability of the decedent or the personal representative for which ~~he~~ *the decedent or the personal representative* is protected by liability insurance; or

(c) collection of compensation for services rendered and reimbursement for expenses advanced by the personal representative or by the attorney or accountant for the personal representative of the estate.”

Section 2367. Section 72-3-804, MCA, is amended to read:

“72-3-804. Manner of presentation of claims. Claims against a decedent’s estate may be presented as follows:

(1) The claimant shall mail to the personal representative return receipt requested a written statement of the claim indicating its basis, the name and address of the claimant, and the amount claimed or may file a written statement of the claim, in the form prescribed by rule, with the clerk of the court. The claim is ~~deemed considered~~ presented on the first to occur of receipt of the written statement of claim by the personal representative or the filing of the claim with the court. If a claim is not yet due, the date when it will become due ~~shall~~ *must* be stated. If the claim is contingent or unliquidated, the nature of the uncertainty ~~shall~~ *must* be stated. If the claim is secured, the security ~~shall~~ *must* be described. Failure to describe correctly the security, the nature of any uncertainty, and the due date of a claim not yet due does not invalidate the presentation made.

(2) The claimant may commence a proceeding against the personal representative, in any court where the personal representative may be subjected to jurisdiction, to obtain payment of ~~his~~ *the* claim against the estate, but the commencement of the proceeding must occur within the time limited for presenting the claim. ~~No~~ A presentation of claim is *not* required in regard to matters claimed in proceedings against the decedent ~~which~~ *that* were pending at the time of ~~his~~ death.

(3) If a claim is presented under subsection (1), ~~no a proceeding thereon on the claim~~ may *not* be commenced more than 60 days after the personal representative has mailed a notice of disallowance, but in the case of a claim ~~which that~~ is not presently due or ~~which that~~ is contingent or unliquidated, the personal representative may consent to an extension of the 60-day period or, to avoid injustice, the court, on petition, may order an extension of the 60-day period, but ~~in no event shall~~ the extension *may not* run beyond the applicable statute of limitations.”

Section 2368. Section 72-3-805, MCA, is amended to read:

“72-3-805. Allowance and disallowance of claims — interest on allowed claims. (1) As to claims presented in the manner described in 72-3-804 within the time limit prescribed in 72-3-803, the personal representative may mail a notice to any claimant stating that the claim has been disallowed. If, after allowing or disallowing a claim, the personal representative changes ~~his~~ *the* decision concerning the claim, ~~he~~ *the personal representative* shall notify the claimant. The personal representative may not change a disallowance of a claim after the time for the claimant to file a petition for allowance or to commence a proceeding on the claim has run and the claim has been barred. ~~Every~~ A claim ~~which that~~ is disallowed in whole or in part by the personal representative is barred so far as *it is* not allowed unless the claimant files a petition for allowance in the court or commences a proceeding against the personal representative not later than 60 days after the mailing of the notice of disallowance or partial allowance if the notice warns the claimant of the impending bar. Failure of the personal representative to mail notice to a claimant of action on ~~his~~ *the*

claimant's claim for 60 days after the time for original presentation of the claim has expired has the effect of a notice of allowance.

(2) After allowing or disallowing a claim, the personal representative may change the allowance or disallowance as provided in this section. The personal representative may change the allowance to a disallowance, in whole or in part, prior to payment, but not after allowance by a court order or judgment or an order directing payment of the claim. The personal representative shall notify the claimant of the change to disallowance, and the disallowed claim is then subject to bar as provided in subsection (1). The personal representative may change a disallowance to an allowance, in whole or in part, until it is barred under subsection (1). After it is barred, it may be allowed and paid only if the estate is solvent and all successors whose interests would be affected consent.

(3) Upon the petition of the personal representative or of a claimant in a proceeding for the purpose, the court may allow, in whole or in part, any claim or claims presented to the personal representative or filed with the clerk of the court in due time and not barred by subsection (1). Notice in this proceeding ~~shall~~ *must* be given to the claimant, the personal representative, and those other persons interested in the estate ~~as~~ *that* the court may direct by order entered at the time the proceeding is commenced.

(4) A judgment in a proceeding in another court against a personal representative to enforce a claim against a decedent's estate is an allowance of the claim.

(5) Unless otherwise provided in ~~any~~ *a* judgment in another court entered against the personal representative, an allowed claim bears interest at the legal rate for the period commencing 60 days after the time for original presentation of the claim has expired unless based on a contract making a provision for interest, in which case the claim bears interest in accordance with that provision."

Section 2369. Section 72-3-808, MCA, is amended to read:

"72-3-808. Payment of claims. (1) Upon the expiration of the earlier of the time limitations provided in 72-3-803 for the presentation of claims, the personal representative shall proceed to pay the claims allowed against the estate in the order of priority prescribed, after making provision for homestead, family, and support allowances, for claims already presented ~~which~~ *that* have not yet been allowed or whose allowance has been appealed; and for unbarred claims ~~which~~ *that* may yet be presented, including costs and expenses of administration.

(2) By petition to the court in a proceeding for the purpose; or by appropriate motion if the administration is supervised, a claimant whose claim has been allowed but not paid as provided ~~herein~~ *in this section* may secure an order directing the personal representative to pay the claim to the extent that funds of the estate are available for the payment.

(3) The personal representative at any time may pay any just claim ~~which~~ *that* has not been barred, with or without formal presentation, but ~~he~~ *the personal representative* is personally liable to any other claimant whose claim is allowed and who is injured by ~~such~~ *the* payment if:

(a) the payment was made before the expiration of the time limit stated in subsection (1) and the personal representative failed to require the payee to give adequate security for the refund of any of the payment necessary to pay other claimants; or

(b) the payment was made, due to the negligence or willful fault of the personal representative, in ~~such a manner as to deprive that deprives~~ the injured claimant of ~~his~~ *the claimant's* priority.”

Section 2370. Section 72-3-811, MCA, is amended to read:

“72-3-811. Secured claims. Payment of a secured claim is upon the basis of the amount allowed if the creditor surrenders ~~his~~ *the creditor's* security; ~~otherwise~~ *Otherwise*, payment is upon the basis of one of the following:

(1) if the creditor exhausts ~~his~~ *the creditor's* security before receiving payment, unless precluded by other law, upon the amount of the claim allowed less the fair value of the security; or

(2) if the creditor does not have the right to exhaust ~~his~~ *the creditor's* security or has not done so, upon the amount of the claim allowed less the value of the security determined by converting it into money according to the terms of the agreement pursuant to which the security was delivered to the creditor or by the creditor and personal representative by agreement, arbitration, compromise, or litigation.”

Section 2371. Section 72-3-812, MCA, is amended to read:

“72-3-812. Encumbered assets. (1) If any assets of the estate are encumbered by mortgage, pledge, lien, or other security interest, the personal representative may pay the encumbrance or any part ~~thereof of the encumbrance~~, renew or extend any obligation secured by the encumbrance, or convey or transfer the assets to the creditor in satisfaction of ~~his~~ *the* lien, in whole or in part, whether or not the holder of the encumbrance has filed a claim, if it appears to be for the best interest of the estate.

(2) Payment of an encumbrance does not increase the share of the distributee entitled to the encumbered assets unless the distributee is entitled to exoneration.”

Section 2372. Section 72-3-814, MCA, is amended to read:

“72-3-814. Claims not due and contingent or unliquidated claims. (1) If a claim ~~which that~~ will become due at a future time or a contingent or unliquidated claim becomes due or certain before the distribution of the estate and if the claim has been allowed or established by a proceeding, it is paid in the same manner as presently due and absolute claims of the same class.

(2) In other cases the personal representative or, on petition of the personal representative or the claimant in a special proceeding for the purpose, the court may provide for payment as follows:

(a) If the claimant consents, ~~he~~ *the claimant* may be paid the present or agreed value of the claim, taking any uncertainty into account.

(b) Arrangement for future payment or possible payment on the happening of the contingency or on liquidation may be made by creating a trust, giving a mortgage, obtaining a bond or security from a distributee, or otherwise.”

Section 2373. Section 72-3-821, MCA, is amended to read:

“72-3-821. Administration in more than one state — payment of claims. (1) All assets of estates being administered in this state are subject to all claims, allowances, and charges existing or established against the personal representative wherever appointed.

(2) If the estate either in this state or as a whole is insufficient to cover all family exemptions and allowances determined by the law of the decedent's domicile, prior charges and claims, after satisfaction of the exemptions,

allowances, and charges, each claimant whose claim has been allowed either in this state or elsewhere in administrations of which the personal representative is aware is entitled to receive payment of an equal proportion of ~~his~~ *the* claim. If a preference or security in regard to a claim is allowed in another jurisdiction but not in this state, the creditor ~~so~~ benefited is to receive dividends from local assets only upon the balance of ~~his~~ *the creditor's* claim after deducting the amount of the benefit.

(3) In case the family exemptions and allowances, prior charges, and claims of the entire estate exceed the total value of the portions of the estate being administered separately and this state is not the state of the decedent's last domicile, the claims allowed in this state ~~shall~~ *must* be paid their proportion if local assets are adequate for the purpose, and the balance of local assets ~~shall~~ *must* be transferred to the domiciliary personal representative. If local assets are not sufficient to pay all claims allowed in this state the amount to which they are entitled, local assets ~~shall~~ *must* be marshalled so that each claim allowed in this state is paid its proportion as far as possible, after taking into account all dividends on claims allowed in this state from assets in other jurisdictions."

Section 2374. Section 72-3-902, MCA, is amended to read:

"72-3-902. Distribution in kind preferred — method — valuation.

Unless a contrary intention is indicated by the will, the distributable assets of a decedent's estate ~~shall~~ *must* be distributed in kind to the extent possible through application of the following provisions:

(1) A specific devisee is entitled to distribution of the thing devised to ~~him~~ *that devisee*, and a spouse or child who has selected particular assets of an estate as provided in 72-2-413 ~~shall~~ *must* receive the items selected.

(2) Any homestead or family allowance or devise of a stated sum of money may be satisfied in kind, ~~provided if:~~

(a) the person entitled to the payment has not demanded payment in cash;

(b) the property distributed in kind is valued at fair market value as of the date of its distribution; and

(c) no residuary devisee has requested that the asset in question remain a part of the residue of the estate.

(3) For the purpose of valuation under subsection (2), any security regularly traded on a recognized exchange, if distributed in kind, is valued at the price for the last sale of like securities traded on the business day prior to distribution or, if there was no sale on that day, at the median between amounts bid and asked at the close of that day. An asset consisting of a sum owed the decedent or the estate by a solvent debtor as to which there is no known dispute or defense is valued at the sum due with accrued interest or discounted to the date of distribution. For an asset ~~which~~ *that* has no readily ascertainable value, a valuation as of a date not more than 30 days prior to the date of distribution, if otherwise reasonable, controls. For purposes of facilitating distribution, the personal representative may ascertain the value of any asset as of the time of the proposed distribution in any reasonable way, including the employment of qualified appraisers, even if the asset may have been previously appraised.

(4) The residuary estate ~~shall~~ *must* be distributed in any equitable manner."

Section 2375. Section 72-3-903, MCA, is amended to read:

"72-3-903. Proposal for distribution — delivery — objection. (1) After the probable charges against the estate are known, the personal representative

may mail or deliver a proposal for distribution to all persons who have a right to object to the proposed distribution.

(2) The right of any distributee to object to the proposed distribution on the basis of the kind or value of asset ~~he~~ *the distributee* is to receive, if not waived earlier in writing, terminates if ~~he~~ *the distributee* fails to object in writing received by the personal representative within 30 days after mailing or delivery of the proposal.”

Section 2376. Section 72-3-906, MCA, is amended to read:

“72-3-906. Improper distribution or payment — liability of distributee or payee. Unless the distribution or payment ~~can~~ no longer ~~can~~ be questioned because of adjudication, estoppel, or limitation, a distributee of property improperly distributed or paid or a claimant who was improperly paid is liable to return the property improperly received and its income since distribution if ~~he~~ *the claimant* has the property. If ~~he~~ *the claimant* does not have the property, then ~~he~~ *the claimant* is liable to return the value as of the date of disposition of the property improperly received and its income and gain received by ~~him~~ *the claimant*.”

Section 2377. Section 72-3-907, MCA, is amended to read:

“72-3-907. Purchases from distributees protected. (1) If property distributed in kind or a security interest ~~therein in that property~~ is acquired for value by a purchaser from or lender to a distributee who has received an instrument or deed of distribution from the personal representative, or is so acquired by a purchaser from or lender to a transferee from ~~such~~ *the* distributee, the purchaser or lender takes title free of rights of any interested person in the estate and incurs no personal liability to the estate or to any interested person, whether or not the distribution was proper or supported by court order or the authority of the personal representative was terminated before execution of the instrument or deed.

(2) This section protects a purchaser from or lender to a distributee who, as personal representative, has executed a deed of distribution to ~~himself~~ *the personal representative distributee*, as well as a purchaser from or lender to any other distributee or ~~his~~ *the distributee's* transferee. To be protected under this provision, a purchaser or lender need not inquire *as to* whether a personal representative acted properly in making the distribution in kind, even if the personal representative and the distributee are the same person, or whether the authority of the personal representative had terminated before the distribution. Any recorded instrument described in this section ~~shall be~~ *is* prima facie evidence that ~~such~~ *the* transfer was made for value.

(3) For purposes of this section, the term ~~purchaser~~ “*purchaser*” includes any lessee or other person acquiring any interest in the property for value.”

Section 2378. Section 72-3-911, MCA, is amended to read:

“72-3-911. Successors' rights if no administration. (1) In the absence of administration, the heirs and devisees are entitled to the estate in accordance with the terms of a probated will or the laws of intestate succession.

(2) Devisees may establish title by the probated will to devised property. Persons entitled to property by homestead allowance, exemption, or intestacy may establish title ~~thereto to the property~~ by proof of the decedent's ownership, ~~his~~ death, and their relationship to the decedent.

(3) Successors take subject to all charges incident to administration, including the claims of creditors and allowances of surviving spouse and

dependent children and subject to the rights of others resulting from abatement, retainer, advancement, and ademption.”

Section 2379. Section 72-3-912, MCA, is amended to read:

“72-3-912. Successor’s indebtedness to estate offset against interest — defenses available. The amount of a noncontingent indebtedness of a successor to the estate if due; or its present value if not due; shall *must* be offset against the successor’s interest; ~~but~~ *However*, the successor has the benefit of any defense ~~which that~~ would be available to ~~him~~ *the successor* in a direct proceeding for recovery of the debt.”

Section 2380. Section 72-3-915, MCA, is amended to read:

“72-3-915. Private agreements among successors as to distribution — testamentary trustee as successor. (1) Subject to the rights of creditors and taxing authorities, competent successors may agree among themselves to alter the interests, shares, or amounts to which they are entitled under the will of the decedent or under the laws of intestacy in any way that they provide in a written contract executed by all who are affected by its provisions. The personal representative shall abide by the terms of the agreement subject to ~~his~~ *the* obligation to administer the estate for the benefit of creditors, to pay all taxes and costs of administration, and to carry out the responsibilities of ~~his~~ *the personal representative’s* office for the benefit of any successors of the decedent who are not parties.

(2) Personal representatives of decedents’ estates are not required to see to the performance of trusts if the trustee ~~thereof~~ is another person who is willing to accept the trust. Accordingly, trustees of a testamentary trust are successors for the purposes of this section. ~~Nothing herein relieves~~ *This section does not relieve* trustees of any duties owed to beneficiaries of trusts.”

Section 2381. Section 72-3-916, MCA, is amended to read:

“72-3-916. Distribution to trustee — registration — bond. (1) Before distributing to a trustee, the personal representative may require that the trust be registered, if the state in which it is to be administered provides for registration, and that the trustee inform in writing the current beneficiaries and, if possible, one or more persons who under 72-1-303 may represent beneficiaries with future interests of ~~his~~ *the trustee’s* name and address and provide each with a copy of the terms of the trust ~~which that~~ describe or affect ~~his~~ *the interest of the beneficiaries* and with relevant information about the assets of the trust and the particulars relating to the administration.

(2) If the trust instrument does not excuse the trustee from giving bond, the personal representative may petition the appropriate court to require that the trustee post bond if ~~he~~ *the trustee apprehends believes* that distribution might jeopardize the interests of persons who are not able to protect themselves, and ~~he~~ *the trustee* may withhold distribution until the court has acted.

(3) ~~No inference~~ *An inference* of negligence on the part of the personal representative shall *may not* be drawn from ~~his~~ *the personal representative’s* failure to exercise the authority conferred by subsections (1) and (2).”

Section 2382. Section 72-3-918, MCA, is amended to read:

“72-3-918. Disposition of unclaimed assets — escheat. (1) If an heir, devisee, or claimant cannot be found, the personal representative shall distribute the ~~share of the missing person~~ *person’s share* to ~~his~~ *the person’s* conservator, if any, otherwise to the department of revenue to be deposited in the state escheat fund as provided in *Title 72, chapter 14, as amended*.

(2) ~~Any~~ A person having any claim to a share deposited in the state escheat fund under the provisions of this code shall follow the procedures set out in *Title 72*, chapter 14, concerning escheated estates, to claim ~~such~~ *the* share.”

Section 2383. Section 72-3-1003, MCA, is amended to read:

“72-3-1003. Formal proceedings terminating administration under informally probated will — settlement order construing will without adjudicating testacy. (1) A personal representative administering an estate under an informally probated will or any devisee under an informally probated will may petition for an order of settlement of the estate ~~which~~ *that* will not adjudicate the testacy status of the decedent. The personal representative may petition at any time and a devisee may petition after 1 year from the appointment of the original personal representative, except that ~~no~~ *a* petition under this section may *not* be entertained until the time for presenting claims ~~which~~ *that* arose prior to the death of the decedent has expired.

(2) The petition may request the court to consider the final account or compel or approve an accounting and distribution, to construe the will, and adjudicate final settlement and distribution of the estate. After notice to all devisees and the personal representative and hearing, the court may enter an order or orders, on appropriate conditions, determining the persons entitled to distribution of the estate under the will and, as circumstances require, approving settlement and directing or approving distribution of the estate and discharging the personal representative from further claim or demand of any devisee who is a party to the proceeding and those ~~he~~ *the devisee* represents. If it appears that a part of the estate is intestate, the proceedings ~~shall~~ *must* be dismissed or amendments *must be* made to meet the provisions of 72-3-1001 and 72-3-1002.”

Section 2384. Section 72-3-1005, MCA, is amended to read:

“72-3-1005. Final accounting required to close estate. (1) Before an estate may be finally closed and the personal representative relieved of ~~his~~ duties and obligations, ~~he~~ *the personal representative* shall either file with the court or deliver to all interested persons an accounting under oath showing the amount of money received and expended by ~~him~~ *the personal representative*, the amount of all claims presented against the estate, and the names of the claimants and all other matters necessary to show the state of its affairs.

(2) Any interested person at any time during the course of the administration of an estate may for good cause shown require further accountings.

(3) If the personal representative is the sole residual beneficiary of the estate, ~~no~~ *an* accounting need *not* be made.”

Section 2385. Section 72-3-1012, MCA, is amended to read:

“72-3-1012. Liability of distributees to claimants. (1) After assets of an estate have been distributed and subject to 72-3-1013, an undischarged claim *that is* not barred may be prosecuted in a proceeding against one or more distributees. ~~No~~ *A* distributee ~~shall be~~ *is not* liable to claimants for amounts in excess of the value of ~~his~~ *the distributee's* distribution as of the time of distribution.

(2) As between distributees, each shall bear the cost of satisfaction of unbarred claims as if the claim had been satisfied in the course of administration. Any distributee who ~~shall have failed~~ *fails* to notify other distributees of the demand made upon ~~him~~ *the distributee* by the claimant in sufficient time to permit them to join in any proceeding in which the claim was

asserted against ~~him~~ *the distributee* loses ~~his~~ *the* right of contribution against other distributees.”

Section 2386. Section 72-3-1014, MCA, is amended to read:

“72-3-1014. Certificate discharging liens securing fiduciary performance. After ~~his~~ *the personal representative’s* appointment has terminated, the personal representative, ~~his~~ *the personal representative’s* sureties, or any successor of either, upon the filing of a verified application showing so far as is known by the applicant that ~~no~~ *an* action concerning the estate is *not* pending in any court, is entitled to receive a certificate from the clerk that the personal representative appears to have fully administered the estate in question. The certificate evidences discharge of any lien on any property given to secure the obligation of the personal representative in lieu of bond or any surety but does not preclude action against the personal representative or the surety.”

Section 2387. Section 72-3-1015, MCA, is amended to read:

“72-3-1015. Estate to be closed within two years. (1) If an estate has not been closed within 2 years from the date of appointment of the personal representative, the supreme court administrator shall notify the district judge ~~thereof~~. The judge shall order the personal representative and ~~his~~ *the personal representative’s* attorney to appear before the court and show cause why the estate has not been closed.

(2) If, after the show cause hearing, the judge determines that good cause does not exist for failure to close the estate, the judge may make an order directing that the estate be closed within 30 days and that the personal representative and ~~his~~ *the personal representative’s* attorney *may not* receive ~~no~~ *a* fee or other compensation from the estate.”

Section 2388. Section 72-3-1102, MCA, is amended to read:

“72-3-1102. Effect of affidavit. (1) The person paying, delivering, transferring, or issuing personal property or the evidence ~~thereof of personal property~~ pursuant to affidavit is discharged and released to the same extent as if ~~he~~ *the person* dealt with a personal representative of the decedent. ~~He~~ *The person* is not required to see to the application of the personal property or evidence ~~thereof of personal property~~ or to inquire into the truth of any statement in the affidavit.

(2) If any person to whom an affidavit is delivered refuses to pay, deliver, transfer, or issue any personal property or evidence ~~thereof of personal property~~, it may be recovered or its payment, delivery, transfer, or issuance compelled upon proof of their right in a proceeding brought for the purpose by or on behalf of the persons entitled ~~thereto~~ *to the property*.

(3) ~~Any~~ A person to whom payment, delivery, transfer, or issuance is made is answerable and accountable ~~therefor~~ *for the property* to any person representative of the estate or to any other person having a superior right.”

Section 2389. Section 72-4-201, MCA, is amended to read:

“72-4-201. Jurisdiction by act of foreign personal representative. (1) A foreign personal representative submits personally to the jurisdiction of the courts of this state in any proceeding relating to the estate by:

(a) filing authenticated copies of ~~his~~ *the foreign personal representative’s* appointment as provided in 72-4-309;

(b) receiving payment of money or taking delivery of personal property under 72-4-306; or

(c) doing any act as a personal representative in this state that would have given the state jurisdiction over ~~him~~ *the foreign personal representative* as an individual.

(2) Jurisdiction under subsection (1)(b) is limited to the money or value of personal property collected.”

Section 2390. Section 72-4-202, MCA, is amended to read:

“72-4-202. Jurisdiction by act of decedent. In addition to jurisdiction conferred by 72-4-201, a foreign personal representative is subject to the jurisdiction of the courts of this state to the same extent that ~~his~~ *the foreign personal representative’s* decedent was subject to jurisdiction immediately prior to death.”

Section 2391. Section 72-4-203, MCA, is amended to read:

“72-4-203. Service on foreign personal representative. (1) Service of process may be made upon the foreign personal representative by ~~registered or~~ certified mail addressed to ~~his~~ *the foreign personal representative’s* last reasonably ascertainable address requesting a return receipt signed by addressee only. Notice by ordinary first-class mail is sufficient if ~~registered or~~ certified mail service to the addressee is unavailable. Service may be made upon a foreign personal representative in the manner in which service could have been made under other laws of this state on either the foreign personal representative or ~~his~~ *the foreign personal representative’s* decedent immediately prior to death.

(2) If service is made upon a foreign personal representative as provided in subsection (1), ~~he shall~~ *the foreign personal representative must* be allowed at least 30 days within which to appear or respond.”

Section 2392. Section 72-4-306, MCA, is amended to read:

“72-4-306. Payment of debt and delivery of property to foreign representative. At any time after the expiration of 60 days from the death of a nonresident decedent, ~~any~~ *a* person indebted to the estate of the nonresident decedent or having possession or control of personal property or of an instrument evidencing a debt, obligation, stock, or chose in action belonging to the estate of the nonresident decedent may pay the debt; ~~or~~ deliver the personal property; or the instrument evidencing the debt, obligation, stock, or chose in action to the domiciliary foreign personal representative of the nonresident decedent upon being presented with proof of ~~his~~ *the domiciliary foreign personal representative’s* appointment and an affidavit made by or on behalf of the representative, stating:

(1) the date of the death of the nonresident decedent;

(2) that no local administration; or application or petition ~~therefor~~ *for local administration*; is pending in this state;

(3) that the domiciliary foreign personal representative is entitled to payment or delivery.”

Section 2393. Section 72-4-309, MCA, is amended to read:

“72-4-309. Proof of authority — bond. If ~~no~~ *a* local administration or application or petition ~~therefor~~ *for local administration* is *not* pending in this state, a domiciliary foreign personal representative may file with a court in this state in a county in which property belonging to the decedent is located,

authenticated copies of ~~his~~ *the domiciliary foreign personal representative's* appointment and of any official bond ~~he~~ *that the domiciliary foreign personal representative* has given.”

Section 2394. Section 72-4-311, MCA, is amended to read:

“72-4-311. Effect of local administration on foreign representative, third persons, and local representative. (1) The power of a domiciliary foreign personal representative under 72-4-306 or 72-4-310 ~~shall~~ *may* be exercised only if there is no administration or application ~~therefor~~ *for administration* pending in this state. An application or petition for local administration of the estate terminates the power of the foreign personal representative to act under 72-4-310, but the local court may allow the foreign personal representative to exercise limited powers to preserve the estate.

(2) ~~No~~ *A* person who, before receiving actual notice of a pending local administration, has changed ~~his~~ *the person's* position in reliance upon the powers of a foreign personal representative ~~shall~~ *may not* be prejudiced by reason of the application or petition for or grant of local administration. The local personal representative is subject to all duties and obligations ~~which~~ *that* have accrued by virtue of the exercise of the powers by the foreign personal representative and may be substituted for ~~him~~ *the foreign personal representative* in any action or proceedings in this state.”

Section 2395. Section 72-4-402, MCA, is amended to read:

“72-4-402. Adjudication in other jurisdiction binding on local representative. An adjudication rendered in any jurisdiction in favor of or against any personal representative of the estate is as binding on the local personal representative as if ~~he~~ *the local personal representative* were a party to the adjudication.”

Section 2396. Section 72-5-101, MCA, is amended to read:

“72-5-101. Definitions. Unless otherwise apparent from the context, in this code, the following definitions apply:

(1) “Incapacitated person” means ~~any~~ *a* person who is impaired by reason of mental illness, mental deficiency, physical illness or disability, chronic use of drugs, chronic intoxication, or other cause, (except minority), to the extent that ~~he~~ *the person* lacks sufficient understanding or capacity to make or communicate responsible decisions concerning ~~his~~ *the person* or which cause has so impaired the person's judgment that ~~he~~ *the person* is incapable of realizing and making a rational decision with respect to ~~his~~ *the person's* need for treatment.

(2) “Protected person” means a minor or other person for whom a conservator has been appointed or other protective order has been made.

(3) “Protective proceeding” means a proceeding under the provisions of 72-5-409 to determine that a person cannot effectively manage or apply ~~his~~ *the person's* estate to necessary ends, either because ~~he~~ *the person* lacks the ability or is otherwise inconvenienced or because ~~he~~ *the person* is a minor, and to secure administration of ~~his~~ *the person's* estate by a conservator or other appropriate relief.

(4) “Ward” means a person for whom a guardian has been appointed. A “minor ward” is a minor for whom a guardian has been appointed solely because of minority.”

Section 2397. Section 72-5-104, MCA, is amended to read:

“72-5-104. Informal discharge of duty to pay or deliver property to minor. (1) ~~Any~~ A person under a duty to pay or deliver money or personal property to a minor may perform this duty, in amounts not exceeding \$5,000 ~~per annum~~ *a year*, by paying or delivering the money or property to:

(a) the minor, if ~~he~~ *the minor* has attained the ~~age of~~ 18 years *of age* or is married;

(b) any person having the care and custody of the minor with whom the minor resides;

(c) a guardian of the minor; or

(d) a financial institution incident to a deposit in a federally insured savings account in the sole name of the minor and giving notice of the deposit to the minor.

(2) This section does not apply if the person making payment or delivery has actual knowledge that a conservator has been appointed or proceedings for appointment of a conservator of the estate of the minor are pending.

(3) The persons, other than the minor or any financial institution under *subsection (1)(d) above*, receiving money or property for a minor are obligated to apply the money to the support and education of the minor but may not pay themselves except by way of reimbursement for out-of-pocket expenses for goods and services necessary for the minor's support. Any excess sums ~~shall~~ *must* be preserved for future support of the minor, and any balance not so used and any property received for the minor must be turned over to the minor when ~~he~~ *the minor* attains majority. Persons who pay or deliver in accordance with provisions of this section are not responsible for the proper application ~~thereof of the money or property.~~

Section 2398. Section 72-5-202, MCA, is amended to read:

“72-5-202. Consent to jurisdiction by acceptance of appointment. (1) By accepting a testamentary or court appointment as guardian, a guardian submits personally to the jurisdiction of the court in any proceeding relating to the guardianship that may be instituted by any interested person.

(2) Notice of any proceeding ~~shall~~ *must* be delivered to the guardian or mailed to ~~him~~ *the guardian* by ordinary mail at ~~his~~ *the guardian's* address as listed in the court records and to ~~his~~ *the guardian's* address as then known to the petitioner.”

Section 2399. Section 72-5-211, MCA, is amended to read:

“72-5-211. Testamentary appointment of guardian of minor — when effective — priorities — notice of appointment. (1) The parent of a minor may appoint by will a guardian of an unmarried minor. Subject to the right of the minor under 72-5-213, a testamentary appointment becomes effective upon filing the guardian's acceptance in the court in which the will is probated if before acceptance both parents are dead or the surviving parent is adjudged incapacitated. If both parents are dead, an effective appointment by the parent who died later has priority.

(2) Upon acceptance of *an* appointment, written notice of acceptance must be given by the guardian to the minor and to the person having ~~his~~ *the minor's* care or to ~~his~~ *the minor's* nearest adult relations.”

Section 2400. Section 72-5-213, MCA, is amended to read:

“72-5-213. Objection by minor ~~fourteen~~ 14 years of age or older to testamentary appointment. A minor of 14 ~~or more~~ *years of age or older* may

prevent an appointment of ~~his~~ *the minor's* testamentary guardian from becoming effective or may cause a previously accepted appointment to terminate by filing with the court in which the will is probated a written objection to the appointment before it is accepted or within 30 days after notice of its acceptance. An objection may be withdrawn. An objection does not preclude appointment by the court in a proper proceeding of the testamentary nominee or any other suitable person."

Section 2401. Section 72-5-301, MCA, is amended to read:

"72-5-301. Consent to jurisdiction by acceptance of appointment. (1) By accepting appointment, a guardian submits personally to the jurisdiction of the court in any proceeding relating to the guardianship that may be instituted by any interested person.

(2) Notice of any proceeding ~~shall~~ *must* be delivered to the guardian or mailed to ~~him~~ *the guardian* by ordinary mail at ~~his~~ *the guardian's* address as listed in the court records and to ~~his~~ *the guardian's* address as then known to the petitioner."

Section 2402. Section 72-5-312, MCA, is amended to read:

"72-5-312. Who may be guardian — priorities. (1) Any competent person or a suitable institution, association, or nonprofit corporation or any of its members may be appointed guardian of an incapacitated person.

(2) Persons who are not disqualified have priority for appointment as guardian in the following order:

(a) a person, association, or private, nonprofit corporation nominated by the incapacitated person, if the court specifically finds that at the time of the nomination the incapacitated person had the capacity to make a reasonably intelligent choice;

(b) the spouse of the incapacitated person;

(c) an adult child of the incapacitated person;

(d) a parent of the incapacitated person, including a person nominated by will or other writing signed by a deceased parent;

(e) any relative of the incapacitated person with whom ~~he~~ *the incapacitated person* has resided for more than 6 months prior to the filing of the petition;

(f) a relative or friend who has demonstrated a sincere, longstanding interest in the welfare of the incapacitated person;

(g) a private association or nonprofit corporation with a guardianship program for incapacitated persons, a member of ~~such~~ *the* private association or nonprofit corporation approved by the association or corporation to act as a guardian for the incapacitated person, or a person included on an official list of ~~such~~ *the* association or organization as willing and suitable to act as guardian of incapacitated persons;

(h) a person nominated by the person who is caring for ~~him~~ *the incapacitated person* or paying benefits to ~~him~~ *the incapacitated person*.

(3) The priorities established in subsection (2) are not binding, and the court shall select the person, association, or nonprofit corporation that is best qualified and willing to serve.

(4) Except as provided in subsection (5), the court may not appoint a person, institution, association, or nonprofit corporation to be the guardian of an

incapacitated person if the person, institution, association, or nonprofit corporation:

(a) provides or is likely to provide during the guardianship substantial services to the incapacitated person in the professional or business capacity other than in the capacity of guardian;

(b) is or is likely to become during the guardianship period a creditor of the incapacitated person, other than in the capacity of guardian;

(c) has or is likely to have during the guardianship period interests that may conflict with those of the incapacitated person; or

(d) is employed by a person, institution, association, or nonprofit corporation ~~who or which~~ *that* would be disqualified under subsections (4)(a) through (4)(c).

(5) If the court determines that there is no qualified person willing and able to serve as guardian, the court may appoint an agency of the state or federal government that is authorized or required by statute to provide services to the person or to persons suffering from the kind of disability from which the incapacitated person is suffering or a designee of the agency, notwithstanding the provisions of subsection (4). Whenever an agency is appointed guardian, the court may also appoint a limited guardian to represent a specified interest of the incapacitated person. Whenever a limited guardian is appointed pursuant to this subsection, the specified interest of the incapacitated person is the sole responsibility of the limited guardian and is removed from the responsibility of the agency.”

Section 2403. Section 72-5-314, MCA, is amended to read:

“72-5-314. Notices in guardianship proceedings. (1) In a proceeding for the appointment or removal of a guardian of an incapacitated person other than the appointment of a temporary guardian or temporary suspension of a guardian, notice of hearing ~~shall~~ *must* be given to each of the following:

(a) the ward or the person alleged to be incapacitated and ~~his~~ *the ward’s or person’s* spouse, parents, and adult children;

(b) any person who is serving as ~~his~~ *the ward’s or person’s* guardian, or conservator; or who has ~~his~~ *the ward’s or person’s* care and custody; and

(c) in case no other person is notified under ~~(a)~~ *subsection (1)(a)*, at least one of ~~his~~ *the ward’s or person’s* closest adult relatives, if any can be found.

(2) Notice ~~shall~~ *must* be served personally on the alleged incapacitated person and ~~his~~ *the person’s* spouse and parents if they can be found within the state. Notice to the spouse and parents, if they cannot be found within the state, and to all other persons except the alleged incapacitated person ~~shall~~ *must* be given as provided in 72-1-301. Waiver of notice by the person alleged to be incapacitated is not effective unless ~~he~~ *the person* attends the hearing or ~~his~~ *the person’s* waiver of notice is confirmed in an interview with the visitor. Representation of the alleged incapacitated person by a guardian ad litem is not necessary.”

Section 2404. Section 72-5-316, MCA, is amended to read:

“72-5-316. Findings — order of appointment. (1) If the court is satisfied that the person for whom a guardianship is sought is incapacitated and that judicial intervention in ~~his~~ *the person’s* personal freedom of action and decision is necessary to meet essential requirements for ~~his~~ *the person’s* physical health or safety, it may appoint a full guardian having the powers described in 72-5-321 or a limited guardian having the powers described in the order. If the court is

satisfied that the allegedly incapacitated person could handle the essential requirements for physical health or safety if ~~his~~ *the person's* financial resources were managed by another, it shall order that the petition be treated as a petition for a protective order under *Title 72, chapter 5, part 4 of this chapter* and proceed accordingly. Alternatively, the court may dismiss the proceeding or enter any other appropriate order that is not inconsistent with the specific provisions of this part. In issuing its order, the court shall make specific findings of fact.

(2) The court may not invest a guardian with powers or duties beyond those sought in the petition and may, upon petition for a full guardianship, create a limited guardianship or conservatorship when the court determines that a limited guardianship or conservatorship is all that is required for the care and protection of the incapacitated person. The order ~~shall~~ *must* specify whether a full or limited guardianship is being created. In the case of a limited guardianship, the order ~~shall~~ *must* specify the particular powers and duties vested in the limited guardian and the period for which the limited guardianship is created.

(3) ~~No~~ *An* incapacitated person may *not* be limited in the exercise of any civil or political rights except those that are clearly inconsistent with the exercise of the powers granted to the guardian unless the court's order specifically provides for ~~such~~ *the* limitations. The order ~~shall~~ *must* state that all rights not specifically limited are retained by the incapacitated person."

Section 2405. Section 72-5-317, MCA, is amended to read:

"72-5-317. Temporary guardians. (1) If an incapacitated person has no guardian and an emergency exists, the court may exercise the power of a guardian pending notice and hearing.

(2) If an appointed guardian is not effectively performing ~~his~~ *the guardian's* duties or if there is no appointed guardian and the court further finds that the welfare of the incapacitated person requires immediate action, it may, with or without notice, appoint a temporary guardian for the incapacitated person for a specified period not to exceed 6 months. The court may appoint either a full or a limited temporary guardian, depending on the needs and circumstances of the incapacitated person. The court may not invest a temporary guardian with more powers than are required by the circumstances necessitating the appointment. The order of appointment of a temporary guardian ~~shall~~ *must* state whether a full or limited temporary guardianship is being created and, in the case of a limited temporary guardian, the specific powers and duties of the limited temporary guardian.

(3) ~~In case~~ *If* there is no person available and willing to act as temporary guardian for an incapacitated person who is in need of a temporary guardian except a person or entity who is ineligible to act as guardian pursuant to the provisions of 72-5-312(4), the court may appoint as temporary guardian a person or entity who would otherwise be ineligible under that provision to act as guardian. This subsection does not permit the appointment of a person or entity who has an actual conflict of interest in regard to the purpose for which the temporary guardianship is sought. A temporary guardian who is otherwise ineligible shall serve until a person or entity who is not ineligible to serve as guardian and who is otherwise qualified to be guardian is appointed by the court to act as temporary guardian, but ~~in no case~~ *the temporary guardian* may *he* *may not* serve for longer than 6 months.

(4) A temporary full guardian is entitled to the care and custody of the ward, and the authority of any permanent guardian previously appointed by the court

is suspended ~~so~~ *as* long as a temporary guardian has authority. A temporary limited guardian is entitled to exercise ~~such~~ powers ~~as~~ *that* are specifically granted to ~~him~~ *the temporary guardian* in the order of appointment, and the power of any permanent guardian previously appointed by the court to exercise those powers is suspended so long as the temporary limited guardian has authority. The court by specific order may suspend all authority of the permanent guardian upon appointment of a temporary limited guardian. A temporary guardian may be removed at any time. A temporary guardian shall make any report the court requires. In other respects, the provisions of this code concerning guardians apply to temporary guardians.”

Section 2406. Section 72-5-318, MCA, is amended to read:

“72-5-318. Request for notice — interested person. (1) ~~Any~~ *An* interested person who desires to be notified before any order is made in a guardianship proceeding may file with the clerk a request for notice upon payment of any fee required by statute or court rule. The clerk shall mail a copy of the demand to the guardian; if one has been appointed.

(2) A request is not effective unless it contains a statement showing the interest of the person making it and ~~his~~ *the person’s* address or that of ~~his~~ *the person’s* attorney and is effective only as to matters occurring after the filing. Any governmental agency paying or planning to pay benefits to the alleged incapacitated person is an interested person in guardianship proceedings.”

Section 2407. Section 72-5-319, MCA, is amended to read:

“72-5-319. Contents of petition for appointment of guardian. (1) The petition for appointment of a guardian ~~shall~~ *must* contain:

(a) the name, residence, and mailing address of the petitioner, ~~his~~ *the petitioner’s* relationship to the alleged incapacitated person, and ~~his~~ *the petitioner’s* interest in the matter;

(b) the name, residence, and mailing address of the alleged incapacitated person;

(c) the nature and degree of the alleged incapacity;

(d) if the petition in any way affects the management of the property of the alleged incapacitated person, the approximate value and description of ~~his~~ *the* property, including any compensation, pension, insurance, or allowance to which ~~he~~ *the person* may be entitled;

(e) whether there is, in any state, a full guardian or limited guardian for the person or estate of the incapacitated person or a conservator of ~~his~~ *the person’s* property;

(f) the name, residence, and mailing address of the person whom the petitioner seeks to have appointed guardian;

(g) the names, residences, and nature of relationship, so far as is known or can reasonably be ascertained, of the persons most closely related by blood or marriage to the alleged incapacitated person;

(h) the name and residence of the person or institution having the care and custody of the alleged incapacitated person;

(i) the reasons why the appointment of a guardian is sought and whether a limited guardianship or full guardianship is requested;

(j) the facts supporting the allegations of incapacity and the need for a guardian;

(k) the specific areas of protection and assistance requested and the limitation of rights requested to be included in the order of appointment;

(l) in the case of a petition for limited guardianship, the particular powers and areas of authority that the petition seeks to have vested in the limited guardian as provided in 72-5-320 and the term for which the limited guardianship is requested;

(m) in the case of a petition for full guardianship, the length of time the guardianship is expected to last.

(2) The petition may also include a request for temporary guardianship as provided in 72-5-317 if the petitioner believes that the requisites of that section are met and that the appointment of a temporary guardian, pending the completion of guardianship proceedings, is necessary to protect the welfare of the alleged incapacitated person. The facts requiring appointment of a temporary guardian ~~shall~~ *must* be stated with specificity.”

Section 2408. Section 72-5-320, MCA, is amended to read:

“72-5-320. Purposes for establishment of limited guardianship. A petition seeking the establishment of a limited guardianship ~~shall~~ *must* specify the particular powers that the limited guardian is proposed to exercise and the particular areas of protection and assistance required. The purposes for which a limited guardian may be appointed include:

(1) to care for and maintain the alleged incapacitated person;

(2) to assert and protect the rights and best interests of the alleged incapacitated person;

(3) to provide timely and informed consent to necessary medical procedures and procedures implemented in connection with habilitation and training programs;

(4) to assist in the acquisition of necessary training, habilitation, and education for the incapacitated person;

(5) to exercise any other powers, duties, or limitations in regard to the care of the incapacitated person or the management of ~~his~~ *the person's* property that the petition ~~shall~~ explicitly ~~specify and~~ *specifies*, which may *not* be ~~no~~ greater than the powers a full guardian ~~can~~ *may* exercise.”

Section 2409. Section 72-5-401, MCA, is amended to read:

“72-5-401. Original petition for appointment or protective order — who may petition. The person to be protected, any person who is interested in ~~his~~ *that person's* estate, affairs, or welfare, including ~~his~~ *that person's* parent, guardian, or custodian, or any person who would be adversely affected by lack of effective management of ~~his~~ *the* property and affairs *of the person to be protected* may petition for the appointment of a conservator or for other appropriate protective order.”

Section 2410. Section 72-5-402, MCA, is amended to read:

“72-5-402. Contents of petition. (1) The petition ~~shall~~ *must* set forth to the extent known:

(a) the interest of the petitioner;

(b) the name, age, residence, and address of the person to be protected;

(c) the name and address of ~~his~~ *that person's* guardian, if any;

(d) the name and address of ~~his~~ *that person's* nearest relative known to the petitioner;

(e) a general statement of ~~his~~ *that person's* property with an estimate of the value ~~thereof of the property~~, including any compensation, insurance, pension, or allowance to which ~~he~~ *person* is entitled; and

(f) the reason why appointment of a conservator or other protective order is necessary.

(2) If the appointment of a conservator is requested, the petition also ~~shall~~ *must* set forth the name and address of the person whose appointment is sought and the basis of ~~his~~ *the person's* priority for appointment.”

Section 2411. Section 72-5-403, MCA, is amended to read:

“72-5-403. Notice — waiver. (1) On a petition for appointment of a conservator or other protective order, the person to be protected and ~~his~~ *the person's* spouse or, if none, ~~his~~ *the person's* parents must be served personally with notice of the proceeding at least 14 days before the date of hearing if they can be found within the state, or if they cannot be found within the state, they must be given notice in accordance with 72-1-301. Waiver by the person to be protected is not effective unless ~~he~~ *the person* attends the hearing or, unless minority is the reason for the proceeding, waiver is confirmed in an interview with the visitor.

(2) Notice of a petition for appointment of a conservator or other initial protective order and of any subsequent hearing must be given to any person who has filed a request for notice under 72-5-404 and to interested persons and other persons as the court may direct. Except as otherwise provided in *subsection (1)*, notice ~~shall~~ *must* be given in accordance with 72-1-301.”

Section 2412. Section 72-5-404, MCA, is amended to read:

“72-5-404. Request for notice — interested person. (1) ~~Any~~ *An* interested person who desires to be notified before any order is made in a protective proceeding may file with the clerk a request for notice subsequent to payment of any fee required by statute or court rule. The clerk shall mail a copy of the demand to the conservator if one has been appointed.

(2) A request is not effective unless it contains a statement showing the interest of the person making it and ~~his~~ *the person's* address or that of ~~his~~ *the person's* attorney and is effective only as to matters occurring after the filing. Any governmental agency paying or planning to pay benefits to the person to be protected is an interested person in protective proceedings.”

Section 2413. Section 72-5-405, MCA, is amended to read:

“72-5-405. Exclusive and concurrent jurisdiction of particular court after petition and notice. After the service of notice in a proceeding seeking the appointment of a conservator or other protective order and until termination of the proceeding, the court in which the petition is filed has:

(1) exclusive jurisdiction to determine the need for a conservator or other protective order until the proceedings are terminated;

(2) exclusive jurisdiction to determine how the estate of the protected person ~~which that~~ is subject to the laws of this state ~~shall be~~ *is* managed, expended, or distributed to or for the use of the protected person or any of ~~his~~ *the person's* dependents;

(3) concurrent jurisdiction to determine the validity of claims against the person or estate of the protected person and ~~his~~ *the person's* title to any property or claim.”

Section 2414. Section 72-5-406, MCA, is amended to read:

“72-5-406. Consent to jurisdiction by acceptance of appointment as conservator. (1) By accepting appointment, a conservator submits personally to the jurisdiction of the court in any proceeding relating to the estate that may be instituted by any interested person.

(2) Notice of any proceeding ~~shall~~ *must* be delivered to the conservator or mailed to ~~him~~ *the conservator* by ~~registered~~ or certified mail at ~~his~~ *the conservator's* address as listed in the petition for appointment or as ~~thereafter~~ reported to the court and to ~~his~~ *the conservator's* address as then known to the petitioner.”

Section 2415. Section 72-5-407, MCA, is amended to read:

“72-5-407. Venue. Venue for proceedings under this part is:

(1) in the place in this state where the person to be protected resides, whether or not a guardian has been appointed in another place; or

(2) if the person to be protected does not reside in this state, in any place where ~~he~~ *the person* has property.”

Section 2416. Section 72-5-409, MCA, is amended to read:

“72-5-409. Cause for appointment of conservator or issuance of protective order. Upon petition and after notice and hearing in accordance with the provisions of this part, the court may appoint a conservator or make ~~other~~ *another* protective order for cause as follows:

(1) Appointment of a conservator or other protective order may be made in relation to the estate and affairs of a minor if the court determines that a minor owns money or property that requires management or protection ~~which that~~ cannot otherwise be provided, has or may have business affairs ~~which that~~ may be jeopardized or prevented by ~~his~~ *the person's* minority, or that funds are needed for ~~his~~ *the person's* support and education and that protection is necessary or desirable to obtain or provide funds.

(2) Appointment of a conservator or other protective order may be made in relation to the estate and affairs of a person if the court determines that:

(a) the person is unable to manage ~~his~~ *the person's* property and affairs effectively for reasons such as mental illness, mental deficiency, physical illness or disability, advanced age, chronic use of drugs, chronic intoxication, confinement, detention by a foreign power, or disappearance; and

(b) the person has property ~~which that~~ will be wasted or dissipated unless proper management is provided or that funds are needed for the support, care, and welfare of the person or those entitled to be supported by ~~him~~ *the person* and that protection is necessary or desirable to obtain or provide funds.”

Section 2417. Section 72-5-410, MCA, is amended to read:

“72-5-410. Who may be appointed conservator — priorities. (1) The court may appoint an individual or a corporation with general power to serve as trustee as conservator of the estate of a protected person. The following are entitled to consideration for appointment in the order listed:

(a) a conservator, guardian of property, or other like fiduciary appointed or recognized by the appropriate court of any other jurisdiction in which the protected person resides;

(b) an individual or corporation nominated by the protected person if ~~he~~ *the person* is 14 ~~or more~~ years of age *or older* and has, in the opinion of the court, sufficient mental capacity to make an intelligent choice;

- (c) the spouse of the protected person;
 - (d) an adult child of the protected person;
 - (e) a parent of the protected person or a person nominated by the will of a deceased parent;
 - (f) any relative of the protected person with whom ~~he~~ *the protected person* has resided for more than 6 months prior to the filing of the petition;
 - (g) a person nominated by the person who is caring for ~~him~~ *the person* or paying benefits to ~~him~~ *the person*;
 - (h) a conservator corporation organized under Title 35, chapter 2;
 - (i) the public administrator.
- (2) A person in priorities ~~(a), (c), (d), (e), or (f)~~ *listed in subsections (1)(a) and (1)(c) through (1)(f)* may nominate in writing a person to serve in ~~his~~ *that person's* stead.
- (3) With respect to persons having equal priority, the court is to select the one who is best qualified of those willing to serve. The court, for good cause, may pass over a person having priority and appoint a person having less priority or no priority."

Section 2418. Section 72-5-411, MCA, is amended to read:

"72-5-411. Bond — court may require — amount. (1) The court may require a conservator to furnish a bond conditioned upon faithful discharge of all duties of the trust according to law with sureties ~~as that it shall specify~~ *specifies*.

(2) Unless otherwise directed, the bond ~~shall~~ *must* be in the amount of the aggregate capital value of the property of the estate in ~~his~~ *the conservator's* control plus 1 year's estimated income minus the value of securities deposited under arrangements requiring an order of the court for their removal and the value of any land ~~which~~ *that* the fiduciary, by express limitation of power, lacks power to sell or convey without court authorization.

(3) The court, in lieu of sureties on a bond, may accept other security for the performance of the bond, including a pledge of securities or a mortgage of land."

Section 2419. Section 72-5-412, MCA, is amended to read:

"72-5-412. Terms and requirements of bond. (1) The following requirements and provisions apply to any bond required under 72-5-411:

(a) Unless otherwise provided by the terms of the approved bond, sureties are jointly and severally liable with the conservator and with each other.

(b) By executing an approved bond of a conservator, the surety consents to the jurisdiction of the court ~~which~~ *that* issued letters to the primary obligor in any proceeding pertaining to the fiduciary duties of the conservator and naming the surety as a party defendant. Notice of any proceeding ~~shall~~ *must* be delivered to the surety or mailed to ~~him~~ *the surety* by registered ~~or~~ certified mail at ~~his~~ *the surety's* address as listed with the court where the bond is filed and to ~~his~~ *the surety's* address as then known to the petitioner.

(c) On petition of a successor conservator or any interested person, a proceeding may be initiated against a surety for breach of the obligation of the bond of the conservator.

(d) The bond of the conservator is not void after the first recovery but may be proceeded against from time to time until the whole penalty is exhausted.

(2) ~~No~~ A proceeding may *not* be commenced against the surety on any matter as to which an action or proceeding against the primary obligor is barred by adjudication or limitation.”

Section 2420. Section 72-5-413, MCA, is amended to read:

“72-5-413. Petitions for orders subsequent to appointment — interested persons. (1) ~~Any~~ A person interested in the welfare of a person for whom a conservator has been appointed may file a petition in the appointing court for an order:

(a) requiring bond or security or additional bond or security or reducing bond;

(b) requiring an accounting for the administration of the trust;

(c) directing distribution;

(d) removing the conservator and appointing a temporary or successor conservator; or

(e) granting other appropriate relief.

(2) A conservator may petition the appointing court for instructions concerning ~~his~~ *the conservator’s* fiduciary responsibility.

(3) Upon notice and hearing, the court may give appropriate instructions or make any appropriate order.

(4) For purposes of this section, any person, institution, or agency ~~which~~ *that* is furnishing or supplying any money for support or care of a person for whom a conservator has been appointed is a person interested in the welfare of ~~such~~ *the* protected person.”

Section 2421. Section 72-5-414, MCA, is amended to read:

“72-5-414. Resignation or removal of conservator for cause — successor conservator. The court may remove a conservator for good cause, upon notice and hearing, or *may* accept the resignation of a conservator. After ~~his~~ *the conservator’s* death, resignation, or removal, the court may appoint another conservator. A conservator so appointed succeeds to the title and powers of ~~his~~ *the* predecessor.”

Section 2422. Section 72-5-415, MCA, is amended to read:

“72-5-415. Public administrator as conservator when no other appropriate person. (1) Whenever a professional person, as defined in 53-21-102, has reason to believe that any person is in need of the appointment of a conservator for the effective management of ~~his~~ *the person’s* property or affairs under this part and that the person has no relative, friend, or other appropriate person who is able and willing to serve as a conservator for the person, the professional person ~~must~~ *shall* notify the public administrator.

(2) Whenever the public administrator is notified under subsection (1) of the need for the appointment of a conservator and reasonable cause exists, ~~he~~ ~~must~~ *the public administrator shall* file a petition for appointment of the public administrator as conservator of the person.”

Section 2423. Section 72-5-422, MCA, is amended to read:

“72-5-422. Power of court to authorize particular protective arrangements or transactions without appointing conservator. (1) If it is established in a proper proceeding that a basis exists as described in 72-5-409 for affecting the property and affairs of a person, the court without appointing a conservator may authorize, direct, or ratify any transaction necessary or

desirable to achieve any security, service, or care arrangement meeting the foreseeable needs of the protected person. Protective arrangements include but are not limited to:

- (a) payment, delivery, deposit, or retention of funds or property;
- (b) sale, mortgage, lease, or other transfer of property;
- (c) entry into an annuity contract, a contract for life care, a deposit contract, or a contract for training and education; or
- (d) addition to or establishment of a suitable trust.

(2) When it has been established in a proper proceeding that a basis exists as described in 72-5-409 for affecting the property and affairs of a person, the court without appointing a conservator may authorize, direct, or ratify any contract, trust, or other transaction relating to the protected person's financial affairs or involving ~~his~~ *the protected person's* estate if the court determines that the transaction is in the best interests of the protected person.

(3) Before approving a protective arrangement or other transaction under this section, the court shall consider the interests of creditors and dependents of the protected person and, in view of ~~his~~ *the protected person's* disability, whether the protected person needs the continuing protection of a conservator. The court may appoint a special conservator to assist in the accomplishment of any protective arrangement or other transaction authorized under this section who, upon appointment, has the authority conferred by the order and serves until discharged by order after report to the court of all matters done pursuant to the order of appointment."

Section 2424. Section 72-5-423, MCA, is amended to read:

"72-5-423. Fiduciary duty of conservator. In the exercise of ~~his~~ *a conservator's* powers, a conservator is to act as a fiduciary and shall observe the standards of care applicable to trustees."

Section 2425. Section 72-5-424, MCA, is amended to read:

"72-5-424. Inventory and records. (1) Within 90 days after ~~his~~ appointment, ~~every~~ *a* conservator shall prepare and file with the appointing court a complete inventory of the estate of the protected person, together with ~~his~~ *the conservator's* oath or affirmation that it is complete and accurate so far as ~~he~~ *the conservator* is informed. The conservator shall provide a copy ~~thereof~~ *of the inventory* to the protected person if ~~he~~ *the protected person* can be located, has attained ~~the age of~~ *14 years of age*, and has sufficient mental capacity to understand these matters and to any parent or guardian with whom the protected person resides.

(2) The conservator shall keep suitable records of ~~his~~ *the conservator's* administration and exhibit the ~~same~~ *records* on request of any interested person."

Section 2426. Section 72-5-425, MCA, is amended to read:

"72-5-425. Title by appointment as conservator — appointment not transfer for certain purposes. (1) The appointment of a conservator vests in ~~him~~ *the conservator* title as trustee to all property of the protected person presently held or thereafter acquired, including title to any property ~~theretofore~~ *previously* held for the protected person by custodians or attorneys-in-fact.

(2) The appointment of a conservator is not a transfer or alienation within the meaning of general provisions of any federal or state statute or regulation, insurance policy, pension plan, contract, will, or trust instrument imposing

restrictions upon or penalties for transfer or alienation by the protected person of ~~his~~ *the protected person's* rights or interest, but this section does not restrict the ability of persons to make specific provision by contract or dispositive instrument relating to a conservator."

Section 2427. Section 72-5-426, MCA, is amended to read:

"72-5-426. Letters as evidence of transfer of assets — recording. (1) Letters of conservatorship are evidence of transfer of all assets of a protected person to the conservator. An order terminating a conservatorship is evidence of transfer of all assets of the estate from the conservator to the protected person or ~~his~~ *the protected person's* successors.

(2) Subject to the requirements of general statutes governing the filing or recordation of documents of title to land or other property, letters of conservatorship and orders terminating conservatorships may be filed or recorded to give record notice of title as between the conservator and the protected person."

Section 2428. Section 72-5-427, MCA, is amended to read:

"72-5-427. Powers of conservator in administration. (1) A conservator has all of the powers conferred ~~herein~~ *in this section* and any additional powers conferred by law on trustees in this state. In addition, a conservator of the estate of an unmarried minor under ~~the age of~~ 18 years of age, as to whom no one has parental rights, has the duties and powers of a guardian of a minor described in 72-5-231 until the minor attains ~~the age of~~ 18 years of age or marries, but the parental rights so conferred on a conservator do not preclude appointment of a guardian as provided by *Title 72, chapter 5, part 2.*

(2) A conservator has power, without court authorization or confirmation, to invest and reinvest funds of the estate as would a trustee.

(3) A conservator, acting reasonably in efforts to accomplish the purpose for which ~~he~~ *the conservator* was appointed, may act without court authorization or confirmation to:

(a) collect, hold, and retain assets of the estate, including land in another state, until in ~~his~~ *the conservator's* judgment disposition of the assets should be made, and the assets may be retained even though they include an asset in which ~~he~~ *the conservator* is personally interested;

(b) receive additions to the estate;

(c) continue or participate in the operation of any business or other enterprise;

(d) acquire an undivided interest in an estate asset in which the conservator in any fiduciary capacity holds an undivided interest;

(e) invest and reinvest estate assets in accordance with subsection (2);

(f) deposit estate funds in a bank, including a bank operated by the conservator;

(g) acquire or dispose of an estate asset, including land in another state, for cash or on credit at public or private sale; and manage, develop, improve, exchange, partition, change the character of, or abandon an estate asset;

(h) make ordinary or extraordinary repairs or alterations in buildings or other structures, demolish any improvements, raze existing or erect new party walls or buildings;

(i) subdivide, develop, or dedicate land to public use; make or obtain the vacation of plats and adjust boundaries; adjust differences in valuation on exchange or partition by giving or receiving considerations; and dedicate easements to public use without consideration;

(j) enter for any purpose into a lease as lessor or lessee, with or without option to purchase or renew, for a term within or extending beyond the term of the conservatorship;

(k) enter into a lease or arrangement for exploration and removal of minerals or other natural resources or enter into a pooling or unitization agreement;

(l) grant an option involving disposition of an estate asset; *or* take an option for the acquisition of any asset;

(m) vote a security in person or by general or limited proxy;

(n) pay calls, assessments, and any other sums chargeable or accruing against or on account of securities;

(o) sell or exercise stock subscription or conversion rights; *or* consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution, or liquidation of a corporation or other business enterprise;

(p) hold a security in the name of a nominee or in other form without disclosure of the conservatorship so that title to the security may pass by delivery, but the conservator is liable for any act of the nominee in connection with the stock so held;

(q) insure the assets of the estate against damage or loss and the conservator against liability with respect to third persons;

(r) borrow money to be repaid from estate assets or otherwise; *or* advance money for the protection of the estate or the protected person and for all expenses, losses, and liability sustained in the administration of the estate or because of the holding or ownership of any estate assets, and the conservator has a lien on the estate as against the protected person for advances so made;

(s) pay or contest any claim; *or* settle a claim by or against the estate or the protected person by compromise, arbitration, or otherwise; and release, in whole or in part, any claim belonging to the estate to the extent that the claim is uncollectible;

(t) pay taxes, assessments, compensation of the conservator, and other expenses incurred in the collection, care, administration, and protection of the estate;

(u) allocate items of income or expense to either estate income or principal, as provided by law, including creation of reserves out of income for depreciation, obsolescence, or amortization or for depletion in mineral or timber properties;

(v) pay any sum distributable to a protected person or a dependent of the person who is a minor or incompetent, without liability to the conservator, by paying the sum to the distributee or by paying the sum for the use of the distributee either to ~~his~~ *the person's* guardian or, if none, to a relative or other person with custody of ~~his~~ *the* person;

(w) employ persons, including attorneys, auditors, investment advisors, or agents, even though they are associated with the conservator, to advise or assist ~~him~~ *the conservator* in the performance of ~~his~~ administrative duties; act upon their recommendation without independent investigation; and instead of

acting personally, employ one or more agents to perform any act of administration, whether or not discretionary;

(x) prosecute or defend actions, claims, or proceedings in any jurisdiction for the protection of estate assets and of the conservator in the performance of ~~his~~ *the conservator's* duties; and

(y) execute and deliver all instruments ~~which that~~ will accomplish or facilitate the exercise of the powers vested in the conservator."

Section 2429. Section 72-5-428, MCA, is amended to read:

"72-5-428. Distributive powers and duties of conservator generally.

(1) A conservator may expend or distribute income or principal of the estate without court authorization or confirmation for the support, education, care, or benefit of the protected person and ~~his~~ *the protected person's* dependents in accordance with the following principles:

(a) The conservator ~~is to~~ *shall* consider recommendations relating to the appropriate standard of support, education, and benefit for the protected person made by a parent or guardian, if any. ~~He~~ *The conservator* may not be surcharged for sums paid to persons or organizations actually furnishing support, education, or care to the protected person pursuant to the recommendations of a parent or guardian of the protected person unless ~~he~~ *the conservator* knows that the parent or guardian is deriving personal financial benefit ~~therefrom~~, including relief from any personal duty of support, or unless the recommendations are clearly not in the best interests of the protected person.

(b) The conservator ~~is to~~ *shall* expend or distribute sums reasonably necessary for the support, education, care, or benefit of the protected person with due regard to:

(i) the size of the estate, the probable duration of the conservatorship, and the likelihood that the protected person, at some future time, may be fully able to manage ~~his~~ *the person's* affairs and the estate ~~which that~~ has been conserved for ~~him~~ *the person*;

(ii) the accustomed standard of living of the protected person and members of ~~his~~ *the person's* household;

(iii) other funds or sources used for the support of the protected person.

(c) The conservator may expend funds of the estate for the support of persons legally dependent on the protected person and others who are members of the protected person's household who are unable to support themselves and who are in need of support.

(d) Funds expended under this subsection (1) may be paid by the conservator to any person, including the protected person, to reimburse *the person* for expenditures ~~which that~~ the conservator might have made or in advance for services to be rendered to the protected person when it is reasonable to expect that they will be performed and ~~where~~ *when* advance payments are customary or reasonably necessary under the circumstances.

(2) If the estate is ample to provide for the purposes implicit in the distributions authorized by the preceding subsections, a conservator for a protected person other than a minor has power to make gifts to charity and other objects as the protected person might have been expected to make in amounts ~~which that~~ do not exceed in total for any year 20% of the income from the estate."

Section 2430. Section 72-5-429, MCA, is amended to read:

“72-5-429. Distribution upon attainment of majority, termination of disability, or death of protected person. (1) When a minor who has not been adjudged disabled under 72-5-409(2) attains ~~his~~ majority, ~~his~~ *the minor’s* conservator, after meeting all prior claims and expenses of administration, shall pay over and distribute all funds and properties to the former protected person as soon as possible.

(2) When the conservator is satisfied that a protected person’s disability, (other than minority), has ceased, the conservator, after meeting all prior claims and expenses of administration, shall pay over and distribute all funds and properties to the former protected person as soon as possible.

(3) If a protected person dies, the conservator shall deliver to the court for safekeeping any will of the deceased protected person ~~which~~ *that* may have come into ~~his~~ *the conservator’s* possession, inform the executor or a beneficiary named ~~therein in the will that he~~ *the conservator* has done so, and retain the estate for delivery to a duly appointed personal representative of the decedent or other persons entitled ~~thereto to the estate~~. If after 40 days from the death of the protected person no other person has been appointed personal representative and no application or petition for appointment is before the court, the conservator may apply to exercise the powers and duties of a personal representative so that ~~he~~ *the conservator* may proceed to administer and distribute the decedent’s estate without additional or further appointment. Upon application for an order granting the powers of a personal representative to a conservator, *and* after notice to any person demanding notice under 72-3-106 and to any person nominated executor in any will of which the applicant is aware, the court may order the conferral of the power upon determining that there is no objection and endorse the letters of the conservator to note that the formerly protected person is deceased and that the conservator has acquired all of the powers and duties of a personal representative. The making and entry of an order under this section ~~shall have~~ *has* the effect of an order of appointment of a personal representative as provided in 72-3-222, 72-3-223(1), and parts 5 through 10 of chapter 3, except that the estate in the name of the conservator, after administration, may be distributed to the decedent’s successors without prior retransfer to the conservator as personal representative.”

Section 2431. Section 72-5-430, MCA, is amended to read:

“72-5-430. Enlargement or limitation of powers of conservator by court. (1) Subject to the restrictions in 72-5-421(4), the court may confer on a conservator at the time of appointment or later, in addition to the powers conferred on ~~him~~ *the conservator* by 72-5-427, 72-5-428, and 72-5-429, any power ~~which~~ *that* the court itself could exercise under ~~subsections (2) and (3) of 72-5-421(2) and (3)~~.

(2) The court may, at the time of appointment or later, limit the powers of a conservator conferred by the court and may at any time relieve ~~him~~ *the conservator* of any limitation. If the court limits any power conferred on the conservator by 72-5-427, 72-5-428, or 72-5-429, the limitation ~~shall~~ *must* be endorsed upon ~~his~~ *the conservator’s* letters of appointment.”

Section 2432. Section 72-5-431, MCA, is amended to read:

“72-5-431. Preservation of estate plan — right to inspect will. In investing the estate and in selecting assets of the estate for distribution under 72-5-428, *and* in utilizing powers of revocation or withdrawal available for the support of the protected person and exercisable by the conservator or the court,

the conservator and the court ~~should~~ *shall* take into account any known estate plan of the protected person, including ~~his~~ *the protected person's* will, any revocable trust of which ~~he~~ *the protected person* is settlor, and any contract, transfer, or joint ownership arrangement with provisions for payment or transfer of benefits or interests at ~~his~~ *the protected person's* death to another or others ~~which he~~ *that the protected person* may have originated. The conservator may examine the will of the protected person."

Section 2433. Section 72-5-433, MCA, is amended to read:

"72-5-433. Claims against protected person — presentment, allowance, and payment — priorities. (1) A conservator ~~must~~ *shall* pay from the estate all just claims against the estate and against the protected person arising before or after the conservatorship upon their presentation and allowance. A claim may be presented by either of the following methods:

(a) The claimant may deliver or mail to the conservator a written statement of the claim indicating its basis, the name and address of the claimant, and the amount claimed.

(b) The claimant may file a written statement of the claim, in the form prescribed by rule, with the clerk of the court and deliver or mail a copy of the statement to the conservator.

(2) A presented claim is allowed if it is not disallowed by written statement mailed by the conservator to the claimant within 60 days after its presentation. A claim is ~~deemed~~ *considered* presented on the first to occur of receipt of the written statement of claim by the conservator or the filing of the claim with the court. The presentation of a claim tolls any statute of limitation relating to the claim until 30 days after its disallowance.

(3) A claimant whose claim has not been paid may petition the court for determination of ~~his~~ *the* claim at any time before it is barred by the applicable statute of limitation and, upon due proof, procure an order for its allowance and payment from the estate. If a proceeding is pending against a protected person at the time of appointment of a conservator or is initiated against the protected person ~~thereafter~~ *after the appointment*, the moving party ~~must~~ *shall* give notice of the proceeding to the conservator if the outcome is to constitute a claim against the estate.

(4) If it appears that the estate in conservatorship is likely to be exhausted before all existing claims are paid, preference ~~is to~~ *must* be given to prior claims for the care, maintenance, and education of the protected person or ~~his~~ *the protected person's* dependents and existing claims for expenses of administration."

Section 2434. Section 72-5-434, MCA, is amended to read:

"72-5-434. Transaction involving conflict of interest — voidable — exceptions. Any sale or encumbrance to a conservator, ~~his~~ *to the conservator's* spouse, agent, or attorney, or *to* any corporation or trust in which ~~he~~ *the conservator* has a substantial beneficial interest or any transaction ~~which~~ *that* is affected by a substantial conflict of interest is voidable unless the transaction is approved by the court after notice to interested persons and others as directed by the court."

Section 2435. Section 72-5-435, MCA, is amended to read:

"72-5-435. Persons dealing with conservator — protection. (1) A person who in good faith either assists a conservator or deals with ~~him~~ *the conservator* for value in any transaction other than those requiring a court order

as provided in 72-5-421 is protected as if the conservator properly exercised the power. The fact that a person knowingly deals with a conservator does not alone require the person to inquire into the existence of a power or the propriety of its exercise, except that restrictions on powers of conservators ~~which~~ *that* are endorsed on letters as provided in 72-5-430 are effective as to third persons. A person is not bound to see to the proper application of estate assets paid or delivered to a conservator.

(2) The protection expressed in this section extends to any procedural irregularity or jurisdictional defect occurring in proceedings leading to the issuance of letters and is not a substitution for protection provided by comparable provisions of the law relating to commercial transactions or laws simplifying transfers of securities by fiduciaries.

(3) The protection ~~here expressed~~ *under this section* is not ~~by a~~ substitution for that provided by comparable provisions of the laws relating to commercial transactions and laws simplifying transfers of securities by fiduciaries.”

Section 2436. Section 72-5-436, MCA, is amended to read:

“72-5-436. Claims arising during conservatorship — individual liability of conservator. (1) Unless otherwise provided in the contract, a conservator is not individually liable on a contract properly entered into in ~~his~~ *the conservator’s* fiduciary capacity in the course of administration of the estate unless ~~he~~ *the conservator* fails to reveal ~~his~~ *the* representative capacity and identify the estate in the contract.

(2) The conservator is individually liable for obligations arising from ownership or control of property of the estate or for torts committed in the course of administration of the estate only if ~~he~~ *the conservator* is personally at fault.

(3) Claims based on contracts entered into by a conservator in ~~his~~ *a* fiduciary capacity on obligations arising from ownership or control of the estate or on torts committed in the course of administration of the estate may be asserted against the estate by proceeding against the conservator in ~~his~~ *the conservator’s* fiduciary capacity, whether or not the conservator is individually liable ~~therefor~~.

(4) Any question of liability between the estate and the conservator individually may be determined in a proceeding for accounting, surcharge, or indemnification or other appropriate proceeding or action.”

Section 2437. Section 72-5-437, MCA, is amended to read:

“72-5-437. Termination of conservatorship. The protected person, ~~his~~ *the protected person’s* personal representative, the conservator, or any other interested person may petition the court to terminate the conservatorship. A protected person seeking termination is entitled to the same rights and procedures as in an original proceeding for a protective order. The court, upon determining after notice and hearing that the minority or disability of the protected person has ceased, may terminate the conservatorship. Upon termination, title to assets of the estate passes to the former protected person or to ~~his~~ *the former protected person’s* successors, subject to provision in the order for expenses of administration or to conveyances from the conservator to the former protected ~~persons~~ *person* or ~~his~~ *the former protected person’s* successors to evidence the transfer.”

Section 2438. Section 72-5-439, MCA, is amended to read:

“72-5-439. Payment of debt and delivery of property to foreign conservator without local proceedings. (1) ~~Any~~ *A* person indebted to a protected person or having possession of property or of an instrument

evidencing a debt, stock, or chose in action belonging to a protected person may pay or deliver to a conservator, guardian of the estate, or other ~~like~~ fiduciary appointed by a court of the state or residence of the protected person upon being presented with proof of ~~his~~ *the conservator's, guardian's, or fiduciary's* appointment and an affidavit made by ~~him~~ *the conservator, guardian, or fiduciary* or on ~~his~~ *the conservator's, guardian's, or fiduciary's* behalf stating that:

(a) ~~that~~ no protective proceeding relating to the protected person is pending in this state; and

(b) ~~that~~ the foreign conservator is entitled to payment or to receive delivery.

(2) If the person to whom the affidavit is presented is not aware of any protective proceeding pending in this state, payment or delivery in response to the demand and affidavit discharges the debtor or possessor."

Section 2439. Section 72-5-501, MCA, is amended to read:

"72-5-501. When power of attorney not affected by disability. (1) A durable power of attorney is a power of attorney by which a principal designates another ~~his~~ *as the principal's* attorney-in-fact or agent in writing and the writing contains the words, "This power of attorney ~~shall~~ *is not be* affected by subsequent disability or incapacity of the principal or lapse of time" or "This power of attorney ~~shall become~~ *becomes* effective upon the disability or incapacity of the principal" or similar words showing the intent of the principal that the authority conferred ~~shall~~ *must* be exercisable notwithstanding the principal's subsequent disability or incapacity; and, unless it states a time of termination, notwithstanding the lapse of time since the execution of the instrument. All acts done by the attorney-in-fact pursuant to a durable power of attorney during any period of disability or incapacity of the principal have the same effect and inure to the benefit of and bind the principal and ~~his~~ *the principal's* successors in interest as if the principal were alive, competent, and not disabled. Unless the instrument states a time of termination, the power is exercisable notwithstanding the lapse of time since the execution of the instrument.

(2) If a conservator ~~thereafter~~ is appointed for the principal, the attorney-in-fact or agent, during the continuance of the appointment, is accountable to the conservator as well as the principal. The conservator has the same power to revoke or amend the power of attorney that the principal would have had if ~~he~~ *the principal* were not disabled or incapacitated. A principal may nominate, by a durable power of attorney, the conservator of ~~his~~ *the principal's* estate or guardian of ~~his~~ *the principal's* person for consideration by the court if protective proceedings for the principal's person or estate are later commenced. The court shall make its appointment in accordance with the principal's most recent nomination in a durable power of attorney except for good cause or disqualification."

Section 2440. Section 72-5-502, MCA, is amended to read:

"72-5-502. Power of attorney not revoked until notice. (1) The death of a principal who has executed a written power of attorney, durable or otherwise, does not revoke or terminate the agency as to the attorney-in-fact, agent, or other person who, without actual knowledge of the death of the principal, acts in good faith under the power of attorney or agency. Any action ~~so~~ taken, unless otherwise invalid or unenforceable, binds the successors in interest of the principal.

(2) The disability or incapacity of a principal who has previously executed a power of attorney that is not a durable power does not revoke or terminate the agency as to the attorney-in-fact or other person who, without actual knowledge of the disability or incapacity of the principal, acts in good faith under the power. Any action ~~so~~ taken, unless otherwise invalid or unenforceable, binds the principal and ~~his~~ *the principal's* successors in interest.

(3) As to acts undertaken in good faith reliance ~~thereon~~ *on a power of attorney*, an affidavit executed by the attorney-in-fact or agent stating that ~~he~~ *the attorney-in-fact or agent* did not have, at the time of ~~exercise of~~ *exercising* the power, actual knowledge of the termination of the power by revocation or of the principal's death, disability, or incapacity is conclusive proof of the nonrevocation or nontermination of the power at that time. If the exercise of the power requires execution and delivery of any instrument ~~which~~ *that* is recordable, the affidavit when authenticated for record is likewise recordable.

(4) This section does not affect any provision in a power of attorney for its termination by expiration of time or occurrence of an event other than express revocation or a change in the principal's capacity."

Section 2441. Section 72-9-110, MCA, is amended to read:

"72-9-110. Purchaser for value or lender. (1) If a surviving spouse has apparent title to property to which this part applies, a purchaser for value or a lender taking a security interest in the property takes ~~his~~ *the purchaser's or lender's* interest in the property free of any rights of the personal representative or an heir or devisee, as those terms are defined in 72-1-103, of the decedent.

(2) If a personal representative or an heir or devisee of the decedent has apparent title to property to which this part applies, a purchaser for value or a lender taking a security interest in the property takes ~~his~~ *the purchaser's or lender's* interest in the property free of any rights of the surviving spouse.

(3) A purchaser for value or a lender need not inquire whether a vendor or borrower acted properly.

(4) The proceeds of a sale or creation of a security interest must be treated in the same manner as the property transferred to the purchaser for value or a lender."

Section 2442. Section 72-12-401, MCA, is amended to read:

"72-12-401. Petition for handwriting analysis. In ~~any a~~ proceeding involving the probate, either contested or uncontested, of a will in which the signature of the testator or of any witness is an issue, any party to the proceeding may file with the court a verified petition requesting that the original ~~will~~ be delivered to a handwriting expert residing and having ~~his~~ *a* place of business outside the state or outside the county for an examination of any of the signatures on the will."

Section 2443. Section 72-12-403, MCA, is amended to read:

"72-12-403. Clerk to mail will to expert — notice. If the court grants the petition for delivery of the original will to a qualified handwriting expert residing and having ~~his~~ *a* place of business outside the county or state, the clerk of court shall make at least two photocopies of the original will, which photocopies ~~shall~~ *must* remain in the custody of the clerk of court. The clerk shall mail the original will by ~~registered or~~ certified mail, return receipt requested, to the handwriting expert specified in the order and shall give notice of the mailing by mailing copies of the order to each of the parties to the proceeding and to the handwriting expert."

Section 2444. Section 72-12-404, MCA, is amended to read:

“72-12-404. Expert to return will to clerk. Upon completion of ~~his~~ *the* analysis, the handwriting expert shall return the original will to the clerk of court by registered or certified mail, return receipt requested.”

Section 2445. Section 72-12-405, MCA, is amended to read:

“72-12-405. Expert to mail report to petitioner. Unless the court orders another disposition of the written report, the handwriting expert, upon completion of ~~his~~ *the* analysis, shall mail ~~his~~ *the expert's* written report to the party who requested it.”

Section 2446. Section 72-12-407, MCA, is amended to read:

“72-12-407. Report property of petitioner unless interested party shares fees. Unless the court otherwise orders, the handwriting expert's written report shall *must* be the sole and exclusive property of the party requesting it. However, upon demand and the payment of ~~his~~ *a* pro rata share of the fees and costs of the handwriting expert, as shall be determined by the court, any interested party may obtain a certified copy of the written report.”

Section 2447. Section 72-14-201, MCA, is amended to read:

“72-14-201. Discovery to determine existence of escheatable property. In order to ascertain if any person has knowledge of or is in possession of any escheatable property, it shall be *is* lawful for the attorney general or ~~his~~ *the attorney general's* assistant to obtain discovery on motion in the district court requiring any ~~such~~ person or persons to divulge any information they may have concerning the possession or location of any property subject to escheat or any other information pertinent to the recovery of ~~such~~ property by the state of Montana or ~~which~~ information *that* may lead to the discovery of ~~such~~ *the* escheatable property.”

Section 2448. Section 72-14-202, MCA, is amended to read:

“72-14-202. Public administrator to deposit moneys money with county treasurer — disbursement for administration — accounts. (1) ~~It is the duty of every~~ A public administrator shall, as soon as ~~he~~ *the public administrator* receives the ~~same~~ *money*, to deposit with the county treasurer of the county in which probate proceedings are pending all ~~moneys~~ *money* of the estate, ~~and such moneys~~ *The money* may be drawn upon the order of the public administrator, countersigned by a district judge, when required for the purposes of administration.

(2) ~~It is the duty of the~~ *The* county treasurer ~~to~~ shall receive and safely keep all ~~such moneys~~ *money* and pay ~~them~~ *the money* out upon the order of the public administrator, when countersigned by a district judge and not otherwise, and to keep an account with ~~such~~ *the* estate of all ~~moneys~~ *money* received and paid to ~~him;~~ *the county treasurer.* ~~and~~ *The treasurer and the treasurer's sureties are liable upon the treasurer's official bond* for the safekeeping and payment of all ~~such moneys, money~~ *as herein provided, the treasurer and his sureties are liable upon his official bond in this section.*”

Section 2449. Section 72-14-401, MCA, is amended to read:

“72-14-401. Fiduciary deposit of money when interested person under disability or similar circumstances — receipt as voucher. When property in the hands of a personal representative, trustee, or other fiduciary is assigned or distributed to any heir, legatee, devisee, creditor, beneficiary, or person interested in ~~any~~ *an* estate or trust who ~~has no~~ *does not have an* agent in this state or who cannot be found or who refuses to accept the ~~same~~ *property* or to

give a proper voucher ~~therefor for the property~~ or to a minor or incompetent person who ~~has no~~ *does not have* a legal guardian to receive the ~~same property~~ or person authorized to receipt ~~therefor for the property~~ and the ~~same property~~ or any part ~~thereof of the property~~ consists of money, the personal representative, trustee, or other fiduciary may deposit the money in a special fund in the name of the heir, legatee, devisee, creditor, beneficiary, or person interested with the county treasurer of the county in which the proceedings are pending or in which ~~such the~~ property is located, ~~who~~ *The county treasurer* shall give a receipt for the ~~same money~~ and ~~be is~~ liable upon ~~his the treasurer's~~ official bond ~~therefor,~~ ~~and said~~ *The receipt shall must be deemed considered* and received by the court or judge ~~thereof~~ as a voucher in favor of the personal representative, trustee, or other fiduciary with the same force and effect as if executed by ~~such the~~ heir, legatee, devisee, creditor, beneficiary, or person interested."

Section 2450. Section 72-14-402, MCA, is amended to read:

"72-14-402. Claim for money deposited in county treasury. When any person appears and claims the money paid into the county treasury, the district court of ~~such the~~ county ~~must shall~~ inquire into ~~such the~~ claim and, if satisfied of ~~his the person's~~ right ~~thereto to the money,~~ ~~must shall~~ make an order to that effect, ~~and upon.~~ *Upon* presentation of the order, the treasurer ~~must shall~~ draw ~~his a~~ warrant on the special fund for the amount to which ~~the~~ claimant is entitled."

Section 2451. Section 72-15-101, MCA, is amended to read:

"72-15-101. Other provisions to supplement chapter. When no direction is given in this chapter for the government or guidance of a public administrator in the discharge of ~~his the administrator's~~ duties or for the administration of an estate in ~~his the administrator's~~ hands, the provisions of this title ~~must~~ govern."

Section 2452. Section 72-15-102, MCA, is amended to read:

"72-15-102. When public administrator to take charge of estate. (1) ~~Every~~ *A* public administrator ~~who is~~ duly elected, commissioned, and qualified ~~must shall~~ take charge of estates of persons dying within ~~his the administrator's~~ county as follows:

- (a) ~~of~~ estates of decedents for which no administrators are appointed and ~~which that,~~ in consequence ~~thereof of the lack of administration,~~ are being wasted, uncared for, or lost;
- (b) ~~of~~ estates of decedents who have no known heirs;
- (c) ~~of~~ estates ordered into ~~his the administrator's~~ hands by the court; and
- (d) ~~of~~ estates upon which letters of administration have been issued to ~~him~~ *the administrator* by the court.

(2) However, it ~~shall be~~ *is* unlawful for ~~any a~~ public administrator of any county of the state of Montana to file ~~any a~~ petition for the issuance to ~~him the~~ *public administrator* as ~~such~~ public administrator of letters of administration of the estate of any decedent until at least 30 days have elapsed from the day of the death of ~~any such the~~ decedent; unless it is affirmatively shown and made to appear in and by ~~any such the~~ petition for letters of administration that there are no known heirs of ~~such the~~ decedent or that all of the known heirs of ~~such the~~ decedent reside outside of the state of Montana and that the estate of ~~such the~~ decedent consists of property of ~~such~~ a nature that it will be lost, wasted, or depreciated in value unless cared for and administered upon at once."

Section 2453. Section 72-15-103, MCA, is amended to read:

“72-15-103. Requirement to procure letters of administration — bond and oath. (1) Whenever a public administrator takes charge of an estate under order of the court, ~~he must the administrator shall~~ with all convenient dispatch procure letters of administration ~~thereon on the estate; in like the same manner and on like under the same~~ proceedings as letters of administration are issued to other persons.

(2) ~~His~~ *The public administrator’s* official bond and oath are in lieu of a personal representative’s bond and oath, but when real estate is ordered to be sold, another bond may be required by the court.”

Section 2454. Section 72-15-105, MCA, is amended to read:

“72-15-105. Duty of persons in whose house stranger dies — notification to public administrator. Whenever a stranger or person without known heirs dies intestate in the house or premises of another, the possessor of ~~such the~~ premises or anyone knowing the facts ~~must shall~~ give immediate notice ~~thereof~~ to the public administrator of the county; ~~in default of so doing~~ *If the possessor does not give the notice, he the possessor* is liable for any damage that may be sustained ~~thereby by the failure, to which must be~~ recovered by the public administrator or any person interested.”

Section 2455. Section 72-15-107, MCA, is amended to read:

“72-15-107. Power to require persons controlling property to furnish statement describing property. Whenever ~~any a~~ person dies in any county of this state and ~~no an~~ administrator has *not* been appointed to take charge of ~~his the person’s~~ estate, the public administrator of ~~such the~~ county, prior to the issuance of letters of administration ~~to him, shall have~~ *has* authority to make a written demand upon any person, firm, bank, or corporation; ~~which he that the public administrator~~ believes holds or has in its possession or control any money, evidence of indebtedness, or other personal property or ~~which that~~ owes to ~~such the~~ deceased person any money; *requiring that entity* to furnish to ~~him the public administrator~~ a written statement, under oath, showing the amount of money or the evidence of indebtedness or personal property of ~~such the~~ deceased person held by it fully describing the ~~same evidence or property~~ and the total sums of money, if any, due from it to ~~such the~~ deceased person. Upon receipt of ~~such the~~ written demand, the person, firm, bank, or corporation receiving the ~~same demand~~ shall immediately furnish *the statement*, under oath, to ~~such the~~ public administrator ~~said statement.~~”

Section 2456. Section 72-15-109, MCA, is amended to read:

“72-15-109. Order to examine person in possession or charged with misappropriation of estate. When the public administrator complains to the district court or a judge ~~thereof of the district court~~, on oath, that any person has concealed, committed theft of, or disposed of or has in ~~his the person’s~~ possession any money, goods, property, or effects ~~to that the possession of which such~~ administrator is entitled to *possess* in ~~his the administrator’s~~ official capacity, the court or judge may cite ~~such the~~ person to appear and may examine ~~him the person~~ on oath ~~touching concerning~~ the matter of ~~such the~~ complaint.”

Section 2457. Section 72-15-110, MCA, is amended to read:

“72-15-110. Refusal to be examined — civil contempt. All ~~such~~ interrogatories and answers must be reduced to writing and signed by the party examined and filed in the court. If the person ~~so~~ cited refuses to appear and submit to ~~such the~~ examination or to answer ~~such the~~ interrogatories as may be put to ~~him the party~~ touching the matter of ~~such the~~ complaint, the court or judge

may commit ~~him~~ *the party* to the county jail; ~~there to remain in close custody until he~~ *the party* submits to the order of the court or judge.”

Section 2458. Section 72-15-201, MCA, is amended to read:

“72-15-201. Duty to make out inventory, administer, and account.

The public administrator ~~must~~ *shall* make out and return an inventory of all estates taken into ~~his~~ *the administrator’s* possession and administer and account for the ~~same~~ *inventory* according to the provisions of this chapter, subject to the control and directions of the court.”

Section 2459. Section 72-15-202, MCA, is amended to read:

“72-15-202. Duty to deliver up estate when letters granted to another.

If at any time letters testamentary or of administration are regularly granted to any other person on the estate of which the public administrator has charge, ~~he~~ *must the public administrator shall*, under order of the court, account for, pay, and deliver to the executor or administrator ~~thus~~ appointed all the money, property, papers, and estate of every kind in ~~his~~ *the public administrator’s* possession or under ~~his~~ *the public administrator’s* control.”

Section 2460. Section 72-15-203, MCA, is amended to read:

“72-15-203. Power of court to order account and delivery of estate at any time.

The court or judge may, at any time, order the public administrator to account for and deliver all the money of an estate in ~~his~~ *the public administrator’s* hands to the heirs or to the executors or administrators regularly appointed.”

Section 2461. Section 72-15-204, MCA, is amended to read:

“72-15-204. Duty to keep register. It is the duty of the public administrator to keep a book to be labeled “Register of Public Administrator” in which ~~he~~ *must the public administrator shall* enter:

- (1) the name of every deceased person on whose estate ~~he~~ *the public administrator* administers;
- (2) the date of granting letters;
- (3) money received;
- (4) the property and its value;
- (5) proceeds of all sales of property;
- (6) the amount of ~~his~~ *the public administrator’s* fees;
- (7) the expenses of administration;
- (8) the amount of the estate after all charges and expenses have been paid;
- (9) the disposition of the property on distribution;
- (10) the date of discharge of administrator; and
- (11) ~~such~~ other matters *as that* may be necessary to give a full and complete history of each estate administered by ~~him~~ *the public administrator.*”

Section 2462. Section 72-15-205, MCA, is amended to read:

“72-15-205. Deposit of moneys money with county treasurer — withdrawals for administrative costs — investment. (1) It is the duty of every a public administrator, as soon as ~~he~~ *the public administrator* receives ~~the same~~ *money*, to deposit with the county treasurer of the county in which probate proceedings are pending all ~~moneys~~ *money* of the estate, and ~~such moneys~~ *the money* may be drawn upon the order of the personal representative,

countersigned by a district judge, when required for the purposes of administration.

(2) It is the duty of the county treasurer to receive and safely keep all ~~such moneys money~~ and pay ~~them~~ *it* out upon the order of the personal representative, when countersigned by a district judge and not otherwise, and to keep an account with ~~such~~ *the* estate of all ~~moneys money~~ received and paid to ~~him~~; *the county treasurer*. ~~and The county treasurer and the sureties of the county treasurer are liable on the treasurer's official bond for the safekeeping and payment of all such moneys, as herein provided, the treasurer and his sureties are liable upon his official bond money.~~

(3) The ~~moneys~~ *thus money* deposited *with the county treasurer* may, upon order of the court or judge, be invested pending the proceedings in securities of the United States or of this state when ~~such~~ *the* investment is for the best interests of the estate."

Section 2463. Section 72-15-206, MCA, is amended to read:

"72-15-206. Monthly settlement of accounts. The public administrator is required to account and to settle and adjust ~~his~~ *the public administrator's* accounts, relating to the care and disbursement of money or property belonging to estates in ~~his~~ *the public administrator's* hands, with the clerk of the district court on the first Monday of each month, and ~~he must~~ *the public administrator shall* pay to the county treasurer any money remaining in ~~his~~ *the public administrator's* hands of an estate unclaimed."

Section 2464. Section 72-15-207, MCA, is amended to read:

"72-15-207. Annual account of condition of all estates. (1) The public administrator ~~must shall~~ once each year make to the district court or a judge ~~thereof of the district court~~, under oath, a return of all estates of decedents ~~which~~ *that* have come into ~~his~~ *the public administrator's* hands stating:

- (a) the value of the ~~same~~ *estates*;
 - (b) the money ~~which that~~ has come into ~~his~~ *the public administrator's* hands from each estate;
 - (c) what ~~he~~ *the public administrator* has done with it;
 - (d) the amount of ~~his~~ fees and expenses incurred *by the public administrator*; and
 - (e) the balance, if any, remaining in ~~his~~ *the public administrator's* hands.
- (2) ~~He must~~ *The public administrator shall* post a copy of the ~~same~~ *return* in the office of the clerk of the district court of the county."

Section 2465. Section 72-15-208, MCA, is amended to read:

"72-15-208. Power of court to require additional report or bond. The court or judge may, at any time, require the public administrator to report the amount of ~~moneys money~~ and property of any estate in ~~his~~ *the public administrator's* hands and may require ~~him~~ *the public administrator* at any time to file *an* additional bond or bonds."

Section 2466. Section 72-15-210, MCA, is amended to read:

"72-15-210. Fees — how paid. The fees of all officers chargeable to estates in the hands of public administrators must be paid out of the assets ~~thereof of the estates~~; as soon as the ~~same~~ *assets* come into ~~his~~ *the public administrator's* hands."

Section 2467. Section 72-15-211, MCA, is amended to read:

“72-15-211. Conflict of interest prohibited — affidavit. The public administrator ~~must~~ *may* not be interested in the expenditures of any kind made on account of any estate ~~he that the public administrator administers; nor must he~~ *The public administrator may not* be associated, in business or otherwise, with anyone who is ~~so~~ interested; *in expenditures made on account of an estate that the public administrator administers,* and ~~he must the public administrator shall~~ attach to ~~his~~ *the* report and publication, made in accordance with 72-15-207, ~~his the public administrator’s affidavit to that effect.”~~

Section 2468. Section 72-15-213, MCA, is amended to read:

“72-15-213. Wrongful failure of public administrator to deposit moneys money — action on bond. When it appears from the returns made in pursuance of ~~the foregoing sections~~ *this part* that any money remains in the hands of the public administrator after final settlement of the estate unclaimed ~~which that~~ should be paid over to the county treasurer, the court or judge ~~must shall~~ order the ~~same~~ *money* paid over to the county treasurer; ~~and on~~ *On* the failure of the public administrator to comply with the order within 10 days after the ~~same~~ *order* is made, the county attorney ~~must shall~~ immediately institute the requisite proceedings against the public administrator for a judgment against ~~him the public administrator~~ and the sureties on ~~his the public administrator’s~~ official bond; ~~in the amount of the money so withheld and costs.”~~

Section 2469. Section 72-15-302, MCA, is amended to read:

“72-15-302. Retiring public administrator may close pending estates. The public administrator, upon the expiration or termination of ~~his the~~ term of office, may continue to administer estates not closed by filing and presenting to the court a full and complete account pertaining to each estate not closed and securing ~~an a court order of court~~ granting ~~him the public administrator~~ letters of administration and qualifying ~~himself the public administrator~~ as a personal representative.”

Section 2470. Section 72-15-303, MCA, is amended to read:

“72-15-303. Accounting and surrender of pending estates on retirement of public administrator. ~~Should said~~ *If the* public administrator, upon the expiration or termination of ~~his the public administrator’s~~ office and within 60 days ~~thereafter~~ *after that date,* ~~fail~~ *fails* to qualify as general administrator of estates not yet closed, ~~he the public administrator~~ shall, upon demand of ~~his the~~ successor to ~~such the~~ office or voluntarily if ~~he the former public administrator~~ desires to be relieved from further performance of the trust, surrender to ~~said the~~ successor all estates not closed and property belonging to ~~such the~~ estates; ~~having first filed and presented after filing and presenting~~ to the court for approval a full and complete account pertaining to ~~such each~~ estate not closed.”

Section 2471. Section 72-15-304, MCA, is amended to read:

“72-15-304. Adjustment of compensation. The court shall determine and allow ~~such the~~ predecessor in office for ~~his~~ services rendered in connection with estates not closed a compensation based upon the commission prescribed and allowed by law in proportion to the services necessarily rendered and those necessary to be rendered by ~~such the~~ successor in closing up ~~such~~ estates. ~~Such~~ *The* successor shall ~~thereupon~~ *must* be allowed and paid the balance of ~~such the~~ commission allowed.”

Section 2472. Section 72-16-501, MCA, is amended to read:

“72-16-501. Interest of decedent terminated upon death. The interest of the decedent in property held in joint tenancy terminates upon ~~his~~ death.”

Section 2473. Section 72-16-608, MCA, is amended to read:

“72-16-608. Powers of personal representative in relation to satisfaction of tax liability. (1) The personal representative or other person in possession of the property of the decedent required to pay the tax may withhold from any property distributable to any person interested in the estate, upon its distribution to ~~him~~ *the person*, the amount of tax attributable to ~~his~~ *the person's* interest.

(2) If the property in possession of the personal representative or other person required to pay the tax and distributable to any person interested in the estate is insufficient to satisfy the proportionate amount of the tax determined to be due from the person, the personal representative or other person required to pay the tax may recover the deficiency from the person interested in the estate.

(3) If the property is not in the possession of the personal representative or the other person required to pay the tax, the personal representative or the other person required to pay the tax may recover from any person interested in the estate the amount of the tax apportioned to the person in accordance with this part.”

Section 2474. Section 72-16-609, MCA, is amended to read:

“72-16-609. Penalties and interest charged to fiduciary when caused by his fiduciary's negligence. If the court finds that the assessment of penalties and interest assessed in relation to the tax is due to delay caused by the negligence of the fiduciary, the court may charge ~~him~~ *the fiduciary* with the amount of the assessed penalties and interest.”

Section 2475. Section 72-31-101, MCA, is amended to read:

“72-31-101. Oath in behalf of corporation acting as fiduciary. In all matters ~~where~~ *in which* a corporation is authorized to act as trustee, guardian, executor, administrator, or in any fiduciary capacity and an oath of office is required, it ~~shall be competent~~ *is proper* for an officer of ~~such~~ *the* corporation to take the required oath for and on behalf of ~~his~~ *the officer's* corporation; and ~~such~~ *the* corporation ~~shall thereby become amenable~~ *becomes subject* to the laws relating to individuals in ~~like~~ *similar* matters; so far as ~~such~~ *those* laws may be applied to a corporation.”

Section 2476. Section 72-31-102, MCA, is amended to read:

“72-31-102. Investment by fiduciaries in home owners' loan corporation bonds authorized. Notwithstanding any other provision of law, it ~~shall be~~ *is* lawful for any executor, administrator, guardian or conservator, trustee, or other fiduciary to invest the funds or ~~moneys~~ *money* in ~~his~~ *the* ~~person's~~ *person's* custody or possession, eligible for investment, in bonds of the home owners' loan corporation or debentures issued by the federal housing administrator, guaranteed as to principal and interest by the United States government.”

Section 2477. Section 72-33-216, MCA, is amended to read:

“72-33-216. Resulting trust upon failure of trust. ~~Where~~ *When* the owner of property gratuitously transfers it and manifests in the trust instrument an intention that the transferee should hold the property in trust but the trust fails, the transferee holds the trust estate as a resulting trust for the transferor or ~~his~~ *the transferor's* estate; unless:

(1) the transferor manifested in the trust instrument an intention that no resulting trust should arise; or

(2) the intended trust fails for illegality and the policy against unjust enrichment of the transferee is outweighed by the policy against giving relief to a person who has entered into an illegal transaction.”

Section 2478. Section 72-33-217, MCA, is amended to read:

“72-33-217. Resulting trust upon full performance of trust. ~~Where~~ *When* the owner of property gratuitously transfers it subject to a trust ~~which~~ *that* is properly declared and ~~which that~~ *that* is fully performed without exhausting the trust estate, the trustee holds the surplus as a resulting trust for the transferor or ~~his the transferor’s~~ *estate*; unless the transferor manifested in the trust instrument an intention that no resulting trust of the surplus should arise.”

Section 2479. Section 72-33-219, MCA, is amended to read:

“72-33-219. Constructive trust. A constructive trust arises when a person holding title to property is subject to an equitable duty to convey it to another on the ground that the person holding title would be unjustly enriched if ~~he the holder~~ *were* permitted to retain it.”

Section 2480. Section 72-33-306, MCA, is amended to read:

“72-33-306. Disclaimer not a transfer. A disclaimer or renunciation by a beneficiary of all or part of ~~his the beneficiary’s~~ *interest* under a trust ~~shall~~ *may* not be considered a transfer under 72-33-301 or 72-33-302.”

Section 2481. Section 72-33-503, MCA, is amended to read:

“72-33-503. Enforcement of a charitable trust. The attorney general, a cotrustee, or a person who has a special interest in the enforcement of the charitable trust ~~can~~ *may* maintain a suit for the enforcement of a charitable trust, but ~~not~~ *persons* who *do not* have ~~no~~ *a* special interest, ~~or~~ *the* trustor, or ~~his the trustor’s~~ *heirs* or personal representative *may not maintain a suit for the enforcement of a charitable trust.*”

Section 2482. Section 72-34-130, MCA, is amended to read:

“72-34-130. Standard for exercise of “absolute”, “sole”, or “uncontrolled” powers. (1) Subject to the additional requirements of subsection (2), if a trust instrument confers “absolute”, “sole”, or “uncontrolled” discretion on a trustee, the trustee shall act in accordance with fiduciary principles and may not act in disregard of the purposes of the trust.

(2) Notwithstanding the trustor’s use of terms like “absolute”, “sole”, or “uncontrolled”, a person who is a beneficiary of a trust and who, either individually or as trustee or cotrustee, holds a power to take or distribute income or principal to or for ~~the benefit of himself or herself~~ *person’s own benefit* pursuant to a standard; shall exercise that power reasonably and in accordance with the standard. In any case in which the standard governing the exercise of the power does not clearly indicate that a broader power is intended, the holder of the power may exercise it in ~~his or her the holder’s~~ *favor* only for ~~his or her the holder’s~~ *health, education, support, or maintenance.*”

Section 2483. Section 72-34-514, MCA, is amended to read:

“72-34-514. Consent of beneficiary to relieve trustee of liability for breach of trust. (1) Except as provided in subsections (2) and (3), a beneficiary may not hold the trustee liable for an act or omission of the trustee as a breach of

trust if the beneficiary consented to the act or omission before or at the time of the act or omission.

(2) The consent of the beneficiary does not preclude the beneficiary from holding the trustee liable for a breach of trust in any of the following circumstances:

(a) whenever the beneficiary was under an incapacity at the time of the consent or of the act or omission;

(b) whenever the beneficiary at the time consent was given did not know of ~~his~~ *the beneficiary's* rights and of the material facts that the trustee knew or should have known and that the trustee did not reasonably believe that the beneficiary knew; or

(c) whenever the consent of the beneficiary was induced by improper conduct of the trustee.

(3) Whenever the trustee has an interest in the transaction adverse to the interest of the beneficiary, the consent of the beneficiary does not preclude the beneficiary from holding the trustee liable for a breach of trust under any of the circumstances described in subsection (2) or whenever the transaction to which the beneficiary consented was not fair and reasonable to the beneficiary.”

Section 2484. Section 72-34-515, MCA, is amended to read:

“72-34-515. Discharge of trustee’s liability by release or contract. (1) Except as provided in subsection (2), a beneficiary may be precluded from holding the trustee liable for a breach of trust by the beneficiary’s release or contract effective to discharge the trustee’s liability to the beneficiary for that breach.

(2) A release or contract is not effective to discharge the trustee’s liability for a breach of trust in any of the following circumstances:

(a) whenever the beneficiary was under an incapacity at the time of making the release or contract;

(b) whenever the beneficiary did not know of ~~his~~ *the beneficiary's* rights and of the material facts:

(i) that the trustee knew or reasonably should have known; and

(ii) that the trustee did not reasonably believe that the beneficiary knew;

(c) whenever the release or contract of the beneficiary was induced by improper conduct of the trustee; or

(d) whenever the transaction involved a bargain with the trustee that was not fair and reasonable.”

Section 2485. Section 72-34-516, MCA, is amended to read:

“72-34-516. Discharge of trustee’s liability by subsequent affirmance. (1) Except as provided in subsection (2), if the trustee, in breach of trust, enters into a transaction that the beneficiary may at ~~his~~ *the beneficiary's* option reject or affirm, and the beneficiary affirms the transaction, the beneficiary may not ~~thereafter~~ reject it *after the affirmance* and hold the trustee liable for any loss occurring after the trustee entered into the transaction.

(2) The affirmance of a transaction by the beneficiary does not preclude the beneficiary from holding a trustee liable for a breach of trust if, at the time of the affirmance, any of the following circumstances existed:

(a) the beneficiary was under an incapacity;

(b) the beneficiary did not know of ~~his~~ *the beneficiary's* rights and of the material facts:

- (i) that the trustee knew or reasonably should have known; and
- (ii) that the trustee did not reasonably believe that the beneficiary knew;
- (c) the affirmance was induced by improper conduct of the trustee; or
- (d) the transaction involved a bargain with the trustee that was not fair and reasonable.”

Section 2486. Section 72-35-313, MCA, is amended to read:

“72-35-313. Appointment of guardian ad litem. (1) The court may, on its own motion or on request of a trustee or other person interested in the trust, appoint a guardian ad litem at any stage of a proceeding concerning the trust to represent the interest of any of the following persons; if the court determines that representation of the interest otherwise would be inadequate:

- (a) a minor;
 - (b) an incapacitated person;
 - (c) an unborn person;
 - (d) an unascertained person;
 - (e) a person whose identity or address is unknown; or
 - (f) a designated class of persons who are not ascertained or are not in being.
- (2) If not precluded by a conflict of interest, a guardian ad litem may be appointed to represent several persons or interests.
- (3) The reasonable expenses of the guardian ad litem, including compensation and ~~attorney's~~ *attorney* fees, ~~shall~~ *must* be determined by the court and paid as the court orders, either out of trust property or by the petitioner.

(4) If ~~no~~ *a* guardian ad litem is *not* appointed, an unborn person or an unascertained person is bound by an order to the extent ~~his or her~~ *that the person's* interest is adequately represented by another party having a substantially identical interest in the proceeding.”

Section 2487. Section 72-36-206, MCA, is amended to read:

“72-36-206. Effects on real property transactions. (1) This section relates only to conveyances of real property to or from a trust; and supplements; but does not modify other substantive provisions of *Title 72*, chapters 33 through 36, relating to the creation or validity of trusts.

(2) Except as otherwise provided in *Title 72*, chapters 33 through 36, a conveyance of real property to a trustee designated as such in the conveyance vests the whole estate conveyed in the trustee, subject only to the trustee's duties. The beneficiaries of the trust take no estate or interest in the real property, but may determine or enforce the terms of the trust as provided in chapters 33 through 36.

(3) An instrument creating or amending a trust need not be recorded, but may be *recorded* if properly acknowledged.

(4) If there is no clear reference to or designation of a grantee as trustee in a conveyance (~~nor~~ *or* in a separately recorded instrument recorded in the same county as the conveyance and describing the same property as described in the conveyance), the conveyance must be considered to be absolute to the grantee, in favor of purchasers or encumbrancers from the grantee, who were without

actual knowledge and who acted for a valuable consideration, despite any valid trust ~~which~~ *that* may exist.

(5) Unless limitations upon a trustee's power or authority are set forth in the recorded conveyance of real property to the trustee or in a separate trust instrument, ~~(or portion thereof of a separate trust instrument, or abstract thereof) of a separate trust instrument~~ recorded in the same county, there are no limitations upon the trustee's power or authority to convey or encumber the real property in favor of third persons who were without actual knowledge and who acted for a valuable consideration. A separate trust instrument incorporated by reference in a conveyance to a trustee ~~cannot~~ *may not* limit the trustee's power or authority to convey or encumber unless the limitations are set forth in the trust instrument, ~~(or portion thereof of a trust instrument, or abstract thereof) which of a trust instrument that~~ is also recorded in the county where the real property is located. An amendment to a recorded trust instrument may not affect the power or authority of a trustee to convey or encumber unless it is also recorded in the same place.

(6) A subsequent conveyance from a person designated in the original conveyance as trustee (or from ~~his~~ *the* successor trustee) conveys the whole estate vested in the trustee, except as limited by the terms of the conveyance. The identity of ~~any~~ *a* successor trustee may be established by a recorded affidavit of the successor trustee specifying the successor trustee's name and address and the date and circumstances of succession; and confirming that the successor trustee is currently lawfully serving in that capacity.

(7) In an action or proceeding by a third person involving the real property granted to a trustee, the person designated as trustee in the original conveyance, or the successor trustee as established in subsection (6), or, if none, the person then actually serving as trustee, or, if none, any beneficiary designated by the court to represent the interests of the beneficiaries; ~~shall be~~ *is* considered the only necessary representative of the trust and of all persons with an interest in the trust. A judgment is binding upon and conclusive against the trust and all persons interested in the trust as to all matters finally adjudicated in the judgment.

(8) The designation of the name of a trust in a recorded conveyance vests the estate in the trustee of the trust. A subsequent conveyance may be made by the trustee. The identity of a party serving as trustee may be established by a recorded affidavit of the party or by ~~other~~ *another* recorded instrument; specifying the trustee's name and address and confirming that the party is currently serving as the trustee."

Section 2488. Section 75-1-312, MCA, is amended to read:

"75-1-312. Hearings — council subpoena power — contempt proceedings. In the discharge of its duties, the council ~~shall have authority to~~ *may* hold hearings, administer oaths, issue subpoenas, compel the attendance of witnesses and the production of any papers, books, accounts, documents, and testimony, and ~~to~~ cause depositions of witnesses to be taken in the manner prescribed by law for taking depositions in civil actions in the district court. In case of disobedience on the part of ~~any~~ *a* person to comply with ~~any~~ *a* subpoena issued on behalf of the council or ~~any~~ *a* committee ~~thereof of the council~~ or of the refusal of ~~any~~ *a* witness to testify on any matters regarding which ~~he~~ *the witness* may be lawfully interrogated, it ~~shall be~~ *is* the duty of the district court of any county or the judge ~~thereof of the district court~~, on application of the council, to compel obedience by proceedings for contempt as in the case of disobedience of

the requirements of a subpoena issued from ~~such~~ *the* court on a refusal to testify ~~therein in the court.~~"

Section 2489. Section 75-2-122, MCA, is amended to read:

"75-2-122. Chairman Presiding officer — secretary. (1) A ~~chairman~~ *shall presiding officer must* be elected by the advisory council from among its number.

(2) The secretary of the advisory council ~~shall must~~ be a member of the staff of the department, designated by the director. The secretary shall keep all records of meetings of and actions taken by the council. ~~He~~ *The secretary* shall keep the advisory council advised as to actions taken by persons in response to recommendations and orders issued under this chapter and shall perform other duties as determined by the advisory council, not inconsistent with rules and policies adopted under this chapter or specific authority otherwise given the advisory council."

Section 2490. Section 75-2-123, MCA, is amended to read:

"75-2-123. Meetings. The advisory council shall hold at least two regular meetings each calendar year and shall keep a summary record of its proceedings ~~which shall that must~~ be open to the public for inspection. Special meetings may be called by the ~~chairman presiding officer~~ and must be called by ~~him~~ *the presiding officer* on receipt of a written request signed by two or more members of the advisory council. Notice of the time and place for meetings ~~shall must~~ be given in advance to each member of the advisory council by the secretary."

Section 2491. Section 75-2-212, MCA, is amended to read:

"75-2-212. Variances — renewals — filing fees. (1) A person who owns or is in control of a plant, building, structure, process, or equipment may apply to the board for an exemption or partial exemption from rules governing the quality, nature, duration, or extent of emissions of air pollutants. The application ~~shall must~~ be accompanied by ~~such~~ information and data ~~as that~~ the board may require. The board may grant an exemption or partial exemption if it finds that:

(a) the emissions occurring or proposed to occur do not constitute a danger to public health or safety; and

(b) compliance with the rules from which *an* exemption is sought would produce hardship without equal or greater benefits to the public.

(2) ~~No~~ *An* exemption or partial exemption may *not* be granted pursuant to this section except after public hearing on due notice and until the board has considered the relative interests of the applicant, other owners or property likely to be affected by the emissions, and the general public.

(3) The exemption or partial exemption may be renewed if ~~no~~ *a* complaint is *not* made to the board because of it or if, after the complaint has been made and duly considered at a public hearing held by the board on due notice, the board finds that renewal is justified. ~~No~~ *A* renewal may *not* be granted except on application ~~therefor~~. An application ~~shall must~~ be made at least 60 days before the expiration of the exemption or partial exemption. Immediately before application for renewal, the applicant shall give public notice of ~~his~~ *the* application in accordance with rules of the board. A renewal pursuant to this subsection ~~shall must~~ be on the same grounds and subject to the same limitations and requirements as provided in subsection (1).

(4) An exemption, partial exemption, or renewal ~~thereof~~ is not a right of the applicant or holder ~~thereof~~ but ~~shall may~~ be granted at the discretion of the

board. However, a person adversely affected by an exemption, partial exemption, or renewal granted by the board may obtain judicial review thereof as provided by 75-2-411.

(5) ~~Nothing in this~~ *This* section and ~~no~~ *an* exemption, partial exemption, or renewal granted pursuant to this section may *not* be construed to prevent or limit the application of the emergency provisions and procedures of 75-2-402 to a person or ~~his~~ *the person's* property.

(6) A person who owns or is in control of a plant, building, structure, process, or equipment, ~~(hereinafter which are called a facility)~~ *facilities*, who applies to the board for an exemption or partial exemption or a renewal of an exemption or partial exemption from a rule governing the quality, nature, duration, or extent of emissions of air pollutants shall submit with the application for variance a sum of not less than \$500 or 2% of the cost of the equipment to bring the facility into compliance with the rule for which a variance is sought, whichever is greater, but not to exceed \$80,000. The department shall prepare a statement of actual costs, and funds in excess of this ~~shall~~ *must* be returned to the applicant. The person requesting the variance shall describe the facility in sufficient detail, with accompanying estimates of cost and verifying materials, to permit the department to determine with reasonable accuracy the sum of the fee. For a renewal of an exemption or partial exemption, if ~~no~~ *a* public hearing, environmental impact statement, or appreciable investigation by the department is *not* necessary, the minimum filing fee ~~shall apply~~ *applies* or the fee may be waived by the department. The filing fee ~~shall~~ *must* be deposited in the state special revenue fund provided for in 17-2-102. It is the intent of the legislature that the ~~revenues~~ *revenue* derived from the filing fees ~~shall~~ *must* be used by the department to:

- (a) compile the information required for rendering a decision on the request;
- (b) compile the information necessary for any environmental impact statements;
- (c) offset the costs of a public hearing, printing, or mailing; and
- (d) carry out its other responsibilities under this chapter.”

Section 2492. Section 75-2-411, MCA, is amended to read:

“75-2-411. Judicial review. (1) A person aggrieved by an order of the board or local control authority may apply for rehearing upon one or more of the following grounds and upon no other grounds:

- (a) the board or local control authority acted without or in excess of its powers;
- (b) the order was procured by fraud;
- (c) the order is contrary to the evidence;
- (d) the applicant has discovered new evidence, material to ~~him~~ *the applicant*, ~~which he~~ *that the applicant* could not with reasonable diligence have discovered and produced at the hearing; or
- (e) competent evidence was excluded to the prejudice of the applicant.

(2) The petition must be in ~~such~~ *a* form and filed ~~in such~~ *at a time as that* the board ~~shall prescribe~~ *prescribes*.

(3) (a) Within 30 days after the application for rehearing is denied or, if the application is granted, within 30 days after the decision on the rehearing, a *aggrieved party aggrieved thereby* may appeal to the district court of the judicial district of the state ~~which~~ *that* is the situs of property affected by the order.

(b) The appeal ~~shall~~ *must* be taken by serving a written notice of appeal upon the ~~chairman presiding officer~~ of the board, ~~which service shall~~ *Service must* be made by the delivery of a copy of the notice to the ~~chairman presiding officer~~ and by filing the original with the clerk of the court to which the appeal is taken. Immediately after service upon the board, the board shall certify to the district court the entire record and proceedings, including all testimony and evidence taken by the board. Immediately upon receiving the certified record, the district court shall fix a day for filing of briefs and hearing arguments on the cause and shall cause a notice of the ~~same~~ *the dates* to be served upon the board and the appellant.

(c) The court shall hear and decide the cause upon the record of the board. The court shall determine whether or not the board regularly pursued its authority, whether or not the findings of the board were supported by substantial competent evidence, and whether or not the board made errors of law prejudicial to the appellant.

(4) Either the board or the person aggrieved may appeal from the decision of the district court to the supreme court. The proceedings before the supreme court ~~shall~~ *must* be limited to a review of the record of the hearing before the board and of the district court's review of that record."

Section 2493. Section 75-5-105, MCA, is amended to read:

"75-5-105. Confidentiality of records. Except as provided in 80-15-108, any information concerning sources of pollution ~~which that~~ is furnished to the board or department or ~~which that~~ is obtained by either of them is a matter of public record and open to public use. However, any information unique to the owner or operator of a source of pollution ~~which that~~ would, if disclosed, reveal methods or processes entitled to protection as trade secrets ~~shall~~ *must* be maintained as confidential if so determined by a court of competent jurisdiction. The owner or operator shall file a declaratory judgment action to establish the existence of a trade secret if ~~he~~ *the owner or operator* wishes ~~such~~ *the* information to ~~enjoy~~ *remain* confidential status. The department ~~shall~~ *must* be served in ~~any~~ *such* ~~the~~ action and may intervene as a party ~~therein~~. Any information not intended to be public when submitted to the board or department ~~shall~~ *must* be submitted in writing and clearly marked as confidential. The data describing physical and chemical characteristics of a waste discharged to state waters ~~shall~~ *may* not be considered confidential. The board may use any information in compiling or publishing analyses or summaries relating to water pollution if ~~such~~ *the* analyses or summaries do not identify any owner or operator of a source of pollution or reveal any information ~~which that~~ is otherwise made confidential by this section."

Section 2494. Section 75-5-306, MCA, is amended to read:

"75-5-306. Purer than natural unnecessary — dams — definition. (1) It is not necessary that wastes be treated to a purer condition than the natural condition of the receiving stream as long as the minimum treatment requirements established under this chapter are met.

(2) "Natural" refers to conditions or material present from runoff or percolation over which ~~man has~~ *humans have* no control or from developed land where all reasonable land, soil, and water conservation practices have been applied. Conditions resulting from the reasonable operation of dams ~~at~~ on July 1, 1971, are natural."

Section 2495. Section 75-5-603, MCA, is amended to read:

“75-5-603. Power to inspect. The authorized representative of the department, upon presentation of ~~his~~ *the representative’s* credentials, may at reasonable times enter upon any public or private property to:

- (1) investigate conditions relating to pollution of state waters or violations of permit conditions;
- (2) have access to and copy any records required under this chapter;
- (3) inspect any monitoring equipment or method required under 75-5-602(3); and
- (4) sample any effluents ~~which~~ *that* the owner or operator of ~~such~~ *the* source is required to sample under 75-5-602(4).”

Section 2496. Section 75-5-641, MCA, is amended to read:

“75-5-641. Appeals from board orders — review by district court. (1) An appeal of an order of the board ~~shall~~ *must* be in the district court of the county in which the alleged source of pollution is located.

(2) A person interested in the order may intervene, in the manner provided by the rules of civil procedure, if ~~he~~ *the person* shows good cause. An intervenor is a party for the purposes of this chapter.

(3) The attorney general shall represent the board if requested, or the department may appoint special counsel for the proceedings, subject to the approval of the attorney general.

(4) The initiation of an action for review or the taking of an appeal does not stay the effectiveness of any order of the board unless the court finds that there is probable cause to believe:

(a) that refusal to grant a stay will cause serious harm to the affected party; and

(b) that any violation found by the board will not continue or, if it does continue, any harmful effects on state waters will be remedied immediately on the cessation of the violation.

(5) If a court does not stay the effectiveness of an order of the board, it may enforce compliance with that order by issuing a temporary restraining order or an injunction at the request of the board.”

Section 2497. Section 75-5-801, MCA, is amended to read:

“75-5-801. Definitions. For the purposes of this part, the following definitions apply:

(1) “Animal feeding operation” means a lot or facility where the following conditions are met:

(a) animals have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period; and

(b) crops, vegetation, forage growth, or postharvest residues are not sustained in the normal growing season over any portion of the lot or facility.

(2) “Concentrated animal feeding operation” means an animal feeding operation that is defined as a large concentrated animal feeding operation or as a medium concentrated animal feeding operation or that is designated as a concentrated animal feeding operation in accordance with 40 CFR, part 122. Two or more animal feeding operations under common ownership are considered to be a single animal feeding operation for the purposes of determining the number of animals at an operation if they adjoin each other or if they use a common area or system for the disposal of wastes.

(3) "Large concentrated animal feeding operation" means an animal feeding operation that stables or confines at a minimum:

- (a) 700 mature dairy cows, whether milked or dry;
- (b) 1,000 veal calves;
- (c) 1,000 cattle other than mature dairy cows or veal calves;
- (d) 2,500 swine each weighing 55 pounds or more;
- (e) 10,000 swine each weighing less than 55 pounds;
- (f) 500 horses;
- (g) 10,000 sheep or lambs;
- (h) 55,000 turkeys;
- (i) 30,000 laying hens or broilers if the animal feeding operation uses a liquid manure-handling system;
- (j) 125,000 chickens, other than laying hens, if the animal feeding operation uses other than a liquid manure-handling system;
- (k) 82,000 laying hens if the animal feeding operation uses other than a liquid manure-handling system;
- (l) 30,000 ducks if the animal feeding operation uses other than a liquid manure-handling system; or
- (m) 5,000 ducks if the animal feeding operation uses a liquid manure-handling system.

(4) "Medium concentrated animal feeding operation" means an animal feeding operation with the type and number of animals that fall within any of the ranges listed in subsection (4)(a) and that has been defined or designated as a concentrated animal feeding operation. An animal feeding operation is defined as a medium concentrated animal feeding operation if:

- (a) the type and number of animals that it stables or confines falls within any of the following ranges:
 - (i) 200-699 mature dairy cows, whether milked or dry;
 - (ii) 300-999 veal calves;
 - (iii) 300-999 cattle other than mature dairy cows or veal calves;
 - (iv) 750-2,499 swine each weighing 55 pounds or more;
 - (v) 3,000-9,999 swine each weighing less than 55 pounds;
 - (vi) 150-499 horses;
 - (vii) 3,000-9,999 sheep or lambs;
 - (viii) 16,500-54,999 turkeys;
 - (ix) 9,000-29,999 laying hens or broilers if the animal feeding operation uses a liquid manure-handling system;
 - (x) 37,500-124,999 chickens, other than laying hens, if the animal feeding operation uses other than a liquid manure-handling system;
 - (xi) 25,000-81,999 laying hens if the animal feeding operation uses other than a liquid manure-handling system;
 - (xii) 10,000-29,999 ducks if the animal feeding operation uses other than a liquid manure-handling system; or
 - (xiii) 1,500-4,999 ducks if the animal feeding operation uses a liquid manure-handling system; and

(b) either of the following conditions is met:

(i) pollutants are discharged into waters of the state through a ~~manmade~~ *constructed* ditch, flushing system, or other similar ~~manmade~~ *constructed* device; or

(ii) pollutants are discharged directly into waters of the state that originate outside of and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.”

Section 2498. Section 75-7-205, MCA, is amended to read:

“75-7-205. Unauthorized work. A person who performs work in a lake ~~after May 1, 1975~~, without a permit for that work shall, if required by the local governing body or the district court, restore the lake to its condition before ~~he~~ *the person* disturbed it.”

Section 2499. Section 75-10-212, MCA, is amended to read:

“75-10-212. Disposal in unauthorized area prohibited — exception.

(1) ~~No~~ A person may *not* dispose of solid waste except as permitted under this part.

(2) It ~~shall be~~ *is* unlawful to dump or leave any garbage, dead animal, or other debris or refuse:

(a) in or upon any highway, road, street, or alley of this state;

(b) in or upon any public property, highway, street, or alley under the control of the state of Montana or any political subdivision ~~thereof of the state~~ or any officer or agent or department ~~thereof of the state or political subdivision of the state~~;

(c) within 200 yards of ~~such a~~ public highway, road, street, or alley or public property;

(d) on privately owned property where hunting, fishing, or other recreation is permitted, ~~provided; however~~, this subsection ~~shall~~ *does* not apply to the owner, ~~his~~ *the owner's* agents, or those disposing of debris or refuse with the owner's consent.

(3) ~~Any~~ A person in violation of this section is absolutely liable, as provided in 45-2-104, and is subject to the civil penalties provided in 75-10-233.”

Section 2500. Section 75-10-214, MCA, is amended to read:

“75-10-214. Exclusions — exceptions to exclusions. (1) (a) This part may not be construed to prohibit a person from disposing of ~~his~~ *the person's* own solid waste that is generated in reasonable association with ~~his~~ *the person's* household or agricultural operations upon land owned or leased by that person or covered by easement or permit as long as the disposal does not create a nuisance or public health hazard or violate the laws governing the disposal of hazardous or deleterious substances.

(b) This part does not apply to the operation of an electric generating facility, to the drilling, production, or refining of natural gas or petroleum, or to the operation of a mine, mill, smelter, or electrolytic reduction facility.

(2) The exclusions contained in subsection (1) ~~of this section~~ do not apply to a division of land of 5 acres or less made after July 1, 1977, that falls within the definition of subdivision in Title 76, chapter 4, part 1, or the Montana Subdivision and Platting Act in Title 76, chapter 3.”

Section 2501. Section 75-10-223, MCA, is amended to read:

“75-10-223. Refusal by local health officer — appeal to board. (1) The local health officer may ~~only~~ refuse to validate a license issued under this part *only* upon a finding that the requirements of this part and the rules implementing this part cannot be satisfied. If the local health officer refuses to validate the license, ~~he~~ *the local health officer* shall notify the applicant, the department, and any other interested person in writing.

(2) The applicant or any person aggrieved by the decision of the local health officer not to validate a license may appeal the decision to the board within 30 days after receiving written notice of the local health officer’s decision.

(3) The hearing before the board ~~shall~~ *must* be held pursuant to the contested case provisions of the Montana Administrative Procedure Act.”

Section 2502. Section 75-10-233, MCA, is amended to read:

“75-10-233. Dumping penalty — enforcement. (1) A person found guilty of a violation of 75-10-212 shall be fined in the sum not exceeding \$100 or imprisoned in the county jail for a period not exceeding 30 days, ~~or be punished by both fine and imprisonment, in the discretion of the court.~~

(2) A person found absolutely liable under 75-10-212 is subject to a civil penalty not to exceed \$5,000.

(3) The provisions of 75-10-212 ~~shall~~ *must* be enforced by all highway patrol officers, sheriffs, ~~police officers and police officers~~; and by all other enforcement agencies and officers of the state of Montana. In addition, game wardens have the right to enforce the provisions of 75-10-212 on public property and on private property where public recreation is permitted.”

Section 2503. Section 75-10-501, MCA, is amended to read:

“75-10-501. Definitions. Unless the context requires otherwise, in this part, the following definitions apply:

(1) “Board” means the board of environmental review provided for in 2-15-3502.

(2) “Component part” means any identifiable part of a discarded, ruined, wrecked, or dismantled motor vehicle, including but not limited to fenders, doors, hoods, engine blocks, motor parts, transmissions, frames, axles, wheels, tires, and passenger compartment fixtures.

(3) “Department” means the department of environmental quality provided for in 2-15-3501.

(4) (a) “Junk vehicle” means a motor vehicle, including component parts:

(i) that is discarded, ruined, wrecked, or dismantled;

(ii) that, except as provided in subsection (4)(b), is not lawfully and validly licensed; and

(iii) that remains inoperative or incapable of being driven.

(b) If a vehicle is permanently registered under 61-3-562 and meets the criteria for a junk vehicle under subsection (4)(a), the vehicle is a junk vehicle.

(5) “Motor vehicle graveyard” means a collection point established by a county for junk motor vehicles prior to their disposal.

(6) (a) “Motor vehicle wrecking facility” means:

~~(a)~~(i) a facility buying, selling, or dealing in four or more vehicles ~~per~~ a year, of a type required to be licensed, for the purpose of wrecking, dismantling, disassembling, or substantially changing the form of the motor vehicle; or

(b)(ii) a facility that buys or sells component parts, in whole or in part, and deals in secondhand motor vehicle parts. A facility that buys or sells component parts of a motor vehicle, in whole or in part, is a motor vehicle wrecking facility whether or not the buying or selling price is based upon weight or any other type of classification.

(b) The term does not include a garage where wrecked or disabled motor vehicles are temporarily stored for a reasonable period of time for inspection, repairs, or subsequent removal to a junkyard.

(7) "Person" means any individual, firm, partnership, company, association, corporation, city, town, local governmental entity, or any other governmental or private entity, whether organized for profit or not.

(8) "Public view" means any point 6 feet above the surface of the center of a public road from which junk vehicles can be seen.

(9) "Shielding" means the construction or use of fencing or ~~manmade~~ *constructed* or natural barriers to conceal junk vehicles from public view."

Section 2504. Section 75-10-940, MCA, is amended to read:

"75-10-940. Enforcement by residents. (1) A person with knowledge that a requirement of 75-10-901 through 75-10-945 or a rule adopted under 75-10-901 through 75-10-945 is not being enforced by a public officer or employee whose duty it is to enforce the requirement or rule may bring the failure to enforce to the attention of the public officer or employee by a written statement under oath that states the specific facts of the failure to enforce the requirement or rule. Knowingly making false statements or charges in the statements subjects the person to the penalties prescribed for a violation of 45-7-202.

(2) If the public officer or employee neglects or refuses for an unreasonable time after receipt of the statement to enforce the requirement or rule, the person may bring an action of mandamus in the district court of the first judicial district of Montana. If the court finds that a requirement of 75-10-901 through 75-10-945 or a rule adopted under 75-10-901 through 75-10-945 is not being enforced, the court may order the public officer or employee whose duty it is to enforce the requirement or rule to perform those duties. If ~~he~~ *the public officer or employee* fails to do so, the public officer or employee must be held in contempt of court and is subject to the penalties provided by law."

Section 2505. Section 75-10-941, MCA, is amended to read:

"75-10-941. Action to recover damages to water supply. An owner of an interest in real property who obtains all or part of ~~his~~ *the owner's* supply of water for domestic, agricultural, industrial, or other legitimate use from a surface or underground source may sue a person to recover damages for contamination, diminution, or interruption of the water supply proximately resulting from the operation of a facility. The remedy provided in this section does not exclude the use of any other remedy that may be available under the laws of the state."

Section 2506. Section 75-16-104, MCA, is amended to read:

"75-16-104. Right to relief. A person who suffers or is threatened with injury to ~~his~~ *that person's* person or property in a reciprocating jurisdiction caused by pollution originating or that may originate in this state has the same rights to relief with respect to the injury or threatened injury and may enforce those rights in this state as if the injury or threatened injury occurred in this state."

Section 2507. Section 75-20-404, MCA, is amended to read:

“75-20-404. Enforcement of chapter by residents. (1) A resident of this state with knowledge that a requirement of this chapter or a rule adopted under it is not being enforced by a public officer or employee whose duty it is to enforce the requirement or rule may bring the failure to enforce to the attention of the public officer or employee by a written statement under oath that ~~shall~~ *must* state the specific facts of the failure to enforce the requirement or rule. Knowingly making false statements or charges in the affidavit subjects the affiant to penalties prescribed under the law of perjury.

(2) If the public officer or employee neglects or refuses for an unreasonable time after receipt of the statement to enforce the requirement or rule, the resident may bring an action of mandamus in the district court of the first judicial district of this state, in and for the county of Lewis and Clark. If the court finds that a requirement of this chapter or a rule adopted under it is not being enforced, the court may order the public officer or employee whose duty it is to enforce the requirement or rule to perform ~~his~~ *the officer's or employee's* duties. If ~~he~~ *the public officer or public employee* fails to do so, the public officer or employee ~~shall~~ *must* be held in contempt of court and is subject to the penalties provided by law.”

Section 2508. Section 75-20-405, MCA, is amended to read:

“75-20-405. Action to recover damages to water supply. An owner of an interest in real property who obtains all or part of ~~his~~ *the owner's* supply of water for domestic, agricultural, industrial, or other legitimate use from a surface or underground source may sue a person to recover damages for contamination, diminution, or interruption of the water supply proximately resulting from the operation of a facility. The remedies enumerated in this section do not exclude the use of any other remedy ~~which~~ *that* may be available under the laws of the state.”

Section 2509. Section 75-20-409, MCA, is amended to read:

“75-20-409. Optional annual installments for location of facility on landowner's property. A landowner upon whose land a facility is proposed to be located ~~shall~~ *have* the option of receiving any negotiated settlement for use of ~~his~~ *the landowner's* land, if and when the land is used for a facility, by easement, right-of-way, or other legal conveyance in either a lump sum or in not more than five consecutive annual installments.”

Section 2510. Section 75-20-411, MCA, is amended to read:

“75-20-411. Surety bond — other security. If an order of the board is stayed or suspended, the court may require a bond with good and sufficient surety conditioned that the party petitioning for review answer for all damages caused by the delay in enforcing the order of the board; except that the cost of the bond is not chargeable to the applicant as part of the fee. If the party petitioning for review prevails upon final resolution of an appeal, ~~he~~ *the party* does not forfeit bond nor is ~~he~~ *the party* responsible for damages caused by delay.”

Section 2511. Section 76-1-222, MCA, is amended to read:

“76-1-222. City council member of city planning board. (1) As soon as the city council has enacted an ordinance creating a city planning board, the city council shall select a member of its body to serve on the planning board. The term of the appointed member ~~shall~~ *must* be coextensive with the term of office to which ~~he~~ *the member* has been elected or appointed unless the council, on its first regular meeting of each year, appoints another to serve as its

representative or unless ~~his~~ *the member's* term is terminated as ~~hereinafter~~ provided *in this part*.

(2) The city council shall fill any vacancy occurring in its respective membership on the planning board."

Section 2512. Section 76-2-221, MCA, is amended to read:

"76-2-221. Board of adjustment. (1) The board of county commissioners shall provide for the appointment of a board of adjustment and in the regulations and restrictions adopted pursuant to the authority of this part shall provide that the board of adjustment may, in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of the zoning resolution in harmony with its general purposes and intent and in accordance with the general or specific rules of this part.

(2) The board of adjustment shall adopt rules in accordance with the provisions of any resolution adopted pursuant to this part. Meetings of the board of adjustment ~~shall~~ *must* be held at the call of the ~~chairman~~ *presiding officer* and at ~~such~~ times as *that* the board may determine. ~~Such chairman~~ *The presiding officer* or in ~~his~~ *the presiding officer's* absence the acting ~~chairman~~ *presiding officer* may administer oaths and compel the attendance of witnesses."

Section 2513. Section 76-2-226, MCA, is amended to read:

"76-2-226. Appeals to board of adjustment. (1) Appeals to the board of adjustment may be taken by ~~any~~ *a* person aggrieved or by ~~any~~ *an* officer, department, board, or bureau of the county affected by any decision of the administrative officer. ~~Such~~ *The* appeal ~~shall~~ *must* be taken within a reasonable time, as provided by the rules of the board, by filing with the officer from whom the appeal is taken and with the board of adjustment a notice of appeal specifying the grounds ~~thereof~~ *of the appeal*.

(2) The officer from whom the appeal is taken shall ~~forthwith~~ transmit to the board *in a timely manner* all papers constituting the record upon which the action appealed was taken.

(3) An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the board of adjustment after the notice of appeal ~~shall~~ *has* been filed with ~~him~~ *the officer* that by reason of facts stated in the certificate a stay would, in ~~his~~ *the officer's* opinion, cause imminent peril to life or property. In ~~such~~ *that* case, proceedings ~~shall~~ *may* not be stayed ~~other than~~ *except* by a restraining order, which may be granted by the board of adjustment or by a court of record on application, on notice to the officer from whom the appeal is taken, and on due cause shown.

(4) The board of adjustment shall fix a reasonable time for the hearing of the appeal, give public notice ~~thereof~~ *of the hearing* as well as due notice to the parties in interest, and decide the ~~same~~ *the appeal* within a reasonable time.

(5) ~~Upon~~ *At* the hearing, ~~any~~ *a* party may appear in person or by ~~his~~ *the party's* attorney."

Section 2514. Section 76-2-227, MCA, is amended to read:

"76-2-227. Appeals from board to court of record. (1) Any person or persons, jointly or severally, aggrieved by ~~any~~ *a* decision of the board of adjustment or ~~any~~ *a* taxpayer or ~~any~~ *an* officer, department, board, or bureau of the county may present to a court of record a petition, duly verified, setting forth that ~~such~~ *the* decision is illegal, in whole or in part, *and* specifying the grounds of

the illegality. ~~Such~~ *the* petition ~~shall~~ *must* be presented to the court within 30 days after the filing of the decision in the office of the board.

(2) Upon presentation of ~~such~~ *a* petition, the court may allow a writ of certiorari directed to the board of adjustment to review ~~such~~ *the* decision of the board of adjustment and shall prescribe ~~therein~~ *in the writ* the time within which a return ~~thereto~~ must be made and served upon the relator's attorney, which ~~shall~~ *may* not be less than 10 days and may be extended by the court. The allowance of the writ ~~shall~~ *may* not stay proceedings upon the decision appealed from, but the court may, (upon application, on notice to the board, and on due cause shown), grant a restraining order. The board of adjustment ~~shall~~ *may* not be required to return the original papers acted upon by it, but it ~~shall~~ *be is* sufficient to return certified or sworn copies ~~thereof~~ *of the original papers* or of ~~such~~ portions ~~thereof~~ *as of the original papers* that may be called for by ~~such~~ *the* writ. The return ~~shall~~ *must* concisely set forth ~~such~~ other facts ~~as that~~ may be pertinent and material to show the grounds of the decision appealed from and ~~shall~~ *must* be verified.

(3) If, upon the hearing, it ~~shall~~ *appear* ~~appears~~ to the court that testimony is necessary for the proper disposition of the matter, the court may take evidence or appoint a referee to take ~~such~~ evidence as it may direct and report the ~~same~~ *evidence* to the court with ~~his~~ *the referee's* findings of fact and conclusions of law, which ~~shall~~ constitute a part of the proceedings upon which the determination of the court ~~shall~~ *must* be made.

(4) The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review."

Section 2515. Section 76-2-321, MCA, is amended to read:

"76-2-321. Board of adjustment. (1) ~~Such~~ *A* city or town council or other legislative body may provide for the appointment of a board of adjustment and in the regulations and restrictions adopted pursuant to the authority of this part may provide that the board of adjustment may, in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of the ordinance in harmony with its general purposes and intent and in accordance with the general or specific rules ~~therein~~ *contained in the ordinance*.

(2) An ordinance adopted pursuant to this section providing for a board of adjustment may restrict the authority of the board and provide that the city or town council or other legislative body reserves to itself the power to make certain exceptions to regulations, ordinances, or land use plans adopted pursuant to this part.

(3) The board shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to this part. Meetings of the board ~~shall~~ *must* be held at the call of the ~~chairman~~ *presiding officer* and at ~~such~~ other times ~~as that~~ the board may determine. ~~Such chairman~~ *The presiding officer* or in ~~his~~ *the presiding officer's* absence the acting ~~chairman~~ *presiding officer* may administer oaths and compel the attendance of witnesses."

Section 2516. Section 76-2-326, MCA, is amended to read:

"76-2-326. Appeals to board of adjustment. (1) Appeals to the board of adjustment may be taken by ~~any~~ *a* person aggrieved or by ~~any~~ *an* officer, department, board, or bureau of the municipality affected by any decision of the administrative officer. ~~Such~~ *An* appeal ~~shall~~ *must* be taken within a reasonable time, as provided by the rules of the board, by filing with the officer from whom the appeal is taken and with the board of adjustment a notice of appeal specifying the grounds ~~thereof~~ *of the appeal*.

(2) The officer from whom the appeal is taken shall, *in a timely manner*, ~~forthwith~~ transmit to the board all papers constituting the record upon which the action appealed was taken.

(3) An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the board of adjustment after the notice of appeal ~~shall have~~ *has* been filed with ~~him~~ *the officer* that by reason of facts stated in the certificate a stay would, in ~~his~~ *the officer's* opinion, cause imminent peril to life or property. In ~~such~~ *that* case, proceedings ~~shall may~~ not be stayed ~~otherwise than~~ *except* by a restraining order, which may be granted by the board of adjustment or by a court of record on application, on notice to the officer from whom the appeal is taken, and on due cause shown.

(4) The board of adjustment shall fix a reasonable time for the hearing of the appeal, give public notice ~~thereof of the hearing~~ as well as due notice to the parties in interest, and decide the ~~same~~ *appeal* within a reasonable time.

(5) ~~Upon~~ *At* the hearing, any party may appear in person or by *the party's* attorney."

Section 2517. Section 76-2-327, MCA, is amended to read:

"76-2-327. Appeals from board to court of record. (1) Any person or persons, jointly or severally, aggrieved by any decision of the board of adjustment or any taxpayer or any officer, department, board, or bureau of the municipality may present to a court of record a petition, duly verified, setting forth that ~~such~~ *the* decision is illegal, in whole or in part, *and* specifying the grounds of the illegality. ~~Such~~ *The* petition ~~shall~~ *must* be presented to the court within 30 days after the filing of the decision in the office of the board.

(2) Upon the presentation of ~~such~~ *the* petition, the court may allow a writ of certiorari directed to the board of adjustment to review ~~such~~ *the* decision of the board of adjustment and shall prescribe ~~therein in the writ~~ the time within which a return ~~thereto~~ must be made and served upon the relator's attorney, which ~~shall may~~ not be less than 10 days and may be extended by the court. The allowance of the writ ~~shall~~ *does* not stay proceedings upon the decision appealed from, but the court may, (on application, on notice to the board, and on due cause shown), grant a restraining order. The board of adjustment ~~shall may~~ not be required to return the original papers acted upon by it, but it ~~shall be~~ *is* sufficient to return certified or sworn copies ~~thereof of the original papers~~ or of ~~such~~ *portions thereof as of the original papers that* may be called for by ~~such~~ *the* writ. The return ~~shall~~ *must* concisely set forth ~~such~~ *other* facts ~~as that~~ may be pertinent and material to show the grounds of the decision appealed from and ~~shall~~ *must* be verified.

(3) If, upon the hearing, it ~~shall appear~~ *appears* to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take ~~such~~ *evidence as that* it may direct and report the ~~same~~ *the evidence* to the court with ~~his~~ *the referee's* findings of fact and conclusions of law, which ~~shall~~ constitute a part of the proceedings upon which the determination of the court ~~shall~~ *must* be made.

(4) The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review."

Section 2518. Section 76-3-303, MCA, is amended to read:

"76-3-303. Contract for deed permitted if buyer protected. Notwithstanding the provisions of 76-3-301, after the preliminary plat of a

subdivision has been approved or conditionally approved, the subdivider may enter into contracts to sell lots in the proposed subdivision if all of the following conditions are met:

(1) ~~that~~ under the terms of the contracts, the purchasers of lots in the proposed subdivision make any payments to an escrow agent, which must be a bank or savings and loan association chartered to do business in the state of Montana;

(2) ~~that~~ under the terms of the contracts and the escrow agreement, the payments made by purchasers of lots in the proposed subdivision may not be distributed by the escrow agent to the subdivider until the final plat of the subdivision is filed with the county clerk and recorder;

(3) ~~that~~ the contracts and the escrow agreement provide that if the final plat of the proposed subdivision is not filed with the county clerk and recorder within 2 years of the preliminary plat approval, the escrow agent shall immediately refund to each purchaser any payments ~~he~~ *the purchaser* has made under the contract;

(4) ~~that~~ the county treasurer has certified that no real property taxes assessed and levied on the land to be divided are delinquent; and

(5) ~~that~~ the contracts contain the following language conspicuously set out ~~therein~~: "The real property ~~which~~ *that* is the subject ~~hereof~~ *of this contract* has not been finally platted, and until a final plat identifying the property has been filed with the county clerk and recorder, title to the property ~~cannot~~ *may not* be transferred in any manner."

Section 2519. Section 76-3-405, MCA, is amended to read:

"76-3-405. Administration of oaths by registered land surveyor. (1) ~~Every~~ A registered land surveyor may administer and certify oaths when:

(a) it becomes necessary to take testimony for the identification of old corners or reestablishment of lost or obliterated corners;

(b) a corner or monument is found in a deteriorating condition and it is desirable that evidence concerning it be perpetuated;

(c) the importance of the survey makes it desirable to administer an oath to ~~his~~ *the surveyor's* assistants for the faithful performance of their duty.

(2) A record of oaths ~~shall~~ *must* be preserved as part of the field notes of the survey and noted on the certificate of survey filed under 76-3-404."

Section 2520. Section 76-4-110, MCA, is amended to read:

"76-4-110. Additional remedies available. This part does not abridge or alter rights of action or remedies in equity or under the common law or statutory law, criminal or civil, nor does any provision of this part or any act done by virtue of it estop the state, any municipality or other subdivision of the state, or any person in the exercise of ~~his~~ *the person's* rights in equity or under the common law or statutory law."

Section 2521. Section 76-13-108, MCA, is amended to read:

"76-13-108. Person responsible for performance of duties. (1) If the owner does not appear upon the public records as the holder of the legal title to the land or timber, ~~he~~ *the owner* is nevertheless primarily responsible for the performance of the acts and duties imposed upon ~~him~~ *the owner* by ~~this part and part 2~~ *and this part*.

(2) ~~Where~~ *When* the owner of the timber is not the owner of the land, the primary responsibility for the performance of the acts and duties imposed by ~~this part and part 2 and this part~~ is upon the owner of the timber.

(3) ~~Where~~ *When* the state has title to forest lands within ~~any an~~ organized forest protection district, it ~~shall~~ *must* be considered as an owner and it shall list its lands and pay the assessments to the recognized agencies responsible for lands in ~~such~~ organized forest protection districts.”

Section 2522. Section 76-13-413, MCA, is amended to read:

“76-13-413. Failure to submit withholding — remedy. (1) If a purchaser does not submit withheld money and required reports on or before the 15th day of the following month as provided in 76-13-409, ~~he the purchaser~~ must be notified by certified mail that ~~he the purchaser~~ is in noncompliance and be given 15 days to submit all money and reports then due. If ~~he the purchaser~~ fails to submit all money due within the required time, the department may initiate a lien upon the real property of the purchaser and may initiate proceedings to enjoin further processing of all wood products until all money due is paid in full and all required reports are submitted.

(2) If payment and reports are not received by the department within the 15-day period after notification as provided in subsection (1), a penalty of 5% of the payment amount due must be assessed. The department may abate the penalty if the purchaser establishes that the failure to submit the amount due or the reports as required was due to reasonable cause and was not due to neglect on ~~his the purchaser's~~ part. The department, in addition to the penalty, may impose interest at the rate of 10% a year on any balance remaining unpaid.

(3) All money withheld by a purchaser for the contractor's bond and for department fees is considered to be excise taxes withheld for the benefit of the state within the meaning of 11 U.S.C. 507.”

Section 2523. Section 76-13-423, MCA, is amended to read:

“76-13-423. When additional notification required. (1) Except as provided in subsection (2), the department may require only one notification for each timber sale, even though multiple forest practices may be conducted.

(2) If an operator modifies ~~his the operator's~~ proposed forest practices in a manner that substantially alters the potential watershed disturbance, ~~he the operator~~ shall submit a revised notification to the department.”

Section 2524. Section 76-14-105, MCA, is amended to read:

“76-14-105. Role of state coordinator. The state coordinator shall:

(1) serve as an advisor, counselor, and coordinator for and between persons and agencies involved in range management;

(2) strive to create understanding and compatibility between the many users of rangeland, including ~~sportsmen~~ *hunters, anglers*, recreationists, ranchers, and others;

(3) promote and coordinate the adoption and implementation of sound range management plans to minimize conflicts between governmental agencies and private landowners;

(4) participate in zoning and planning studies to ~~insure~~ *ensure* that native ranges are adequately represented at sessions for development of zoning and planning regulations;

(5) coordinate range management research to help prevent duplication and overlap of effort in this area.”

Section 2525. Section 76-15-101, MCA, is amended to read:

“76-15-101. Legislative determinations. It is hereby declared, as a matter of legislative determination:

(1) that the farm and grazing lands of the state of Montana are among the basic assets of the state and that the preservation of these lands is necessary to protect and promote the health, safety, and general welfare of its people; that improper land use practices have caused and have contributed to and are now causing and contributing to a progressively more serious erosion of the farm and grazing lands of this state by wind and water; that the breaking of natural grass, plant, and forest cover has interfered with the natural factors of soil stabilization, causing loosening of soil and exhaustion of humus and developing a soil condition that favors erosion; that the topsoil is being blown and washed out of fields and pastures; that there has been an accelerated washing of sloping fields; that these processes of erosion by wind and water speed up with removal of absorptive topsoil, causing exposure of less absorptive and less protective but more erosive subsoil; that failure by any land occupier to conserve the soil and control erosion upon ~~his~~ *the occupier's* lands causes a washing and blowing of soil and water from ~~his~~ *the occupier's* lands onto other lands and makes the conservation of soil and control of erosion on ~~such~~ other lands difficult or impossible;

(2) that the consequences of ~~such~~ soil erosion in the form of soil blowing and soil washing are the silting and sedimentation of stream channels, reservoirs, dams, and ditches; the loss of fertile soil material in dust storms; the piling up of soil on lower slopes and its deposit over alluvial plains; the reduction in productivity or outright ruin of rich bottom lands by overwash of poor subsoil material, sand, and gravel swept out of the hills; ~~the~~ *the* deterioration of soil and its fertility, ~~the~~ *the* deterioration of crops and range cover grown ~~thereon~~ *on the land*, and declining acre yields despite development of scientific processes for increasing ~~such~~ yields; ~~the~~ *the* loss of soil and water ~~which~~ *that* causes destruction of food and cover for wildlife; a blowing and washing of soil into streams ~~which~~ *that* silts over spawning beds and destroys water plants, diminishing the food supply of fish; a diminishing of the underground water reserve, which causes water shortages, intensifies periods of drought, and causes crop and range vegetation cover failures; ~~and~~, *an* increase in the speed and volume of rainfall runoff, causing severe and increasing floods ~~which~~ *that* bring suffering, disease, and death; ~~the~~ *the* impoverishment of families attempting to operate eroding and eroded lands; damage to roads, highways, railways, farm buildings, and other property from floods and from dust storms; and losses in municipal water supply, irrigation developments, farming, and grazing;

(3) that to conserve soil resources and control and prevent soil erosion and prevent floodwater and sediment damages and further the conservation, development, utilization, and disposal of water, it is necessary that land use practices contributing to soil wastage and soil erosion be discouraged and discontinued and appropriate soil-conserving land use practices and works of improvement for flood prevention and the conservation, development, utilization, and disposal of water be adopted and carried out; that among the procedures necessary for widespread adoption are the carrying on of engineering operations such as the construction of water spreaders, terraces, terrace outlets, check dams, desilting basins, floodwater retarding structures, channel improvements, floodways, land drainage, dikes, ponds, ditches, and the like; the utilization of strip cropping, lister furrowing, contour cultivating, and contour furrowing; land drainage; land irrigation; seeding and planting of

waste, sloping, abandoned, or eroded lands to water-conserving and erosion-preventing plants, trees, and grasses; forestation and reforestation; rotation of crops, restriction of number of livestock grazed, deferred grazing, rodent eradication; soil stabilization with trees, grasses, legumes, and other thick-growing, soil-holding crops; retardation of runoff by increasing absorption of rainfall; and retirement from cultivation of steep, highly erosive areas and areas now badly gullied or otherwise eroded.”

Section 2526. Section 76-15-312, MCA, is amended to read:

“76-15-312. Term of office and vacancies. (1) The term of office of each supervisor ~~shall be~~ *is* 4 years, except that the supervisors who are first appointed by the department ~~shall~~ *must* be designated to serve for terms of 2 years from the date of their appointment. An elected supervisor ~~shall hold~~ *holds* office until ~~his~~ *a* successor has been elected and has qualified.

(2) A vacancy is created when any of the following events occurs before the expiration of the term of the incumbent:

- (a) death;
- (b) a determination pursuant to Title 53, chapter 21, part 1, that the incumbent is mentally ill;
- (c) resignation;
- (d) removal from office;
- (e) unexcused absence from three consecutive regular meetings of the board of supervisors;
- (f) ceasing to be a resident of the district;
- (g) conviction of a felony or a violation of official duties; or
- (h) the decision of a court declaring void the incumbent’s election or appointment.

(3) For the purpose of subsection (2)(e), a majority vote of the board of supervisors may excuse a supervisor from attending a meeting.

(4) ~~Any~~ A vacancy occurring in the office of an elected supervisor ~~shall~~ *must* be filled by appointment by the remaining supervisors until the next regular election, when a successor ~~shall~~ *must* be elected to serve the unexpired term.”

Section 2527. Section 76-15-313, MCA, is amended to read:

“76-15-313. Operation of supervisors. (1) The supervisors shall annually elect a ~~chairman~~ *presiding officer* from their members.

(2) A majority of the supervisors constitute a quorum, and except as otherwise specifically provided, the concurrence of a majority in any matter within their duties is required for its determination.

(3) Upon the unanimous approval of the board of supervisors, a supervisor may receive compensation for ~~his~~ *the supervisor’s* services, including travel expenses as provided for in 2-18-501 through 2-18-503, incurred in the discharge of ~~his~~ *the supervisor’s* duties. However, ~~no~~ *a* supervisor may *not* receive compensation for attendance at a regularly scheduled meeting of the board of supervisors.”

Section 2528. Section 76-15-315, MCA, is amended to read:

“76-15-315. Administrative functions of the supervisors. (1) The supervisors may employ a secretary and ~~such~~ other officers, agents, and

employees, permanent and temporary, ~~as that~~ they may require and shall determine their qualifications, duties, and compensation.

(2) The supervisors may delegate to their ~~chairman~~ *presiding officer*, to one or more supervisors, or to one or more agents or employees ~~such~~ powers and duties ~~as that~~ they consider proper.

(3) The supervisors shall furnish to the department copies of ~~such~~ ordinances, rules, orders, contracts, forms, and other documents ~~as that~~ they adopt or employ and ~~such~~ other information concerning their activities ~~as that~~ may be required in the performance of their duties under this chapter.

(4) The supervisors shall:

(a) provide for the execution of surety bonds for all employees and officers who are entrusted with funds or property;

(b) ~~shall~~ provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations, and orders issued or adopted; and

(c) ~~shall~~ provide for an annual audit of the accounts of receipts and disbursements.”

Section 2529. Section 76-15-526, MCA, is amended to read:

“76-15-526. Treasurer’s reports. The treasurer shall report in writing at each regular meeting of the supervisors and as often at other times as the supervisors may request the amount of money on hand and the receipts and disbursements since ~~his~~ *the treasurer’s* last report. ~~Such~~ *The report shall must* be verified.”

Section 2530. Section 76-15-604, MCA, is amended to read:

“76-15-604. Protest procedure. At any time within 15 days after the date of the last publication of the notice of the hearing on the petition, any owner of property liable to be assessed for the project may protest against the proposed project or the creation of the project area, or both. The protest must be in writing and be delivered to the secretary of the conservation district who shall endorse ~~thereon on the protest~~ the date of its receipt by ~~him~~ *the secretary*.”

Section 2531. Section 76-15-606, MCA, is amended to read:

“76-15-606. Election procedure. (1) The question ~~shall must~~ be submitted to the electors by ballot on which the words “For creation of proposed project area” and “Against creation of proposed project area” ~~shall must~~ appear, with a square before each proposition and directions to insert an “X” mark in the square before one or the other of ~~said~~ *the* propositions as the voter may favor or oppose creation of the project area.

(2) ~~No~~ A person ~~shall be~~ *is not* entitled to vote at the election unless ~~such~~ *the* person possesses all the qualifications required of electors under Title 13 and resides within the boundaries of the proposed project area and the county in which ~~he~~ *the person* proposes to vote.”

Section 2532. Section 76-15-710, MCA, is amended to read:

“76-15-710. Court procedure after petition is filed. (1) Upon the presentation of ~~such~~ *a* petition ~~as described in 76-15-709~~, the court shall cause process to be issued against the defendant and shall hear the case. If it ~~shall~~ ~~appear~~ *appears* to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take ~~such~~ evidence ~~as that~~ it may direct and report the ~~same~~ *evidence* to the court with ~~his~~ *the referee’s* findings of fact and conclusions of law, which ~~shall must~~ constitute a

part of the proceedings upon which the determination of the court ~~shall be~~ *is* made.

(2) In all cases ~~where in which~~ the person in possession of lands who ~~shall fail~~ *fails* to perform ~~such~~ work, operations, or avoidances ~~shall is~~ not be the owner, the owner of ~~such the~~ lands ~~shall must~~ be joined as party defendant.

(3) The court may dismiss the petition, or it may require the defendant to perform the work, operations, or avoidances and may provide that, upon the failure of the defendant to initiate ~~such the~~ performance within the time specified in the order of the court and to prosecute the ~~same~~ *performance* to completion with reasonable diligence, the supervisors may enter upon the lands involved and perform the work or operations or otherwise bring the condition of ~~such the~~ land into conformity with the requirements of the regulations and recover the costs and expenses ~~thereof of the work or operations~~, with interest at the rate of 10% a year, from the defendant.

(4) The court shall retain jurisdiction of the case until after the work has been completed. Upon completion of ~~such the~~ work pursuant to ~~such the~~ order of the court, the supervisors may file a petition with the court, a copy of which ~~shall must~~ be served upon the defendant in the case, stating the costs and expenses sustained by them in the performance of the work and ~~praying asking~~ judgment ~~therefor for the costs and expenses~~ with interest. The court ~~shall have~~ *has* jurisdiction to enter judgment for the amount of ~~such the~~ costs and expenses, with interest at the rate of 10% a year until paid, together with the costs of suit, including a reasonable ~~attorney's fee~~ *attorney fees* to be fixed by the court."

Section 2533. Section 76-15-722, MCA, is amended to read:

"76-15-722. Operation of board of adjustment. (1) The board of adjustment shall adopt rules to govern its procedures, ~~which~~ *The* rules ~~shall must~~ be in accordance with this chapter and with the ordinance establishing the board of adjustment.

(2) The board shall annually elect a ~~chairman~~ *presiding officer* from among its members. Meetings of the board ~~shall must~~ be held at the call of the ~~chairman~~ *presiding officer* and at ~~such~~ other times ~~as that~~ the board may determine. Any two members of the board constitute a quorum. The ~~chairman~~ *presiding officer* or in ~~his~~ *the presiding officer's* absence ~~such other another~~ member of the board ~~as he that the presiding officer~~ may designate to serve as acting ~~chairman~~ *presiding officer* may administer oaths and compel the attendance of witnesses.

(3) All meetings of the board ~~shall must~~ be open to the public. The board shall keep a full and accurate record of all proceedings, of all documents filed with it, and of all orders entered, which ~~shall must~~ be filed in the office of the board and ~~shall be~~ *are* a public record."

Section 2534. Section 76-15-723, MCA, is amended to read:

"76-15-723. Petition for a variance. (1) ~~Any~~ *A* qualified elector may file a petition with the board of adjustment alleging that there are great practical difficulties or unnecessary hardship in the way of ~~his~~ *the elector* carrying out upon ~~his~~ *the elector's* lands the strict letter of the land use regulations prescribed by ordinance approved by the supervisors and ~~praying asking~~ the board to authorize a variance from the terms of the land use regulations in the application of the regulations to the lands occupied by the petitioner.

(2) Copies of the petition ~~shall must~~ be served by the petitioner upon the ~~chairman~~ *presiding officer* of the supervisors of the district within which ~~his~~ *the petitioner's* lands are located and upon the department."

Section 2535. Section 77-1-104, MCA, is amended to read:

“77-1-104. Survey of lands. If the board considers it necessary that any of the lands mentioned in 77-1-102 be surveyed, it ~~shall~~ *must* have the lands surveyed by the county surveyor of the county in which the lands are located. If there is no county surveyor, if the county surveyor is unable to make the survey, or if the best interests of the state require, the board shall appoint a qualified surveyor to make the surveys. The county surveyor or other surveyor appointed shall make an actual survey ~~thereof~~ establishing four corners of every quarter section and connecting the same with a United States survey and within 30 days after ~~such~~ *the* survey file with the county clerk and recorder of that county a copy under oath of ~~his~~ *the surveyor’s* field notes and plat and a ~~copy~~ certified copy of ~~his~~ *the* field notes and plat with the department. For the services required in connection with the survey, the county surveyor or other surveyor appointed is entitled to fees as prescribed in 7-4-2821. ~~Such~~ *The* fees ~~shall~~ *must* be paid in the same manner as other expenses of the department.”

Section 2536. Section 77-1-111, MCA, is amended to read:

“77-1-111. Court actions. (1) All actions for the recovery of money due under this title or for the cancellation of leases or for the cancellation of certificates of purchase or patents or for the recovery of state lands, actions of forcible entry and detainer, actions for ejectment, and all other actions affecting any state lands ~~shall~~ *must* be controlled, as to venue, by the provisions of the rules of civil procedure relating to the place of trial of civil actions and ~~shall~~ *must* be conducted by the attorney general.

(2) When ~~so~~ requested by the attorney general, the county attorney of each county in the state shall represent the state in all foreclosure proceedings, collections of delinquent rentals, actions for trespass on state lands, and in all other state land matters that may arise in ~~his~~ *the county attorney’s* county. The county attorney ~~shall not be~~ *is not* entitled to charge the state any compensation for ~~such~~ services beyond ~~his~~ *the county attorney’s* regular salary.”

Section 2537. Section 77-1-112, MCA, is amended to read:

“77-1-112. Violations classified. (1) Any officer, employee, or representative of the state who directly or indirectly accepts any money or any other valuable thing, except ~~his~~ *the officer’s, employee’s, or representative’s* regular and lawful compensation, for performing or not performing an official act under the provisions of this title or for modifying the performance ~~thereof~~ *of an official act* is guilty of a felony and *is* punishable as provided in 77-1-115.

(2) Any officer, employee, or representative of the state who knowingly and willfully makes any false classification or appraisal of any state land or of any land offered the state for sale or offered as security for a loan from the state or who falsely classifies or scales any timber on state lands or from state lands or any timber in which the state is interested or who knowingly and willfully makes any false report of any ~~such~~ classification or appraisal or scaling is guilty of a felony and *is* punishable as provided in 77-1-115.

(3) (a) Any officer, employee, or representative of the state who otherwise violates any of the provisions of this title:

(i) is guilty of a felony if the violation results in a loss to the state of \$1,000 or more; or

(ii) is guilty of a misdemeanor if the violation results in a loss to the state of less than \$1,000 or in no pecuniary loss.

(b) The punishment shall be as provided in 77-1-115.”

Section 2538. Section 77-1-114, MCA, is amended to read:

“77-1-114. Prosecutions. (1) Whenever an arrest ~~shall be~~ *is* made for any violation of the provisions of this title or whenever any information of ~~such violations shall be lodged with him,~~ *a violation is given to the* the county attorney of the county in which this act was committed, ~~must the county attorney shall~~ prosecute the offender or offenders if in ~~his~~ *the county attorney’s* judgment the facts warrant the ~~same prosecution.~~

(2) If ~~any~~ *a* county attorney ~~shall fail~~ *fails* to comply with the provisions of this section, ~~he shall be~~ *the county attorney is* guilty of a misdemeanor and, upon conviction, shall be fined not less than \$100 or more than \$1,000. Upon ~~his~~ *the county attorney’s* conviction, the district court ~~wherein he~~ *in which the county attorney* is convicted shall ~~forthwith~~ declare ~~his~~ *the county attorney’s* office vacant and notify the proper appointing power ~~thereof.~~ Actions against the county attorney ~~shall~~ *must* be brought by the attorney general in the name of the state.

(3) The penalties of this section ~~shall~~ also apply to any magistrate with proper authority who refuses or neglects to cause the arrest and prosecution of any person when a complaint under oath of a violation of any of the provisions of this title has been lodged with ~~him~~ *the magistrate.*”

Section 2539. Section 77-1-115, MCA, is amended to read:

“77-1-115. Punishments. (1) ~~Any~~ *An* officer, employee, or representative of the state who is found guilty of a felony as defined in 77-1-112 is punishable by imprisonment in the state penitentiary for not less than 1 or more than 10 years, ~~or by a fine which shall neither~~ *that may not* be less than \$500 ~~nor~~ *or* less than twice the amount of the loss that resulted to the state through the crime of which ~~he~~ *the officer, employee, or representative* has been convicted, or by both ~~such imprisonment and fine.~~

(2) ~~Any~~ *An* officer, employee, or representative of the state who is found guilty of a misdemeanor as defined in 77-1-112 is punishable by imprisonment in a county jail not to exceed 1 year, ~~or by a fine which shall neither~~ *that may not* be less than \$100 ~~nor~~ *or* less than twice the amount of the loss that resulted to the state through the crime of which ~~he~~ *the officer, employee, or representative* has been convicted, or by both ~~such imprisonment and fine.~~”

Section 2540. Section 77-1-201, MCA, is amended to read:

“77-1-201. Board — meetings and officers. (1) The board shall hold regular meetings at least once each month and may hold special meetings whenever considered necessary upon call of the president or a majority of the members.

(2) Three members of the board constitute a quorum for the transaction of business. The governor is the president of the board; ~~in his~~ *In the governor’s* absence, the lieutenant governor shall preside, and in ~~his~~ *the lieutenant governor’s* absence, the superintendent of public instruction shall preside.”

Section 2541. Section 77-1-702, MCA, is amended to read:

“77-1-702. Transfer of records held by secretary of state. ~~By November 1, 1987,~~ *The* secretary of state shall transfer all ownership records on file in ~~his~~ *the secretary of state’s* office to the department. The department shall ~~further~~ transfer the records of land held or administered by the department of transportation for highway rights-of-way and maintenance to the department of transportation and any remaining ownership records, other

than those of state lands, to the state agency administering the interest or property described in ~~such~~ *the* records.”

Section 2542. Section 77-1-801, MCA, is amended to read:

“77-1-801. (Temporary) Recreational use license required to use state lands for general recreational purposes — penalty — exemption. (1) Except as provided in subsection (3), a person 12 years of age or older shall obtain an annual recreational use license pursuant to 77-1-802 to use state lands, as defined in 77-1-101, for general recreational purposes.

(2) Except as provided in subsection (3), a person shall, upon the request of a peace officer or fish and game warden, present for inspection the person’s recreational use license.

(3) If the department and the department of fish, wildlife, and parks consent to and sign an agreement for hunting, fishing, and trapping purposes, as provided in 77-1-815, a person is not required to obtain a recreational use license for use of legally accessible state trust land for hunting, fishing, and trapping purposes.

(4) A violator of subsection (1) or (2) is guilty of a misdemeanor and shall be fined not less than \$50 or more than \$500; *or be* imprisoned in the county jail for not more than 6 months, or both. (Void on occurrence of contingency—sec. 8, Ch. 596, L. 2003.)

77-1-801. (Effective on occurrence of contingency) **Recreational use license required to use state lands for general recreational purposes — penalty.** (1) A person 12 years of age or older shall obtain an annual recreational use license pursuant to 77-1-802 to use state lands, as defined in 77-1-101, for general recreational purposes.

(2) A person shall, upon the request of a peace officer or fish and game warden, present for inspection ~~his~~ *the person’s* recreational use license.

(3) A violator of subsection (1) or (2) is guilty of a misdemeanor and shall be fined not less than \$50 or more than \$500; *or be* imprisoned in the county jail for not more than 6 months, or both.”

Section 2543. Section 77-1-805, MCA, is amended to read:

“77-1-805. Liability of state and lessee. (1) The provisions of 70-16-302 that limit the liability of a landowner or ~~his~~ *the landowner’s* tenant for the recreational use of property apply to the state and any lessee of state lands used for general recreational purposes.

(2) The lessee is not responsible for the suppression of or for damages resulting from a fire on ~~his~~ *the* leased land caused by a general recreational user, except that a lessee who observes a fire caused by a general recreational user shall make reasonable efforts to suppress the fire or report it to the proper firefighting authority.”

Section 2544. Section 77-1-806, MCA, is amended to read:

“77-1-806. Prior notification to lessee of recreational use — trespass — penalty. (1) If a lessee of state lands under this part desires to be notified prior to anyone entering upon ~~his~~ *the lessee’s* leasehold, the lessee shall post, at customary access points, signs provided or authorized by the department. The signs must set forth the lessee’s or ~~his~~ *the lessee’s* agent’s name, address, telephone number, and method of notification. The lessee or ~~his~~ *lessee’s* agent ~~shall make himself~~ *must be* available to receive notice from recreational users or provide an alternative means for notice as prescribed by rule. When state land is

posted, recreational users shall contact and identify themselves to the lessee or ~~his the lessee's~~ agent for the purposes of minimizing impact upon the leasehold interest and learning the specific boundaries of adjacent unfenced private property.

(2) Each recreational user of state lands shall obtain permission of the lessee or ~~his the lessee's~~ agent before entering the adjacent private property owned by the lessee. Entry to private property from adjacent state lands without permission of the landowner or ~~his the lessee's~~ agent is an absolute liability offense. A violator of this subsection is guilty of a misdemeanor and shall be fined not less than \$50 or more than \$500; *or* imprisoned in the county jail for not more than 6 months, or both.

(3) A person may be found guilty of the offense described in subsection (2) regardless of the absence of fencing or failure to post a notice in accordance with 45-6-201."

Section 2545. Section 77-2-105, MCA, is amended to read:

"77-2-105. Termination of easements. Whenever lands granted for any of the purposes mentioned in 77-2-101(2) shall cease to be used for ~~such those~~ purposes, ~~said the~~ easement shall ~~forthwith terminate~~ *terminates* upon notice to that effect to the person to whom ~~such the~~ grant was made, served at ~~his the~~ *person's last-known last-known* post-office address."

Section 2546. Section 77-2-315, MCA, is amended to read:

"77-2-315. Participation in irrigation districts — lien status of land.

(1) A purchaser of state lands is ~~hereby~~ authorized and empowered to sign any petition that ~~he the purchaser~~ may desire to sign for the creation of an irrigation district and the inclusion of the land purchased from the state in ~~such the~~ irrigation district and any other petition relating to irrigation districts affecting the land ~~so~~ purchased by ~~him the person~~ from the state. ~~Such The~~ petition or petitions shall have the effect of making all the interest that ~~he the person~~ then has in ~~such the~~ land purchased from the state and all interest ~~which he that the person~~ may subsequently acquire ~~therein in the land~~ subject to the same liens and charges as privately owned lands under ~~such the~~ irrigation district; ~~and if~~ *If* for any reason ~~his the person's~~ certificate to ~~such the~~ state lands and ~~his the person's~~ rights ~~thereunder should be under the certificate~~ are canceled and ~~later~~ ~~such the~~ certificate ~~be~~ *is* reinstated or a new certificate *is* issued, ~~such the~~ liens and charges ~~shall stand~~ *are valid* against the interest in ~~such the~~ lands of the holder of ~~such the~~ certificate.

(2) The board for and on behalf of the state of Montana is ~~hereby empowered to~~ *may* sign a petition for the inclusion of any lands belonging to the state in an irrigation district organized or to be organized for the purpose of cooperating with the United States under the federal reclamation laws or any act of congress relating to reclamation projects and to sign any petition for the execution of a contract between ~~such the~~ district and the United States. The interest of the state in any lands within an irrigation district ~~shall are not be~~ subject to assessment or taxation for any purpose ~~whatever, nor shall~~ *and* the state ~~be is~~ *not* liable for the payment of any costs or charges ~~whatever~~ arising from the fact that its lands are included within an irrigation district.

(3) The interest of a purchaser of state lands in the land purchased ~~shall be~~ *is* subject to the same liens as other real estate; ~~provided, however~~ *However*, that in the case of sale, only the interest of the purchaser or of the assignee ~~shall may~~ be sold. In the case of any sale under the provisions of this section, including the sale for taxes, the purchaser shall succeed to all the rights of the purchaser from

the state under the certificate of purchase and a new certificate of purchase ~~shall~~ *must* be issued to the person entitled ~~thereto to the certificate~~ upon satisfactory proof being submitted to the board. In the case of sale under execution or court decree, ~~of court such~~ the new certificate of purchase ~~shall~~ *may* not be issued by the board until the period of redemption from ~~such the~~ sale has expired and the sheriff's deed has been issued. In the case of sale for taxes, the new certificate ~~shall~~ *may* not be issued until the tax deed has been issued."

Section 2547. Section 77-2-324, MCA, is amended to read:

"77-2-324. Preference to lessee of land. The lessee of the land need not make a higher bid than others, but ~~he shall have~~ *the lessee has* the option to match the high bid and must be given the preference. If the lessee matches the high bid, bidding must be reopened to all bidders, with the lessee retaining the right of preference to match the ultimate high bid and be awarded the sale."

Section 2548. Section 77-2-329, MCA, is amended to read:

"77-2-329. Terms of payment. (1) ~~Every~~ *A* purchaser of state land shall pay on the day of sale that portion of the purchase price ~~as he may desire that the purchaser desires~~, but ~~in no case~~ *not* less than 10% of the total sales price. ~~In case~~ *If* the balance on the purchase price is not an exact multiple of \$25, ~~then he the purchaser~~ shall pay ~~such the~~ additional sum ~~as that~~ is necessary to reduce the balance to an even multiple of \$25.

(2) The purchaser shall pay the balance of the purchase price within 30 days. The department may extend this deadline up to 30 additional days for good cause."

Section 2549. Section 77-2-332, MCA, is amended to read:

"77-2-332. Procedure in case of default. (1) If ~~any a~~ purchaser or assignee of state land defaults for a period of 30 days or more in the payment of any of the installments due on ~~his the~~ certificate of purchase, the certificate is subject to cancellation. The department shall mail to ~~him the purchaser~~ at ~~his the purchaser's last-known last-known~~ post-office address a notice of default and pending cancellation. The notice ~~shall~~ *must* give ~~him the purchaser~~ 60 additional days from the date of mailing the notice in which to make payment of the delinquent installment or installments with penalty interest.

(2) If ~~he the purchaser~~ fails to make the payment within 60 days, the certificate of purchase ~~shall~~ from that date and without further notice ~~be is~~ void, the duplicate of the certificate in the office of the department ~~shall~~ *must* be canceled, and the land under the certificate ~~shall-revert reverts~~ to and ~~become becomes~~ the property of the state to the same extent as other state lands and ~~shall~~ *must* be open to lease and sale.

(3) All buildings, fences, and other improvements placed ~~thereon on the land~~ subsequent to the date of execution of the certificate of purchase ~~shall~~ *must* be and remain the property of the purchaser named in the certificate of purchase or of ~~his the purchaser's~~ heirs, assigns, or devisees and may be removed from the land at any time within 90 days after the date of the cancellation. If the buildings, fences, and other improvements are not removed prior to the expiration of the 90-day period, they become the property of the state.

(4) In case of cancellation of certificate of purchase or surrender of certificate of purchase and ~~where when~~ the land is again open to lease, the former lessee has the prior right to lease the tract at the existing rate or at the rate set by competitive bidding if ~~such bidding~~ occurs."

Section 2550. Section 77-2-333, MCA, is amended to read:

“77-2-333. Reinstatement of canceled certificates of purchase. (1) In all cases ~~where in which~~ a certificate of purchase of state lands has been canceled and annulled as provided by law and the lands under ~~such the~~ certificate have not been resold to another purchaser, the board may in its discretion reinstate the canceled certificate upon:

(a) proper application made in writing by the original purchaser or ~~his the~~ *original purchaser's* heirs, assigns, or devisees, filed within 1 year and 6 months from ~~such the~~ cancellation;

(b) payment of all delinquent installments of principal and interest on the certificate, together with penalty interest at the rate of 6% ~~per annum a year~~ upon all ~~such~~ delinquent installments from the date due until the date of actual payment; and

(c) the furnishing of proof from the county treasurer showing that there are no tax liens against the land.

(2) This reinstatement ~~shall~~ *does* not have the effect of canceling any lease that the state may have issued on the land or affecting any of the provisions of ~~said the~~ lease.”

Section 2551. Section 77-2-334, MCA, is amended to read:

“77-2-334. Assignment of certificate. Certificates of purchase may be assigned to a citizen of the United States or to a person who has declared ~~his an~~ intention to become a citizen or to a corporation organized under the laws of this state. ~~Such~~ *These* assignments ~~shall~~ *must* be made on forms prescribed by the department, ~~shall~~ *must* be duly acknowledged as other conveyances of real estate, and ~~shall~~ *must* be executed in duplicate, *with* one copy to be filed and retained in the office of the department and one copy to be retained by the assignee. A person is not qualified to receive an assignment if the lands ~~he that~~ *the person* has already purchased from the state, together with the lands included in the assignment, exceed one section. The assignee must in all respects possess the same qualifications as an original purchaser.”

Section 2552. Section 77-2-335, MCA, is amended to read:

“77-2-335. Lost certificate. If a certificate of purchase to state ~~lands land~~ is lost or is wrongfully withheld by any person from the owner ~~thereof of the~~ *land*, the rightful owner may apply to the board for the issuance of a substitute certificate. This application ~~shall~~ *must* be accompanied by an affidavit from the owner of the certificate setting forth the facts in regard to the loss or unlawful withholding of the certificate and by a certificate from the county clerk and recorder of the county in which the land is located showing all instruments of record in ~~his the~~ *the clerk and recorder's* office affecting the title to the land under the certificate. The board shall issue a substitute certificate of purchase to the applicant if in the judgment of the board the facts warrant its issue.”

Section 2553. Section 77-2-336, MCA, is amended to read:

“77-2-336. Lien on improvements and crops for amount due state. (1) The state has a lien prior and superior to all other liens, except ~~threshermen's~~ *thresher's* liens and seed liens as specified in 71-3-701 and 71-3-801, ~~which that~~ have priority, but only for the aggregate amount of the indebtedness then existing, including any advances ~~theretofore~~ made, interest due, and other charges, as evidenced by the original loan contract and indebtedness ~~thereafter~~ accumulating on ~~such that~~ basis, exclusive of any other future advances originally contemplated. This lien is upon all buildings, structures, fences, and ~~all other~~ improvements upon the ~~lands so~~ *land* sold and upon all crops growing

upon any of ~~these lands~~ *the land* and also upon ~~such~~ crops after they have been separated from the ~~lands~~ *land* for all due and delinquent installments of principal and interest and penalty interest and taxes under the certificate of purchase and also for all installments becoming due during the calendar year in which the crop is harvested, and this lien is ~~hereby~~ expressly reserved.

(2) Any person purchasing or otherwise acquiring the improvements or crops or any part ~~thereof~~ *of the improvements or crops* takes them subject to the lien.

(3) Any representative of the department or the sheriff of the county in which the land is located or ~~his~~ *the sheriff's* deputy may demand of the purchaser or ~~his~~ *the purchaser's* agent payment of the amounts due the state, and if they are not paid upon demand, the officer making the demand or any representative of the department may immediately seize the improvements and crops; and, upon giving 3 days' notice, sell and dispose of, either at private or public sale, sufficient of the crops or improvements or of both to pay the amounts due the state, together with cost and expenses of seizure and sale."

Section 2554. Section 77-3-102, MCA, is amended to read:

"77-3-102. Mining leases authorized. (1) The board may, in its discretion, and subject to the other provisions of this part, lease state lands, including the beds of navigable streams and the beds of navigable bodies of water and the reserved mineral rights of the state in lands sold or leased by the state, to any person, association, or corporation; for the purpose of prospecting for or mining metalliferous minerals or gems.

(2) These leases may be for a period of time determined by the board, subject to limitations contained in the grants by which the state has acquired title to lands or mineral rights so leased.

(3) Leases issued under this part ~~shall~~ *must* give the lessee, so long as ~~he~~ *the lessee* complies with the terms and conditions of the lease, the exclusive right of possession of the lands or mineral rights leased, subject to any reservations contained in the leases.

(4) ~~In short the board in~~ *In* making the leases, ~~the board~~ *the board* may exercise business discretion, ~~so as long as this part is not violated.~~"

Section 2555. Section 77-3-104, MCA, is amended to read:

"77-3-104. Notice of lease or permit ~~permit or lease approval.~~ Upon the approval of an application for a prospecting permit or a mining lease under this part, the department shall promptly give written notice, by ordinary mail, to the ~~lessee or permittee~~ *permittee or lessee* and to any holder of an agricultural or grazing lease embracing the same land or to any holder of a certificate of purchase or patent embracing the same land. The notice ~~shall~~ *must* be addressed to the permittee, mining lessee, agricultural or grazing lessee, purchaser, or patentee at ~~his~~ *the person's last-known* last-known post-office address."

Section 2556. Section 77-3-115, MCA, is amended to read:

"77-3-115. Lease provisions. (1) A lease may contain reasonable provisions for preliminary prospecting periods and ~~shall~~ *must* contain reasonable requirements for the prosecution of work during the prospecting period, (if any), and for the prosecution of mining after the prospecting period.

(2) ~~It~~ *The lease* may provide for the payment of rentals in conjunction with the work requirements or may prescribe cash rentals as an alternative or otherwise as the board considers best.

(3) ~~It shall~~ *The lease must* specify the term of the lease, the royalty to be paid, reasonable forfeiture provisions, and reasonable terms under which the lessee may, within a time limited in the lease, remove property placed upon the leased lands by ~~him~~ *the lessee* in the event of the termination of the lease by forfeiture or by lapse of time.

(4) ~~It~~ *The lease may also* contain other provisions *that* the board and the lessee agree upon; ~~that are~~ *not inconsistent with this part.*”

Section 2557. Section 77-3-307, MCA, is amended to read:

“77-3-307. Improvements of former lessee. (1) When a coal mining lease is applied for on land where mining operations have been carried on by a former lessee and there are surface or underground improvements on the land used at the former operations, disposition ~~shall~~ *must* be made of the improvements satisfactory to the board before a new lease is issued. If the owner of the improvements desires to sell the ~~same~~ *the improvements* to the new lessee, ~~then~~ the new lessee shall pay ~~him~~ *the owner* the reasonable value ~~thereof of the improvements~~ as far as they are suitable for the new mining operations. If they fail to agree on the value of ~~such~~ *the improvements*, ~~then such~~ *the value shall* *must* be ascertained and fixed as provided in 77-6-306.

(2) Before a new lease is issued, the applicant shall show to the satisfaction of the board that ~~he~~ *the applicant* has paid the owner for the improvements as agreed on between them or as fixed ~~by the aforesaid officers or officer under the provisions of 77-6-306,~~ or that ~~he~~ *the applicant* has tendered payment as so fixed, or that the owner desires to remove ~~his~~ *the owner's* improvements.”

Section 2558. Section 77-3-409, MCA, is amended to read:

“77-3-409. Misconduct of officers in relation to oil and gas leases. (1) Any officer, employee, or representative of the state who directly or indirectly accepts any money or any other valuable thing, except ~~his~~ *the officer's, employee's, or representative's* regular and lawful compensation, for performing or not performing an official act under the provisions of this part or for modifying the performance ~~thereof of an official act~~ *shall be is* guilty of a felony.

(2) Any officer, employee, or representative of the state who knowingly and willfully makes any false classification or appraisal of any state land or interest of the state ~~therein in the land~~ or of any oil and gas deposits in which the state is interested or who knowingly and willfully makes any false report of any ~~such~~ classification or appraisal ~~shall be is~~ guilty of a felony.”

Section 2559. Section 77-3-426, MCA, is amended to read:

“77-3-426. Lessee to prevent waste. Oil and gas leases issued under the provisions of this part ~~shall~~ *must* all be subject to the conditions that the lessee in conducting ~~his~~ explorations and mining or drilling operations shall use all reasonable precautions to prevent waste of oil or gas developed in the land or the entrance of water through wells drilled by ~~him~~ *the lessee* to the oil or gas sands or oil or gas bearing strata to the destruction or injury of the oil or gas deposits. Violations of any of these conditions ~~shall constitute~~ *constitutes* grounds for the forfeiture of the lease after a hearing ~~had thereon on the violations~~ before the board.”

Section 2560. Section 77-4-108, MCA, is amended to read:

“77-4-108. Water rights in connection with geothermal development. If any geothermal development located on state land requires the utilization of water, the lessee may, at any time prior to 1 year before the expiration of ~~his~~ *the* lease, make application to the board for permission to

secure a water right to the land under ~~his~~ *the* lease. ~~Such~~ *The* application ~~shall~~ *must* be in writing, show the permanency of the water supply, and *give* the estimated cost of utilizing ~~such~~ *the* water resources. If the proposed plan meets with the approval of the board, permission ~~shall~~ *must* be granted to the lessee to secure the desired water right for the land. ~~Such~~ *The* right ~~shall~~ *must* be secured in accordance with Title 85, chapter 2, and ~~shall~~ *must* be filed in the name of the state. Existing water rights purchased by the geothermal lessee ~~shall~~ *be* ~~are~~ the property of the lessee.”

Section 2561. Section 77-4-121, MCA, is amended to read:

“77-4-121. Provisions of the lease. (1) A lease issued by the board gives the lessee, so long as ~~he~~ *the lessee* complies with the terms and conditions of the lease, the exclusive right of possession of the lands or interests leased, subject to conditions contained in the lease.

(2) In ~~every~~ *a* geothermal resource lease granted there is reserved to this state the right to sell, lease, or otherwise dispose of the surface of the lands covered ~~thereby~~ *by the lease* subject to the rights and privileges granted the lessee under the terms of the lease.

(3) ~~Every~~ A lease ~~shall~~ *must* specify the rental and royalty to be paid, reasonable forfeiture provisions, and reasonable terms under which the lessee may, within a specified time, remove property placed on the leased lands upon the termination of the lease by forfeiture or by lapse of time.

(4) ~~Furthermore,~~ *The* lease may contain other provisions *that* the board and the lessee agree upon, ~~provided that the additional terms are not inconsistent with this part.~~

Section 2562. Section 77-4-128, MCA, is amended to read:

“77-4-128. Permission for and disposition of improvements. (1) A geothermal lessee of state lands has the right to place upon the leased lands a reasonable amount of improvements, provided that ~~such~~ *the* improvements are directly related to the purpose of the lease.

(2) Whenever another person becomes the geothermal lessee, ~~he~~ *the person* shall pay the former lessee the reasonable value of ~~such~~ *the* improvements at the time the new lessee takes possession ~~thereof~~ *of the improvements*.

(3) In determining the value of these improvements, the original cost, the present condition, and the ~~suitableness~~ *suitability* of the improvements for the uses ordinarily made of geothermal resources ~~shall~~ *must* be considered.

(4) The former lessee may, ~~however,~~ remove or dispose of the movable improvements from the land within 60 days from the expiration of ~~his~~ *the former lessee's* lease except for the well casing and other equipment necessary for the preservation of any geothermal well. If not removed within 60 days, improvements ~~shall~~ become the property of the state unless the board ~~shall~~ *grant* ~~grants~~ additional time for the removal ~~thereof~~ *of the improvements*. Before a lease is issued to the new lessee, ~~he~~ *the new lessee* shall show that ~~he~~ *the new lessee* has paid the former lessee the value of the improvements as agreed upon by them or as fixed and determined under 77-4-129, that ~~he~~ *the new lessee* has offered to pay the value of the improvements as ~~so~~ fixed and determined, or that the former lessee elects to remove the improvements.”

Section 2563. Section 77-4-129, MCA, is amended to read:

“77-4-129. Procedure to fix value of improvements. (1) If the owner of any improvements on state lands of the type authorized by law at the time they were placed ~~thereon~~ *on the land* desires to sell these improvements to the new

lessee and they are unable to agree on the value thereof of the improvements, the value shall *must* be ascertained and fixed by three arbitrators, one of whom shall *must* be appointed by the owner of the improvements, one by the new lessee, and the third by the two arbitrators so appointed. The reasonable compensation that the arbitrators may fix shall *must* be paid in equal shares by the owner of the improvements and the new lessee. The value of the improvements so as ascertained and fixed is binding on both parties.

(2) If either party is dissatisfied with the valuation so as fixed, he the party may within 10 days appeal from their the arbitrators' decision to the department which and the department shall examine the improvements and make the final decision as to the value of the improvements. The department shall apportion the actual cost of the reexamination to the owner and the new lessee as justice may require. The value of the improvements shall *must* be ascertained and fixed as provided in 77-4-128."

Section 2564. Section 77-6-108, MCA, is amended to read:

"77-6-108. Who may lease. No A person may *not* lease state lands, except one who is the head of a family, unless he the person has attained the age of 18 years of age. Any such An eligible person and any an association, company, or corporation authorized to hold lands under lease may lease state lands and may hold more than one lease to state lands."

Section 2565. Section 77-6-112, MCA, is amended to read:

"77-6-112. Liens on crops and improvements. (1) The state has a lien upon all crops growing upon any of its lands land and upon the crops after they have been separated from the lands land for any rentals and penalties due or delinquent under the lease on the lands land or becoming due during the calendar year in which the crops are harvested, for any year or part of a year that the land has been held or used by the lessee. This lien applies to all buildings, structures, fences, and all other improvements and is prior and superior to all other liens, except threshermen's thresher's liens and seed liens specified in 71-3-701 and 71-3-801, which have priority, but only for the aggregate amount of the indebtedness then existing, including any advances theretofore made, interest due and other charges as evidenced by the original loan-contract, and indebtedness thereafter accumulating on such basis, exclusive of any other future advances originally contemplated.

(2) Any person acquiring any of these crops or improvements takes them subject to this lien. The department or the sheriff of the county in which the land is located may demand of the lessee payment of the amounts due the state, and if they are not paid upon demand, the officer making the demand or the department may seize and sell, either at a private or public sale, upon giving notice for not less than 3 days of the sale, sufficient of those crops or improvements, or of both, to pay the amounts due the state, together with costs and expenses of seizure and sale. These provisions relating to liens on crops and improvements shall *must* be embodied in all leases for agricultural and grazing lands and for town, city, or other lots."

Section 2566. Section 77-6-115, MCA, is amended to read:

"77-6-115. Acquisition of water right by lessee. (1) The lessee of state lands may at any time prior to 1 year before the expiration of his the lease make application to the board for permission to secure a water right to the land under his the lease. Such The application shall *must* be in writing; shall and must show how much of the land can be irrigated, the permanency of the water supply, and the probable cost of placing the land under irrigation. If the proposed plan meets

with the approval of the board, permission ~~shall~~ *must* be granted the lessee to secure the desired water right for the land and to place the ~~same~~ *land* under irrigation.

(2) If ~~such~~ *the* water right becomes a permanent and valuable improvement, then in case of the sale or lease of the ~~lands~~ *land* to other parties, the former lessee ~~shall be~~ *is* entitled to receive compensation in the amount of the reasonable value ~~thereof~~ *of the water right*, as in the case of other improvements, from the new lessee or the purchaser.

(3) These provisions ~~shall may~~ not be so construed as to make the state liable to the lessee for the payment of the cost or value of ~~such~~ *the* irrigation improvements.”

Section 2567. Section 77-6-201, MCA, is amended to read:

“77-6-201. Appraisal of grazing lands. (1) The department shall appraise the grazing lands owned by the state as to their animal-unit-month carrying capacity and make and preserve records ~~thereof~~ *of carrying capacity* in its office and from time to time reexamine these lands as to their animal-unit-month carrying capacity ~~so as~~ *in order* to keep the records ~~thereof~~ in its office reasonably accurate.

(2) In appraising these grazing lands, the following factors ~~shall~~ *must* be taken into consideration:

(a) inventory of the forage resources—, *including* kind, amount, and location of vegetation;

(b) accessibility and usability of this forage resource as influenced by topography, availability of stock water, and season of usability;

(c) condition of soils—, *including* the erosion situation;

(d) other and related resources such as timber, game animals, *and* need for watershed protection;

(e) record of needed improvements and facilities—, *including* fuel and stock water, revegetation, rodent control, trails, fences, and the like;

(f) pertinent facts and figures submitted by ~~stockmen~~ *stockgrowers* living in the area and directors of state grazing districts including the land or in its vicinity;

(g) carrying capacity set for similar land in a state grazing district in which the land is situated.”

Section 2568. Section 77-6-209, MCA, is amended to read:

“77-6-209. Change from grazing lease to agricultural lease. (1) When land is leased for grazing purposes and the lessee desires to cultivate any part of the land, ~~he~~ *the lessee* shall, before doing any ~~such~~ cultivation, make application to the department stating how much land ~~he~~ *the lessee* desires to cultivate and showing the location in the section of the land and agree that for the remainder of the term of the lease the annual rental ~~shall will~~ be at the rate of the original lease until ~~such~~ *the time as that* the first crop is harvested from the cultivated portion of the lease. At the time of the first harvest, the lease ~~shall~~ *must* be at the original rate for that portion remaining as grazing land plus the crop share rental for that portion cultivated. If any person cultivates lands leased for grazing purposes without first securing the right to do so under this section, the department shall either cancel the lease, subject to the appeal procedure provided in 77-6-211, or require the lessee to pay twice the regular agricultural rental on the land ~~so~~ cultivated in addition to the grazing rental.

(2) The provisions of this section shall *must* be incorporated in every lease.”

Section 2569. Section 77-6-212, MCA, is amended to read:

“77-6-212. Loss of preference right — cancellation of lease — subleasing — pasturing agreements. (1) Except as provided in subsections (3) and (4), a lessee of state land classed as agricultural or grazing land may not exercise the preference right provided in 77-6-205 if ~~he~~ *the lessee* subleases the land for more than 2 years in the term of the lease.

(2) The department shall cancel a lease of state agricultural or grazing land if the lessee subleases the land for more than 3 years during the term of the lease; unless the sublease is made between members of a family as provided in subsection (3).

(3) A lessee under subsection (1) or (2) may sublease the land for a period of not more than 5 years without losing the preference right or the lease to state land if, during the term of the lease, the land is subleased only to a spouse, son, daughter, adopted child, or sibling of the lessee.

(4) The lessee does not lose the preference right or right to lease because of subleasing as provided under this section if:

(a) the sublease is one-third or less acres of the lease; or

(b) the sublease is considered to be a pasturing agreement and is approved in writing by the department prior to the initiation of the agreement.

(5) For purposes of this section, a sublease may not be considered a pasturing agreement unless the lessee personally retains management and physical control of the land and livestock. “Management” ~~means~~ *includes* but is not limited to:

(a) providing all costs for improvements, land maintenance, and range renovation, if range renovation is approved by the department;

(b) making all decisions regarding rotation or other placement of livestock on state land;

(c) making all decisions regarding turn-in and turn-out dates of the livestock on state land; and

(d) making all decisions regarding proper range management, including placement of water, fencing, and salt.

(6) A lessee of state land classified as agricultural or grazing land ~~shall lose~~ *loses* the preference right provided in 77-6-205 upon conviction of a felony offense involving a dangerous drug, as defined in Title 50, chapter 32, and involving the planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, or concealing of a dangerous drug on any portion of the unit. When a state land lease is held by an association, company, or corporation, conviction of a member of the association, company, or corporation under this subsection does not result in loss of lease preference unless it appears that the operator, manager, or family in control of the association, company, or corporation is a consenting party or privy to the violation of this subsection.”

Section 2570. Section 77-6-401, MCA, is amended to read:

“77-6-401. Pledge or mortgage of leasehold interest in state lands. Any lessee of a grazing or agricultural lease of state lands is ~~hereby~~ authorized to pledge ~~said~~ *the* lease or mortgage ~~his~~ *the* leasehold interest in ~~said lands~~ *the lands*.”

Section 2571. Section 80-2-104, MCA, is amended to read:

“80-2-104. Powers of department — claims and obligations — property acquired at foreclosure. (1) The department may:

(a) collect, compromise, adjust, or cancel claims and obligations arising out of or administered under this part or under any mortgage, lease, contract, or agreement entered into or administered under this part and, if necessary, pursue them to final collection in any court having jurisdiction;

(b) bid for and purchase at any execution, foreclosure, or other sale or otherwise acquire property upon which the department has a lien by reason of a judgment or execution or ~~which~~ *that* is pledged, mortgaged, or conveyed or ~~which~~ *that* otherwise secures any loan or other indebtedness owing to or acquired by the department under this part;

(c) accept title to any property ~~so~~ purchased or acquired, operate or lease the property for a period necessary to protect the investment, and sell or otherwise dispose of the property in a manner consistent with this part.

(2) The authority granted to the department in this section may be delegated to the secretary of agriculture with respect to funds or assets authorized to be administered and used by ~~him~~ *the secretary of agriculture* under agreements entered into under 80-2-102.”

Section 2572. Section 80-2-202, MCA, is amended to read:

“80-2-202. Compensation of ~~chairman~~ *presiding officer* and officers.

(1) The appointed members of the board of hail insurance ~~shall~~ *must* receive a per diem of \$25 for each day they are engaged in the transaction of official business.

(2) All board members and employees ~~shall~~ *must* be allowed expenses as provided in 2-18-501 through 2-18-503.

(3) All other public officials specified in this chapter shall perform the duties relative to hail insurance without other compensation than that allowed by law.”

Section 2573. Section 80-2-241, MCA, is amended to read:

“80-2-241. Report of losses. All losses by hail to crops insured under this part ~~shall~~ *must* be reported within 14 days ~~thereafter~~ *after the loss* by the owner of ~~such~~ *the* crops; ~~his or by the owner's~~ agent or attorney; to the board of hail insurance; ~~which~~ *The board* shall require the claimant to make a statement of the losses sustained, the cause ~~thereof~~ *of the losses*, and ~~such~~ other information ~~as~~ *that* the board may require on the forms to be provided for ~~such~~ *that* purpose. If a loss is reported more than 14 days after it occurs, the board shall charge the claimant for all costs incurred in making the adjustment.”

Section 2574. Section 80-2-243, MCA, is amended to read:

“80-2-243. Disputed appraisal. (1) ~~In case~~ *If* the party that has sustained the loss is dissatisfied with and refuses to accept the adjustment made by the official appraiser, ~~then he shall have~~ *the party has* the right to appeal to the board of hail insurance. ~~He~~ *The party* shall make ~~such~~ *the* appeal by registered or certified mail within 10 days after receiving the adjustment offer of the board in writing. Also the board may require the posting of a cash bond of \$25 with the request for reappraisal of the first adjustment. ~~In cases where~~ *If* the board requires the posting of the \$25 bond, the board may retain it if ~~no~~ *an* increase is ~~not~~ allowed. If an increase is obtained, the board ~~will~~ *shall* return the bond to the claimant.

(2) ~~In case~~ *If* the adjuster who makes the second appraisal fails to secure an agreement, the claimant may ~~at his option~~ submit the matter to arbitration as ~~herein~~ provided *in this subsection* or sue the board in the district court of the county where the loss occurred, within 90 days from the date of receipt of written notice of the second appraisal. ~~Such~~ *The* actions ~~shall~~ *must* be trials de novo and the Montana Rules of Civil Procedure ~~shall~~ apply. ~~Where any~~ *If a* claimant demands arbitration, ~~he~~ *the claimant* shall, if required by the board, furnish a cash bond to the board in the sum of \$50, which ~~shall~~ *must* accompany ~~his~~ *the* application. If there is not sufficient allowance made to any claimant after arbitration to cover the cost of arbitration without the use of the \$50 bond, ~~then~~ the board may use a part or all of ~~said~~ *the* cash bond. ~~In cases where~~ *If* the claimant secures an increase, the bond ~~shall~~ *must* be promptly returned to the claimant. If the claimant elects to submit the matter to arbitration, ~~he~~ *the claimant* shall then appoint one disinterested person as appraiser, ~~and~~ the official appraiser shall appoint another person as appraiser, ~~and~~ the two shall select a third disinterested person, and the three shall then proceed to adjust the loss in the same manner as specified in 80-2-242. The judgment of the majority ~~shall be~~ *is* the judgment of ~~said~~ *the* appraisers and ~~shall be~~ *is* binding upon both parties as the final determination of ~~said~~ *the* loss.

(3) (a) If the insured does not recover a greater sum than allowed by the official appraiser in the first instance, ~~he~~ *the insured* shall pay the expenses of the three appraisers and their witnesses in making ~~said~~ *the* adjustment, but if ~~he~~ *the insured* is awarded a larger sum, ~~then~~ the ~~same~~ *shall* ~~expenses must~~ be paid by the board.

(b) If the insured ~~shall be~~ *is* required to pay the expenses of ~~such~~ *the* reappraisal as ~~above~~ provided *in subsection (3)(a)*, the board is ~~hereby~~ *authorized to* ~~may~~ deduct the amount of ~~such~~ *the* expenses from the amount allowed ~~said~~ *the* insured before making settlement for ~~said~~ *the* loss.

(4) The board shall examine all reports of appraisers and verify the ~~same~~ *reports* and adjust all losses and for ~~such~~ *those* purposes may order hearings, subpoena witnesses, conduct examinations, and do all things necessary to secure a fair and impartial appraisal of losses by hail.”

Section 2575. Section 80-4-406, MCA, is amended to read:

“80-4-406. Appointment by nonresident licensee of agent to receive process. A nonresident applying for a license under this chapter shall file a written power of attorney, designating the secretary of state as ~~his~~ *the nonresident’s* agent upon whom service of process may be had if legal action is brought against the nonresident. A nonresident who has a ~~duly~~ *an* appointed resident agent upon whom legal process may be served as provided by law is not required to designate the secretary of state as ~~his~~ *the nonresident’s* agent for service of process. The department must be furnished a copy of the designation of the resident agent, ~~which~~ *and the* copy ~~shall~~ *must* be certified by the secretary of state.”

Section 2576. Section 80-4-424, MCA, is amended to read:

“80-4-424. Director’s authority — investigative hearing. The director may upon ~~his~~ *the director’s* own motion, whenever ~~he~~ *the director* has reason to believe a violation has occurred or upon verified complaint of any person in writing, investigate the actions of any person and, if ~~he~~ *the director* finds probable cause, shall notify the person that ~~he~~ *must* ~~the person shall~~ appear for an investigative hearing before the director 20 days from receipt of written notice.”

Section 2577. Section 80-4-428, MCA, is amended to read:

“80-4-428. Penalty for operating without a license — misrepresentation. (1) A person acting as a warehouse operator or a commodity dealer without a license or in any way representing by action or words that ~~he~~ *the person* is a warehouse operator or a commodity dealer when not so licensed violates the provisions of *Title 80, chapter 4*, parts 5 and 6 of ~~this chapter~~, is guilty of a felony, and is punishable by imprisonment for not more than 10 years or by a fine of not more than \$10,000, or both.

(2) A person who issues or aids in the issuance of a fraudulent receipt for any commodity is guilty of a felony and is punishable by imprisonment for not more than 10 years or by a fine of not more than \$10,000, or both.

(3) A person who knowingly submits false information to or who knowingly withholds information from the department when that information is required to be submitted is guilty of a felony.”

Section 2578. Section 80-4-430, MCA, is amended to read:

“80-4-430. Director’s enforcement action. ~~Nothing in parts Title 80, chapter 4, parts 4 through 7, of this chapter may not be construed to require the director or his~~ *the director’s* authorized representative to report for prosecution or for the institution of civil action a violation if ~~he~~ *the director or the representative* believes that the public interest will best be served by a suitable warning.”

Section 2579. Section 80-4-504, MCA, is amended to read:

“80-4-504. Bond of applicant for license — additional bond — additional obligations. (1) Each applicant for a warehouse operator’s license shall file a bond or its equivalent, as established by department rule, with the department. The bond must be in ~~such~~ *the* form and must contain ~~such~~ *the* terms and conditions ~~as that~~ the department may prescribe by rule to carry out the purpose of ~~this section and 80-4-505 and this section.~~

(2) The department may demand an additional bond if the nature or volume of the business conducted by the warehouse operator warrants an increase.

(3) The warehouse operator may give a single bond to cover all warehouses operated by ~~him~~ *the operator*.

(4) Any changes in the capacity of a warehouse or installation of any new warehouse involving a change in the bond liability under 80-4-505 must be reported in writing to the director, and an appropriate bond must be filed prior to the operation ~~thereof of the warehouse or installation.~~

Section 2580. Section 80-4-506, MCA, is amended to read:

“80-4-506. Net asset requirements. (1) Each licensee or applicant for a license shall maintain, above all exemptions and liabilities, total net assets liable for the payment of any indebtedness arising from the conduct of the warehouse or warehouses of at least 40 cents per hundredweight of all agricultural commodities that ~~his~~ *the licensee’s or applicant’s* warehouse or warehouses can accommodate.

(2) ~~No~~ A person may *not* be licensed as a warehouse operator unless ~~he~~ *the person* has and maintains allowable net assets of at least \$10,000.

(3) Assets must be valued at original cost less depreciation, except that upon written request filed with the department, the director may allow asset valuations in accordance with a competent appraisal.

(4) In determining total net assets, credit may be given for insurable property, such as buildings, machinery, equipment, and merchandise inventory, only to the extent that ~~such~~ *the* property is protected by insurance against loss or damage by fire. The insurance must be in the form of lawful policies issued by one or more insurance companies authorized to do business and subject to service of process in suits brought in this state.

(5) If a warehouse operator is licensed or applies for licenses to operate two or more warehouses, the maximum number of hundredweight ~~which~~ *that* all ~~such~~ warehouses will accommodate must be considered in determining whether the warehouse operator meets the net asset requirements specified in this section.”

Section 2581. Section 80-4-521, MCA, is amended to read:

“80-4-521. Duties of warehouse operator — content of records. (1) Each warehouse operator shall maintain in a safe place current and complete records at all times with respect to all agricultural commodities stored, conditioned, handled, or shipped by ~~him~~ *the operator*, including agricultural commodities owned by ~~him~~ *the operator*. ~~Such~~ *The* records must include but are not limited to a daily position record, showing the total quantity of each kind and class of agricultural commodity received and loaded out and the amount remaining in storage at the close of each business day and the warehouse operator’s total storage obligations for each kind and class of agricultural commodity at the close of each business day.

(2) ~~Every~~ *Each* warehouse operator purchasing any agricultural commodity from a depositor ~~thereof~~ shall promptly make and keep for 5 years a correct record showing in detail the following information:

- (a) the name and address of the depositor;
- (b) the date purchased;
- (c) the terms of the sale; and
- (d) the quality and quantity purchased by the warehouse operator and, ~~where~~ *when* applicable, the dockage, tare, grade, size, and net weight.”

Section 2582. Section 80-4-522, MCA, is amended to read:

“80-4-522. Schedule of charges — posting. (1) Before a license to conduct a warehouse is granted, the warehouse operator shall file with the director a copy of the schedule of charges for storage and other services. The schedule must be posted in a conspicuous place in ~~his~~ *the* warehouse.

(2) All charges made by ~~any~~ *a* warehouse operator for the handling and storage of agricultural commodities must be just and reasonable. However, the director may, upon the complaint of any person or upon ~~his~~ *the director’s* own motion, hold a public hearing and may declare any existing charges for handling or storage of any agricultural commodity to be unreasonable or unjust. After the hearing, the director shall determine and order what is a just and reasonable charge to be imposed or enforced in place of that found to be unreasonable or unjust.

(3) Failure to file and post scheduled charges for the current year will keep in full force the most recently posted and filed schedule rates.

(4) In all cases, the producers ~~will~~ *must* receive the first 15 days of storage without charge.”

Section 2583. Section 80-4-523, MCA, is amended to read:

“80-4-523. Required receipt of agricultural commodities according to capacity. A warehouse operator ~~shall~~ *must* receive for storage, conditioning, handling, or shipment without discrimination of any kind, so far as the capacity of ~~his~~ *the operator’s* warehouse will permit, all agricultural commodities tendered ~~him~~ *to the operator* in the usual course of business in suitable condition for storage. However, a warehouse operator may not be compelled to accept and hold agricultural commodities for storage in ~~such~~ quantities ~~as to~~ *that* block ~~his~~ *the operator’s* regular cash agricultural commodity business. A warehouse operator may not be required to accept agricultural commodities for storage in excess of working capacity. However, ~~his~~ *the operator’s* appointment of space may be modified by rule upon proof that ~~such~~ *the* appointment operates to the disadvantage of either the public or the warehouse operator.”

Section 2584. Section 80-4-524, MCA, is amended to read:

“80-4-524. Discrimination in charge by warehouse operator prohibited. A warehouse operator may not directly or indirectly, by a special charge, rebate, drawback, or other device, collect from any person a greater or lesser compensation for any service rendered in the storage, conditioning, handling, or shipment of agricultural commodities than ~~he~~ *the operator* collects from any other person for a similar circumstance or condition. A warehouse operator may not make or give any advantage to any person, company, or corporation or subject any person, company, or corporation to any undue or unreasonable prejudice or disadvantage.”

Section 2585. Section 80-4-529, MCA, is amended to read:

“80-4-529. Partial withdrawal of agricultural commodities — adjustment or substitution of receipt — duties of warehouse operator. When partial withdrawal of ~~his~~ *a depositor’s* agricultural commodity is made by a depositor, the warehouse operator shall make an appropriate notation ~~thereof~~ on the depositor’s warehouse receipt or claim or shall cancel and replace it with a warehouse receipt showing the amount of the depositor’s agricultural commodity remaining in the warehouse. The warehouse operator is liable for the redelivery of all agricultural commodities specified on all outstanding warehouse receipts.”

Section 2586. Section 80-4-530, MCA, is amended to read:

“80-4-530. Shipment of stored grain to a terminal grain warehouse outside the state. (1) Warehouse receipts or signed agreements from the owners of grain, on a form approved by the department and in an amount equal to the number of bushels the warehouse operator has in a terminal grain warehouse outside the state, are required for all grain shipped out of state by a warehouse operator.

(2) Warehouse receipts covering grain in terminal grain warehouses outside the state must have the words “Owner waives redelivery at point of origin of grain represented by this receipt” printed or stamped on the back.

(3) Waivers or agreements to accept terminal warehouse receipts must be signed in triplicate by the owner of the grain or ~~his~~ *the owner’s* agent and by a ~~duly~~ *an* authorized representative of the warehouse, with:

- (a) the original to be mailed to the department;
- (b) the duplicate copy to be retained by the warehouse operator; and
- (c) the triplicate copy to be given to the holder of the warehouse receipt.

(4) All grain must be held in bonded and approved terminal warehouses, fully insured for the benefit of the holder of Montana warehouse receipts.

(5) ~~No grain~~ *Grain* held in terminal warehouses is *not* subject to any lien, mortgage, or encumbrance.”

Section 2587. Section 80-4-537, MCA, is amended to read:

“80-4-537. Examination of stored agricultural commodities. A department inspector may examine at any reasonable time during ordinary business hours any stored agricultural commodity and all parts of any warehouse, ~~provided if~~ the warehouse or the agricultural commodities stored ~~therein in the warehouse~~ are not endangered by ~~such the~~ inspections. ~~Every~~ *Each* warehouse operator or ~~his the operator's~~ agent shall furnish safe and reasonable access to facilities for ~~such the~~ examination.”

Section 2588. Section 80-4-539, MCA, is amended to read:

“80-4-539. Inspection by the department. (1) The department may investigate any warehouse operator who has applied for or who had previously been issued a license and may inspect ~~his the operator's~~ warehouse for purposes of determining compliance with this part and rules of the department.

(2) The department may investigate any warehouse operator or inspect any warehouse that it has reasonable cause to believe is operating in violation of this part and rules of the department.”

Section 2589. Section 80-4-605, MCA, is amended to read:

“80-4-605. Posting of license. The commodity dealer's license must be posted in a conspicuous location at ~~his the dealer's~~ place of business. A duplicate commodity dealer's license must be posted at each location at which records are maintained for transactions of the commodity dealer and also within each truck operated by ~~him the dealer~~ in the state.”

Section 2590. Section 80-6-102, MCA, is amended to read:

“80-6-102. Registration. (1) A person who owns or possesses an apiary in the state shall, before April 1 each year, register the apiary. There are four classes of apiary registration. The conditions under which the department may issue certificates of registration for each class are specified in 80-6-111 through 80-6-115.

(2) Applications ~~shall must~~ be made to the department for registration application blanks.

(3) Registration application blanks ~~shall must~~ be furnished by the department. The applicant shall provide the following information:

(a) a statement of the name and place of residence;

(b) the number of colonies of bees, hives, and equipment in the apiary;

(c) the location of the apiary, setting forth specifically the location by sectional division to the nearest quarter section, and the township and range and, if within the corporate limits of a town or city, the number of the lot and block in the town or city;

(d) the name of the owner, renter, or occupant of the land on which the apiary is located and, when the application is for a new apiary being registered for the first time, the application must also show that the owner, renter, or occupant of the land has consented to the apiary being located on ~~his the owner's, renter's, or occupant's~~ land;

(e) the date when the apiary was first established;

(f) the class of apiary registration for which application is being made; and

(g) other information the department may require under rules adopted by it for the protection, safety, and welfare of the public and the beekeeping industry.

(4) Upon receipt of the application and payment of the fees prescribed, the department may issue a certificate of registration for an apiary, setting forth the name of the owner, the specific location, the number of colonies of bees or size of the apiary authorized under the registration, and the class of apiary authorized by the registration.

(5) In issuing certificates of registration for apiaries, if there is a conflict between applicants with respect to location, the department shall give preference to the applicant having the oldest continuous registered apiary.

(6) Certificates of registration may not be issued for new apiaries ~~which~~ *that* are within such close proximity to established registered apiaries that there is or may be danger of spread of disease or pests or that the proximity will or may interfere with the proper feeding and honey flow of established apiaries.

(7) Before registering new apiaries, the department shall give at least 10 days' notice by certified mail to all registered apiarists likely to be affected by the proposed new apiary so that any party affected may file written protests with the department against registering the new apiary. If a written protest is filed, the department may require a hearing. Notice of the time and place of the hearing ~~shall~~ *must* be given all parties interested by certified mail at least 10 days before the date set for the hearing.

(8) Suitable evidence of registration furnished by the department ~~shall~~ *must* be posted by the apiary registrant in a conspicuous place at or near the apiary. If an owner has more than one apiary, suitable evidence of registration furnished by the department ~~shall~~ *must* be posted at each apiary.

(9) A registration not applied for by April 1 of each year is a late registration and incurs an added penalty of 10% of the regular registration fee or \$10, whichever is greater. Registrants who fail to apply for reregistration by April 1 of each year ~~shall~~ *must* be notified of their delinquency by the department. The notification ~~shall~~ *must* be by certified mail and is sufficient if deposited in a United States post office or mail box and addressed to the registrant at ~~his~~ *the registrant's* last address appearing in the apiary registration files of the department at least 10 days before May 1. The registration of an apiary for which application for reregistration is not made by May 1 of each year is forfeited, and all rights under the registration terminate.

(10) ~~Any~~ A person who owns or possesses any bees, hives, colonies, or beekeeping equipment in this state or who owns or possesses an apiary in this state and who fails or refuses to register the ~~same bees, hives, colonies, or beekeeping equipment~~ as provided in this part is guilty of a misdemeanor and upon conviction ~~thereof~~ is subject to the penalties set forth in 80-6-303.

(11) ~~Nothing contained in this section or in Sections 80-6-111 through 80-6-115 shall or this section may not~~ be construed as invalidating, canceling, amending, terminating, or extending any certificate of registration issued by the department prior to October 1, 1981. All such previously issued certificates of registration remain in effect for the period for which they were issued, subject, ~~however,~~ to forfeiture, lapse, abandonment, and termination in the manner provided by law."

Section 2591. Section 80-6-103, MCA, is amended to read:

"80-6-103. Changing locations — enlarging or selling apiaries. (1) An owner of an established registered apiary may not change the location of the

apiary without first receiving *authorization* from the department ~~authorization~~ to establish the new apiary. In making the application, ~~he~~ *the owner* shall specify the location of the apiary with the same particularity as in the application for original registration. If the new apiary is not used within 60 days after a new certificate of registration is issued, the certificate of registration lapses and all rights under the registration terminate. Registrations for new apiaries may not be issued for greater areas than the applicant can show are reasonably necessary for ~~his~~ *the applicant's* needs consistent with good beekeeping practice.

(2) A registered apiary may be sold or transferred to a purchaser subject to *Title 80, chapter 6*, parts 1 through 3, if all bees and equipment on the apiary are sold to the purchaser.

(3) ~~No~~ A person may *not* increase the number of hives on an apiary to exceed the number of hives authorized by ~~his~~ *the person's* certificate of registration for that apiary, except that a person may increase the number of hives on a general apiary beyond the number authorized by the certificate of registration in order to protect ~~his~~ *the person's* bees during adverse weather or crop conditions or to protect ~~his~~ *the person's* bees and hives from bears or other predators. A person may also enlarge a general apiary during the spring buildup and in the fall after the end of the honey season in order to gather ~~his~~ *the person's* bees for shipment out of the state or to winter ~~his~~ *the person's* bees on that apiary.

(4) A person enlarging an apiary ~~so as in order~~ to exceed the number of hives ~~herein~~ allowed *under this section* is guilty of a misdemeanor and is subject to the penalties set forth in 80-6-303."

Section 2592. Section 80-6-104, MCA, is amended to read:

"80-6-104. Apiaries — termination of rights — abandonment. (1) The registration of an apiary ~~which~~ *that* is not stocked with bees during at least part of the normal build-up or honey-producing season is forfeited, and all rights under the certificate of registration terminate.

(2) An apiary not regularly attended in accordance with good beekeeping practice, which comprises a hazard or threat to disease or pest control in the beekeeping industry or which by reason of its physical condition or construction cannot be inspected, or any apiary not registered in accordance with 80-6-102, may be considered an abandoned apiary and may be seized by the department. Any pest-infected or diseased equipment or equipment ~~which~~ *that* by reason of its physical condition or construction cannot be inspected may be burned, and the remainder may be sold at public auction. Proceeds, after the cost of the sale is deducted, ~~shall~~ *must* be returned to the former owner or ~~his~~ *the former owner's* estate. Before burning or selling any equipment, the department shall give the owner or person in charge a written notice at least 5 days before the burning or sale. The notice ~~shall~~ *must* be given by certified mail or personal service upon the owner or person in charge of the property. If the owner or person in charge cannot be located, a certified letter sent to the owner's last address registered with the department is sufficient notice under this section."

Section 2593. Section 80-6-111, MCA, is amended to read:

"80-6-111. General apiary registrations. (1) In order to control, limit, and prevent the spread of bee diseases, pests, and other contagious or infectious diseases among bees, hives, and apiaries and to control, limit, and prevent interference with the proper feeding and honey flow of established apiaries, general apiaries registered to different persons on October 1, 1981, must be located 3 or more miles apart, except as otherwise provided in this part. The

department ~~shall~~ *may* not register or issue a certificate of registration for any general apiary that is located less than 3 miles from a general apiary registered to another person, except as otherwise provided in this section.

(2) A person may register a general apiary that is situated less than 3 miles from another general apiary ~~he~~ *that the person* has registered ~~so~~ *as* long as the location of the general apiary being applied for is 3 or more miles from general apiaries registered to other persons.

(3) A general apiary may be registered even though it is less than 3 miles from any registered pollination apiary, landowner apiary, or hobbyist apiary.

(4) A person with an existing apiary that is located less than 3 miles from an existing general apiary registered to another person may register ~~his~~ *the* apiary as a general apiary under the following conditions:

(a) ~~his~~ *the existing* apiary was established and registered with the department as a general apiary under the department's rules in effect prior to July 1, 1981;

(b) ~~his~~ *the existing* apiary is registered with the department as a general apiary as of July 1, 1981; and

(c) the registration of ~~his~~ *the existing* apiary has not been forfeited or abandoned under the provisions of 80-6-102(9) or 80-6-104."

Section 2594. Section 80-6-1105, MCA, is amended to read:

"80-6-1105. Alfalfa leaf-cutting bees — certification. (1) A person possessing or controlling alfalfa leaf-cutting bees in the state of Montana may annually certify all or part of ~~his~~ *the person's* bees as provided in this section.

(2) To certify bees, a person ~~must~~ *shall* file a completed application form provided by the department, together with a fee set by rule. The applicant ~~must~~ *shall* provide the following:

(a) name and place of residence;

(b) the general location and number of bees to be certified; and

(c) other relevant information as may be required by committee rule.

(3) After receipt of an application for certification, a sample of the total population of bees to be certified ~~shall~~ *must* be selected by the committee or its agent in a manner prescribed by the committee. The sample ~~shall~~ *must* be analyzed for pathogens, parasites, predators, nest destroyers, and live larvae count. If certification standards are met, the sample ~~shall~~ *must* be certified.

(4) All bees to be certified may be stored in containers ~~which~~ *that* can be officially sealed after sampling to maintain their certification identity.

(5) When the committee has in its possession a completed application form, an appropriate fee, and a report that the sample meets certification standards, it may issue a certificate for the bees.

(6) The committee shall by rule specify the date by which any applicant ~~must~~ *shall* apply for recertification the following year."

Section 2595. Section 80-7-505, MCA, is amended to read:

"80-7-505. Computation and collection of assessments on landowners. Each owner of cropland benefited under a cropland spraying program is liable for ~~such~~ *the* portion of the landowner's share of the program costs as ~~his~~ *the owner's* cropland is a portion of all cropland within the boundaries of the program. The county treasurer shall compute each landowner's liability and mail a special assessment ~~therefor~~ to each owner or

occupier of land within the boundaries of the program. Unless otherwise mutually agreed upon, this assessment is due and payable within 32 days of mailing or 30 days of receipt if receipt is shown to be more than 2 days after mailing. A delinquent assessment is a lien upon the land assessed.”

Section 2596. Section 80-7-1104, MCA, is amended to read:

“80-7-1104. Vertebrate pest management advisory council. (1) The director of agriculture may appoint a vertebrate pest management advisory council to provide advice to the department concerning the administration of this part.

(2) If appointed, the council must be composed of eight members as follows:

- (a) the director of agriculture, who shall serve as ~~chairman~~ *presiding officer*;
- (b) one member representing agricultural interests from Montana west of the continental divide;
- (c) one member representing agricultural interests from eastern Montana;
- (d) one member representing agricultural interests from north central Montana;
- (e) one member representing agricultural interests from south central Montana;
- (f) one member from a ~~sportsmen’s~~ *hunter’s, angler’s*, or wildlife group;
- (g) one member from the rodenticide industry; and
- (h) one member representing public land interests.

(3) Technical advisers in vertebrate pest control from the department, the extension service, the university system, or the industry may serve as ex officio members at the request of the director of agriculture.”

Section 2597. Section 80-8-102, MCA, is amended to read:

“80-8-102. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) “Active ingredient” means:

- (a) in the case of a pesticide, other than a plant regulator, defoliant, or desiccant, an ingredient that will prevent, destroy, repel, alter life processes, or mitigate insects, nematodes, fungi, rodents, weeds, or other pests;
- (b) in the case of a plant regulator, an ingredient that acts upon the physiology to accelerate or retard the rate of growth or rate of maturation or otherwise alter the normal processes of ornamental or crop plants or their produce;
- (c) in the case of a defoliant, an ingredient that will cause the leaves or foliage to drop from a plant;
- (d) in the case of a desiccant, an ingredient that will artificially accelerate the drying of plant tissue.

(2) “Adulterated” applies to a pesticide if its strength or purity falls below the professed standard or quality as expressed on labeling or under which it is sold, if any substance has been substituted wholly or in part for the pesticide, or if any valuable constituent of the pesticide has been wholly or in part abstracted.

(3) “Antidote” means the most practical immediate treatment in case of poisoning and includes first-aid treatment.

(4) “Applicator” means a person who applies pesticides by any method.

(5) "Beneficial insects" means those insects that, in the course of their life cycle, carry, transmit, or spread pollen to and from vegetation, act as parasites and predators on other insects, or are otherwise beneficial.

(6) "Commercial applicator" means a person who by contract or for hire applies by aerial, ground, or hand equipment pesticides to land, plants, seed, animals, waters, structures, or vehicles.

(7) "Commercial operator" means a person who applies pesticides under the supervision of a commercial applicator.

(8) "Crop" means a food intended for human or animal consumption or a fiber product.

(9) "Dealer" means a person who sells, wholesales, offers or exposes for sale, exchanges, barter, or gives away within this state any pesticide except those pesticides that are to be used for home, yard, garden, home orchard, shade trees, ornamental trees, bushes, and lawn.

(10) "Defoliant" means a substance or mixture of substances for causing the leaves or foliage to drop from a plant, with or without causing abscission.

(11) "Desiccant" means a substance or mixture of substances for artificially accelerating the drying of plant tissue.

(12) (a) "Device" means any instrument or contrivance intended for destroying, controlling, repelling, or mitigating pests.

(b) The term does not include equipment used for the application of pesticides.

(13) "Environment" means the soil, air, water, plants, and animals.

(14) "Equipment" means equipment used in the actual application of pesticides, including aircraft, ground sprayers and dusters, hand-held applicators, and water surface equipment.

(15) "Farm applicator" means a person applying pesticides to the person's own crops or land.

(16) "Fungi" means all nonchlorophyll-bearing thallophytes (all nonchlorophyll-bearing plants of a lower order than mosses and liverworts), such as rusts, smuts, mildews, molds, yeasts, and bacteria, except those resident on or in living humans or other animals.

(17) "Fungicide" means a substance or mixture of substances for preventing, destroying, repelling, or mitigating any fungus.

(18) "Herbicide" means a substance or mixture of substances for preventing, destroying, repelling, or mitigating any weed.

(19) "Inert ingredient" means an ingredient that is not an active ingredient.

(20) "Ingredient statement" means either:

(a) a statement of the chemical name and common name and percentage of each active ingredient, together with the total percentage of the inert ingredients, in the pesticide; or

(b) a statement of the chemical name and common name of each active ingredient, together with the name of each and total percentage of the inert ingredients, if any, in the pesticide. However, subsection (20)(a) applies if the preparation is highly toxic to ~~man~~ humans, determined as provided in 80-8-105, and if the pesticide contains arsenic in any form, the ingredient statement must also include a statement of the percentage of total and water-soluble arsenic, each calculated as elemental arsenic.

(21) "Insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising six-legged, winged and wingless forms, such as beetles, bugs, wasps, flies, and keds, and to other classes of arthropods whose members are wingless and usually have more than six legs, such as spiders, mites, ticks, centipedes, and wood lice.

(22) "Insecticide" means any substance or mixture of substances for preventing, destroying, repelling, or mitigating any insects present in any environment.

(23) "Label" means the written, printed, or graphic matter on or attached to the pesticide or device or to its immediate container and any outside container or wrapper of any retail package of the pesticide or device.

(24) "Labeling" means all labels and other written, printed, or graphic matter:

(a) upon the pesticide or device or any of its containers or wrappers;

(b) accompanying the pesticide or device at any time;

(c) to which reference is made on the label or in literature accompanying the pesticide or device, except when accurate, nonmisleading reference is made to current official publications of:

(i) the United States environmental protection agency;

(ii) federal departments of agriculture, interior, or health and human services;

(iii) state experiment stations;

(iv) state agricultural colleges; or

(v) other similar federal institutions or official agencies of this state or other states authorized by law to conduct research in the field of pesticides.

(25) "Misbranded" applies:

(a) to a pesticide or device if its labeling bears any statement, design, or graphic representation relative to its ingredients that is false or misleading;

(b) to a pesticide if:

(i) it is an imitation of or is offered for sale under the name of another pesticide;

(ii) its labeling bears any reference to registration under this chapter;

(iii) the labeling accompanying it does not contain instructions for use necessary and, if complied with, adequate for the protection of the public;

(iv) the label does not contain a warning or caution statement necessary and, if complied with, adequate to prevent injury to living humans or undue hazard to the environment;

(v) the label of the retail package that is presented or displayed under customary conditions of purchase does not bear an ingredient statement on that part of the immediate container and on the outside or on a wrapper through which the ingredient statement on the immediate container cannot be clearly read;

(vi) any word, statement, or other information required to appear on the labeling is not prominently placed on the labeling with a conspicuousness (as compared with other words, statements, designs, or graphic matter in the

labeling) and in terms rendering it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(vii) in the case of an insecticide, nematocide, fungicide, or herbicide, when used as directed or in accordance with commonly recognized practice, it is injurious to living humans or other vertebrate animals or vegetation, except weeds, to which it is applied or to the person applying the pesticide;

(viii) in the case of a plant regulator, defoliant, or desiccant, when used as directed, it is injurious to humans or other vertebrate animals or vegetation to which it is applied or to the person applying the pesticide. Physical or physiological effects on plants or parts of plants are not injurious when this is the purpose for which the plant regulator, defoliant, or desiccant is applied in accordance with the label claims and recommendations.

(26) "Nematocide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating nematodes.

(27) "Nematodes", "nemas", or "eelworms" means invertebrate animals of the phylum nemathelminthes and class nematoda, that is, unsegmented round worms with elongated, fusiform, or sac-like bodies covered with cuticle and inhabiting soil, water, animals, plants, or plant parts.

(28) "Person" means any natural person, individual, firm, partnership, association, corporation, company, joint-stock association, body politic, or organized group of persons, whether incorporated or not, and any trustee, receiver, assignee, or similar representative.

(29) "Pest" includes any insect, rodent, nematode, snail, slug, or weed, and any form of plant or animal life or virus, except a virus on or in living humans or other animals, that is normally considered a pest or that the department declares a pest.

(30) "Pesticide" means any:

(a) substance or mixture of substances, including any living organism or any product derived from a living organism, intended for preventing, destroying, controlling, repelling, altering life processes, or mitigating any insects, rodents, nematodes, fungi, weeds, and other forms of plant or animal life or viruses, except viruses on or in living humans or other animals, that may infect or be detrimental to persons, vegetation, crops, animals, structures, or households or be present in any environment or that the department declares a pest;

(b) substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant; and

(c) other substances intended for that use named by the department by a rule adopted by it.

(31) (a) "Plant regulator" means any substance or mixture of substances affecting the rate of growth or rate of maturation or for otherwise altering physiological condition of plants.

(b) The term does not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and soil amendments.

(32) "Public utility applicator" means a person applying pesticides to land and structures owned or leased by a public utility.

(33) "Registrant" means the person registering any pesticide or device under the provisions of this chapter.

(34) “Restricted-use pesticide” means any pesticide, including highly toxic pesticides, that the department has found and determined, subsequent to a hearing, to be injurious, when used in accordance with registration, label, directions, and cautions, to persons, beneficial insects, animals, crops, or the environment other than the pests it is intended to prevent, destroy, control, or mitigate.

(35) “Retailer” means ~~any~~ a person who sells, offers or exposes for sale, exchanges, barter, or gives away within this state any pesticide for home, yard, lawn, and garden use; in quantities or concentrations as determined by the department of agriculture.

(36) “Waste pesticide” means a pesticide *that*:

(a) ~~that~~ may not be used legally because the environmental protection agency or the department has canceled or suspended the pesticide’s registration or has taken other administrative action to prohibit use of the pesticide;

(b) ~~that~~ will not be used for reasons including but not limited to product damage, toxicity, or obsolescence; or

(c) ~~that~~ cannot be disposed of in a legal or economically feasible manner.

(37) “Weed” means any plant or part of the plant that grows where *it is* not wanted.”

Section 2598. Section 80-8-103, MCA, is amended to read:

“80-8-103. Purpose. The control of pesticides and their use is essential for the protection of ~~man~~ humans and ~~his~~ the environment. Pesticides are currently considered valuable and necessary to provide sufficient quantity of quality foods and for the protection of humans from vector-borne diseases. However, the protection of ~~man~~ humans and ~~his~~ human’s essential needs—water, air, food, animals, vegetation, pollinating insects, and shelter from pesticides ~~which that~~ are potentially dangerous—is in the public interest now and in the future. Therefore, it is ~~deemed~~ necessary to provide for the control of pesticides.”

Section 2599. Section 80-8-108, MCA, is amended to read:

“80-8-108. Advisory council. (1) The director of agriculture may appoint an advisory council to study and make recommendations on special pesticide problems in the state. The council ~~shall consist~~ consists of individuals representing, equally, controlled industry, agriculture, health, and wildlife. Governmental personnel, university personnel not included, may not be represented on the council. Governmental personnel shall meet with the council in an advisory capacity when requested by the council. The council may not exceed 12 members. The director of agriculture shall establish the time period in which the council shall exist. The time period may not exceed 2 years. The department of agriculture shall provide the necessary administrative, secretarial, and any other essential items to the council.

(2) Each member of the council ~~shall~~ must receive as compensation for ~~his~~ services the sum of \$25 ~~per~~ a day for each day actually spent in the performance of ~~his~~ duties and ~~shall~~ must be reimbursed for travel expenses as provided for in 2-18-501 through 2-18-503.

(3) The council may request that the department hold a public hearing to assist it in gathering factual data and information on the special problems assigned it.”

Section 2600. Section 80-8-202, MCA, is amended to read:

“80-8-202. Prohibited acts. (1) It is unlawful for ~~any a~~ person to distribute, sell, or offer for sale within this state or deliver for transportation or transport in intrastate commerce between points within this state any of the following:

(a) ~~any a~~ pesticide ~~which that~~ has not been registered pursuant to the provisions of 80-8-201 or any pesticide if any of the claims made for it or any of the directions for its use differ in substance from the representations made in connection with its registration or if the composition of a pesticide differs from its composition as represented in connection with its registration or if registration or reregistration has been refused, revoked, canceled, or suspended. The department of agriculture may allow a change in the labeling or formula of a pesticide within a registration period without requiring reregistration of the product when ~~such the~~ change does not adversely affect the product for its intended use and if proper application ~~therefor for the change~~ is made.

(b) ~~any a~~ pesticide unless it is in the registrant’s or the manufacturer’s unbroken immediate container and there is affixed to ~~such the~~ container and to the outside container or wrapper of the retail package, if there ~~be is~~ one, through which the required information on the immediate container cannot be clearly read, a label bearing:

(i) the name and address of the manufacturer, registrant, or person for whom manufactured;

(ii) the trade and chemical name, brand, or trademark under which ~~said the~~ article is sold;

(iii) the net weight or measure of the content, subject to ~~such~~ reasonable variations ~~as that~~ the department may permit;

(c) ~~any a~~ pesticide ~~which that~~ contains any substance or substances in quantities highly toxic to ~~man~~ humans, determined as provided in 80-8-105, unless the label ~~shall bear~~ bears, in addition to any other matter required by this chapter:

(i) the skull and crossbones;

(ii) the word “poison” prominently in red on a background of distinctly contrasting color;

(iii) a statement of an antidote for the pesticide;

(d) ~~the~~ pesticides commonly known as standard lead arsenate, basic lead arsenate, calcium arsenate, magnesium arsenate, zinc arsenate, zinc arsenite, sodium fluoride, sodium fluosilicate, and barium fluosilicate unless they have been distinctly colored or discolored, as provided by regulations issued in accordance with this chapter, or any other white powder pesticide ~~which that~~ the department, after investigation of and after public hearing on the necessity for ~~such the~~ action for the protection of the public health and the environment and the feasibility of ~~such the~~ coloration or discoloration, ~~shall~~ by regulations ~~require requires~~ to be distinctly colored or discolored, unless it has been so colored or discolored. The department may exempt any pesticide to the extent that it is intended for a particular use from the coloring or discoloring required or authorized by this section if it determines that ~~such the~~ coloring or discoloring for ~~such the~~ use is not necessary for the protection of the public health and the environment.

(e) ~~any a~~ pesticide ~~which that~~ is adulterated or misbranded; or any device ~~which that~~ is misbranded.

(2) It is unlawful for ~~any a~~ person to:

(a) detach, alter, deface, or destroy, in whole or in part, any label or labeling provided for in this chapter or rules ~~promulgated hereunder~~ *adopted under this chapter* or to add any substance to or take any substance from a pesticide in a manner that may defeat the purpose of this chapter;

(b) use for ~~his~~ *the person's* own advantage or reveal, other than to the department or proper officials or employees of the state or the courts of this state in response to a subpoena, to physicians or to veterinarians or in emergencies to pharmacists and other qualified persons for use in the preparation of antidotes, any information relative to formulas of products acquired by authority of 80-8-201."

Section 2601. Section 80-8-206, MCA, is amended to read:

"80-8-206. Applicator's and operator's examination. (1) The department of agriculture shall publish and distribute or have available upon request ~~such~~ information ~~as~~ *that* may be helpful to persons engaged in the application of pesticides, including information that may be required or ~~which~~ *that* may appear upon any examination given to applicators and operators by the department.

(2) The department shall require an applicant for a license to show upon written examination that ~~he~~ *the person* possesses adequate knowledge concerning the proper use and application of pesticides under the classification for which ~~he~~ *the person* has applied, provided that the applicator and operator may not be required to take a reexamination upon renewal of licensing."

Section 2602. Section 80-8-208, MCA, is amended to read:

"80-8-208. Dealer's examination. Each applicant applying for a dealer's license ~~and/or his employee(s) and the applicant's employees~~ in charge of pesticide sales ~~shall~~ *must* be required to pass a reasonable examination administered by the department. Dealers applying for relicensing may not be required to take an additional examination if they have met the department's requirements."

Section 2603. Section 80-8-301, MCA, is amended to read:

"80-8-301. Report of loss or damage — effect of failure to report. (1) A person suffering loss or damage resulting from the use or application of any pesticide by any person shall, within 30 days from the time the occurrence of the loss became known to ~~him~~ *the person*, file with the department of agriculture a verified report of loss setting forth, so far as known to the claimant, the following:

- (a) name and address of claimant;
- (b) type, kind, and location of property alleged to be injured or damaged;
- (c) date the alleged injury or damage occurred;
- (d) name of person applying the pesticide and allegedly responsible for the loss or damage;
- (e) name of the owner or occupant of the property for whom ~~such~~ *the* pesticide application was made.

(2) The filing of ~~such~~ a report or the failure to file ~~such~~ a report ~~shall~~ *may* not be alleged in any complaint ~~which~~ *that* might be filed in a court of law, and the failure to file ~~shall~~ *may* not of itself be considered any bar to the maintenance of ~~any~~ a criminal or civil action.

(3) The failure to file ~~such~~ a report ~~shall~~ *is* not be a violation of this chapter. However, if the person failing to file ~~such~~ a report is the only one injured from

~~such the~~ use or application of a pesticide by any person, the department may refuse to hold a hearing for the denial, suspension, or revocation of a license issued under this chapter until ~~such the~~ report is filed. The filing of ~~such a~~ report ~~shall does~~ not constitute institution of a civil or criminal suit in any court, state or federal.”

Section 2604. Section 80-8-303, MCA, is amended to read:

“80-8-303. Embargo. (1) Whenever a duly authorized agent of the department of agriculture finds or has probable cause to believe that any pesticide or device is adulterated or misbranded, has not been registered under the provisions of 80-8-201(5), fails to bear on its label the information required by this chapter, or is a white powder pesticide and is not colored as required under this chapter, ~~he the agent~~ shall affix to ~~such the~~ article a tag or other appropriate marking giving notice ~~thereof of the failure~~ and stating that the article has been detained or embargoed and warning all persons not to remove or dispose of ~~such the~~ article by sale or otherwise until permission for removal or disposal is given by ~~such the~~ agent or the court. ~~Any~~ A person who removes or disposes of ~~such a~~ detained or embargoed article by sale or otherwise, without prior permission, or ~~who~~ removes or alters the tag or marking, is guilty of a misdemeanor and may be charged accordingly or may be subjected to appropriate administrative proceedings, or both.

(2) When an article detained or embargoed under subsection (1) has been found by ~~such the~~ agent to be in violation of *subsection (1)*, ~~if and after 30 days~~ the violation has not been resolved, ~~he the agent~~ may petition the district court in whose jurisdiction the article is detained or embargoed for a condemnation of ~~such the~~ article. When ~~such the~~ agent has found that an article ~~so~~ detained or embargoed is not adulterated or misbranded, ~~he the agent~~ shall remove the tag or other marking.

(3) If the court finds that a detained or embargoed article is in violation of this chapter or rules adopted ~~thereunder under this chapter~~, ~~such the~~ article ~~shall must~~ after entry of the decree be destroyed at the expense of the claimant ~~thereof of the article~~, under the supervision of ~~such the~~ agent, and all court costs and fees and storage and other proper expenses ~~shall must~~ be assessed against the claimant of ~~such the~~ pesticide or device or ~~his the claimant's~~ agent, ~~provided that~~ *However*, when the adulteration or misbranding can be corrected by proper labeling or processing of the article, the court, after entry of the decree and after ~~such~~ costs, fees, and expenses have been paid and a good and sufficient bond has been executed, conditioned upon the proper labeling or processing of ~~such the~~ pesticide or device, may by order direct that ~~such the~~ article be delivered to the claimant ~~thereof of the article~~ for ~~such~~ labeling or processing under the supervision of an agent of the department. The expense of ~~such~~ supervision ~~shall must~~ be paid by *the* claimant. The article ~~shall must~~ be returned to the claimant of the pesticide or device on the representation to the court by the department that the article is no longer in violation of this chapter and that the expenses of ~~such~~ supervision have been paid.”

Section 2605. Section 80-10-101, MCA, is amended to read:

“80-10-101. Definitions. As used in this chapter, the following definitions apply:

(1) “Brand” means a term, design, or trademark used in connection with one or several grades of commercial fertilizer.

(2) “Commercial fertilizer” includes any substance containing one or more recognized plant nutrients ~~which that~~ is used for its plant nutrient content and

~~which~~ *that* is designed for use or claimed to have value in promoting plant growth, yield, or quality of the crop.

(a) "Bulk fertilizer" ~~is~~ *means* commercial fertilizer, (dry or liquid), ~~that is~~ distributed in nonpackage form or in containers of greater than 1,000 pounds.

(b) "Fertilizer materials" ~~is~~ *means* a commercial fertilizer ~~which~~ *that* either:

(i) contains important quantities of not more than one of the primary plant nutrients, *including* (nitrogen, phosphoric acid, and potash);

(ii) has approximately 85% of its plant nutrient content present in the form of a single chemical compound; or

(iii) is derived from a plant or animal residue or byproduct or a natural material deposit ~~which~~ *that* has been processed in ~~such~~ a way that its content of primary plant nutrients has not been materially changed except by purification and concentration.

(c) "Mixed fertilizers" ~~is~~ *means* a commercial fertilizer, (dry or liquid), ~~containing~~ *that contains* any combination or mixture of fertilizer materials.

(d) "Packaged fertilizer" ~~is~~ *means* commercial fertilizer, (dry or liquid), ~~that is~~ distributed in sealed containers of 1,000 pounds or less.

(e) "Specialty fertilizer" ~~is~~ *means* a commercial fertilizer, (dry or liquid), ~~that is~~ distributed primarily for nonfarm use, such as home gardens, lawns, shrubbery, flowers, golf courses, municipal parks, cemeteries, greenhouses, and nurseries and includes commercial fertilizers used for research or experimental purposes.

(3) "Distribute" means to offer for sale, sell, barter, or otherwise supply commercial fertilizers.

(4) "Distributor" means ~~any~~ a person who distributes.

(5) "Grade" means the percentages of total nitrogen, available phosphorus or phosphoric acid, and soluble potassium or soluble potash stated in whole numbers in the same terms, order, and percentages as in the guaranteed analysis. However, fertilizer materials, bonemeal, manures, and similar raw materials may be guaranteed in fractional units.

(6) "Licensee" means ~~any~~ a person who has obtained a license from the department so ~~he~~ *that the person* may legally distribute commercial fertilizer other than specialty fertilizers or soil amendment in this state.

(7) "Manipulated manures" means substances composed primarily of excreta, plant remains, or mixtures of ~~such~~ substances ~~which~~ *that* have been processed in any manner, including the addition of plant nutrients, drying, grinding, and other means.

(8) "Manufacture" means the formulation, mixing, blending, or further processing of commercial fertilizers or soil amendments.

(9) "Manufacturer" ~~is~~ *means* a person who manufactures commercial fertilizer or soil amendments.

(10) "Official sample" means any sample of commercial fertilizer taken by the department and so designated by the department.

(11) "Percent or percentage" means the percentage by weight.

(12) "Person" means an individual, partnership, association, firm, or corporation.

(13) "Registrant" means the person who registers commercial fertilizer ~~and/or~~ or soil amendment.

(14) "Soil amendment" means any material not included under commercial fertilizer or those products subject to the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, ~~which~~ *that* is added to soil or to plants for purposes of influencing the growth, yield, or quality of the crop, soil flora or fauna, or other soil characteristics.

(15) "Ton" means a net weight of 2,000 pounds ~~avoirdupois~~."

Section 2606. Section 80-10-201, MCA, is amended to read:

"80-10-201. Registration. (1) Each brand and grade of fertilizer and each soil amendment except unmanipulated animal and vegetable manures must be registered by or on behalf of the manufacturer before distribution in this state. The application for registration must be submitted to the department on a form furnished or approved by the department and must be accompanied by a nonrefundable fee of \$20 per grade for each fertilizer and for each soil amendment with exception of specialty fertilizers, which must be registered at a nonrefundable fee of \$35 each. Upon approval, the department shall furnish a copy of the registration to the applicant. All registrations expire on December 31 of each year.

(2) (a) The application for registration must include:

(i) the brand and grade;

(ii) the guaranteed analysis;

(iii) the source of each plant food element guaranteed;

(iv) the name and address of the registrant;

(v) a copy or facsimile of each label and of promotional material when requested by the department; and

(vi) analytical information on nutrient ingredients and nonnutrient ingredients as required by rule.

(b) The department shall require the applicant to furnish replicated data, performed by a reputable investigator whose work is recognized as acceptable by the director of the agricultural experiment station or ~~his~~ *the director's* designee, verifying any claims for effectiveness or agricultural value of any fertilizer or soil amendment product that is not generally recognized as having the values claimed at the use rates recommended.

(3) A distributor may not be required to register any brand or grade of commercial fertilizer that is already registered under this section by another person.

(4) A manufacturer may not reregister a product until full payment of the assessment fees provided for in 80-10-103 and 80-10-207 has been received by the department."

Section 2607. Section 80-10-204, MCA, is amended to read:

"80-10-204. Labeling. (1) Any commercial fertilizer distributed in this state in packages ~~shall~~ *must* have affixed to or printed on the container a label setting forth in clearly legible and conspicuous form:

(a) the net weight;

(b) the name and address of the manufacturer or distributor guaranteeing the analysis;

- (c) the brand and product name;
- (d) the grade;
- (e) the guaranteed analysis; and
- (f) other requirements as established by rule.

(2) Any bin in the state in which commercial fertilizer is stored for distribution must have affixed to or printed on it a label setting forth in clearly legible and conspicuous form:

- (a) the guaranteed analysis of the product in the bin; and
- (b) other requirements established by rule.

(3) All commercial fertilizer delivered in this state in bulk, whether a manufactured grade or blended grade, ~~shall~~ *must* be accompanied by a clearly legible document ~~which shall~~ *that must* be supplied to the purchaser at the time of delivery and at the time ~~his~~ *the purchaser's* invoice is delivered. The document ~~shall~~ *must* show:

- (a) net weight;
- (b) name and address of the distributor or manufacturer guaranteeing the analysis;
- (c) guaranteed analysis or, on blended fertilizer, the net weight and guaranteed analysis of each ingredient added; and
- (d) other requirements as established by rule.

(4) When distributed in containers, soil amendments ~~shall~~ *must* have a label affixed to or printed on the container. When delivered in bulk, the label ~~shall~~ *must* be clearly legible and ~~shall~~ *must* accompany the delivery of the product. This label ~~shall~~ *must* be supplied to the purchaser at the time of delivery and at the time of invoicing. The label ~~shall~~ *must* contain the following information:

- (a) net weight;
- (b) name and address of the registrant or licensee who is responsible for the product;
- (c) brand and product name;
- (d) guaranteed analysis;
- (e) other requirements, such as particle size, as established by rule.”

Section 2608. Section 80-10-211, MCA, is amended to read:

“80-10-211. Cancellation or refusal of registration or licenses. (1) The department may cancel the registration of any commercial fertilizer or soil amendment and may refuse to register any commercial fertilizer or soil amendment upon satisfactory evidence that the registrant has used fraudulent or deceptive practices in the evasion or attempted evasion of this chapter or any rules adopted under it. However, ~~no~~ *a* registration may *not* be revoked or refused until the registrant is given the opportunity to amend ~~his~~ *the* application or correct other practices.

(2) The department may cancel any license or refuse to license any person when it has satisfactory evidence that the person has used fraudulent or deceptive practices in the evasion or attempted evasion of this chapter or any rules adopted under it. However, ~~no~~ *a* license may *not* be revoked or refused until the person involved is given the opportunity to appear for a hearing by the department.”

Section 2609. Section 80-10-303, MCA, is amended to read:

“80-10-303. Violations — enforcement proceedings — judicial review. (1) If it appears from the examination of ~~any~~ commercial fertilizer or from the inspection of ~~any~~ an anhydrous ammonia facility that this chapter or the rules adopted under this chapter have been violated, the department shall give notice of the violations to the registrant, licensee, distributor, or possessor from whom the sample was taken. A person notified ~~shall~~ *must* be given an opportunity to be heard under rules of the department. If it appears after a hearing, either in the presence or absence of the person notified, that this chapter or rules issued under this chapter have been violated, the department may certify the facts to the proper prosecuting attorney.

(2) A person who violates this chapter or the rules adopted under this chapter or who obstructs, prevents, or attempts to prevent the department from performing its duty under this chapter is guilty of a misdemeanor and shall be fined not less than \$300 or more than \$500 for the first violation and not less than \$300 or more than \$1,000 for a subsequent violation. In all prosecutions under this chapter involving the composition of a lot of commercial fertilizer, a certified copy of the official analysis of the department is prima facie evidence of the composition.

(3) ~~Nothing in this~~ *This* chapter ~~requires~~ *does not require* the department to report for prosecution or for the beginning of seizure proceedings minor violations of this chapter when it believes that the public interest will be best served by a suitable notice of warning in writing.

(4) A prosecuting attorney to whom a violation is reported shall prosecute the violator in a court of competent jurisdiction without delay.

(5) The department may apply for and the court may grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this chapter or any rule adopted under the chapter notwithstanding the existence of other remedies at law. The injunction ~~shall~~ *must* be issued without bond.

(6) If a person adversely affected by an act, order, or ruling made by the department under this chapter is not entitled to a hearing before the department to determine ~~his~~ *the person's* rights, ~~he~~ *the person* may within 45 days sue in the district court of any county where the alleged violation giving rise to the department's act, order, or ruling occurred; for *a* new trial of the issues bearing upon the act, order, or ruling. After the trial, the court may issue and enforce those orders, judgments, or decrees *that* it considers proper, just, and equitable.”

Section 2610. Section 80-10-503, MCA, is amended to read:

“80-10-503. Rulemaking authority and requirements. (1) The department shall adopt rules for the design, construction, repair, alteration, location, installation, and operation of anhydrous ammonia facilities. ~~Such~~ *The* rules must be in substantial conformity with nationally recognized safety standards for the storage and handling of anhydrous ammonia. The rules ~~shall~~ *must* require the owner to place ~~his~~ *the owner's* name and phone number on ~~his~~ *the owner's* anhydrous ammonia tank or tanks. The department may adopt additional rules necessary for the protection and safety of persons employed in anhydrous ammonia facilities, persons using anhydrous ammonia, and the public.

(2) The rules must include a provision under which new or existing facilities may apply for a temporary or permanent variance from any requirement of the

rules. The rules must provide criteria for granting or denying a variance request and must provide for written notice and public hearing on any variance request.

(3) The department shall coordinate its rulemaking activities with other executive branch agencies and departments by providing them with timely information on the adoption of the rules, inviting and encouraging their participation, giving due weight and consideration to their comments and testimony, and coordinating interdepartmental meetings on matters pertaining to the adoption of the rules.”

Section 2611. Section 80-11-204, MCA, is amended to read:

“80-11-204. Election of chairman presiding officer — time of meetings. At the first meeting of the administrative committee, it shall elect a ~~chairman~~ *a presiding officer* from among its members. The committee shall meet at least once every 3 months and at ~~such~~ other times as called by the ~~chairman presiding officer~~ or by any three members of the committee.”

Section 2612. Section 80-11-305, MCA, is amended to read:

“80-11-305. Compensation — per diem. Each committee member is entitled to \$25 compensation for each day ~~he~~ *that the member* is engaged in the transaction of official business, together with actual and necessary travel expenses, as provided for in 2-18-501 through 2-18-503.”

Section 2613. Section 80-11-308, MCA, is amended to read:

“80-11-308. Payment of assessment. All assessments levied and imposed under 80-11-307 must be paid to the department of agriculture by the person, either grower or dealer, by whom the alfalfa seed is first handled in the primary channels of trade and must be paid at ~~such~~ times as *that* the department may by rule prescribe but not later than 60 days from the date on which the grower received payment for the alfalfa seed. If the party first handling the alfalfa seed in the primary channels of trade is a person other than the grower, ~~he~~ *that party* may charge against or recover from the grower of ~~such~~ *the* alfalfa seed the full amount of any assessment levied and imposed under 80-11-307.”

Section 2614. Section 80-11-311, MCA, is amended to read:

“80-11-311. Records required. ~~Every~~ *Each* dealer shall maintain accurate records of all alfalfa seed handled, packed, shipped, or processed by ~~him~~ *the dealer*. The records ~~shall~~ *must* be in ~~such~~ *the* form and contain ~~such~~ *the* information as *that* the department may by rule prescribe, ~~shall~~ *must* be preserved for a period of 2 years, and are subject to inspection at any time upon request of the department or its agents.”

Section 2615. Section 80-11-404, MCA, is amended to read:

“80-11-404. Compensation — per diem. Each committee member is entitled to \$25 compensation for each day ~~he~~ *that the member* is engaged in the transaction of official business, together with actual and necessary travel expenses as provided for in 2-18-501 through 2-18-503.”

Section 2616. Section 80-11-405, MCA, is amended to read:

“80-11-405. Election of chairman presiding officer — time of meetings. At the first meeting of the committee, it shall elect a ~~chairman~~ *presiding officer* from among its members. The committee shall meet at least once annually and at ~~such~~ other times as called by the ~~chairman presiding officer~~ or by any three members of the committee.”

Section 2617. Section 80-11-416, MCA, is amended to read:

“80-11-416. Records required. ~~Every~~ *Each* first purchaser of mint oil shall maintain accurate records of all mint oil handled, packed, shipped, or processed by ~~him~~ *the purchaser*. The records must be in the form and contain the information the committee may by rule prescribe. The records must be preserved for 2 years and are subject to inspection at any time upon request of the committee or its agents.”

Section 2618. Section 80-12-202, MCA, is amended to read:

“80-12-202. Immediate repayment. If an applicant who has obtained the approval of the authority for the issuance of a bond to fund ~~his~~ *the applicant's* loan for the acquisition of farm or ranch land sells the land for which the loan was made to any person, firm, or corporation other than ~~his~~ *the applicant's* spouse, children, or corporation wholly owned by them, the loan must be repaid in full.”

Section 2619. Section 80-12-203, MCA, is amended to read:

“80-12-203. Qualifications of applicants. (1) To be eligible for a loan approved by the authority for issuance of a bond, an applicant ~~must~~:

(a) *shall* declare ~~his~~ *the* intention to maintain ~~his~~ *the applicant's* residence in Montana during the length of the loan;

(b) *must* have been approved by a financial institution; and

(c) *must* have a net worth not to exceed \$250,000.

(2) Applications for loans to be approved by the authority for issuance of bonds may be submitted by individuals, partnerships, associations, or joint ventures. All persons involved in the application must meet the requirements of subsection (1). Corporations, as defined in 35-1-113, may not apply.”

Section 2620. Section 80-12-211, MCA, is amended to read:

“80-12-211. Income tax deduction for land sale to beginning farmers. A landowner who sells land consisting of 80 acres or more to a beginning farmer at 9% or less interest on a long-term contract is entitled to a reduction in ~~his~~ *the landowner's* taxable income in an amount equal to 100% of any income or capital gain, or both, realized and otherwise subject to state income taxes from the sale, up to a maximum of \$50,000, ~~provided if~~ the transaction is approved by the authority for this purpose.”

Section 2621. Section 80-12-310, MCA, is amended to read:

“80-12-310. Continuing validity of authority members' signatures. If ~~any~~ *an* authority member whose signature appears on bonds or coupons ceases to be a member before the delivery of the bonds, ~~his~~ *the* signature continues to be valid and sufficient for all purposes.”

Section 2622. Section 80-15-218, MCA, is amended to read:

“80-15-218. Notice to buyer. A person who sells agricultural land that is subject to the provisions of a specific agricultural chemical ground water management plan shall provide the buyer with written notice about ~~his~~ *the buyer's* obligations under the plan and shall forward a copy of the notice to the department. The department is not responsible for enforcement of this section.”

Section 2623. Section 81-1-202, MCA, is amended to read:

“81-1-202. Duties. The stock inspectors and detectives shall arrest all persons who in their presence violate the stock laws of this state. ~~Every~~ *Each* stock inspector and detective, on information that a person has committed an offense against the laws of this state by engaging in illegal branding or theft of

stock or an offense against the laws of this state for the protection of the rights and interests of stock owners, ~~must~~ *shall* make the necessary affidavit for the arrest and examination of the person and on a warrant issued for the person immediately arrest the person and bring ~~him~~ *the person* before the proper officer and notify the department of ~~his~~ *the person's* acts.”

Section 2624. Section 81-1-301, MCA, is amended to read:

“81-1-301. Administrator — appointment and qualifications. (1) The board shall appoint a person to be directly responsible to it for the administration of the laws relating to animal health.

(2) ~~He~~ *The person* must have a doctor of veterinary medicine degree from an accredited college or school; and ~~he~~ must be licensed to practice veterinary medicine in this state.”

Section 2625. Section 81-1-302, MCA, is amended to read:

“81-1-302. Duties of administrator. The administrator, subject to the rules of the board, may act for and perform the duties imposed by law on the board when the board is not in session, but any order or regulation promulgated by ~~him~~ *shall be the administrator* is subject to review, modification, or annulment by the board.”

Section 2626. Section 81-2-101, MCA, is amended to read:

“81-2-101. Authority of department agents. In the performance of ~~his~~ official duties, an agent or officer of the department may enter on or in a lot, yard, land, building, room, premises, enclosure, car, wagon, boat, or other place or vehicle used for the treatment, storage, manufacture, display, or transportation of animals, meat, or dairy products intended for sale or disposal as food. The agent or officer may enter anywhere where ~~there may be found~~ *livestock may be found that are* affected with or ~~which that has~~ *have* been exposed to or ~~which that~~ the officer has reason to believe ~~is~~ *are* either affected with or ~~has~~ *have* been exposed to an infectious, contagious, communicable, or dangerous disease or disease-carrying insects.”

Section 2627. Section 81-2-109, MCA, is amended to read:

“81-2-109. Expenses, how paid — lien and foreclosure. (1) If there is no violation of law or department rule, the expense of inspecting, testing, supervision of quarantine, supervision of dipping, supervision of disinfection, and supervision of other treatment of diseased or exposed livestock by the department and the sanitary inspection of dairies, packinghouses, meat depots, slaughterhouses, milk depots, and other premises ~~shall~~ *must* be paid for by the department. However, the owner of the livestock or property is liable for all expenses, except the salary of the designated supervising officer representing the department, when the owner, agent, or person in charge of the livestock or property has violated the law or rules of the department.

(2) The expenses for which an owner, agent, or person in charge is liable under subsection (1) include:

(a) all investigatory expenses, including travel, meals, and lodging of all investigating officers representing the department; and

(b) all other expenses, extraordinary or otherwise, that in the judgment of the department are reasonably necessary to ensure that there has been or will be compliance with all applicable laws and rules.

(3) The department, at the conclusion of an investigation of a violation, shall serve notice on the violator, informing ~~him~~ *the violator* of all expenses for which

he *the violator* is liable. The notice must state that if a response is not sent within 30 days of receipt of the notice, the notice is prima facie evidence of the reasonableness of the expenses and of the violator's liability for them.

(4) A showing by the department that a response to the notice required by subsection (3) was not received within 30 days of receipt of the notice is prima facie evidence of the reasonableness of the expenses stated and of the liability of the violator for those expenses.

(5) These expenses are a lien on the livestock or other property, and the department may retain possession of the livestock until the charges and expenses are paid. The lien is not dependent on possession and may be foreclosed in the name of the agent of the department by sale at public auction of the stock or as many as may be necessary to pay the sum of the costs, after 10 days' notice by posting in three public places in the county. The lien may also be foreclosed by an action in a court of competent jurisdiction against the owner of the livestock to recover the amount of charges and expenses."

Section 2628. Section 81-2-112, MCA, is amended to read:

"81-2-112. Prohibition by governor on importation of animals from localities where disease exists — penalty. (1) Whenever the governor has good reason to believe that any disease dangerous or inimical to the livestock or poultry industry or dangerous to dogs or other animals has become epidemic in certain localities in any other state, or territory, *the* District of Columbia, or any other country, ~~he~~ *the governor* shall issue a proclamation designating ~~such the~~ localities and prohibiting the importation ~~therefrom~~ *from those localities* into this state, except under ~~such~~ restrictions ~~as he~~ *that the governor may deem consider* proper, of any livestock, poultry, dogs, or other animals or articles or commodities likely to convey ~~such the~~ disease or diseases.

(2) ~~Any~~ A person who, after the publication of ~~such the~~ proclamation, knowingly receives any livestock, dog, fowl, or other animal or article or commodity designated in ~~such the~~ proclamation as likely to convey disease from any of the prohibited districts and transports or conveys the ~~same animal, article, or commodity~~ within the limits of this state is punishable by imprisonment in the county jail for not less than 60 days or more than 8 months ~~and by or~~ a fine of not less than \$300 or more than \$5,000, ~~or by both, such fine and imprisonment~~ and is further liable for any and all damages and loss that may be sustained by any person or persons by reason of the disobedience of ~~such the~~ proclamation."

Section 2629. Section 81-2-201, MCA, is amended to read:

"81-2-201. Classification of animals as to compensation for slaughter. Animals slaughtered under the direction of the department by order of the board are divided into two classes for the purposes of compensation:

(1) Animals determined by the department to be affected with an incurable disease; ~~which that~~ are destroyed by order of the board; are designated as animals of class 1, and unless otherwise provided, each of the animals ~~shall~~ *must* be paid for on the basis of 75% of its appraised value. The county in which the animal was owned at the time it was determined to be affected with an incurable disease is liable in part, as later provided, for an indemnity to be paid for the animal. The ownership and county are determined by an affidavit of the owner of the animal or ~~his~~ *the owner's* agent. Each animal directed to be destroyed ~~shall~~ *must* be appraised by a representative or an authorized agent of the department with the owner agreeing in writing as to the value of the animal. When appraised, due consideration ~~shall~~ *must* be given to its breeding value as well as

its dairy or meat value and the condition of the animal as to the disease and the present and probable effect of the disease on the animal. In the absence of an agreement, there ~~shall~~ *must* be appointed three competent, disinterested parties, one appointed by the department, one by the owner, and a third by the first two, to appraise each animal, taking into consideration its breeding value as well as its dairy or meat value and the condition of the animal as to the disease and the present probable effect of the disease on the animal. The judgment of the majority is the judgment of the appraisers and is binding on both parties to the final determination of indemnity to be paid for each animal. The total compensation of each group of appraisers is limited to \$5 for the group appraisal, one-half of which ~~shall~~ *must* be paid by the department. The total amount of indemnity paid by the state and a county for an animal may not exceed the actual sound value of an animal of its class, and the total combined amount of indemnity paid for the animal by the state and a county may not exceed the sum of \$100 for a registered purebred animal or the sum of \$50 for a grade animal. Animals presented for appraisal as purebreds ~~shall~~ *must* be accompanied by their registration papers at the time of appraisal, or they ~~shall~~ *must* be appraised as grades. If purebreds are less than 3 years old and not registered, the department may grant a reasonable time for their registration and presentation of their registration papers to the appraiser. Registration papers ~~shall~~ *must* accompany the claim for indemnity.

(2) Animals of class 1 ~~shall~~ *must* be paid for on the basis of their full appraised value as determined in this section if no evidence of incurable disease is disclosed by autopsy, bacteriologic, serologic, microscopic, or other findings. The total combined amount of indemnity paid by the state and a county for an animal may not exceed the actual sound value of an animal of its class. The total combined amount of indemnity paid by the state and a county for the animal may not exceed \$100 for a registered purebred animal or \$50 for a grade animal.

(3) Animals ~~which~~ *that* are determined by the department to be affected with or exposed to foot-and-mouth disease, rinderpest, contagious pleura pneumonia, surra, or other infectious, contagious, communicable, or dangerous disease, which is not of its nature necessarily fatal, and *that* are destroyed by order of the department as a sanitary safeguard, are designated as animals of class 2, and each animal ~~shall~~ *must* be paid for on the basis of its full appraised value. The appraised value ~~shall~~ *must* be determined in the manner set out in subsection (1) ~~of this section~~. The appraisal of the animals ~~shall~~ *must* be based on the meat, dairy, or breeding value of the animal, but ~~where~~ *when* appraisal is based on breeding value of the animal, ~~no~~ *an* appraisal may *not* exceed three times its meat or dairy value. The total amount of indemnity paid by the state for an animal may not exceed the actual sound value of an animal in its class. ~~No~~ *An* indemnity for a class 2 animal may *not* be paid by a county. In the case of destruction of an animal afflicted with brucellosis, *also known as* (Bang's disease), ~~no~~ *an* indemnity ~~shall~~ *may not* be paid for the animal unless the board, in its discretion, determines the best interests of this state will be served by payment of an indemnity. In this event, the board shall set out standards of indemnity by rules and may not pay in excess of \$100 for a registered purebred animal or \$50 for a grade animal. In all cases ~~where~~ *in which* the federal government or *an* agency other than the state compensates the owner in whole or in part for livestock destroyed as a sanitary safeguard, the amount of compensation from the state ~~shall~~ *must* be determined under 81-2-210.

(4) Animals ~~which~~ *that* are injured or killed while they are being inspected or tested under an order of the department or its agent, ~~which~~ *and that* do not come

within either class 1 or class 2, may be paid for at their full appraised value if the claim for the animal is recommended for payment at a meeting of the board. ~~Where~~ *When* it is shown that the injury or death of the animal was not proximately due to the negligence of the owner or ~~his~~ *the owner's* agent, the whole claim, when approved, ~~shall~~ *must* be paid out of department funds. The limit of indemnity for an animal paid for by the state may not exceed that fixed by this section for *class 2* animals ~~of class 2.~~"

Section 2630. Section 81-2-204, MCA, is amended to read:

"81-2-204. Presentation of claims for indemnity. Claims against the state and county ~~which~~ *that* arise from the destruction of animals or property by order of the department ~~shall~~ *must* be made on forms provided by the department. They must contain an affidavit by the owner or ~~his~~ *the owner's* agent with knowledge of the animal or property, certifying to the ownership of the animal or property, the county in which they are owned, and that the animal or property has been destroyed under the law and the rules of the department. These claims must be accompanied by a certificate from the department that the animal or property was ordered destroyed. The claims ~~shall~~ *must* also be accompanied by a certificate of ~~appraisement~~ *appraisal* as appraisal is determined under 81-2-201, together with an account of sale showing the net proceeds from the sale of the animal, if any, paid to the owner of the animal."

Section 2631. Section 81-2-206, MCA, is amended to read:

"81-2-206. Verification and payment of claims. (1) All claims against the department must be verified by oath of the claimant or ~~his~~ *the claimant's* agent with knowledge of the facts.

(2) Claims against the state arising under this part, if found correct, ~~shall~~ *must* be processed and paid from funds of the department."

Section 2632. Section 81-2-208, MCA, is amended to read:

"81-2-208. Sale of condemned carcasses — disposition of proceeds. ~~Where~~ *When* the carcass of an animal ordered destroyed under this chapter is found on official postmortem inspection to be fit for human consumption, the owner ~~shall~~ *must* receive the net proceeds from the sale of the carcass. The proceeds ~~shall~~ *must* be deducted from ~~his~~ *the owner's* claim against the state and county for the slaughter. A representative of the department may, when considered advisable or necessary or when it is desired by the owner, sell the carcass on terms ~~he~~ *that the representative* considers to be in the best interests of this state, and the net proceeds obtained from the sale ~~shall~~ *must* be paid to the owner. This procedure does not invalidate the owner's claim for indemnity for any balance due ~~him~~ *the owner.*"

Section 2633. Section 81-2-209, MCA, is amended to read:

"81-2-209. When no indemnity. (1) The owner of an animal or property destroyed under this chapter is entitled to indemnity, except in the following cases:

- (a) animals belonging to the United States;
- (b) animals brought into this state ~~which~~ *that* violate this chapter or rules of the department;
- (c) animals ~~which~~ *that* the owner or claimant knew to be diseased or had notice of the disease at the time they came into ~~his~~ *the owner's or claimant's* possession;

(d) animals ~~which that~~ had the disease for which they were slaughtered or ~~which that~~ were destroyed because of exposure to the disease at the time of their arrival in this state. However, a class 2 animal shipped into this state under department rules and accompanied by the proper certificate of health from a recognized state or federal veterinarian may be paid for when payment is authorized by the department.

(e) animals ~~which that~~ have not been in this state for at least 120 days before the discovery of the disease; ~~however~~ *However*, class 2 animals ~~which that~~ have not been in the state *for* 120 days may be paid for when payment is authorized by the department;

(f) when the owner or agent has not used reasonable diligence to prevent disease or exposure to disease;

(g) when the owner or agent has not complied with the rules of the department with respect to animals condemned;

(h) when animals condemned are not destroyed within 60 days after they are determined to be affected with or exposed to a disease ~~which that~~ requires them to be destroyed by order of the department.

(2) ~~No compensation~~ *Compensation* or indemnity will *not* be paid for the destruction of livestock affected with tuberculosis or other infectious, contagious, communicable, or dangerous disease unless the entire herd or band of affected livestock is under the supervision of the department for the eradication of the disease.”

Section 2634. Section 81-2-303, MCA, is amended to read:

“81-2-303. Owner guilty of misdemeanor, when. A person in a disease control area who does not gather ~~his~~ *the person’s* livestock after being notified by the department or its agent to have the livestock available or who refuses to have the livestock inspected, tested, treated, or vaccinated or *who* violates this part is guilty of a misdemeanor.”

Section 2635. Section 81-2-502, MCA, is amended to read:

“81-2-502. Licenses. (1) It is unlawful to handle, prepare, cook, or otherwise treat garbage to feed to swine or other animals or to feed garbage to swine or other animals without first securing a license for that purpose from the department ~~of livestock~~. One license issued to the entrepreneur, corporation, or individual responsible for a particular garbage feeding enterprise covers all garbage feeders concerned with the enterprise. The license provided for in this section expires on December 31 of the year in which it is issued. The department shall establish a fee to be charged for all licenses issued under this part. All license fees collected ~~shall~~ *must* be paid into the state special revenue fund for the use of the department.

(2) This part does not apply to a person who feeds only ~~his~~ *the person’s* own household garbage to swine or other animals.”

Section 2636. Section 81-2-602, MCA, is amended to read:

“81-2-602. Report of sales or distribution. A person, firm, or corporation ~~which that~~ has secured permission from the department to sell or distribute tuberculin for animal use in this state shall, on the same day it sells, furnishes, or supplies tuberculin, report in writing to the department the name and address of the person and a statement of the amount of tuberculin supplied to ~~him~~ *the person.*”

Section 2637. Section 81-2-703, MCA, is amended to read:

“81-2-703. Documents required for importation — exemptions. (1)

Except as provided in subsection (6), ~~no~~ *an* animal, animal semen, or animal biologic may *not* be brought into the state without a permit and ~~also~~ a health certificate.

(2) The department shall issue a permit if no significant danger to the public health will ensue upon importation of the animal, *animal semen, or animal biologic* into the state. ~~No~~ A permit may *not* be issued for livestock infected with or exposed to brucellosis, tuberculosis, or any other infectious, contagious, or communicable animal disease, except that cattle with a positive reaction to a recognized test for brucellosis may be permitted entry when destined directly for slaughter at a slaughterhouse under *the supervision of the* United States department of agriculture ~~supervision~~.

(3) The department may waive the requirement for a health certificate or a permit as provided in subsection (7).

(4) The requirements of subsection (1) apply regardless of species, breed, sex, class, age, point of origin, place of destination, or purpose of movement.

(5) All required documents must be attached to the waybill or be in possession of the driver of the transporting vehicle or of the person in charge of the animals. When a single permit or health certificate is issued for animals being moved in more than one vehicle, the driver of each vehicle ~~shall~~ *must* have in ~~his~~ *the driver's* possession a copy of the permit and, ~~where~~ *when* applicable, a health certificate.

(6) Animals, animal semen, or animal biologics being moved through the state with no intent to unload or deliver in the state are exempted from this part. In an emergency situation, ~~such~~ transitory cargo may be unloaded in compliance with the quarantine rules promulgated by the department.

(7) A waiver of the requirement for a health certificate or a permit ~~shall~~ *must* be based upon evidence that there will be no significant danger to the public health if the exemption is granted.”

Section 2638. Section 81-3-106, MCA, is amended to read:

“81-3-106. Publication of notice of rerecording brands. Between January 1 and June 30 in each rerecording year, the department shall publish, in at least one issue of at least one newspaper of general circulation in each county of this state in which a newspaper is published, a notice to the effect that the year is a year for rerecording marks and brands and that no mark or brand continues of record unless rerecorded. The department shall also mail to each person in whose name a mark or brand stands of record a similar notice addressed to the person at ~~his~~ *the person's* post-office address as shown by the records in the department.”

Section 2639. Section 81-3-203, MCA, is amended to read:

“81-3-203. Duties of state stock inspectors and deputy stock inspectors. (1) State stock inspectors and deputy state stock inspectors, upon the application of the owner or the duly authorized agent of the owner of livestock, shall inspect the livestock ~~which~~ *that* is intended for sale, removal, shipment, or slaughter at a licensed slaughter plant and issue a certificate of inspection ~~therefor~~ if it appears with reasonable certainty that the applicant is the owner of the livestock or has the lawful right to the possession ~~thereof~~ *of the livestock*.

(2) The inspection ~~shall~~ *must* include an examination of the livestock and all marks and brands ~~thereon~~ *on the livestock* to identify ownership of the livestock.

The certificate of inspection ~~shall~~ *must* be made in triplicate and ~~shall~~ *must* specify the date of inspection, the place of origin and place of destination of the shipment, the name and address of the owner of the livestock or of the applicant for inspection and the purchaser or transferee, if applicable, the class of the animal, the marks and brands, if any, upon the animal, and any other information upon the form of certificate ~~as that~~ the department may from time to time require. One copy of the certificate ~~shall~~ *must* be retained by the inspector, one copy ~~shall~~ *must* be furnished by the inspector to the owner or shipper of the livestock, and one copy ~~shall~~ *must* be filed by the inspector with the department within 5 days.

(3) If it appears with reasonable certainty that the applicant is the owner of the livestock or has the lawful right to the possession ~~thereof of the livestock~~, the state stock inspectors or deputy state stock inspectors, upon application of an owner or ~~his~~ *the owner's* agent of the livestock to be consigned and delivered directly to a licensed livestock market or licensed livestock slaughterhouse located in another county of the state or delivered directly to a shipping point duly approved by the department where a livestock inspector is available for inspection in an adjoining county, shall issue to the person a separate market consignment permit or transportation permit for each owner when the owner or owners or their duly authorized agents sign the permit certifying the brands, description, and destination of the livestock. The market consignment permit or transportation permit ~~shall~~ *must* be made in triplicate, ~~shall and must~~ specify the date and time issued, the place of origin and place of destination of the shipment, the name and address of the owner of the livestock and the name and address of the person actually transporting the livestock if different than the owner, the kind of livestock, the marks and brands, if any, upon the livestock, a description of the vehicle or vehicles to be used to transport the livestock to include the license number of the vehicles, and any other information upon the form of permit ~~as that~~ the department may from time to time require. ~~Any~~ *A* permit ~~so~~ issued ~~shall~~ *must* be good for shipment within 36 hours from ~~the~~ date and time of issue; ~~however~~ *However*, permits not used within this time limitation must be returned to the issuing officer to be canceled and to release the permittee from performance. One copy of the permit ~~shall~~ *must* be retained by the inspector, one copy ~~shall~~ *must* be filed by the inspector with the department within 5 days of the date of issue, and one copy ~~shall~~ *must* be furnished by the inspector to the owner or shipper of the livestock, which copy of the permit ~~shall~~ *must* accompany the shipment and be delivered to the state stock inspector at the livestock market or shipping point where the livestock is ~~are~~ delivered.

(4) Upon application of an owner or ~~his~~ *the owner's* agent, when it appears with reasonable certainty that the applicant is the owner of the livestock or has lawful right to the possession ~~thereof of the livestock~~, a state stock inspector shall issue a transportation permit ~~which that~~ will allow the movement of the livestock into an adjoining county to land owned or controlled by the owner or ~~his~~ *the owner's* agent for purposes of grazing. The transportation permit ~~shall~~ *must* state the breed, description, marks and brands, if any, head count, and description of land to and from which the livestock will be moved. The permit is valid as provided in 81-3-211(6)(d). A state stock inspector may enter the premises where livestock ~~so~~ moved have been transported and inspect any livestock moved under the transportation permit or any livestock commingled ~~therewith~~ *with the transported livestock*.

(5) ~~Any~~ A person transporting strays or livestock not lawfully under ~~his~~ *the person's* control is guilty of a misdemeanor and punishable as provided in 81-3-231."

Section 2640. Section 81-3-204, MCA, is amended to read:

"81-3-204. Seizure of livestock — retention of livestock — sale — disposal of proceeds. (1) All state stock inspectors inspecting any livestock before or after shipment or removal from any county in this state, upon a change of ownership, or at the preslaughter inspection at a licensed slaughterhouse may inspect and seize either at the point of sale, shipment, destination, or slaughter or en route any livestock or proceeds ~~thereof which~~ *from livestock that* the inspector believes ~~is~~ *are* stolen or upon which brands have been altered or obliterated or ~~which that~~ *that* does not conform to the description contained on the tally sheet furnished by the shipper ~~thereof~~ or to the description contained in any certificate of inspection or release issued before shipment or removal of the livestock.

(2) Upon taking possession of livestock under this section, a state stock inspector may retain the livestock in ~~his~~ *the inspector's* possession for 15 days to make further investigation relative to its ownership. A state stock inspector may either at once or at any time within 15 days sell the livestock at a licensed livestock market or in the open market for the best available price and remit the proceeds, less the cost of keeping and sale, to the department together with a full description of the livestock sold, giving marks and brands, if any, and a statement of the reason for the seizure and sale. The proceeds ~~shall~~ *must* be deposited by the department with the state treasurer and credited to the department fund, where it is subject to claim by the owner of the livestock in the same manner and for the same length of time as is provided by law for the making of claims for moneys arising from the sale of stray stock."

Section 2641. Section 81-3-205, MCA, is amended to read:

"81-3-205. Fees for inspection and livestock transportation permits. (1) For the service of inspection of all livestock except horses, mules, or asses before removal from a county or before change of ownership, the inspector making the inspections ~~shall~~ *must* receive a fee established by the department for each head inspected. For the issuance of a market consignment permit or transportation permit, (other than a permanent permit), before removal from a county for all livestock, the inspector issuing the permits ~~shall~~ *must* receive a fee established by the department for each permit issued and ~~shall~~ *must* receive in addition ~~his~~ *the inspector's* necessary actual expenses, to be paid by the owner or the person for whom the inspection is made or permit issued. For the issuance of a permanent horse transportation permit, the state stock inspector taking the application for permit shall receive a fee established by the department for each permit issued. All inspection and permit fees and expenses ~~shall~~ *must* be collected by the inspector at the time of inspection or issuance of permit, ~~and~~ all the fees and expenses collected by a deputy state stock inspector ~~shall~~ *must* be retained by ~~him~~ *the deputy*, and all ~~such~~ fees and expenses collected by a state stock inspector ~~shall~~ *must* be sent by ~~him~~ *the inspector* to the department for deposit in the state treasury to the credit of the state special revenue fund for the use of the department.

(2) For the service of inspection before any livestock except a horse, mule, or ass is sold or offered for sale at a licensed livestock market or slaughtered at a licensed slaughterhouse, a state stock inspector or deputy state stock inspector making the inspection ~~shall~~ *must* receive a fee established by the department for

each head inspected. All fees ~~shall~~ *must* be paid by the owner or by the person for whom the inspection is made. For releasing an animal so that it may be removed from the premises of a licensed livestock market, the state stock inspector making the release ~~shall~~ *must* receive a fee established by the department for each head inspected from the owner or the person for whom the release is made. All fees for inspection and release at the market ~~shall~~ *must* be collected at the time the inspection or release is made by the state stock inspector making the inspection or release and ~~shall~~ *must* be sent by ~~him~~ *the inspector* to the department for deposit in the state treasury to the credit of the state special revenue fund for the use of the department. All fees for preslaughter inspection made at a licensed slaughterhouse by the state stock inspector ~~shall~~ *must* be paid to the department for deposit in the state treasury to the credit of the state special revenue fund for the use of the department. Preslaughter inspection fees paid to a deputy state stock inspector ~~shall~~ *must* be retained by ~~him~~ *the deputy*.

(3) (a) For the service of inspection of horses, mules, or asses before removal from a county or before change of ownership, the inspector making the inspection ~~shall~~ *must* receive a fee established by the department for each head inspected and ~~shall~~ *must* receive in addition ~~his~~ *the inspector's* necessary actual expenses, to be paid by the owner or the person for whom the inspection is made. All fees and expenses collected by a state stock inspector must be sent by ~~him~~ *the inspector* to the department for deposit in the state treasury to the credit of the state special revenue fund for the use of the department.

(b) For the service of inspection before a horse, mule, or ass is sold or offered for sale at a licensed livestock market, a state stock inspector making the inspection ~~shall~~ *must* receive a fee established by the department for each head inspected. All fees ~~shall~~ *must* be paid by the owner or the person for whom the inspection is made to the state stock inspector.

(4) All inspection and release fees and expenses ~~shall~~ *must* be paid to the department for deposit in the state treasury to the credit of the state special revenue fund for the use of the department unless paid to a deputy state stock inspector. State stock inspectors ~~shall~~ *must* be paid for their services and receive their expenses as fixed by the department.”

Section 2642. Section 81-3-214, MCA, is amended to read:

“81-3-214. Entry permit. A transportation permit for the entry of livestock into Montana must be obtained by the owner or ~~his~~ *the owner's* agent from a state stock inspector prior to the entry of the livestock into Montana. The department shall establish a fee for the permit, to be remitted by the department to the state treasury for credit to the state special revenue account of the department. The department shall provide by rule for the issuance and control of transportation permits authorized by this section.”

Section 2643. Section 81-3-223, MCA, is amended to read:

“81-3-223. Action by dissatisfied owner — costs. ~~Should~~ *If* the owner of the animal ~~so~~ seized and killed ~~feel~~ *under this part is* dissatisfied with the valuation made, ~~he~~ *the owner* may maintain an action against the department or, if the animal is seized by a sheriff, against that sheriff's county, and ~~should he fail if the owner fails~~ to recover damages in any greater amount than that allowed under 81-3-222, ~~he~~ *the owner* shall bear all costs that may be incurred in the maintenance of the action.”

Section 2644. Section 81-3-231, MCA, is amended to read:

“81-3-231. Penalties. (1) A person is guilty of a misdemeanor and is punishable as provided in subsection (5) ~~of this section~~ if ~~he~~ *the person* removes livestock or causes livestock to be removed from a county in this state:

(a) without having the livestock inspected before removal if an inspection is required by law;

(b) without obtaining a market consignment permit or transportation permit if the permits are required by law;

(c) ~~and does obtain after obtaining~~ a market consignment permit for livestock but does not deliver the livestock transported ~~thereunder~~ *under the permit* to the livestock market designated in the market consignment permit;

(d) ~~and does obtain after obtaining~~ a transportation permit for the livestock but does not deliver the livestock transported ~~thereunder~~ *under the permit* to the destination as shown on the transportation permit and fails to have the *transported* livestock ~~so transported~~ inspected at the point of destination.

(2) A person who sells livestock or offers livestock for sale at a livestock market without having the livestock inspected or *who* removes livestock or causes livestock to be removed from a livestock market without obtaining a release is guilty of a misdemeanor and is punishable as provided in subsection (5) ~~of this section~~.

(3) A person who has ~~in his~~ charge *of* livestock being removed from a county in the state for which an inspection certificate, a market consignment permit, a transportation permit, or a market release certificate has been issued and *who* fails to have in ~~his~~ *the person's* possession *when* accompanying the livestock the inspection certificate, market consignment permit, transportation permit, or market release certificate as issued for the livestock, or who, having the certificate of inspection, market consignment permit, transportation permit, or market release certificate, fails to exhibit it to a sheriff, deputy sheriff, constable, highway patrol officer, state stock inspector, or deputy state stock inspector ~~at his~~ *upon* request is guilty of a misdemeanor and is punishable as provided in subsection (5) ~~of this section~~.

(4) Except as specifically otherwise provided, a person violating any of the provisions of this part is guilty of a misdemeanor and is punishable as provided in subsection (5) ~~of this section~~.

(5) Upon conviction under this section, a person, firm, association, or corporation shall be fined not less than \$50 or more than \$500 or imprisoned in the county jail for a period of not more than 6 months, or both ~~fined and imprisoned~~. Of all fines assessed and collected under this section, except those assessed and collected in a justice's court, 50% ~~shall~~ *must* be paid into the state treasury and credited to the state special revenue fund for the use of the department and 50% ~~shall~~ *must* be paid into the general fund of the county in which the conviction occurred.”

Section 2645. Section 81-3-233, MCA, is amended to read:

“81-3-233. Penalty for removal of livestock from state without inspection — exception. ~~Any~~ A person, other than the owner or ~~his~~ *the owner's* agent or employee, who, without consent of the owner, removes or causes to be removed from this state any cow, ox, bull, stag, calf, steer, heifer, horse, mule, mare, colt, foal, or filly without having the ~~same~~ *animal* inspected ~~where such~~ *when* inspection is required by law is guilty of a felony and shall be punished by a fine of not more than \$2,000, by imprisonment in the state prison for a term of not more than 3 years, or by both ~~such fine and imprisonment~~. The

provisions of this section do not apply to ~~any a~~ person who removes from this state ~~any an~~ animal specified by this section for the purpose of obtaining emergency treatment for ~~such the~~ animal by a licensed veterinarian.”

Section 2646. Section 81-4-104, MCA, is amended to read:

“81-4-104. Barbed wire fences to be kept in repair. The owners of barbed wire fences ~~must shall~~ keep the same in repair, and ~~any a~~ person ~~receiving who receives~~ notice in writing that ~~his the person’s~~ barbed wire fence or any part ~~thereof of the fence~~ is down or in such condition as to be likely to injure any livestock and ~~who~~ fails or refuses to repair ~~such the~~ fence is liable to pay damages in an amount equal to the value of any cattle, horses, mules, or other domestic animals ~~which that~~ may be injured by coming into contact with the fence.”

Section 2647. Section 81-4-108, MCA, is amended to read:

“81-4-108. Disposal of proceeds of sale of wire after payment of expense. The proceeds of ~~such a~~ sale ~~shall under 81-4-107 must~~ be used to defray the cost of collecting and selling ~~said the~~ wire, and the balance, if any, ~~shall must~~ be placed by the county treasurer in a special fund and ~~shall must~~ be held ~~by him~~ subject to claim by any person establishing to the satisfaction of the board of county commissioners that ~~he the person~~ was the lawful owner of ~~said the~~ wire and entitled to the remaining proceeds of ~~such the~~ sale. If ~~no a~~ person ~~claims said does not claim the~~ money within 1 year of the date of sale, the ~~same shall money must~~ be deposited in the general fund of the county.”

Section 2648. Section 81-4-207, MCA, is amended to read:

“81-4-207. Castration of animals running at large — notice to owner — expense and charges. (1) ~~Any A~~ person may take up and secure any ~~such~~ animal found running at large on the open range. After taking it up ~~he the person~~ shall, without unnecessary delay, post at the United States post office or as near as may be to the place where the animal was taken up a notice truly dated and subscribed by ~~him the person~~ or ~~his the person’s~~ agent to the effect that the animal, describing it by marks and brands, (if any), color, and sex, was taken up on the day named while it was running at large on the open range in the county, (naming the county), and that, unless claimed and removed within 5 days ~~next~~ after the date of the posting, the animal will be castrated at the expense of the owner ~~thereof. Should~~ If the owner, person, firm, corporation, or association having management or control of ~~such the~~ animal ~~be is~~ known to the person who took the animal up, personal service of ~~such the~~ notice upon the owner, person, firm, corporation, or association having management or control of the animal ~~shall be is~~ the equivalent to the posting. The notice, if personally served, may state that, unless the animal is claimed and removed within 2 days ~~next~~ after the date of the notice served personally, the animal will be castrated at the expense of the owner ~~thereof~~.

(2) If ~~such the~~ animal ~~so taken up be is~~ not claimed and removed within ~~said~~ 5 days or ~~said~~ 2 days, as the case may be, it may lawfully be castrated in the usual manner and doing no more harm than is necessary. The expense of castration ~~shall must~~ be paid by the owner. If ~~such the~~ animal ~~be is~~ claimed within the time ~~herein~~ prescribed, the claimant shall pay to the person who took the animal up the reasonable expense of ~~the keeping and feed thereof feeding the~~ animal since it was taken up and also the sum of \$5 for the taking up and giving of the notice ~~aforementioned~~. Upon making ~~such the~~ payments, the claimant shall immediately remove and take away ~~said the~~ animal.”

Section 2649. Section 81-4-208, MCA, is amended to read:

“81-4-208. Killing of animal running at large — notice — posting and service. (1) If ~~any such an~~ animal ~~so~~ running at large cannot, by reasonable effort, be captured, taken up, or corralled, it may lawfully be killed unless the owner or person having the management or control of it ~~shall take~~ *takes* the animal off the open range and ~~restrain~~ *restrains* it from running at large ~~thereon~~ within 10 days ~~next~~ after the giving of notice as ~~hereinafter~~ provided *in this section*. The notice ~~shall must~~ be signed by one or more taxpayers of the vicinity of the range ~~whereon such on which the~~ animal ~~be is~~ at large and *must* be substantially as follows:

“To whom it may concern:

Take notice, that a certain (stallion, ridgeling, unaltered male mule, or jackass, as the case may be) is running at large on the open range (identify the range by general description) in County, Montana. Unless ~~said the~~ animal ~~be is~~ removed ~~therefrom~~ *from the range* and restrained from running at large on open range, within 10 days ~~next~~ after the date of this notice, it will be killed.

(Date)

(Signature or signatures)”

(2) The notice ~~shall must~~ be posted at the post office nearest the place where the animal was last seen on the range and ~~like~~ *similar* notices *must be posted* in two other of the most public places in the vicinity of ~~said the~~ range, and ~~like the~~ notice ~~shall must~~ at once be mailed to the owner or person having management or control of the animal; if ~~his the owner's or person's~~ name and address ~~be are~~ known.”

Section 2650. Section 81-4-212, MCA, is amended to read:

“81-4-212. Castration of violating bulls. ~~Any~~ A bull found running at large on the open range or national forest reserve in violation of the provisions of 81-4-210 through 81-4-213 may be caught and castrated by any person finding ~~such a the~~ bull, provided *that* any purebred dairy bull found running at large may be taken up and the party holding the bull shall notify the owner in person; ~~and if.~~ If the owner of ~~such the purebred~~ bull does not take possession of ~~said the~~ bull within 24 hours after being notified, the party holding ~~such the~~ bull may castrate ~~him the~~ *the bull*.”

Section 2651. Section 81-4-220, MCA, is amended to read:

“81-4-220. Marking — right of action against trespassing stock. ~~No~~ A person owning or possessing agricultural or grazing land or patented or unpatented mining claims lying within ~~said the~~ national forest reserves of this state or on the public range lying adjoining to any ~~said~~ national forest reserve, the boundaries of which ~~said~~ lands are not marked as required by the provisions of 81-4-218 through 81-4-220, ~~shall may not~~ have any claim or cause of action or right of action against the owner of sheep, cattle, or other livestock under the charge of a herder for trespass committed by ~~such the~~ livestock upon ~~said that~~ land, and ~~such shall be~~ *this is* the rule regardless of whether the ~~said trespassing~~ livestock ~~so trespassing~~ strayed ~~thereon on the land~~ on their own inclination and without being driven or whether ~~said the~~ livestock were herded or driven on ~~said the~~ land; ~~provided that no~~ *However, a person or persons can may not* claim exemption for trespassing under the provisions of this section ~~where such if the~~ person or persons ~~shall have~~ *have* actual knowledge of the boundary lines of any lands ~~herein~~ referred to *in this section*. ~~In no event shall damages~~ *Damages*, other than nominal damages, *may not* be assessed against ~~said the~~ trespass unless the landowner or ~~his the landowner's~~ duly authorized agent ~~shall,~~ within 6 months after ~~said the~~ trespass has been committed, ~~give said gives the~~

trespasser written notice demanding a sum certain for damages sustained by reason of ~~such~~ *the* trespass.”

Section 2652. Section 81-4-308, MCA, is amended to read:

“81-4-308. Retrieval of impounded animals a — misdemeanor — penalty. ~~Any~~ A person who takes or rescues ~~any~~ *an* animal impounded as provided in 81-4-307 from the possession of the person ~~in whose~~ *with* custody ~~the same may be of the animal,~~ without ~~his~~ *the* ~~possessor’s~~ consent, ~~shall be~~ *is* guilty of a misdemeanor and upon conviction ~~therefor shall be subject to a fine of~~ *fined* not less than \$100 or more than \$500 or ~~shall be confined in the county jail for not more than 60 days, or both such fine and imprisonment.”~~

Section 2653. Section 81-4-322, MCA, is amended to read:

“81-4-322. Horse herd districts — size — location — petition — notice and hearing — abolishment. (1) Horse herd districts may be created in any county in the state of Montana upon the petition of owners or possessors of 55% of the land of ~~such~~ *the* district. ~~Such~~ *The* district ~~shall~~ *must* contain 12 square miles or more lying not less than 1 mile in width outside of incorporated cities or towns. ~~Such~~ *The* petition ~~shall~~ *must* designate the months of the year when horse herd district regulations are effective.

(2) Upon presentation and filing of a petition properly signed and reciting the outside boundaries and description of the proposed district, together with the post-office address of the signers ~~thereof~~, with the clerk and recorder in the county in which the ~~said~~ *the* district is being created, the county commissioners of ~~such~~ *the* county upon receipt ~~thereof of the petition~~ shall set a date for hearing protests and verification of signatures ~~thereto~~ and shall give not less than 20 days’ notice of the ~~same~~ *hearing* by three publications in a newspaper of general circulation in the county of the proposed district. ~~Should~~ *If* ~~it~~ *appear* ~~appears~~ to ~~such~~ *the* county commissioners, after ~~such~~ *the* hearing, that the signatures attached to ~~such~~ *the* petition were genuine, they shall immediately make an order declaring ~~such~~ *the* horse herd district created and established, after which the county commissioners ~~must~~ *shall* give notice by two weekly publications in some newspaper in the county, nearest the district, stating the period when ~~such~~ *the* horse herd district will be in effect and when ~~such~~ *the* district ~~shall~~ *is* not be in effect. ~~Such~~ *The* order ~~shall~~ *may* not be effective until 30 days have expired after the order.

(3) ~~Such~~ *herd* ~~Herd~~ districts may be abolished at any time upon proceedings as ~~hereinbefore~~ set forth for the establishment of ~~such~~ *a* herd district.

(4) The estimated expense of all publications required by 81-4-321 through 81-4-328 ~~shall~~ *must* be paid by the petitioners, and no part ~~thereof~~ *shall* ~~of the expenses~~ *may* be paid by the county.

(5) Upon petition of ~~any~~ *an* owner or possessor of land lying contiguous and adjoining any horse herd district ~~heretofore created~~ and upon like hearing and notice as ~~hereinabove~~ provided ~~for~~ *in this section*, ~~such~~ *the* lands ~~shall~~ *must* be included in ~~such~~ *the* horse herd district and become a part ~~thereof of the district~~.

(6) ~~Should~~ *If* the signature of a lessee ~~appear~~ *appears* on the petition creating or abolishing any horse herd district, the owner or owners of ~~said~~ *the* land may appear either in person or by agent and enter their protest, and the board of county commissioners shall remove the name of ~~the~~ lessee from ~~said~~ *the* petition, and ~~no~~ *a* person ~~shall~~ *may not* be permitted to withdraw ~~his~~ *the* person’s name after the hour set for hearing ~~same~~ *the* petition.”

Section 2654. Section 81-4-326, MCA, is amended to read:

“81-4-326. Retention and sale of horses for damages and care — procedure. (1) The owner or occupant of the land upon which ~~such~~ wrongful entry is made ~~under 81-4-325~~ may take into ~~his the owner’s or occupant’s~~ possession ~~such the~~ horse or horses and shall reasonably care for the ~~same horse or horses~~ while in ~~his~~ possession and may retain possession of ~~said the~~ horse or horses and ~~shall have~~ has a lien and claim ~~thereon on the horse or horses~~ as security for payment of ~~such the~~ damages and reasonable charges for the care of ~~said the~~ horse or horses while in ~~his the owner’s or occupant’s~~ possession. The person taking up ~~said the~~ horse or horses shall within 48 hours after taking possession ~~thereof~~ notify ~~said the~~ owner, owners, or persons in charge ~~thereof of the horse or horses~~ by a notice in writing, describing ~~said the~~ horse or horses taken up, including marks and brands, if any, the amount of damages claimed, and the charge per head per day for caring for and feeding the ~~same horse or horses~~, and ~~describing~~, either by legal subdivisions or other general description, the location of the premises upon which ~~said the~~ horse or horses are held and requiring ~~him that person~~ within 48 hours after receiving ~~said the~~ notice to take the ~~said~~ horse or horses away after making full payment for all damages and costs of ~~said the~~ horse or horses. ~~Such~~ The notice ~~shall must~~ be given by personal service on the ~~said~~ owner, owners, or person in charge ~~thereof of the horse or horses~~ or by leaving ~~said the~~ notice at ~~his that person’s~~ usual place of residence with some member of ~~his that person’s~~ family over the age of 14 years of age or by sending ~~said the~~ notice by prepaid registered or certified mail addressed to ~~his that person’s last known last-known~~ place of residence. ~~Said service~~ Service by registered or certified mail ~~shall be deemed is considered~~ complete upon the deposit of the notice in the post office.

(2) Upon demand, the owner or occupant of the land shall release and deliver possession of ~~such the~~ horse or horses to the owner or person entitled ~~thereto~~ upon payment of damages and charges, but ~~said~~ payment of damages and charges ~~shall may~~ not act as a bar to the prosecution of ~~said the~~ person, owner, or person in control of ~~such the~~ horse or horses; as ~~hereinbefore~~ provided in *subsection (1)*. If the owner or claimant of ~~such the~~ horse or horses is not known to the person taking up ~~such the~~ horse or horses or the ~~said~~ owner or claimant ~~shall refuse refuses~~ to pay the amount of damages and charges as ~~herein~~ provided, the ~~said~~ person taking up ~~such the~~ horse or horses shall, within 72 hours from the time ~~said the~~ horse or horses were ~~so~~ taken up, deliver to the sheriff or a constable of the county in which the horse or horses were ~~so~~ taken up a statement containing the information required to be given in the notice ~~hereinbefore set out, and in~~. In addition ~~thereto, he the person~~ shall mail by prepaid registered or certified mail a copy of ~~said the~~ statement addressed to the nearest state livestock inspector. Upon receipt of ~~such the~~ statement, the sheriff or constable shall proceed to advertise and sell at public auction the horse or horses ~~so~~ taken up.”

Section 2655. Section 81-4-327, MCA, is amended to read:

“81-4-327. Sale of horses — disposition of proceeds. (1) Prior to ~~such a~~ sale as authorized by 81-4-326, the sheriff shall have ~~said the~~ horses classified as follows:

(a) Class 1 ~~shall must~~ include:

(i) horses not bearing a registered brand and ~~which that~~ in the opinion of the stock inspector are of a value not to exceed \$10 per head; and

(ii) horses bearing a registered brand but ~~which that~~ the owner has failed to redeem as ~~herein~~ provided *in this part*, after notice given, and ~~which that~~ in the opinion of the stock inspector are of a value not to exceed \$10 per head.

(b) Class 2 shall *must* include horses bearing registered brands and ~~which that~~ in the opinion of the stock inspector are of a value in excess of \$10 per head.

(2) Horses in class 1 shall *must* be sold on 10 days' notice posted at the courthouse of each county in which any portion of the district lies and posted in three other public places in ~~such the~~ county, one of which shall *must* be in that portion of the district included in the county.

(3) Horses in class 2 shall *must* be sold on notice posted for 21 days and otherwise as notices are required to be posted for the sale of horses in class 1, and ~~such the~~ notice shall ~~likewise~~ *must* be published once a week for 2 successive weeks before ~~said the~~ sale in some newspaper published in the county seat of each county ~~including that includes~~ any part of ~~said the~~ district, if there ~~be~~ *is* a newspaper, and if there ~~be~~ *is* no newspaper published in any county comprising a part of ~~such the~~ district, ~~then~~ ~~such the~~ notice shall *must* be published in any newspaper of general circulation in the county or counties ~~including such that include the~~ district. The notice required to be published for the sale of horses in class 2 shall *must* describe each horse to be sold, giving the approximate age, description, and brands, if any. The proceeds of the sale shall *must* be applied by the sheriff to the discharge of the claim and the costs of the proceedings in selling the property and enforcing the claim, and the remainder, if any, shall *must* be deposited with the county treasurer who shall keep the same in a special fund to be designated as the "horse herd district fund", (giving the number of district if *there is* more than one) *district*.

(4) A separate fund, ~~styled as above of the type specified in subsection (3);~~ shall *must* be kept by the county treasurer for each of ~~said the~~ districts created in ~~his that~~ county. The county treasurer shall make a record of the description of each horse, the amount received for ~~same the~~ horse, and the amount of deductions; ~~which~~ The record shall *must* be open to public inspection; and any person making claim of ownership of ~~such a~~ horse to the board of county commissioners at any time within 1 year from the date of sale and submitting proof of ownership to ~~such the~~ board with ~~such the~~ claim to the satisfaction of ~~such the~~ board shall ~~be~~ *is* entitled to receive ~~such the~~ excess received from the sale of ~~such that~~ horse. Any money received from the sale of ~~any such a~~ horse ~~which shall that is not be so~~ claimed within 1 year after ~~such the~~ sale shall *must* at the expiration of ~~said that~~ period be transferred to the general fund of the county."

Section 2656. Section 81-4-405, MCA, is amended to read:

"81-4-405. Service upon owner. If ~~such the~~ owner ~~be~~ *of livestock described in this part* is known and if ~~his the~~ owner's post-office address shall ~~be~~ *is* known as ~~hereinbefore~~ specified, ~~such the~~ notice shall *must* be served upon ~~him or her~~ the owner personally."

Section 2657. Section 81-4-406, MCA, is amended to read:

"81-4-406. Service on department of livestock. If the owner *of livestock described in this part* is unknown or if the owner is known but ~~his the~~ owner's post-office address is unknown, the notice shall *must* be served on the department of livestock."

Section 2658. Section 81-4-410, MCA, is amended to read:

"81-4-410. Provisions mandatory. The provisions ~~hereof of this part~~ are mandatory, and the owner of ~~such~~ livestock ~~will may~~ not lose title or right of possession to ~~his the~~ owner's stock unless the provisions ~~hereof of this part~~ are strictly complied with."

Section 2659. Section 81-4-505, MCA, is amended to read:

“81-4-505. Roundup foreman supervisor — duties — bond. (1) All roundups ~~shall~~ *must* be under the control and supervision of the board of county commissioners of the county in which the ~~same shall be roundup~~ is held. Roundup districts ~~shall~~ *must* be numbered in the order of their creation. Each roundup ~~shall~~ *must* be conducted by ~~some~~ a person designated by the board of county commissioners, whose official designation ~~shall~~ *must* be “roundup foreman supervisor, roundup district, County, state of Montana”.

(2) ~~Such person~~ *The roundup supervisor* shall maintain ~~his~~ headquarters at the place designated by the board of county commissioners in its order as the headquarters of ~~such the~~ roundup. ~~Such~~ *The* roundup foreman ~~shall~~ *has the* power to administer oaths and affirmations in all matters coming within the scope of ~~his~~ official duties.

(3) The board of county commissioners shall require from ~~such the~~ roundup foreman supervisor an official bond, in an amount not less than \$2,500 and not to exceed \$5,000, ~~which~~ *The* bond ~~shall~~ *must* be conditioned as official bonds of county officers and ~~shall be~~ *is* subject to all provisions of law applicable to ~~such county officer~~ bonds.”

Section 2660. Section 81-4-506, MCA, is amended to read:

“81-4-506. Sale of abandoned horses. All abandoned horses taken up in ~~any such a~~ roundup ~~shall~~ *must* be delivered to the roundup foreman supervisor in charge of ~~such the~~ roundup and ~~shall~~ *must* be ~~by him~~ offered *by the supervisor* for sale at public auction and sold to the highest bidder for cash, if there ~~be~~ *is* any bidder ~~or bidders therefor~~, and any ~~such~~ abandoned horses ~~so~~ offered for sale and for which no bid is made ~~shall~~ *must* be destroyed or otherwise disposed of in the discretion of the board of county commissioners, unless reclaimed as ~~herein~~ provided *in this part*.”

Section 2661. Section 81-4-507, MCA, is amended to read:

“81-4-507. Gathering horses in roundup district before roundup unlawful — rights of owner. It ~~shall be~~ *is* unlawful for ~~any a~~ person or persons to round up from the range any horse or horses in ~~any a~~ roundup district after ~~such the~~ districts have been designated by the county commissioners until after ~~such the~~ roundup. However, an owner of horses on which the taxes have been paid in this district may gather the ~~same~~ horses by notifying the roundup foreman supervisor and being accompanied by ~~such foreman the supervisor~~ or a representative of ~~such foreman the supervisor~~ in gathering ~~such the~~ horses.”

Section 2662. Section 81-4-508, MCA, is amended to read:

“81-4-508. Claim of owner — cost of keeping and feeding horses. ~~Any~~ A person claiming to be the owner of ~~any such an~~ abandoned horse or horses may serve written notice upon the roundup foreman supervisor in charge of ~~such the~~ roundup of ~~his the~~ claim of ownership; at any time before sale or other final disposition of ~~such the~~ horse or horses. ~~Such~~ *The* claim of ownership ~~shall~~ *must* be verified by the oath of the claimant or someone on ~~his the~~ claimant’s behalf, and the sale or other final disposition of ~~such the~~ horse or horses ~~shall, as to such horse or horses,~~ *must* be postponed from time to time as may be necessary to enable the claimant to make proof of ~~his the~~ claim as ~~herein~~ provided *in 81-4-509*. ~~Such~~ *The* postponement ~~shall~~ *may* not be ~~had~~ *allowed* unless the claimant ~~shall pay~~ *pays* to the roundup foreman supervisor in charge of ~~such the~~ roundup or ~~deliver~~ *delivers* to ~~him the supervisor~~ satisfactory security for the estimated cost of keeping and feeding ~~such the~~ horse or horses until sale or other final disposition or delivery to the owner.”

Section 2663. Section 81-4-509, MCA, is amended to read:

“81-4-509. Proof of ownership — payment of taxes and penalties — decision of commissioners on claim. ~~Any~~ A person claiming ~~any~~ an abandoned horse or horses as provided in 81-4-508 shall, within 5 days after serving the notice provided for in 81-4-508; or within ~~such a~~ further time ~~as~~ that the board of county commissioners ~~shall allow~~ *allows*, upon good cause shown, submit to ~~such the~~ board proof of his ownership and shall deposit with ~~said the~~ board the amount of any unpaid taxes and penalties ~~which that~~ may be assessed against ~~such the~~ horse or horses, together with the sum of a \$5 roundup fee. The board shall decide all ~~such~~ cases in preference to all other matters coming before it and at the earliest possible moment. If the claim ~~shall be~~ *is* allowed, the roundup ~~foreman~~ *supervisor* in charge of ~~such the~~ roundup ~~shall must~~ immediately be notified of ~~such the~~ decision and ~~he the~~ *supervisor* shall ~~forthwith~~ deliver ~~such the~~ horse or horses ~~as to which ownership shall be so~~ proved to the owner upon payment of any amount due from ~~such the~~ owner for the estimated cost of keeping and feeding ~~such the~~ horse or horses ~~as aforesaid~~. The deposit made by ~~such the~~ owner of taxes, penalties, and ~~the~~ roundup fee ~~shall must~~ be delivered by the board to the county treasurer. If ~~such the~~ board ~~shall deny~~ *denies* the claim of ownership, it shall ~~forthwith~~ notify the person in charge of ~~such the~~ roundup of its decision and ~~such the~~ horse or horses as to which ~~such the~~ claim ~~shall be~~ *is* denied ~~shall must~~ be offered for sale at the earliest convenient session of the sales being held under ~~such the~~ roundup, ~~and~~ if ~~if the horses are~~ not sold, ~~the same shall they must~~ be destroyed or otherwise disposed of as though no claim had been presented.”

Section 2664. Section 81-4-512, MCA, is amended to read:

“81-4-512. Disposition of proceeds — abandoned horse fund — use of fund. All ~~moneys~~ *money* paid by reclaiming owners of any ~~such~~ horse or horses ~~shall must~~ be paid to the county treasurer and ~~by him~~ kept in a fund to be designated as the “abandoned horse fund, roundup district No. (giving number of district in which ~~such the~~ horse or horses were rounded up)”. A separate fund, ~~styled as above specified, shall must~~ be kept by the county treasurer for each roundup district created in ~~his~~ *that* county. All ~~moneys~~ *money* received from the sale of ~~any such~~ horses ~~shall must~~ be paid to the county treasurer, and if ~~such the~~ sum received from the sale of any ~~such~~ horse ~~shall does~~ not exceed the taxes, ~~the~~ penalties, and the roundup fee, the whole ~~thereof shall~~ *amount must* be immediately deposited in the abandoned horse fund for the district in which ~~such the~~ horse or horses were rounded up. ~~But if~~ *If* the sum received from the sale of ~~any such a~~ horse ~~shall exceed~~ *such exceeds* the taxes, ~~the~~ penalties, and ~~the~~ roundup fee, the amount of ~~such the~~ taxes, ~~the~~ penalties, and ~~the~~ roundup fee ~~shall must~~ be ~~forthwith~~ deposited in the abandoned horse fund for ~~such the~~ district and the excess ~~shall must~~ be kept by the treasurer in a separate fund, ~~and he~~. ~~The treasurer~~ shall make a record of the description of ~~such the~~ horse, the amount received for the ~~same~~ *horse*, and the amount of deductions for ~~the~~ taxes, ~~the~~ penalties, and ~~the~~ roundup fee; ~~which~~ *The* record ~~shall must~~ be open to public inspection. ~~Any~~ A person making claim to the board of county commissioners, at any time within 6 months from the date of sale, of ownership of ~~such the~~ horse and submitting proof of ownership to ~~such the~~ board with ~~such the~~ claim, to the satisfaction of ~~such the~~ board, ~~shall be~~ *is* entitled to receive ~~such the~~ excess received from the sale of ~~such the~~ horse. Any money received from the sale of ~~any such a~~ horse in excess of ~~the~~ taxes, ~~the~~ penalties, and ~~the~~ roundup fee, ~~which shall that is~~ not ~~be so~~ claimed within 6 months after ~~such the~~ sale, ~~shall~~ at the expiration of ~~said that~~ period, ~~become~~ *becomes* the

property of ~~such~~ *the* county and ~~shall~~ *must* be transferred to the abandoned horse fund for the district in which ~~any such~~ *the* horse was rounded up.”

Section 2665. Section 81-4-513, MCA, is amended to read:

“81-4-513. Report of roundup foreman supervisor — disposition of copies. The roundup ~~foreman~~ *supervisor* in charge of the roundup shall keep an accurate record of all proceedings under the order for the roundup. Within 30 days after the roundup is completed, the ~~foreman~~ *supervisor* shall prepare in triplicate and verify by oath a full, true, and accurate report of all the proceedings under the order for the roundup. The report must include a complete financial statement, the number and description of horses impounded, and the manner of disposition of the horses. One copy of the report must be filed with the clerk of the board of county commissioners, and the filing is notice of the contents of the report and prima facie proof of the facts stated in the report. ~~One copy~~ *Copies* of the report must be filed with the department of revenue; and ~~one copy~~ *must be filed* with the county treasurer, for their information and appropriate action.”

Section 2666. Section 81-4-603, MCA, is amended to read:

“81-4-603. Taking up and disposition of estrays — advertisement. (1) A stock inspector authorized by the department shall take into ~~his~~ possession an estray found in ~~his~~ *the inspector’s* district and shall either ship or arrange for the shipment of the estray to a licensed livestock market for sale, or ~~he~~ *the inspector* may hold the estray ~~in his possession~~ and care for the estray in the cheapest and most practicable manner for a period of not less than 30 days or more than 60 days, during which time ~~he~~ *the inspector* shall advertise that ~~he~~ *the inspector* holds the estray and that, unless claimed by the owner, ~~he~~ *the inspector* will on a date ~~to be~~ specified in the notice sell the estray at a public auction to the highest bidder for cash.

(2) The notice ~~shall~~ *must* be published in the newspaper doing the county printing of the county in which the estray is found and in addition to that paper in a paper published in the town or city nearest the place in which the estray is held. This notice ~~shall~~ *must* be published at least once a week for 4 consecutive weeks and ~~shall~~ *must* contain a statement of the date of the sale, the place where the sale is to be held, and a general description of the estray, including the sex and the approximate age, together with an illustration of the brand and the position of the brand on the estray and a description of the place or locality where the estray was found or taken.

(3) The proceeds from the sale ~~shall~~ *must* be disposed of under 81-4-605 and 81-4-606.

(4) The owner of the estray may appear and claim it at any time before the sale or shipment, as provided in this part, upon payment to the department of the cost of caring for the estray as determined by the department.”

Section 2667. Section 81-5-103, MCA, is amended to read:

“81-5-103. Abandonment of sheep — penalty. ~~Every~~ *A* person who, ~~having~~ *has*, by virtue of ~~his~~ employment as herder, driver, or otherwise, the charge or custody of ~~any~~ sheep, ~~shall~~ *and who* willfully ~~abandon~~ *abandons* the ~~same~~ *sheep* or ~~allow~~ *allows* them to stray from ~~his~~ *the person’s* charge or custody shall, upon conviction, be punished by a fine of not less than \$100, ~~or~~ by imprisonment of not less than 3 months or more than 1 year, or by both ~~such~~ *fine and imprisonment*. ~~provided, that~~ *However*, if the person ~~so in the~~ *who has* charge or custody of ~~such~~ *the* sheep ~~shall have given to~~ *gave* the owner of ~~such~~ *the* sheep; or ~~his~~ *the owner’s* authorized agent; at least 5 days’ notice of ~~his~~ *the*

intention to quit his employment, he shall *the person may* not be deemed considered to have abandoned such the sheep, within the meaning of this section, by leaving the same sheep after the expiration of such the period.”

Section 2668. Section 81-6-102, MCA, is amended to read:

“81-6-102. Organization of committee — officers — meetings. Said The county livestock protective committee shall upon appointment and annually thereafter after appointment organize by election of a chairman presiding officer and a secretary. Meetings of the committee shall must be held at the call of the chairman presiding officer or any two members of the committee. Minutes of all meetings of the committee shall must be kept by the secretary. Such The minutes shall must be presented at the ensuing meeting of the committee and upon approval thereof shall must be signed by the chairman presiding officer and secretary and immediately thereafter deposited with the county clerk and recorder and kept available for public inspection.”

Section 2669. Section 81-7-102, MCA, is amended to read:

“81-7-102. Department to supervise destruction of predatory animals — cooperation with other agencies — administration of money. (1) The department of livestock shall conduct the destruction and control of predatory animals capable of killing, destroying, maiming, or injuring domestic livestock or domestic poultry and the protection and safeguarding of livestock and poultry in this state against depredations from these animals. The department shall formulate the practical programs for accomplishing these objectives in this state and for carrying out the programs in an efficient and practical manner responsive to the need for control in each area of this state.

(2) The department shall adopt rules applicable to predatory animal control that are necessary and proper for the systematic destruction of the predatory animals by hunting, trapping, and poisoning operations and payments of bounties. The department shall make field, area, range, or other orders and instructions, including orders and instructions to hunter and trapper personnel and others, that are appropriate in the various areas at different seasons of the year, taking into consideration the habits, presence, migrations, or movements of the animals and their attacks on livestock and poultry, either singly or in packs or bands.

(3) The department shall cooperate with authorized representatives of the federal government, including the biological survey and the fish and wildlife service, the department of fish, wildlife, and parks, boards of county commissioners, voluntary associations of stockgrowers, sheepgrowers, ranchers, farmers, and sportsmen hunters, and anglers, and corporations and individuals, in the systematic destruction of predatory animals by hunting, trapping, and poisoning operations.

(4) Section 81-7-103 and this section do not interfere with or impair the power and duties of the department of fish, wildlife, and parks in the control of predatory animals by the department of fish, wildlife, and parks as authorized by law or the obligation of the department of fish, wildlife, and parks to expend its funds in cooperation with the department for predatory animal control as required by law. Funds of the department of fish, wildlife, and parks for the cooperative predatory animal control must be administered and expended by the department of fish, wildlife, and parks.”

Section 2670. Section 81-7-115, MCA, is amended to read:

“81-7-115. Duty of county clerk. (1) The county clerk shall, on receipt of each certificate, file the certificate in the order in which it is received and safely

keep it until the arrival of the skin or skins mentioned in the certificate. On receipt of the skin or skins, ~~he~~ *the county clerk* shall call ~~to his assistance upon~~ either the county treasurer or, in ~~his~~ *the treasurer's* absence, the clerk of the district court who, with both present in order to prevent fraud, shall examine each scalp or mountain lion lower jaw skin. If the examination discloses that the scalps or lower jaw skins agree with the number and kind of scalps or lower jaw skins mentioned in the certificate, the county clerk shall, in the presence of the treasurer or clerk of the district court, destroy the scalps or lower jaw skins by fire.

(2) The county clerk shall then make out and deliver to the person named in that certificate a second certificate showing the statement of the facts contained in the certificate to the sheriff, undersheriff, or deputy sheriff, with the additional statement of the examination made by ~~him~~ *the clerk* and that ~~he~~ *the clerk* found the scalps or lower jaw skins to agree with the number and kind mentioned in the certificate of the sheriff, undersheriff, or deputy sheriff. ~~In no case may a~~ A bounty certificate *may not* be issued by the county clerk for more scalps or lower jaw skins than are actually received and counted ~~by him~~.

(3) ~~The county clerk shall receive, for~~ For each scalp or skin of a mountain lion lower jaw ~~which he accounts~~ *accounted for*, *the county clerk must receive* the sum of 5 cents to be paid quarterly by the state treasurer out of the bounty fund.

(4) The county clerk shall keep a record of all certificates received and issued, showing the date and description of the number and kind of hides and the names of the persons presenting the hides, and this record is an official record. County clerks are required to send a report and statement to the department on or before the 20th of each month."

Section 2671. Section 81-7-203, MCA, is amended to read:

"81-7-203. County bounty fund. The tax collected under this part ~~shall~~ *must* be credited by the county treasurer to a fund to be known as "county bounty fund" and ~~shall~~ *must* be paid out by ~~him~~ *the treasurer* upon properly drawn warrants issued ~~thereon~~ *on the fund* by the county clerk."

Section 2672. Section 81-7-204, MCA, is amended to read:

"81-7-204. Presentation of skins — affidavit. ~~Any~~ A person claiming bounty on ~~any~~ a predatory animal under this part shall present the green skin or pelt of ~~such~~ *the* animal, with all four feet attached ~~thereto~~, to ~~any~~ one of the bounty inspectors provided for in 81-7-202 and shall make an affidavit that ~~such~~ *the* animal was killed within the county where the bounty is claimed, ~~which~~ *The* affidavit ~~shall~~ *must* be corroborated by at least two reputable stockowners of ~~such~~ *the* county to the effect that they know or have good cause to believe that ~~such~~ *the* animal was killed within ~~such~~ *that* county. For the purpose of this part, each bounty inspector provided for in this part ~~shall~~ *be* is empowered to administer oaths. The bounty inspector shall endorse upon ~~such~~ *the* affidavit ~~his~~ *the inspector's* approval or disapproval of ~~such~~ *the* claim and shall cut from ~~such~~ *the* skin or pelt the four feet. The person applying for ~~such~~ *the* bounty shall then present the affidavit, with the endorsements ~~thereon~~, to the county auditor or, in counties not having an auditor, to the county clerk, who shall attach the ~~same~~ *affidavit* to a claim against ~~said~~ *the* county bounty fund and present it to the board of county commissioners for action, the same as any other claim against the county."

Section 2673. Section 81-7-403, MCA, is amended to read:

"81-7-403. Dogging livestock. Any person who permits or directs any dog owned by ~~him~~ *the person* or in ~~his~~ *the person's* possession to chase or run any

cattle or other livestock of which ~~he~~ *the person* is not the owner or the person in charge upon the open range or government lands or away from any watering place upon the open range is guilty of a misdemeanor and ~~punishable shall be punished~~ by a fine of not more than \$500.”

Section 2674. Section 81-7-501, MCA, is amended to read:

“81-7-501. Aerial hunting prohibited — exceptions. (1) Except as provided in 81-7-505, ~~no~~ *a person*, except an employee of the state, its subdivisions, or the federal government; *who is* acting within the scope of ~~his~~ *the person’s* employment, may *not* engage in the aerial hunting of predatory animals, as defined in 81-7-101, without first obtaining a permit from the department of livestock. The permit must specify the species of predatory animals to be hunted and the geographic areas over which aerial hunting may take place.

(2) A person issued a permit as required by this section may not engage in aerial hunting of predatory animals in violation of the terms of ~~his~~ *the* permit, the rules promulgated by the board of livestock, or the terms of this part.”

Section 2675. Section 81-8-215, MCA, is amended to read:

“81-8-215. Quarantine of diseased animals. If the livestock inspector at a sale finds any livestock afflicted with an infectious or contagious disease, ~~he~~ *the inspector* shall immediately take possession of the livestock and place ~~it~~ *the livestock* in quarantine, to be disposed of as directed by the department.”

Section 2676. Section 81-8-232, MCA, is amended to read:

“81-8-232. Posting of certificate or license. ~~Every~~ *A person who is* certified or licensed under the provisions of this part shall conspicuously post at ~~his~~ *the person’s* place of business for inspection by any other person the certificate or license issued by the department.”

Section 2677. Section 81-8-235, MCA, is amended to read:

“81-8-235. Penalties for financial violations. (1) A person found, after notice and hearing, to be in violation of 81-8-234 shall be assessed a civil penalty by the department of not less than \$100 or more than \$5,000; *or* have ~~his~~ *the person’s* license or certificate suspended or revoked, or both.

(2) A person found, after notice and hearing, to have committed a subsequent violation of 81-8-234 after the department has assessed a penalty pursuant to subsection (1) shall be fined not less than \$250 or more than \$5,000 and have ~~his~~ *the person’s* license or certificate suspended or revoked.

(3) A person, whether or not licensed under this part, who issues or delivers a check or other order upon a real or fictitious depository in payment for a livestock purchase knowing that it will not be paid by the depository is guilty of a felony and on conviction ~~may~~ *shall* be imprisoned for not more than 5 years or *be* fined not more than \$10,000, or both. If the person has an account with the depository, failure to make good the check or other order within 5 days after written notice of nonpayment has been received by the issuer is prima facie evidence that ~~he~~ *the person* knew it would not be paid by the depository.”

Section 2678. Section 81-8-251, MCA, is amended to read:

“81-8-251. Certificate to operate livestock market required — application. (1) A person may not operate a livestock market unless ~~he~~ *the person* first obtains from the department a certificate declaring that public convenience and necessity require the operation.

(2) The application for a certificate of public convenience ~~shall~~ *must* be in writing, verified by the applicant, and filed with the department. ~~It shall~~ *The application must* specify the following:

(a) the names of the persons applying for a certificate together with their permanent addresses. If the applicant is a firm, association, partnership, or corporation, the names of its directors, officers, and members, if applicable;

(b) the place where the applicant proposes to operate a livestock market;

(c) a complete description of the property and facilities proposed to be used for the livestock market;

(d) the commissions or charges the applicant proposes to impose on the consignors' livestock for services rendered ~~to them~~ by the applicant in the operation of the livestock market;

(e) the location of other livestock markets within a radius of 200 miles of the proposed livestock market and the names and addresses of the operators ~~thereof~~ *of those markets*;

(f) a detailed statement of the facts upon which the applicant relies to show public convenience and necessity for the livestock market, including the trade area to be served, the economic benefits to the livestock industry, the services to be offered, and the anticipated revenue from inspection that may be derived by the state;

(g) if the applicant is a foreign corporation, its principal place of business outside the state, the state in which it is incorporated, and a showing that it is in compliance with the laws relating to foreign corporations doing business in this state;

(h) a detailed financial statement showing that current assets exceed current liabilities and that long-term assets exceed long-term liabilities;

(i) any additional information the department may require.”

Section 2679. Section 81-8-261, MCA, is amended to read:

“81-8-261. Inspection of public markets. Livestock inspectors, including stock inspectors of a county or district, the sheriff of a county, or a representative of the department of livestock, may enter upon the premises where livestock *is* being held or sold and ~~shall~~ *must* be accorded every facility by the owners ~~thereof of the premises~~ in determining whether a violation of the law is being committed or is likely to be committed. The inspection may not unnecessarily interfere with the conduct of the sales. Livestock sold at the market may not be delivered to the purchaser until ~~he~~ *the purchaser* has first received an inspection certificate issued by one of the officers mentioned in this section, showing clearly and explicitly that the person making the inspection is satisfied as to the ownership of the livestock and the health of all livestock ~~so~~ sold.”

Section 2680. Section 81-8-263, MCA, is amended to read:

“81-8-263. Duties when ownership in doubt. An operator of a livestock market shall, when notified by the authorized brand inspector that there is a question as to whether any designated livestock sold through the market *is* lawfully owned by the consignor ~~thereof of the livestock~~, hold the proceeds received from the sale of the livestock for a reasonable time, not to exceed 30 days, to permit the consignor to establish ownership. If at the expiration of that time the consignor fails to establish ~~his~~ lawful ownership of the livestock, the proceeds must be transmitted by the operator of the livestock market to the department. The department may dispose of the proceeds in accordance with

Title 81, chapter 4, part 6, of Title 81, relating to the distribution of estray money, and the department's receipt therefor shall relieve for the proceeds relieves the operator of the livestock market from further responsibility for the proceeds. Proof of ownership and account of all sales of livestock must be transmitted by the authorized brand inspector to the department."

Section 2681. Section 81-8-274, MCA, is amended to read:

"81-8-274. Suspension or revocation of license. (1) Whenever the department finds that ~~any a~~ livestock dealer has violated the provisions of this part or rules adopted under this part, the department may, by order, suspend the license of ~~such the~~ person for a period not to exceed 1 year, and if the violation is repeated, the department may, by order, after hearing, permanently revoke the license of ~~such the~~ person.

(2) Before ~~any a~~ license issued under this part may be suspended or revoked, the licensee ~~shall must~~ be furnished with a copy of the complaint ~~made against him~~ and a hearing ~~shall must~~ be ~~had held~~ before the department to determine whether the license should be suspended or revoked. The licensee ~~shall must~~ be given notice of the time and the place of ~~such the~~ hearing. The notice may be served by ~~registered or~~ certified mail at the post-office address listed in the application. The hearing must be held not less than 10 days or more than 30 days after the mailing of the notice. At the time and place set for the hearing, the department shall take and receive evidence, under oath, with respect to the complaint; and, upon ~~such the~~ evidence received, shall promptly dismiss the proceedings or revoke or suspend the license."

Section 2682. Section 81-8-278, MCA, is amended to read:

"81-8-278. Records. A livestock dealer shall maintain records that disclose all purchases and sales of livestock. A livestock dealer shall, at all reasonable times, give the department access to and let the department copy any of the records relating to ~~his the dealer's~~ business."

Section 2683. Section 81-8-312, MCA, is amended to read:

"81-8-312. Possession under a mortgage — how acquired. ~~In all cases where~~ If it is necessary under the laws of this state for a party to any mortgage, assignment, bill of sale, or other contract, between November 1 and the next succeeding May 15, to take possession of any ~~such~~ cattle or horses in order to preserve ~~his the party's~~ rights under ~~any such a~~ mortgage, assignment, bill of sale, or other contract, it is sufficient for ~~such the~~ party to file a copy of the instrument under which ~~he the party~~ claims, with a notice of ~~such the~~ claim appended ~~thereto to the copy~~, with the general recorder of marks and brands within 5 days after it becomes necessary for ~~him the party~~ to ~~so~~ take custody and possession of the ~~same cattle or horses~~."

Section 2684. Section 81-8-315, MCA, is amended to read:

"81-8-315. Sale of property under supplementary writ. When an officer into whose hands a writ of execution is placed has served the ~~same writ~~ in accordance with 81-8-311; and made ~~his a~~ return in accordance with the facts, at any time ~~thereafter~~ *after service and return*, within the time limited as ~~hereinbefore~~ provided in 81-8-313 to hold the property taken or levied upon under ~~such the~~ writ, another writ of execution may be issued, which must be supplementary to the first writ, and in pursuance of which the officer or person charged with the service ~~thereof of the substitute writ~~ may sell the property held by the ~~said first writ~~; as ~~hereinbefore~~ provided in *this part*."

Section 2685. Section 81-8-702, MCA, is amended to read:

“81-8-702. Montana quality label. The department of livestock may make use of an outline map of the state of Montana and the word “Montana”, printed, lithographed, inscribed, engraved, or otherwise impressed on the labels, tags, seals, or containers of agricultural or food products; by a person who has ~~availed himself~~ *taken advantage* of the continuous official inspection service offered by the department of livestock; as an indication that the product has been inspected by the officers, agents, or licensed inspectors of the department and that the products are of the quality and description as indicated on the label, tag, seal, or container. The outline map with the word “Montana”, when made use of under this part, ~~shall be~~ *is* known as the “Montana quality label”. When an authorized department, agent, or officer of the United States collaborates with the department of livestock in the inspection of a product, the Montana quality label may, with the consent of the appropriate department, agency, or officer of the United States, be superimposed on an outline map of the United States on the label, tag, seal or container, indicating inspectional collaboration between the department of livestock and the department, agency, or officer of the United States.”

Section 2686. Section 81-8-704, MCA, is amended to read:

“81-8-704. Procurement and use of labels — information concerning — disposal of moneys. The department of livestock may make, print, or otherwise prepare a quantity of labels, tags, and seals with the Montana quality label printed, lithographed, inscribed, engraved, or impressed on them; sufficient to supply the demand for them. The department may furnish labels, tags, and seals at reasonable prices to a producer, processor, packer, or dresser who has ~~availed himself of~~ *been granted* the continuous official inspection service. This part, ~~however,~~ does not preclude the department from permitting, under its rules, a producer, processor, packer, or dresser to make, prepare, or cause to be made or prepared the labels, tags, or seals to be used on ~~his~~ *the person's* own product or to print, stamp, or otherwise place or cause to be placed the Montana quality label on products or containers ~~which~~ *that* have been subject to continuous inspection; if the labels, tags, seals, stamps, or other devices are of a design ~~which~~ *that* the department prescribes. The department of ~~livestock~~ may, in cooperation with the United States department of agriculture or otherwise, make use of available and appropriate means to disseminate information concerning the Montana quality label and the products ~~which~~ *that* may lawfully bear it and to popularize its use. All ~~moneys~~ *money* derived from furnishing the labels, tags, and seals or from permitting the use of the Montana quality label ~~shall~~ *must* be deposited in the state treasury to the credit of the general fund.”

Section 2687. Section 81-9-111, MCA, is amended to read:

“81-9-111. Hide certificates — inspection of hides before disposal — person slaughtering cattle to exhibit hides. (1) ~~Every~~ *A* person or persons, firm, corporation, or association slaughtering cattle for its own use ~~must~~ *shall* before selling, destroying, or otherwise disposing of the hide or hides from ~~such~~ *the* cattle have the ~~same~~ *hides* inspected by an officer authorized to make ~~such~~ *the* inspection and secure a certificate of inspection as ~~herein~~ provided for *in this part*.

(2) It ~~shall be~~ *is* unlawful for ~~any~~ *a* person or persons, firm, corporation, or association to sell, offer for sale, destroy, or otherwise dispose of any hide or hides from slaughtered cattle ~~which~~ *that* have not been inspected and identified by an authorized inspector.

(3) It ~~shall be~~ *is* the duty of ~~any a~~ person or persons, firm, corporation, or association slaughtering cattle; for ~~his the person's, firm's, corporation's, or association's~~ own use or otherwise, upon demand of an authorized inspector, to exhibit the hide or hides of ~~such the~~ animal or animals for inspection, ~~or a~~ certificate issued by a hide buyer, or some evidence of inspection by an authorized inspector.”

Section 2688. Section 81-9-112, MCA, is amended to read:

“81-9-112. Inspection and marking of hides and meat of slaughtered cattle — records — bill of sale — when inspection not necessary. (1) All slaughtering establishments required to be licensed under 81-9-201 shall maintain the hide of an animal in its entirety with tail and ears attached for each animal slaughtered until inspected by a state or deputy state stock inspector in the county where the animal was slaughtered. The inspector shall mark the hide in the manner prescribed by the department. This inspection may be waived for those animals inspected by a state or deputy state stock inspector on a preslaughter inspection.

(2) Each dressed carcass of ~~such an~~ animal shall *must* be stamped with an ink stamp in a manner specified by the department. The inspector shall keep a record and issue a certificate of inspection as specified by the department, giving the name and address of the establishment or person, the serial number of the inspection of the hide, the brand on the hide, the date of inspection, and the place where the inspection was made. The inspector shall forward a copy of the inspection certificate to the department and issue one copy to the person requesting the inspection.

(3) When ownership of the carcass and hide presented is claimed on a bill of sale, the officer making the inspection shall demand and *must* receive the original bill of sale, which shall *must* be attached to the inspector's certificate sent to the county clerk and recorder. When the bills of sale cover cattle not included in the inspection, the inspector shall issue to the owner of the bill of sale a receipt for the bill of sale. The receipt shall *must* describe the balance of the cattle covered by the original bill of sale.

(4) ~~Any~~ A person who kills beef or veal in good faith for ~~his the person's~~ own use shall *is* not be required to have ~~such the~~ meat inspected or stamped.”

Section 2689. Section 81-9-114, MCA, is amended to read:

“81-9-114. Duty to report violations. A person required to be licensed under 81-9-201 shall report any violation of 81-9-112 to the department or the sheriff of the county where the violation occurred and of which the person has knowledge. Upon failure to do so, the person shall suffer a revocation of his person's license *must be revoked* and ~~no a~~ license shall *may not* again be issued to the person until the expiration of 1 year from the date of revocation.”

Section 2690. Section 81-9-218, MCA, is amended to read:

“81-9-218. Exemptions. (1) The following persons are exempt from 81-9-201, 81-9-216 through 81-9-220, and 81-9-226 through 81-9-236:

(a) a person who slaughters livestock or poultry or prepares or processes livestock or poultry products for ~~his the person's~~ own personal or household use; and

(b) a person who transports dead, dying, or diseased animals or poultry for the purpose of treatment, burial, or disposal in a manner that would prevent the carcasses from being used as human food.

(2) A person engaged in the custom slaughtering of livestock or poultry delivered by the owner for custom slaughter or a person engaged in the preparation of the carcasses and parts and meat food products of ~~such the~~ livestock or poultry when slaughtered or prepared for exclusive use in the owner's household by the owner or members of ~~his the owner's~~ household or ~~his the owner's~~ nonpaying guests or employees is exempt from 81-9-216 through 81-9-220 and 81-9-226 through 81-9-236, ~~provided if~~ the carcasses, parts, or meat food products or containers of ~~such the~~ articles are:

(a) kept separate from carcasses, parts, or meat food products prepared for sale;

(b) plainly marked "Not for Sale" immediately after being slaughtered or prepared and remain plainly marked until delivered to the owner; and

(c) prepared and packaged in a sanitary manner and in a sanitary facility."

Section 2691. Section 81-9-220, MCA, is amended to read:

"81-9-220. Rules. The board, upon the recommendation of the chief, shall adopt rules consistent with the requirements of the rules of the U.S. department of agriculture governing meat inspection. The rules must:

(1) require antemortem and postmortem inspections, quarantines, segregation, and reinspections with respect to the slaughter of livestock and poultry and the preparation of livestock and poultry products at all official establishments;

(2) require the identification of livestock and poultry and the marking and labeling of livestock or poultry products as "Montana Inspected and Passed" if they are found upon inspection not to be adulterated;

(3) require the destruction for food purposes of all livestock, poultry, livestock products, and poultry products that have been found to be adulterated;

(4) set standards for ingredients of livestock products, meat, and poultry products;

(5) set standards for labeling, marking, or branding of meat, livestock products, and poultry products;

(6) set standards for the weights or measures of meats, livestock products, and poultry products not inconsistent with standards established under Title 30, chapter 12;

(7) set standards for the filling of containers for meat, livestock products, and poultry products;

(8) regulate the false or fraudulent advertising of meat, livestock products, and poultry products;

(9) provide for periodic investigations of the sanitary conditions of each official establishment and withdraw or otherwise refuse to license and inspect those establishments where the sanitary conditions are such as to render adulterated any meat products prepared or handled ~~therein in that~~ establishment;

(10) prescribe sanitation requirements for all official establishments;

(11) require all persons subject to 81-9-216 through 81-9-220 and 81-9-226 through 81-9-236 to maintain full and complete records of all transactions involving meat, livestock products, or poultry products and to make the records available on request to the chief or ~~his the chief's~~ inspectors at any reasonable time;

(12) prescribe additional standards, methods, and procedures as *that* are necessary to effect the purposes of 81-9-216 through 81-9-220 and 81-9-226 through 81-9-236; and

(13) provide for the licensing and inspection of mobile slaughter facilities to ensure that the requirements of this part are met with respect to all operations conducted at mobile slaughter facilities.”

Section 2692. Section 81-9-230, MCA, is amended to read:

“81-9-230. Antemortem and postmortem inspection required. (1) Official establishments must have an antemortem inspection. The inspector assigned to each establishment shall examine each animal immediately prior to slaughter for the purpose of eliminating all unfit animals and segregating for more thorough examination all animals suspected of being affected with a condition that might influence their disposition on postmortem inspection. The unfit animals may not enter the slaughtering facilities of the plant. The suspected animals ~~which~~ *that* after inspection are permitted to be slaughtered must be handled separately from the regular kill and given a special postmortem examination.

(2) Official establishments must have a postmortem inspection. The postmortem inspection must be made at the time the animals are slaughtered. The inspectors shall examine the cervical lymph glands, the skeletal lymph glands, the viscera and organs, with their lymph glands, and all exposed surfaces of the carcasses of all cattle, buffalo, sheep, swine, and goats. The examination must be conducted in the slaughtering facilities of the establishment during the slaughtering operations.

(3) The chief or any of ~~his~~ *the chief's* inspectors may have a laboratory designated by the board make pathogenic examination of animals or parts thereof for completion of antemortem or postmortem inspection.”

Section 2693. Section 81-9-235, MCA, is amended to read:

“81-9-235. Suspension or revocation of inspection service or establishment number — hearing — appeal. (1) ~~Any~~ *A* license issued by the board or ~~any~~ *a* state meat inspection service or establishment number may be suspended or revoked by the board for noncompliance with 81-9-216 through 81-9-220 and 81-9-226 through 81-9-236 or any rule adopted pursuant to 81-9-216 through 81-9-220 and 81-9-226 through 81-9-236.

(2) State meat inspection service or establishment numbers may be suspended or revoked only after a hearing before the board upon reasonable notice. Notice must be given *to* the licensee by service of the complaint upon ~~him~~ *the licensee*.

(3) The decision of the board is final in any matter relating to renewal, suspension, or revocation of state meat inspection service or an establishment number unless the person aggrieved, within 10 days after the date of the decision, appeals to the district court of the district in which the licensed premises are located. The court shall hear and determine the matter within 10 days after the date of filing the appeal. After ~~such~~ *the* decision, the person aggrieved may, ~~in compliance with the statutory provisions relating thereto,~~ appeal the decision of the district court to the supreme court of the state, but the suspension or revocation of state meat inspection service or an establishment number remains in effect pending the outcome of the appeal.”

Section 2694. Section 81-9-313, MCA, is amended to read:

“81-9-313. Dead or fallen animal records. (1) When a licensed renderer or ~~his~~ *the renderer’s* agent receives a dead or fallen animal, ~~he~~ *the renderer or agent* shall present a dead or fallen animal record to the person, corporation, or association ~~which that~~ has requested ~~him~~ *the renderer or agent* to remove the dead or fallen animal. The record ~~shall~~ *must* be on forms prescribed by the department and contain information the department may, by rule, require.

(2) The report ~~shall~~ *must* be executed in quadruplicate. The original copy ~~shall~~ *must* accompany the carcass and hide until the hide is officially inspected for marks and brands. The duplicate ~~shall~~ *must* be retained by the licensed renderer for the time ~~which that~~ the department in its discretion requires. The triplicate ~~shall~~ *must* be filed within 7 days after its execution and without cost in the office of the county clerk and recorder of the county in which the animal is received by the licensed renderer or ~~his~~ *the renderer’s* agent. The quadruplicate ~~shall~~ *must* be retained by the person, corporation, or association ~~which that~~ requested removal of the dead or fallen animal.”

Section 2695. Section 81-9-314, MCA, is amended to read:

“81-9-314. Animals to be tagged. At the time of the execution of the dead or fallen animal record, ~~provided for above in 81-9-314,~~ the licensed renderer or ~~his~~ *the renderer’s* agent who receives a dead or fallen animal shall tag ~~such the~~ animal with one of the serially numbered identification tags provided in 81-9-312 and shall at the same time record the number of ~~said the~~ tag in the proper space provided ~~therefor~~ on the dead or fallen animal record.”

Section 2696. Section 81-9-315, MCA, is amended to read:

“81-9-315. Production of dead or fallen animal record on demand — animal not to be removed during transportation — investigation. (1) On demand of a livestock inspector, sheriff, undersheriff, deputy sheriff, or other peace officer, a licensed renderer or ~~his~~ *the renderer’s* agent who has received a dead or fallen animal shall produce for inspection ~~of the officer~~ an executed dead or fallen animal record identifying each dead or fallen animal ~~which he that the~~ *renderer or agent* is transporting when the demand is made. Failure to produce the executed dead or fallen animal record on demand constitutes a misdemeanor punishable as provided in 81-9-317.

(2) Under no circumstances may a licensed renderer or ~~his~~ *the renderer’s* agent endanger the public health by removing or being required to remove any dead or fallen animals from the vehicle in which they are being transported until the vehicle arrives at a licensed rendering plant where the dead or fallen animal ~~shall~~ *must* be handled and disposed of in conformity with the rules of the department.

(3) If a livestock inspector, sheriff, undersheriff, deputy sheriff, or other peace officer has probable cause to believe the dead or fallen animals being transported by a licensed renderer or ~~his~~ *the renderer’s* agent were obtained by a commission of a felony, ~~he~~ *the officer* may take the licensed renderer or ~~his~~ *the renderer’s* agent, as well as the vehicle, into custody and proceed with the licensed renderer or ~~his~~ *the renderer’s* agent to the rendering plant of the licensed renderer, where inspection of marks and brands and immediate investigation ~~shall~~ *must* be made.”

Section 2697. Section 81-9-316, MCA, is amended to read:

“81-9-316. Disposal of hides — inspection — filing of record. When a licensed renderer or ~~his~~ *the renderer’s* agent disposes of the hides from dead or fallen animals, the hides ~~shall~~ *must* be handled and inspected for marks and brands in conformity with *Title 81, chapter 9, part 4 of this chapter*. The sheriff,

deputy sheriff, person designated by the board of county commissioners, or the agent of the department who makes the inspection for marks and brands in conformity with *Title 81, chapter 9*, part 4, ~~of this chapter~~ shall complete the original dead or fallen animal record ~~which that~~ accompanies the hide by inserting ~~his the person's~~ inspector's tag number. ~~He~~ *The person* shall file the completed original dead or fallen animal record without cost in the office of the county clerk and recorder, together with the duplicate certificate of inspection required to be filed under *Title 81, chapter 9*, part 4 ~~of this chapter~~."

Section 2698. Section 81-9-402, MCA, is amended to read:

"81-9-402. Hide certificate — identification. (1) A seller of an animal hide shall obtain a hide certificate from the person receiving the hide. The department shall prescribe the form of the certificate, which ~~shall~~ *must* include the marks and brands on each hide. The party receiving the hide ~~must~~ *shall* designate where it will be kept for 30 days following delivery. The certificate must be signed by the seller or ~~his the seller's~~ agent and the person receiving the hide.

(2) The original certificate ~~shall~~ *must* be sent by the party receiving the hide to the department within 5 days after purchase. One copy ~~shall~~ *must* be retained by the seller, and one, ~~must be retained~~ by the hide buyer. On reasonable notice, an inspector or other agent of the department or a peace officer may inspect the hide certificate copy of the seller or buyer.

(3) The department shall prescribe an identification tag to be affixed to each hide by the person receiving the hide when it is delivered. Hide certificates, tags, and glue ~~shall~~ *must* be furnished by the department at cost to any person requiring the certificates, tags, and glue. Only those certificates, tags, and glue distributed by the department may lawfully be used under this part."

Section 2699. Section 81-9-403, MCA, is amended to read:

"81-9-403. Seizure and sale of hides when ownership cannot be determined — disposition of proceeds. (1) A state stock inspector or other officer who has authority to make an inspection of a slaughtered beef, veal, or hide of a beef or veal may seize and hold the hide when on inspection the officer finds that the brand is so altered, obliterated, or defaced that the original brand cannot be determined by a reasonable inspection or when ~~he the inspector or~~ *officer* finds that ownership cannot be established by the brand or by other satisfactory proof.

(2) If, within 15 days after the seizure of the hide, proof of ownership cannot be established either by brand, bill of sale, or otherwise, the *inspector or* officer may sell the hide at the best available price and remit the proceeds, less the cost of processing, storing, and selling, to the department together with a full report of ~~his the~~ investigation. The report ~~shall~~ *must* contain a statement of the reason for the seizure and sale together with any tendered proof of ownership of any party. The proceeds ~~shall~~ *must* be deposited by the department with the state treasurer and credited to the stock estray fund, where it ~~shall be~~ *is* subject to claim by a party showing proper proof of ownership in the same manner as provided in 81-4-605."

Section 2700. Section 81-20-204, MCA, is amended to read:

"81-20-204. Certificate of candling or packing. ~~Every~~ *A* person buying eggs for resale at retail, except persons or firms who do not buy and sell more than 25 cases of eggs per month, shall candle all eggs offered to ~~him~~ *the person that* have not been candled under supervision of a licensed egg grader and shall refuse to buy eggs unfit for human food as defined in 81-20-205.

“Rejects” shall *Rejects must* be returned to the producer, if possible, or, if requested, the candling shall *must* be done in the presence of the producer. A certificate shall *must* be placed in or on every case of eggs, if candled and graded, in a manner which *that* permits its easy reading and shall *must* state *the* exact grade and size, *the* date of candling or other date approved by the department of livestock, and *the* name and address of *the* packer. If *the eggs are* not candled or graded, the certificate should state “not candled or graded”, the name of the dealer, and when packed. The certificate shall *must* be printed in letters large enough to be easily read.”

Section 2701. Section 81-20-209, MCA, is amended to read:

“81-20-209. Revocation of license. A license issued by the department of livestock under this part may be revoked by the department when the holder of the license fails to comply with the laws of this state which *that* apply to the conduct of *his the* business under the license. If a firm, person, or corporation whose license has been revoked by the department continues to buy, sell, or deal in eggs without a license, ~~he~~ *the firm, person, or corporation* is guilty of a misdemeanor and is subject to the penalties provided for in 81-20-208.”

Section 2702. Section 81-21-102, MCA, is amended to read:

“81-21-102. Licensing of milk plants and dairies selling milk or cream for public consumption. (1) It is unlawful for the following businesses to operate in this state without first obtaining a license from the department:

(a) a dairy selling milk or cream for public consumption in the form in which it is originally produced;

(b) a condensed, evaporated, or powdered milk plant;

(c) a fluid milk plant.

(2) A license expires on December 31 of the year issued. The department may, following the procedures in the Montana Administrative Procedure Act, deny, suspend, or revoke a license when it determines that a person to whom the license is issued has failed to comply with the rules of the department or has failed to conduct ~~his~~ *the person's* establishment in a sanitary manner. All license fees collected shall *must* be deposited into the general fund.

(3) The department may issue a restraining order prohibiting a dairy from selling or giving away milk or cream not produced or handled under the laws of this state or the rules of the department. It is unlawful for a dairy, while restrained, to sell or give away for public consumption milk or cream produced or handled by the dairy, and it is also unlawful for a dairy products manufacturing plant, milk plant, or cream station to purchase or use the cream or milk from a dairy while the dairy is restrained.

(4) The department shall establish license fees for the following facilities:

(a) a condensed, evaporated, or powdered milk factory;

(b) a fluid milk plant; and

(c) a dairy.

(5) A person violating this section is guilty of a misdemeanor.”

Section 2703. Section 81-22-203, MCA, is amended to read:

“81-22-203. Renewal, suspension, or revocation of license — grounds — hearing — appeal to district court. (1) The department may *revoke*, deny renewal of, or suspend, ~~or revoke~~ a license issued under this part or its rules for cause or failure to comply with this chapter or with the rules, testing

procedures, or methods adopted under this chapter or when the department has reason to believe that the licensee's products may be detrimental to or jeopardize the health and welfare of the public.

(2) Before revoking, denying renewal of, or suspending a license, the department shall give written notice of its intention to revoke, deny, or suspend the license and its reasons ~~therefor~~ *for the revocation, denial, or suspension*. The department shall give the licensee a time limit of 10 days from receipt of the notice during which the licensee may request a hearing to show cause why ~~his~~ *the* license should not be revoked, denied, or suspended. The notice ~~shall~~ *must* be sent by certified mail, or personal service may be made on the licensee by a representative of the department. Failure of the licensee to request a hearing within the time allowed by the department is considered as ~~his~~ *the licensee's* desire not to contest the department's reasons for ~~suspending, revoking, denying, or revoking~~ *suspending* the license.

(3) If the licensee ~~does request~~ *requests* a hearing, the department shall appoint a time and place for an administrative hearing in the county where the licensee is licensed.

(4) The date established for the hearing ~~must~~ *may* be not less than 10 days or more than 30 days after receipt of the licensee's request for the hearing. A request for a hearing ~~shall serve~~ *serves* as a bar to prosecution until a decision from the department becomes final. The licensee at the hearing may testify or present evidence having a bearing on the *revocation, denial, or suspension*; ~~or revocation of his~~ *the* license, and after hearing all the evidence, the department shall make a determination. If a license is ~~suspended~~ *revoked*, denied, or ~~revoked~~ *suspended*, it may not be reinstated until examination or inspection by the department shows that the cause for ~~suspension~~ *revocation, denial, or revocation* *suspension* has been eliminated or corrected.

(5) It is unlawful for a licensee to carry on the business or operations for which ~~he~~ *the licensee* was licensed, during the term of suspension or revocation, and if ~~he~~ *the licensee* does so, the licensee is subject to the penalties provided in the chapter.

(6) A licensee who is aggrieved by the decision of the department in matters pertaining to ~~suspension~~ *revocation, denial, or revocation* *suspension* of a license may appeal, within 30 days after the date of determination by the department, to the district court of the county in which ~~he~~ *the licensee* was licensed, if in the state, or in the case of a business firm of any nature in the state, of the county of its principal place of business.

(7) If a license is revoked a new license must be obtained from the department, but a new license may be issued only when the cause for revocation has been corrected."

Section 2704. Section 81-22-205, MCA, is amended to read:

"81-22-205. Examination and licensing of persons engaged in testing. (1) A person may not operate a butterfat, protein, solids, or other component content test where milk or cream is bought and paid for on the basis of these values without first passing an appropriate examination and obtaining the license required by the department. A person desiring to operate these tests shall apply to the department for permission to take the butterfat, protein, solids, or other component content test operator's examination. The examination ~~shall~~ *must* be given to the applicant by the department. On passing the examination to the satisfaction of the department, the applicant ~~shall~~ *must* be issued a license authorizing ~~him~~ *the applicant* to conduct these tests in this

state. The department shall establish a fee to be paid for each license and for each renewal.

(2) Milk and cream tester's licenses may be revoked, suspended, or denied ~~where~~ *when* testing is not conducted under official test procedures or under department rules. If the tester regularly or habitually reports results below the actual values of the butterfat, protein, solids, or other compound component values, the licensee is subject to the penalties provided in this chapter. A person who alters the results of an official test is subject to the penalties provided in this chapter."

Section 2705. Section 81-22-207, MCA, is amended to read:

"81-22-207. License — issuance and penalty. (1) All licenses issued under this part are issued as a matter of privilege, rather than as a matter of right, and only after proper qualifications under the rules of the board.

(2) All licenses issued under this part are valid, unless ~~sooner~~ suspended or revoked for cause, from the date of issue through December 31 of the year in which issued. All licenses ~~shall~~ *must* be renewed by ~~the first~~ January 31 following the date of *the* license expiration on payment of the required fee.

(3) All licenses issued under this part ~~shall~~ *must* be posted in conspicuous view at the place of business.

(4) Licenses issued under this part are not transferable from place to place or person to person.

(5) Penalties of \$5 per month or fraction of a month from January 31 of each year may be imposed by the department for a failure to apply for a license under this part. Regulatory action may not be taken against a ~~dairyman~~ *dairy producer* licensed under this part until 2 years following the adoption of rules under this chapter."

Section 2706. Section 81-22-402, MCA, is amended to read:

"81-22-402. Employment of grader, weigher, and sampler — revocation of operator's license. (1) Persons receiving or purchasing milk or cream and persons collecting milk or cream on milk or cream routes shall provide a licensed grader, weigher, and sampler at each receiving station or for each route.

(2) A person who knowingly employs an unlicensed person as a grader, weigher, and sampler or one whose license has been revoked or suspended is subject to revocation of ~~his~~ *that person's* own license to operate a manufactured dairy products plant or cream or milk receiving station or to the penalties prescribed in this chapter."

Section 2707. Section 81-22-415, MCA, is amended to read:

"81-22-415. Pasteurization labeling. It is unlawful for a person to sell, offer for sale, exchange, or ~~to~~ have in ~~his~~ *the person's* possession ~~for these purposes~~ milk, cream, or a manufactured dairy product in a container or package marked; ~~or~~ labeled; or in any way designating the contents of the container or package as "pasteurized"; unless it has been treated by an approved process of pasteurization as required by the department."

Section 2708. Section 81-23-201, MCA, is amended to read:

"81-23-201. Licenses to producers, producer-distributors, distributors, and jobbers. In ~~any~~ *a* market where the provisions of this chapter apply, it is unlawful for a producer, producer-distributor, distributor, or jobber to produce, transport, process, store, handle, distribute, buy, or sell milk

unless the dealer is properly licensed as provided by this chapter. It is unlawful for a person to buy, sell, handle, process, or distribute milk ~~which he~~ *that the person* knows or has reason to believe has been previously dealt with or handled in violation of any provision of this chapter. The department may decline to grant a license or may suspend or revoke a license already granted; upon due cause and after hearings.”

Section 2709. Section 81-23-305, MCA, is amended to read:

“81-23-305. Financing prohibitions — producer and retailer. (1) A producer, producer-distributor, distributor, or jobber licensed under this chapter may not advance or loan money or credit to or furnish money or credit for or refinance or cosign or guarantee promissory notes, security agreements, conditional sales contracts, or other commercial paper for or on behalf of a retailer. A producer, producer-distributor, distributor, or jobber may not be financially interested, either directly or indirectly, in the conduct or operation of the business of a retailer. A producer-distributor, distributor, or jobber licensed under this chapter may not advance or loan money or credit to or furnish money or credit for or refinance or cosign or guarantee promissory notes, security agreements, conditional sales contracts, or other commercial paper for or on behalf of a producer. A producer-distributor, distributor, or jobber may not be financially interested, either directly or indirectly, in the conduct or operation of the business of a producer. This section does not prohibit a producer from belonging to, participating in, or patronizing a cooperative corporation or a producer, producer-distributor, distributor, or jobber from operating ~~his~~ *the person's own wholly-owned wholly owned* dairy products or other retail store or home-delivery retail routes.

(2) This section does not prohibit a producer from requesting and a distributor from granting an advance payment for milk before the regular date of payment for milk or limit in any way the right of a producer to assign part or all of ~~moneys which are~~ *money that is* or may become due to ~~him~~ *the producer* from a distributor.”

Section 2710. Section 81-23-403, MCA, is amended to read:

“81-23-403. Disposition of fines. (1) All fines assessed by a court, other than a justice’s court, for violation of this chapter ~~shall~~ *must* be paid by the court to the department.

(2) All fines received by the department ~~shall~~ *must* be deposited with the state treasurer and ~~shall~~ *must* be placed by ~~him~~ *the treasurer* in the state special revenue fund. Fines assessed for violations of this chapter are earmarked for the purposes of this chapter.”

Section 2711. Section 82-1-105, MCA, is amended to read:

“82-1-105. Exploration permit. (1) Upon compliance with the provisions ~~herein contained of this section~~, namely the filing of a notice of intention to engage in the exploration and a certificate (or ~~photostatic a copy thereof~~) *of the certificate* from the secretary of state certifying the name and address of the resident agent for service of process for the person, firm, or corporation desiring to engage in the exploration and certifying that the required surety bond has been filed with the secretary of state, the county clerk and recorder shall issue to the person, firm, or corporation a “geophysical exploration permit”.

(2) The permit ~~shall~~ *must* show:

(a) the name of the person, firm, or corporation and *the* principal place of business;

- (b) if a firm or corporation, the names and addresses of its officers;
 - (c) the name and address of the resident agent for service of process for the person, firm, or corporation;
 - (d) that a notice of intention to engage in geophysical exploration has been ~~duy~~ filed; and
 - (e) that a good and sufficient surety bond has been filed by the person, firm, or corporation, naming the surety company and giving its address.
- (3) The permit ~~shall must~~ be signed by the county clerk and recorder or ~~his~~ *the clerk and recorder's* deputy and bear the official county seal. The permit ~~shall be~~ *is* valid and effective for all geophysical crews of the permittee during the calendar year in which it is issued.
- (4) The cost of the permit ~~shall be is~~ \$5 per calendar year or any portion ~~thereof of the calendar year~~ for which issued, and the ~~revenues~~ *revenue* realized ~~therefrom shall from the permit must~~ go to the county ~~so~~ issuing ~~the permit~~. ~~Such~~ *The* funds ~~as are realized shall must~~ be applied toward payment of the cost of printing the permits, which ~~shall must~~ be printed at the county seat, and excesses ~~shall must go into~~ *be deposited in* the county's general fund.
- (5) If printed forms are not available at the time any person, firm, or corporation desires the permit and qualifies for its issuance, ~~a~~ *a* typewritten or other form of reproduction of the permit may be used, the fee of \$5 ~~nevertheless~~ *shall must still* be paid for its issuance, and this fee ~~shall must~~ be disposed of in the same manner.
- (6) The permit or a ~~photostatic copy thereof shall of the permit must~~ be carried by the person or by the agent of the firm or corporation at all times during the period of the geophysical exploration and ~~shall must~~ be exhibited upon demand of any county or state official."

Section 2712. Section 82-1-108, MCA, is amended to read:

"82-1-108. Filing record of work performed. (1) Within 3 months from the day ~~that~~ any firing of shotpoints in seismic exploration is done by ~~any a~~ person, firm, or corporation within this state, ~~such the~~ person, firm, or corporation shall file with the county clerk and recorder of the county in which the work was done a record showing each township and range within the county in which the work was performed and the approximate date on which the work was performed.

(2) ~~Such The~~ person, firm, or corporation shall file with the county clerk and recorder a record showing the location of each shotpoint and date fired within a maximum area of any square, 4-section area of land, upon written request of the county clerk and recorder. The request must be based upon the complaint of a property owner that physical damage to ~~his the~~ *the owner's* property has resulted from the use of the seismograph and explosives in seismic operations at some location within the maximum 4-square mile area, and the request ~~shall must~~ designate the name and address of the complaining person and the approximate date and nature of the alleged damages. The required record of operations in response to the request of the county clerk and recorder ~~shall must~~ be supplied within 30 days from the date on which the request is received."

Section 2713. Section 82-1-202, MCA, is amended to read:

"82-1-202. Action to compel release — procedure without court action. (1) If the lessee or assignee ~~thereof of a lease~~ neglects or refuses to execute a release as provided by this part, the owner of the leased premises may sue in any court of competent jurisdiction to obtain the release, and in ~~such that~~

action ~~he also~~ *the owner* may *also* recover from the lessee, ~~his or the lessee's~~ successor, or assigns the sum of \$100 as damages, all costs, together with a reasonable attorney fee *fees* for preparing and prosecuting the suit, and any additional damages that the evidence in the case warrants. Writs of attachment may issue as in other cases. If in the action the plaintiff fails to establish the forfeiture of the lease, ~~an~~ attorney fee *fees* must be allowed to the lessee or assignee of the lease. Issues in regard to attorney fees ~~shall~~ *must* be determined in the same manner as other issues in ~~such~~ *those* actions.

(2) When, by its terms, an oil or gas lease has expired and is subject to forfeiture for nonperformance and more than 3 years have elapsed since the expiration, the owner of the leased premises, in addition to all other remedies, may serve a written notice on the lessee or on the assignee ~~thereof of the lease,~~ and ~~the~~ *which* notice ~~shall~~ *must* state:

(a) the names of the lessor, lessee, and assignee ~~thereof of the lease~~ if assigned;

(b) the date of the lease and the date of the expiration ~~thereof of the lease~~;

(c) the description of the lands leased;

(d) the place, book, and page where the lease is recorded; and

(e) that if the lessee or assignee fails to execute a release of record of the lease or abstract of the lease, the lease ~~shall~~ *must* be terminated and *is* of no effect and ~~shall~~ *must* cease to be a lien upon the lands described ~~therein in the lease,~~ unless the lessee or the assignee ~~thereof of the lease,~~ within 60 days from the date of service of the notice, files, in the county clerk's office in the county where the lease or abstract of ~~such~~ *the* lease is recorded, an affidavit stating that the lease is in effect and delivers a copy ~~thereof of the lease~~ to the owner of the leased lands.

(3) If the lessee or the assignee ~~thereof of the lease~~ resides in the county where the lease or abstract of the lease is recorded, the notice ~~shall~~ *must* be personally served on that person. If the lessee or the assignee ~~thereof of the lease~~ does not reside in that county but ~~his~~ *the lessee's or assignee's* address appears on the records in that county clerk's office or is otherwise known, the notice ~~shall~~ *must* be mailed by certified mail to that person at that address, and in addition ~~thereto~~ the notice ~~shall~~ *must* be published once a week for 2 consecutive weeks in a newspaper of general circulation in the county in which the lands are situated. If the address of the lessee or assignee is unknown, the notice ~~shall~~ *must* be published in the manner provided ~~above~~ *in this subsection*. The date of service of the notice, if served personally, the date of mailing, if served by mail, and the first date of publication of the notice, if published, must be at least 60 days before the date of termination referred to in the notice.

(4) Upon the expiration of the time mentioned in the notice, if the affidavit of the lessee or assignee has not been filed as ~~herein~~ *provided in this section*, the owner of the leased lands shall file an affidavit of service of the notice in the county clerk's office of the county in which the lands are located, and the affidavit ~~shall~~ *must* be kept as a permanent file in ~~his~~ *the clerk's office,* and ~~this~~. *This* proof of notice when ~~so~~ filed is prima facie evidence of the sufficiency of the notice, and from the filing ~~thereof of the notice~~ the lease is terminated and the lands *are* released from the lien ~~thereof of the lease.~~

Section 2714. Section 82-1-203, MCA, is amended to read:

"82-1-203. Demand for release prior to action. At least 20 days before bringing the action provided for in this part, the owner of the leased land, either

by himself personally or by his the owner's agent or attorney, shall demand of the holder of the lease, if such the demand by ordinary diligence can be made in this state, that said the lease or abstract of such the lease be released of record. Such The demand must be written. When written, a copy thereof, when shown to be such a copy, may be used as evidence in any court with the same force and effect as the original."

Section 2715. Section 82-2-101, MCA, is amended to read:

"82-2-101. Manner of locating claim. Any A person who discovers upon the public domain of the United States, within the state of Montana, a vein, lode, or ledge of rock in place bearing gold, silver, cinnabar, lead, tin, copper, or other valuable deposits or a placer deposit of gold or other deposit of minerals having a commercial value which that is subject to entry and patent under the mining laws of the United States may, if qualified by the laws of the United States, locate a mining claim upon such the vein, lode, ledge, or deposit in the following manner:

(1) He The person shall post conspicuously at the point of discovery a written or printed notice of location containing the name of the claim, the name of the locator or locators, if there be is more than one, the date of the location, which shall must be the date of posting such the notice, and the approximate dimensions of the area of the claim intended to be appropriated.

(2) Within 30 days after posting the notice of location, he the person shall distinctly mark the location on the ground so that its boundaries can be readily traced. It shall be is prima facie evidence that the location is properly marked if the boundaries are defined by a monument at each corner or angle of the claim, consisting of any one of the following kinds:

(a) a tree at least 8 inches in diameter and blazed on four sides;

(b) a post at least 4 inches square by 4 feet 6 inches in length, set 1 foot in the ground, unless solid rock should occur at a less depth, in which case the post should be set upon such the rock and surrounded in all cases by a mound of earth or stone at least 4 feet in diameter by 2 feet in height. A squared stump of the requisite size, surrounded by such a mound, shall must be deemed considered the equivalent of a post and mound.

(c) a stone at least 6 inches square by 18 inches in length, set two-thirds of its length in the ground, with a mound of earth or stone alongside at least 4 feet in diameter by 2 feet in height; or

(d) a boulder at least 3 feet above the natural surface of the ground on the upper side. Where When other monuments or monuments of lesser dimensions than those above described in subsections (2)(a) through (2)(c) are used, it shall be is a question for the jury or for the court where the action is tried without a jury as to whether the location has been marked upon the ground so that its boundaries can be readily traced. Whatever monument is used, it must be marked with the name of the claim and the designation of the corner, either by number or cardinal point.

(3) Within 60 days after posting such notice, the locator shall comply with the United States mining laws."

Section 2716. Section 82-2-102, MCA, is amended to read:

"82-2-102. Record of certificate of location. (1) Within 60 days after posting the notice of location, the locator shall record his the location in the office of the county clerk of the county in which the mining claim is situated. The record shall must consist of a certificate of location for each claim containing:

- (a) the name of the lode or claim and whether located as a lode or placer claim;
- (b) the name of the locator or locators, if there ~~be is~~ more than one, together with the post-office address of ~~such the~~ locator or locators;
- (c) the date of location and the description of the claim, with reference to some natural object or permanent monument, ~~as that~~ will identify the claim and the section, township, and range ~~wherein in which~~ the claim is situated by projected survey lines; if located in unsurveyed country; *and*
- (d) the directions and distances from the discovery point ~~which that~~ describe the claim.

(2) The certificate of location must be verified before ~~some an~~ officer authorized to administer oaths by the locator or one of the locators, if there ~~be is~~ more than one, or by *an* authorized agent. In the case of a corporation, the verification may be made by ~~any an officer thereof of the corporation~~ or by an authorized agent. When the verification is made by an agent, the fact of the agency ~~shall must~~ be stated in the affidavit. A *verified* certificate of location ~~so verified~~ or a certified copy ~~thereof of the certificate~~ is prima facie evidence of all facts properly recited ~~therein in the certificate~~. Failure of the locator or locators to record a certificate of location as ~~herein~~ required ~~shall create in this section creates~~ a prima facie presumption of intent to abandon. However, recordation after the 60-day period but before the ground is located by another renews the location and saves the rights of the original locator. Nothing contained in 82-2-112 affects the prima facie presumption created by this section.”

Section 2717. Section 82-2-103, MCA, is amended to read:

“82-2-103. Affidavit of performance of annual work. (1) The owner of a lode or placer claim who performs or causes to be performed the annual work or makes the improvements required by the laws of the United States, as permitted and defined by laws of the United States, in order to prevent the forfeiture of the claim, ~~must shall~~, within 90 days after the expiration of the federal annual assessment work period, file in the office of the county clerk of the county in which ~~such the~~ claim or claims is situated ~~an the owner’s affidavit of his own~~ or an affidavit of the person who performed ~~such the~~ work or made the improvements, showing:

- (a) the name of the mining claim or claims;
- (b) the location of the claim or claims by section, township, and range, by projected survey lines if located in unsurveyed country;
- (c) the book and page numbers ~~wherein in which~~ the original or latest amended relocation for each claim is recorded;
- (d) the number of ~~days’~~ *days of* work done and the character and value of the improvements placed ~~thereon on the claim~~ or the verified report required by United States mining law if geological, geophysical, or geochemical work or labor is being relied upon;
- (e) the dates between which ~~such the~~ work or improvements were effected;
- (f) at whose instance the work was done or the improvements *were* made; *and*
- (g) the actual amount paid for work and improvements and by whom paid when the ~~same was work and improvements were~~ not done by the owner.

(2) Annual assessment work may be performed or caused to be performed at one or more points within a group of contiguous claims and may be utilized to

satisfy annual assessment work requirements upon the group of contiguous claims. ~~Said~~ The point or points of work may be performed upon a patented claim. If annual assessment work is performed or caused to be performed at one or more points within a group of contiguous claims, the affidavit of performance of assessment work must be filed for the group of claims. The affidavit, in addition to requirements established by this section for affidavits of performance of assessment work, must contain a description and location of the work done upon the group at a point or points within the group, the specific names of all the claims in the group for whose benefit the work was performed, and the total cost of the work performed.

(3) If group work is claimed for a group of claims crossing county lines, the affidavit required by this section ~~shall~~ *must* be filed for recording within the required time in each of the counties in which ~~such~~ *the* claims are located.

(4) An affidavit of performance of annual assessment work must be verified before some officer authorized to administer oaths by the locator or one of the locators, if there be *is* more than one, or by *an* authorized agent. In the case of a corporation, the verification may be made by ~~any an officer thereof of the corporation~~ or by an authorized agent. When the verification is made by an agent, the fact of the agency ~~shall~~ *must* be stated in the affidavit. ~~Such~~ *The* affidavit or a certified copy ~~thereof of the affidavit~~ is prima facie evidence of the facts ~~therein~~ *stated in the affidavit*. The failure to file ~~such~~ *the* affidavits within the period allowed ~~therefor~~ *shall be is* prima facie evidence that ~~such~~ *the* labor has not been performed and that the owner of the claim or claims has abandoned and surrendered ~~same~~ *the claim or claims*.”

Section 2718. Section 82-2-105, MCA, is amended to read:

“82-2-105. Relocation of abandoned claim. The relocater of an abandoned or forfeited mining claim may adopt as ~~his~~ *the relocater’s* discovery any shaft or other working existing upon ~~such~~ *the* claim at the date of the relocation in which the vein, lode, or deposit is disclosed, but in ~~such~~ *that* shaft or other working, ~~he~~ *the relocater* shall perform the same discovery work as *that* is required in the case of an original location.”

Section 2719. Section 82-2-106, MCA, is amended to read:

“82-2-106. Rights of relocater. The rights of a relocater of any *relocated* abandoned or forfeited mining claim ~~hereafter relocated~~ ~~shall~~ date from the posting of ~~his~~ *the relocater’s* notice of location ~~thereon on the claim~~, and while ~~he~~ *the relocater* is *duly* performing the acts required by law to perfect ~~his~~ *the* location, ~~his~~ *the relocater’s* rights ~~shall~~ *may* not be affected by any reentry or resumption of work by the former locator or claimant.”

Section 2720. Section 82-2-107, MCA, is amended to read:

“82-2-107. Amended location. A locator or claimant may at any time amend ~~his~~ *the* location and make any change in the boundaries ~~which~~ *that* does not involve a change in the point of discovery as shown by the discovery shaft by marking the location as amended upon the ground and filing an amended certificate of location conforming to the requirements of an original certificate of location. A defect in a recorded certificate of location may be cured by filing an amended certificate.”

Section 2721. Section 82-2-108, MCA, is amended to read:

“82-2-108. Relocation by owner. A locator or claimant may at any time relocate ~~his~~ *the locator’s or claimant’s* own claim for any purpose, except to avoid the performance of annual labor ~~thereon on the claim~~, and, by ~~such~~ *the*

relocation, may change the boundaries of ~~his~~ *the* claim, ~~or~~ the point of discovery, or both. ~~but such~~ *However, the* relocation must comply in all respects with the requirements of this ~~law part~~ as to an original location.”

Section 2722. Section 82-2-109, MCA, is amended to read:

“82-2-109. Amendment or relocation not a waiver of acquired rights. ~~Where~~ *When* a locator or claimant amends or relocates ~~his~~ *the* ~~locator's or claimant's~~ own claim, ~~such~~ *the* amendment or relocation ~~shall~~ *may* not be construed as a waiver of any right or title acquired by ~~him~~ *the* ~~locator or claimant~~ by virtue of the previous location or record ~~thereof of that location~~, except as to ~~such~~ portions of the previous location ~~as that~~ may be omitted from the boundaries of the claim as amended or relocated. As to the portion of ground included both in the original location and the location as amended or relocated, ~~he~~ *the* ~~locator or claimant~~ may rely either upon the original location or the location as amended or relocated or upon both; ~~provided that nothing herein contained shall~~ *However, this section may not* be construed as permitting the locator or claimant to hold a tract ~~which that~~ does not include a valid discovery.”

Section 2723. Section 82-2-112, MCA, is amended to read:

“82-2-112. Defective locations good against persons with notice. The period of time prescribed by this ~~law part~~ for the performance of any act ~~shall~~ *may* not be ~~deemed considered~~ mandatory ~~where if~~ the act is performed before the rights of third persons have intervened, and ~~no~~ a defect in the posted notice or recorded certificate ~~shall~~ *may not* be ~~deemed considered~~ material, except as against one who has located the same ground or some portion ~~thereof of the same ground~~ in good faith and without notice. Notice to an agent who makes a location ~~in~~ on behalf of another ~~shall~~ *must* be ~~deemed considered~~ notice to ~~his~~ *the* ~~agent's~~ principal, and notice to one of several coclaimants ~~shall~~ *must* be ~~deemed considered~~ notice to all.”

Section 2724. Section 82-2-114, MCA, is amended to read:

“82-2-114. Amended locations. If, at any time, the locator of ~~any a~~ mining claim heretofore or hereafter located or ~~his~~ *the* ~~locator's~~ successors or assigns ~~shall~~ *apprehend* ~~determine~~ that ~~his~~ *the* original declaratory statement was defective or erroneous, ~~or~~ ~~determine~~ that the requirements of law ~~had~~ were not been complied with, or ~~shall~~ *be desirous of changing his* ~~want to change~~ the boundaries or ~~taking~~ *take* in any part of an overlapping claim ~~which that~~ has been abandoned or ~~in case his~~ *if the* original declaratory statement was filed prior to the passage of this law and ~~he~~ *shall* ~~be desirous of securing~~ *the* ~~locator or the locator's successor's or assigns~~ *want* the benefit of this part, ~~such~~ *the* locator or ~~his~~ *the* successors or assigns may file an additional or amended declaratory statement subject to the provisions of this part; ~~provided that such~~ *However, the* relocation or filing of the amended or additional declaratory statement ~~shall~~ *may* not interfere with the existing rights of others at the time of ~~such~~ *the* relocation or filing of the amended or additional declaratory statement, and ~~no~~ ~~such~~ *the* relocation or amended or additional declaratory statement or other record ~~thereof~~ *shall* ~~may not~~ preclude the claimant or claimants from proving any ~~such~~ title ~~as he or they~~ *that the claimant* may have held under the previous location and notice ~~thereof~~.”

Section 2725. Section 82-2-115, MCA, is amended to read:

“82-2-115. Filing of false mining claims. ~~Every~~ *A* person who ~~shall~~ *offer* ~~offers~~ ~~any a~~ location certificate for a placer mining claim or lode claim or affidavit of assessment work to be filed in an office of a county clerk of this state ~~on the person's own behalf of himself~~ or for any other person or ~~any a~~ person who

~~shall procure~~ *procures* others to do so, knowing that ~~such the~~ claim, or certificate, or affidavit was not preceded by a proper location of the claim physically upon the ground by the establishment of a proper notice of claim and the designation of the surface boundaries of the claim by substantial posts or monuments as required by the laws of the state, shall be punished by imprisonment in the state ~~penitentiary prison~~ for not more than 5 years, or by a fine of not more than \$5,000, or by both."

Section 2726. Section 82-2-203, MCA, is amended to read:

"82-2-203. Proceedings to obtain right-of-way. Whenever ~~such the~~ owner desires to work a mine or mining claim and it is necessary to enable ~~him~~ *the owner* to do so successfully and conveniently that ~~he the owner~~ should have a right-of-way for any of the purposes mentioned in ~~the foregoing sections 85-2-201 and 85-2-202~~ and if ~~such the~~ right-of-way has not been acquired by agreement between ~~him the owner of the mining claim~~ and the owner of the land or claims over, under, across, and upon which ~~he the mining claim owner~~ seeks to establish ~~such the~~ right-of-way, it is lawful for ~~him the mining claim owner~~ to present to the judge of the district court a complaint asking that ~~such the~~ right-of-way be awarded ~~to him~~. The complaint must be verified and contain a particular description of the character and extent of the right sought, a description of the mine or mining claim of the owner, and the mining claim or claims and the ~~lands land~~ to be affected by ~~such the~~ right-of-way, with the names of the occupants or owners ~~thereof, of the affected land~~ and may also set forth any tender or offer ~~hereinafter mentioned~~."

Section 2727. Section 82-2-205, MCA, is amended to read:

"82-2-205. Court order and appointment of commissioners. Upon the return of the summons or upon any day to which the hearing is adjourned, the defendants may answer, and issue must be joined, and the judge ~~must shall~~ hear the allegations and proofs of the respective parties. If, upon ~~such the~~ hearing, the judge is satisfied that the claims of the plaintiff ~~can may~~ be worked conveniently only by means of the privilege asked for, ~~he must the judge shall~~ make an order adjudging and awarding to the plaintiff ~~such the~~ right-of-way and ~~must shall~~ appoint three commissioners who are disinterested persons and residents of the county to assess the damages to the lands or claims affected by ~~such the~~ order."

Section 2728. Section 82-2-401, MCA, is amended to read:

"82-2-401. Samplerooms required. ~~Any~~ A person, association, or corporation engaged in the business of buying or sampling or smelting for hire ores of gold, silver, copper, lead, zinc, iron, or other valuable metal shall maintain a ~~sampling room~~ *sampling room* or house to which the ore shippers, or their agents, or representatives ~~shall must~~ have access at all times during the sampling of ores or while the ~~same~~ *sampling* is being carried on and in which ~~shall must be maintained~~ samples of all ores ~~he or they that the person, association, or corporation~~ may buy or smelt."

Section 2729. Section 82-2-402, MCA, is amended to read:

"82-2-402. Samples of fifty 50 pounds per ton to be retained until settlement. A person, association, or corporation ~~which that~~ buys ~~any ores ore~~ upon an agreement to pay for ~~them if~~ in an amount dependent upon ~~their the~~ metallic contents or ~~that~~ smelts any ore shall retain from the pulp or crushed ore, as the ~~same ore~~ is sampled, a quantity of not less than 50 pounds out of each ton of ore, ~~which~~ *The* quantity ~~shall must~~ be selected regularly and at equal intervals from any lot of ore ~~so~~ bought or to be smelted, and ~~the person,~~

association, or corporation shall keep this quantity separate from any other ~~ores ore~~ or pulp for a period of 30 days or until full settlement is made and accepted by the shipper. Until full settlement is made and accepted, the ore shipper, ~~his or the shipper's~~ agents, or representatives may take *any part* from the quantity ~~so retained any part thereof~~ for the purpose of sampling or assaying that part; ~~however~~ *However*, the value of any part ~~so~~ taken by the owner or shipper may be deducted from the total value of the ore delivered by ~~him~~ *the owner or shipper*.”

Section 2730. Section 82-2-405, MCA, is amended to read:

“82-2-405. Notice of selection. Upon the selection of the umpire, who ~~shall~~ *must* be actively engaged in the assaying business in this state, the person, association, or corporation selecting ~~him~~ *the umpire* shall, within 10 days after the selection is made, post a notice of the selection in a conspicuous place within and ~~without~~ *outside* the room or house where the sampling of ~~ores ore~~ is carried on by the person, association, or corporation.”

Section 2731. Section 82-2-421, MCA, is amended to read:

“82-2-421. Time for payment for ores. (1) ~~Every~~ *A* person, association, company, or corporation engaged within this state in purchasing ~~ores ore~~, minerals, or metals from or in smelting, milling, or otherwise reducing or preparing the same for market for any other person or persons, association, company, or corporation shall, within 20 days after any ~~such ores ore~~, minerals, or metals ~~shall~~ have arrived at ~~his, their,~~ *the person's or its entity's* smelter, mill, reduction works, yards, or other place for receiving ~~such ores ore~~, minerals, or metals, make full settlement with and payment of the amount due to the consignor or consignors ~~thereof~~, unless restrained or prevented from making ~~such the~~ settlement and payment by an order, writ, or process of a court of competent jurisdiction.

(2) ~~However, the~~ *The* provisions of this section ~~shall~~ *are* not be applicable to any ~~such ores ore~~, minerals, or metals received pursuant to an existing written contract at *the* time of shipment between the consignor or consignors ~~thereof~~ and the person, association, company, or corporation receiving the same, ~~where~~ *when* the time for settlement and payment is provided for in ~~such the~~ contract.”

Section 2732. Section 82-4-142, MCA, is amended to read:

“82-4-142. Mandamus to compel enforcement. (1) A resident of this state, ~~with who has~~ knowledge that a requirement of this part or a rule adopted under this part is not being enforced by a public officer or employee whose duty it is to enforce the requirement or rule, may bring the failure to enforce to the attention of the public officer or employee by a written statement under oath that ~~shall~~ *must* state the specific facts of the failure to enforce the requirement or rule. Knowingly making false statements or charges in the affidavit subjects the affiant to penalties prescribed in 45-7-202.

(2) If the public officer or employee neglects or refuses for an unreasonable time after receipt of the statement to enforce the requirement or rule, the resident may bring an action of mandamus in the district court of the first judicial district of this state ~~in and for the county of Lewis and Clark~~ or in the district court of the county in which the land is located. If the court finds that a requirement of this part or a rule adopted under this part is not being enforced, it shall order the public officer or employee whose duty it is to enforce the requirement or rule to perform ~~his~~ *the* duties. ~~If he~~ *the officer or employee* fails to do so, the public officer or employee ~~shall~~ *must* be held in contempt of court and is subject to the penalties provided by law.”

Section 2733. Section 82-4-238, MCA, is amended to read:

“82-4-238. Successor operator. ~~Where~~ *When* one operator succeeds another at an uncompleted operation, either by sale, assignment, lease, or otherwise, the department may release the first operator from all liability under this part as to that particular operation if both operators have been issued a permit and have otherwise complied with the requirements of this part, and the successor operator assumes, as part of ~~his~~ *the* obligation under this part, all liability for the reclamation of the area of land affected by the former operator.”

Section 2734. Section 82-4-355, MCA, is amended to read:

“82-4-355. Action for damages to water supply — replacement. (1) An owner of an interest in real property who obtains all or part of ~~his~~ *the owner’s* supply of water for beneficial uses, as defined in 85-2-102, from an underground source other than a subterranean stream having a permanent, distinct, and known channel may sue the operator engaged in an operation for which a license is required pursuant to 82-4-332 or for which a permit is required pursuant to 82-4-335 to recover damages for loss in quality or quantity of the water supply resulting from mining or exploration. The owner is required to exhaust the administrative remedy under subsection (2) prior to filing suit.

(2) (a) An owner described in subsection (1) may file a complaint with the department detailing the loss in quality or quantity of water. Upon receipt of a valid complaint, the department:

(i) shall investigate the statements and charges in the complaint; using all available information, including monitoring data gathered at the exploration or mine site;

(ii) may require the operator, if necessary, to install monitoring wells or other practices that may be needed to determine the cause of water loss, if there is a loss, in terms of quantity and quality;

(iii) shall issue a written finding specifying the cause of the water loss, if there is a loss, in terms of quantity and quality;

(iv) shall, if it determines that the preponderance of evidence indicates that the loss is caused by an exploration or mining operation, order the operator, in compliance with Title 85, chapter 2, to provide the needed water immediately on a temporary basis and within a reasonable time replace the water in like quality, quantity, and duration. If the water is not replaced, the department shall order the suspension of the operator’s exploration or operating permit until ~~such time as~~ the operator provides substitute water, except that nothing in this section preempts *the application of* Title 85, chapter 2. The operator may not be required to replace a junior right if the operator’s withdrawal or dewatering is not in excess of ~~his~~ *the operator’s* senior right.

(b) If the department determines that there is a great potential that surface or subsurface water quality and quantity may be adversely affected by a mining or exploration operation, the operator shall install a water quality monitoring program; *or a* water quantity monitoring program, or both, which must be approved by the department prior to the commencement of exploration or mining.”

Section 2735. Section 82-10-103, MCA, is amended to read:

“82-10-103. Obligation to pay royalties as essence of contract — interest. (1) The obligation arising under an oil and gas lease to pay oil or gas royalties to the royalty owner or ~~his~~ *the owner’s* assignee, to deliver oil or gas to a purchaser to the credit of ~~such~~ *the* royalty owner or ~~his~~ *the owner’s* assignee, or to

pay a portion of the proceeds of the sale of ~~such~~ *the* oil or gas to the royalty owner or ~~his~~ *the owner's* assignee is of the essence in the lease contract.

(2) If the operator under an oil and gas lease fails to pay oil or gas royalties to the royalty owner or ~~his~~ *the owner's* assignee within 120 days after the initial oil or gas produced under the lease is marketed and within 60 days for all oil and 90 days for all gas produced and marketed ~~thereafter~~, the unpaid royalties ~~will~~ *must* bear interest, at the maximum rate of interest authorized under 31-1-107 from the date due until paid. The operator may remit semiannually to a person entitled to royalties the aggregate of 6 months' royalties whenever the aggregate amount is less than \$50 and annually whenever the aggregate amount is less than \$10.

(3) A royalty owner seeking a remedy for failure to make payments under the lease or seeking ~~such~~ payments under this section shall bring ~~his~~ *the* action in the district court for the county in which the oil or gas well is located, and that court has jurisdiction over any ~~such~~ actions brought under this section. The prevailing party in any proceeding brought under this section is entitled to recover ~~his~~ court costs and reasonable attorney fees.

(4) This section does not apply if a royalty owner or ~~his~~ *the owner's* assignee has elected to take ~~his~~ *the owner's or assignee's* proportionate share of production in kind or whenever there is a dispute as to the title of the minerals or entitlement to royalties, the outcome of which would affect distribution of royalty payments."

Section 2736. Section 82-10-401, MCA, is amended to read:

"82-10-401. Notice required before abandonment of well — owner's option. ~~No~~ A person shall *may not* plug and abandon an oil or gas well located within this state without first giving reasonable notice of ~~his~~ *the* intention to do so to the surface owner of record of the land on which ~~said~~ *the* well is located. Upon receipt of notice to plug and abandon, the surface owner may, by written notice given within 15 days ~~thereafter~~ *after notice*, direct that the well pipe for ~~said~~ *the* well shall *must* be buried to a depth of not less than 3 feet. The board of oil and gas conservation shall adopt regulations to implement this section."

Section 2737. Section 82-10-402, MCA, is amended to read:

"82-10-402. Inventory of abandoned wells and seismic operations — reclamation procedures. (1) The board of oil and gas conservation shall maintain a record of the abandoned oil or gas wells, injection wells, sumps, and seismographic shot holes in the state that disturb land, water, or wildlife resources to a degree not in compliance with plugging, pollution prevention, and reclamation rules of the board. This record must be compiled from petitions or written statements from the owners of surface rights or lessees.

(2) The board shall check the record compiled under subsection (1) against its drilling records and shall determine and list the name of the person who abandoned the well, sump, or hole, whenever this information is available. When a *listed* person ~~so-listed~~ applies to the board for a new drilling permit, the board may issue the permit only after approving a plan by which the applicant will reclaim the land disturbed by ~~his~~ *the person's* abandoned wells, sumps, or holes within 3 years.

(3) When the person who abandoned a well, sump, or hole cannot be identified or located or when the person does not have sufficient financial resources to pay for complete reclamation, the board may then reclaim the disturbed land with funds available from the oil and gas production damage

mitigation account in a manner consistent with the requirements for the use of the account provided in 82-11-161 and 82-11-164.

(4) As used in subsection (3), “well” includes a class II injection well, as defined in 82-11-101, for which a drilling permit or a permit authorizing use of a well for that purpose was granted by the board after June 30, 1989, and water source wells used in connection with enhanced recovery projects.”

Section 2738. Section 82-10-506, MCA, is amended to read:

“82-10-506. Notification of injury. To receive compensation under this part, a surface owner shall give written notice to the oil and gas developer or operator of the damages sustained by the surface owner within 2 years after the injury occurs or would become apparent to a reasonable ~~man~~ *person*.”

Section 2739. Section 82-10-507, MCA, is amended to read:

“82-10-507. Agreement — offer of settlement. Unless both parties provide otherwise by written agreement, within 60 days after the oil and gas developer or operator receives notice of damages pursuant to 82-10-506, ~~he~~ *the developer or operator* shall make a written offer of settlement to the person seeking compensation for the damages. The surface owner seeking compensation may accept or reject any offer.”

Section 2740. Section 82-11-103, MCA, is amended to read:

“82-11-103. Lands subject to law. This chapter applies to all lands in the state lawfully subject to its police powers, including all state-owned lands. It applies to lands of the United States or to lands subject to the jurisdiction of the United States only to the extent that control and supervision of conservation of oil and gas by the United States on its lands fails to effect the intent and purposes of this chapter and otherwise applies to those lands to the extent that any officer of the United States having jurisdiction or ~~his~~ *the officer’s* duly authorized representative approves any of the provisions of this chapter or an order of the board that affects those lands. This chapter also applies to any lands committed to a unit agreement approved by the secretary of the interior or ~~his~~ *the secretary’s* duly authorized representative, except that the board may, with respect to those unit agreements, suspend the application of this chapter or any part of this chapter so long as the conservation of oil and gas and the prevention of waste as provided in this chapter is accomplished under the unit agreements. The suspension does not relieve an operator or owner from making reports that may be required by the board with respect to operations and production under the unit agreement, and the suspension does not relieve an operator or owner from the payment of taxes on ~~his~~ oil and gas production or payment for permit fees as required by this chapter.”

Section 2741. Section 82-11-117, MCA, is amended to read:

“82-11-117. Confidentiality of records. (1) Any information that is furnished to the board or the board’s staff or that is obtained by either of them is a matter of public record and open to public use. However, any information unique to the owner or operator that would, if disclosed, reveal methods or processes entitled to protection as trade secrets must be maintained as confidential if so determined by the board.

(2) If an owner or operator disagrees with a determination by the board that certain material will not be maintained as confidential, the owner or operator may file a declaratory judgment action in a court of competent jurisdiction to establish the existence of a trade secret if ~~he~~ *the owner or operator* wishes ~~such~~

the information to enjoy confidential status. The department must be served in ~~any such~~ *the* action and may intervene as a party.

(3) Any information not intended to be public when submitted to the board or the board's staff must be submitted in writing and clearly marked as confidential.

(4) Data describing physical and chemical characteristics of a liquid, gaseous, solid, or other substance injected or discharged into state waters may not be considered confidential.

(5) The board may use any information in compiling or publishing analyses or summaries relating to water pollution if ~~such the~~ analyses or summaries do not identify the owner or operator or reveal any information that is otherwise made confidential by this section."

Section 2742. Section 82-11-141, MCA, is amended to read:

"82-11-141. Administrative procedure. (1) Unless otherwise provided, the Montana Administrative Procedure Act applies to this chapter.

(2) An order or amendment ~~thereof of an order~~, except in an emergency, may not be made by the board without a public hearing upon at least 10 days' notice. The public hearing ~~shall must~~ be held at ~~such a~~ time and place as ~~may be~~ prescribed by the board, and any interested person is entitled to be heard.

(3) When an emergency requiring immediate action is found to exist, the board may issue an emergency order without advance notice or hearing ~~which shall be that is~~ effective upon promulgation. An emergency order may not remain in effect beyond the next regular meeting of the board.

(4) (a) If notice is required by the chapter and the Montana Administrative Procedure Act does not apply, the notice ~~shall must~~ be made by publication in one or more issues of a newspaper in general circulation in Helena and a newspaper of general circulation in the county where the land or some part ~~thereon of the land~~ is situated, and the board may also cause publication to be made in a trade journal or bulletin of general circulation in the oil and gas industry in the state.

(b) At least 20 days prior to the public hearing, a person who applies to establish a well spacing unit under 82-11-201 or who applies to pool all interests in a well spacing unit pursuant to 82-11-202 shall cause written notice of any hearing ~~thereon on the application~~ to be served upon the record owners of the oil and gas and leasehold interests sought to be spaced or pooled. Notice must be given by mailing the written notice, postage prepaid, to their addresses as shown by the record of the county clerk and recorder at the time the notice is given.

(5) If written notice is not possible, proof of service by publication under subsection (4) ~~shall must~~ be made by the affidavit of the printer or publisher of the newspaper, trade journal, or bulletin in which the notice is published or by a ~~foreman~~ *supervisor* or principal clerk of the newspaper, bulletin, or trade journal.

(6) Except as provided otherwise in this chapter, the board may act upon its own motion or upon the petition of an interested person. On the filing of a petition concerning a matter within the jurisdiction of the board, the board shall promptly fix a date for a hearing ~~thereon on the petition~~ and shall cause notice of the hearing to be given. The hearing ~~shall must~~ be held without undue delay after the filing of the petition. The board shall enter its order within 30 days after the hearing."

Section 2743. Section 82-11-142, MCA, is amended to read:

“82-11-142. Subpoena power — civil actions. (1) If the Montana Administrative Procedure Act does not apply, the board may subpoena witnesses, administer oaths, and require the production of records, books, and documents for examination at any hearing or investigation conducted by it. Witnesses subpoenaed under this subsection ~~shall~~ *must* be paid the same per diem and mileage as is provided to be paid to witnesses attending the district courts of this state.

(2) This chapter, a suit by or against the board, a violation charged or asserted against a person under this chapter, or a rule or order issued under this chapter does not impair, abridge, or delay a cause of action for damages or other civil remedy ~~which~~ *that* a person may have or assert against a person violating this chapter or a rule or order issued under it. A person ~~so~~ aggrieved by the violation may sue for and recover ~~such~~ damages or relief ~~as he~~ *that the person* otherwise may be entitled to receive.

(3) A person, association, corporation, or agency of the state or federal government may apply to the board protesting a violation or a threatened violation of this chapter. The board shall make an investigation and make a written report to the person, association, corporation, or agency that made the protest. If a violation is established by the investigation of the board, the board shall take appropriate enforcement action. If the board fails to take appropriate enforcement action or to bring suit to enjoin a threatened violation of this chapter or a rule or order of the board within 10 days after receipt of written request to do so by a person who is or will be adversely affected, the person making the request may bring the suit in ~~his~~ *the person's* own behalf to restrain the threatened violation in a court in which the board might have brought suit. The board ~~shall~~ *must* be made a party defendant in the suit in addition to the person threatening to violate this chapter or a rule or order of the board, and the action ~~shall~~ *must* proceed and injunctive relief may be granted without bond in the same manner as if suit had been brought by the board.

(4) If a person fails or refuses to comply with the subpoena issued by the board or if a witness refuses to testify as to any material matter regarding which ~~he~~ *the person* may be interrogated, any district court in the state, upon good cause shown by the application of the board, may issue a warrant of attachment for the person and, if after hearing the court finds ~~his~~ *the person's* failure or refusal to be unjustified, compel ~~him~~ *the person* to comply with the subpoena and to attend before the board and produce any subpoenaed records, books, and documents for examination and to give ~~his~~ testimony. The court may punish for contempt as in the case of disobedience to a like subpoena issued by the court or for refusal to testify ~~therein~~ *in the proceeding.*”

Section 2744. Section 82-11-151, MCA, is amended to read:

“82-11-151. Emergencies — notice and hearing. (1) Notwithstanding any other provisions of this chapter, if the administrator or a board member finds that a person is committing or about to commit an act in violation of this chapter or any order or rule issued under it ~~which~~ *that*, if it occurs or continues, will cause substantial pollution, the administrator under order of the board or the board member is authorized to order the person to stop, avoid, or moderate the act, including immediate closure or shutdown of any well. This authority is limited to acts the harmful effects of which will not be remedied immediately after the commission or cessation of the act or will represent an immediate threat to public health, safety, or welfare.

(2) When any emergency requiring immediate action is found pursuant to subsection (1), the board is authorized to issue an emergency order without notice or hearing, which is effective upon issuance as provided in 82-11-141(3).

(3) The board may have written notice served, personally or by mail, on the alleged violator or ~~his~~ *the violator's* agent. The notice must state the provision alleged to be violated, the facts alleged to constitute the violation, the nature of corrective action the board requires, and the time within which the action is to be taken. For the purposes of this section, service by mail is complete on the date of mailing.

(4) The notice must indicate that the order is an emergency order.

(5) Pursuant to 82-11-141(3), the board may consider the emergency order at its next regular meeting, without compliance with the notice requirements of this chapter if they cannot be accomplished within the time available, and enter a second emergency order.

(6) Upon issuing an order under subsection (2), the board may fix a place and time for a hearing, not later than 5 days ~~thereafter~~ *after issuance* unless the person to whom the order is directed requests a later time. The board may deny a request for a later time if it finds that the person to whom the order is directed is not complying with the order. If the board considers it practicable, the hearing must be held in the county where the violation is alleged to have occurred. As soon as practicable after the hearing, the board shall affirm, modify, or set aside the order.

(7) If the order of the board is affirmed, it must be accompanied by a statement specifying the date or dates by which a violation must cease and may prescribe timetables for necessary action in preventing, abating, or controlling the pollution. An action for review of the order of the board may be initiated in the manner specified in 82-11-144. The initiation of ~~such~~ an action or taking of an appeal may not stay the effectiveness of the order unless the court finds that the board did not have reasonable cause to issue an order under this section."

Section 2745. Section 82-11-206, MCA, is amended to read:

"82-11-206. Terms and conditions of plan for unit operations. The order ~~shall~~ *under 82-11-205 must* be upon terms and conditions that are just and reasonable and ~~shall~~ *must* prescribe a plan for unit operations that ~~shall include~~ *includes*:

(1) a description of the pool or pools or parts ~~thereof~~ *of a pool or pools* to be ~~se~~ operated, termed the unit area, but only so much of a pool as has reasonably been defined and determined by drilling operations to be productive of oil or gas may be included within the unit area. If the unit is formed solely for production of gas, a spacing unit on which is located a well producing or capable of producing gas on March 1, 1971, may not be included in the unit area without the written consent of the majority in interest of the working interest owners of the spacing unit and well.

(2) a statement of the nature and purpose of the plan and operations contemplated, together with a copy of the proposed unit agreement and unit operating agreement;

(3) a plan for allocating to each tract in the unit area its fair share of the oil and gas produced from the unit area and not required or consumed in the conduct of the operation of the unit area or unavoidably lost. A plan may not be approved by the board until it has considered the relative value that the share of production bears to the relative value of all of the separately owned tracts in the

unit area, exclusive of physical equipment utilized in unit operations. In considering this relative value, the board shall weigh the economic value of the gas to all persons affected as compared to the economic value of the oil to all persons affected.

(4) a provision for the credits and charges to be made in the adjustment among the owners in the unit area for their respective investments in wells, tanks, pumps, machinery, materials, and equipment contributed to the unit operations;

(5) a provision providing how the costs of unit operations, including overhead and capital investments, ~~shall~~ *must* be determined and charged to the separately owned tracts, including a provision for carrying or otherwise financing any owner who has not executed the proposed unit operating agreement and who elects to be carried or otherwise financed, allowing an interest charge of the ~~then-current~~ *then-current* prime rate plus 2% for the service. Recovery of the money advanced plus interest ~~shall~~ *must* be limited to and only ~~shall~~ be recoverable from the owners' share of production. The recovery ~~shall~~ *must* be as follows:

(a) (i) in the case of a field producing oil or oil and gas, during the period of depletion of the remaining estimated primary reserves from the unit, only from the production that is in excess of the owners' average actual rate of production during the 18 months immediately preceding the effective date of the unit;

(ii) during the period subsequent to the depletion of the remaining estimated primary reserves from the unit, from 100% of the owners' share of production;

(iii) for purposes of this subsection (5)(a), the term "primary reserves" means the oil or gas ~~which~~ *that* would be produced from the unitized pool or pools as a result of the natural energy ~~therein~~ *in the pool or pools* and without the introduction of an enhanced recovery program;

(b) in the case of a field producing only gas, from 100% of the owners' share of production;

(c) in the case of any enhanced recovery program that is initiated subsequent to a secondary recovery program, the recovery ~~shall~~ *must* be from 75% of the owners' increased share of production from ~~such~~ *the* subsequent program;

(6) a provision for the supervision and conduct of the unit operations, in respect to which each owner ~~shall~~ *have* ~~has~~ a vote with a value corresponding to the percentage of the costs of unit operations chargeable against the interest of the owner;

(7) a provision ~~whereby~~ *by which* the unit operator, after having operated for a minimum period of 2 years, ~~can~~ *may* be challenged by any other owner in the unit, and the challenging owner may succeed to the unit operations upon a showing that:

(a) ~~he~~ *the challenging owner* can operate more efficiently and economically than the present operator;

(b) ~~he~~ *the challenging owner* is qualified and financially responsible;

(c) a majority of the other owners, both in number and in percentage and exclusive of the challenged operator, approved the challenging owner becoming unit operator; and

(d) the challenged operator does not initiate the conditions of operations of the challenging owner within 60 days of the challenged operator's receipt of the conditions of operations;

(8) the time when the unit operations ~~shall~~ *must* commence and the manner in which and the circumstances under which the unit operations ~~shall~~ *must* terminate; and

(9) ~~such~~ additional provisions that are found to be appropriate for carrying on unit operations and for the protection and adjustment of correlative rights."

Section 2746. Section 82-11-209, MCA, is amended to read:

"82-11-209. Units established by previous order. The board may provide by an order for the unit operation of a pool or pools or parts ~~thereof of a pool or pools~~ that embrace a unit established by an order of the board made prior to February 13, 1969. The order, in providing for the allocation of unit production, ~~shall~~ *must* first treat the unit area previously established as a single tract, and the portion of the unit production ~~so allocated thereto shall to that tract~~ *must* then be allocated among the tracts included in the previously established unit area in the same proportions as those specified in the previous order. ~~Any~~ A new owner whose interest by the order is added to the unit area and who becomes liable for ~~his~~ *the owner's* proportionate share of the costs of unit operations is not liable for any unit operating costs incurred prior to the person's entry in the unit. At the time the interest is included in the unit, an equipment inventory ~~shall~~ *must* be made in order to charge the newly committed interest with its proportionate share of capital investment at its ~~then~~ *current* value. An oil-in-storage inventory ~~shall~~ *must* be taken immediately prior to adding the newly committed interest."

Section 2747. Section 82-11-212, MCA, is amended to read:

"82-11-212. Property rights and operator's lien. That portion of the unit production allocated to any tract and the proceeds from the sale ~~thereof shall of that production~~ *must* be the property and income of the ~~several~~ persons to whom or to whose credit the ~~same~~ *proceeds* are allocated or payable under the order providing for unit operations, except that the operator of the unit shall, subject to 82-11-206(5)(a), have a first and prior lien upon each owner's oil and gas rights and ~~his~~ *the owner's* share of unitized production to secure the payment of ~~such~~ *that* owner's proportionate part of developing and operating the unit area. ~~Such~~ *The* lien may be perfected and enforced in the same manner as provided in Title 71, chapter 3, part 5, ~~as amended~~. Upon demand by any owner of working interest in any tract to which gas has been allocated, the unit operator shall deliver ~~such~~ *the* allocated share of gas to the owner in kind; ~~but~~ *However*, the operator and the other owners of interest ~~shall~~ *may* not be required to bear the cost of providing additional facilities for the delivery of ~~such~~ *the* gas."

Section 2748. Section 82-11-303, MCA, is amended to read:

"82-11-303. Extension of expiration date. The governor of Montana is further authorized and empowered, for and in the name of the state of Montana, to execute agreements for the further extension of the expiration date of the Interstate Compact To Conserve Oil and Gas and to determine if and when it ~~shall be is in~~ for the best interest of the state of Montana to withdraw from ~~said the compact~~ upon 60 days' notice as provided by its terms. ~~In the event he shall determine~~ *If the governor determines* that the state should withdraw from ~~said the compact~~, ~~he shall have~~ *the governor has* full power and authority to give necessary notice and to take any and all steps necessary and proper to effect the withdrawal of the state of Montana from ~~said the compact~~."

Section 2749. Section 82-11-304, MCA, is amended to read:

“82-11-304. Governor as member of interstate oil compact commission. The governor ~~shall be~~ *is* the official representative of the state of Montana on the interstate oil compact commission, provided for in the Interstate Compact To Conserve Oil and Gas, and shall exercise and perform for the state of Montana all the powers and duties as a member of the interstate oil compact commission; ~~provided that he shall have the authority to~~ *However, the governor may* appoint an assistant representative who shall act in ~~his~~ *the* governor’s stead as the official representative of the state of Montana as a member of ~~said~~ *the* commission. ~~Said~~ *The* assistant representative shall take the oath of office prescribed by The Constitution of the State of Montana, which ~~shall must~~ *must* be filed with the secretary of state.”

Section 2750. Section 82-11-305, MCA, is amended to read:

“82-11-305. Limitation on power of representative. ~~Nothing in this~~ *This* part ~~shall may not~~ be construed as granting any power to the representative of the state of Montana in ~~his~~ *the* representative’s private or official capacity or to the interstate oil compact commission to prorate, allocate, regulate, or control oil or gas production or refined products ~~thereof of the~~ *production* within the state of Montana or the markets ~~therefor for the~~ *production* and ~~shall may not~~ have the effect or be construed as in any manner surrendering to the federal government any rights over or in the production, sale, or transportation of oil or gas or the refined products ~~thereof of oil or gas~~ in the state of Montana; ~~nor shall anything in this~~ *This* part ~~may not~~ be ~~understood or~~ construed to bind or obligate the state of Montana to enact any new legislation or to amend or alter any laws ~~heretofore enacted and now in~~ *force* pertaining to the oil and gas industries in Montana.”

Section 2751. Section 82-11-306, MCA, is amended to read:

“82-11-306. Expenses of representative. The representative or the assistant representative appointed by the governor of the state of Montana to the oil compact commission ~~shall must~~ be allowed and paid ~~his~~ *the person’s* reasonable expenses while engaged in the performance of ~~his~~ official duties, and ~~his~~ *the person’s* expenses and all other expense incurred in connection with the interstate oil compact and the interstate oil compact commission ~~shall must~~ be paid out of the board of oil and gas conservation revenue fund in accordance with the provisions of 82-11-135, ~~as amended.~~”

Section 2752. Section 82-15-204, MCA, is amended to read:

“82-15-204. Investigation of complaints — revocation of license. If a complaint ~~shall be~~ *is* made to the attorney general that ~~any a~~ person, firm, company, association, or corporation is guilty of discrimination as defined by this part, ~~he~~ *the attorney general* shall ~~forthwith~~ investigate ~~such the~~ complaint *in a timely manner*, and for that purpose ~~he~~ *the attorney general* shall subpoena witnesses, administer oaths, take testimony, and require the production of books or other documents, and if, in ~~his~~ *the attorney general’s* opinion, sufficient grounds exist ~~therefor~~, ~~he~~ *the attorney general* shall prosecute an action in the name of the state in the proper court to annul the charter or revoke the permit or license of ~~such the~~ person, firm, company, association, or corporation, as the case may be, and to permanently enjoin ~~such the~~ person, firm, company, association, or corporation from doing business in this state. If in ~~such the~~ action the court ~~shall find~~ *finds* that ~~such the~~ person, firm, company, association, or corporation is guilty of discrimination as defined by this part, ~~such the~~ court shall annul the charter or revoke the permit or license of ~~such the~~ person, firm, company,

association, or corporation and may permanently enjoin it or them from transacting business in this state.”

Section 2753. Section 82-15-205, MCA, is amended to read:

“82-15-205. County attorney to prosecute violations. If ~~any a~~ person ~~shall present~~ *presents* to the county attorney of any county ~~in the state of Montana,~~ in which county ~~such the~~ discriminatory acts of ~~any a~~ person, firm, company, association, or corporation ~~shall~~ have been committed, a sworn written statement of the price paid, the date, and the parties selling and buying and reasonably reliable information of the price demanded or collected by ~~such the~~ person, firm, company, association, or corporation for a corresponding or similar article of standard petroleum product sold or offered for sale in another part of the state of Montana or in the nearest adjoining state by ~~such the~~ person, firm, company, association, or corporation, ~~then it shall be the duty of such the~~ county attorney ~~to~~ *shall* promptly investigate and either commence and prosecute an action or furnish the informant with a written statement of ~~his~~ reasons for not commencing and prosecuting an action under this part.”

Section 2754. Section 85-1-622, MCA, is amended to read:

“85-1-622. Penalty. ~~No~~ A member, officer, attorney, or other employee of the board or the department may *not*, directly or indirectly, be the beneficiary of or receive any fee, commission, gift, or other consideration for or in connection with any transaction or business under this part other than the salary, fee, or other compensation ~~as he~~ *that the person* may receive as a member, officer, attorney, or employee. A person convicted of violating any provision of this section shall be punished by a fine not to exceed \$2,000 or be imprisoned for not to exceed 2 years, or both.”

Section 2755. Section 85-2-132, MCA, is amended to read:

“85-2-132. Change of watercourse name — public notice. When ~~such a~~ petition *under 85-2-131* is filed in the district court, the court or the judge ~~thereof~~ shall designate some newspaper of general circulation in the county; ~~such as that~~ is most likely to give all *interested* parties ~~interested~~ notice of the proceedings; and shall order that notice be published ~~therein in that newspaper~~ as ~~hereinafter~~ provided; *in this section.* ~~and in his discretion he~~ *The judge* may require any other ~~and further~~ notice that ~~to him may seem~~ *seems* reasonable and shall fix a time at which objections to the granting of the petition for the change of name ~~shall~~ *must* be heard. A copy of the petition, together with a notice of the time set for hearing objections ~~thereto,~~ *shall must* be published in the newspaper designated by the court or judge for that purpose at least once a week for 4 successive weeks, and ~~such other and further~~ notice of the proceedings ~~shall must~~ be given *as that* the court or judge may ~~in his discretion~~ require.”

Section 2756. Section 85-2-134, MCA, is amended to read:

“85-2-134. Change of watercourse name — judgment to be filed with county clerk. If the change of name ~~be of a watercourse is~~ ordered, a copy of the judgment, duly certified by the clerk of the court, ~~shall must~~ be filed with the county clerk and recorder of the county in which the watercourse or other natural source of water supply is situated, and the clerk of the court shall, annually, in ~~the month of~~ January, make a return to the office of the secretary of state of all changes of names made in the district court of ~~his~~ *the clerk's* county under this section.”

Section 2757. Section 85-2-214, MCA, is amended to read:

“85-2-214. Commencement of action. (1) The action for the adjudication of all existing water rights under ~~this part, part 7, and~~ Title 3, chapter 7, *Title 85, chapter 2, part 7, and this part* is commenced with the issuing of the order by the Montana supreme court to file a statement of a claim of an existing water right as provided in 85-2-212. ~~As to~~ *For* each claim, the action is considered filed in the judicial district of the county in which the diversion is made or, if there is a claimed right with no diversion, in the judicial district of the county in which the use occurs.

(2) The water judge shall monitor the claim filing procedure for claims within ~~his the judge's~~ water division and make ~~any~~ orders necessary to ~~assure~~ *ensure* timely and accurate compliance with the claim filing procedure.”

Section 2758. Section 85-2-218, MCA, is amended to read:

“85-2-218. Process and criteria for designating priority basins or subbasins. (1) The water judges and the department, in performing their functions in the adjudication process, shall give priority to basins or subbasins designated each biennium by the legislature. Basins or subbasins must be designated according to the following criteria:

(a) recurring water shortages within the basin or subbasin have resulted in urgent water rights controversies that require adjudication to determine relative rights;

(b) federal or Indian reserved rights are nearing determination, either by compact or adjudication, thus making adjudication of other rights in the basin or subbasin important for timely issuance of preliminary or final decrees;

(c) the basin or subbasin's location would help ensure efficient use of department and water court resources; and

(d) the adjudication process in the basin or subbasin is nearing the issuance of a decree.

(2) The water judge may designate a basin for priority adjudication upon petition of 100 or more persons who have filed claims within the basin; or he may designate a subbasin for priority adjudication upon petition of a majority of persons who have filed claims within the subbasin. ~~The~~ *However, the* basin or subbasin ~~shall may~~ receive priority, ~~however,~~ only if it meets one or more of the criteria in subsection (1).

(3) If adjudication work in one or more of the priority basins or subbasins has been completed or has been suspended for good cause, the water judge may select other basins or subbasins for priority adjudication; based on the criteria in subsection (1).”

Section 2759. Section 85-2-224, MCA, is amended to read:

“85-2-224. Statement of claim. (1) The statement of claim for each right arising under the laws of the state and for each right reserved under the laws of the United States ~~which that~~ has been actually put to use ~~shall must~~ include substantially the following:

(a) the name and mailing address of the claimant;

(b) the name of the watercourse or water source from which the right to divert or make use of water is claimed, if available;

(c) the quantities of water and times of use claimed;

(d) the legal description, with reasonable certainty, of the point or points of diversion and places of use of waters;

(e) the purpose of use, including, if for irrigation, the number of acres irrigated;

(f) the approximate dates of first putting water to beneficial use for the various amounts and times claimed in subsection (e) (1)(c); and

(g) the sworn statement that the claim set forth is true and correct to the best of claimant's knowledge and belief.

(2) ~~Any~~ A claimant filing a statement of claim under subsection (1) shall submit maps, plats, aerial photographs, decrees, or pertinent portions thereof of those documents, or other evidence in support of his the claim. All maps, plats, or aerial photographs should show as nearly as possible to scale the point of diversion, place of use, place of storage, and other pertinent conveyance facilities.

(3) Any statement of claim for rights reserved under the laws of the United States which that have not yet been put to use shall must include substantially the following:

(a) the name and mailing address of the claimant;

(b) the name of the watercourse or water source from which the right to divert or make use of water is claimed, if available;

(c) the quantities of water claimed;

(d) the priority date claimed;

(e) the laws of the United States on which the claim is based; and

(f) the sworn statement that the claim set forth is true and correct to the best of the claimant's knowledge and belief."

Section 2760. Section 85-2-234, MCA, is amended to read:

"85-2-234. Final decree. (1) The water judge shall, on the basis of the preliminary decree, on the basis of any hearing that may have been held, and on final resolution of all issue remarks, as defined in 85-2-250, enter a final decree affirming or modifying the preliminary decree.

(2) The terms of a compact negotiated and ratified under 85-2-702 must be included in the final decree without alteration unless an objection is sustained pursuant to 85-2-233; ~~provided that~~ However, the court may not alter or amend any of the terms of a compact except with the prior written consent of the parties in accordance with applicable law.

(3) The final decree must establish the existing rights and priorities within the water judge's jurisdiction of persons who have filed a claim in accordance with 85-2-221, of persons required to file a declaration of existing rights in the Powder River basin pursuant to an order of the department or a district court issued under sections 8 and 9 of Chapter 452, Laws of 1973, and of any federal agency or Indian tribe possessing water rights arising under federal law, required by 85-2-702 to file claims.

(4) The final decree must establish, in a form determined to be appropriate by the water judge, one or more tabulations or lists of all water rights and their relative priorities.

(5) The final decree must state the findings of fact, along with any conclusions of law, upon which the existing rights and priorities of each person, federal agency, and Indian tribe named in the decree are based.

(6) For each person who is found to have an existing right arising under the laws of the state of Montana, the final decree must state:

- (a) the name and post-office address of the owner of the right;
 - (b) the amount of water included in the right, as follows:
 - (i) by flow rate for direct flow rights, such as irrigation rights;
 - (ii) by volume for rights, such as stockpond and reservoir storage rights, and for rights that are not susceptible to measurement by flow rate; or
 - (iii) by flow rate and volume for rights that a water judge determines require both volume and flow rate to adequately administer the right;
 - (c) the date of priority of the right;
 - (d) the purpose for which the water included in the right is used;
 - (e) the place of use and a description of the land, if any, to which the right is appurtenant;
 - (f) the source of the water included in the right;
 - (g) the place and means of diversion;
 - (h) the inclusive dates during which the water is used each year;
 - (i) any other information necessary to fully define the nature and extent of the right.
- (7) For each person, tribe, or federal agency possessing water rights arising under the laws of the United States, the final decree must state:
- (a) the name and mailing address of the holder of the right;
 - (b) the source or sources of water included in the right;
 - (c) the quantity of water included in the right;
 - (d) the date of priority of the right;
 - (e) the purpose for which the water included in the right is currently used, if at all;
 - (f) the place of use and a description of the land, if any, to which the right is appurtenant;
 - (g) the place and means of diversion, if any; and
 - (h) any other information necessary to fully define the nature and extent of the right, including the terms of any compacts negotiated and ratified under 85-2-702.

(8) Clerical mistakes in a final decree may be corrected at any time on the initiative of the water judge or on the petition of any person who possesses a water right. The water judge shall order the notice of a correction proceeding as ~~he~~ *that the judge* determines to be appropriate to advise all persons who may be affected by the correction. An order of the water judge making or denying a clerical correction is subject to appellate review.”

Section 2761. Section 85-2-405, MCA, is amended to read:

“85-2-405. Procedure for declaring appropriation rights abandoned. (1) When the department has reason to believe that an appropriator may have abandoned ~~his~~ *an* appropriation right under 85-2-404 or when another appropriator in the opinion of the department files a valid claim that ~~he~~ *the appropriator* has been or will be injured by the resumption of use of an appropriation right alleged to have been abandoned, the department shall petition the district court ~~which~~ *that* determined the existing rights in the source of the appropriation in question to hold a hearing to determine whether the appropriation right has been abandoned. Proceedings under this section

shall *must* be conducted in accordance with the Montana Rules of Civil Procedure, and appeal shall *must* be taken in accordance with the Montana Rules of Appellate Procedure.

(2) At the hearing, the burden of proof shall *be is* on the department, which ~~must shall~~ establish by a preponderance of the evidence that the appropriation has been abandoned under 85-2-404.

(3) The determination of the court shall *must* be appended to the final decree. The department shall keep a copy of the determination in its office in Helena.”

Section 2762. Section 85-2-412, MCA, is amended to read:

“85-2-412. Return of surplus water to stream. ~~In all cases where~~ *If*, by virtue of prior appropriation, ~~any a person may have~~ *has* diverted all the water of any stream or to ~~such~~ an extent that there shall *may* not be an amount sufficient left ~~therein~~ for those having a subsequent right to the waters of ~~such~~ *the* stream and there shall *is*, at any time, be a surplus of water so diverted, over and above what is actually and necessarily used by the prior appropriator, ~~such person shall the prior appropriator must~~ be required to turn and cause to flow back into the stream ~~such the~~ surplus water. Upon failure to do so within 24 hours after demand being made upon ~~him the prior appropriator~~ in writing, to ~~him the prior appropriator~~ in person or at ~~his the prior appropriator's~~ place of ~~abode residence~~, by any person having a right to the use of ~~such the~~ surplus water, the person so diverting the ~~same shall be water is~~ liable to the person aggrieved for the damage resulting ~~therefrom from the diversion~~; in ~~such a sum as may be determined by court.~~”

Section 2763. Section 85-2-413, MCA, is amended to read:

“85-2-413. Diversion of natural flow of waters — when permitted. ~~Any A person, owning who owns or is~~ in possession of lands susceptible of irrigation from any stream, the waters of which are so diminished by prior appropriations that a sufficient amount of water for the irrigation of ~~his the person's~~ lands cannot be obtained from the natural flow of the stream, ~~and who shall construct constructs~~ a reservoir or ~~shall purchase purchases or lease leases~~ water from a reservoir owned by the department or another or ~~shall otherwise acquire acquires~~ an interest in ~~such the~~ reservoir or in water stored ~~therein in the reservoir~~, which is ~~so located so that~~ because of natural or other obstacles the water impounded ~~therein in the reservoir~~ cannot be conducted to the lands ~~which he that the person~~ desires to irrigate, may, ~~provided if~~ the stored water can be discharged into the stream in ~~such a manner that it can be used beneficially by prior appropriators, divert the natural flow of the stream for the irrigation of his the person's lands in lieu of an equal amount of stored water;~~ ~~provided, however~~ *However*, that ~~such an exchange can of water under this section must be made without injury to said prior appropriators.~~”

Section 2764. Section 85-2-416, MCA, is amended to read:

“85-2-416. Duty of purchaser to dig ditches. ~~Any A person desiring to avail himself of the provisions of purchase surplus water pursuant to 85-2-415 must shall,~~ at ~~his the person's~~ own cost and expense, construct or dig the necessary flumes or ditches to receive and convey the surplus water ~~so desired by him the person~~ and pay or tender to the person having the right to the use, sale, or disposal ~~thereof of that water~~ an amount equal to the necessary cost and expense of tapping any gulch, stream, reservoir, ditch, flume, or aqueduct and putting in gates, gauges, or other proper and necessary appliances usual and

customary in such cases, and until the same shall be *that work is* done, the delivery of the surplus water shall *may* not be required as provided in 85-2-415.”

Section 2765. Section 85-2-418, MCA, is amended to read:

“85-2-418. Purchaser cannot not to sell surplus water. Nothing in Sections 85-2-415 through 85-2-417 shall *may not* be so construed as to give the person acquiring the right to the use of water, as ~~therein~~ provided *in those sections*, the right to sell or dispose of the ~~same~~ water after being so used by ~~him~~ *the person* or to prevent the original owner or proprietor from retaking, selling, and disposing of the ~~same~~ water in the usual and customary manner after it is so used as ~~aforsaid~~ *provided in those sections*.”

Section 2766. Section 85-2-804, MCA, is amended to read:

“85-2-804. Application — notice — objections — hearing. (1) ~~Any~~ *An* appropriator proposing to divert from the basin water allocated to Montana under the terms of the compact or divert from the basin unallocated compact water within Montana shall file an application with the department. The application must state the name and address of the applicant and facts tending to show that:

(a) the diversion and ultimate use of the water in Montana is for a beneficial use of water;

(b) the diversion and ultimate use of water will not adversely affect the water rights of other persons;

(c) the proposed means of diversion, construction, and operation are adequate;

(d) the diversion and ultimate use will not interfere unreasonably with other planned uses or developments for which a water right has been established or a permit has been issued or for which water has been reserved;

(e) the diversion and ultimate use of the water will not exceed the allocated share under the compact of any of the signatory states;

(f) the diversion and ultimate use of the water are in the public interest of Montana; and

(g) the applicant intends to comply with the laws of the signatory states to the compact.

(2) ~~Any~~ *An* appropriator proposing to divert from the basin water allocated to North Dakota or Wyoming under the terms of the compact or divert from the basin unallocated compact water within North Dakota or Wyoming shall file an application with the department. The application must state the name and address of the applicant and facts tending to show that:

(a) the proposed means of diversion, construction, and operation are adequate;

(b) the diversion and ultimate use of the water will not exceed the allocated share under the compact of any of the signatory states; and

(c) the applicant intends to comply with the compact.

(3) Notice of the proposed diversion must be given by the department in the same manner as provided in ~~subsections (1) and (2) of~~ 85-2-307(1) and (2).

(4) An objection to an application must be filed by the date specified by the department in the notice.

(5) The objector to an application under subsection (1) shall state ~~his~~ *the objector's* name and address and facts tending to show that:

(a) the diversion and ultimate use of the water in Montana are not for a beneficial use of water;

(b) the property, rights, or interests of the objector would be adversely affected by the proposed diversion or ultimate use of the water;

(c) the proposed means of diversion, construction, and operation are not adequate;

(d) the diversion and ultimate use will interfere unreasonably with the objector's planned uses or development for which the objector has a water right, a permit, or a reserved water right;

(e) the diversion and ultimate use of the water will exceed the allocated share under the compact of any signatory state; or

(f) the diversion and ultimate use of the water are not in the public interest of Montana.

(6) The objector to an application under subsection (2) shall state ~~his~~ *the objector's* name and address and facts tending to show that:

(a) the property, rights, or interests of the objector would be adversely affected by the proposed diversion or ultimate use of the water;

(b) the proposed means of diversion, construction, and operation are not adequate; or

(c) the diversion and ultimate use of the water will exceed the allocated share under the compact of any signatory state.

(7) If the department receives an objection to an application, it shall hold a hearing on the application within 60 days from the date set by the department for filing objections. Service of notice of the hearing must be made by certified mail upon the applicant and the objector.

(8) The hearing ~~shall~~ *must* be conducted under the contested case procedures of the Montana Administrative Procedure Act in Title 2, chapter 4, part 6."

Section 2767. Section 85-3-301, MCA, is amended to read:

"85-3-301. Records of operations maintained by licensees. ~~Every A~~ licensee shall keep and maintain a record of all operations conducted by ~~him~~ *the licensee* under ~~his~~ *the* license and each permit, showing:

(1) the method employed;

(2) type of equipment used;

(3) kinds and amounts of material used;

(4) times and places of operation of the equipment;

(5) names and addresses of all individuals participating or assisting in the operation;

(6) any other general information ~~as~~ *that* the department may require."

Section 2768. Section 85-3-411, MCA, is amended to read:

"85-3-411. Weather modification authority created by petition — expiration — reinstatement. (1) Upon receipt of a valid petition signed by at least 51% of the qualified electors of a county, as determined by the vote cast for the office of governor at the ~~last~~ preceding general election, a board of county commissioners may by resolution create a weather modification authority. The board of county commissioners shall appoint five residents of the county as weather modification authority commissioners from those names set forth in

the petition and designated by the petitioners to be appointed commissioners. If any of the five candidates named in the petition to be appointed commissioner is unable or refuses for any reason to accept appointment as commissioner or is disqualified by not meeting residence requirements as an elector in the county, the board of county commissioners shall name an appointee to fill the position. Each commissioner shall serve a 5-year term of office. If ~~any~~ *a* commissioner submits ~~his~~ *a* resignation in writing to the board of county commissioners or becomes unable or disqualified for any reason after accepting office, the board of county commissioners shall name an appointee to fill the vacancy. The board of county commissioners may remove any commissioner from office whenever it appears, by competent evidence and after hearing, that the commissioner has been guilty of misconduct, malfeasance, crime in office, or gross incompetency. A vacancy occurring otherwise than by expiration of *a* term of office must be filled for the unexpired term.

(2) ~~Any~~ *An* authority created pursuant to this section expires 5 years after the date of the initial appointment of the commissioners. Any unexpended funds remaining in the name of the authority after all proper bills and expenses have been paid must be transferred into the county general fund by the officers of the authority on or before the 5-year termination date provided by this section. However, all unexpended funds remaining in the name of the authority after all proper bills and expenses have been paid ~~shall~~ *must* remain in the name of the authority if the board of county commissioners of ~~such~~ *the* county by resolution creates a weather modification authority and all its powers in accordance with 85-3-414.

(3) Nothing in this section prevents renewal of an authority for another 5 years by petition of the qualified electors in the same manner as the initial authority was created.

(4) If more than one petition is filed with the board of county commissioners on or about the same time, the petition with the highest percentage of the qualified county electors voting for the office of governor at the ~~last~~ preceding general election must be selected by the board of county commissioners. However, the petition with the highest percentage must have the signatures of at least 40% of the qualified electors in the county, and the ~~sum~~ total of all qualified electors signing all petitions filed must equal at least 60% of the qualified electors in the county. If the name of the same elector appears on two or more petitions, the name must be stricken from both petitions.”

Section 2769. Section 85-3-421, MCA, is amended to read:

“85-3-421. Commissioners — compensation — meetings — officers — disbursements. (1) A commissioner may *not* receive ~~no~~ compensation for ~~his~~ *the commissioner’s* services. Certificates of appointment must be filed with the county clerk and recorder.

(2) The powers of each authority are vested in its commissioners. A majority of the commissioners constitutes a quorum for the purpose of conducting the business of the authority, but action may not be taken by the authority except by an affirmative vote of not less than a majority of all the commissioners. A ~~chairman~~ *presiding officer*, ~~vice-chairman~~ *vice presiding officer*, secretary, and treasurer must be elected from among the commissioners. An authority may delegate to one or more of its commissioners ~~such~~ powers or duties ~~as~~ *that* it considers proper.

(3) The secretary shall keep minutes of official meetings and shall include all official business, such as operations requested, and all authorizations for payment of weather modification authority funds.

(4) Disbursements authorized by the authority must be made by check signed by the ~~chairman~~ *presiding officer* and the treasurer of the authority. Official policies must be entered into the minutes. An annual report must disclose funds received and expended, and a copy of the report must be filed with the county clerk and recorder. The annual report must be presented at a public meeting called for ~~such~~ *that purpose.*"

Section 2770. Section 85-5-102, MCA, is amended to read:

"85-5-102. Appointment of chief commissioner. When the judge of the district court ~~shall appoint~~ *appoints* two or more commissioners to admeasure and distribute the waters mentioned in ~~the preceding section 85-5-101,~~ *he the judge* may appoint one of them *as* chief commissioner and empower ~~him~~ *the chief commissioner* to exercise direction and control over the other ~~or others~~ *commissioners* in the discharge of their duties. The judge may depose the ~~one~~ *person* appointed *as* chief commissioner from that position and appoint another ~~in his stead~~ *as chief commissioner* whenever it appears to the judge that better service may be given *to the water users* by making the change."

Section 2771. Section 85-5-103, MCA, is amended to read:

"85-5-103. Oath and bond. Each water commissioner ~~so~~ appointed by the court shall subscribe and file with the clerk of the district court an oath of office before commencing the discharge of ~~his~~ duties as commissioner and shall ~~likewise~~ file with ~~said~~ *the* clerk a bond executed by ~~himself~~ *the commissioner*, with two or more sureties, in ~~such~~ a sum ~~as that~~ the judge of ~~said~~ *the* court may designate, to ~~insure~~ *ensure* the faithful discharge of ~~his~~ *the commissioner's* duties."

Section 2772. Section 85-5-104, MCA, is amended to read:

"85-5-104. Term of office. ~~Every~~ A water commissioner ~~so~~ appointed shall ~~hold his~~ *holds* office for ~~such~~ *the* time during the irrigation season of each year ~~as that~~ may be designated by the judge in the order making ~~such~~ *the* appointment. The judge, ~~in his discretion,~~ *shall* may fix the date of the commencement of ~~such~~ *the* term and may, ~~in his~~ *in the judge's* discretion or when requested in writing by at least three persons entitled to the use of ~~such~~ *the* waters, change the term for closing of the commissioner's service."

Section 2773. Section 85-5-105, MCA, is amended to read:

"85-5-105. Power and duty to distribute water. Upon the issuance of ~~such~~ *an* order, the water commissioner or commissioners shall have authority and it is hereby made ~~his or their~~ *the commissioner's or commissioners'* duty to admeasure and distribute to the users ~~thereof~~ *of water*, as their interests may appear and be required, the stored and supplemental ~~waters~~ *water* stored and as released by the department of natural resources and conservation under provisions of *Title 85, chapter 1 of this title*, to be diverted into and through ~~said streams~~ *a stream*, ditch or extension of ditch, watercourse, spring, lake, reservoir, or other source of supply in the same manner and under the same rules as decreed water rights are admeasured and distributed. ~~Such~~ *The* water commissioner or commissioners and the owners and users of ~~such~~ *the* stored and supplemental ~~waters~~ *water* shall ~~be~~ *are* bound by and ~~be~~ *are* subject to the provisions of this chapter ~~and all acts amendatory thereof and supplemental thereto;~~ *provided* ~~However,~~ *that* the admeasurements and distribution of ~~such~~ *the* stored and supplemental ~~waters~~ *water* shall ~~in no way~~ *may not* interfere with

decreed water rights. The purpose of *Title 85, chapter 5*, parts 1 through 3, of ~~this chapter~~ is to provide a uniform, equitable, and economical distribution of adjudicated, stored, and supplemental waters.”

Section 2774. Section 85-5-108, MCA, is amended to read:

“85-5-108. Authority and arrest power. For the purposes of carrying out the provisions of *Title 85, chapter 5*, parts 1 through 3 of ~~this chapter~~, each commissioner appointed by the court ~~shall have~~ *has the* authority to enter upon any ditch, canal, aqueduct, or other source for conveying the waters affected by the decree and to visit, inspect, and adjust all headgates or other means of distributing the waters and ~~shall have~~ *has* the same powers as a sheriff or constable to arrest any ~~and all persons~~ *person* interfering with the distribution made by ~~him~~ *the commissioner*, to be dealt with according to law.”

Section 2775. Section 85-5-109, MCA, is amended to read:

“85-5-109. Failure to perform duty as a contempt of court. If ~~any a~~ commissioner ~~shall fail~~ *fails* to perform any of the duties imposed upon ~~him~~ *the commissioner* by the order of the judge of the district court, ~~he shall be deemed the commissioner is~~ *guilty of a* contempt of ~~said~~ court.”

Section 2776. Section 85-5-110, MCA, is amended to read:

“85-5-110. Appointment of water mediators — duties. (1) The judge of the district court may appoint a water mediator to mediate a water controversy in a decreed or nondecreed basin under the following circumstances:

- (a) upon request of the governor;
 - (b) upon petition by at least 15% of the owners of water rights in a decreed or nondecreed basin; or
 - (c) in the discretion of the district court having jurisdiction.
- (2) A water mediator appointed under this section may:
- (a) discuss proposed solutions to a water controversy with affected water right holders;
 - (b) review options related to scheduling and coordinating water use with affected water right holders;
 - (c) discuss water use and water needs with persons and entities affected by the existing water use;
 - (d) meet with principal parties to mediate differences over the use of water; and
 - (e) hold public meetings and conferences to discuss and negotiate potential solutions to controversies over use of water.
- (3) If the governor requests or a state agency petitions for a water mediator, the governor or agency shall pay all or a majority of the costs of the water mediator; as determined equitable by the district court having jurisdiction.
- (4) The governor may use funds appropriated under 75-1-1101 to pay the costs of a water mediator.
- (5) ~~Nothing in this~~ *This section allows does not allow* a water mediator to require any valid water right holder to compromise or reduce any of ~~his~~ *the holder's* existing water rights.
- (6) If an appropriator voluntarily ceases to use all or part of ~~his~~ *an* appropriation right or voluntarily ceases to use ~~his~~ *an* appropriation right according to its terms and conditions as a result of the efforts of a mediator

appointed under this section, the appropriator may not be considered to have abandoned all or any portion of ~~his~~ *the* appropriation right.”

Section 2777. Section 85-5-202, MCA, is amended to read:

“85-5-202. Repair expenses. The judge may also allow as a charge any expenses necessarily incurred by the water commissioner in the discharge of ~~his~~ duties in the employment of extra labor for the repair of dams, headgates, ditches, or flumes when immediate action is necessary to preserve the rights of the parties entitled to the waters of ~~such a~~ stream or when the judge has, in the order appointing the commissioner, required the commissioner to repair ditches and keep in repair necessary headgates, ditches, or flumes. The water commissioner shall report all ~~such~~ expenses, and the cost ~~thereof shall~~ *must* be taxed against the party or parties for whose benefit the ~~same expenses~~ were incurred. In the discretion of the court, ~~such the~~ costs or expenses may be assessed against the land upon which or for the benefit of which ~~such the~~ expense had been incurred.”

Section 2778. Section 85-5-302, MCA, is amended to read:

“85-5-302. Maintenance of headgates and measuring devices. All persons using water from any stream or ditch ~~whereon for which~~ a water commissioner is appointed are required to have suitable headgates at the point where a ditch taps a stream and shall also, at some suitable place on the ditch and as near the head as practicable, place and maintain a proper measuring box, weir, or other appliance for the measurement of the waters flowing in the ditch. ~~In case If any a person or persons shall fail fails~~ to place or maintain a proper measuring appliance, it is the duty of the water commissioner not to apportion or distribute any water through the ditch. The commissioner shall notify all parties interested by certified mail or in person 1 week before making the annual repair or cleaning of ~~any a~~ stream or ditch or performing necessary labor or expenses to divert water to ~~any a~~ ditch. The sending of a certified letter to the last-known post-office address of any interested party is prima facie evidence of the fact that ~~he the~~ party was duly notified. Any work in the way of repairing a ditch made necessary by ~~any an~~ emergency may be done without ~~such~~ notice when injury would result from a delay.”

Section 2779. Section 85-5-401, MCA, is amended to read:

“85-5-401. Determination of water rights between partners, tenants in common, and corporate stockholders. ~~Whenever If~~ a water ditch used for irrigating purposes is owned by a partnership, tenants in common, or corporation and there is any dispute between the respective owners, tenants in common, or stockholders respecting the use and division of the waters flowing in ~~said the~~ ditch, any partner, tenant in common, or stockholder may commence an action in any court of competent jurisdiction to determine the rights of the respective parties to the use of ~~said the~~ waters and may join in ~~his the~~ petition a ~~prayer request~~ for the appointment of a water commissioner to apportion and distribute the waters of ~~said the~~ ditch according to the rights of the respective owners, tenants in common, or stockholders during the pendency of the action.”

Section 2780. Section 85-5-402, MCA, is amended to read:

“85-5-402. Appointment of commissioner prior to final decree. After the filing of the complaint in ~~such an~~ action *under 85-5-401*, the court may, upon 5 days' notice to the other parties to the action, appoint a commissioner to divide and distribute the waters of ~~said the~~ ditch to the respective parties, according to their respective rights, during the pendency of the action. The court may, upon good cause shown, appoint ~~such a~~ commissioner without notice, and when ~~such~~

a commissioner is appointed without notice, any party to the action may, on 5 days' notice to the plaintiff, move the court or judge to vacate ~~such the~~ appointment or to modify the order as to the distribution of the waters of ~~said the~~ ditch. The court or judge, on ~~such hearing, in his discretion,~~ may affirm, vacate, or modify the order previously made. Each water commissioner so appointed shall subscribe to an oath of office before commencing the discharge of his duties."

Section 2781. Section 85-5-405, MCA, is amended to read:

"85-5-405. Compensation and expenses. The court shall fix the compensation of ~~such the~~ commissioner and the term of his employment and shall make an order apportioning the amount of ~~such~~ compensation among the several owners, tenants in common, or stockholders of ~~said the~~ ditch, according to their respective rights and interest in ~~said the~~ ditch, ~~which~~ The amounts so apportioned shall *must* be taxed as costs in the action against the respective parties."

Section 2782. Section 85-5-406, MCA, is amended to read:

"85-5-406. Interference with actions of commissioner. ~~Any~~ A person opening or closing a headgate after being set by ~~such the~~ commissioner or who in any manner interferes with ~~such the~~ commissioner in the discharge of his ~~the commissioner's~~ duties shall be deemed *is* guilty of contempt of court and may be proceeded against for contempt of court as provided in contempt cases."

Section 2783. Section 85-7-1504, MCA, is amended to read:

"85-7-1504. Bonds for commissioner and secretary. (1) ~~In all cases where~~ When the obligations of the district, either existing or proposed, total \$250,000 or ~~ever more,~~ the commissioners of an irrigation district shall each furnish a bond in the penal sum of \$2,500, with corporate surety conditioned for the faithful performance of their duties under this chapter. The secretary shall furnish bond, with corporate surety, in the sum of \$1,000, conditioned for the faithful performance of ~~his the secretary's~~ duties pursuant to this chapter and for the proper safekeeping of the records and documents of the district. In all other cases, the bond for the commissioners shall be in the sum of *is* \$1,000.

(2) ~~In case~~ *If any* a district established under this chapter is appointed fiscal agent of the United States or is authorized by the United States to make collections of ~~moneys~~ money for and on behalf of the United States in connection with any federal reclamation project, each commissioner shall execute a further and additional official bond in ~~such a~~ sum as *that* the secretary of the interior may require, conditioned for the faithful discharge of the duties of his office and the faithful discharge by the district of its duties as fiscal or other agent of the United States under any ~~such~~ appointment or authorization, and ~~any such that~~ bond may be sued upon by the United States or by any person injured by the failure of the commissioner or the district to fully, promptly, and completely perform ~~their~~ respective duties."

Section 2784. Section 85-7-1506, MCA, is amended to read:

"85-7-1506. Liability of officers. For ~~any a~~ willful violation of ~~any an~~ express duty ~~hereunder~~ *under this part* on the part of any officer ~~herein~~ named *in this part,* he shall be *the officer is* liable upon his ~~the officer's~~ official bond and be *is* subject to removal from office by proceedings brought by ~~any a~~ tax or assessment payer of the district in the district court of the county ~~wherein~~ *in which* the office of the board of commissioners of the district is located."

Section 2785. Section 85-7-1507, MCA, is amended to read:

“85-7-1507. Conflict of interest — criminal penalty. ~~No~~ A commissioner or any other officer named in this chapter may *not* in any manner be interested, directly or indirectly, in ~~any~~ a contract awarded or to be awarded by the board or in the profits derived ~~therefrom~~ *from a contract*. For any violation of this provision, ~~such~~ *the* officer is guilty of a misdemeanor and ~~his~~ *upon* conviction ~~thereof shall work forfeiture of his~~ *forfeits* office and ~~he~~ *the officer* shall be punished as provided in 45-7-401.”

Section 2786. Section 85-7-1508, MCA, is amended to read:

“85-7-1508. Compensation and duties of secretary. The member of the board acting as secretary or any person appointed by the board as secretary for the district ~~shall must~~ receive ~~such~~ compensation for ~~his~~ services as ~~may~~ be allowed by the board. It ~~shall be~~ *is* the duty of the secretary to keep the books and records of accounts, contracts, securities, and other records; to perform ~~his~~ *the* duties promptly each month; and to make a monthly reconciliation of ~~his~~ accounts with the county treasurer. It ~~shall be~~ *is* the duty of the county treasurer to make a monthly report to the secretary of all receipts, disbursements, and balances. A failure by the secretary to comply with the provisions of this section ~~shall cause~~ *causes* a forfeiture of ~~his~~ *the secretary's* salary, and ~~he~~ *shall the secretary must* be removed from office by the board.”

Section 2787. Section 85-7-1615, MCA, is amended to read:

“85-7-1615. Manager of operations. The board of control ~~shall have the~~ power ~~to~~ *may* hire a manager to supervise and conduct the operations of the district or districts over which it presides or to hire a manager for each district under its supervision, whichever it ~~deems~~ *considers* advisable ~~in the premises~~. The manager or managers shall perform all duties as set out for ~~him or them~~ by the board of control.”

Section 2788. Section 85-7-1618, MCA, is amended to read:

“85-7-1618. Custody and disbursement of funds. The county treasurer of the county ~~wherein in which~~ the office of the board is established ~~shall be~~ *is* the custodian of all funds made available for the use of the board, and ~~he~~ *the county treasurer* shall pay out ~~such~~ *the* funds upon the order of the board. ~~Such~~ *The* orders ~~shall must~~ be signed by the secretary or treasurer of the board of control and countersigned by the president or, in ~~his~~ *the president's* absence, by the ~~vice-president~~ *vice president* of the board of control. The board funds ~~shall must~~ be kept separate and distinct from all other county funds. The county treasurer to whom board funds are entrusted ~~shall be~~ *is* liable on ~~his~~ *the treasurer's* bond for the safekeeping of ~~said~~ *the* funds.”

Section 2789. Section 85-7-1703, MCA, is amended to read:

“85-7-1703. Vacancies among commissioners. ~~In case of a~~ *If there is a* vacancy ~~in on~~ the board of commissioners; from any cause, the vacancy must be filled until the next regular or special election by appointment by the board. The remaining commissioners ~~shall~~ constitute a quorum for the purpose of filling any vacancy. If a vacancy exists for every position on the board, the judge of the district court of the county in which the division or major portion of the division is situated shall make the appointments. The appointee must be an owner of irrigable land within the division of the district ~~he that~~ *the appointee* represents and must be a resident of the county in which the division of the district or some portion of the division is situated. A commissioner appointed under this section ~~shall hold~~ *holds* office until ~~his~~ *a* successor is elected and qualified.”

Section 2790. Section 85-7-1811, MCA, is amended to read:

“85-7-1811. Procedure to correct errors and omissions in orders or decrees. (1) The district court ~~shall retain~~ *retains* jurisdiction of any petition presented to establish an irrigation district or to enlarge and increase its boundaries or to exclude land ~~therefrom from the district~~ for the purpose of correcting any omissions, defects, or errors in the proceedings of ~~said the court~~. The court ~~shall have power to~~ *may* correct and, if necessary, ~~to~~ amend the order of the district court establishing the district, any order extending the boundaries ~~thereof of the district~~, or any order excluding lands ~~therefrom from the district~~, including the description of lands included or intended to be included in the district or excluded ~~therefrom from the district~~ or intended to be excluded, the boundaries of the divisions into which it is divided, and any other matter ~~which shall be~~ *that is* before the court on the application to create the district, to enlarge or extend its boundaries, or to exclude lands ~~therefrom from the district~~. The court ~~shall have and is hereby granted power and authority~~ *may*, on application of the board of commissioners of the district, ~~to~~ correct and amend the terms of any order or judgment of ~~said the court~~ so that ~~the same shall conform~~ *it conforms* to the provisions of the statute under the authority of which ~~such the order~~ was made. The board of commissioners of any district may adopt a resolution directing its president and secretary to prepare, execute, and file with the clerk of the district court a petition ~~which shall set~~ *that sets* forth the following matters:

(a) the name of the district and a reference to the order in which the defect, error, ~~or~~ omission, errors in description of lands included or excluded, or departure from the statute occurred;

(b) a statement of the defects, errors, omissions, irregularities, errors in description of lands included or excluded, or variance from the statutory requirements; *and*

(c) a ~~prayer request~~ *request* for an order correcting ~~said the~~ defects, errors, omissions, or irregularities.

(2) If the error, defect, omission, irregularity, or variance is in the description of any land or lands embraced in the district, the petition ~~shall~~ *must* set forth the correct description of ~~said the~~ lands, the names of the holders of title or evidence of title ~~thereto to the lands~~, ascertained in the manner provided in 85-7-101 and 85-7-102, and if any holder is a nonresident of the county or counties in which the district lies, the post-office address of ~~such the~~ nonresident owner, if known. Upon the filing of ~~said the~~ petition, the court shall direct notice of the hearing ~~thereof of the petition~~ to be given in ~~such a~~ manner as ~~shall be deemed determined~~ necessary to protect the rights and interests of the parties and, after a hearing of any parties intervening, shall enter an order correcting the defects, errors, omissions, or irregularities. If the defects, errors, omissions, or irregularities are in the description of the lands embraced in the district, the district court or judge shall direct the clerk of ~~said the~~ court to publish, at least once a week for 2 successive ~~calendar~~ weeks, in some newspaper published in ~~said the~~ county where ~~said the~~ petition is filed, a copy of ~~said the~~ petition, together with a notice stating the time and place fixed by ~~said the~~ district court when and where a hearing on ~~said the~~ petition will be ~~had~~ *held*, and, if any portion of the lands within ~~said the~~ district lies within any other county or counties, ~~said the~~ petition and notice ~~shall~~ *must* be published as provided ~~above~~ *in this subsection* in a newspaper published in each ~~such other county of those counties~~. If ~~there be no~~ a newspaper *is not* published in ~~such the~~ county, ~~such the~~ petition and notice may be published in an adjoining county. The first publication of ~~said the~~ petition and notice ~~shall~~ *must* be not less than 30 days

prior to the time mentioned in ~~said the~~ notice for ~~said the~~ hearing. If any holder of title or evidence of title to lands within the district is a nonresident of the county or counties in which the district lies, the clerk of ~~said court~~ shall, within 3 days after the first publication ~~aforsaid~~, mail a copy of ~~said the~~ petition and notice to each ~~such~~ nonresident whose post-office address is stated in ~~said the~~ petition. The certificate of the clerk of the district court, under the seal of the court, as to the facts of the publishing and mailing of ~~said the~~ petition and notice, ~~shall be is~~ sufficient evidence of ~~such the~~ facts.

(3) At the time specified in the notice, the district court in which the petition ~~aforsaid~~ is filed shall hear the petition but may adjourn ~~such the~~ hearing from time to time and may continue the hearing for want of sufficient notice or other good cause. The court, upon application of the petitioners or any person or persons interested, shall permit the petition to be amended and may order further or additional notice to be given. Upon ~~such the~~ hearing, all persons interested may appear and contest the application for the order ~~prayed for requested~~ in the petition, and the contestants and petitioners may offer any competent evidence pertinent to the ~~prayer request~~ of the petition.

(4) The court may make ~~such~~ changes in the description of the lands embraced within the limits of the district ~~as that may be deemed considered~~ advisable or as fact, right, and justice may require but ~~shall may~~ not exclude from the district any lands described as a part of ~~said the~~ district in the order creating it after the district has issued bonds or entered into a contract with the United States under 85-7-1906. However, ~~such~~ lands may be excluded from a district ~~which that~~ has entered into a contract with the United States under ~~said section 85-7-1906~~, ~~provided if~~ the secretary of the interior ~~shall give his consent consents~~ to ~~such the~~ exclusion.

(5) If, on final hearing, it is found by the court that the petition does not substantially comply with the ~~foregoing~~ requirements of this section or that the facts ~~therein~~ stated ~~in the petition~~ are not sustained by the evidence, ~~then~~ the court shall dismiss the petition at the cost of the petitioners and shall make and enter an order to that effect. If it is found that ~~said the~~ petition substantially complies with ~~said the~~ requirements ~~of this section~~ and that the facts ~~therein~~ stated ~~in the petition~~ are sustained by the evidence, the court shall make and enter an order in accordance with the ~~prayers request~~ of the petition.

(6) All orders and findings of the district court made under the provisions of this section ~~shall be are~~ conclusive upon all owners of lands within the district and ~~shall be are~~ final unless appealed from to the supreme court within 60 days from the date of entry of ~~such the~~ order. A copy of ~~such the~~ order, ~~duly~~ certified to by the clerk of ~~said court~~, ~~shall must~~ be filed for record within 30 days after ~~such the~~ order is made and entered with the county clerk and recorder of the county ~~wherein in which~~ the lands included within ~~such the~~ district are situated. There ~~shall must~~ be omitted from ~~such the~~ copy lands not situated in the county in which ~~such the~~ copy is filed.”

Section 2791. Section 85-7-1901, MCA, is amended to read:

“85-7-1901. Board plan for acquisition and construction. (1) For the purpose of purchasing or constructing the necessary irrigation canals or works or acquiring the necessary property and rights ~~therefor for canals or works~~ and otherwise carrying out the provisions of this chapter, the board of commissioners of any irrigation district ~~must shall~~, as soon as practicable after ~~such the~~ district has been organized, formulate a general plan for ~~such the~~ purchase, construction, and acquisition of ~~such the~~ property. The board shall

cause ~~such~~ surveys, examinations, and plans to be made ~~as shall that~~ demonstrate the practicability of ~~such the~~ plans, as well as of procuring water from other and different sources, ~~and~~ the amount of land that can be irrigated ~~thereunder under the plan~~, and ~~shall~~ furnish the proper basis for an estimate of the cost of carrying out ~~such the~~ plan and the value of any canal, works, property, or system of irrigation proposed to be purchased.

(2) All ~~such~~ surveys, examinations, maps, plans, and estimates ~~shall must~~ be made by or under the direction and supervision of an irrigation engineer of well-known standing and competency, and all ~~such~~ necessary surveys, examinations, maps, plans, and estimates must be certified to by ~~him the~~ engineer. When ~~all such the~~ surveys, examinations, maps, plans, and estimates are completed, ~~he the~~ engineer shall submit them with all proper field notes to and file them with the board of commissioners, accompanied by ~~his the~~ engineer's report and recommendation ~~thereon~~. This report ~~shall must~~ include a discussion of ~~said the~~ plans submitted by ~~him the~~ engineer to ~~said the~~ board, of the question of water supply, of the sufficiency of the works proposed to accomplish the desired results, of the practicability of the proposed system from an engineering standpoint, ~~and~~ of the probability of being acquired or constructed within the estimate of the cost stated; and ~~such a~~ general discussion and recommendation in regard to the engineering and financial features of the whole matter ~~as that~~ in the judgment of ~~such the~~ engineer ~~shall be is~~ desirable for the information of the people of the district. ~~Such The~~ report ~~shall must~~ be accompanied by a map; when ~~such a~~ map is necessary for a proper explanation or understanding of the ~~same report and recommendation~~.

(3) Upon receiving ~~such the~~ report, ~~said the~~ board of commissioners shall proceed to determine the amount of money necessary to be raised for the purchase or construction of ~~said the~~ proposed property, canals, or irrigation works and system and within 10 days after arriving at ~~such that~~ determination shall cause the secretary of ~~said the~~ board to notify all persons or corporations holding title or evidence of title to lands within ~~said the~~ district, (~~ascertained determined~~ as provided in 85-7-101 and 85-7-102), of the filing of ~~said the~~ report and their determination ~~thereon on the report~~. ~~Said The~~ notices ~~shall must~~ be given through the United States mail by letter addressed to ~~such the~~ person or corporation at the ~~last known last-known~~ post-office address of each person or corporation ~~aforsaid~~. A certificate of the secretary of the board as to the fact of mailing ~~said the~~ notice, affixed to a copy of ~~said the~~ notice and recorded in the record book of ~~said the~~ board of commissioners, ~~shall be is~~ sufficient and conclusive evidence of ~~such fact mailing~~.

Section 2792. Section 85-7-1912, MCA, is amended to read:

“85-7-1912. Exchange of water by board. (1) Whenever any canal constructed, owned, or controlled by the district crosses any creek, stream, water channel, or *water* course, the water of which is used to irrigate land lying below ~~such the~~ canal, the district ~~shall have the right to~~ *may* contract with the owner or owners of the right to the use of the water or waters in ~~any such the~~ stream, creek, water channel, or *water* course for an exchange of water and to supply ~~him the~~ owner with water from the district system. The contract ~~shall must~~ be in writing, signed and acknowledged by all the parties ~~thereto~~ before ~~some an~~ officer authorized to take acknowledgments, and ~~shall must~~ be filed and recorded in the office of the clerk and recorder of the county in which the creek, stream, water channel, or *water* course is situated. The acknowledgment ~~shall must~~ be certified by ~~such the~~ officer in the manner that deeds are ~~now~~ required to be certified to entitle them to be recorded. ~~Thereafter, such~~ *After recording,*

~~the district shall have the right to~~ *may* supply ~~such the~~ land below the canal, whether ~~such the~~ land is included in the district or not, with water from the works of the district, and the owner or lessee of ~~such the~~ land shall, in such case, *must* be furnished with the same quantity of water as that to which ~~such the~~ owner or lessee would be entitled out of ~~such the~~ creek, stream, water channel, or *water* course ~~had if~~ the district works *had* not been built.

(2) The district ~~shall have the right to~~ *may* appropriate and take possession of the water ~~so~~ replaced and ~~shall have~~ *has* the same right to ~~such that~~ water as the owner or lessee of the land ~~had,~~ *so* as long as ~~such the~~ water ~~shall be~~ *is* replaced by a like quantity of water from ~~such the~~ works. The appropriating and taking of ~~such the~~ water by the district ~~shall never may not~~ deprive ~~such the~~ owner or lessee of the right to retake and use the ~~same should such water if the~~ owner or lessee at any time ~~be is~~ prevented from having or using a ~~like the same~~ quantity of water from ~~such the~~ works. The district ~~shall also have~~ *has* the right to make appropriation and take possession of ~~such the~~ water at any point and to sell, lease, or use ~~such the~~ water on any land, either above or below the canal, and the appropriation of ~~such the~~ water at any point or selling, leasing, or using the ~~same shall water may~~ not prejudice the right of the district to the water and ~~shall may~~ not increase the rights of the owner or owners of any other water right on ~~such the~~ creek, stream, water channel, or *water* course.

(3) All water, the right to the use of which is acquired by the district under any contract with the United States, ~~shall must~~ be distributed and apportioned by the district in accordance with the acts of congress, the rules and regulations of the secretary of the interior, and the provisions of ~~said the contract in relation thereto.~~

Section 2793. Section 85-7-1924, MCA, is amended to read:

“85-7-1924. Interference with commissioners or distribution system — penalty. Any A person who in any manner interferes with the commissioners of an irrigation district or their lawful agent or employee in the carrying out of the powers conferred by 85-7-1921 through 85-7-1925 or who changes or tampers with any lock box, headgate, or other device for the apportionment or distribution of water installed by or under the authority of the commissioners or who in any manner obstructs or changes the flow of water in the distribution system of any irrigation district without authority of the commissioners of the district ~~shall is~~, in the discretion of the commissioners, be subject to a forfeiture of ~~his the person’s~~ right to the delivery of water through the distribution system of the district ~~so~~ as long as ~~such the~~ acts continue and is guilty of obstructing a public officer or criminal mischief, as appropriate, and is punishable as provided by ~~45-7-302 or 45-6-101 or 45-7-302~~, as applicable.”

Section 2794. Section 85-7-2017, MCA, is amended to read:

“85-7-2017. Hearing and procedure in the district court. (1) Upon the filing of ~~this a~~ petition in the district court, the court shall fix the time for the hearing of the petition, which may not be less than 15 days from the date of filing the petition in the court, and shall order the clerk of the court to give notice of the filing of the petition and the date of the hearing ~~thereon~~ by publication at least once a week for 2 ~~calendar~~ weeks in a newspaper published or of general circulation in the county where the office of the board of commissioners of the district is situated and also by posting a written or printed copy of ~~such the~~ notice in at least three public places in each division of the district; ~~the~~ *The* first of ~~such~~ *publications* *publication* and ~~such~~ posting ~~to~~ *may* be not less than 15 days prior to the date fixed for the hearing.

(2) The notice ~~shall~~ *must* state the substance of the petition and the time and place fixed for the hearing ~~thereon on the petition~~ and that any person interested in or whose rights may be affected by the issuance or sale of the bonds, the levy of the special tax or assessment, or the proceedings had or to be had by the board of commissioners with respect to ~~such those~~ matters may, on or before the day fixed for the hearing of the petition, answer the petition and may appear at the hearing and contest the granting of the ~~prayer request~~ of the petition and the entry of any order of confirmation.

(3) The provisions of Title 25 respecting the answer to a verified complaint are applicable to an answer to the petition. The persons ~~so~~ answering the petition are the defendants in the proceeding, and the board of commissioners is the plaintiff. Every material statement of the petition not specifically controverted by the answer ~~shall~~ *must* be taken as true, and every holder of title or evidence of title to lands included in the district failing to answer the petition ~~shall be is~~ considered to admit as true all the material statements ~~thereof of the petition~~. The procedure in ~~such the~~ action ~~shall be is~~ determined by Title 25.

(4) ~~Any~~ A person interested in or whose rights may be affected by the issuance or sale of the bonds, the levy of the special tax or assessment, or the proceedings had or to be had by the board of commissioners of the district in connection with ~~such the~~ matters and the entry of any order of confirmation may enter ~~his an~~ appearance in ~~such the~~ proceedings and answer the petition and contest the granting of the ~~prayer request~~ of the petition.”

Section 2795. Section 85-7-2027, MCA, is amended to read:

“85-7-2027. Disposition of bond proceeds. The county treasurer shall place the proceeds of the sale to the credit of the district, and the proceeds ~~shall~~ *may* be paid out by the county treasurer only upon the written order of the board of commissioners, signed by the president and secretary under the seal of the district. The proceeds ~~shall~~ *may* be spent only for the purpose for which the bonds were issued. If any portion of the funds realized from the sale of bonds is not needed immediately for the purpose for which the bonds were issued, the board of commissioners may direct the investment of the funds and any other surplus funds of the district or any portion ~~thereof of the funds~~ in legal investments backed, insured, or guaranteed by the United States or the state of Montana, including federal and state agency obligations. The county treasurer shall transfer to the credit of the district and place to the credit of the fund or funds, as the board of commissioners may direct, all interest received upon investments of the district entrusted to ~~his the treasurer's~~ care.”

Section 2796. Section 85-7-2114, MCA, is amended to read:

“85-7-2114. Apportionment of costs when bonds issued. (1) Whenever a petition for the issuance of bonds of any irrigation district established under the provisions of *Title 85, chapter 7, part 1*, has been filed as provided in 85-7-2012 through 85-7-2015, the board of commissioners of the district shall examine or cause to be examined each 40-acre tract or fractional lot as designated by United States public survey or platted lot, if land is subdivided in lots and blocks, (or whenever land is owned in less than 40-acre tracts or in less than the platted lot, each ~~such tract~~) of land in the district or of land in a subdistrict if the bonds are to be issued on behalf of the subdistrict; and cause a careful topographical survey and map to be made in the manner provided for in 85-7-2107. Upon the examination, the board shall determine the number of irrigable acres in each tract and shall apportion and distribute the cost of the works or improvements for which the bonds are to be issued over the tracts

within the district or subdistrict according to the irrigable area in each of the tracts or subdivisions; so that each irrigable acre is required to bear the same burden of ~~such~~ *the* costs as each other irrigable acre in the district or subdistrict, except as otherwise provided by law. The special tax or assessment levied to meet the principal of and interest on the bonds is a lien upon the entire tract of which the irrigable area forms a part or portion as of January 1 of the year in which the special tax or assessment is levied, and the number of irrigable acres in each tract so determined may not be diminished but may be increased during the term for which the bonds are issued or until the bonds are liquidated in full.

(2) Whenever a proceeding for the determination, in whole or in part, of the irrigable area of the lands in the district or subdistrict has already been had or a topographical survey or maps ~~thereof of the lands~~ prepared or a court confirmation of prior proceedings ~~had~~, in part or in full, the board may, in its discretion, adopt all or portions of the prior proceedings and need not cause an additional survey or maps or examination of any of the tracts to be made or redetermine the irrigable area of any tract.

(3) The board shall make the determination after the hearing and shall fix the total acreage and the irrigable acreage and ~~shall~~ prepare a list of the irrigable area for filing, and the proceedings of the board in connection with the determination, including the hearing and notice of the hearing and order or resolution fixing the irrigable area and the preparation and filing of the list, ~~shall must~~ conform to the requirements set forth in 85-7-2107 through 85-7-2113. At the hearing, the board shall also determine the amount and rate per acre necessary to be levied against each irrigable acre in the district to meet the interest on and principal of the authorized bond issue. The tax levied is a lien upon the entire tract of which the irrigable area forms a part. If ~~any a~~ landowner in the district or subdistrict appears before the board at that time and pays in cash the amount fixed against ~~his the landowner's~~ land as its proportion of the amount found necessary for the purposes for which the bonds were authorized and are to be issued, ~~his that~~ land must be excluded from the lien of the bond issue and the amount of bonds intended to be issued ~~shall must~~ be reduced by the amount of the payment. ~~Any A~~ person interested who fails to appear before the board at the meeting may not ~~thereafter~~ contest the proceedings of the board or any part ~~thereof of the proceedings~~; except upon special application to the court in the proceedings for the confirmation of the bonds and a showing of reasonable excuse for failure to appear before the board.”

Section 2797. Section 85-7-2115, MCA, is amended to read:

“85-7-2115. Objection by landowner. ~~In case~~ *If any a* landowner ~~makes objection~~ *objects* to the proceedings of the board in determining the irrigable area in ~~his the landowner's~~ own or any other tract of land or the amount or rate per acre of the special tax and assessment to be levied against each irrigable acre in the district or subdistrict for the purposes of the proposed bond issue and the objection is overruled by the board, the objection without further proceedings must be regarded as appealed to the district court and ~~shall must~~, with the other proceedings of the board at the meeting, be heard at the proceedings to confirm the bonds, as provided in 85-7-2016 through 85-7-2018, ~~and when~~ *When* confirmed, the order overruling the objection and confirming the order of the board determining the irrigable area of each tract of land and apportioning the cost of the improvement to each tract ~~shall become~~ *becomes* final, binding, and conclusive upon the landowner and upon the district; unless appealed from as provided in 85-7-2018.”

Section 2798. Section 85-7-2116, MCA, is amended to read:

“85-7-2116. Restrictions on reduction of taxable acreage. Whenever the irrigable area of the lands in ~~any an~~ irrigation district or subdistrict has been determined and confirmed, ~~no the~~ owner or holder of title or evidence of title to lands in the district or subdistrict, during the period when any bonds are issued and outstanding, may *not* have the taxable acreage of ~~his the~~ owner’s or title holder’s lands fixed or adjudicated in the manner provided by 85-7-1841 through 85-7-1845 in a manner or to an extent as to reduce the acreage subject to the payment of the bonds or interest or in a manner as to affect the security of the bonds or interest on the bonds.”

Section 2799. Section 85-7-2133, MCA, is amended to read:

“85-7-2133. Role of the county officers in collection of tax or assessment. (1) A certified copy of ~~such the~~ resolution ~~shall~~ *authorizing the issuance of bonds under this chapter must* be filed with the clerk of the board of county commissioners of each county in which the lands of the irrigation district lie, and the special tax or assessment ~~therein~~ provided for ~~shall in the resolution~~ *must* be levied and collected as prescribed and when ~~so~~ collected ~~shall~~ *must*, by the county treasurer having custody of the funds of the district, be placed in a special fund and used solely for the payment of all bonds issued under the provisions of this chapter and interest ~~thereon so on the bonds~~ as long as any of the bonds or interest coupons remain outstanding and unpaid. Whenever the payments are made for amounts due or to become due to the United States under a contract between the district and the United States, accompanying ~~which~~ bonds of the district *that* have not been deposited with the United States as provided in 85-7-1906, the special fund ~~shall~~ *must* be known as the United States contract fund.

(2) The county treasurer of the county where the office of an irrigation district is located is the custodian of all funds belonging to the district, and ~~he the~~ treasurer shall pay out ~~such the~~ funds upon the order of the board of commissioners, except payments on bonds and interest for which ~~no an~~ order is *not* necessary. If any portion of the funds belonging to a district has been collected for the purpose of establishing a reserve fund, the county treasurer shall pay ~~such that~~ portion to the district on order of the district’s board of commissioners who may invest the ~~same funds~~ in legal investments backed, insured, or guaranteed by the United States or the state of Montana, including federal and state agency obligations. ~~Where moneys~~ *If money* of a district in the United States contract fund established pursuant to subsection (1) ~~are is~~ in excess of ~~these the~~ amount needed to pay a district’s next ~~succeeding~~ annual contract obligation or obligations to the United States, ~~such the~~ excess or any part ~~thereof of the excess~~ may, upon order of the district’s board of commissioners and with the consent of the United States officer administering the contract for which the contract fund has been established, be paid to the district for use in meeting other obligations of the district. ~~Such~~ *The* orders of the board of commissioners ~~shall~~ *must* be signed by the president and secretary of the board and ~~shall~~ *must* bear the official seal of the district.”

Section 2800. Section 85-7-2153, MCA, is amended to read:

“85-7-2153. Assignment of debenture certificates. The certificates provided for by ~~the preceding section hereof shall be~~ *85-2-2152 are* assignable and may be sold or negotiated by the board of commissioners of ~~said the~~ irrigation district and the proceeds ~~thereof of the sale~~ delivered to and deposited with the county treasurer of ~~said the~~ county for proper credit to the respective funds of ~~said the~~ irrigation district. Upon the sale, negotiation, or transfer ~~thereof, as provided for above of a certificate,~~ the lien of ~~said the~~ irrigation

district ~~shall vest~~ *vests* in the purchaser ~~thereof of the certificate~~ and is only divested by the payment to the purchaser or the county treasurer of ~~said the~~ county, for ~~his the purchaser's~~ use, of the sum for which ~~said the~~ certificate is issued and 1% additional for each month that ~~elapses passes~~ from the date of ~~such the~~ certificate until redeemed as hereinafter provided for in 85-7-2154.”

Section 2801. Section 85-7-2166, MCA, is amended to read:

“85-7-2166. Liability of county treasurers. (1) The county treasurer to whom district funds or securities are entrusted ~~shall be~~ *is* liable on ~~his the~~ *the* treasurer’s bond for the safekeeping of ~~said the~~ funds and securities. ~~Such The~~ funds ~~shall must~~ be properly divided into the respective funds for which district taxes or assessments were levied; ~~that is to say, including a~~ United States contract fund; bond principal and interest fund; sinking fund to redeem bonds; maintenance fund; construction fund; and general fund. The construction fund ~~shall must~~ be available for the payment of the purchase price of all works, water rights, or other property purchased by or for the district and all expenses incident ~~thereto to those purchases,~~ as well as for the payment of the cost of construction of works, including cost of engineering, superintendence, and other expenses incident ~~thereto to construction.~~ All warrants issued for preliminary and organization expenses and all administrative expenses ~~shall must~~ be paid from the general fund.

(2) The county treasurer is authorized to receive, in lieu of cash, matured bonds, ~~and/or~~ matured coupons, or interest coupons maturing within the year in payment of any tax or assessment levied for the payment of bonds or interest on bonds. The county treasurer at any time, upon the order of the board of commissioners of the district, shall turn over to ~~said the~~ board any bonds or securities held by ~~him the~~ *the* treasurer and required to be delivered to ~~said the~~ board in accordance with the provisions of this chapter. All bonds and interest coupons ~~so~~ received or otherwise paid and all bonds of the district upon the payment ~~thereof shall~~ *must* be immediately canceled and retained by the county treasurer as vouchers.”

Section 2802. Section 85-8-111, MCA, is amended to read:

“85-8-111. Notice of hearing. (1) On ~~such the~~ *filing of a* petition under 85-8-101 being filed, the court or judge ~~thereof~~ shall make an order fixing a time and place of hearing ~~thereon on the petition~~ and ordering notice. ~~Thereupon, the~~ *The* clerk of ~~said court~~ for the county in which the proceedings are instituted shall cause 20 days’ notice of the filing of ~~such the~~ petition to be given:

(a) by posting notice ~~thereof~~ in at least five of the most public places in the proposed district in which ~~said the~~ work is to be done;

(b) by serving or causing to be served a copy of ~~such the~~ notice on each owner of land within ~~said the~~ proposed district residing in any county in which any lands in ~~said the~~ proposed district are situated, either personally or by leaving a copy ~~thereof of the notice~~ at ~~his the~~ *the* owner’s last usual place of ~~abode~~ *residence* with a person of suitable age and discretion, to whom its contents ~~shall must~~ be explained; and

(c) by publishing a copy ~~thereof~~ at least once a week for 3 successive weeks in some newspaper published in each county from which any part of the district is proposed to be taken. If there ~~be is~~ no newspaper in any ~~such~~ county, ~~such the~~ notice may be published in a newspaper published in an adjoining county.

(2) ~~Such The~~ notice ~~shall must~~:

(a) state in what court ~~said the~~ petition is filed;

(b) state briefly the starting points, routes, and termini of ~~said~~ drains, ditches, and levees;

(c) give a general description of the proposed work;

(d) give the proposed boundaries of ~~said the~~ district (or a general description of all the lands in ~~said the~~ proposed district);

(e) give the name proposed for ~~said the~~ drainage district; and

(f) state the time and place fixed by the court when and where the petitioners will ~~ask request~~ a hearing on ~~said the~~ petition.”

Section 2803. Section 85-8-115, MCA, is amended to read:

“85-8-115. Insufficient service. (1) If it ~~shall be~~ *is* found, before the hearing on a petition for the organization of a drainage district, that one or more owners of land in ~~said the proposed~~ district have not been ~~duly~~ served with notice of hearing on ~~said the~~ petition, the court or presiding judge ~~shall does not thereby~~ lose jurisdiction. The court or presiding judge in ~~such that~~ case shall adjourn the hearing, make an order directing the serving of ~~said the~~ notice upon ~~said the~~ landowner or *landowners*, and fix the time and manner of service of ~~such the~~ notice, which ~~notice shall must~~ notify ~~him the~~ landowner or *landowners* to appear at ~~said the~~ adjourned time and place and be heard on ~~said the~~ petition.

(2) ~~Said The~~ notice ~~shall must~~ be served personally or by leaving *the notice* at the last usual place of ~~abode~~ *residence* of ~~said the~~ unserved owners as provided in 85-8-111, not less than 8 days before ~~said the~~ adjourned hearing, or *must be* published, not less than 14 days before ~~said the~~ adjourned hearing, in some newspaper published in the county in which ~~said the~~ owners' lands lie or, if ~~no a~~ newspaper ~~be is not~~ published in ~~said that~~ county, then in some newspaper published in an adjoining county.”

Section 2804. Section 85-8-119, MCA, is amended to read:

“85-8-119. Receiving affidavits on question of petition sufficiency. The affidavits of any 10 or more of the signers of the petition, stating that they have examined ~~it the~~ *petition* and are acquainted with the locality of the district and that the petition is signed by a sufficient number of owners of lands in the district to satisfy 85-8-101, may be taken by the court or judge as prima facie evidence of the facts ~~therein~~ *stated in the petition*. The affidavit of any petitioner or other landowner before the court or represented before the court asserting ~~his the petitioner's or landowner's~~ ownership of lands in the district, properly described, is sufficient evidence to the court of ~~such those~~ *facts*.”

Section 2805. Section 85-8-121, MCA, is amended to read:

“85-8-121. Court determination. (1) If the court or presiding judge ~~thereof~~, after hearing any and all competent evidence that may be offered for and against the petition *for the creation of the district*, ~~shall find finds~~ that the ~~same~~ *petition* has not been signed as ~~herein~~ *required in this part*, the petition ~~shall must~~ be dismissed at the cost of the petitioners and judgment ~~shall must~~ be entered against ~~said the~~ petitioners for the amount of ~~said the~~ costs.

(2) If it ~~shall appear~~ *appears* that the petition has been ~~so~~ *signed as required in this part*, the court or judge shall so find and order any necessary amendments ~~thereto; to the petition~~, shall divide the district into three divisions, as nearly equal in area as possible; and shall appoint three suitable and competent persons as commissioners and fix their temporary bonds. ~~In making such appointments one~~ *One* commissioner ~~shall must~~ be appointed from each division, and each person ~~so~~ appointed ~~a commissioner~~ must be an actual landowner and resident of the county or counties in the division for which ~~he the~~

person is appointed ~~such commissioner~~. If the district is situated in two or more counties, not more than two of ~~said the~~ commissioners ~~shall~~ *may* reside in one of ~~said the~~ counties. Ownership of land within the district ~~shall~~ *may* not disqualify a person from acting as a commissioner.”

Section 2806. Section 85-8-307, MCA, is amended to read:

“85-8-307. Vacancies. If a vacancy occurs ~~in on~~ the board of commissioners, the remaining members of the board shall elect some qualified elector to fill ~~such the~~ vacancy, and the person ~~so~~ elected ~~shall hold such holds~~ office for the unexpired term and until ~~his a~~ successor is elected and qualified. The person ~~so~~ appointed must be appointed as a commissioner for the division in which ~~such the~~ vacancy exists. ~~In the event~~ *If* there is a vacancy or vacancies ~~in on~~ the board of commissioners by reason of no appointment being made, due to the failure of the remaining members of the board to act or on account of no election being held, ~~then, in that event,~~ the judge of the court having jurisdiction over ~~said the~~ drainage district shall, upon the receipt of a petition signed by 10% of the resident owners of land in ~~said the~~ district, appoint to ~~such the~~ vacancy or vacancies ~~such the~~ person as ~~that the~~ ~~aforsaid~~ petition may designate.”

Section 2807. Section 85-8-308, MCA, is amended to read:

“85-8-308. Oath and bond of commissioners — quorum. (1) Before entering upon their duties, ~~such the~~ commissioners shall:

(a) take and subscribe an oath to support The Constitution of the United States and The Constitution of the State of Montana, to faithfully and impartially discharge their duties as ~~such~~ commissioners, and to render a true account of their doings to the court by which they are appointed; whenever required by law or the order of the court; and

(b) execute a bond running to the clerk of ~~said~~ court and ~~his the~~ clerk’s successors in office as obligees, to be filed with ~~said the~~ clerk for the benefit of the parties interested, in an amount to be fixed by the court or presiding judge and with sureties to be approved by the court or presiding judge, conditioned for the faithful discharge of their duties as ~~such~~ commissioners and the faithful accounting for and application of all ~~moneys which shall come~~ *money that comes* into their hands as ~~such~~ commissioners.

(2) A majority shall constitute a quorum, and a concurrence of a majority in any matter within their duties ~~shall be~~ *is* sufficient to its determination.”

Section 2808. Section 85-8-312, MCA, is amended to read:

“85-8-312. Custody of funds. The county treasurer of the county ~~wherein in which~~ the court having jurisdiction of ~~such the~~ district is located ~~shall be~~ *is* the custodian of all funds belonging to the district, and ~~he the~~ *treasurer* shall pay out ~~such the~~ funds upon warrants drawn by the board of commissioners of ~~such the~~ district, except that the bonds of ~~said the~~ district and the interest coupons ~~thereon shall be on the~~ *bonds are* payable as they mature; on presentation to ~~such the~~ treasurer.”

Section 2809. Section 85-8-314, MCA, is amended to read:

“85-8-314. Court control and compensation of commissioners. (1) The commissioners ~~shall must~~ receive for their services ~~such~~ compensation as ~~that~~ the court or presiding judge ~~thereof~~ may determine. They ~~shall must~~ also receive their actual reasonable expenses. They ~~shall are~~ at all times ~~be~~ under the control or direction of the court or presiding judge and shall obey ~~its the~~ *the court’s* or ~~his judge’s~~ directions; ~~and for failure to do so, they shall forfeit their compensation and be dealt with summarily as for contempt. Suit may also be~~

brought upon their bonds, in the name of the clerk of the court, and the amount recovered shall *must* be applied to the construction of the work or to the party injured; as justice may require.

(2) The court may at any time require the commissioners to make a report on any matter or matters connected with their duties as commissioners and after ~~the~~ hearing may remove from office any or all of ~~said the~~ commissioners for neglect of duty, *for* malfeasance in office, or for other good cause. The court may at any time require the commissioners to give new bonds to the clerk of the court and may fix the amount ~~thereof of the bonds~~. ~~Said The~~ bonds shall *must* be submitted to the court or the presiding judge ~~thereof~~ for approval.”

Section 2810. Section 85-8-321, MCA, is amended to read:

“85-8-321. Organization, appointments, and preliminary report. (1) Within 10 days after ~~said the~~ commissioners shall ~~be~~ *are* appointed and qualified, they shall meet and organize by electing one ~~of their number~~ *member* as president and *by electing* a secretary, who may or may not be ~~one of their number~~ *a member of the board*.

(2) ~~They~~ *The commissioners* shall appoint one or more attorneys to assist in the establishment of the district; advise with its officers, agents, and employees; and prepare reports and other necessary documents. The court shall allow ~~such the~~ attorney or attorneys just compensation to be taxed in the case.

(3) ~~They~~ *The commissioners* shall ~~also~~ appoint a competent civil and drainage engineer, who may be an individual, a partnership, or a corporation, who may employ assistants and make surveys; and who, with the approval of the court, may employ a consulting engineer or secure expert advice. The expense of the engineer, ~~his the engineer's~~ assistants, and the consulting engineer shall *must* be taxed as expenses under the petition. ~~As soon thereafter as may be, they~~ *The commissioners* shall personally examine the lands in ~~said the~~ district and make a preliminary report to the court, ~~which report shall state that states:~~

(a) whether ~~said the~~ proposed work is necessary or would be of ~~utility~~ *use* in carrying out the purposes of the petition;

(b) whether the proposed work would promote the public health;

(c) whether the proposed work would promote the public welfare;

(d) whether the total benefits from ~~said the~~ proposed work will exceed the cost ~~thereof of the work~~, together with the damages resulting ~~therefrom~~ *from the work*, and in arriving at this, they shall include all benefits and all damages resulting ~~therefrom~~ *from the work* both within and ~~without said~~ *outside of the* district.

(4) ~~Said The~~ commissioners shall in ~~said the~~ report fix, as near as may be, and report to the court the boundaries of ~~said the~~ proposed drainage district. ~~Said The~~ boundaries shall *may* not be changed from those in the petition described so as to deprive the court of jurisdiction by reason of not having on the petition the required number of signers owning land within ~~said the~~ changed boundaries.”

Section 2811. Section 85-8-345, MCA, is amended to read:

“85-8-345. Notice of hearing of report. (1) Upon the filing of ~~such the~~ report *under 85-8-341*, the court shall make an order fixing the time and place when and where all interested persons may appear and ~~remonstrate~~ *protest* against the confirmation ~~thereof of the petition~~. The clerk of ~~such~~ court shall

cause notice to be given *give notice* to all *interested parties interested* by publication ~~thereof of the order~~ for at least 3 successive weeks before the date of ~~such the~~ hearing in at least one newspaper in each county ~~wherein in which~~ lands located in ~~such the~~ district are ~~situate, situated, which~~ *The notice shall must* contain a statement of the time and place of the hearing of ~~said the~~ report and a brief statement of the substance ~~thereof of the report~~.

(2) Upon a date not later than the date of the first publication of the notice referred to in ~~the last~~ subsection (1), the clerk of ~~such~~ court shall also cause to be mailed to each of the persons or corporations recommended by ~~said the~~ report to be assessed or whose lands are recommended by ~~said the~~ report to be included in ~~said the~~ district, at ~~his the person's or its corporation's last known last-known~~ post-office address, a notice containing a brief description of the land or easement belonging to ~~such the~~ person or corporation benefited or damaged; the net damage awarded to ~~such the~~ tract, parcel, easement, or corporation; and the sum assessed against ~~such the~~ benefited parcel, tract, easement, or corporation."

Section 2812. Section 85-8-362, MCA, is amended to read:

"85-8-362. Interest of commissioners in contracts forbidden. The commissioners ~~shall may~~ not, during their term of office, be interested, directly or indirectly, in any contract for the construction of any drain, ditch, levee, or other work in ~~such the~~ drainage district; in the sale of materials ~~therefor; for the drainage district~~, or in the wages of or supplies for ~~men personnel~~ or teams employed on any ~~such construction~~ work in ~~said the~~ district."

Section 2813. Section 85-8-364, MCA, is amended to read:

"85-8-364. Payment or tender of damages. (1) The damages allowed to the owners of lands ~~shall must~~ be paid or tendered before the commissioners ~~shall be~~ are authorized to enter upon the lands (for damage to which the award is made) for the construction of any *proposed* drains, ditches, or levees ~~proposed thereon~~. If the owner is unknown, ~~or if there shall be~~ is a contest in regard to the ownership of the land, ~~or if the owner will not receive payment, or if there exists a mortgage or other lien against the same land, or if the commissioners cannot for any other reason pay him the owner,~~ they may deposit the ~~same~~ damages with the clerk of the court; for the benefit of the owner or parties interested, to be paid or distributed as the court shall direct; . ~~and such payment shall have~~ *The deposit has* the same effect as the tender to and acceptance of the damages awarded by the ~~true~~ owner of the land.

(2) This section ~~shall does~~ not, ~~however,~~ prevent ~~said the~~ commissioners; or their agents, servants, and employees *from* going upon ~~said the~~ lands to do any and all work found necessary prior to making their assessment of benefits and award of damages and the trial on their report ~~thereof of the benefits and damages~~."

Section 2814. Section 85-8-402, MCA, is amended to read:

"85-8-402. Hearing — notice and service. Upon the filing of ~~such a~~ petition *under 85-8-401*, a judge of ~~said the~~ district court shall set the ~~same~~ petition for hearing and direct the clerk of ~~such~~ court to give notice ~~thereof of the hearing~~. ~~Such~~ *The notice shall must* contain a concise statement of the proposed alteration ~~and/or or~~ addition and the estimated cost ~~thereof, of the alteration or addition~~. ~~which~~ *The notice must* be served and published at least 20 days before the date fixed for ~~such the~~ hearing. Service of ~~such the~~ notice ~~shall must~~ be made by certified ~~or registered~~ mail, addressed to each landowner and corporation that may be liable for the payment of any portion of the cost of making ~~such the~~

alteration ~~and/or~~ or addition, at ~~his~~ *the landowner's* or ~~its~~ *corporation's* post-office address, if the same can be ascertained by the exercise of due diligence. ~~Such~~ *The notice shall must* be published once a week for 20 days prior to ~~such~~ *the date of the hearing* in ~~some~~ *a* newspaper, to be designated in the order fixing the date for ~~such~~ *the* hearing, published in the county where ~~said~~ *the* court is held; ~~provided, however~~ *However, that* if all interested landowners and corporations are so served, ~~such~~ *the* notice need not be published.”

Section 2815. Section 85-8-403, MCA, is amended to read:

“85-8-403. Court order — dismissal of petition. (1) ~~Any~~ *A* ~~such~~ landowner or corporation may, at any time prior to 5 days before the date fixed for ~~such~~ *the* hearing ~~under 85-8-402~~, file ~~his~~ *or its* objections to ~~such~~ *the* petition. A copy of ~~such~~ *the* objections ~~shall must~~ be delivered to the attorney for ~~said~~ *the* commissioners, if they have an attorney of record, or to the ~~chairman~~ *presiding officer* of the board of commissioners of ~~said~~ *the* district, if there ~~be~~ *is* no ~~such~~ attorney of record, prior to filing the original ~~thereof~~ *objections* with the clerk of ~~said~~ *the* court.

(2) If objections are made and filed by the owners of at least 75% in area of the lands in ~~said~~ *the* district, ~~said~~ *the* petition ~~shall must~~ be dismissed and ~~no~~ further proceedings ~~had thereon~~ *may not be taken*. If the owners of less than 75% in area of the lands in ~~said~~ *the* district object to ~~such~~ *the* petition, then, on the date fixed for ~~such~~ *the* hearing or upon any day to which ~~such~~ *the* hearing may be adjourned, the court having jurisdiction will hear testimony in support of ~~said~~ *the* petition ~~and in opposition thereto~~.

(3) After ~~such~~ *the* hearing, the court shall determine whether the proposed alteration ~~and/or~~ or addition is necessary; ~~and~~ whether it will be beneficial to ~~said~~ *the* district and improve the drainage system ~~thereof of the district~~; and ~~shall~~ either approve or deny ~~such~~ *the* petition or modify and change the proposed alteration ~~and/or~~ or addition. If the court ~~shall approve~~ ~~such~~ *approves* the petition or ~~modify~~ *modifies* and ~~change~~ *changes* the alteration ~~and/or~~ or addition proposed, the court shall by order direct ~~said~~ *the* commissioners to proceed with ~~said~~ *the* work with all convenient speed.

(4) ~~So~~ *As* far as possible, ~~such~~ *the* hearing ~~shall must~~ be conducted as other hearings and trials in the district courts of the state of Montana, and the laws of the state of Montana with reference to hearings and trials, ~~so~~ *as* far as applicable, ~~shall~~ govern in the conduct of ~~such~~ *the* hearings.”

Section 2816. Section 85-8-404, MCA, is amended to read:

“85-8-404. Appeals and assessments. ~~Any~~ *A* party interested in ~~such~~ *the* hearing ~~under 85-8-402~~, ~~deeming himself who is~~ aggrieved by the order of the court ~~thereon~~, may appeal from ~~such~~ *the* order to the supreme court of Montana within 30 days after the entry of ~~such~~ *the* order. If ~~no~~ ~~such~~ *an* appeal is ~~not~~ taken within the time limit, the order of the court made upon ~~such~~ *the* hearing ~~will be~~ *is* final and conclusive. If ~~any~~ ~~such~~ alterations ~~and/or~~ or additions are authorized by ~~such~~ *the* order, the ~~same~~ ~~shall~~ *alterations or additions must* be made by the commissioners of ~~said~~ *the* district and the cost ~~thereof~~ apportioned in accordance with the last assessment roll of ~~any~~ ~~such~~ *the* drain district or in accordance with the last assessments of ~~any~~ ~~such~~ *the* drainage district confirmed by the court.”

Section 2817. Section 85-8-612, MCA, is amended to read:

“85-8-612. Lien of assessments — payment of assessments against state lands. (1) From the time of the entry of ~~said~~ *an* order ~~under 85-8-611~~, assessments for construction of new work and additional assessments and interest ~~thereon~~ ~~shall be~~ *on the assessments are* a lien upon the lands assessed;

until paid. ~~Any~~ An owner of land or ~~any~~ a corporation assessed for construction may, at any time within 30 days after the confirmation of ~~said the~~ report, pay into court the amount of the assessment against ~~his the person's~~ land or any tract thereof of land or against ~~any the~~ such corporation. ~~Said payment shall relieve said~~ Payment relieves the lands from the lien of ~~said the~~ assessment and ~~said the~~ corporation from all liability on ~~said the~~ assessment.

(2) Upon presentation to the state treasurer of an order of the district court having jurisdiction of the drainage district, properly certified, the department of administration shall draw a warrant on the treasury on the ~~common school~~ appropriate fund in favor of the commissioners of the drainage district for the total amount that may be assessed against any *state* lands included in the district, ~~the title to which is in the state of Montana~~. Upon payment of the warrant, the lands are relieved from the lien created for the costs of construction.”

Section 2818. Section 85-9-103, MCA, is amended to read:

“85-9-103. Definitions. As used in this chapter, unless the context clearly indicates otherwise, the following definitions apply:

(1) “Applicant” means ~~any~~ a person residing within the boundaries of the proposed district *and* making a request for a study of the feasibility of forming a conservancy district.

(2) “Board of supervisors” means the board of supervisors of the soil and water conservation district in which the largest portion of the taxable valuation of real property of the proposed district is located.

(3) “Cost of works” means the cost of construction, acquisition, improvement, extension, and development of works, including financing charges, interest, and professional services.

(4) “Court” means the district court of the judicial district in which the largest portion of the taxable valuation of real property of the proposed district is located and within the county in which the largest portion of the taxable valuation of real property of the proposed district is located within the judicial district.

(5) “Department” means the department of natural resources and conservation provided for in Title 2, chapter 15, part 33.

(6) “Directors” means the board of directors of a conservancy district.

(7) “District” means a conservancy district.

(8) “Elector” means a person qualified to vote under 85-9-421.

(9) “Notice” means publication at least once each week for 3 consecutive weeks in a newspaper published in each county or, if ~~no~~ a newspaper is *not* published in a county, *in* a newspaper of general circulation in the county or counties in which a district is or will be located. The last published notice ~~shall~~ *must* appear not less than 5 days prior to any hearing or election held under this chapter.

(10) “Owners” ~~are~~ *means* the person or persons who appear as owners of record of the legal title to real property according to the county records, whether ~~such the~~ title is held beneficially or in a fiduciary capacity, except that a person holding a title for purposes of security is not an owner; ~~nor~~ *and the owner for security may be not* affect the previous title for purposes of this chapter.

(11) “Person” means a natural person, firm, partnership, cooperative, association, public or private corporation, including the state of Montana or the

United States, foundation, state agency or institution, county, municipality, district or other political subdivision of the state, federal agency or bureau, or any other legal entity.

(12) "Taxable valuation" is the value as defined in 15-8-111 and does not mean assessed valuation.

(13) "Works" means all property, rights, easements, franchises, and other facilities, including but not limited to land, reservoirs, dams, canals, dikes, ditches, pumping units, mains, pipelines, waterworks systems, recreational facilities, facilities for fish and wildlife, and facilities to control and correct pollution."

Section 2819. Section 85-9-304, MCA, is amended to read:

"85-9-304. Appointment of receiver — assessments. (1) If ~~no~~ a plan is *not* presented on or before the date set by the court, the court shall appoint a receiver to terminate the affairs of the district under the supervision of the court.

(2) Upon the appointment of ~~any~~ a receiver, all ~~the~~ authority of the directors ~~shall cease~~ ceases. However, until dissolution, the receiver ~~shall have~~ has authority to levy assessments for:

- (a) the payment of obligations of the district; *and*
- (b) the costs of termination.

(3) The directors or, if there is a receiver, ~~then~~ the receiver, with the approval of the court, shall make assessments each year in an amount large enough to retire the obligations of the district.

(4) If a receiver has been appointed, ~~he~~ *the receiver* shall direct, under court supervision, the disposition of all assessments collected."

Section 2820. Section 85-9-401, MCA, is amended to read:

"85-9-401. District directors — appointment, term of office, vacancies, first meeting, and bond. If a district is organized, the court shall:

(1) establish by court order the number of persons who shall comprise the directors; *and* appoint persons who are electors within the district to membership on the board of directors; and fix their compensation. The number ~~shall may~~ not be less than 3 or more than 11 persons. In fixing the number and making the appointments, the court shall consider the interests and purposes to be served by the district. Upon a verified petition filed by a majority of the directors and for good cause shown, the court may enlarge or reduce the membership of the directors but not to be less than 3 or ~~to exceed~~ *more than* 11.

(2) fix the terms of office so that approximately one-third of the directors first appointed ~~shall~~ serve for 1 year, approximately one-third ~~shall~~ serve 2 years, and the remainder ~~shall~~ serve 3 years. All succeeding terms ~~shall must~~ be 3 years. Unless excused for good cause, a director who misses three consecutive regular meetings has vacated ~~his~~ *the* position.

- (3) fill all vacancies on the board by appointment or reappointment;
- (4) specify a date for the first annual meeting of the directors;

(5) specify the amount and form of a corporate surety bond ~~which~~ *that* each member of the directors shall furnish at the expense of the district, conditioned upon ~~his~~ *the* faithful performance of ~~his~~ duties as a director."

Section 2821. Section 85-9-402, MCA, is amended to read:

“85-9-402. Officers and meetings. (1) The directors shall select from among themselves a ~~chairman presiding officer, vice-chairman vice presiding officer~~, secretary, and other necessary officers. The directors shall adopt bylaws and rules for the conduct of meetings. All official acts of the directors ~~shall must~~ be entered in a book of minutes to be kept by the secretary.

(2) The directors shall establish times for regular meetings and may hold special meetings upon the call of the ~~chairman presiding officer~~ or any two members and, ~~(except in case of emergency)~~, upon at least 3 days’ notice of the time, place, and purpose of the meeting.”

Section 2822. Section 85-9-421, MCA, is amended to read:

“85-9-421. Persons entitled to vote. (1) Only persons who are taxpayers upon and owners of real property located within the district and whose names appear upon the last-completed assessment roll of some county within the district for state, county, and school district taxes are electors and ~~shall be are~~ entitled to vote in elections, provided that:

(a) an elector need not reside within the district in order to vote;

(b) ~~where~~ *when* a corporation owns taxable real property within the boundaries of the conservancy district, the authorized agent of ~~such the~~ corporation ~~shall be is~~ entitled to cast a vote on behalf of the corporation;

(c) ~~where~~ *when* land is under contract of sale to a purchaser and the contract is recorded, only the purchaser ~~shall have has~~ the right to vote;

(d) guardians, executors, administrators, and trustees of real property within the district ~~shall be are~~ entitled to cast the vote for the owner of the land.

(2) When voting, an agent of a corporation or of co-owners or a guardian, executor, administrator, trustee, or purchaser under contract of sale may be required to show ~~his the person’s~~ authority by the judges of the election.”

Section 2823. Section 85-9-502, MCA, is amended to read:

“85-9-502. Annexation of property. (1) To annex real property to the district, the procedure is ~~the following as follows~~:

~~(1)~~(a) The directors shall petition the court.

~~(2)~~(b) The petition ~~shall must~~:

~~(a)~~(i) give a general description of the real property to be annexed sufficient to enable a person to determine if ~~his the person’s~~ property is in the proposed annexation; *and*

~~(b)~~(ii) describe the benefits to accrue to the real property as a result of the annexation.

~~(3)~~(2) The court shall:

(a) give notice and hold a hearing on the petition; *and*

(b) upon good cause shown, order or deny the annexation.”

Section 2824. Section 85-9-504, MCA, is amended to read:

“85-9-504. Procedure to exclude lands. Any territory included within ~~any a~~ district formed under the provisions of this chapter and not benefited in any manner by ~~such the~~ district or its inclusion ~~therein in the district~~ may be excluded ~~therefrom from the district~~. The procedure for exclusion consists of the following:

(1) A petition for exclusion ~~shall must~~ be initiated by either the directors or the owner or owners of the land sought to be excluded.

(2) The petition ~~shall~~ *must*:

(a) give a description of the territory sought to be excluded sufficient to enable a person to determine if ~~his~~ *the person's* property is in the proposed exclusion;

(b) ~~shall~~ set forth that ~~such~~ *the* territory is not benefited in any manner by the district or its continued inclusion ~~therein~~ *in the district*; and

(c) ~~shall~~ request that ~~such~~ *the* territory be excluded from the district.

(3) When owners of property initiate the petition for exclusion, the petition ~~shall~~ *must* be filed with the secretary of the district and ~~shall~~ *must* be accompanied by a deposit of \$100 to meet the costs incident to the process of exclusion. The unexpended balance of the deposit ~~shall~~ *must* be returned to the petitioner.

(4) Upon the filing of ~~such~~ *the* petition with the secretary of the district, the secretary shall ~~duly~~ call a meeting of the directors to consider the petition. The directors shall approve or disapprove of the merits of the petition. The secretary shall then file the petition, together with a copy of the action of the directors, with the court.

(5) The court shall give notice, hold a hearing, and issue an order either granting or denying the petition.”

Section 2825. Section 85-9-628, MCA, is amended to read:

“85-9-628. Bond registration — copy to county. (1) When duly executed, all bonds issued under this chapter ~~shall~~ *must* be registered by the county treasurer of the county in which the largest portion of the taxable valuation of real property of the district is located. ~~They shall~~ *The bonds must* be registered in a book provided for that purpose before being delivered to the purchaser.

(2) The registration ~~shall~~ *must* show:

(a) the number and amount of each bond;

(b) the date of issue and date redeemable;

(c) the name of the purchaser;

(d) the amount and due date of all payments required on the bonds.

(3) The directors shall provide the county treasurer with an unsigned and canceled printed copy of each issue of bonds of the district. The copy ~~shall~~ *must* be preserved in ~~his~~ *the treasurer's* office.”

Section 2826. Section 85-20-104, MCA, is amended to read:

“85-20-104. Filing written statement with department. (1) ~~Any~~ *A* person claiming an appropriative right to the use of any water of any interstate tributary, ~~which right that~~ *that* was acquired after January 1, 1950, shall, within 60 days after February 25, 1953, or before ~~he~~ *the person* diverts any water, file with the department at its office in Helena, Montana, a written statement containing the following information:

(a) the name of the claimant and ~~his~~ *the claimant's* address;

(b) *the* date of appropriation or the date when the water was first applied to a beneficial use;

(c) the quantity of water claimed;

(d) the name of the stream, river, or other source of water from which the diversion is made, if it has a name, and if it does not, a description identifying the ~~same~~ *stream, river, or source*;

- (e) the purpose for which the water is claimed and the place of intended use;
 - (f) the means of diversion;
 - (g) whether or not a weir or other device for measuring the water intended to be diverted has been installed in ~~his~~ *the claimant's* ditch or other means of diversion;
 - (h) if a notice of appropriation was filed with the county clerk and recorder, the name of the county where it was filed;
 - (i) whether the appropriation was made from an adjudicated or nonadjudicated stream, river, or other source of water.
- (2) The written statement ~~shall~~ *must* be verified by the affidavit of the claimant or someone in ~~his~~ *the claimant's* behalf. The affidavit must state that the matters and facts contained in the written statement are true."

Section 2827. Section 85-20-105, MCA, is amended to read:

"85-20-105. Duty to install measuring devices. ~~Any~~ A person claiming an appropriative right to use any waters of any interstate tributary of the Yellowstone River, ~~which right that~~ *that* was acquired ~~subsequently to~~ *after* January 1, 1950, shall, after February 25, 1953, and before ~~he~~ *the person* diverts any ~~such~~ water, install in ~~his~~ *the person's* ditch or other means of diversion a weir or other measuring device so that all of the water to be diverted by ~~him~~ *the person* can be accurately measured. The installation of a weir or other measuring device is subject to the approval of the department, and if in its judgment ~~such~~ *the* weir or other measuring device or the installation of the ~~same~~ *weir or device* is defective so that the water cannot be accurately measured, it may order the installation of an accurate measuring device. The claimant ~~shall~~ *may* not divert any water until ~~he~~ *the claimant* complies with ~~such~~ *the* order."

Section 2828. Section 85-20-106, MCA, is amended to read:

"85-20-106. Duty to measure water. Each claimant shall measure all the water being diverted by ~~him~~ *the claimant*, and keep accurate records ~~thereof of~~ *the diversion* on forms prescribed and furnished by the department, and, within 15 days after November 1 of each year, file the written records with the department at its office in Helena, Montana."

Section 2829. Section 87-1-204, MCA, is amended to read:

"87-1-204. Political activity of employees. While retaining the right to vote as ~~he may please~~ *the employee pleases* and to express ~~his~~ opinions on all political questions, ~~no~~ *an* employee of the department may *not* use ~~his~~ *the employee's* official authority or influence for the purpose of interfering with an election or affecting the results ~~thereof of an election~~ or for the purpose of coercing or influencing the political actions of any person or body."

Section 2830. Section 87-1-205, MCA, is amended to read:

"87-1-205. Grievance procedure. An employee of the department, *who is* aggrieved by a serious matter of ~~his~~ employment based upon work conditions, supervision, or the result of an administrative action, *and* who has exhausted all administrative remedies within the department, is entitled to a hearing before the board of personnel appeals provided for in 2-15-1705 and subject to the provisions of 2-18-1011 through 2-18-1013. Any order of the board is binding upon the department."

Section 2831. Section 87-1-206, MCA, is amended to read:

"87-1-206. Bounty claims for wild animals. (1) The department ~~of fish,~~ *wildlife, and parks* shall pay bounty claims for wild animals ~~which that~~ have

been filed with and approved by the board of livestock. The department shall pay out of the state fish and game funds, other than those funds derived from license fees paid by hunters and ~~fishermen~~ *anglers*, bounties on predatory wild animals as the bounty claims are presented, not exceeding \$7,500 ~~per~~ *for each* calendar year.

(2) The board of livestock shall, after approving the bounty claim, deliver the claim to the department of ~~fish, wildlife, and parks~~ for rejection or approval. If the claim or certificate is rejected, it ~~shall~~ *must* be returned by the department to the board of livestock. If approved, it ~~shall~~ *must* be delivered to the department of administration for allowance or disallowance. ~~Nothing in this~~ *This* section ~~takes~~ *does not take* from the department of ~~fish, wildlife, and parks~~ the exclusive power to administer the fish and game ~~moneys~~ *money* at its discretion.

(3) If the department of administration allows the claim, the department shall draw a warrant on the state fish and game money in the state special revenue fund for the amount approved in favor of the claimant, in the order in which the claim is approved.”

Section 2832. Section 87-1-207, MCA, is amended to read:

“87-1-207. Establishment of checking stations. The department is authorized to establish checking stations ~~where~~ *when deemed considered* necessary to inspect licenses of hunters and ~~fishermen~~ *anglers* and to inspect any game animals, fish, or fur-bearing animals in the possession of hunters and ~~fishermen~~ *anglers.*”

Section 2833. Section 87-1-208, MCA, is amended to read:

“87-1-208. Inspection at checking station. ~~Every~~ *A* person, upon the request of the director, ~~or his~~ *the director's* authorized representative, or of any game warden, shall produce for inspection any current fish and game license ~~which~~ *that* has been issued to ~~such~~ *the* person and shall produce for inspection any game animals, birds, fish, or fur-bearing animals in ~~his~~ *the person's* possession. Hunters or ~~fishermen~~ *anglers* entering or leaving areas for which checking stations have been established ~~must~~ *shall* stop and report if a checking station is on the hunter's or ~~fishermen's~~ *angler's* route of travel to or from the hunting or fishing area. Failure to stop and report at a checking station when personnel are on duty ~~shall constitute~~ *constitutes* a misdemeanor.”

Section 2834. Section 87-1-210, MCA, is amended to read:

“87-1-210. Research, training, and other projects. (1) The department may enter into cooperative agreements with educational institutions and state, federal, or other agencies to promote wildlife research and to train ~~men~~ *personnel* for wildlife management. It may enter into cooperative agreements with federal agencies, municipalities, corporations, organized groups of landowners, associations, and individuals for the development of game, bird, fish, or fur-bearing animal management and demonstration projects.

(2) It may establish and maintain an educational and biological program for the collection and diffusion of statistics and information germane to the purpose of this title.”

Section 2835. Section 87-1-225, MCA, is amended to read:

“87-1-225. Regulation of wild animals damaging property — public hunting requirements. (1) Subject to the provisions of subsection (2), a landowner is eligible for game damage assistance under subsection (3) if ~~he~~ *the* *landowner*:

(a) allows public hunting during established hunting seasons; or

(b) does not significantly reduce public hunting through imposed restrictions.

(2) The department may provide game damage assistance when public hunting on a landowner's property has been denied because of unique or special circumstances that have rendered public hunting inappropriate.

(3) Within 48 hours after receiving a request or complaint from any landholder or person in possession and having charge of any land in the state that wild animals of the state, protected by the fish and game laws and regulations, are doing damage to the property or crops ~~thereon~~ *on the property*, the department shall investigate and arrange to study the situation with respect to damage and depredation. The department may then decide to open a special season on the game or, if the special season method ~~be~~ *is* not feasible, the department may destroy the animals causing the damage. The department may authorize and grant the holders of ~~said~~ *the* property permission to kill or destroy a specified number of the animals causing the damage. ~~No~~ *A* wild, ferocious animal damaging property or endangering life ~~shall be~~ *is not* covered by this section."

Section 2836. Section 87-1-302, MCA, is amended to read:

"87-1-302. Commission meetings. The members of the commission shall hold quarterly or other meetings for the transaction of business, at times and places it considers necessary and proper. The meetings ~~shall~~ *must* be called by the ~~chairman~~ *presiding officer* or by a majority of the commission and ~~shall~~ *must* be held at the time and place specified in the call for the meeting. A majority of the members of the commission ~~shall~~ constitute a quorum for the transaction of any business ~~which~~ *that* may come before it. The commission shall keep a record of all the business transacted by it. The ~~chairman~~ *presiding officer* and secretary shall sign all orders, minutes, or documents for the commission."

Section 2837. Section 87-1-402, MCA, is amended to read:

"87-1-402. Oath of director. Before entering upon ~~his~~ official duties, the director shall take and subscribe the constitutional oath of office and shall in addition ~~thereto~~ swear or affirm that ~~he holds no other~~ *the director does not hold another* position or office or any position under any political committee or party. ~~Such~~ *The* oath or affirmation ~~shall~~ *must* be filed in the office of the secretary of state."

Section 2838. Section 87-1-501, MCA, is amended to read:

"87-1-501. Selection and oath of wardens. (1) Wardens ~~shall~~ *must* be selected from applicants who have passed ~~such~~ an examination ~~as~~ *that* may be required according to the rules adopted and promulgated by the department. ~~No~~ *A* person ~~shall~~ *may not* be appointed ~~as~~ a warden until a certificate ~~shall~~ *have* been issued to ~~him~~ *the person* by the department to the effect that ~~he~~ *the person* has passed the required examination and is a fit and proper person to perform the duties of the office.

(2) Before entering upon their official duties, state fish and game wardens shall take and subscribe the constitutional oath of office and shall in addition ~~thereto~~ swear or affirm that they hold no other position or office or any position under any political committee or party. ~~Such~~ *The* oath or affirmation ~~shall~~ *must* be filed in the office of the secretary of state."

Section 2839. Section 87-1-511, MCA, is amended to read:

"87-1-511. Sale of confiscated birds and animals — disposition of seized grizzly bears. (1) Except as provided in 87-1-226(1), all birds, animals,

fish, heads, hides, teeth, or other parts of any animal other than grizzly bear seized by any officer or warden or otherwise acquired by a department employee in the scope of his employment may be sold, under the direction of the director or wardens, at a time, place, and manner so as to receive the highest price. The sale ~~shall~~ *must* be at public auction to the highest and best bidder. The director or ~~his~~ *the* wardens shall publish notice of the time and place of the sale, together with a description of the birds, fish, animals, or parts or portions of animals to be sold, in a newspaper of general circulation published in the county where the sale is to be held. The notice ~~shall~~ *must* be published at least once, and the sale ~~shall~~ *may* not be less than 5 or more than 30 days after the last publication. If the property seized is perishable, it may be sold by those officers without publishing notice of the sale. The property may be sold upon that public notice and under those terms and conditions ~~which~~ *that* in the discretion of the officers seem conducive to securing full value.

(2) All grizzly bears or heads, hides, teeth, claws, or other parts of grizzly bears seized by any officer or warden may be donated to museums, educational institutions, government agencies, or persons conducting scientific studies, as approved by the commission. If approved under federal law, parts may be sold at public auction if, after approval by the commission, a reasonable attempt has been made to dispose of the parts.”

Section 2840. Section 87-1-701, MCA, is amended to read:

“87-1-701. Assent to Dingell-Johnson bill. ~~The congress of the United States having passed an act which was approved on August 9, 1950, and which is known as Public Law 681, 81st congress, chapter 658, 2nd session, wherein it is, among other things, provided that “no money apportioned under this act to any state, except as hereinafter provided, shall be expended therein until its legislature, or other state agency authorized by the state constitution to make laws governing the conservation of fish, shall have assented to the provisions of this act and shall have passed laws for the conservation of fish, which shall include prohibition against the diversion of license fees paid by fishermen for any other purpose than the administration of said fish, wildlife, and parks department, except that, until the final adjournment of the first regular session of the legislature held after passage of this act, the assent of the governor of the state shall be sufficient”, and since the moneys referred to in the act of congress are collected in part from the fishermen of this state and will not be returned to the state of Montana except the state of Montana does assent to this act; now, therefore, the~~ *The state of Montana does assent assents* to the provisions of said ~~act of congress~~ *Public Law 681, 81st congress, chapter 658, 2nd session*, which is commonly known as the Dingell-Johnson bill, but ~~such~~ *the* assent is with the express reservations enumerated in 87-1-701 through 87-1-703. The state of Montana does not, by the passage of 87-1-701 through 87-1-703 or by the consent ~~herein~~ *given in this section*, surrender to the congress of the United States or any department of the government of the United States any of those rights ~~which~~ *that* are retained by the people of the state of Montana or the state of Montana and ~~which~~ *that* are guaranteed to them by the 9th and 10th amendments to the constitution of the United States, ~~nor shall~~ *and* 87-1-701 through 87-1-703 *may not* in any manner or at all be construed or held to be the state of Montana’s consent to amending the constitution of the United States in any manner or at all relative to its rights. The title to all lands acquired under the provisions of 87-1-701 through 87-1-703 for fish restoration and management projects and projects constructed ~~thereon~~ *on those lands* ~~shall be~~ *are* and remain in the state”

Section 2841. Section 87-1-704, MCA, is amended to read:

“87-1-704. Federal fish-hatching operations. The government of the United States, the United States commissioner of fisheries, and ~~its the government’s~~ or ~~his duty commissioner’s~~ authorized agent ~~or~~ agents may conduct fish-hatching and all operations connected therewith ~~(with fish-hatching~~ in any manner and at any time that may be considered necessary and proper by them), at any United States fish cultural station ~~that may be~~ established by the United States government in the state of Montana.”

Section 2842. Section 87-2-112, MCA, is amended to read:

“87-2-112. Forfeiture of license or permit for littering. Any A holder of a Montana resident or nonresident fishing or hunting license or camping permit convicted of littering campgrounds, public or private lands, streams, or lakes while hunting, fishing, or camping shall forfeit ~~his the~~ license and privilege to hunt, fish, camp, or trap within Montana for a period of 1 year from the date of conviction.”

Section 2843. Section 87-2-203, MCA, is amended to read:

“87-2-203. Unlawful sales of licenses. It ~~shall be~~ is unlawful for any a license agent to sell any hunting, fishing, or trapping license to any a person who does not present ~~his the person’s~~ wildlife conservation license at the time of application for ~~such the~~ licenses.”

Section 2844. Section 87-2-204, MCA, is amended to read:

“87-2-204. Disposition of wildlife conservation license fees. The fees from the wildlife conservation license ~~shall~~ must be delivered to the state treasurer and deposited by ~~him the treasurer~~ in the state special revenue fund to the credit of the department in accordance with the provisions of 87-1-601.”

Section 2845. Section 87-2-602, MCA, is amended to read:

“87-2-602. Class C-1—landowner’s trapping license. Except as otherwise provided in this chapter, any individual who owns land in this state or any tenant or member of the immediate family of ~~said the~~ owner or tenant, upon making application to the department and payment of the fee of \$1, may receive a Class C-1 license ~~which shall entitle~~ that entitles the holder thereof to trap any fur-bearing animal and to hunt bobcat, wolverine, and lynx on land owned or leased by ~~him the individual~~ or ~~his the individual’s~~ immediate family at ~~such~~ times and in ~~such a~~ manner as ~~may be~~ that is lawful ~~so to do~~ under the laws of the state and the regulations of the department and at ~~such~~ places as ~~that~~ may be designated in ~~said the~~ license.”

Section 2846. Section 87-2-604, MCA, is amended to read:

“87-2-604. Permission of landowner required. Every A holder of a Class C-2 trapper’s license shall obtain written permission from the landowner, the lessee, or ~~his the landowner’s or lessee’s~~ agent before trapping or snaring predatory animals or nongame wildlife on private property.”

Section 2847. Section 87-2-1002, MCA, is amended to read:

“87-2-1002. Regulation of devices and equipment used under reciprocal privilege. The department may by regulation authorize ~~the~~ use of fishing devices and equipment by properly licensed ~~fishermen~~ anglers of both states ~~under the provisions of 87-2-1001~~, unless otherwise prohibited by Montana law, in waters forming the subject of ~~such the~~ agreements.”

Section 2848. Section 87-3-123, MCA, is amended to read:

“87-3-123. Use of silencers or mufflers on firearms forbidden. No A person may *not* take into a field or forest or have in ~~his~~ *the person's* possession while out hunting any device or mechanism devised to silence, muffle, or minimize the report of any firearms, whether ~~such~~ *the* device or mechanism ~~be is~~ operated from or attached to any firearm.”

Section 2849. Section 87-3-206, MCA, is amended to read:

“87-3-206. Unlawful to use explosives or poisons in taking fish. (1) If ~~any a~~ person or persons shall use any carbide, lime, giant powder, dynamite, or other explosive compounds or any corrosive or narcotic poison or other deleterious substance or have any of the ~~same enumerated items~~ in ~~his~~ *the person's* possession within 100 feet of any stream where fish are found for the purpose of catching, stunning, or killing fish, ~~he shall be deemed~~ *the person is considered* guilty of a misdemeanor and upon conviction ~~thereof~~ shall be punished as provided by law.

(2) The provisions of this section shall *do not* apply to anyone ~~duly~~ authorized by the department to conduct lake or stream surveys or to control undesirable or overpopulated species of fish.”

Section 2850. Section 87-3-221, MCA, is amended to read:

“87-3-221. Importation of salmonid fish or eggs unlawful — exception — certification — permit. (1) It is unlawful to bring live or dead salmonid fish or eggs into the state of Montana for any purpose unless the importations are shipped direct from the source to destination and a written certification that the source is free of all fish pathogens specified by the department as posing a threat to existing fisheries accompanies the shipment. Certification must be made by a fish pathologist approved by the director. Certification of the source may be by inspection conducted annually or at ~~such~~ other times ~~as~~ *that* the director may order.

(2) In addition to the certification required in subsection (1), all importations of live salmonid fish or eggs must be accompanied by a permit issued by the department. The department shall issue an import permit upon application to the department showing that the proposed importations *do not* present ~~no a~~ substantial threat to the health of state fisheries. The department may condition the permit as necessary to protect fisheries from the introduction and spread of pathogens. Import permits apply to all importations from specified and certified species and sources by a permittee until January 31 of the year succeeding the year of issuance, when the permit expires. However, a separate permit is required for importations by a permittee for species or from sources unspecified in ~~his~~ *the permittee's* other permit or permits. It is unlawful to import live salmonid fish or eggs into Montana without first obtaining the permit required by this subsection or to violate any conditions of the permit.”

Section 2851. Section 87-3-405, MCA, is amended to read:

“87-3-405. Failure to tag turkey. It is unlawful for ~~any a~~ person who kills, captures, or possesses ~~any a~~ wild turkey by authority of any turkey tag or permit to fail or neglect to attach ~~his~~ *the* tag to the turkey or fail to validate ~~his~~ *the* tag by filling out or punch marking the tag as required and *to fail to keep the tag attached while the same turkey is possessed by him the person.*”

Section 2852. Section 87-3-506, MCA, is amended to read:

“87-3-506. Wasting of fur-bearing animals. (1) A person who fails to pick up traps or snares at the end of the trapping season or attends ~~his~~ *the* traps or

snare so that fur-bearing animals are wasted is guilty of a misdemeanor and upon conviction shall be punished as provided by law.

(2) The department of fish, wildlife, and parks shall enforce the provisions of this section.

(3) Federal, state, and county predator control programs are exempt from this section.”

Section 2853. Section 87-3-507, MCA, is amended to read:

“87-3-507. Unlawful to disturb traps or trapped animals belonging to another — exception. (1) ~~No~~ A person may *not* destroy, disturb, or remove any trap or snare belonging to another person or remove wildlife from a trap or snare belonging to another person without permission of the owner of the trap or snare, except that from March 1 to October 1 of each year a person may remove any snare from land owned or leased by ~~him~~ *the person* if ~~such~~ *the* snare would endanger livestock.

(2) This section does not apply to a law enforcement officer acting within the scope of ~~his~~ *his* duty.”

Section 2854. Section 87-4-301, MCA, is amended to read:

“87-4-301. Fur dealers defined. (1) ~~Any~~ A person or persons, firm, company, or corporation engaging in, carrying on, or conducting wholly or in part the business of buying or selling, trading, or dealing within the state of Montana in the skins or pelts of any animal or animals designated by the laws of Montana as fur-bearing or predatory animals ~~shall be deemed is considered~~ a fur dealer within the meaning of this part.

(2) If ~~such~~ *the* fur dealer resides in or if ~~his or its~~ *the fur dealer's* principal place of business is within the state of Montana, ~~he or it shall be deemed the fur dealer is considered~~ a resident fur dealer. All other fur dealers ~~shall be deemed are considered~~ nonresident fur dealers.”

Section 2855. Section 87-4-303, MCA, is amended to read:

“87-4-303. Persons required to have fur dealer's license. A fur dealer shall, before buying, selling, or in any manner dealing in the skins or pelts of any fur-bearing or predatory animal within this state, secure a fur dealer's license from the director. ~~No~~ A license is *not* required for a hunter or trapper selling skins or pelts ~~which he~~ *that the hunter or trapper* has lawfully taken or for a person *who is* not a fur dealer who purchases skins or pelts exclusively for ~~his~~ *the person's* own use and not for sale.”

Section 2856. Section 87-4-602, MCA, is amended to read:

“87-4-602. Seining licenses. The director shall keep a record of all licenses issued by ~~him~~ for the use of a net for the taking of fish, showing the name of the applicant, the date of ~~issue~~ *issuance*, the waters ~~that the netting is~~ to be used in, and the date of revocation if the license is revoked. The director shall pay all fees received for those licenses into the state treasury to the credit of the fish and game ~~moneys~~ *account* in the state special revenue fund. A license may not be issued to a person whose license has been revoked for cause.”

Section 2857. Section 87-4-702, MCA, is amended to read:

“87-4-702. Possession of game by merchants, hotelkeepers, or restaurant keepers. (1) Except as provided in subsection (2), it is lawful for any merchant, hotelkeeper, or restaurant keeper to have in ~~his~~ *the person's* possession, offer for sale, or sell game birds and game; ~~provided if~~ *provided if* the game or game birds are not killed in Montana.

(2) ~~No~~ A merchant, hotelkeeper, or restaurant keeper may *not* offer for sale or sell any grizzly bear or any head, hide, teeth, claws, or other part of a grizzly bear.”

Section 2858. Section 87-4-703, MCA, is amended to read:

“87-4-703. Evidence of lawful possession of game. Each merchant, hotelkeeper, or restaurant keeper; ~~having in his possession who possesses and offering offers~~ for sale any game or game birds; shall produce upon demand, for the inspection of any game warden, deputy game warden, or sheriff, the receipt or record and shipping and transportation receipts required in 87-4-704 to be kept by ~~him~~ *the person*. A failure or refusal to produce the ~~same~~ *receipts* upon demand, coupled with the possession and offering for sale of game or game birds, is prima facie evidence of the violation of this part.”

Section 2859. Section 87-4-704, MCA, is amended to read:

“87-4-704. Record to be kept. It ~~shall be~~ *is* the duty of ~~every~~ *a* person ~~having who has in his the person's~~ possession and ~~offering offers~~ for sale any game or game birds to keep a record showing the amount and kind of game and game birds received by ~~him~~ *the person*, together with shipping and transportation receipts showing the true time and place of shipment of ~~said the~~ *the* game and game birds and the name of the person shipping ~~same; the game and game birds.~~ ~~provided, however~~ *However*, that any merchant in Montana selling game or game birds to any ~~hotel or hotelkeeper~~, restaurant keeper, or other person shall, in addition to the record and receipts ~~heretofore~~ required to be kept by ~~him~~ *the merchant*, keep a record of the date of sale, *the* kind and amount of game or game birds, and the name of the purchaser. ~~and provided, further, that~~ *In* the case of ~~hotel and hotelkeepers~~, restaurant keepers, or other persons buying game or game birds from a merchant within the state of Montana, a receipt from the ~~said the~~ merchant showing the date, ~~and the kind and amount~~ *and kind* of game or game birds purchased ~~shall be~~ *is* sufficient evidence of compliance with the provisions of this part by ~~such the~~ *the* ~~hotel or hotelkeeper~~, restaurant keeper, or other person.”

Section 2860. Section 87-4-705, MCA, is amended to read:

“87-4-705. Noncompliance with law. It is unlawful for ~~any~~ *a* person to have in ~~his the person's~~ possession and offer for sale or sell any game or game birds without having complied with the provisions of 87-4-704 relating to the keeping of a record and shipping and transportation receipts.”

Section 2861. Section 87-4-903, MCA, is amended to read:

“87-4-903. Game bird farm license required. Except as provided in 87-4-902, ~~no~~ *a* person may *not* own, control, or propagate game birds unless ~~he~~ *the person* holds a current game bird farm license from the department.”

Section 2862. Section 87-4-904, MCA, is amended to read:

“87-4-904. Application for game bird farm license — limitation on issuance. (1) A person desiring to obtain a game bird farm license shall make a written application to the department. The application must specify:

- (a) the name of the applicant;
- (b) ~~his~~ *the applicant's* address;
- (c) the species of game bird and any plans to propagate them;
- (d) the legal description of the lands to be included;
- (e) the type of fence or enclosure that the applicant contemplates erecting;

- (f) the source of game birds; and
- (g) for a nonresident owner, the name and address of a local resident agent.

(2) (a) A game bird farm license ~~shall~~ *may* be issued only to a responsible applicant who owns or leases the premises on which the operations are to be conducted and who has properly fenced or otherwise enclosed the place where ~~such~~ *the* game bird farm is to be located.

(b) ~~Any~~ *A* game bird farm owned by a nonresident must have a resident agent who is responsible for the daily operation of the farm and who is authorized by the nonresident owner to receive service of process.

(3) Within 30 days of receiving the application, the department shall notify the applicant of its decision to approve or deny the application. If the required fencing or enclosure has not been completed, the department shall approve the application subject to the fencing or enclosure being completed. If the application is denied, the department shall specify the reasons for denial.”

Section 2863. Section 87-4-915, MCA, is amended to read:

“**87-4-915. Field trials — permits.** (1) As used in this section, “field trial” means an examination to determine the ability of dogs to point, flush, or retrieve game birds.

(2) ~~No~~ *A* person may *not* conduct a field trial unless ~~he~~ *the person* has received a permit under this section. Applicants for a permit to conduct a field trial ~~must make application~~ *shall apply* to the director upon a form furnished by the department for that purpose. The application must be signed and sworn to by the applicant, stating the applicant’s name and address, the name and address of any national affiliate, the place for the field trial clearly defined, the date or dates of the proposed field trial, whether live birds are to be used, and any other information required by the director to determine the advisability of granting permission for the proposed field trial. The application must state that if a permit is granted, the applicant will carefully flush all wild game birds from fields used for the field trial each day before the field trial begins and will not permit dogs to run free in fields that have not been carefully flushed. The application must be presented to the director not less than 20 days prior to the date proposed for the field trial.

(3) The director may refuse any application that ~~he~~ *the director* determines is not in the best interests of the protection, preservation, propagation, and conservation of game birds in this state. Any denial by the director of ~~such an~~ application must state the reasons ~~therefor~~ *for denial* and must be mailed to the applicant within 10 days of receipt of the application.

(4) ~~No~~ *An* applicant receiving a permit to conduct a field trial may *not* violate or authorize violation of any of the terms of the permit.

(5) All live game birds used in a field trial must be tagged before being planted or released and may be planted or released only in the presence of a representative of the department. If an untagged bird is shot during any field trial, the person to whom the permit was issued ~~must~~ *shall* immediately replace it with a live bird.

(6) (a) Dogs may be trained in open fields at any time without permission of the director only if:

- (i) ~~no~~ live game birds are *not* killed or captured during training; and
- (ii) the training is more than 1 mile from any bird nesting or management area or game preserve.

(b) A person may train dogs with a method that will kill birds acquired from a game bird farm only after receiving a written permit from the department and only in compliance with the terms of the permit.”

Section 2864. Section 87-4-1002, MCA, is amended to read:

“87-4-1002. Fur farm license required — applicability. (1) Except as provided in subsection (2), ~~no~~ a person may *not* own, control, or propagate furbearers unless ~~he~~ *the person* holds a current fur farm license from the department.

(2) This part does not apply to the ownership, control, or propagation of furbearers if the ownership, control, or propagation is not for the sale or conveyance of furbearers or parts ~~thereof~~ *of furbearers.*”

Section 2865. Section 87-4-1003, MCA, is amended to read:

“87-4-1003. Application for license. (1) ~~Any~~ *A* person desiring to obtain a fur farm license shall make a written application to the department. The application must specify:

- (a) the name of the applicant;
- (b) ~~his~~ *the applicant's* address;
- (c) *the* species of furbearers and any plan to propagate them;
- (d) the legal description of the lands to be included;
- (e) the type of fence that the applicant contemplates erecting;
- (f) the source of furbearers.

(2) (a) A fur farm license ~~shall~~ *may* be issued only to a responsible applicant who owns or leases the premises on which the operations are to be conducted and who has properly fenced the place where ~~such~~ *the* fur farm is to be located.

(b) Any fur farm owned by a nonresident must have a resident agent who is responsible for the daily operation of the fur farm and who is authorized by the nonresident owner to receive service of process.

(3) Within 30 days of receiving the application, the department shall notify the applicant of its decision to approve or deny the application. If required fencing has not been completed, the department shall approve the application subject to the fencing being completed. If the application is denied, the department shall specify the reasons for denial.”

Section 2866. Section 87-5-108, MCA, is amended to read:

“87-5-108. Establishment of programs. (1) The director shall establish ~~such~~ programs, including acquisition of land or aquatic habitat, ~~as~~ *that* are ~~deemed considered~~ necessary for management of nongame and endangered wildlife. The department shall establish ~~such~~ policies ~~as~~ *that* are necessary to carry out the purpose of ~~this section and 87-5-109 and this section.~~

(2) In carrying out programs authorized by this section, the department may enter into agreements with federal agencies, political subdivisions of the state, or with private persons for administration and management of any area established under ~~this section and 87-5-109 and this section~~ or ~~utilized~~ *used* for management of nongame or endangered wildlife.

(3) The governor shall review other programs administered by ~~him~~ *the* governor and, to the extent practicable, ~~utilize~~ *use* those programs in furtherance of the purposes of ~~this section and 87-5-109 and this section.~~ The governor shall also encourage other state and federal agencies to ~~utilize~~ *use*

their authorities in furtherance of the purposes of ~~this section and 87-5-109 and this section.~~"

Section 2867. Section 90-2-1111, MCA, is amended to read:

"90-2-1111. State and local grants. (1) ~~Any~~ A department, agency, board, commission, or other division of state government or any city, county, or other political subdivision or tribal government within the state may apply, in accordance with the procedures established by the department, for a grant from the natural resources projects state special revenue account established in 15-38-302 for a project that is consistent with the policy and purpose of the reclamation and development grants program.

(2) The department shall evaluate applications under the eligibility criteria provided in 90-2-1112 and the evaluation criteria provided in 90-2-1113.

(3) The department shall solicit and consider in its evaluation of applications the views of interested persons and public agencies.

(4) Based on its evaluation of eligible applications, the department shall recommend to the governor projects to receive grants from the natural resources projects state special revenue account established in 15-38-302.

(5) The governor shall submit all proposals, with ~~his~~ *the governor's* recommended priorities, to the legislature by the first day of any regular legislative session. The legislature may approve by appropriation or other appropriate means grants for those projects it finds consistent with the policies and purposes of the reclamation and development grants program. The department shall administer and oversee the grants to approved projects and monitor the projects."

Section 2868. Section 90-4-305, MCA, is amended to read:

"90-4-305. Information obtainable by governor. (1) The governor may obtain information on a regular basis from energy resource producers, suppliers, public agencies, and consumers and from political subdivisions in this state that is necessary for the governor to determine the need for energy supply alert and emergency declarations. The information may include but is not limited to:

(a) sales volumes by customer classifications other than for petroleum products;

(b) forecasts of energy resource requirements for the particular type of energy involved for a period not to exceed 2 years; and

(c) inventory of energy resources and reserves available for use in meeting a shortage in a particular energy source.

(2) In order to help anticipate and mitigate the effects of shortages of petroleum products, the governor may monitor the supply of and demand for these products by obtaining the following monthly reports submitted no later than 20 days after the last day of the month, on forms prescribed by the governor, from the following persons:

(a) Each refiner shall submit Montana refinery processing data by fuel type in custody, including:

(i) inventory stocks at the beginning and end of the month;

(ii) receipts during the month;

(iii) inputs during the month;

(iv) production during the month;

(v) shipments, losses, and refinery fuel use during the month.

(b) Each prime petroleum supplier shall submit:

(i) 3-month projections of ~~his~~ *the supplier's* Montana supply and stock of petroleum products that the supplier anticipates supplying to Montana customers; and

(ii) the actual volume of petroleum products delivered in the state the previous month.

(c) Each petroleum pipeline company shall submit reports by fuel type of Montana pipeline terminal delivery, throughput, and export.

(d) Each bulk pipeline terminal operator shall submit end-of-month reports of inventory stock levels of finished petroleum products in custody in Montana by type of product and storage location.

(e) Each prime petroleum supplier shall submit quarterly reports of monthly marketing sales in Montana, by standard point locator index, or other method prescribed by the governor, and fuel type of petroleum products designated by the governor.

(3) In obtaining information under subsections (1) and (2) during a state of energy emergency, the governor may:

(a) subpoena witnesses, material, and relevant books, papers, accounts, records, and memoranda;

(b) administer oaths; and

(c) cause the depositions of persons residing within or ~~without~~ *outside of* Montana to be taken in the manner prescribed for depositions in civil actions in district courts; to obtain information relevant to energy resources that are the subject of the proclaimed emergency or associated disaster.

(4) In obtaining information under this section, the governor shall:

(a) avoid eliciting information already furnished by a person or political subdivision in this state to a federal, state, or local regulatory authority that is available for the governor's study; and

(b) cause reporting procedures, including forms, to conform to existing requirements of federal, state, and local regulatory authorities.

(5) Except as provided in subsection (2), this part does not require the disclosure by a distributor of confidential information, trade secrets, or other facts of a proprietary nature.

(6) (a) The information required under subsection (2) is subject to the following restrictions:

(i) Except in accordance with a proper judicial order, a public officer or employee charged by the governor with the custody of this information may not divulge or make known in any manner any information that is specific to a particular distributor.

(ii) The public officers and employees charged by the governor with the custody of the information provided for in subsection (2) may not be required to produce any of it or evidence of anything contained in it on behalf of any party to any action or proceeding under this part; except when the information concerned is directly involved in the action or proceeding, in which case only that information directly pertinent to the action or proceeding may be admitted.

(b) This section does not preclude access to the information by the legislative auditor in carrying out the functions under Title 5, chapter 13."

Section 2869. Section 90-4-309, MCA, is amended to read:

“90-4-309. Energy supply alert. (1) The governor may, upon finding that an energy alert condition exists, declare ~~the same~~ *an energy alert* for a period of not longer than 90 days, setting forth the reasons ~~therefor for the alert~~. ~~Such~~ *The* declaration may be renewed for 90-day periods ~~thereafter~~ upon a finding that the energy alert condition will continue for ~~such~~ *the* further period.

(2) Whenever the governor has declared an energy supply alert, ~~he~~ *the governor* may by executive order direct actions:

(a) reducing energy resource usage by state agencies and political subdivisions;

(b) promoting conservation, prevention of waste, and salvage of energy resources and the materials, services, and facilities derived ~~therefrom~~ *from energy resources* or dependent ~~thereon~~ *on energy resources*; by state agencies and political subdivisions.”

Section 2870. Section 90-4-314, MCA, is amended to read:

“90-4-314. Orders to distributors. The governor may order any distributor to take ~~such~~ action on ~~his~~ *the governor’s* behalf as may be required to implement orders issued pursuant to 90-4-310, and ~~no~~ *a* distributor or person is *not* liable for actions taken in accordance with ~~such~~ *an* order.”

Section 2871. Section 90-4-317, MCA, is amended to read:

“90-4-317. Disaster and emergency laws supplemented. The powers vested in the governor under this part are in addition to and not in lieu of emergency powers vested in ~~him~~ *the governor* under Title 10, chapter 3, or any other law of Montana.”

Section 2872. Section 90-5-202, MCA, is amended to read:

“90-5-202. Board member appointed by governor — compensation. The governor shall appoint the board member. ~~He~~ *The member* shall report directly to the governor. The member, with the approval of the governor, may designate an alternate to represent the state when ~~he~~ *the member* is unable to do so. The member or ~~his~~ *the* alternate may *not* receive ~~no~~ compensation in addition to salary for ~~his~~ services as a member of the board but ~~shall~~ *must* be reimbursed for travel expenses, as provided for in 2-18-501 through 2-18-503, ~~as amended,~~ incurred in the performance of ~~his~~ duties.”

Section 2873. Section 90-6-120, MCA, is amended to read:

“90-6-120. Maintenance of capital reserve account. (1) In order to ~~assure~~ *ensure* the maintenance of the capital reserve account, the ~~chairman~~ *presiding officer* of the board shall on or before September 1 in the year preceding the convening of the legislature deliver to the governor a certificate stating the sum, if any, required to restore the capital reserve account to the minimum capital reserve requirement. The governor shall include in the executive budget submitted to the legislature the sum required to restore the capital reserve account to the sum of minimum capital reserve requirements. All sums appropriated by the legislature ~~shall~~ *must* be deposited in the capital reserve account.

(2) All amounts appropriated to the board by the legislature under this section constitute advances to the board and, subject to the rights of the holders of any bonds or notes of the board, ~~shall~~ *must* be repaid to the state’s general fund, without interest from available operating revenues of the board in excess of amounts required for the payment of bonds, notes, or other obligations of the

board, for maintenance of the capital reserve account, and for operating expenses.”

Section 2874. Section 90-6-204, MCA, is amended to read:

“90-6-204. Chairman Presiding officer, meetings, compensation, and facilities. (1) The board shall elect a ~~chairman~~ *presiding officer* from among its members.

(2) The board shall meet quarterly and may meet at other times as called by the ~~chairman~~ *presiding officer* or a majority of the members.

(3) Members are entitled to compensation as provided for in 2-15-124(7).

(4) The department of commerce ~~will~~ *shall* provide suitable office facilities and the necessary staff for the coal board.”

Section 2875. Section 90-6-303, MCA, is amended to read:

“90-6-303. Chairman Presiding officer — meetings — facilities — funding. (1) The board shall elect a ~~chairman~~ *presiding officer* from among its members.

(2) The board shall meet as necessary or as called by the ~~chairman~~ *presiding officer* or a majority of the members.

(3) The board is allocated to the department of commerce for administrative purposes only as provided in 2-15-121.

(4) The administrative and operating expenses of the board ~~shall~~ *must* be paid from revenue deposited to the credit of the hard-rock mining impact trust account from the license tax on metal mines imposed under Title 15, chapter 37.”

Section 2876. Section 90-7-319, MCA, is amended to read:

“90-7-319. Maintenance of capital reserve account. (1) In order to ~~assure~~ *ensure* the maintenance of the capital reserve account, the ~~chairman~~ *presiding officer* of the authority shall, on or before September 1 in each year preceding the convening of the legislature, deliver to the governor a certificate stating the sum, if any, required to restore the capital reserve account to the sum of minimum capital reserve requirements. The governor shall include in the executive budget submitted to the legislature the sum required to restore the capital reserve account to the minimum capital reserve requirements. All funds appropriated by the legislature for maintenance of the capital reserve account must be deposited in the account; as required in 90-7-317.

(2) All amounts appropriated to the authority under this section constitute advances to the authority and, subject to the rights of the holders of bonds or notes of the authority, must be repaid to the state general fund, without interest from available operating revenue of the authority in excess of amounts required for the payment of bonds, notes, or other obligations of the authority, for maintenance of the capital reserve account, and for operating expenses.”

Approved March 25, 2009