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**Susan Byorth Fox  
Executive Director**

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**CHAPTER NO. 358**

[SB 231]

AN ACT 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.

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

**Section 1.** Section 7-6-1602, MCA, is amended to read:

**“7-6-1602. Calculation of impact fees — documentation required — ordinance or resolution — requirements for impact fees.** (1) For each public facility for which an impact fee is imposed, the governmental entity shall prepare and approve a *service area report*.

(2) ~~The service area report is a written analysis that must document~~ *that:*

- (a) ~~describes~~ *describe* existing conditions of the facility;
- (b) ~~establishes level of service~~ *establish level-of-service* standards;
- (c) ~~forecasts~~ *forecast* future additional needs for service for a defined period of time;
- (d) ~~identifies~~ *identify* capital improvements necessary to meet future needs for service;
- (e) ~~identifies~~ *identify* those capital improvements needed for continued operation and maintenance of the facility;
- (f) ~~makes~~ *make* a determination as to whether one service area or more than one service area is necessary to establish a correlation between impact fees and benefits;
- (g) ~~makes~~ *make* a determination as to whether one service area or more than one service area for transportation facilities is needed to establish a correlation between impact fees and benefits;
- (h) ~~establishes~~ *establish* the methodology and time period over which the governmental entity will assign the proportionate share of capital costs for expansion of the facility to provide service to new development within each service area;
- (i) ~~establishes~~ *establish* the methodology that the governmental entity will use to exclude operations and maintenance costs and correction of existing deficiencies from the impact fee;
- (j) ~~establishes~~ *establish* the amount of the impact fee that will be imposed for each unit of increased service demand; and
- (k) ~~has~~ *have* a component of the budget of the governmental entity that:
  - (i) schedules construction of public facility capital improvements to serve projected growth;
  - (ii) projects costs of the capital improvements;
  - (iii) allocates collected impact fees for construction of the capital improvements; and
  - (iv) covers at least a 5-year period and is reviewed and updated at least every 2 years.

~~(3)~~ *The service area report is a written analysis that must contain documentation of sources and methodology used for purposes of subsection (2) and must document how each impact fee meets the requirements of subsection (7).*

~~(2)~~~~(4)~~ *The data sources and methodology service area report supporting that supports adoption and calculation of an impact fee must be available to the public upon request.*

~~(3)~~~~(5)~~ *The amount of each impact fee imposed must be based upon the actual cost of public facility expansion or improvements or reasonable estimates of the cost to be incurred by the governmental entity as a result of new development. The calculation of each impact fee must be in accordance with generally accepted accounting principles.*

~~(4)~~~~(6)~~ *The ordinance or resolution adopting the impact fee must include a time schedule for periodically updating the documentation required under subsection ~~(4)~~ (2).*

~~(5)~~~~(7)~~ *An impact fee must meet the following requirements:*

(a) *The amount of the impact fee must be reasonably related to and reasonably attributable to the development's share of the cost of infrastructure improvements made necessary by the new development.*

(b) *The impact fees imposed may not exceed a proportionate share of the costs incurred or to be incurred by the governmental entity in accommodating the development. The following factors must be considered in determining a proportionate share of public facilities capital improvements costs:*

(i) *the need for public facilities capital improvements required to serve new development; and*

(ii) *consideration of payments for system improvements reasonably anticipated to be made by or as a result of the development in the form of user fees, debt service payments, taxes, and other available sources of funding the system improvements.*

(c) *Costs for correction of existing deficiencies in a public facility may not be included in the impact fee.*

(d) *New development may not be held to a higher level of service than existing users unless there is a mechanism in place for the existing users to make improvements to the existing system to match the higher level of service.*

(e) *Impact fees may not include expenses for operations and maintenance of the facility."*

**Section 2.** Section 7-6-1603, MCA, is amended to read:

**"7-6-1603. Collection and expenditure of impact fees — refunds or credits — mechanism for appeal required.** (1) *The collection and expenditure of impact fees must comply with this part. The collection and expenditure of impact fees must be reasonably related to the benefits accruing to the development paying the impact fees. The ordinance or resolution adopted by the governmental entity must include the following requirements:*

(a) *Upon collection, impact fees must be deposited in a special proprietary fund, which must be invested with all interest accruing to the fund.*

(b) *A governmental entity may impose impact fees on behalf of local districts.*

(c) If the impact fees are not collected or spent in accordance with the impact fee ordinance or resolution or in accordance with 7-6-1602, any impact fees that were collected must be refunded to the person who owned the property at the time that the refund was due.

(2) All impact fees imposed pursuant to the authority granted in this part must be paid no earlier than the date of issuance of a building permit if a building permit is required for the development or no earlier than the time of wastewater or water service connection or well or septic permitting.

(3) A governmental entity may recoup costs of excess capacity in existing capital facilities, when the excess capacity has been provided in anticipation of the needs of new development, by requiring impact fees for that portion of the facilities constructed for future users. The need to recoup costs for excess capacity must have been documented pursuant to 7-6-1602 in a manner that demonstrates the need for the excess capacity. This part does not prevent a governmental entity from continuing to assess an impact fee that recoups costs for excess capacity in an existing facility. The impact fees imposed to recoup the costs to provide the excess capacity must be based on the governmental entity's actual cost of acquiring, constructing, or upgrading the facility and must be no more than a proportionate share of the costs to provide the excess capacity.

(4) Governmental entities may accept the dedication of land or the construction of public facilities in lieu of payment of impact fees if:

(a) the need for the dedication or construction is clearly documented pursuant to 7-6-1602;

(b) the land proposed for dedication for the public facilities to be constructed is determined to be appropriate for the proposed use by the governmental entity;

(c) formulas or procedures for determining the worth of proposed dedications or constructions are established as part of the impact fee ordinance or resolution; and

(d) a means to establish credits against future impact fee revenue has been created as part of the adopting ordinance or resolution if the dedication of land or construction of public facilities is of worth in excess of the impact fee due from an individual development.

(5) Impact fees may not be imposed for remodeling, rehabilitation, or other improvements to an existing structure or for rebuilding a damaged structure unless there is an increase in units that increase service demand as described in ~~7-6-1602(1)(j)~~ 7-6-1602(2)(j). If impact fees are imposed for remodeling, rehabilitation, or other improvements to an existing structure or use, only the net increase between the old and new demand may be imposed.

(6) This part does not prevent a governmental entity from granting refunds or credits:

(a) that it considers appropriate and that are consistent with the provisions of 7-6-1602 and this chapter; or

(b) in accordance with a voluntary agreement, consistent with the provisions of 7-6-1602 and this chapter, between the governmental entity and the individual or entity being assessed the impact fees.

(7) An impact fee represents a fee for service payable by all users creating additional demand on the facility.

(8) An impact fee ordinance or resolution must include a mechanism whereby a person charged an impact fee may appeal the charge if the person believes an error has been made.”

**Section 3. Effective date.** [This act] is effective July 1, 2009.

Approved April 24, 2009

## CHAPTER NO. 359

[SB 234]

AN ACT 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.

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

**Section 1. Coverage of autism spectrum disorders.** (1) Each group disability policy, certificate of insurance, or membership contract that is delivered, issued for delivery, renewed, extended, or modified in this state must provide coverage for diagnosis and treatment of autism spectrum disorders for a covered child 18 years of age or younger.

(2) Coverage under this section must be provided to a child who is diagnosed with one of the following disorders as defined by the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders:

- (a) autistic disorder;
- (b) Asperger’s disorder; or
- (c) pervasive developmental disorder not otherwise specified.

(3) (a) Coverage under this section must include:

(i) habilitative or rehabilitative care that is prescribed, provided, or ordered by a licensed physician or licensed psychologist, including but not limited to professional, counseling, and guidance services and treatment programs that are medically necessary to develop and restore, to the maximum extent practicable, the functioning of the covered child;

(ii) medications prescribed by a physician licensed under Title 37, chapter 3;

(iii) psychiatric or psychological care; and

(iv) therapeutic care that is provided by a speech-language pathologist, audiologist, occupational therapist, or physical therapist licensed in this state.

(b) (i) Habilitative and rehabilitative care includes medically necessary interactive therapies derived from evidence-based research, including applied behavior analysis, which is also known as Lovaas therapy, discrete trial training, pivotal response training, intensive intervention programs, and early intensive behavioral intervention.

(ii) Applied behavior analysis covered under this section must be provided by an individual who is licensed by the behavior analyst certification board or is certified by the department of public health and human services as a family support specialist with an autism endorsement.

(4) (a) Coverage for treatment of autism spectrum disorders under this section may be limited to a maximum benefit of:

- (i) \$50,000 a year for a child 8 years of age or younger; and



(ii) \$20,000 a year for a child 9 years of age through 18 years of age.

(b) Benefits provided under this section may not be construed as limiting physical health benefits that are otherwise available to the covered child.

(5) (a) Coverage under this section may be subject to deductibles, coinsurance, and copayment provisions.

(b) Special deductible, coinsurance, copayment, or other limitations that are not generally applicable to other medical care covered under the plan may not be imposed on the coverage for autism spectrum disorders provided for under this section.

(6) When treatment is expected to require continued services, the insurer may request that the treating physician provide a treatment plan consisting of diagnosis, proposed treatment by type and frequency, the anticipated duration of treatment, the anticipated outcomes stated as goals, and the reasons the treatment is medically necessary. The treatment plan must be based on evidence-based screening criteria. The insurer may ask that the treatment plan be updated every 6 months.

(7) As used in this section, "medically necessary" means any care, treatment, intervention, service, or item that is prescribed, provided, or ordered by a physician or psychologist licensed in this state and that will or is reasonably expected to:

(a) prevent the onset of an illness, condition, injury, or disability;

(b) reduce or improve the physical, mental, or developmental effects of an illness, condition, injury, or disability; or

(c) assist in achieving maximum functional capacity in performing daily activities, taking into account both the functional capacity of the recipient and the functional capacities that are appropriate for a child of the same age.

(8) This section applies to the state employee group insurance program, the university system employee group insurance program, any employee group insurance program of a city, town, school district, or other political subdivision of this state, and any self-funded multiple employer welfare arrangement that is not regulated by the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001, et seq.

(9) This section does not apply to disability income, hospital indemnity, medicare supplement, accident-only, vision, dental, specific disease, or long-term care policies.

**Section 2.** Section 33-1-102, MCA, is amended to read:

**"33-1-102. Compliance required — exceptions — health service corporations — health maintenance organizations — governmental insurance programs — service contracts.** (1) A person may not transact a business of insurance in Montana or a business relative to a subject resident, located, or to be performed in Montana without complying with the applicable provisions of this code.

(2) The provisions of this code do not apply with respect to:

(a) domestic farm mutual insurers as identified in chapter 4, except as stated in chapter 4;

(b) domestic benevolent associations as identified in chapter 6, except as stated in chapter 6; and

(c) fraternal benefit societies, except as stated in chapter 7.

(3) This code applies to health service corporations as prescribed in 33-30-102. The existence of the corporations is governed by Title 35, chapter 2, and related sections of the Montana Code Annotated.

(4) This code does not apply to health maintenance organizations or to managed care community networks, as defined in 53-6-702, to the extent that the existence and operations of those organizations are governed by chapter 31 or to the extent that the existence and operations of those networks are governed by Title 53, chapter 6, part 7. The department of public health and human services is responsible to protect the interests of consumers by providing complaint, appeal, and grievance procedures relating to managed care community networks and health maintenance organizations under contract to provide services under Title 53, chapter 6.

(5) This code does not apply to workers' compensation insurance programs provided for in Title 39, chapter 71, parts 21 and 23, and related sections.

(6) The department of public health and human services may limit the amount, scope, and duration of services for programs established under Title 53 that are provided under contract by entities subject to this title. The department of public health and human services may establish more restrictive eligibility requirements and fewer services than may be required by this title.

(7) ~~This~~ *Except as otherwise provided in Title 33, chapter 22, this* code does not apply to the state employee group insurance program established in Title 2, chapter 18, part 8.

(8) This code does not apply to insurance funded through the state self-insurance reserve fund provided for in 2-9-202.

(9) (a) ~~This~~ *Except as otherwise provided in Title 33, chapter 22, this* code does not apply to any arrangement, plan, or interlocal agreement between political subdivisions of this state in which the political subdivisions undertake to separately or jointly indemnify one another by way of a pooling, joint retention, deductible, or self-insurance plan.

(b) ~~This~~ *Except as otherwise provided in Title 33, chapter 22, this* code does not apply to any arrangement, plan, or interlocal agreement between political subdivisions of this state or any arrangement, plan, or program of a single political subdivision of this state in which the political subdivision provides to its officers, elected officials, or employees disability insurance or life insurance through a self-funded program.

(10) (a) This code does not apply to the marketing of, sale of, offering for sale of, issuance of, making of, proposal to make, and administration of a service contract.

(b) A "service contract" means a contract or agreement for a separately stated consideration for a specific duration to perform the repair, replacement, or maintenance of property or to indemnify for the repair, replacement, or maintenance of property if an operational or structural failure is due to a defect in materials or manufacturing or to normal wear and tear, with or without an additional provision for incidental payment or indemnity under limited circumstances, including but not limited to towing, rental, and emergency road service. A service contract may provide for the repair, replacement, or maintenance of property for damage resulting from power surges or accidental damage from handling. A service contract does not include motor club service as defined in 61-12-301.

(11) (a) Subject to 33-18-201 and 33-18-242, this code does not apply to insurance for ambulance services sold by a county, city, or town or to insurance sold by a third party if the county, city, or town is liable for the financial risk under the contract with the third party as provided in 7-34-103.

(b) If the financial risk for ambulance service insurance is with an entity other than the county, city, or town, the entity is subject to the provisions of this code.”

**Section 3.** Section 33-22-706, MCA, is amended to read:

**“33-22-706. (Temporary) Coverage for severe mental illness — definition.** (1) Except as provided in 33-22-262(3) and subject to 33-22-262(4), a policy or certificate of health insurance or disability insurance that is delivered, issued for delivery, renewed, extended, or modified in this state must provide a level of benefits for the necessary care and treatment of severe mental illness, as defined in subsection (6), that is no less favorable than that level provided for other physical illness generally. Benefits for treatment of severe mental illness may be subject to managed care provisions contained in the policy or certificate.

(2) Benefits provided pursuant to subsection (1) include but are not limited to:

- (a) inpatient hospital services;
- (b) outpatient services;
- (c) rehabilitative services;
- (d) medication;

(e) services rendered by a licensed physician, licensed advanced practice registered nurse with a specialty in mental health, licensed social worker, licensed psychologist, or licensed professional counselor when those services are part of a treatment plan recommended and authorized by a licensed physician; and

(f) services rendered by a licensed advanced practice registered nurse with prescriptive authority and specializing in mental health.

(3) Benefits provided pursuant to this section must be included when determining maximum lifetime benefits, copayments, and deductibles.

(4) (a) This section applies to health service benefits provided by:

- (i) individual and group health and disability insurance;
- (ii) individual and group hospital or medical expense insurance;
- (iii) medical subscriber contracts;
- (iv) membership contracts of a health service corporation;
- (v) health maintenance organizations; and
- (vi) the comprehensive health association created by 33-22-1503.

(b) This section does not apply to the following coverages:

- (i) blanket;
- (ii) short-term travel;
- (iii) accident only;
- (iv) limited or specific disease;
- (v) Title XVIII of the Social Security Act (medicare); or
- (vi) any other similar coverage under state or federal government plans.

(5) This section does not limit benefits for an illness or condition that does not constitute a severe mental illness, as defined in subsection (6), but that does constitute a mental illness, as defined in 33-22-702.

(6) As used in this section, "severe mental illness" means the following disorders as defined by the American psychiatric association:

- (a) schizophrenia;
- (b) schizoaffective disorder;
- (c) bipolar disorder;
- (d) major depression;
- (e) panic disorder;
- (f) obsessive-compulsive disorder; ~~and~~; *and*
- ~~(g) autism~~ (g) *autism*.

(7) *Coverage for a child with autism who is 18 years of age or younger must comply with [section 1(3) through (5)] if the child is diagnosed with:*

- (a) *autistic disorder;*
- (b) *Asperger's disorder; or*

(c) *pervasive developmental disorder not otherwise specified.* (Terminates June 30, 2009—sec. 14, Ch. 325, L. 2003.)

**33-22-706.** (Effective July 1, 2009) **Coverage for severe mental illness — definition.** (1) A policy or certificate of health insurance or disability insurance that is delivered, issued for delivery, renewed, extended, or modified in this state must provide a level of benefits for the necessary care and treatment of severe mental illness, as defined in subsection (6), that is no less favorable than that level provided for other physical illness generally. Benefits for treatment of severe mental illness may be subject to managed care provisions contained in the policy or certificate.

(2) Benefits provided pursuant to subsection (1) include but are not limited to:

- (a) inpatient hospital services;
- (b) outpatient services;
- (c) rehabilitative services;
- (d) medication;

(e) services rendered by a licensed physician, licensed advanced practice registered nurse with a specialty in mental health, licensed social worker, licensed psychologist, or licensed professional counselor when those services are part of a treatment plan recommended and authorized by a licensed physician; and

(f) services rendered by a licensed advanced practice registered nurse with prescriptive authority and specializing in mental health.

(3) Benefits provided pursuant to this section must be included when determining maximum lifetime benefits, copayments, and deductibles.

- (4) (a) This section applies to health service benefits provided by:
  - (i) individual and group health and disability insurance;
  - (ii) individual and group hospital or medical expense insurance;
  - (iii) medical subscriber contracts;

- (iv) membership contracts of a health service corporation;
  - (v) health maintenance organizations; and
  - (vi) the comprehensive health association created by 33-22-1503.
- (b) This section does not apply to the following coverages:
- (i) blanket;
  - (ii) short-term travel;
  - (iii) accident only;
  - (iv) limited or specific disease;
  - (v) Title XVIII of the Social Security Act (medicare); or
  - (vi) any other similar coverage under state or federal government plans.

(5) This section does not limit benefits for an illness or condition that does not constitute a severe mental illness, as defined in subsection (6), but that does constitute a mental illness, as defined in 33-22-702.

(6) As used in this section, "severe mental illness" means the following disorders as defined by the American psychiatric association:

- (a) schizophrenia;
- (b) schizoaffective disorder;
- (c) bipolar disorder;
- (d) major depression;
- (e) panic disorder;
- (f) obsessive-compulsive disorder; ~~and;~~ *and*
- ~~(g) autism~~ (g) *autism*.

(7) *Coverage for a child with autism who is 18 years of age or younger must comply with [section 1(3) through (5)] if the child is diagnosed with:*

- (a) *autistic disorder;*
- (b) *Asperger's disorder; or*
- (c) *pervasive developmental disorder not otherwise specified."*

**Section 4.** Section 33-31-111, MCA, is amended to read:

**"33-31-111. (Temporary) Statutory construction and relationship to other laws.** (1) Except as otherwise provided in this chapter, the insurance or health service corporation laws do not apply to a health maintenance organization authorized to transact business under this chapter. This provision does not apply to an insurer or health service corporation licensed and regulated pursuant to the insurance or health service corporation laws of this state except with respect to its health maintenance organization activities authorized and regulated pursuant to this chapter.

(2) Solicitation of enrollees by a health maintenance organization granted a certificate of authority or its representatives is not a violation of any law relating to solicitation or advertising by health professionals.

(3) A health maintenance organization authorized under this chapter is not practicing medicine and is exempt from Title 37, chapter 3, relating to the practice of medicine.

(4) This chapter does not exempt a health maintenance organization from the applicable certificate of need requirements under Title 50, chapter 5, parts 1 and 3.

(5) This section does not exempt a health maintenance organization from the prohibition of pecuniary interest under 33-3-308 or the material transaction disclosure requirements under 33-3-701 through 33-3-704. A health maintenance organization must be considered an insurer for the purposes of 33-3-308 and 33-3-701 through 33-3-704.

(6) This section does not exempt a health maintenance organization from:

(a) prohibitions against interference with certain communications as provided under chapter 1, part 8;

(b) the provisions of Title 33, chapter 22, part 19;

(c) the requirements of 33-22-134 and 33-22-135;

(d) network adequacy and quality assurance requirements provided under chapter 36, except as provided in 33-22-262; or

(e) the requirements of Title 33, chapter 18, part 9.

(7) Except as provided in 33-22-262, the provisions of Title 33, chapter 1, parts 12 and 13, Title 33, chapter 2, part 19, 33-2-1114, 33-2-1211, 33-2-1212, 33-3-422, 33-3-431, 33-15-308, Title 33, chapter 17, Title 33, chapter 19, 33-22-107, 33-22-129, 33-22-131, 33-22-136, 33-22-141, 33-22-142, 33-22-152, 33-22-244, 33-22-246, 33-22-247, 33-22-514, [section 1], 33-22-521, 33-22-523, 33-22-524, 33-22-526, and 33-22-706 apply to health maintenance organizations. (Terminates June 30, 2009—sec. 14, Ch. 325, L. 2003.)

**33-31-111.** (Effective July 1, 2009) **Statutory construction and relationship to other laws.** (1) Except as otherwise provided in this chapter, the insurance or health service corporation laws do not apply to a health maintenance organization authorized to transact business under this chapter. This provision does not apply to an insurer or health service corporation licensed and regulated pursuant to the insurance or health service corporation laws of this state except with respect to its health maintenance organization activities authorized and regulated pursuant to this chapter.

(2) Solicitation of enrollees by a health maintenance organization granted a certificate of authority or its representatives is not a violation of any law relating to solicitation or advertising by health professionals.

(3) A health maintenance organization authorized under this chapter is not practicing medicine and is exempt from Title 37, chapter 3, relating to the practice of medicine.

(4) This chapter does not exempt a health maintenance organization from the applicable certificate of need requirements under Title 50, chapter 5, parts 1 and 3.

(5) This section does not exempt a health maintenance organization from the prohibition of pecuniary interest under 33-3-308 or the material transaction disclosure requirements under 33-3-701 through 33-3-704. A health maintenance organization must be considered an insurer for the purposes of 33-3-308 and 33-3-701 through 33-3-704.

(6) This section does not exempt a health maintenance organization from:

(a) prohibitions against interference with certain communications as provided under chapter 1, part 8;

(b) the provisions of Title 33, chapter 22, part 19;

(c) the requirements of 33-22-134 and 33-22-135;

(d) network adequacy and quality assurance requirements provided under chapter 36; or

(e) the requirements of Title 33, chapter 18, part 9.

(7) Title 33, chapter 1, parts 12 and 13, Title 33, chapter 2, part 19, 33-2-1114, 33-2-1211, 33-2-1212, 33-3-422, 33-3-431, 33-15-308, Title 33, chapter 17, Title 33, chapter 19, 33-22-107, 33-22-129, 33-22-131, 33-22-136, 33-22-141, 33-22-142, 33-22-152, 33-22-244, 33-22-246, 33-22-247, 33-22-514, [section 1], 33-22-521, 33-22-523, 33-22-524, 33-22-526, and 33-22-706 apply to health maintenance organizations.”

**Section 5.** Section 33-35-306, MCA, is amended to read:

**“33-35-306. Application of insurance code to arrangements.** (1) In addition to this chapter, self-funded multiple employer welfare arrangements are subject to the following provisions:

(a) 33-1-111;

(b) Title 33, chapter 1, part 4, but the examination of a self-funded multiple employer welfare arrangement is limited to those matters to which the arrangement is subject to regulation under this chapter;

(c) Title 33, chapter 1, part 7;

(d) 33-3-308;

(e) Title 33, chapter 18, except 33-18-242;

(f) Title 33, chapter 19;

(g) 33-22-107, 33-22-131, 33-22-134, 33-22-135, 33-22-141, 33-22-142, and 33-22-152; and

(h) 33-22-512, [section 1], 33-22-525, and 33-22-526.

(2) Except as provided in this chapter, other provisions of Title 33 do not apply to a self-funded multiple employer welfare arrangement that has been issued a certificate of authority that has not been revoked.”

**Section 6. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 33, chapter 22, part 5, and the provisions of Title 33, chapter 22, apply to [section 1].

**Section 7. 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 8. Effective date.** [This act] is effective January 1, 2010.

**Section 9. Applicability.** [This act] applies to contracts or policies issued or renewed on or after [the effective date of this act].

Approved April 24, 2009

## CHAPTER NO. 360

[SB 281]

AN ACT 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.

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

**Section 1.** Section 46-6-310, MCA, is amended to read:

**“46-6-310. Notice to appear.** (1) Whenever a peace officer is authorized to arrest a person without a warrant, the officer may instead issue the person a notice to appear.

(2) The notice must:

(a) be in writing;

(b) state the person’s name and address, if known;

(c) set forth the nature of the offense;

(d) be signed by the issuing officer; ~~and~~

(e) direct the person to appear before a court at a certain time and place; *and*

(f) *state that failure to appear may result in the suspension of the person’s driver’s license.*

(3) Upon failure of the person to appear, a summons or arrest warrant may be issued.”

**Section 2.** Section 46-9-401, MCA, is amended to read:

**“46-9-401. Forms of bail.** (1) Bail may be furnished in the following ways:

(a) by a deposit with the court of an amount equal to the required bail of cash, stocks, bonds, certificates of deposit, or other personal property approved by the court;

(b) by pledging real estate situated within the state with an unencumbered equity, not exempt, owned by the defendant or sureties at a value double the amount of the required bail;

(c) by posting a written undertaking executed by the defendant and by two sufficient sureties;

(d) by posting a commercial surety bond executed by the defendant and by a qualified agent for and on behalf of the surety company; or

(e) by posting an offender’s driver’s license in lieu of bail if the summons describes a violation of any offense in ~~Title 61, chapters 3 through 10, except chapter 8, part 4, as provided in 61-5-214~~ and if the offender is the holder of an unexpired driver’s license.

(2) The amount of the bond must ensure the appearance of the defendant at all times required through all stages of the proceeding including trial de novo, if any, and unless the bond is denied by the court pursuant to 46-9-107, must remain in effect until final sentence is pronounced in open court.

(3) This chapter does not prohibit a surety from surrendering the defendant pursuant to 46-9-510 in a case in which the surety feels insecure in accepting liability for the defendant.

(4) Whenever a driver’s license is accepted in lieu of bail, the judge shall return the driver’s license to the defendant:

(a) after the required bail has been posted or there has been a final determination of the charge; and

(b) if the defendant pleaded guilty or was convicted, after a \$25 administrative fee has been paid to the court.”

**Section 3.** Section 61-5-214, MCA, is amended to read:

**“61-5-214. Mandatory suspension for failure to appear or pay fine comply with criminal sentence — administrative fee — notice.** (1) The department shall suspend the driver’s license or driving privilege of a person



upon receipt of a report from the court, certified under penalty of law and in a form prescribed by the department, that the person:

(a) ~~is charged with or convicted of a violation of chapters 3 through 10 of this title or fails to comply with a sentence imposed pursuant to 46-18-201; failed to appear upon an issued complaint, summons, or court order after being charged with a misdemeanor violation under Title 45 or Title 61, chapters 3 through 10, or after posting a driver's license in lieu of bail as provided in 46-9-401(1)(e); or~~

(b) (i) ~~failed to post the set bond amount or appear upon an issued complaint, summons, or court order;~~

(ii) ~~after posting a driver's license in lieu of bail, failed to appear upon an issued complaint, summons, or court order; or~~

(iii) ~~when assessed a fine, costs, or restitution of \$100 or more, failed to pay the fine, costs, or restitution; and~~

(c) ~~received prior written notice that the driver's license or driving privileges of the person would be suspended upon:~~

(i) ~~failure to post bond or appear on an issued complaint, summons, or court order;~~

(ii) ~~failure to appear after posting a driver's license in lieu of bond; or~~

(iii) ~~failure to pay assessed fines, costs, or restitution; failed to comply with a sentence imposed pursuant to 46-18-201, including but not limited to the payment of a fine, costs, or restitution as provided in 46-18-201(6).~~

(2) The suspension continues in effect until the court notifies the department that:

(a) ~~the person has either appeared in court or paid the~~ *complied with the sentence imposed pursuant to 46-18-201, including the payment of any assessed fines, costs, or restitution; and*

(b) ~~the person has paid the court an administrative fee of \$25 if the court was holding under the driver's license in lieu of bail under 44-1-1102, 46-9-302, or 46-9-401.~~

(3) (a) ~~The~~ *Before a report is submitted under this section, a person must be given written notice that the failure to appear on a criminal charge or comply with a criminal sentence may result in the suspension of the person's driver's license or driving privilege. Initial notice required under this section may of the possibility of a license suspension must either be included on the summons or complaint and notice to appear form given to the person when charges are initially filed or may be contained in a court order, either hand-delivered to the person while in court or sent by first-class certified mail, postage prepaid, to the most current address for that person received by or on record with the court.*

(b) ~~The initial notice must be followed by a written warning from the court, sent by first-class mail, advising the person that a license suspension is imminent and of the probable consequences of a suspension unless, by a specified date, the failure to appear or comply is remedied or the person appears or pays within a specified number of days before the court to contest the impending license suspension.~~

(4) ~~The court shall deposit any administrative fee received under subsection (2)(b) in the appropriate county or city general fund."~~

**Section 4.** Section 61-5-218, MCA, is amended to read:

**“61-5-218. License reinstatement fee following license suspension or revocation.** (1) Except as provided in subsection (2), a person whose driver’s license, other than a commercial driver’s license, or driving privilege has been suspended or revoked shall pay a reinstatement fee of \$100 to the department to have the driver’s license or driving privilege reinstated.

(2) (a) A person whose driver’s license or driving privilege was suspended or revoked under 61-5-205 or 61-8-402 shall pay a reinstatement fee as required by 61-2-107.

(b) A driver’s license or driving privilege that was suspended or revoked under 61-5-207 must be reinstated without payment of a reinstatement fee.

(c) *The reinstatement fee required under subsection (1) must be waived by the department when a court notifies the department that the person has satisfied the requirements of 61-5-214(2) and the court has determined that the person is indigent under the standards set forth in 47-1-111.*

(3) The department shall deposit the fees collected under subsection (1) in the general fund.”

**Section 5. Effective date.** [This act] is effective July 1, 2009.

Approved April 24, 2009

## CHAPTER NO. 361

[SB 286]

AN ACT 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.

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

**Section 1.** Section 81-1-101, MCA, is amended to read:

**“81-1-101. Definitions.** Unless the context requires otherwise, in Title 81, the following definitions apply:

(1) “Board” means the board of livestock provided for in 2-15-3102, *except as provided in Title 81, chapter 23.*

(2) “Department” means the department of livestock provided for in Title 2, chapter 15, part 31.”

**Section 2.** Section 81-23-101, MCA, is amended to read:

**“81-23-101. Definitions.** (1) Unless the context requires otherwise, in this chapter, the following definitions apply:

(a) “Board” means the board of milk control provided for in 2-15-3105.

(b) (i) “Class” refers to the classes of utilization of milk that the ~~department~~ *shall define board defines* by rule.

(ii) In adopting rules under this subsection (1)(b), the ~~department~~ *board* shall use the current definitions of classes of utilization of milk that are found in Title 7 CFR, part 1000.40, except that the ~~department~~ *board* may combine any of the classes of milk provided for in the federal definitions into a single class.

(c) "Consumer" means a person or an agency, other than a dealer, who purchases milk for consumption or use.

(d) "Dealer" means a producer, distributor, producer-distributor, jobber, or independent contractor.

(e) (i) "Distributor" means a person purchasing milk from any source, either in bulk or in packages, and distributing it for consumption in this state. The term includes what are commonly known as jobbers and independent contractors.

(ii) The term, ~~however, excludes~~ *does not include* a person purchasing milk from a dealer licensed under this chapter, for resale over the counter at retail or for consumption on the premises.

(f) "Licensee" means a person who holds a license from the ~~department~~ *board*.

(g) "Market" means an area of the state designated by the ~~department~~ *board* as a natural marketing area.

(h) "Milk" means the lacteal secretion of a dairy animal or animals, including those secretions when raw and when cooled, pasteurized, standardized, homogenized, recombined, concentrated fresh, or otherwise processed and all of which are designated as grade A by a constituted health authority and including those secretions that are in any manner rendered sterile or aseptic, notwithstanding whether they are regulated by any health authority of this or any other state or nation.

(i) "Person" means an individual, firm, corporation, or cooperative association or the dairy operated by the department of corrections at the Montana state prison.

(j) "Producer" means a person who produces milk for consumption in this state, ~~selling and sells~~ it to a distributor.

(k) "Producer prices" means those prices at which milk owned by a producer is sold in bulk to a distributor.

(l) "Producer-distributor" means a person both producing and distributing milk for consumption in this state.

(m) "Retailer" means a person selling milk in bulk or in packages over the counter at retail or for consumption on the premises and includes but is not limited to retail stores of all types, restaurants, boardinghouses, fraternities, sororities, confectioneries, public and private schools, including colleges and universities, and both public and private institutions and instrumentalities of all types and description.

(2) The ~~department~~ *board* may assign new milk products *not provided for under 7 CFR, part 1000.40*, to the class that the ~~department~~ *board* considers proper."

**Section 3.** Section 81-23-103, MCA, is amended to read:

**"81-23-103. General powers of ~~department~~ *department and board*.**

(1) The ~~department~~ *board* shall supervise, regulate, and control the milk industry of this state, including the production, processing, storage, distribution, and sale of milk sold for consumption in this state. *The board shall conduct hearings and make determinations under this chapter and under board rules and orders promulgated pursuant to this chapter.* This chapter does not affect the status, force, or operation of any provision of public health laws,

county board of health rules, or municipal ordinances for the promotion or protection of the public health.

(2) The ~~department~~ *department* may cooperate with the department of public health and human services, a county or city board of health, or the department of agriculture in enforcing this chapter.

(2)(3) The ~~department shall investigate~~ *department shall assist the board by investigating* all matters pertaining to the production, processing, storage, distribution, and sale of milk in this state and ~~shall conduct hearings on any subject pertinent to the administration of this chapter. The department by bringing proceedings to enforce the orders of the board. The department, in exercising its enforcement duties,~~ may subpoena milk dealers, their records, books, and accounts, and any other person from whom information may be desired or considered necessary to carry out the purposes and intent of this chapter. The ~~department~~ *department* may take depositions of witnesses who are sick or absent from the state or who cannot otherwise appear in person before the ~~department~~ *department* at its offices. The ~~department~~ *department* shall give at least 10 days' notice to the proposed witness.

(4) *The department shall provide staff to the board as provided in 2-15-121 to assist in technical, enforcement, and regulatory activities.*"

**Section 4.** Section 81-23-104, MCA, is amended to read:

**"81-23-104. Rules and orders.** The ~~department~~ *board* may adopt and enforce rules and orders necessary to carry out the provisions of this chapter and any orders adopted under it by the ~~department or the~~ board. A rule or order ~~shall~~ *must* be posted for public inspection in the main office of the department for 30 days, and a copy ~~shall~~ *must* be filed in the office of the department. A copy ~~shall~~ *must* also be sent by registered or certified letter to the secretary of each area, except in the case of an order directed only to a person or persons named in it, which ~~shall~~ *must* be served by personal delivery of a copy or by mailing a copy to each person to whom the order is directed or, in the case of a corporation, to any officer or agent of the corporation upon whom a summons may be served in accordance with laws of this state. The posting, in the main office of the department, of a rule or order not required to be personally served as provided in this section and the filing in the office of the department is sufficient notice to all persons affected by the rule or order. A rule or order when properly posted and filed or served, as provided in this section, has the force of law."

**Section 5.** Section 81-23-201, MCA, is amended to read:

**"81-23-201. Licenses to producers, producer-distributors, distributors, and jobbers.** In any 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~~ *board* may decline to grant a license or may suspend or revoke a license already granted, upon due cause and after hearings."

**Section 6.** Section 81-23-202, MCA, is amended to read:

**"81-23-202. Licenses — disposition of income.** (1) A producer, producer-distributor, distributor, or jobber may not engage in the business of producing or selling milk subject to this chapter in this state without first having obtained a license from the department; as provided in 81-22-202; or, in

the case of milk entering this state from another state or foreign nation, without complying with the requirements of the Montana Food, Drug, and Cosmetic Act and without being licensed under this chapter by the ~~department~~ *board*. The annual fee for the license ~~from the department~~ is \$2, and is due before July 1, and must be deposited by the department in the general fund. The license required by this chapter is in addition to any other license required by state law or any municipality of this state. This chapter applies to every part of the state of Montana.

(2) In addition to the annual license fee, the ~~department~~ *board* shall, in each year, before April 1, for the purpose of securing funds to administer and enforce this chapter, levy an assessment upon producers, producer-distributors, and distributors as follows:

(a) a fee per hundredweight on the total volume of all milk subject to this chapter produced and sold by a producer-distributor;

(b) a fee per hundredweight on the total volume of all milk subject to this chapter sold by a producer;

(c) a fee per hundredweight on the total volume of all milk subject to this chapter sold by a distributor, excepting that which is sold to another distributor.

(3) The ~~department~~ *board* shall adopt rules fixing the amount of each fee. The amounts may not exceed levels sufficient to provide for the administration of this chapter. The fee assessed on a producer or on a distributor may not be more than one-half the fee assessed on a producer-distributor.

(4) (a) In addition to the fees established in subsections (1) through (3), the department shall assess a fee per hundredweight on the volume of all classes of milk produced and sold by a person licensed by the department to be used for the administration of the milk inspection and milk diagnostic laboratory functions of the department. The fee must be established pursuant to 81-1-102(2).

(b) A person licensed by the department shall report to the department on a monthly basis the volume of milk produced. All reporting documentation must be submitted on forms approved or provided by the department.

(5) The assessments upon producer-distributors, producers, and distributors must be paid quarterly before January 15, April 15, July 15, and October 15 of each year. The amount of the assessments must be computed by applying the fee designated by the ~~department~~ *board* and the fee established in subsection (4) to the volume of milk sold in the preceding calendar quarter.

(6) Failure of a producer-distributor, producer, or distributor to pay an assessment when due is a violation of this chapter, and a license under this chapter automatically terminates and is void. A terminated license must be reinstated by the ~~department~~ *board* upon payment of a delinquency fee equal to 30% of the assessment that was due.

(7) All assessments required by this chapter must be deposited by the department in the state special revenue fund. All costs of administering chapter 22 and this chapter, including the salaries of employees and assistants, per diem and expenses of board members, and all other disbursements necessary to carry out the purpose of chapter 22 and this chapter, must be paid out of the board money in that fund.

(8) The ~~department~~ *board* may, if it finds the costs of administering and enforcing this chapter can be derived from lower rates, amend its rules to fix the rates at a less amount on or before April 1 in any year."

**Section 7.** Section 81-23-203, MCA, is amended to read:

**“81-23-203. Application for licenses.** An applicant for license to operate as a producer, producer-distributor, distributor, or jobber shall file a signed application upon a blank prepared by the ~~department~~ *department* and containing the information required by the ~~department~~ *board*. The application must certify the applicant to be the holder of all licenses required by the ~~department~~ *board* for the conduct of the applicant’s business or, in the case of milk entering this state from another state or foreign nation, compliance with the requirements of the Montana Food, Drug, and Cosmetic Act. The application must be accompanied by the license fee required to be paid.”

**Section 8.** Section 81-23-204, MCA, is amended to read:

**“81-23-204. Declining, suspending, and revoking licenses — penalties in lieu of suspension or revocation.** (1) The ~~department~~ *board* may refuse to grant a license or may suspend or revoke a license already granted for due cause upon due notice and after hearing. The violation of any provisions of this chapter or of any lawful order or rule of the ~~board or department~~, the failure or refusal to make required statements or reports, or failure to pay license or assessment fees are causes for which the ~~department~~ *board* may suspend or revoke a license.

(2) In place of suspension or revocation of a license, the ~~department~~ *board* may assess a civil penalty not to exceed \$500 per day for each daily failure to comply with or each daily violation of the provisions of this chapter or of any lawful order or rule of the ~~department or board~~. *A penalty may not be assessed until after the cause of the penalty has been upheld following the notice and hearing requirements of subsection (1).* If the person against whom a civil penalty is assessed fails to pay the civil penalty immediately, the ~~department~~ *board* shall collect the civil penalty by a civil proceeding in the district court of the first judicial district. This penalty ~~shall~~ *must* be construed as civil and not criminal in nature. Any ~~moneys~~ *money* received by the ~~department~~ *board* as a result of collection of civil penalties ~~shall~~ *must* be paid into the state special revenue fund as provided by 81-23-403.”

**Section 9.** Section 81-23-302, MCA, is amended to read:

**“81-23-302. Establishment of minimum prices.** (1) The board shall, by adopting rules, fix minimum producer prices for classes of utilization of milk as defined by the ~~department~~ *board*.

(2) The board shall establish prices by means of flexible formulas that must be devised so that the formulas bring about automatic changes in all minimum prices that are justified on the basis of changes in production, supply, processing, distribution, and retailing costs.

(3) The board shall consider the balance between production and consumption of milk, the costs of production and distribution, and prices in adjacent and neighboring areas and states so that minimum prices that are fair and equitable to producers and consumers may result.

(4) The board shall, when publishing notice of proposed rulemaking under authority of this section, set forth the specific factors that must be taken into consideration in establishing the formulas and, in particular, in determining costs of production and of the actual dollars and cents costs of production that preliminary studies and investigations of auditors or accountants in the department’s employment indicate will or should be shown at the hearing so that all interested parties will have an opportunity to be heard and to question or rebut the considerations as a matter of record.

(5) Specific factors may include but are not limited to the following items:

(a) current and prospective supplies of milk in relation to current and prospective demands for milk for all purposes;

(b) the cost factors in producing milk, which must include among other things the prices paid by farmers generally, as used in parity calculations of the United States department of agriculture, prices paid by farmers for dairy feed in particular, and farm wage rates in this state;

(c) the alternative opportunities, both farm and nonfarm, open to milk producers, which must include among other things the prices received by farmers for all products other than milk, the prices received by farmers for beef cattle, and the percentage of unemployment in the state and nation as determined by appropriate state and federal agencies;

(d) the prices of butter, nonfat dry milk, and cheese;

(e) the need, if any, for freight or transportation charges to be deducted by distributors from producer prices for bulk milk.

(6) If the board at any time proposes to base all or part of an official order establishing or revising milk pricing formulas upon facts within its own knowledge, as distinguished from evidence that may be presented to it by the consuming public or the milk industry, the board shall, when publishing notice of proposed rulemaking under authority of this section, notify the consuming public and the milk industry of the specific facts within its own knowledge that it will consider so that all interested parties will have an opportunity to be heard and to question or rebut the facts as a matter of record.

(7) The board, after consideration of the evidence produced, shall make written findings and conclusions and shall fix by official rule the formula under which minimum producer prices for milk must be computed.

(8) This section may not be construed as requiring the board to promulgate a specific number of formulas, but it must be construed liberally so that the board may adopt a reasonable method of expression to accomplish the objective set forth in subsection (7).

(9) Each rule establishing or revising milk pricing formulas must classify milk by forms, classes, grades, or uses as the board considers advisable and must specify the minimum prices for the forms, classes, grades, and uses.

(10) Distributors who have processing facilities in this state shall, whenever possible, purchase milk from Montana producers for the processing of products to be sold in this state if milk is available from Montana producers at the price set by the board.

(11) The board shall adopt rules to regulate transportation rates that distributors, contract haulers, and others charge producers for interplant transportation of milk. An allowance for transportation of milk between plants may not be permitted unless it is found by the board to be necessary to permit the movement of milk in the public interest. The board may promulgate rules regarding the requirement for first call on Montana milk supplies; as provided in subsection (10). Rules must be coordinated with those adopted pursuant to fair trade practices under 81-23-303.

(12) All milk purchased by a distributor must be purchased on a uniform basis. The basis to be used must be established by the board after the producers and the distributors have been consulted.

(13) The board may amend a rule in the same manner provided in this section for the original establishment of milk pricing formulas. The board may in its discretion, when it determines that the need exists, give notice of and hold

statewide public hearings affecting establishment or revision of milk pricing formulas.

(14) Upon petition of a distributor or a majority of a distributor's producers, the board shall hold a hearing to receive and consider evidence regarding the advisability and need for a base or quota plan as a method of payment by that distributor of producer prices. If the board finds that the evidence presented at the hearing warrants the establishment of a base or quota plan, the board shall proceed by order to establish the base or quota plan.

(15) (a) Upon petition by 10% or 20 of the licensed producers in Montana, whichever is less, or upon petition by a licensed producer-distributor or distributor, the board shall hold a hearing to receive and consider evidence regarding the advisability and need for a statewide pooling arrangement as a method of payment of producer prices, provided that at the hearing, the board shall, among other things, specifically receive and consider evidence concerning production and marketing practices that have historically prevailed statewide. If the board finds that the evidence presented at the hearing warrants the establishment of a statewide pooling arrangement, the board shall proceed by order to establish the arrangement. An order is not effective until it is approved in a referendum conducted by the board by mail among affected producers, producer-distributors, and distributors. The order must be approved by a majority of the producers, producer-distributors, and distributors voting, representing more than 50% of the milk produced in Montana that is to be included in the proposed pool, based on each producer's average monthly production for the 12 months immediately preceding the referendum. If the board finds it necessary, the board may conduct more than one referendum on any order.

(b) The order of the board establishing the statewide pooling arrangement may include other provisions that the board considers necessary for the proper and efficient operation of the pool. These provisions may include but are not limited to:

(i) a statewide base or quota plan contemplated in subsection (14);

(ii) the establishment of a pool settlement fund to be administered by the department for the purpose of receiving payments from pool distributors or making payments to them as necessary in order to operate and administer the statewide pool; and

(iii) the establishment of a pool expense fund for the purpose of offsetting the costs to the department of administering the pool, funded by a special levy assessed against each pool producer.

(c) During the initial startup of a statewide pool, the department may draw from existing cash reserves to fund a pool settlement fund and a pool expense fund, but withdrawals from the cash reserve must be reimbursed.

(d) An order of the board establishing a statewide pooling arrangement that has been approved in a referendum may be rescinded in the same manner as provided for approval of the order under subsection (15)(a). The order may be amended without a referendum if, prior to amending the order, the board gives written notice of its intended action and holds a public hearing.

(16) The requirements of this section concerning notices of hearings for the establishment of milk pricing formulas apply to any hearings regarding base or quota plans or statewide pooling arrangements or abandonment of base or quota plans or statewide pooling arrangements.



(17) Rules adopted pursuant to this section must be ~~enforced and~~ audited for compliance by the department *and enforced by the board. An enforcement action is subject to the provisions of [section 16].*

**Section 10.** Section 81-23-303, MCA, is amended to read:

**“81-23-303. Rules of fair trade practices.** The ~~department~~ *board* may adopt reasonable rules governing fair trade practices as they pertain to the transaction of business among licensees under this chapter and among licensees and the general public. Except for provisions regarding the requirement for first call on Montana milk supplies, as provided in 81-23-302(10), and rules adopted pursuant to 81-23-302(11), fair trade practice rules must contain but are not limited to provisions prohibiting the following methods of doing business that are unfair, unlawful, and not in the public interest:

(1) the payment, allowance, or acceptance of secret rebates, secret refunds, or unearned discounts by a person, whether in the form of money or otherwise;

(2) the giving of milk, cream, dairy products, services, or articles of any kind, except to bona fide charities, for the purpose of securing or retaining the fluid milk or fluid cream business of a customer;

(3) the extension to certain customers of special prices or services not available to all customers who purchase milk of like quantity under like terms and conditions;

(4) the payment of a price lower than the applicable producer price, established by the board, by a distributor to a producer for milk that is distributed to any person, including agencies of the federal, state, or local government.”

**Section 11.** Section 81-23-401, MCA, is amended to read:

**“81-23-401. Entry, inspection, and investigation.** The department may enter, at all reasonable hours, all places where milk is produced, processed, bottled, handled, or stored or where the books, papers, records, or documents relative to those transactions are kept, and may inspect and copy them in any place in this state. The ~~department~~ *department* may administer oaths and take testimony for the purpose of ascertaining facts which, in the judgment of the ~~department~~ *department*, are necessary to administer this chapter.”

**Section 12.** Section 81-23-402, MCA, is amended to read:

**“81-23-402. Reports of dealers — accounting system — records.** (1) (a) The department may require licensees to file *reports* with it ~~reports~~ at reasonable or regular times ~~which that the department board~~ may require, showing the licensee’s production, sale, or distribution of milk and any information considered *necessary* by the ~~department~~ *necessary* ~~which board~~ that pertains to the production, sale, or distribution of milk, either under oath or otherwise, as the ~~department~~ *board* may direct. Failure or refusal to file a report when directed to do so is grounds for the revocation of the license and is a violation for which the licensee may be fined as provided by this chapter, one or both, at the discretion of the ~~department~~ *board*.

(b) *The department and the board may request only the records necessary for establishing milk prices pursuant to this chapter. The department shall provide licensees with information concerning procedures a licensee may use to assert a claim of confidentiality with respect to constitutionally protected information that must be submitted to the department, such as trade secret or proprietary information.*

(2) The ~~department~~ *board* shall adopt a uniform system of accounting to be used by the distributor to account for the usage of all milk received by the distributor.

(3) A distributor and producer-distributor shall keep:

(a) a record of all milk, cream, or dairy products received, detailed as to location, names and addresses of suppliers, prices paid, deductions or charges made, and the use to which the milk or cream was put;

(b) a record of the quantity of each kind of milk or dairy product manufactured and the quantity and price of milk or dairy products sold;

(c) a complete record of all milk, cream, or dairy products sold, classified as to kind and grade, showing where sold, and the amount received in payment;

(d) a record of the wastage or loss of milk or dairy products;

(e) a record of the items of handling expense;

(f) a record of all refrigeration facilities sold for storage purposes to any person, showing types, sizes, and location of the facilities and the original or duplicate original of all agreements covering sales for them;

(g) other records ~~which~~ *that* the ~~department~~ *board* considers necessary for the proper enforcement of this chapter.”

**Section 13.** Section 81-23-404, MCA, is amended to read:

**“81-23-404. Cooperation with other governmental agencies.** In order to secure a uniform system of milk control, the ~~department~~ *board* shall confer and cooperate with the proper authorities of other states and of the United States, including the secretary of agriculture of the United States, and for those purposes, the ~~department~~ *board* may conduct joint hearings, issue joint or concurrent orders, and exercise all its powers under this chapter.”

**Section 14.** Section 81-23-405, MCA, is amended to read:

**“81-23-405. Violations made misdemeanors — penalties.** (1) A person who produces, sells, distributes, or handles milk in any way, except as a consumer, without a license from the ~~department~~ *board* as required by this chapter or who violates a lawful rule of the department or board is guilty of a misdemeanor punishable by a fine not exceeding \$600. Each day’s violation is a separate offense.

(2) The district courts have original jurisdiction in all criminal actions for violations of this chapter and in all civil actions for the recovery or enforcement of penalties provided for in this chapter. All of those actions, both criminal and civil, ~~shall~~ *must* be tried in the district court.

(3) The county attorneys, in their respective counties, shall diligently prosecute all violations of this chapter.”

**Section 15.** Section 81-23-406, MCA, is amended to read:

**“81-23-406. Additional remedies.** The ~~department~~ *board* may begin any proceeding at law or in equity as may appear necessary to enforce compliance with this chapter or to enforce compliance with an order or rule of the board or department adopted under this chapter or to obtain a judicial interpretation of any of them. In addition to any other remedy, the ~~department~~ *board* may apply to the district court of the district where the action arises for relief by injunction, mandamus, or any other appropriate remedy in equity without being compelled to allege or prove that an adequate remedy at law does not otherwise exist. The ~~department~~ *board* may not be required to post bond in an action to which it is a

party whether upon appeal or otherwise. All legal actions may be brought by or against the board or department in the name of the department of livestock, and it is not necessary in an action to which the department is a party that the action be brought by or against this state on relation of the department. The department board may sue by its own attorney, and it may also call upon a county attorney to represent it in the district court of the county attorney's county or the attorney general to represent it on appeal to the supreme court, or it may associate its own attorney with either in court."

**Section 16. Appeal of action or decision.** An entity receiving notice of a violation of a provision of this chapter may within 60 days of receiving the notice from the department or board submit a request to the board for a contested case proceeding pursuant to Title 2, chapter 4, part 6. Upon receiving a request, the board shall appoint a hearings examiner to conduct the hearing and issue a proposal for decision. The board shall issue a final decision within 90 days of receiving the proposal for decision.

**Section 17. Repealer.** Sections 81-23-304 and 81-23-305, MCA, are repealed.

**Section 18. Codification instruction.** [Section 16] is intended to be codified as an integral part of Title 81, chapter 23, part 4, and the provisions of Title 81, chapter 23, part 4, apply to [section 16].

**Section 19. Effective date.** [This act] is effective July 1, 2009.

**Section 20. Termination.** [Sections 1 through 16] terminate June 30, 2011.

Approved April 24, 2009

## CHAPTER NO. 362

[SB 350]

AN ACT 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.

WHEREAS, in 2008, 22 people in Montana received a new HIV diagnosis and 514 people are reported to be living with HIV/AIDS in Montana; and

WHEREAS, an estimated 21% of people living with HIV/AIDS in the U.S. are unaware of their infection; and

WHEREAS, it has been shown that people who are not aware of their HIV-positive status are more likely to transmit the disease than those who know their status; and

WHEREAS, universal screening of pregnant women would significantly reduce the chances of a newborn contracting HIV during the birthing process; and

WHEREAS, public health would be served by facilitating informed, voluntary, and confidential use of tests designed to reveal HIV infection; and

WHEREAS, public health would also be served by expanding the availability of informed, voluntary, and confidential HIV diagnostic testing and making HIV diagnostic testing a routine part of general medical care; and

WHEREAS, making HIV diagnostic testing a routine part of general medical care is the national recommendation by the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention.

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

**Section 1. Screening and pretest information.** (1) Screening for HIV-related conditions must be considered routine and must be incorporated into the patient's general informed consent for medical care on the same basis as other screening and diagnostic tests.

(2) Screening for HIV-related conditions must be voluntary and undertaken with the patient's knowledge and understanding that HIV diagnostic testing is planned.

(3) Patients must be informed orally or in writing that HIV diagnostic testing will be performed.

(4) If a patient declines an HIV diagnostic test, this decision must be documented in the patient's medical record.

**Section 2. Prenatal HIV screening.** (1) Screening for HIV-related conditions must be considered routine and must be incorporated into the pregnant patient's general informed consent for medical care on the same basis as other routine prenatal screening and diagnostic tests.

(2) Screening for HIV-related conditions in pregnant patients must be voluntary and undertaken with the patient's knowledge and understanding that HIV diagnostic testing is planned.

(3) Pregnant patients must be informed orally or in writing that HIV diagnostic testing will be performed.

(4) If a pregnant patient declines an HIV diagnostic test, this decision must be documented in the patient's medical record.

(5) Physicians and other health care providers licensed to provide prenatal care to pregnant women may:

(a) offer an HIV diagnostic test in the third trimester to pregnant women who were not tested earlier in the pregnancy; and

(b) offer a repeat HIV diagnostic test in the third trimester of pregnancy, preferably before 36 weeks of gestation, to each of their pregnant patients at high risk for acquiring HIV-related conditions.

**Section 3. Labor and delivery HIV screening.** Physicians and other health care providers licensed to provide prenatal care to pregnant women shall, if medically indicated:

(1) offer a rapid HIV diagnostic test to pregnant women in labor with unknown or undocumented HIV status;

(2) offer antiretroviral prophylaxis without waiting for the results of the confirmatory test if a rapid HIV diagnostic test or a standard HIV diagnostic test is positive.

**Section 4.** Section 50-16-702, MCA, is amended to read:

**"50-16-702. Notification of exposure to infectious disease — report of exposure to disease.** (1) (a) If an emergency services provider acting in an official capacity attends a patient prior to or during transport or assists in

transporting a patient to a health care facility and the emergency services provider has had an exposure, the emergency services provider may request the designated officer to submit the form required by department rule to the health care facility on the emergency services provider's behalf. The form must be provided for in rules adopted by the department and must include the emergency services provider's name and other information required by the department, including a description of the exposure. The designated officer shall submit the completed form to the health care facility receiving the patient as soon as possible after the request for submission by the emergency services provider. Submission of the form to the health care facility is an indication that the emergency services provider was exposed and a verification that the designated officer and the emergency services provider believe that the emergency services provider was exposed.

(b) If the exposure described on the form occurred in a manner that may allow infection by HIV, as defined in 50-16-1003, by a mode of transmission recognized by the *U.S. department of health and human services*, centers for disease control and prevention, then submission of the form to the health care facility constitutes a request to the patient's physician to ~~seek consent for performance of~~ *perform an HIV-related HIV diagnostic* test pursuant to ~~50-16-1007(10)~~ *[section 1]*.

(c) Upon receipt of the report of exposure from a designated officer, the health care facility shall notify the designated officer in writing whether or not a determination has been made that the patient has or does not have an infectious disease. If a determination has been made and the patient has been found:

(i) to have an infectious disease, the information required by 50-16-703 must be provided by the health care facility;

(ii) to not have an infectious disease, the date on which the patient was transported to the health care facility must be provided by the health care facility.

(2) If a health care facility receiving a patient determines that the patient has an airborne infectious disease, the health care facility shall, within 48 hours after the determination was made, notify the designated officer and the department of that fact. The notice to the department must include the name of the emergency services organization that transported the patient to the health care facility. The department shall, within 24 hours after receiving the notice, notify the designated officer of the emergency services provider who transported the patient.

(3) A designated officer who receives the notification from a health care facility required by 50-16-703(2) or by subsection (1)(c) of this section shall immediately provide the information contained in the notification to the emergency services provider for whom the report of exposure was filed or who was exposed to a patient with an airborne infectious disease."

**Section 5.** Section 50-16-1003, MCA, is amended to read:

**"50-16-1003. Definitions.** As used in this part, the following definitions apply:

(1) "AIDS" means acquired immune deficiency syndrome as further defined by the department in accordance with standards promulgated by the *U.S. department of health and human services*, centers for disease control ~~of the United States public health service and prevention~~.

(2) "Antiretroviral prophylaxis" means a specific drug regime preventing mother-to-child transmission of HIV infections.

~~(2)~~(3) "Contact" means a person who has been exposed to the test subject in a manner, voluntary or involuntary, that may allow HIV transmission in accordance with modes of transmission recognized by the *U.S. department of health and human services*, centers for disease control of the United States public health service and prevention.

~~(3)~~(4) "Department" means the department of public health and human services provided for in 2-15-2201.

~~(4)~~(5) "Health care facility" means a health care institution, private or public, including but not limited to a hospital, nursing home, clinic, blood bank, blood center, sperm bank, or laboratory.

~~(5)~~(6) "Health care provider" means a person who is licensed, certified, or otherwise authorized by the laws of this state or who is licensed, certified, or otherwise authorized by the laws of another state to provide health care in the ordinary course of business or practice of a profession. The term does not include a person who provides health care solely through the sale or dispensing of drugs or medical devices.

~~(6)~~(7) "HIV" means the human immunodeficiency virus, identified as the causative agent of AIDS, and all HIV and HIV-related viruses that damage the cellular branch of the human immune or neurological systems and leave the infected person immunodeficient or neurologically impaired.

~~(7)~~(8) "HIV-related condition" means a chronic disease resulting from infection with HIV, including but not limited to AIDS and asymptomatic seropositivity for HIV.

~~(8)~~(9) "HIV-related *HIV diagnostic test*" means a test approved by the federal food and drug administration, including but not limited to an enzyme immunoassay and a western blot, that is designed to detect the presence of HIV or antibodies to HIV.

~~(9)~~ "Informed consent" means a freely executed oral or written grant of permission by the subject of an HIV-related test, by the subject's legal guardian, or, if there is no legal guardian and the subject of the test is unconscious or otherwise mentally incapacitated, by the subject's next of kin or significant other or a person designated by the subject in hospital records to act on the person's behalf to perform an HIV-related test after the receipt of pretest counseling.

~~(10)~~ "Legal guardian" means a person appointed by a court to assume legal authority for another who has been found incapacitated or, in the case of a minor, a person who has legal custody of the minor.

~~(11)~~(10) "Local board" means a county, city, city-county, or district board of health.

~~(12)~~ "Local health officer" means a county, city, city-county, or district health officer appointed by the local board.

~~(13)~~ "Next of kin" means an individual who is a parent, adult child, grandparent, adult sibling, or legal spouse of a person.

~~(14)~~(11) "Person" means an individual, corporation, organization, or other legal entity.

~~(15)~~ "Posttest counseling" means counseling, conducted at the time that the HIV-related test results are given, and includes, at a minimum, written materials provided by the department.

(16) ~~“Pretest counseling” means the provision of counseling to the subject prior to conduct of an HIV-related test, including, at a minimum, written materials developed and provided by the department.~~

(12) *“Rapid HIV diagnostic test” means a federally approved test designed to assist in time-sensitive diagnosis of HIV infections.*

(17) ~~“Release of test results” means a written authorization for disclosure of HIV-related test results that:~~

~~(a) is signed and dated by the person tested or the person authorized to act for the person tested; and~~

~~(b) specifies the nature of the information to be disclosed and to whom disclosure is authorized.~~

(18) ~~“Significant other” means an individual living in a current spousal relationship with another individual but who is not legally a spouse of that individual.”~~

**Section 6.** Section 50-16-1008, MCA, is amended to read:

**“50-16-1008. Testing of donors of organs, tissues, and semen required — penalty.** (1) Prior to donation of an organ, semen, or tissues, ~~HIV-related HIV diagnostic~~ testing of a prospective donor, in accordance with nationally accepted standards adopted by the department by rule, is required unless the transplantation of an indispensable organ is necessary to save a patient’s life and there is not sufficient time to perform an ~~HIV-related HIV diagnostic~~ test.

(2) A knowing or purposeful violation of this section is a misdemeanor punishable by a fine of up to \$1,000 or imprisonment of up to 6 months, or both.”

**Section 7.** Section 50-16-1009, MCA, is amended to read:

**“50-16-1009. Confidentiality of records — notification of contacts — penalty for unlawful disclosure.** (1) A person may not disclose or be compelled to disclose the identity of a subject of an ~~HIV-related HIV diagnostic~~ test or the results of a test in a manner that permits identification of the subject of the test, except to the extent allowed under the Uniform Health Care Information Act, Title 50, chapter 16, part 5, the Government Health Care Information Act, Title 50, chapter 16, part 6, or applicable federal law.

(2) If a health care provider informs the subject of an ~~HIV-related HIV diagnostic~~ test that the results are positive, the provider shall encourage the subject to notify persons who are potential contacts. If the subject is unable or unwilling to notify all contacts, the health care provider may ask the subject to disclose voluntarily the identities of the contacts and to authorize notification of those contacts by a health care provider. A notification may state only that the contact may have been exposed to HIV and may not include the time or place of possible exposure or the identity of the subject of the test.

(3) A person who discloses or compels another to disclose confidential health care information in violation of this section is guilty of a misdemeanor punishable by a fine of \$1,000 or imprisonment for 1 year, or both.”

**Section 8.** Section 50-16-1013, MCA, is amended to read:

**“50-16-1013. Civil remedy.** (1) A person aggrieved by a violation of this part has a right of action in the district court and may recover for each violation:

(a) against a person who negligently violates a provision of this part, damages of \$5,000 or actual damages, whichever is greater;

(b) against a person who intentionally or recklessly violates a provision of this part, damages of \$20,000 or actual damages, whichever is greater;

(c) reasonable attorney fees; and

(d) other appropriate relief, including injunctive relief.

(2) An action under this section must be commenced within 3 years after the cause of action accrues.

(3) The department may maintain a civil action to enforce this part in which the court may order any relief permitted under subsection (1).

(4) Nothing in this section limits the rights of a subject of an ~~HIV-related~~ *HIV diagnostic* test to recover damages or other relief under any other applicable law or cause of action.

(5) Nothing in this part may be construed to impose civil liability or criminal sanctions for disclosure of an ~~HIV-related~~ *HIV diagnostic* test result in accordance with any reporting requirement for a diagnosed case of AIDS or an HIV-related condition by the department or the *U.S. department of health and human services*, centers for disease control ~~of the United States public health service and prevention.~~"

**Section 9. Repealer.** Section 50-16-1007, MCA, is repealed.

**Section 10. Codification instruction.** [Sections 1 through 3] are intended to be codified as an integral part of Title 50, chapter 16, part 10, and the provisions of Title 50, chapter 16, part 10, apply to [sections 1 through 3].

Approved April 24, 2009

## CHAPTER NO. 363

[SB 356]

AN ACT 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.

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

**Section 1. Manufactured home dealers — licensure — bond requirements — rulemaking.** (1) (a) Except as provided in subsection (1)(b), a person may not engage in the business of buying, selling, exchanging, accepting on consignment, or acting as a broker of a manufactured home that is not titled in the person's name unless the person is the holder of a manufactured home dealer's license issued by the department.

(b) This section does not apply to a person buying, selling, exchanging, accepting on consignment, or acting as a broker of a used manufactured home that is not titled in the person's name.

(2) (a) The department shall issue a manufactured home dealer's license to any person it determines is qualified to hold the license under the provisions of this section. The department may adopt rules establishing requirements for licensure.

(b) A manufactured home dealer's license authorizes the licensee to:

(i) sell any new manufactured home that is covered under a franchise agreement between the licensee and the manufacturer, importer, or distributor of the manufactured home;



(ii) sell any used manufactured home;

(iii) negotiate the purchase, sale, or exchange of a manufactured home from another licensed dealer or another person on behalf of a client when the licensee does not store, display, or take ownership of the manufactured home purchased, sold, or exchanged.

(3) A license issued by the department is valid until:

(a) voluntarily returned to the department for surrender and cancellation upon the cessation of the licensee's business operations; or

(b) suspended or revoked for a violation of this section or any other laws relating to the sale of a manufactured home.

(4) (a) An applicant for a manufactured home dealer's license shall submit a written application to the department. The application must be signed by the applicant and contain a verification by the applicant, under penalty of law, that the information contained in the application is true and correct. Any information provided in the license application process is subject to independent verification by the department or an authorized representative of the department. The department shall by rule establish the requirements for the application.

(b) After examining a license application and conducting any investigation necessary to verify the information contained in the application, if the department is satisfied that the applicant qualifies for the issuance of a license under the provisions of this section and rules adopted pursuant to this section, the department shall issue the license. The department may refuse, after examination and investigation, to issue a license to an applicant who is not qualified for licensure or whose prior financial or other activities or criminal record, as determined by the department:

(i) poses a threat to the effective regulation of manufactured home dealers;

(ii) poses a threat to the public interest of the state; or

(iii) creates a danger of illegal or deceptive practices being used in the conduct of the proposed dealership.

(5) The application provided to the department must contain but is not limited to the following information:

(a) the name under which the applicant intends to conduct business and the applicant's name, street address, and, if different, mailing address for the business;

(b) the name, date of birth, and social security number of any person who:

(i) possesses or will possess an ownership interest in the business for which the license is sought;

(ii) is a corporate officer or the managing member of a business entity applying for the license; or

(iii) is or will be designated by the applicant to manage or oversee the applicant's business;

(c) the geographic location of the physical lot or lots upon which manufactured homes will be displayed for sale and of a permanent nonresidential building that will be maintained as an office to store the actual physical or electronic records resulting from the purchase, sale, trade, or consignment of manufactured homes for which licensure is sought. The office may be a manufactured home or a site-built structure. The lot must be large

enough to contain the office and have space to display a minimum of two double-wide units. An applicant may use more than one location to display manufactured homes for sale if the maximum distance between each display lot does not exceed 200 feet and if the distance between a display lot and the building in which sales records are stored does not exceed 1,000 feet.

(d) for each geographic location specified in the application, evidence of the applicant's compliance with applicable local land use planning, zoning, and business permitting requirements, if any. Evidence of compliance may be documented by means of a written verification of compliance signed by the authorized representative of the local land use planning or zoning board or the local business-permitting agency.

(e) a diagram or plat showing the geographic location, lot dimensions, and building and sign placement for the applicant's proposed established place of business, along with two or more photographs of the geographic location, building premises, and sign, as prescribed by the department. A dealer shall display at the dealer's established place of business at least one sign stating the name of the business and indicating that manufactured homes are offered for sale, trade, or consignment. The letters of the sign must be at least 6 inches in height and clearly visible and readable to the major avenue of traffic at a minimum distance of 150 feet.

(6) If an applicant intends to maintain more than one established place of business, the applicant shall file a separate license application for each proposed place of business and otherwise qualify for licensure at each place separately.

(7) Each application under this section must be accompanied by a \$50 fee.

(8) (a) An applicant for a manufactured home dealer's license shall also file a bond of \$50,000 with each application.

(b) All bonds must be conditioned upon the applicant conducting the business in accordance with the requirements of the law. All bonds must be approved by the department, filed with the department, and renewed annually.

(9) (a) As used in this section, "manufactured home" means a residential dwelling built in a factory in accordance with the United States department of housing and urban development code and the federal Manufactured Home Construction and Safety Standards.

(b) The term does not include a mobile home or housetrailer as defined in 15-24-201.

**Section 2. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 61, chapter 12, and the provisions of Title 61, chapter 12, apply to [section 1].

Approved April 27, 2009

## CHAPTER NO. 364

[SB 430]

AN ACT 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.

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

**Section 1.** 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 ~~for each calendar quarter~~ on forms prescribed by the department. The statement ~~shall indicate~~ *must show* 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 2.** Section 15-36-313, MCA, is amended to read:

**“15-36-313. Procedure to compute tax in absence of statement — estimation of tax — failure to file penalty and interest.** (1) If the operator fails to file any statement required by 15-36-311 within the time required, the department shall, ~~immediately after the time has expired,~~ ascertain the number of barrels of oil or cubic feet of gas produced and sold by the person in this state during the quarter and during each month of the quarter. The department also shall determine the average value of the barrels of oil produced and sold during each month or the average value of cubic feet of gas produced and sold during each month and fix the amount of the taxes due from the person for the quarter.

(2) The department shall impose penalty and interest as provided in 15-1-216. The department shall mail to the taxpayer a notice, pursuant to 15-1-211, of the tax, penalty, and interest proposed to be assessed. The taxpayer may seek review of the determination pursuant to 15-1-211. The notice must contain a statement that if payment is not made, a warrant for distraint may be filed. The department may waive any penalty pursuant to 15-1-206.”

**Section 3.** Section 15-39-105, MCA, is amended to read:

**“15-39-105. Penalties and interest for violation.** (1) (a) A person who fails to file a statement as required by 15-39-102 must be assessed a penalty as provided in 15-1-216. The department may waive the penalty as provided in 15-1-206.

(b) A person who fails to file the statement required by 15-39-102 and to pay the tax *on or* before the due date must be assessed a penalty and interest as provided in 15-1-216. The department may waive any penalty pursuant to 15-1-206.

(2) A person who purposely fails to pay the tax when due must be assessed an additional penalty as provided in 15-1-216~~(2).~~”

**Section 4.** Section 15-72-112, MCA, is amended to read:

**“15-72-112. Penalties and interest for violation.** (1) (a) A person who fails to file a return as required by 15-72-110 must be assessed a penalty as provided in 15-1-216. The department may waive the penalty as provided in 15-1-206.

(b) A person who fails to file the return required by 15-72-110 and to pay the tax *on or* before the due date must be assessed penalty and interest as provided in 15-1-216. The department may waive any penalty pursuant to 15-1-206.

(2) A person who purposely fails to pay the tax when due must be assessed an additional penalty as provided in 15-1-216.”

**Section 5.** Section 16-11-105, MCA, is amended to read:

**“16-11-105. Rulemaking authority of department of justice.** The department of justice may adopt rules to implement 16-11-103, 16-11-118, 16-11-124, 16-11-141, 16-11-142, *and* 16-11-147, ~~and 16-11-149.~~”

**Section 6.** Section 16-11-149, MCA, is amended to read:

**“16-11-149. Hearings before ~~state tax appeal board~~ department.** (1) A person aggrieved by any action of the department or its authorized agents taken to enforce the tax provisions of this part, except for a revocation of a license pursuant to 16-11-144, may apply to the ~~state tax appeal board~~ *department*, in writing, for a hearing or rehearing within 30 days after the action of the department or its authorized agents.

(2) The ~~board~~ *department* shall promptly consider the application, set the application for hearing, and notify the applicant of the time and place fixed for the hearing or rehearing, which may be at its office or in the county of the applicant. After the hearing or rehearing, the ~~board~~ *department* may make any further or other order on the grounds that it may consider proper and lawful and shall furnish a copy to the applicant.

(3) The department, on its own initiative, may order a contested case hearing on any matter concerned with licensing, as defined in 2-4-102, in connection with the administration of this part upon at least 10 days’ notice in writing to the person or persons to be investigated.

(4) *A person may appeal a final order of the department to the state tax appeal board as provided in 15-2-302.*”

**Section 7.** Section 72-3-1006, MCA, is amended to read:

**“72-3-1006. Certificate.** (1) In probate proceedings under this code requiring the filing of a *duplicate* United States estate tax return *with the department of revenue pursuant to 72-16-906*, a final distribution to successors may not be made and petitions may not be granted under 72-3-1001, 72-3-1002, 72-3-1003, or 72-3-1004, unless there has been filed with the clerk:

(a) a certificate from the department of revenue stating that any estate tax due on the assets of the estate has been paid or that no tax is payable; or

(b) an agreement with the department of revenue for extension of time for payment of estate taxes.

(2) This section does not prohibit a partial distribution that may become necessary in the course of administration.”

**Section 8. Retroactive applicability.** [This act] applies retroactively, within the meaning of 1-2-109, to tax periods beginning after December 31, 2008.

Approved April 24, 2009

**CHAPTER NO. 365**

[SB 442]

AN ACT ESTABLISHING THE SHAKEN BABY SYNDROME EDUCATION PROGRAM; REQUIRING THE PREPARATION AND DISTRIBUTION OF SHAKEN BABY SYNDROME EDUCATIONAL MATERIALS; AND PROVIDING EFFECTIVE DATES.

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

**Section 1. Information on shaken baby syndrome — program.** (1)

There is a shaken baby syndrome education program established in the department.

(2) The department shall:

(a) develop educational materials that present readily comprehensible information on shaken baby syndrome; and

(b) post the materials on the department's website in an easily accessible format.

(3) The materials required to be produced by this section must be distributed at no cost to the recipients.

(4) For purposes of [sections 1 and 2], the following definitions apply:

(a) "Child care facility" means a day-care center, day-care facility, family day-care home, or group day-care home as those terms are defined in 52-2-703.

(b) "Department" means the department of public health and human services provided for in 2-15-2201.

(c) "Hospital" means a hospital, as defined in 50-5-101, that regularly provides maternity, pediatric, or obstetrical care.

(d) "Parent" means either parent, unless the parents are not married or are separated or divorced, in which case, the term means the custodial parent. The term also means a prospective adoptive parent or foster parent with whom the child is placed.

(e) "Shaken baby syndrome" means damage to the brain of an infant or young child, including but not limited to swelling that impedes the supply of oxygen to the brain or any degree of brain damage that results from the infant or young child having been forcefully shaken.

**Section 2. Information on shaken baby syndrome — distribution.** A copy of the shaken baby syndrome educational materials developed under [section 1] must be distributed in the following manner:

(1) by childbirth educators and staff of pediatric physicians' offices and obstetricians' offices to an expectant parent who uses the services of the educators or physicians;

(2) by a hospital in which a child is born to the child's parent before the child is discharged from the facility;

(3) by service providers under the MIAMI project, provided for in 50-19-311, to a child's parent during visits conducted in accordance with that project;

(4) by each child-care facility operating in this state to each of its employees; and

(5) by groups or entities that offer classes for babysitters.

**Section 3. Codification instruction.** [Sections 1 and 2] are intended to be codified as an integral part of Title 50, chapter 16, part 1, and the provisions of Title 50 apply to [sections 1 and 2].

**Section 4. Effective dates.** (1) Except as provided in subsection (2), [this act] is effective July 1, 2009.

(2) [Section 2] is effective November 1, 2009.

Approved April 24, 2009

## CHAPTER NO. 366

[SB 451]

AN ACT 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.

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

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

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

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

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

(3) If a project sponsor experiences problems in dealing with the agency or any consultant hired by the agency regarding an environmental review, the project sponsor may submit a written request to the agency director requesting a meeting to discuss the issues. The written request must sufficiently state the issues to allow the agency to prepare for the meeting. If the issues remain unresolved after the meeting with the agency director, the project sponsor may submit a written request to appear before the appropriate board, if any, to discuss the remaining issues. A written request to the appropriate board must sufficiently state the issues to allow the agency and the board to prepare for the meeting.

(4) (a) Subject to the requirements of subsection (5), to ensure a timely completion of the environmental review process, an agency is subject to the time

limits listed in this subsection (4) unless other time limits are provided by law. All time limits are measured from the date the agency receives a complete application. An agency has:

- (i) 60 days to complete a public scoping process, if any;
- (ii) 90 days to complete an environmental review unless a detailed statement pursuant to 75-1-201(1)(b)(iv) or 75-1-205(4) is required; and
- (iii) 180 days to complete a detailed statement pursuant to 75-1-201(1)(b)(iv).

(b) The period of time between the request for a review by a board and the completion of a review by a board under 75-1-201(1)(b)(iv)(C)(III) or (8) or subsection (10) of this section may not be included for the purposes of determining compliance with the time limits established for conducting an environmental review under this subsection or the time limits established for permitting in 75-2-211, 75-2-218, ~~75-10-922~~, 75-20-216, 75-20-231, 76-4-125, 82-4-122, 82-4-231, 82-4-337, and 82-4-432.

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

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

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

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

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

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

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

(11) An agency shall, when appropriate, consider the cumulative impacts of a proposed project. However, related future actions may only be considered when these actions are under concurrent consideration by any agency through

preimpact statement studies, separate impact statement evaluations, or permit processing procedures.”

**Section 2. Repealer.** 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, are repealed.

**Section 3. Effective date.** [This act] is effective on passage and approval.

Approved April 27, 2009

## CHAPTER NO. 367

[SB 462]

AN ACT 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.

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

**Section 1. Short title.** [Sections 1 through 7] may be cited as the “Montana Oil and Gas Owners’ Lien Act”.

**Section 2. Definitions.** As used in [sections 1 through 7], the following definitions apply:

(1) “First purchaser” means the first person who under contract purchases oil or gas from an interest owner at or after the time the oil or gas is severed.

(2) “Interest owner” means a person:

(a) who owns an entire or a fractional interest of any kind or nature in the oil or gas at the time it is severed; or

(b) who has a right, either express or implied, to receive a monetary payment determined by the value of the severed oil or gas.

(3) “Leasehold” means a tenant’s leasehold interest, as defined in 30-2A-103, in property on which the oil or gas well is located.

(4) “Operator” means any person engaged in the severance of oil or gas on the operator’s own behalf, on behalf of the operator and other persons, or on behalf of other persons.

(5) “Person” means any individual, executor, administrator, agent, trustee, or receiver or an estate, institution, business trust, trust of any other kind, firm, corporation, partnership, cooperative, limited liability company, limited liability partnership, sole proprietorship, government agency, association, or any other group acting as a unit.

(6) “Purchaser” means a person who under contract purchases oil or gas from a first purchaser.

(7) “Severed” or “severance” means the taking, extraction, or production from the leasehold of oil or gas in any manner.



**Section 3. Extent of lien — dispute resolution — notice — buyer in ordinary course of business.** (1) To secure payment from the sale of oil or gas, an interest owner, subject to [section 6(2)] and subsection (4) of this section, has a continuing security interest in and the right to a lien upon the severed oil or gas or the proceeds from the sale of severed oil or gas to the extent of the interest owner's interest until the purchase price has been paid to the interest owner.

(2) If there is a bona fide dispute about the amount due to the interest owner, the security interest and lien do not accrue if the person holding the proceeds upon which the interest owner's security interest and lien are based makes a good faith determination of the amount of payment due to the interest owner and pays the interest owner that amount.

(3) (a) To have effect, a security interest or lien claimed under [sections 1 through 7] must be perfected as provided in [section 5], and a copy of the notice of the lien, as provided in [section 5], must be provided by an interest owner claiming the security interest or lien to other interest owners, if any, and to the operator, first purchaser, or purchaser by registered or certified mail.

(b) A security interest or lien is not valid under [sections 1 through 7] unless the provisions in subsection (3)(a) have been met.

(4) (a) A buyer in the ordinary course of business, as described in Title 30, chapter 9A, and subsection (4)(b) of this section, is entitled to the severed oil or gas free of the security interest and a lien filed by the interest owner under [sections 1 through 7].

(b) A buyer in the ordinary course of business is:

(i) a first purchaser or purchaser who has paid the purchase price for severed oil or gas to the interest owner; or

(ii) a person who pays the purchase price for severed oil or gas to a person authorized to receive payment on behalf of an interest owner.

(c) The property of the first purchaser or purchaser described under subsection (4)(b)(ii) also is free from and not subject to a security interest or lien granted to an interest owner under [sections 1 through 7].

**Section 4. Validity of lien — transferability.** (1) The security interest and lien granted to an interest owner under [sections 1 through 7] are not dependent on the interest owner's or operator's possession of the severed oil or gas.

(2) A change or transfer of the actual or constructive possession of or title to the severed oil or gas from an interest owner or an operator to a first purchaser or purchaser does not void or impair the security interest or lien.

**Section 5. Perfection of lien — verified notice — effect of instruments — effective date.** (1) An interest owner who does not receive proceeds or payment for severed oil or gas when the proceeds are due may perfect the security interest and lien claimed under [section 3] by filing a notice, as provided in subsection (2), in the office of the county clerk and recorder in which the leasehold is located.

(2) A sworn affidavit must be in substantially the following form:

NOTICE OF OIL AND GAS OWNER'S LIEN

Notice is hereby given that: [name of interest owner for whom notice is filed], whose address is [address of named interest owner] claims [a fractional or decimal] interest in the oil or gas severed or proceeds of the sale from the [name

of the leasehold], operated by [name and address of the operator]. The leasehold is located on the following [described land] in [name of county], Montana.

Oil or gas severed from the leasehold has been and is now or may be taken and the above-named interest owner has a security interest in and lien upon the oil or gas and the oil or gas proceeds to secure payment under the provisions of the Montana Oil and Gas Owners' Lien Act.

The signatories of this notice recognize that, if a sworn affidavit is not filed within 90 days of the time in which the payment to [the interest owner] is due, the security interest is not perfected and [the interest owner] does not receive a priority over any perfected security interest in the oil or gas described in this notice or the proceeds of the oil or gas described in this notice.

Dated:.....

Signed by [interest owner].....

(3) An instrument filed with the county clerk and recorder that accompanies the notice filed in subsection (1) is effective as a financing statement recognized under Title 30, chapter 9A, with or without the signature of the debtor. An instrument described in this subsection may be terminated in the same manner as a financing statement under the provisions of Title 30, chapter 9A.

(4) (a) Upon filing of the notice, as provided in this section, the effective date of the interest owner's security interest and lien is the date on which the oil or gas severance occurred.

(b) Except as provided in [section 6(2)] and subsection (4)(c) of this section, a security interest and lien filed under this section have priority over the rights of any person whose rights or claims arise or attach to the severed oil or gas for which the purchase price has not been paid or to the proceeds of oil or gas if the oil or gas has been sold, including the severed oil or gas or the oil or gas proceeds that arise or attach between the time the security interest and lien attach and the time of filing.

(c) The security interest and the lien filed under this section do not have a priority over the security interest or lien previously created and perfected under Title 71, chapter 3, part 10, or an operating agreement or other voluntary agreement for the development and operation of the leasehold.

**Section 6. Rights of first purchasers.** (1) The following are not affected by the provisions of [sections 1 through 7] or the filing of any instrument permitted under [sections 1 through 7]:

(a) transfer of the legal title to oil or gas from an interest owner or operator to a first purchaser;

(b) ownership of oil or gas before the oil or gas is severed, as reflected by records affecting real property; or

(c) the right of a first purchaser to take or receive oil or gas under the terms of a division order or a similar agreement for the sale and purchase of oil or gas.

(2) A first purchaser or purchaser is free to transport oil or gas products out of the state or to sell oil or gas products without permission or release of a lien perfected under [section 5].

**Section 7. Expiration of lien — enforcement — consolidation — costs — personal actions — other rights and remedies.** (1) A security interest and lien claimed by an interest owner under [section 3] and perfected under [section 5] are attached to oil or gas that has not been paid for or to the proceeds of oil or gas if the oil or gas has been sold. The security interest and lien

expire 1 year after the date of the filing of the notice of the lien under [section 5] unless within that year the interest owner files a personal right of action, as provided in subsection (2), in a court of competent jurisdiction in the county in which the leasehold is located. The interest owner may request an extension of the security interest and lien as part of the personal right of action filing.

(2) Any number of persons claiming security interests and liens with respect to the oil or gas from the same leasehold may join a personal right of action. The court may consolidate any separate personal rights of action.

(3) The court may allow to the prevailing party costs as provided in 71-3-124 and any money paid for copying or obtaining records filed under [sections 1 through 7].

(4) If the personal right of action is commenced after the filing of an instrument, as provided in [section 5], the instrument must be considered as a lien upon the severed oil or gas or on the proceeds from the sale of the severed oil or gas, if sold, to the extent of the interest owner's claim for payment of the amount due the interest owner or the amount of the security interest and lien recorded under [section 5] by the interest owner. The security interest and lien may be further enforced as provided in 71-3-124.

(5) The provisions of [sections 1 through 7] do not impair or affect the right of a person to whom a debt may be due to maintain a personal right of action to recover the debt against a person who is liable for the debt.

(6) The provisions of [sections 1 through 7] are cumulative to the provisions of Title 30, chapter 9A, and not a limitation on or a substitution or impairment of any rights or remedies provided to a creditor against a debtor under Title 30, chapter 9A.

**Section 8.** Section 71-3-124, MCA, is amended to read:

**“71-3-124. Filing costs and attorney fees to be recovered on foreclosure of liens — offer of judgment.** (1) In an action to foreclose any of the liens provided for ~~by part in Title 71, chapter 3, part 3, 4, 5, 6, 8, or 10 of this chapter or [sections 1 through 7]~~, the court shall allow as costs the money paid and attorney fees incurred for filing and recording the lien and reasonable attorney fees in the district and supreme courts. The costs and attorney fees must be allowed to each claimant whose lien is established, and the reasonable attorney fees must be allowed to the defendant against whose property a lien is claimed if the lien is not established.

(2) In an action to foreclose any of the liens provided for ~~by part in Title 71, chapter 3, part 3, 4, 5, 6, 8, or 10 of this chapter or [sections 1 through 7]~~, a defendant may make an offer of judgment as authorized in Rule 68, M.R.Civ.P. If the lienholder rejects the offer to allow judgment to be taken against the defendant and the lienholder obtains a judgment that is not more favorable than the offer, the lienholder shall, in addition to the costs allowed under Rule 68, M.R.Civ.P., pay the attorney fees incurred after the offer is made.”

**Section 9.** Section 71-3-1002, MCA, is amended to read:

**“71-3-1002. Lien for labor and materials furnished for use on leasehold for oil and gas purposes or pipelines — exceptions.** (1) Any person, corporation, or partnership ~~which shall that~~ under ~~contract~~, expressed or implied, ~~contract~~ with the owner of any leasehold for oil and gas purposes or the owner of any gas pipe or oil pipeline or with the trustee or agent of ~~such the~~ owner, ~~perform~~ *performs* labor or ~~furnish~~ *furnishes* material or services used in the digging, drilling, torpedoeing, completing, operating, or repairing of any oil or

gas well or oil or gas pipeline or who ~~shall furnish~~ *furnishes* any material or services or ~~perform~~ *performs* any labor in constructing or putting together any of the machinery used in digging, drilling, torpedoing, operating, completing, or repairing any oil or gas well or oil or gas pipeline, whether or not ~~such the~~ material is incorporated ~~therein into~~ or becomes a part thereof, ~~shall of the oil or gas well or oil or gas pipeline, may~~ have a lien for the amount due therefor, including *associated* transportation and mileage charges ~~connected therewith~~ and interest from the date the ~~same amount~~ was due, upon:

(a) the whole of ~~such the~~ leasehold or oil or gas pipeline;;

(b) the appurtenances ~~thereon, and upon~~ *on the leasehold or oil or gas pipeline;*

(c) all material owned by the owner of ~~such the~~ leasehold or oil or gas pipeline and used in the digging, drilling, torpedoing, completing, operating, or repairing of ~~any such the~~ oil or gas well or oil or gas pipeline ~~and upon;~~

(d) all oil or gas wells located on ~~such the~~ leasehold ~~and upon;~~ *and*

(e) all oil or gas produced from ~~such the~~ leasehold ~~and the proceeds thereof~~ *inuring to the working interest therein as such working interest existed on the date the labor was first performed or materials or services were first furnished, subject to the provisions of [sections 1 through 7].*

(2) ~~However, in the event~~ *If* labor is performed for, or materials or services are furnished to, the owner of the working interest in only a portion of the acreage covered by a lease, the lien granted ~~herein shall under subsection (1)~~ *must* be restricted to ~~such the~~ portion of the acreage *that is covered by the lease.*

(3) ~~The A lien herein granted shall under subsection (1)~~ *does not* extend to any royalty interests, overriding royalty interests, or oil payments created prior to the date the first item of material or services are furnished or the date the first labor is performed.”

**Section 10.** Section 71-3-1011, MCA, is amended to read:

**“71-3-1011. Notice to purchaser of oil and gas.** (1) ~~Anything in this part to the contrary notwithstanding, any~~ *Any* lien claimed by virtue of ~~under this part insofar as it may extend that extends~~ to oil or gas or the proceeds of the sale of oil or gas ~~shall not be effective against any purchaser of such oil or gas is subject to the provisions of [sections 1 through 7] and must meet the requirements of subsection (2) of this section before taking effect. until written~~

(2) (a) ~~Written notice of such a claim has been~~ *must be* delivered to ~~such a~~ purchaser at ~~his the~~ purchaser’s residence or principal place of business. ~~Such A~~ 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.

(b) ~~Until such the~~ notice is delivered as ~~above~~ provided in subsection (2)(a), ~~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 ~~money from the sale of proceeds thereof, except to the extent of such part of the purchase price of such oil or gas or the proceeds thereof as may be owing by such purchaser at the time of delivery of such written notice of the oil or gas upon which the lien is claimed.~~ ~~Such A~~ purchaser shall withhold payments for ~~such oil or gas~~ runs to the extent of the lien amount ~~being~~ claimed until delivery of notice in writing that the claim has been paid.”

**Section 11. 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 12. Codification instruction.** [Sections 1 through 7] are intended to be codified as an integral part of Title 71, chapter 3, and the provisions of Title 71, chapter 3, apply to [sections 1 through 7].

**Section 13. 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].

Approved April 27, 2009

## CHAPTER NO. 368

[SB 464]

AN ACT 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.

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

**Section 1. Prohibition of covenant not to sue — exceptions.** (1) Except as provided in subsections (2) and (3), a person may not include a covenant not to sue in a contract with a property owner for remedial action of a listed site.

(2) A contract between a property owner and a person conducting a remedial action on a listed site may, by mutual agreement, include a covenant not to sue if the person conducting the remedial action has:

(a) provided the property owner with a copy of a plan approved by the department or the United States environmental protection agency describing all of the remedial actions that will occur on the property owner's land; and

(b) held a public meeting in the county where the listed site is located to collect public comment on the remedial action plan.

(3) This section does not apply to contracts or access agreements in which remuneration of at least \$1,000 is a part of the contract or access agreement.

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

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

(b) "Listed site" means one or more tracts of land, buildings, structures, or other facilities containing a hazardous or deleterious substance that have been listed by the department pursuant to Title 75, chapter 10, part 7, or placed on the national priorities list pursuant to 42 U.S.C. 9601, et seq.

**Section 2. Civil penalty.** (1) A district court may assess a civil penalty of not more than \$1,000 per day upon a person that violates the provisions of [section 1].

(2) An action under this section is not a bar to enforcement by injunction or other appropriate civil remedy.

(3) The penalty provided for in subsection (1) is recoverable in an action brought by the property owner. The action must be filed in the district court of the county in which the violation occurred.

**Section 3. Codification instruction.** [Sections 1 and 2] are intended to be codified as an integral part of Title 75, chapter 10, and the provisions of Title 75, chapter 10, apply to [sections 1 and 2].

**Section 4. Effective date.** [This act] is effective July 1, 2009.

**Section 5. Applicability.** [This act] applies to covenants and agreements entered into on or after [the effective date of this act].

Approved April 27, 2009

## CHAPTER NO. 369

[HB 4]

AN ACT 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.

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

**Section 1. Time limits.** The appropriations contained in [section 2] are intended to provide necessary expenditures for the years for which the appropriations are made. The unspent balance of an appropriation reverts to the fund from which it was appropriated upon conclusion of the final fiscal year for which its expenditures are authorized by [sections 1 and 2].

**Section 2. Appropriations.** The following money is appropriated, subject to the terms and conditions of [sections 1 and 2]:

Agency and Program

Judicial Branch

Supreme Court Operations

All remaining fiscal year 2009 federal budget amendment authority for the 2008 court improvement training and the 2008 court improvement data share is authorized to continue into federal fiscal year 2010.

All remaining fiscal year 2009 federal budget amendment authority for the 2009 court improvement training grant and the 2009 court improvement data share grant is authorized to continue into federal fiscal year 2011.

District Court Operations

All remaining fiscal year 2009 federal budget amendment authority for the adult drug treatment court grant in the 7th Judicial District and the drug court grant for 10 other district courts is authorized to continue into state fiscal year 2011.

Secretary of State

Business and Government Services

All remaining fiscal year 2009 federal budget amendment authority for help America vote and the help America vote part II grant is authorized to continue into federal fiscal year 2011.

Crime Control Division

Justice System Support Services

All remaining fiscal year 2009 federal budget amendment authority for the crime prevention grant is authorized to continue into state fiscal year 2010.

All remaining fiscal year 2009 federal budget amendment authority for the anti-gang initiative grant is authorized to continue into federal fiscal year 2010.

All remaining fiscal year 2009 federal budget amendment authority for the project safe neighborhoods grant is authorized to continue into federal fiscal year 2011.

#### Department of Justice

##### Office of Consumer Protection

Solomon arbitration settlement      FY 2009    \$6,000      State Special

All remaining fiscal year 2009 state special budget amendment authority for the solomon arbitration settlement is authorized to continue into federal fiscal year 2009.

##### Highway Patrol Division

All remaining fiscal year 2009 federal budget amendment authority for the Rocky Mountain high intensity drug trafficking area grant is authorized to continue into state fiscal year 2010.

##### Division of Criminal Investigations

Internet crimes against children  
task force                                      FY 2009    \$8,000      Federal

##### Forensic Science Division

All remaining fiscal year 2009 federal budget amendment authority for the forensic science DNA backlog reduction grant is authorized to continue into state fiscal year 2010.

##### Motor Vehicle Division

Commercial driver's license information  
system modernization program      FY 2009    \$479,546      Federal

All remaining fiscal year 2009 federal budget amendment authority for the commercial driver's license information system modernization program is authorized to continue into state fiscal year 2011.

##### Montana Arts Council

##### Promotion of the Arts

Montana current partnership  
agreement                                      FY 2009    \$155,057      Federal

All remaining fiscal year 2009 federal budget amendment authority for the Montana current partnership agreement is authorized to continue into state fiscal year 2010.

##### Library Commission

##### Statewide Library Resources

All remaining fiscal year 2009 federal budget amendment authority for archiving, distribution, and development of natural resources geographic information for the natural resources conservation service is authorized to continue into state fiscal year 2010.

#### Historical Society

##### Research Center

Museum and library services grant      FY 2009    \$2,987      Federal

All remaining fiscal year 2009 federal budget amendment authority for the museum and library services grant is authorized to continue into state fiscal year 2010.

Education

Obscene in the extreme                      FY 2009    \$638            Federal

All remaining fiscal year 2009 federal budget amendment authority for the teaching with primary sources enhancement grant is authorized to continue into state fiscal year 2010.

Historic Preservation Program

All remaining fiscal year 2009 federal budget amendment authority for the preserve America III grant for heritage and preservation networking for increased tourism across Montana and the natural resources conservation service grant for continued access of cultural resource databases is authorized to continue into state fiscal year 2010.

Department of Fish, Wildlife, and Parks

Fisheries Division

Westslope cutthroat trout  
restoration                                      FY 2009    \$25,068       Federal

All remaining fiscal year 2009 federal budget amendment authority for the prevention of aquatic nuisance species boat inspections grant, the Big Hole arctic grayling landowner outreach and technical assistance grant, the Montana aquatic nuisance species management plan grant, and the grant for a conservation geneticist to provide expertise and assistance to staff to determine parental origin, genetic health, and population sizes of various breeds of trout and pallid sturgeon is authorized to continue into state fiscal year 2010.

All remaining fiscal year 2009 federal budget amendment authority for the westslope cutthroat trout restoration grant, the Goose Creek renovation grant, and the inventory of water diversions in western Montana grant is authorized to continue into state fiscal year 2011.

All remaining fiscal year 2009 federal budget amendment authority for the upper Missouri River basin pallid sturgeon study is authorized to continue into federal fiscal year 2010.

All remaining fiscal year 2009 federal budget amendment authority for the westslope cutthroat management plan for the Smith River, the westslope cutthroat trout restoration plan on the Helena national forest streams, the grant for the westslope cutthroat trout recovery efforts in the Elkhorn mountains and upper Missouri River drainage, the Republican Canal fish screens grant, the arctic grayling recovery and Big Hole River habitat restoration grant, and the Hedge Canal fish screens grant is authorized to continue into federal fiscal year 2011.

Enforcement Division

All remaining fiscal year 2009 federal budget amendment authority for the Tip-Montana grant is authorized to continue into state fiscal year 2010.

All remaining fiscal year 2009 federal budget amendment authority for Tip-Montana dispatchers is authorized to continue into federal fiscal year 2011.

Wildlife Division

All remaining fiscal year 2009 federal budget amendment authority for the long-term integrity of the northern Yellowstone winter range grant and the Kootenai Tribe subgrant is authorized to continue into state fiscal year 2010.



All remaining fiscal year 2009 federal budget amendment authority for the wolf recovery plan in Montana, the swift fox population census grant, and the Yellowstone grizzly bear conservation strategy implementation project grant is authorized to continue into state fiscal year 2011.

All remaining fiscal year 2009 federal budget amendment authority for the development of projects to restore, protect, and enhance wetland areas in northeastern Montana, the Montana forest legacy program grant, the grizzly bear work in western Montana grant, the grant to trap, collar, and monitor grizzly bears and their activities on land within and adjacent to the northern continental divide ecosystem, and the grant to monitor avian influenza is authorized to continue into federal fiscal year 2011.

#### Parks Division

All remaining fiscal year 2009 federal budget amendment authority for the Blackfoot River recreation management partnership grant and the grant for management of commercial, competitive, and organized group activities on public land and related water resources within the Madison River corridor is authorized to continue into federal fiscal year 2011.

#### Capital Outlay Program

All remaining fiscal year 2009 federal budget amendment authority for the development and construction of ecologically sound fish screens is authorized to continue into federal fiscal year 2011.

#### Management and Finance

All remaining fiscal year 2009 federal budget amendment authority for the documentation of the agricultural and timber sectors of Montana's economy grant and the Blackfoot River easement grant is authorized to continue into state fiscal year 2010.

All remaining fiscal year 2009 federal budget amendment authority for the improvement of interagency coordination and management of fish and wildlife resources across southeastern Montana is authorized to continue into federal fiscal year 2011.

#### Department of Environmental Quality

##### Central Management Program

All remaining fiscal year 2009 federal budget amendment authority for the exchange network grant is authorized to continue into federal fiscal year 2010.

##### Remediation Division

##### Environmental Quality Protection Fund

##### Burlington Northern Santa Fe

Livingston cleanup site	FY 2009	\$500,000	State Special
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All remaining fiscal year 2009 federal budget amendment authority for the Libby/Troy asbestos project is authorized to continue into state fiscal year 2010.

All remaining fiscal year 2009 federal budget amendment authority for the documenting and finalizing of site workloads resulting in the closure of many underground leaking storage tank sites and the grant to incorporate collaborative methods to reduce the quantity of contaminated water discharging from the Anaconda mine workings into Belt Creek is authorized to continue into federal fiscal year 2010.

All remaining fiscal year 2009 federal budget amendment authority for the abandoned mine lands program and the great divide sand tailings project is authorized to continue into federal fiscal year 2011.

Permitting and Compliance Division

All remaining fiscal year 2009 federal budget amendment authority for the counter-terror grant and the underground storage tank operator training program is authorized to continue into state fiscal year 2010.

Department of Transportation

General Operations Program

All remaining fiscal year 2009 federal budget amendment authority for the Pacific Region joint and cooperative project is authorized to continue into state fiscal year 2010.

Highways and Engineering Division

All remaining fiscal year 2009 federal budget amendment authority for the Montana height modernization program is authorized to continue into federal fiscal year 2011.

Aeronautics Program

All remaining fiscal year 2009 federal budget amendment authority for the small community air service development grant is authorized to continue into the state fiscal year 2011.

Department of Livestock

Centralized Services Program

All remaining fiscal year 2009 dedicated private funds budget amendment authority for the compensation to livestock owners for losses of livestock due to wolf predation is authorized to continue into federal fiscal year 2011.

Department of Natural Resources and Conservation

Oil and Gas Conservation Division

Underground injection control class II grant	FY 2009	\$41,880	Federal
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All remaining fiscal year 2009 federal budget amendment authority for the underground injection control class II grant is authorized to continue into federal fiscal year 2009.

Water Resources Division

All remaining fiscal year 2009 federal budget amendment authority for the Willow Creek dam breach analysis reports, the cooperative technical partners grant, the Milk River water conservation planning and implementation plan, the development of a digital flood insurance rate map for Lewis and Clark County, the completion of the digital flood insurance rate map for Cascade County, and the design and construction of the main canal siphon replacement for the East Fork of Rock Creek Dam and Reservoir is authorized to continue into state fiscal year 2010.

Forestry/Trust Lands

Bureau of land management prescribed burning activities	FY 2009	\$1,584	Federal
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Hazardous fuel reduction work on adjacent nonfederal lands	FY 2009	\$2,000,000	Federal
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All remaining fiscal year 2009 federal budget amendment authority for bureau of land management prescribed burning activities, federal forest service prescribed burning activities, maintenance and repairs on the Richards Peak lookout, inspection of fire suppression equipment, audit and contractor

training, the review of proposals submitted under various equipment solicitations, seasonal employee firefighting training on prescribed burning activities, and the water handling equipment inspections grant is authorized to continue into state fiscal year 2010.

All remaining fiscal year 2009 federal budget amendment authority for hazardous fuel reduction work, aviation equipment, and the habitat conservation plan grant is authorized to continue into federal fiscal year 2010.

All remaining fiscal year 2009 federal budget amendment authority for the forest restoration grant is authorized to continue into state fiscal year 2011.

All remaining fiscal year 2009 federal budget amendment authority for the northwestern Montana prescribed burn assistance grant, the southwestern Montana prescribed burn assistance grant, the hazardous fuel reduction work on nonfederal lands adjacent to national forest lands, the state fire assistance and general forest health assistance grant, and the local government fire personnel training grant is authorized to continue into federal fiscal year 2011.

#### Department of Administration

##### Information Technical Services Division

All remaining fiscal year 2009 federal budget amendment authority for the purchase of enhanced technology for tribal and urban E911 phone systems is authorized to continue into state fiscal year 2010.

All remaining fiscal year 2009 federal budget amendment authority for the interoperability Montana project is authorized to continue into federal fiscal year 2010.

All remaining fiscal year 2009 federal budget amendment authority for the grant to establish a control database containing public land survey system corner control information is authorized to continue into federal fiscal year 2011.

#### Department of Agriculture

##### Agricultural Development

All remaining fiscal year 2009 federal budget amendment authority for the grant to enhance the competitiveness of Montana specialty crops is authorized to continue into state fiscal year 2010.

All remaining fiscal year 2009 federal budget amendment authority for the specialty crop block grant is authorized to continue into state fiscal year 2011.

#### Department of Corrections

##### Montana Correctional Enterprise Program

All remaining fiscal year 2009 federal budget amendment authority for postsecondary education programs to assist and encourage incarcerated individuals to acquire education and job skills and for related services is authorized to continue into federal fiscal year 2010.

#### Department of Commerce

##### Community Development Program

All remaining fiscal year 2009 federal budget amendment authority for the community development disaster block grant is authorized to continue into state fiscal year 2010.

All remaining fiscal year 2009 federal budget amendment authority for the neighborhood stabilization program grant is authorized to continue into federal fiscal year 2011.

## Housing Division

All remaining fiscal year 2009 federal budget amendment authority for the foreclosure mitigation grant is authorized to continue into state fiscal year 2010.

All remaining fiscal year 2009 federal budget amendment authority for the grant to address chronic homelessness in Cascade, Flathead, and Yellowstone Counties is authorized to continue into state fiscal year 2011.

## Department of Labor and Industry

## Workforce Services Division

All remaining fiscal year 2009 federal budget amendment authority for the Stimson Lumber dislocated workers national emergency grant, the workforce incentive grant, and the workforce innovation regional economic development grant is authorized to continue into state fiscal year 2010.

All remaining fiscal year 2009 federal budget amendment authority for the Flathead County dislocated workers national emergency grant is authorized to continue into federal fiscal year 2010.

## Unemployment Insurance Division

Additional unemployment insurance  
administration and emergency  
unemployment compensation  
grant

FY 2009	\$907,025	Federal
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All remaining fiscal year 2009 federal budget amendment authority for the emergency unemployment compensation grant is authorized to continue into state fiscal year 2011.

All remaining fiscal year 2009 federal budget amendment authority for the additional unemployment insurance administration and emergency unemployment compensation grant is authorized to continue into federal fiscal year 2011.

## Department of Military Affairs

## Army National Guard Program

All remaining fiscal year 2009 federal budget amendment authority for the unexploded ordnance work at the Limestone Hills training area is authorized to continue into federal fiscal year 2011.

## Disaster and Emergency Services

2008 predisaster mitigation  
competitive grant

FY 2009	\$335,637	Federal
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All remaining fiscal year 2009 federal budget amendment authority for the 2005 predisaster mitigation competitive grant, the 2007 buffer zone protection program, and the homeland security strategy implementation grant is authorized to continue into state fiscal year 2010.

All remaining fiscal year 2009 federal budget amendment authority for the 2007 predisaster mitigation competitive grant, the improvement of interoperable emergency communications grant, and the public safety interoperable communications grant is authorized to continue into federal fiscal year 2010.

All remaining fiscal year 2009 federal budget amendment authority for the 2008 predisaster mitigation competitive grant, the 2008 operation stonegarden grant, the homeland security strategy grant, and the 2008 buffer zone protection program grant is authorized to continue into federal fiscal year 2011.

## Department of Public Health and Human Services

## Human and Community Services

All remaining fiscal year 2009 federal budget amendment authority for the home heating and weatherization program and the development and implementation of a paperless food stamp case file system and online food stamp application system is authorized to continue into federal fiscal year 2010.

All remaining fiscal year 2009 federal budget amendment authority for the food stamp performance bonus grant is authorized to continue into federal fiscal year 2011.

## Director's Office

All remaining fiscal year 2009 federal budget amendment authority for the Medicaid infrastructure grant is authorized to continue into state fiscal year 2011.

## Quality Assurance Division

All remaining fiscal year 2009 federal budget amendment authority for the medicaid transform grant is authorized to continue into state fiscal year 2010.

## Addictive and Mental Disorders Division

## Submission of substance abuse client

data for treatment admissions

and discharges grant

FY 2009 \$150,000 Federal

All remaining fiscal year 2009 federal budget amendment authority for the submission of substance abuse client data for treatment admissions and discharges grant is authorized to continue into state fiscal year 2010.

**Section 3. Effective date.** [This act] is effective on passage and approval.

Approved April 28, 2009

## CHAPTER NO. 370

[HB 6]

AN ACT 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.

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

**Section 1. Appropriations from natural resources projects state special revenue account.** (1) There is appropriated from the natural resources projects state special revenue account established in 15-38-302 to the department of natural resources and conservation up to:

- (a) \$100,000 to be used for emergency projects;
- (b) \$800,000 to be used for planning grants to be awarded by the department over the course of the biennium;
- (c) \$300,000 to be used for irrigation development grants to be awarded by the department over the course of the biennium; and
- (d) \$50,000 to be used for water project private grants to be awarded by the department over the course of the biennium.

(2) There is appropriated from the natural resources projects state special revenue account established in 15-38-302 to the department of natural resources and conservation \$8,654,593 that is available in the natural resources projects state special revenue account for grants to political subdivisions and local governments during the 2011 biennium. The funds in this section must be awarded by the department to the named entities for the described purposes and in the described grant amounts set out in subsection (3), subject to the conditions set forth in [sections 1 through 3] and the contingencies described in the renewable resource grant and loan program January 2009 report to the 61st legislature. The legislature, pursuant to 85-1-605, approves the grants listed in subsection (3), with grants to be made in the order indicated in the prioritized list of projects and activities. Funds must be awarded up to the amounts approved in this section in the following order of priority until available funds are expended. Funds not accepted or used by higher-ranked projects must be provided for projects farther down the priority list that would not otherwise receive funding. Any remaining project funds may be used for any renewable resource program projects authorized under this section or for reclamation and development program projects authorized by the 61st legislature in House Bill No. 7. With the exception of planning grants, any projects that are funded by the reclamation and development grants program may not be funded under [sections 1 through 3].

(3) The following are the prioritized grant projects:

**RENEWABLE RESOURCE GRANT AND LOAN PROGRAM**

Applicant/Project	Grant Amount
Dutton, Town of (Dutton Wastewater System Improvements)	\$100,000
Philipsburg, Town of (Philipsburg Wastewater System Improvements)	\$100,000
Upper Lower River Road Water and Sewer District (Upper Lower River Road Phase 3 Water and Wastewater System Improvements)	\$100,000
Fort Peck Tribes (Fort Peck Tribes Lateral L-56 Rehabilitation Project)	\$100,000
Bitterroot Irrigation District (Bitterroot Irrigation District Siphon 1: Phase 1)	\$100,000
Milk River Irrigation Project (Milk River Systemwide GeoIrrigation Mapping Project)	\$65,004
Big Sandy, Town of (Big Sandy Wastewater Improvement Project)	\$100,000
Beaverhead Conservation District (Big Hole Spring Creek Kalsta Spring Creek Water Quality Enhancement)	\$97,485
Montana Department of Natural Resources and Conservation — Water Resources Division (Ruby Dam Rehabilitation Project)	\$100,000

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Nashua, Town of	(Nashua Water System Improvements)	\$100,000
Hysham Irrigation District	(Pump Station Electrical Improvements Project)	\$100,000
Yellowstone County	(West Billings Flood Control and Groundwater Recharge Study)	\$100,000
Clinton Irrigation District	(Main Canal Rehabilitation Project)	\$99,610
Hardin, City of	(Hardin Wastewater System Improvements)	\$100,000
Lewistown, City of	(Lewistown Wastewater System Improvements)	\$100,000
Winifred, Town of	(Winifred Wastewater System Improvements)	\$100,000
Gildford County Water and Sewer District	(Gildford Wastewater System Improvements)	\$100,000
Melstone, Town of	(Melstone Water System Improvements)	\$100,000
Hysham Irrigation District	(Flow Monitoring/Data Transfer Project)	\$100,000
Choteau, City of	(Choteau Wastewater System Improvements)	\$100,000
Wolf Creek County Water and Sewer District	(Wolf Creek Wastewater System Improvements)	\$100,000
Lower Musselshell Conservation District	(Lost Horse Creek Siphon Pipeline Rehabilitation)	\$100,000
Whitefish, City of	(Whitefish Wastewater System Improvements)	\$100,000
Gardiner-Park County Water and Sewer District	(Gardiner Wastewater System Improvements)	\$100,000
Department of Natural Resources and Conservation — Water Resources Division	(Twodot Canal Rehabilitation Project)	\$100,000
Cascade, Town of	(Cascade Water System Improvements)	\$100,000
Sweet Grass County Conservation District	(Post-Kellogg Diversion Structure Infrastructure Rehabilitation)	\$100,000
Wibaux, Town of	(Wibaux Wastewater System Improvements)	\$100,000
Ravalli County Environmental Health	(Bitterroot Valley Septic Systems Impact Evaluation Model)	\$100,000

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Bynum Teton County Water and Sewer District (Bynum Water System Improvements)		\$100,000
Lake County (Lake County Mapping Project)		\$100,000
Ravalli County (Ravalli County Phase II Mapping)		\$100,000
Judith Gap, Town of (Judith Gap Water and Wastewater System Improvements)		\$100,000
Crow Tribe (Crow Agency Wastewater System Improvements Phase IIIA)		\$100,000
Stevensville, Town of (Stevensville Wastewater Improvements Project)		\$100,000
Flathead County (Bigfork Stormwater System Improvements)		\$100,000
Kevin, Town of (Kevin Water System Improvements)		\$100,000
Em-Kayan Village Water and Sewer District (Em-Kayan Village Water System Improvements)		\$100,000
Broadview, Town of (Broadview Water System Improvements)		\$100,000
Department of Natural Resources and Conservation — Water Resources Division (Deadman's Basin Terminal Outlet Replacement Project)		\$100,000
Big Horn Conservation District (Water Reservations Efficiencies)		\$33,706
Department of Natural Resources and Conservation — Water Resources Division (Martinsdale Reservoir Dam Drain Project)		\$100,000
Loma County Water and Sewer District (Loma Water System Improvements)		\$100,000
Woods Bay Homesites WSD (Woods Bay WW System Improvements)		\$100,000
Sheaver's Creek Water and Sewer District (Sheaver's Creek Wastewater System Improvements)		\$100,000
Bozeman, City of (Hyalite Creek Source Water Protection Barrier Project)		\$100,000
Greater Woods Bay Sewer District (Greater Woods Bay Wastewater System Improvements)		\$100,000
Virginia City, Town of (Virginia City Wastewater System Improvements)		\$100,000



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Helena Valley Irrigation District		
(Helena Valley Irrigation District Main Canal Lining Project)		\$100,000
Flathead County		
(Flathead Regional Wastewater Management Group)		\$89,993
North Baker Water and Sewer District		
(North Baker Wastewater System Improvements)		\$100,000
Valier, Town of		
(Valier Water System Improvements)		\$100,000
Flathead Joint Board of Control		
(Flathead Joint Board of Control Jocko K Canal Lining)		\$100,000
Sweet Grass County		
(Yellowstone Greycliff Study)		\$80,000
Cut Bank, City of		
(Cut Bank Water System Improvements)		\$100,000
Confederated Salish and Kootenai Tribes		
(Upper Jocko S Canal Lining Project)		\$100,000
St. Ignatius, Town of		
(St. Ignatius Water System Improvements)		\$100,000
Missoula County		
(Lewis and Clark Subdivision RSID Water System Improvements)		\$100,000
Bridger Pines County Water and Sewer District		
(Bridger Pines Wastewater System Improvements)		\$100,000
Ennis, Town of		
(Ennis Water System Improvements)		\$100,000
Laurel, City of		
(Laurel Water System Improvements)		\$100,000
Fort Smith Water and Sewer District		
(Fort Smith Water System Improvements)		\$100,000
Troy, City of		
(Troy Water System Improvements)		\$100,000
Department of Natural Resources and Conservation — Water Resources Division		
(Nevada Creek Canal Design and Construction Project)		\$100,000
Granite County		
(Granite County Solid Waste Improvements)		\$100,000
Harlowton, City of		
(Harlowton Water System Improvements)		\$100,000
Jette Meadows Water and Sewer District		
(Jette Meadows Water System Improvements)		\$100,000
Homestead Acres County Water and Sewer District		
(Homestead Acres Water System Improvements)		\$100,000

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South Chester Water District		
(South Chester Water System Improvements)		\$100,000
Bigfork Water and Sewer District		
(Bigfork Wastewater System Improvements)		\$100,000
Greenacres County Water and Sewer District		
(Greenacres Water System Improvements)		\$100,000
Livingston, City of		
(Livingston Anaerobic Digester Improvements and Composting)		\$100,000
Eureka, Town of		
(Eureka Water System Improvements)		\$100,000
Manhattan, Town of		
(Manhattan Water System Improvements)		\$100,000
Stevensville, Town of		
(Stevensville Water System Improvements)		\$100,000
Buffalo Rapids Project District II		
(Conversion of Laterals 2.9/7.6 to Pipeline)		\$100,000
Flathead Basin Commission		
(Mapping the Impacts of Septic Systems: A Shallow Ground Water Study)		\$100,000
Daly Ditches Irrigation District		
(Hedge Canal Diversion Dam Replacement)		\$100,000
Fort Shaw Irrigation District		
(Water Quality and Quantity Improvement)		\$100,000
East Bench Irrigation District		
(East Bench Irrigation District Sweetwater Seepage Area Canal Lining)		\$100,000
Montana State University — Montana Watercourse		
(Watershed Education for Real Estate Agents)		\$19,333
Shelby, City of		
(Shelby Wastewater System Improvements)		\$100,000
Buffalo Rapids Project District II		
(Fish Screen Buffalo Rapids Irrigation District)		\$100,000
Sweet Grass County Water and Sewer District		
(Sweet Grass Water System Improvements)		\$100,000
Gore Hill County Water District		
(Gore Hill Water System Improvements)		\$100,000
Whitefish County Water and Sewer District		
(Investigation of Septic Leachate to Littoral Areas of Whitefish Lake)		\$70,000
Richland County Conservation District		
(Lower Yellowstone Ground Water Reservation)		\$100,000

Montana State University — Montana Water Center (Decisionmaker's Guide to Montana's Water)	\$99,462
Ronan, City of (Ronan Water System Improvements)	\$100,000

(4) For grant projects for which the department of natural resources and conservation also has recommended a loan, the authorization for the loan is contained in House Bill No. 8.

(5) There is appropriated from the natural resources projects state special revenue account established in 15-38-302 to the department of natural resources and conservation up to \$2.1 million that is available in the natural resources projects state special revenue account for renewable resource grants approved by the 60th legislature. The treasure state endowment program shall reduce its grant to the department of natural resources and conservation by the amount expended under this subsection.

(6) To the entities listed in this section, this appropriation constitutes a valid obligation of these funds for purposes of encumbering the funds within the 2011 biennium pursuant to 17-7-302.

**Section 2. Conditions of grants.** Disbursement of funds under [sections 1 through 3] for grants is subject to the following conditions that must be met by project sponsors:

(1) approval of a scope of work and budget for the project by the department of natural resources and conservation. Changes in the project scope of work or budget that reduce the public or natural resource benefits as presented in department reports and applicant testimony to the 61st legislature may result in the proportional reduction in grant amount.

(2) documented commitment of other funds required for project completion;

(3) satisfactory completion of conditions described in the recommendation section of the project narrative in the renewable resource grant and loan program project recommendations and biennium report submitted to the 61st legislature for the 2011 biennium or, in the case of emergency applications, conditions specified at the time of written notification of approved grant authority;

(4) execution of a grant agreement with the department; and

(5) accomplishment of other specific requirements considered necessary by the department to accomplish the purpose of the grant as evidenced from the application to the department or from the proposal to the legislature.

**Section 3. Appropriations established.** For any entity of state government that receives a grant under [sections 1 and 2], an appropriation is established for the amount of the grant listed in [section 1(3)]. Grants to state entities from prior bienniums are reauthorized for completion of contract work.

**Section 4. Review of previously authorized grants.** Recipients of renewable resource grants authorized by previous legislatures that have not completed startup conditions must be notified by the department of natural resources and conservation that the legislature, at the next regular session, will review renewable resource grants to determine if the commitment of the renewable resource grant should be withdrawn.

**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. Coordination instruction.** If the total transfers for the renewable resource grants and loans water projects in section 51-F, item 5, of House Bill No. 645 is reduced below a total of \$4,148,796, then the appropriation of \$8,654,593 from the natural resources projects state special revenue account for grants to political subdivisions and local governments in [section 1 of this act] is reduced by a like amount.

**Section 7. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

**Section 8. Effective date.** [This act] is effective on passage and approval.

Approved April 28, 2009

## CHAPTER NO. 371

[HB 7]

AN ACT 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.

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

**Section 1. Appropriations for reclamation and development grants.**

(1) There is appropriated to the department of natural resources and conservation from the natural resources projects state special revenue account, established in 15-38-302, up to \$800,000 to be used for planning reclamation and development grants to be awarded by the department over the course of the 2011 biennium.

(2) The amount of \$6,227,122 is appropriated to the department of natural resources and conservation from the natural resources projects state special revenue account from funds allocated for the purpose of making reclamation and development grants.

(3) The funds appropriated in subsection (2) must be awarded by the department to the entities listed in [section 2] for the prescribed purposes and in the prescribed grant amounts, subject to the conditions provided in [sections 2 through 4].

**Section 2. Approved grants and projects.** (1) The legislature approves the grants listed in subsection (2), to be made in the order of priority as indicated within the following list of projects and activities. If the conditions in [sections 3 and 4] are met, funds must be awarded up to the amounts approved in this section in order of priority. Funds not accepted by grantees or funds not used by higher-ranked projects and activities must be provided for projects and activities lower on the priority list that would not otherwise receive funding. Any remaining project funds may be used for reclamation and development planning grants authorized under [section 1] or renewable resource program projects authorized by the 61st legislature in House Bill No. 6. Descriptions of the various projects and activities and specific conditions established for each project and activity are contained within the department of natural resources

and conservation's reclamation and development grants program report to the 61st legislature for the 2011 biennium.

(2) The following are the grants program prioritized projects and activities:

Applicant/Project	Grant Amount
Montana Board of Oil and Gas Conservation	
(2009 Northern District Orphaned Well Plug and Abandonment and Site Restoration)	\$300,000
(2009 Southern District Orphaned Well Plug and Abandonment and Site Restoration)	\$300,000
Montana Department of Natural Resources and Conservation	
(Reliance Refinery)	\$300,000
Shelby, City of	
(Shelby Refinery)	\$300,000
Missoula County	
(St. Louis Creek Mine Reclamation)	\$300,000
Montana Department of Environmental Quality	
(Spring Meadow Lake Reclamation Project)	\$300,000
Cascade County Commission	
(County Shops Remediation of Wood Treatment Preservatives)	\$300,000
Montana Department of Environmental Quality	
(McLaren Tailings Reclamation Project)	\$300,000
Lewistown, City of	
(Reclamation of Berg Lumber Mill Site)	\$300,000
Ryegate, Town of	
(Former Ryegate Conoco)	\$259,200
Park County	
(Fleshman Creek Urban Restoration Project)	\$300,000
Butte-Silver Bow City-County Government	
(Butte Mining District Reclamation and Protection)	\$300,000
Missoula County	
(Ninemile Creek Mining District Reclamation)	\$200,800
Montana Department of Environmental Quality	
(Beal Mountain Mine, Waste Rock Dump Soil Cover)	\$300,000
Lewis and Clark Conservation District	
(York Gulch Old Amber Mine Reclamation)	\$83,207
Ruby Valley Conservation District	
(Big Hole Cooperative Ditch Improvement Project)	\$239,658
Montana Department of Natural Resources and Conservation	
(Monitoring Coal-Bed Methane Development Effects on Surface Water Quality of the Tongue and Powder Rivers)	\$195,000
Flathead Basin Commission	
(Flathead Lake Mapping Project)	\$294,977

Jefferson County	
(Ground Water Quality Assessment with Emphasis on Radionuclides)	\$300,000
Meagher County Conservation District	
(Hydrologic Framework and Water Budget of the Upper Smith River Watershed)	\$300,000
Custer County Conservation District	
(Yellowstone River Riparian Restoration)	\$177,881
Cascade County Commission	
(Sustainable Water Supplies from the Madison Aquifer, Central Montana)	\$286,792
Butte-Silver Bow City-County Government	
(Irrigation Demonstration Project for Butte Acidic Mine Waters — On-Site Treatment and Resource Recovery)	\$289,607

(3) If the Reliance Refinery Cleanup is fully funded in House Bill No. 2, then the grant request for the Montana Department of Natural Resources and Conservation (Reliance Refinery) project in subsection (2) is withdrawn and \$70,000 is granted to the Clark Fork River Basin Task Force for the water management plan project.

(4) To the entities listed in this section, this appropriation constitutes a valid obligation of these funds for purposes of encumbering the funds within the 2011 biennium pursuant to 17-7-302.

**Section 3. Coordination of fund sources for grants program projects.** A sponsor of a grants program project who has applied for a grant for that project under both the reclamation and development grants program and the renewable resource grant and loan program may not receive duplicate funding.

**Section 4. Conditions of grants.** Disbursement of grant funds under [sections 1 through 5] is subject to the following conditions that must be met by the project sponsor:

(1) A scope of work and budget for the project must be approved by the department of natural resources and conservation. Reduction in a scope of work or budget may not affect priority activities or improvements.

(2) Other funds required for project completion must have been committed, and the commitment must be documented.

(3) The project sponsor shall show satisfactory completion of conditions described in the recommendation section of the project narrative of the reclamation and development grants program report to the legislature for the 2011 biennium.

(4) An agreement between the department and the project sponsor must be executed in a timely manner, taking into consideration any changed conditions or circumstances that govern the administration and disbursement of funds.

(5) Any other specific requirements considered necessary by the department must be met to accomplish the purpose of the grant as evidenced from the application to the department or as defined by the legislature.

**Section 5. Other appropriations.** There is appropriated to any entity of state government that receives a grant under [sections 1 through 4] the amount

of the grant upon award of the grant by the department of natural resources and conservation. Grants to state entities from a prior biennium are reauthorized for completion of contract work.

**Section 6. Coordination instruction.** If the total transfers for the reclamation and development grants and loans reclamation projects in section 51-F, item 6, of House Bill No. 645 is reduced below a total of \$1,794,266, then the appropriation of \$6,227,122 from the natural resources projects state special revenue account for reclamation and development grants in [section 1 of this act] is reduced by a like amount.

**Section 7. Effective date.** [This act] is effective on passage and approval.

Approved April 28, 2009

## CHAPTER NO. 372

[HB 8]

AN ACT 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.

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

**Section 1. Approval of renewable resource projects and authorization to provide loans.** (1) The legislature finds that the renewable resource projects listed in this section meet the provisions of 17-5-702. The department of natural resources and conservation is authorized to make loans to the political subdivisions of state government and local governments listed in subsection (2) in amounts not to exceed the loan amounts listed for each project from the proceeds of the bonds authorized in [section 3].

(2) The interest rate for the projects in this group is 4.5% or the rate at which the state bonds are sold, whichever is lower, for up to 20 years.

Loan	Amount
BITTER ROOT IRRIGATION DISTRICT	
Bitter Root Irrigation District Siphon 1: Phase 1	\$508,370
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION - WATER RESOURCES DIVISION	
Ruby Dam Rehabilitation Project	\$8,000,000
Deadman's Basin Terminal Outlet Replacement Project	\$400,000

**Section 2. Projects not completing requirements — projects reauthorized.** (1) The legislature finds that the following renewable resource projects that were approved by the 60th legislature in Chapter 364, Laws of 2007, may not complete the requirements necessary to obtain the loan funds prior to June 30, 2009. The projects described in this section are reauthorized. The department of natural resources and conservation is authorized to make

loans to the political subdivisions of state government and local governments listed in subsections (2) and (3) in amounts not to exceed the loan amounts listed for each project from the proceeds of the bonds authorized in [section 3].

(2) The interest rate for the projects in this group is 3% or the rate at which the state bonds are sold, whichever is lower, for up to 20 years.

Loan	Amount
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MILL CREEK IRRIGATION DISTRICT

Mill Lake Dam Rehabilitation	\$600,000
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Refinance Existing Debt or Rehabilitation of Existing Water or Wastewater Facilities	\$3,000,000
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(3) The interest rate for the project in this group is 3% or the rate at which the state bonds are sold, whichever is lower, for up to 13 years.

Loan	Amount
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DALY DITCHES IRRIGATION DISTRICT

Republican Canal Diversion Dam Replacement	\$268,815
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(4) The interest rate for the project in this group is 4.5% or the rate at which the state bonds are sold, whichever is lower, for up to 30 years.

Loan	Amount
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SUNSET IRRIGATION DISTRICT

Gravity Flow Irrigation Pipelines	\$1,465,266
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**Section 3. Coal severance tax bonds authorized.** (1) The legislature finds that Title 17, chapter 5, part 7, provides for the issuance of coal severance tax bonds for financing specific approved renewable resource projects as part of the state renewable resource grant and loan program. Available funds from previous sales of coal severance tax bonds, plus any additional principal amount on bonds as may be necessary, pursuant to the conditions in 85-1-605, to fund emergency loans, as authorized and approved in accordance with 85-1-605(4), may also be used for the projects approved in [sections 1 through 7]. The board of examiners is authorized to issue coal severance tax bonds in an amount not to exceed \$20,058,795, of which \$13,973,636 is to be used to finance the projects approved in [sections 1 and 2], \$3,468,795 is to be used to finance additional loans in lieu of grants listed in House Bill No. 6, and up to \$2,616,364 is to be used to establish a reserve for the bonds. Proceeds of the bonds are appropriated to the department of natural resources and conservation for financing the projects identified in [sections 1 and 2] and may be used as authorized in 85-1-605(4). Loans made under 85-1-605(4) must bear interest at the rate borne by the state bonds unless the legislature in a subsequent session provides for a lower interest rate, in which case the rate must be reduced to the rate specified by the legislature.

(2) In connection with the issuance of coal severance tax bonds, the board of examiners may pay the principal and interest on the bonds when due from the debt service account and in all other respects manage and use the funds within each special bond account for the benefit of the bonds. The board of examiners shall exercise its discretion to enhance the marketability of the bonds and to secure the most advantageous financial arrangements for the state.

(3) Earnings on bond proceeds prior to the completion of any loan must be allocated to the debt service account to pay the debt service on the bonds during



this period. Earnings in excess of debt service, if any, must be allocated to the renewable resource grant and loan program state special revenue account.

(4) Loan repayments from loans financed with coal severance tax bonds are pledged, dedicated, and appropriated to the debt service account in the state treasury for the benefit of bonds approved for loans under this section.

**Section 4. Conditions of loans.** (1) Disbursement of funds under [sections 1 through 7] for loans is subject to the following conditions that must be met by project sponsors:

(a) approval of a scope of work and budget for the project by the department of natural resources and conservation. Reductions in a scope of work or budget may not affect priority activities or improvements.

(b) documented commitment of other funds required for project completion;

(c) satisfactory completion of conditions described in the recommendations section of the project narrative in the renewable resource grant and loan program project evaluations and recommendations report for the biennium;

(d) execution of a loan agreement with the department; and

(e) accomplishment of other specific requirements considered necessary by the department to accomplish the purpose of the loan as evidenced from the application to the department or from the proposal to the legislature.

(2) Each sponsor authorized for a loan from coal severance tax bond proceeds may be required to pay to the department a pro rata share of the bond issuance costs and the administrative costs incurred by the department to complete the loan transaction.

**Section 5. Private and discount purchase of loans.** Loans to political subdivisions and local government entities and bonds, warrants, and notes issued in evidence of the loans may be made, purchased by, and sold to the department of natural resources and conservation at a discount and at a private negotiated sale, notwithstanding the provisions of any other law applicable to political subdivisions or local government entities.

**Section 6. Appropriations established.** For any entity of state government that receives a loan under [sections 1 through 7], an appropriation is established for the amount of the loan upon award of the loan by the department of natural resources and conservation.

**Section 7. Creation of state debt — appropriation of coal severance tax — bonding provisions.** (1) Because [section 3] authorizes the creation of a state debt, a vote of two-thirds of the members of each house is required for enactment of [section 3].

(2) The legislature, through the enactment of [sections 1 through 7] by a vote of three-fourths of the members of each house of the legislature, as required by Article IX, section 5, of the Montana constitution, pledges, dedicates, and appropriates from the coal severance tax bond fund all money necessary for the payment of principal and interest not otherwise provided for on the coal severance tax bonds authorized by [section 3] to be issued pursuant to Title 17, chapter 5, part 7, and pursuant to the provisions of [sections 1 through 7] and the general resolution for this bond program that has been adopted by the board of examiners under the authority provided in Title 17, chapter 5, part 7.

**Section 8. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is

invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

**Section 9. Effective date.** [This act] is effective July 1, 2009.

Approved April 28, 2009

## CHAPTER NO. 373

[HB 55]

AN ACT 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.

*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.

(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) *In addition to the notice requirements in subsection (3)(a), the youth court shall provide notice to the superintendent of a school district for a level 3 sexual offender as provided in 41-5-1513(3).*

(~~e~~(d) 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~~(e) 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 41-5-1513, MCA, is amended to read:

**"41-5-1513. Disposition — delinquent youth — restrictions.** (1) If a youth is found to be a delinquent youth, the youth court may enter its judgment making one or more of the following dispositions:

(a) any one or more of the dispositions provided in 41-5-1512;

(b) subject to 41-5-1504, 41-5-1512(1)(o)(i), and 41-5-1522, commit the youth to the department for placement in a state youth correctional facility and recommend to the department that the youth not be released until the youth reaches 18 years of age. The provisions of 41-5-355 relating to alternative placements apply to placements under this subsection (1)(b). The court may not place a youth adjudicated to be a delinquent youth in a state youth correctional facility for an act that would be a misdemeanor if committed by an adult unless:

(i) the youth committed four or more misdemeanors in the prior 12 months;

(ii) a psychiatrist or a psychologist licensed by the state or a licensed clinical professional counselor or a licensed clinical social worker has evaluated the youth and recommends placement in a state youth correctional facility; and

(iii) the court finds that the youth will present a danger to the public if the youth is not placed in a state youth correctional facility.

(c) subject to the provisions of subsection (~~5~~) (6), require a youth found to be a delinquent youth, as the result of the commission of an offense that would be a violent offense, as defined in 46-23-502, if committed by an adult, to register and remain registered as a violent offender pursuant to Title 46, chapter 23, part 5.

The youth court shall retain jurisdiction in a disposition under this subsection to ensure registration compliance.

(d) in the case of a delinquent youth who has been adjudicated for a sexual offense, as defined in 46-23-502, and is required to register as a sexual offender pursuant to Title 46, chapter 23, part 5, exempt the youth from the duty to register if the court finds that:

(i) the youth has not previously been found to have committed or been adjudicated for a sexual offense, as defined in 46-23-502; and

(ii) registration is not necessary for protection of the public and that relief from registration is in the public's best interest;

(e) in the case of a delinquent youth who is determined by the court to be a serious juvenile offender, the judge may specify that the youth be placed in a state youth correctional facility, subject to the provisions of subsection (2), if the judge finds that the placement is necessary for the protection of the public. The court may order the department to notify the court within 5 working days before the proposed release of a youth from a youth correctional facility. Once a youth is committed to the department for placement in a state youth correctional facility, the department is responsible for determining an appropriate date of release or an alternative placement.

(f) impose a fine as authorized by law if the violation alleged would constitute a criminal offense if committed by an adult.

(2) If a youth has been adjudicated for a sexual offense, as defined in 46-23-502, the youth court shall:

(a) prior to disposition, order a psychosexual evaluation that must comply with the provisions of 46-18-111;

(b) designate the youth's risk level pursuant to 46-23-509; ~~and~~

(c) require completion of sexual offender treatment; *and*

*(d) for a youth designated under this section and 46-23-509 as a level 3 offender, impose upon the youth those restrictions required for adult offenders by 46-18-255(2), unless the youth is approved by the youth court or the department for placement in a home, program, or facility for delinquent youth. Restrictions imposed pursuant to this subsection (2)(d) terminate when the jurisdiction of the youth court terminates pursuant to 41-5-205 unless those restrictions are terminated sooner by an order of the court. However, if a youth's case is transferred to district court pursuant to 41-5-203, 41-5-206, 41-5-208, or 41-5-1605, any remaining part of the restriction imposed pursuant to this subsection (2)(d) is transferred to the jurisdiction of the district court and the supervision of the offender is transferred to the department.*

*(3) For a youth designated under this section and 46-23-509 as a level 3 offender, the youth court if the youth is under the youth court's jurisdiction or the department if the youth is under the department's jurisdiction shall notify in writing the superintendent of the school district in which the youth is enrolled of the adjudication, any terms of probation or parole, and the facts of the offense for which the youth was adjudicated, except the name of the victim, and provide a copy of the court's disposition order to the superintendent.*

~~(3)~~(4) 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, except as provided in 52-5-109.

(4)(5) 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.

(5)(6) The duration of registration for a youth who is required to register as a sexual or violent offender must be as provided in 46-23-506, except that the court may, based on specific findings of fact, order a lesser duration of registration.”

**Section 3. Effective date.** [This act] is effective on passage and approval.

**Section 4. Retroactive applicability.** [This act] applies retroactively, within the meaning of 1-2-109, to a delinquent youth, as defined in 41-5-103, adjudicated for the commission of a sexual offense, as defined in 46-23-502, before [the effective date of this act] but for whom no disposition has been ordered pursuant to 41-5-1513.

Approved April 28, 2009

## CHAPTER NO. 374

[HB 108]

AN ACT 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.

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

**Section 1. Crime victims compensation account.** There is an account in the state special revenue fund for crime victims compensation. The money in the account is statutorily appropriated, as provided in 17-7-502, to the department of justice for the purposes provided in this part.

**Section 2.** Section 17-7-502, MCA, is amended to read:

**“17-7-502. Statutory appropriations — definition — requisites for validity.** (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-407; 5-13-403; 7-4-2502; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-23-706; 15-31-906; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-369; 15-70-601; 16-11-509; 17-3-106; 17-3-212;

17-3-222; 17-3-241; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-4-105; 23-4-202; 23-4-204; 23-4-302; 23-4-304; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 41-5-2011; 42-2-105; 44-1-504; 44-12-206; 44-13-102; 50-4-623; 53-1-109; 53-6-703; [section 1]; 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-150; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161; 87-1-513; 90-1-115; 90-1-205; 90-3-1003; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to 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 have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 3 and 6, Ch. 481, L. 2003, the inclusion of 15-35-108 terminates June 30, 2010; pursuant to sec. 17, Ch. 593, L. 2005, the inclusion of 15-31-906 terminates January 1, 2010; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; and pursuant to sec. 6, Ch. 2, Sp. L. September 2007, the inclusion of 76-13-150 terminates June 30, 2009.)"

**Section 3.** Section 46-18-236, MCA, is amended to read:

**"46-18-236. Imposition of charge upon conviction or forfeiture — administration.** (1) Except as provided in subsection (2), there must be imposed by all courts of original jurisdiction on a person upon conviction for any conduct made criminal by state statute or upon forfeiture of bond or bail a charge that is in addition to other taxable court costs, fees, or fines, as follows:

- (a) \$15 for each misdemeanor charge;
- (b) the greater of \$20 or 10% of the fine levied for each felony charge; and
- (c) an additional \$50 for each misdemeanor and felony charge under Title 45, 61-8-401, or 61-8-406.

(2) If a convicting court determines under 46-18-231 and 46-18-232 that the person is not able to pay the fine and costs or that the person is unable to pay within a reasonable time, the court shall waive payment of the charge imposed by this section.

(3) The charges imposed by this section are not fines and must be imposed in addition to any fine and may not be used in determining the jurisdiction of any court.

(4) When the payment of a fine is to be made in installments over a period of time, the charges imposed by this section must be collected from the first payment made and each subsequent payment as necessary if the first payment is not sufficient to cover the charges.

(5) The charges collected under subsection (1), except those collected under subsections (1)(a) and (1)(b) by a justice's court, must be deposited with the appropriate local government finance officer or treasurer. If a city municipal court or city or town court is the court of original jurisdiction, the charges collected under subsection (1) must be deposited with the city or town finance officer or treasurer. If a district court or justice's court is the court of original jurisdiction, the charges collected under subsection (1) must be deposited with the county finance officer or treasurer. If the court of original jurisdiction is a court within a consolidated city-county government within the meaning of Title 7, chapter 3, the charges collected under subsection (1) must be deposited with the finance officer or treasurer of the consolidated government.

(6) (a) A city or town finance officer or treasurer may retain the charges collected under subsections (1)(a) and (1)(b) by a city municipal court or a city or town court and may use that money for the payment of salaries of the city or town attorney and deputies.

(b) Each county finance officer or treasurer may retain the charges collected under subsections (1)(a) and (1)(b) by district courts for crimes committed or alleged to have been committed within that county. The county finance officer or treasurer shall use the money for the payment of salaries of its deputy county attorneys and for the payment of other salaries in the office of the county attorney, and any funds not needed for those salaries may be used for the payment of any other county salaries.

(7) (a) Except as provided in subsection (7)(b), each county, city, or town finance officer or treasurer may retain the charges collected under subsection (1)(c) for payment of the expenses of a victim and witness advocate program, including a program operated by a private, nonprofit organization, that provides the services specified in Title 40, chapter 15, and Title 46, chapter 24, and that is operated or used by the county, city, or town.

(b) The appropriate county, city, or town finance officer or treasurer shall deposit \$1 of each charge collected under subsection (1)(c) in the collecting court's fund for mitigation of administrative costs incurred by the court in the collection of the charge. The funds deposited under this subsection (7)(b) are not subject to allocation under 46-18-251.

(c) Except as provided in subsection (7)(b), if the county, city, or town does not operate or use a victim and witness advocate program, all charges collected under subsection (1)(c) must be paid to the crime victims compensation and assistance program *in the department of justice for deposit in the department of justice for deposit in the state general fund to be used to provide services to crime victims as provided in Title 53, chapter 9, part 1 account provided for in [section 1].*

**Section 4.** Section 46-18-241, MCA, is amended to read:

**“46-18-241. Condition of restitution.** (1) As provided in 46-18-201, a sentencing court shall, as part of the sentence, require an offender to make full restitution to any victim who has sustained pecuniary loss, including a person suffering an economic loss. The duty to pay full restitution under the sentence remains with the offender or the offender's estate until full restitution is paid and is a condition of any probation or parole.

(2) (a) The court shall require the offender to pay the cost of supervising the payment of restitution, as provided in 46-18-245, if the offender is able to pay, by paying an amount equal to 10% of the amount of restitution ordered, but not less than \$5.

(b) A felony offender shall pay the restitution and cost of supervising the payment of restitution to the department of corrections until the offender has fully paid the restitution and the cost of supervising the payment of restitution. The department shall pay the restitution to the person or entity to whom the court ordered restitution to be paid, *except that if a victim has been compensated under Title 53, chapter 9, part 1, the restitution must be paid to the crime victims compensation and assistance program in the department of justice for deposit in the account provided for in [section 1].* The department may contract with a government agency or private entity for the collection of the payments for restitution and the cost of collecting the payments for restitution during the period following state supervision or state custody of the offender. The department shall adopt rules to implement this subsection (2)(b).

(c) In a misdemeanor case, payment of restitution and of the cost of supervising the payment of restitution must be made to the court until the offender has fully paid the restitution and the cost of supervising the payment of restitution. The court shall disburse the money to the entity employing the person ordered to supervise restitution under 46-18-245, which shall disburse the restitution to the person or entity to whom the court ordered restitution to be paid, *except that if a victim has been compensated under Title 53, chapter 9, part 1, the restitution must be paid to the crime victims compensation and assistance program in the department of justice for deposit in the account provided for in [section 1].*

(3) If at any time the court finds that, because of circumstances beyond the offender's control, the offender is not able to pay any restitution, the court may order the offender to perform community service during the time that the offender is unable to pay. The offender must be given a credit against restitution due at the rate of the hours of community service times the state minimum wage in effect at the time that the community service is performed."

**Section 5.** Section 46-18-250, MCA, is amended to read:

**"46-18-250. Victim's location unknown — payments to restitution fund — use of restitution fund.** (1) If the location of a victim on whose behalf restitution is being paid is unknown, the court may order that restitution payments made on that victim's behalf be deposited in a fund known as the county restitution fund. Subject to the availability of money in the fund, if the location of a victim whose restitution payments were deposited in the county restitution fund becomes known, the county shall refund to the victim payments that were deposited in the fund.

(2) Money in the restitution fund may be used to provide payments on behalf of offenders who are ordered to pay restitution but, ~~due to~~ *because of* circumstances beyond their control, are unable to obtain employment or are unable to obtain employment sufficient to make restitution payments and sustain themselves and their dependents. The offender may perform community service, and for each hour of community service performed, the victim ~~shall~~ *must* receive an amount equal to the minimum hourly wage from the county restitution fund. A judge may order an offender to perform community service work for restitution payments upon a finding that the offender would not otherwise be able to make restitution payments and that there are funds available in the county restitution fund for payments to the victim.

(3) Money in the county restitution fund that is due to a victim under this part must be paid to the crime victims compensation and assistance program in



the department of justice for deposit in the ~~state general fund~~ *account provided for in [section 1]* if payments have been made to or on behalf of the victim from the state. Payment from the county restitution fund to the crime victims compensation and assistance program in the department of justice for deposit in the ~~state general fund~~ *account provided for in [section 1]* may be made only from money paid by the offender who caused the injury or death that resulted in the payment from the account.”

**Section 6.** Section 46-18-251, MCA, is amended to read:

**“46-18-251. Allocation of fines, costs, restitution, and other charges.**

(1) Except as provided in 46-18-236(7)(b), if ~~an~~ *a misdemeanor* offender is subjected to any combination of fines, costs, restitution, charges, or other payments arising out of the same criminal proceeding, money ~~collected~~ *that the court collects* from the offender must be allocated as provided in this section. *A felony offender shall pay restitution to the department of corrections, and other fines and costs must be paid to the court and allocated as provided in this section.*

(2) Except as otherwise provided in 46-18-236(7)(b) and this section, if a defendant is subject to payment of restitution and any combination of fines, costs, charges under the provisions of 46-18-236, or other payments, 50% of all money collected from the defendant must be applied to payment of restitution and the balance must be applied to other payments in the following order:

- (a) payment of charges imposed pursuant to 46-18-236;
- (b) payment of supervisory fees imposed pursuant to 46-23-1031;
- (c) payment of costs imposed pursuant to 46-18-232 or 46-18-233;
- (d) payment of fines imposed pursuant to 46-18-231 or 46-18-233; and
- (e) any other payments ordered by the court.

(3) The money applied under subsection (2) to the payment of restitution must be paid in the following order:

- (a) to the victim until the victim’s unreimbursed pecuniary loss is satisfied;
- (b) to the crime victims compensation and assistance program in the department of justice for deposit in the ~~state general fund~~ *account provided for in [section 1]* until the state is fully reimbursed for compensation to the victim provided pursuant to Title 53, chapter 9, part 1;
- (c) to any other government agency that has compensated the victim for the victim’s pecuniary loss; and
- (d) to any insurance company that has compensated the victim for the victim’s pecuniary loss.

(4) If any fines, costs, charges, or other payments remain unpaid after all of the restitution has been paid, any additional money collected must be applied to payment of those fines, costs, charges, or other payments. If any restitution remains unpaid after all of the fines, costs, charges, or other payments have been paid, any additional money collected must be applied toward payment of the restitution.”

**Section 7.** Section 53-1-107, MCA, is amended to read:

**“53-1-107. Inmate financial transactions and trust account system.**

(1) An inmate of a state prison, as defined in 53-30-101(3)(c)(i) through (3)(c)(iii) and (3)(c)(v), shall use the prison inmate trust account system administered by the department of corrections to send money out of or receive money in the facility unless the department grants the inmate an exception. The department

may charge an inmate a minimum fee, not to exceed \$2 each month, to administer the inmate's account.

(2) The department may, consistent with administrative rules adopted by the department, use a portion of the funds in an inmate's account to:

(a) satisfy court-ordered restitution, whether or not restitution is a condition of probation or parole;

(b) satisfy court-ordered child support;

(c) satisfy court-ordered fines, fees, or costs;

(d) pay for the inmate's medical and dental expenses and costs of incarceration; and

(e) pay any other fees, costs, expenses, or monetary sanctions ordered by a court or imposed by a state prison and pay reasonable claims by a debt collection or financial institution.

(3) (a) Money taken under subsection (2) for the payment of restitution must be paid in the following order:

(i) to the victim until the victim's unreimbursed pecuniary loss is satisfied;

(ii) to the crime victims compensation and assistance program in the department of justice for deposit in the ~~state general fund~~ *account provided for in [section 1]* until the state is fully reimbursed for compensation to the victim provided pursuant to Title 53, chapter 9, part 1;

(iii) to any other government agency that has compensated the victim for the victim's pecuniary loss; and

(iv) to any insurance company that has compensated the victim for the victim's pecuniary loss.

(b) If there is a balance of money in the inmate's account after payments under subsection (2), the department may allow the balance to accumulate in a savings subaccount for the inmate.

(4) The department shall adopt rules establishing the prison inmate trust account system and criteria for the use of funds under this section. The rules must contain clear guidelines regarding the use of funds that ensure payment under subsection (2) and that inhibit an inmate's ability to deal in contraband or illegal acts within or outside the state prison.

(5) An inmate is responsible for the inmate's medical and dental expenses and is obligated to repay the department for reasonable costs incurred by the department for the inmate's medical and dental expenses. The department may investigate, identify, take in any manner allowed by law for the satisfaction of a judgment, and use to pay the inmate's medical and dental expenses any assets of the inmate or any income of the inmate from sources outside the state prison that is not deposited in the account provided for in subsection (1)."

**Section 8.** Section 53-9-104, MCA, is amended to read:

**"53-9-104. Powers and duties of office.** (1) The office shall:

(a) adopt rules to implement this part;

(b) prescribe forms for applications for compensation;

(c) determine all matters relating to claims for compensation; and

(d) require any person contracting directly or indirectly with an individual convicted of a qualifying crime for any book, photograph, movie, television production, or play prepared for a commercial purpose that is based directly

upon the crime or for the sale of an item owned or obtained by an individual convicted of a qualifying crime or obtained, produced, or gained directly through unique knowledge about the crime or preparation for the crime to deposit any proceeds paid or owed to the individual under the terms of the contract into an escrow fund for the benefit of any victims of the qualifying crime and any dependents of a deceased victim, to be held for a period of time that the office may determine is reasonably necessary to perfect the claims of the victims or dependents. Deposited proceeds may also be used to reimburse the office of state public defender, provided for in 47-1-201, for costs associated with providing assigned counsel for the charged person. Each victim and dependent of a deceased victim is entitled to actual and unreimbursed damages of all kinds or \$5,000, whichever is greater. Proceeds remaining after payments to victims, dependents of deceased victims, and the state for any public defender or any attorney assigned for the charged person must be ~~deposited in the state general fund~~ *paid to the crime victims compensation and assistance program in the department of justice for deposit in the account provided for in [section 1]*.

(2) The office may:

(a) request and obtain from prosecuting attorneys and law enforcement officers investigations and data to enable the office to determine whether and the extent to which a claimant qualifies for compensation. A statute providing confidentiality for a claimant's juvenile court records does not apply to proceedings under this part.

(b) request and obtain from a health care provider medical reports that are relevant to the physical condition of a claimant or from an insurance carrier, agent, or claims adjuster insurance payment information that is relevant to expenses claimed by a claimant if the office has made reasonable efforts to obtain from the claimant a release of the records or information. No civil or criminal liability arises from the release of information requested under this subsection (2)(b).

(c) subpoena witnesses and other prospective evidence, administer oaths or affirmations, conduct hearings, and receive relevant, nonprivileged evidence;

(d) take notice of judicially cognizable facts and general, technical, and scientific facts within its specialized knowledge;

(e) require that law enforcement agencies and officials take reasonable care that victims be informed about the existence of this part and the procedure for applying for compensation under this part; and

(f) establish a victims assistance coordinating and planning program.”

**Section 9.** Section 53-9-132, MCA, is amended to read:

**“53-9-132. Subrogation.** (1) If a claimant seeks compensation under this part and compensation is awarded, the office is entitled to full subrogation against a judgment or recovery received by the claimant against the offender or a collateral source arising from the criminally injurious conduct committed by the offender for all compensation paid under this part. The office's right of subrogation is a first lien on the judgment or recovery. If the claimant does not institute the action against the offender or collateral source within 1 year from the date the criminally injurious conduct occurred, the office may institute the action in the name of the claimant or the claimant's personal representative. *Funds recovered under this section must be paid to the crime victims compensation and assistance program in the department of justice for deposit in the account provided for in [section 1].*

(2) If the claimant institutes the action, the office shall pay a proportional share of costs and attorney fees if it recovers under its subrogation interest.

(3) If the office institutes the action in the name of the claimant or the claimant's personal representative and the recovery is in excess of the amount of compensation paid to the claimant and costs incurred by the office in pursuit of the action, the excess must be paid to the claimant.

(4) If a judgment or recovery includes both damages for bodily injury or death for which the office has paid compensation under this part and damages for which the office has not paid compensation, then the office's subrogation interest applies only to that proportion of the judgment or recovery for which it has paid compensation. In a civil action in a court of this state arising out of criminally injurious conduct, the judge, on timely motion, shall direct the jury to return a special verdict indicating separately the amounts of the various items of damages awarded. A claimant may not make recoveries against the offender or collateral source in such a way as to avoid and preclude the office from receiving its proper subrogation share as provided in this section. The office shall release its lien provided for in subsection (1) upon receipt of its subrogation share."

**Section 10.** Section 53-9-133, MCA, is amended to read:

**"53-9-133. Effect of award on probation and parole of offender.** (1) When placing any convicted person on probation, the court may set as a condition of probation the payment to the state of an amount equal to any benefits paid by the office to a victim or a victim's dependents. The court may set a repayment schedule and modify it as circumstances change.

(2) Payment of the debt may be made a condition of parole subject to modification based on a change in circumstances.

(3) *Funds received by the crime victims compensation and assistance program must be deposited in the account established in [section 1]."*

**Section 11.** Section 53-30-132, MCA, is amended to read:

**"53-30-132. Inmate participation and status in prison work programs — prison industries and vocational training program — wages and benefits.** (1) The department of corrections may:

(a) establish prison industries that will result in the production or manufacture of products and the rendering of services that may be needed by any department or agency of the state or any political subdivision of the state, by any agency of the federal government, by any other states or their political subdivisions, or by nonprofit organizations and that will assist in the rehabilitation of inmates in institutions;

(b) obtain federal certification of specific prison industries programs in order to gain access to interstate markets for prison industries products;

(c) contract with private industry for the sale of goods or components manufactured or produced in shops under its jurisdiction and for the employment of inmates in federally certified prison industries programs;

(d) print catalogs describing goods manufactured or produced by prison industries and distribute the catalogs;

(e) fix the sale price for goods produced or manufactured by prison industries. Prices may not exceed prices existing in the open market for goods of comparable quality.

(f) require a correctional facility to purchase needed goods from other correctional facilities;

(g) provide for the repair and maintenance of property and equipment of institutions by inmates;

(h) provide for the removal of graffiti from property and equipment of institutions and the removal of litter from the property of institutions, public roads, and public parks by inmates;

(i) provide for construction projects, up to the aggregate sum of \$200,000 for each project, performed by inmates. The department of administration may:

(i) exempt projects authorized by this subsection from the provisions of Title 18, chapter 2, relating to construction, public bidding, bonding, or contracts; and

(ii) exempt inmates who provide labor for those projects from the labor and wage requirements of Title 18, chapter 2, part 4. Inmates providing labor for projects under this subsection must be paid a rate of pay as provided in subsection (5).

(j) provide for the repair and maintenance by prison industries of furniture and equipment of any state agency;

(k) provide for the manufacture by prison industries of motor vehicle license plates and other related articles;

(l) sell manufactured or agricultural products and livestock on the open market;

(m) provide for the manufacture by prison industries of highway, road, and street marking signs for the use of the state or any of its political subdivisions, except when the manufacture of the signs is in violation of a collective bargaining contract;

(n) pay an inmate from receipts from the sale of products produced or manufactured or services rendered in a program in which the inmate is working;

(o) collect 15% of the gross wages paid to an inmate employed in a federally certified prison industries program, to be deposited in a department restitution fund and used to satisfy any unpaid restitution obligation of the inmate or, if the obligation has been fully paid or no restitution was ordered, for transfer quarterly to the crime victims compensation and assistance program in the department of justice for deposit in the ~~state general fund as provided in Title 53, chapter 9, part 1~~ *account provided for in [section 1]*; and

(p) collect from an inmate employed in a federally certified prison industries program charges for room and board consistent with charges established by the director for inmates assigned to prerelease centers.

(2) Except as provided in subsection (3), furniture made in the prison may be purchased by state agencies in accordance with the procurement provisions under Title 18, chapter 4. All other prison-made furniture may be sold only through licensed wholesale or retail furniture outlets or through export firms for sale to international markets.

(3) Any state institution, facility, or program operated by the department of corrections may purchase prison-made furniture without complying with the procurement provisions under Title 18, chapter 4.

(4) While engaged in on-the-job training and production, inmates not employed in a federally certified prison industries program may be paid a wage

in accordance with subsection (5). Inmates employed in a federally certified prison industries program must be paid as provided in subsection (5).

(5) (a) Except as provided for in subsection (5)(b), payment for the performance of work may be based on the following criteria:

- (i) knowledge and skill;
- (ii) attitude toward authority;
- (iii) physical effort;
- (iv) responsibility for equipment and materials; and
- (v) regard for safety of others.

(b) The maximum rate of pay must be determined by the appropriation established for the program, except that an inmate employed in a federally certified prison industries program must be paid at a rate not less than the rate paid for similar work in the locality where the inmate performs the work.

(6) Premiums for workers' compensation and occupational disease coverage for federally certified prison industries programs must be paid by the prison industries program or by the department of corrections. If the department of corrections pays the premium, reimbursement for premium payments for workers' compensation and occupational disease coverage must be made to the department of corrections by the private company contracting with the federally certified prison industries program for services and products.

(7) Inmates not working in a federally certified prison industries training program are not employees, either public or private, and employment rights accorded other classes of workers do not apply to the inmates. Inmates working in a federally certified prison industry program are entitled to coverage and benefits as provided in 39-71-744.

(8) Able-bodied persons committed to a state prison as adult offenders must be required to perform work as provided for by the department of corrections, including the manufacture of products or the rendering of services. In order to ensure the public safety, the department may secure inmates performing work."

**Section 12. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 53, chapter 9, part 1, and the provisions of Title 53, chapter 9, part 1, apply to [section 1].

**Section 13. Effective date.** [This act] is effective July 1, 2009.

**Section 14. Termination.** [This act] terminates June 30, 2015.

Approved April 28, 2009

## CHAPTER NO. 375

[HB 110]

AN ACT 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.

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

**Section 1.** Section 2-17-101, MCA, is amended to read:

**“2-17-101. Allocation of space — leasing — definition.** (1) The department of administration shall determine the space required by state agencies other than the university system and shall allocate space in buildings owned or leased by the state, based on each agency’s need. To efficiently and effectively allocate space, the department ~~periodically~~ shall identify the amount, location, and nature of space used by each agency, *including summary information on average cost per square foot for each municipality, and report this to the office of budget and program planning and to the legislative fiscal analyst by September 1 of each even-numbered year.*

(2) An agency requiring additional space shall notify the department. The department, in consultation with the agency, shall determine the amount and nature of the space needed and locate space within a building owned or leased by the state, *including buildings in Helena and in other areas*, to meet the agency’s requirements. If space is not available in a building owned or leased by the state, the department shall locate space to be leased in an appropriate *existing building or a build-to-lease building, including buildings in Helena and in other areas*, or recommend alternatives to leasing, such as remodeling or exchanging space with another agency. A state agency may not lease, rent, or purchase *real property for quarters* without prior approval of the department.

(3) (a) The location of the chambers for the house of representatives must be determined in the sole discretion of the house of representatives. The location of the chambers ~~for~~ of the senate must be determined in the sole discretion of the senate.

(b) Subject to 2-17-108, the department, with the advice of the legislative council, shall allocate other space for the use of the legislature, including but not limited to space for committee rooms and legislative offices.

(4) ~~For state agencies located in a city other than Helena, the~~ *The* department shall consolidate the offices of ~~these state~~ agencies in a single, central location within ~~the city a municipality~~ whenever the consolidation would result in a cost savings to the state while permitting sufficient space and facilities for the agencies. The department may purchase, lease, or acquire, by exchange or otherwise, land and buildings in ~~the city a municipality~~ to achieve consolidation. Offices of the law enforcement services division and motor vehicle division of the department of justice are exempted from consolidation.

(5) *Any lease for more than 40,000 square feet or for a term of more than 20 years must be submitted as part of the long-range building program and approved by the legislature before the department of administration may proceed with the lease. Multiple leases in the same building entered into within any 60-day period are to be aggregated for purposes of this threshold calculation. When immediate relocation of agency employees is required due to a public exigency, the requirements of this subsection do not apply, but the new lease must be reported as required by subsection (1).*

(6) *The department shall include language in every lease providing that if funds are not appropriated or otherwise made available to support continued performance of the lease in subsequent fiscal periods, the lease must be canceled.*

(7) *“Public exigency” means that due to unforeseen circumstances a facility occupied by state employees is uninhabitable due to immediate conditions that adversely impact the health or safety of the occupants of the facility.”*

Approved April 28, 2009

**CHAPTER NO. 376**

[HB 128]

AN ACT 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.

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

**Section 1.** Section 17-5-820, MCA, is amended to read:

**“17-5-820. Authorization of bonds.** (1) The board of examiners is authorized to issue and sell general obligation bonds in an amount not exceeding \$20 million in accordance with the terms and in the manner required by Title 17, chapter 5, part 8, for the purpose of financing and acquiring infrastructure improvements as enumerated in 7-15-4288 for aerospace transportation and technology projects recommended by the department of commerce in accordance with the authority granted to the board by this section. The bonds are in addition to any other authorization to the board to issue and sell general obligation bonds and subject to the conditions set forth in this section.

(2) The department of commerce may request the board of examiners to issue the bonds for one or more specified projects in one or more series, but the total amount of bonds issued may not exceed \$20 million. Bond proceeds ~~are~~ *must be* appropriated to the department of commerce, and the department of commerce is authorized to acquire or construct the infrastructure improvements, to contract with the city or county in which a project is located, to contract with an airport authority, as defined in 67-1-101, a local port authority, as described in 7-14-1101, or a regional port authority, as described in 7-14-1102, to contract with a certified regional development corporation, as defined in 90-1-116, or upon a determination that it is in the best interest of the project, to contract with the developer of an approved project for the acquisition or construction of the infrastructure improvement. The plans and specifications for the infrastructure to be financed from the proceeds of the bonds must be prepared by an engineer or architect, licensed and bonded in Montana, and the state must be named as an additional insured under any contract, performance bond, or other documents for the design of any improvements to be financed by the state. The plans and specifications must be reviewed and approved by the department of commerce after consultation with the architecture and engineering division of the department of administration. The design and acquisition or construction of the infrastructure for approved projects are not, with the exception of Title 18, chapter 2, part 4, subject to the public procurement requirements contained in Title 18. All construction contracts entered into for the construction of improvements to be financed under this section must name the state as an additional insured if the state is not otherwise party to the contract. All improvements financed with bond proceeds must be owned by the state, and the use must be governed by a development agreement between the state and the developer of the project. The agreement may provide for the lease or the use of the infrastructure at less than fair market value, taking into consideration the number of jobs to be created by the project, the salary range of the jobs, the amount of capital contributed by the developer, and the projected tax revenue to be received by the state and local governments from the project over the term of the lease or use agreement. The agreement must require the contractor to insure for liability and workers' compensation claims during construction and must provide the project developer with the right of



first refusal for the purchase of any real property and improvements financed by the bonds at fair market value. Fair market value must be determined by a certified appraiser. For purposes of this section, state and local governments may not provide telecommunications or other services in competition with private providers unless private providers cannot provide the services.

(3) It is the intent of the legislature that state individual and corporate income taxes and state property taxes generated by the aerospace transportation and technology infrastructure development projects will be at least equal to the projected amount of the debt service to be paid by the state for the bonds authorized by this section over the term of the bonds. Prior to requesting the board of examiners to issue the bonds, the department of commerce shall determine that the developer of a proposed project has the financial ability to implement the project based upon the audited financial statements of the developer. When requesting the board to issue the bonds, the department of commerce shall present to the *legislative finance committee and to the* department of administration for presentation to the board the following:

(a) evidence satisfactory to the board that each aerospace transportation and technology infrastructure development project has committed itself to locate its project in Montana; and

(b) a certificate signed by the director of the office of budget and program planning that the proposed project will, over the term of the bonds, generate state individual and corporate income taxes and state property taxes at least equal to the total aggregate amount of principal and interest on the bonds over the term of the bonds. In preparing the analysis for the report on the projected tax revenue from the project, the multiplier effect may be taken into account, using the number of jobs, the salary levels for the jobs, and the estimated date of hire for each position that the developer will commit to create as part of the development agreement. The development agreement must provide that if the developer has not created the total number of jobs at the estimated salaries by the date specified in the development agreement and assumed for purposes of meeting the projections, the state may terminate the lease or use of the improvements upon 30 days' notice. If the department of commerce is unable to enter into a new lease or use agreement for the improvements that is advantageous to the state, the state may sell the facility to the highest and best bidder and use the proceeds of the sale to redeem the outstanding bonds.

(4) In determining whether to recommend to the board of examiners that improvements should be constructed by the state from the proceeds of the bonds for a project, the department of commerce may take into consideration only the following factors:

(a) whether the project is eligible for financing;

(b) whether there is sufficient evidence to demonstrate the developer's ability to implement the project;

(c) the projected tax revenue report;

(d) whether the project as proposed and situated can obtain the necessary zoning, building, and environmental permits required; and

(e) whether the project is in the public interest.

(5) In recommending the amount of bonds to be issued for a qualified project, the department of commerce shall independently determine that the proposed estimated cost of the project is not in excess of what is required for the project and independently verify the projected costs of designing and constructing the

improvements proposed to be financed exclusive of any development fee to the developer. The authorized bond proceeds must be used for projects on a first-come, first-served basis.”

**Section 2. Appropriation of bond proceeds.** There is appropriated to the department of commerce up to \$20 million of the bond proceeds authorized by 17-5-820 for the purpose of funding qualified projects as provided in 17-5-820.

**Section 3. Effective date.** [This act] is effective on passage and approval.

Approved April 28, 2009

## CHAPTER NO. 377

[HB 152]

AN ACT 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.

WHEREAS, in keeping with Montana’s constitutional requirements for school funding and the Montana Supreme Court’s decision in *Columbia Falls Elementary School District No. 6 v. State*, 2005 MT 69, 326 Mont. 304, 109 P.3d 257 (2005), the 2005 Legislature directed that a school funding system providing a “basic system of free quality public elementary and secondary schools” must include, among other things, consideration of funding for school facilities; and

WHEREAS, in its December 2005 Special Session, the Legislature appropriated \$2.5 million from the general fund to the Department of Administration for the completion of a condition and needs assessment and energy audit of K-12 public school facilities; and

WHEREAS, in the May 2007 Special Session, the Legislature established a school facility improvement account in the state special revenue fund to provide money to schools to implement the recommendations of the school facility condition and needs assessment and energy audit following its completion and provided for the transfer of money into the account to be used as determined by the 2009 Legislature; and

WHEREAS, the Department of Administration has completed its conditions and needs assessment and energy audit of Montana’s K-12 public schools and has made recommendations for improvements related to safety and energy conservation and to extend the life of school facilities; and

WHEREAS, the Department of Commerce efficiently and effectively administers the Treasure State Endowment Program to assist local governments in funding infrastructure projects; and

WHEREAS, the Legislature seeks to commit ongoing state resources to school facilities by establishing a program to administer the award to public school districts for school facility project grants, matching planning grants, and emergency grants using the Treasure State Endowment Program as a model.

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

**Section 1. Short title.** [Sections 1 through 9] may be cited as the “Quality Schools Facility Grant Program Act”.

**Section 2. Purpose.** The purpose of [sections 1 through 9] is to establish a mechanism to distribute grants to public school districts for school facility and technology projects from the school facility and technology account established in 20-9-516. The account is to be used to assist schools in addressing major deferred maintenance, energy efficiency, critical infrastructure needs, emergency facility needs, and technological improvements and establishes an ongoing flow of state revenue into the account. Grants must be distributed for projects that:

- (1) enhance the quality of life and protect the health, safety, and welfare of Montana’s public school students;
- (2) ensure the successful delivery of an educational system that meets the accreditation standards provided for in 20-7-111;
- (3) extend the life of Montana’s existing public school facilities;
- (4) promote energy conservation and reduction;
- (5) integrate technology into Montana’s education framework to support student educational needs for the 21st century; and
- (6) are fiscally responsible by considering both long-term and short-term needs of the public school district, the local community, and the state.

**Section 3. Definitions.** As used in [sections 1 through 9], the following definitions apply:

- (1) “Account” means the school facility and technology account provided for in 20-9-516.
- (2) “Department” means the department of commerce established in 2-15-1801.
- (3) “Emergency” means the imminent threat or actual occurrence of an event causing immediate peril to life, property, or the environment that can be averted or minimized with timely action.
- (4) “Program” means the quality schools facility grant program established in [section 4].
- (5) “Public school district” means a district as defined in 20-6-101 or a K-12 school district as defined in 20-6-701.
- (6) “School” has the meaning provided for in 20-6-501.
- (7) “School facility project” means a project to support a basic system of free quality public elementary and secondary schools under 20-9-309 that involves:
  - (a) construction of a school facility;
  - (b) major repairs or deferred maintenance to an existing school facility;
  - (c) major improvements or enhancements to an existing school facility; or

(d) information technology infrastructure, including installations, upgrades, or improvements to an existing school facility or facilities.

**Section 4. Quality schools facility grant program — legislature to authorize grants — types of grants available.** (1) There is a quality schools facility grant program funded by the account.

(2) As provided in [section 5], the legislature shall authorize the following types of financial assistance to public school districts under [sections 1 through 9]:

(a) grants to public school districts for school facility projects;

(b) matching planning grants to public school districts for the planning of school facility projects; and

(c) emergency grants to public school districts for a school facility project that is necessitated by an emergency.

**Section 5. Procedure for approval of projects — role of department and governor — approval by legislature.** (1) The department shall:

(a) receive proposals for school facility projects from public school districts;

(b) assist public school districts in preparing cost estimates for projects;

(c) as appropriate, consult with other state agencies, including but not limited to the department of administration and the office of public instruction;

(d) with the exception of emergency grants and matching planning grants, prepare and submit to the governor a list of recommendations as to projects and the form and amount of financial assistance for each project, prioritized in accordance with the requirements of [section 6];

(e) report to each regular session of the legislature the status of all school facility projects for which grants were approved by a previous legislature but have not been completed;

(f) award matching planning grants, in accordance with rules adopted by the department, to public school districts for the planning of school facility projects within the limits of legislative appropriations for this purpose. The department shall prioritize the award of matching planning grants in accordance with the requirements of [section 6]. The department shall report to the governor and the legislature regarding each matching planning grant awarded during a biennium.

(g) award emergency grants to public school districts in accordance with rules adopted by the department and within the limits of legislative appropriations for this purpose. The department shall report to the governor and the legislature regarding each emergency grant awarded during a biennium.

(2) The governor shall review the projects recommended by the department under subsection (1)(d) and submit to the legislature a list of recommendations as to projects and the form and amount of financial assistance for each project.

(3) (a) The legislature shall:

(i) consider the governor's recommendations, approve grants to public school districts for school facility projects, and appropriate money to the department from the account to fund the grants that have been approved, after the deduction of administrative expenses by the department; and

(ii) authorize funding and appropriate money to the department from the account to be awarded to public school districts by the department for matching

planning grants and emergency grants, after the deduction of administrative expenses by the department.

(b) Grants approved by the legislature are dependent on the availability of funds and will be made available by the department in the order that the grant recipient satisfies the conditions described in [section 7].

**Section 6. Priorities for projects — application of criteria — consideration of project attributes — adjustments for educationally relevant factors.** (1) In preparing recommendations to the governor under [section 5], the department shall apply the following criteria to applications for school facility projects in the listed order of priority:

(a) projects that solve urgent and serious public health or safety problems or that enable public school districts to meet state or federal health or safety standards;

(b) projects that provide improvements necessary to bring school facilities up to current local, state, and federal codes and standards;

(c) projects that enhance a public school district's ability to offer specific services related to the requirements of the accreditation standards provided for in 20-7-111;

(d) projects that provide long-term, cost-effective benefits through energy-efficient design;

(e) projects that incorporate long-term, cost-effective benefits to school facilities, including the technology needs of school facilities; and

(f) projects that enhance educational opportunities for students.

(2) In applying the criteria under subsection (1), the department shall consider, without preference or priority, the following attributes of a school facility project application:

(a) the need for financial assistance;

(b) the fiscal capacity of the public school district to meet the conditions established in [section 7];

(c) past efforts to ensure sound, effective, long-term planning and management of the school facility and attempts to address school facility needs with local resources;

(d) the ability to obtain funds from sources other than the funds provided under [sections 1 through 9]; and

(e) the importance of the project and support for the project from the community.

(3) Before making its recommendations to the governor, the department may make adjustments to its ranking of the projects based on the educationally relevant factors established in 20-9-309. Before making any adjustments, the department may consult with the office of public instruction concerning the educationally relevant factors.

**Section 7. Conditions for grants.** Disbursement of grant funds by the department for projects approved by the legislature under [section 5] is subject to the following conditions:

(1) A grant agreement must be executed between the department and the grant recipient.

(2) The scope of work and budget for the project must be consistent with the application submitted by the grant recipient, reviewed by the department, and

approved by the legislature. The department will consider requests to reduce the scope of a project in accordance with rules adopted by the department.

(3) The grant recipient shall document that any matching funds required for completion of the project or to conduct project planning are firmly committed.

(4) The grant recipient must have an established financial accounting system that the department can reasonably ensure conforms to generally accepted accounting principles.

(5) The project must adhere to the design standards required by applicable regulatory agencies. Recipients of program funds for projects that are not subject to any design standards shall comply with generally accepted industry standards.

(6) The grant recipient shall satisfy other specific requirements considered necessary by the department to accomplish the purpose of the project as described in the application to the department.

**Section 8. Disbursement of funds — department discretion when actual expenses are less than projected expenses.** (1) The department shall disburse grant funds on a reimbursement basis as grant recipients incur eligible project expenses.

(2) If actual project expenses are lower than the projected project expenses, the department may, at its discretion:

(a) direct an outright or partial reduction in the amount of grant funds provided to the grant recipient; or

(b) allow the use of the remaining authorized program grant amounts for the completion of additional school facility improvements directly related to the approved school facility project that will further enhance the school facility.

**Section 9. Department to adopt rules.** The department shall adopt rules necessary to implement [sections 1 through 9], including but not limited to rules regarding:

(1) application guidelines and deadlines;

(2) the evaluation process and ranking of applications;

(3) grant award conditions, including requirements for matching funds;

(4) scope and procedures for the award of matching planning grants and emergency grants;

(5) amendments to grant awards; and

(6) grant administration, including but not limited to requirements for:

(a) the project's startup;

(b) compliance with other federal, state, or local laws, regulations, or requirements;

(c) financial management related to the project;

(d) property acquisition;

(e) project and grant management;

(f) project monitoring; and

(g) project closeout procedures.

**Section 10. Department to award grants for 2011 biennium — appropriation — report to legislature.** (1) For the 2011 biennium only, after receiving and evaluating proposals, the department may award to public

school districts school facility project grants, matching planning grants, and emergency grants. The total grants awarded by the department under this section may not exceed the legislative appropriation in subsection (2). In awarding grants under this subsection, all definitions and requirements of [sections 1 through 8] and rules adopted under [section 9] apply except that the department need not submit its recommendations to the governor and legislative approval is not required for the award of specific grants.

(2) There is appropriated to the department of commerce from the school facility and technology account \$12 million, from which the department may deduct its administrative expenses, to be used for the award of grants to public school districts during the 2011 biennium as provided in subsection (1). Of this appropriation, \$900,000 is to be used for matching planning grants to public school districts and \$100,000 is to be used for emergency grants to public school districts. The appropriations designated for matching planning grants and for emergency grants may be used only for those purposes and may not be used for grants to public school districts for school facility projects.

(3) The department shall report to the 2011 legislature on all grants approved by the department under this section during the 2011 biennium.

**Section 11.** Section 17-6-340, MCA, is amended to read:

**“17-6-340. Purchase of permanent fund mineral estate.** The department of natural resources and conservation may purchase the mineral production rights held by the public school fund established in Article X, section 2, of the Montana constitution for fair market value. If the department of natural resources and conservation purchases mineral production rights, any royalty payments received by the board that are not used to reimburse the coal severance tax trust fund for the loan used for purchasing the mineral production rights must be deposited in the guarantee account provided for in 20-9-622 and transferred to the school facility ~~improvement~~ *and technology* account provided for in 20-9-516.”

**Section 12.** Section 20-9-342, MCA, is amended to read:

**“20-9-342. Deposit of interest and income money by state board of land commissioners.** *The Except as provided in 20-9-516, the* state board of land commissioners shall annually deposit the interest and income money for each calendar year into the guarantee account, provided for in 20-9-622, for state equalization aid by the last business day of February following the calendar year in which the money was received.”

**Section 13.** Section 20-9-343, MCA, is amended to read:

**“20-9-343. Definition of and revenue for state equalization aid.** (1) As used in this title, the term “state equalization aid” means revenue as required in this section for:

(a) distribution to the public schools for guaranteed tax base aid, BASE aid, *and* state reimbursement for school facilities, ~~and grants for school technology purchases~~; and

(b) negotiated payments authorized under 20-7-420(3) up to \$500,000 a biennium.

(2) The superintendent of public instruction may spend throughout the biennium funds appropriated for the purposes of guaranteed tax base aid, BASE aid for the BASE funding program, state reimbursement for school facilities, *and* negotiated payments authorized under 20-7-420(3), ~~and school technology purchases~~.

(3) From July 1, 2001, through June 30, 2003, the following money must be paid into the guarantee account provided for in 20-9-622 for the public schools of the state as indicated:

- (a) ~~interest and income money described in 20-9-341 and 20-9-342; and~~
- (b) ~~investment income earned by investing interest and income money described in 20-9-341 and 20-9-342.~~

(4) ~~Beginning July 1, 2003, the~~ *The* following money must be paid into the guarantee account provided for in 20-9-622 for the public schools of the state as indicated:

(a) (i) ~~subject to subsection (4)(a)(ii) 20-9-516(2)(a),~~ interest and income money described in 20-9-341 and 20-9-342; and

(ii) ~~an amount of money equal to the income money attributable to the difference between the average sale value of 18 million board feet and the total income produced from the annual timber harvest on common school trust lands during the fiscal year, which is statutorily appropriated, pursuant to 20-9-534, to be used for the purposes of 20-9-533;~~

(b) investment income earned by investing interest and income money described in 20-9-341 and 20-9-342.”

**Section 14.** Section 20-9-516, MCA, is amended to read:

**“20-9-516. School facility improvement and technology account.** (1) There is a school facility ~~improvement and technology~~ account in the state special revenue fund provided for in 17-2-102. The purpose of the account is to provide money to schools to ~~implement the recommendations of the school facility condition and needs assessment and energy audit conducted pursuant to section 1, Chapter 1, Special Laws of December 2005, for:~~

- (1)(a) major deferred maintenance;
- (2)(b) improving energy efficiency in school facilities; ~~or~~
- (3)(c) critical infrastructure in school districts;
- (d) emergency facility needs; and
- (e) technological improvements.

(2) *There must be deposited in the account:*

(a) *an amount of money equal to the income attributable to the difference between the average sale value of 18 million board feet and the total income produced from the annual timber harvest on common school trust lands during the fiscal year;*

(b) *the mineral royalties transferred from the guarantee account as provided in 20-9-622; and*

(c) *the rental income received from power site leases as provided in 77-4-208.”*

**Section 15.** Section 20-9-534, MCA, is amended to read:

**“20-9-534. School technology purchases Statutory appropriation for school technology purposes.** (1) *The amount of \$1 million a year is statutorily appropriated, as provided in 17-7-502, from the school facility and technology account established in 20-9-516 for grants for school technology purposes.*

(2) *By September 1, the superintendent of public instruction shall allocate the annual amount statutory appropriation for grants for school technology purchases purposes to each district based on the ratio that each district’s BASE budget bears to the statewide BASE budget amount for all school districts*



multiplied by the amount of money provided in 20-9-343 for the purposes of 20-9-533 in the prior fiscal year. ~~The grants for school technology purchases are statutorily appropriated, as provided in 17-7-502.~~"

**Section 16.** Section 20-9-620, MCA, is amended to read:

**"20-9-620. Definition.** (1) As used in 20-9-621, 20-9-622, and this section, "distributable revenue" means, except for that portion of revenue described in ~~20-9-343(4)(a)(ii)~~ *20-9-516(2)(a)* and available on or after July 1, 2003, 77-1-607, and 77-1-613, 95% of all revenue from the management of school trust lands and the permanent fund, including timber sale proceeds, lease fees, interest, dividends, and net realized capital gains.

(2) The term does not include mineral royalties or land sale proceeds that are deposited directly in the permanent fund or net unrealized capital gains that remain in the permanent fund until realized."

**Section 17.** Section 20-9-622, MCA, is amended to read:

**"20-9-622. Guarantee account.** (1) There is a guarantee account in the state special revenue fund. The guarantee account is intended to:

(a) stabilize the long-term growth of the permanent fund; and

(b) maintain a constant and increasing distributable revenue stream. All realized capital gains and all distributable revenue must be deposited in the guarantee account. Except as provided in ~~subsections subsection (2) and (3)~~, the guarantee account is statutorily appropriated, as provided in 17-7-502, for distribution to school districts through school equalization aid as provided in 20-9-343.

(2) As long as a portion of the coal severance tax loan authorized in section 8, Chapter 418, Laws of 2001, is outstanding, the department of natural resources and conservation shall monthly transfer from the guarantee account to the general fund an amount that represents the amount of interest income that would be earned from the investment of the amount of the loan that is currently outstanding. When the loan is fully paid, all mineral royalties deposited in the guarantee account must be transferred to the school facility ~~improvement and technology~~ account pursuant to 17-6-340.

~~(3) The revenue distributed through 20-9-534 must be used for the purposes of 20-9-533."~~

**Section 18.** Section 77-4-208, MCA, is amended to read:

**"77-4-208. Rental for power sites — deposit of rental money in proper accounts.** (1) The rental *payment* to the state *for power sites* must be paid annually or semiannually, and ~~such the rental shall~~ *may* not be less than the full market value of the estate or interest disposed of through the granting of the lease or license; ~~such The value to~~ *must* be carefully ascertained from all available sources.

(2) *Ninety-five percent of all rental payments received under this section must be deposited in the school facility and technology account provided for in 20-9-516. The remaining 5% of the rental payments received must be deposited annually in the public school permanent fund provided for in 20-9-621.*"

**Section 19. Codification instruction.** [Sections 1 through 9] are intended to be codified as an integral part of Title 90, chapter 6, and the provisions of Title 90, chapter 6, apply to [sections 1 through 9].

**Section 20. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is

invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

**Section 21. Effective date.** [This act] is effective on passage and approval.

**Section 22. Applicability.** [Section 18] applies to rental payments beginning January 1, 2011.

Approved April 28, 2009

## CHAPTER NO. 378

[HB 171]

AN ACT 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.

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

**Section 1.** Section 23-3-301, MCA, is amended to read:

**“23-3-301. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) ~~“Combative events” means a match, exhibition, contest, show, or tournament involving contestants in boxing, wrestling, mud wrestling, martial arts, or any other combative practice as defined by the department by rule.~~

(2)(1) “Contestant” means a professional ~~or semiprofessional~~ practitioner of boxing, wrestling, mud wrestling, martial arts, or any other combative practice as defined by the department by rule.

(3)(2) “Department” means the department of labor and industry provided for in Title 2, chapter 15, part 17.

(3) *“Professional boxing” means a match, exhibition, contest, show, or tournament involving the sport of professional boxing as defined by the department by rule, consistent with federal law governing boxing safety.*

(4) “Program” means a set of operations governed by the statutes in this chapter and the rules adopted by the department under this chapter.”

**Section 2.** Section 23-3-402, MCA, is amended to read:

**“23-3-402. Enforcement of rules.** (1) The department may designate in writing a representative to act specifically on behalf of the department but only within the scope of the written authority.

(2) The representative shall attend and supervise a ~~combative professional boxing~~ event and has the authority from the department to enforce rules adopted under this chapter.”

**Section 3.** Section 23-3-404, MCA, is amended to read:

**“23-3-404. Jurisdiction — license required — contestant participation.** (1) The department has sole management, control, and jurisdiction over each professional ~~or semiprofessional combative boxing~~ event involving recognition, a prize, or a purse and at which an admission fee is charged, either directly or indirectly, in the form of dues or otherwise, to be held within the state, ~~except a combative event conducted:~~

(a) ~~by a university, college, or high school; or~~

(b) ~~by the military.~~

(2) An organization or individual may not conduct a ~~combative professional boxing~~ event within the department's jurisdiction unless the organization or individual is the holder of an appropriate license granted by the department.

(3) A referee, manager, or judge may not participate in a ~~combative professional boxing~~ event within the department's jurisdiction unless:

(a) the individual is licensed by the department; and

(b) the ~~combative professional boxing~~ event is conducted by an organization or individual licensed by the department.

(4) A contestant may not participate in a ~~combative professional boxing~~ event within the department's jurisdiction unless:

(a) the contestant is licensed by the department;

(b) the ~~combative professional boxing~~ event is conducted by an organization or individual licensed by the department; and

(c) the department has not suspended the right of the contestant to participate under 23-3-603."

**Section 4.** Section 23-3-405, MCA, is amended to read:

**"23-3-405. Rules.** (1) The department may adopt rules for the administration and enforcement of this chapter.

(2) (a) The rules must include the granting, suspension, and revocation of licenses and the qualification requirements for those to be licensed to conduct ~~combative professional boxing~~ events or to be licensed as referees, managers, or judges. License qualifications must include appropriate knowledge, experience, and integrity.

(b) The rules may include but are not limited to the following:

(i) the labeling of a match as a championship match;

(ii) the number and length of rounds and the weight of gloves;

(iii) the extent and timing of the physical examination of contestants;

(iv) the attendance of a referee and the referee's powers and duties; and

(v) review of decisions made by officials.

(3) The rules must:

(a) meet or exceed the safety codes required by recognized professional boxing, ~~wrestling, and other~~ organizations conducting ~~combative professional boxing~~ events;

(b) provide reasonable measures for the fair conduct of the ~~combative professional boxing~~ events and for the protection of the health and safety of the contestants;

(c) require a physical examination of each contestant prior to each ~~combative professional boxing~~ event;

(d) provide for the qualifications of judges, referees, and seconds and for their payment by the promoter; and

(e) provide for the attendance at ringside of one or more of the following and require the promoter to pay for that person's attendance:

(i) a licensed physician as defined in 37-3-102;

- (ii) a licensed physician assistant as defined in 37-20-401; or
- (iii) a licensed advanced practice registered nurse as defined in 37-8-102.”

**Section 5.** Section 23-3-501, MCA, is amended to read:

**“23-3-501. Licenses — fees.** (1) The department may issue a license to a professional or ~~semiprofessional~~ promoter of ~~combative~~ *professional boxing* events, whether an individual or organization, for the sole purpose of conducting professional or ~~semiprofessional~~ *combative boxing* events.

(2) The department may issue licenses to qualified referees, managers, contestants, seconds, trainers, and judges.

(3) A license issued in accordance with subsections (1) and (2) expires on the date set by department rule.

(4) Each application for a license under this section must be accompanied by a fee, as provided in 37-1-134, set by the department.”

**Section 6.** Section 23-3-502, MCA, is amended to read:

**“23-3-502. Bond — conditions.** (1) A license to conduct professional or ~~semiprofessional~~ *combative boxing* events may not be issued unless the licensee has executed a bond in the sum of not less than \$5,000.

(2) The bond must be conditioned on faithful compliance by the licensee with the provisions of this chapter and the rules of the department.”

**Section 7.** Section 23-3-601, MCA, is amended to read:

**“23-3-601. Report of ticket sales — tax on gross receipts — disposition of money received.** (1) An individual or organization licensed to conduct a ~~combative~~ *professional boxing* event shall, within 24 hours after the completion of each ~~combative~~ event, furnish to the department a written report, verified by one of its officers or owners, showing the number of tickets sold for the ~~combative~~ event, the amount of gross proceeds, and other matters that the department prescribes and shall also within 24 hours pay to the department a tax of 5% of its total gross receipts after deducting the federal admission tax, if any, from the sale of tickets.

(2) All taxes and fees collected by the department under this chapter must be deposited in the state special revenue fund for the use of the program, subject to 37-1-101(6).”

**Section 8.** Section 23-3-602, MCA, is amended to read:

**“23-3-602. Examination of books and records on failure to make report or on unsatisfactory report — penalty for failure to pay tax.** (1) If an individual or organization fails to make a report of a ~~combative~~ *professional boxing* event at the time prescribed by 23-3-601 or if the report is unsatisfactory to the department, the department may examine the books and records of the individual or organization and subpoena and examine witnesses under oath for the purpose of determining the total amount of its gross receipts for a ~~combative~~ *professional boxing* event and the amount of tax due under this chapter.

(2) If the individual or organization remains in default in the payment of tax ascertained to be due for a period of 20 days after notice to the individual or organization of the amount due, the delinquent individual or organization forfeits its license and is disqualified from receiving a new license.”

**Section 9.** Section 23-3-603, MCA, is amended to read:

**“23-3-603. Discipline.** (1) A license issued under the provisions of this chapter may, after notice and opportunity for hearing, be revoked or suspended

by the department for a violation of the provisions of this chapter or any rule of the department.

(2) The department may, after notice and opportunity for hearing, reprimand any contestant or suspend, for a period not to exceed 1 year, the contestant's right to participate in any *combative professional boxing* event conducted by any licensee for:

(a) conduct unbecoming a contestant while engaged in or arising directly from any *combative professional boxing* event;

(b) failure to compete in good faith or engaging in any sham *combative professional boxing* event; or

(c) the use of threatening or abusive language toward officials or spectators."

**Section 10. Effective date.** [This act] is effective on passage and approval.

Approved April 28, 2009

## CHAPTER NO. 379

[HB 224]

AN ACT 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.

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

**Section 1. Institutional nursing incentive program.** (1) There is a loan reimbursement program for an individual who is licensed to practice as a registered professional nurse pursuant to 37-8-406 and who works at the Montana state prison or the Montana state hospital.

(2) (a) The board of regents shall, subject to available appropriations, pay up to 50% of a loan balance of \$30,000 for a registered professional nurse working at the Montana state prison or the Montana state hospital who applies for the program and submits proof of the balance related to loans for nursing education.

(b) The reimbursement under this section is limited to a maximum of \$3,750 a year for 4 years and must be based on a participant's actual loan balance.

(c) An individual with a loan balance of less than \$1,000 is not eligible for the program provided for in this section.

(3) (a) The board of regents shall reimburse a participant in the loan reimbursement program at the end of every 12-month period that the participant works at either the Montana state prison or the Montana state hospital. The amount to be reimbursed as determined in subsection (2) must be reimbursed in equal annual installments over 4 years as long as the participant continues to work at either facility.

(b) A participant who works less than a full 12-month period must receive a reimbursement that is prorated to reflect the amount of time worked during that 12-month period.

(c) The reimbursement payment by the board of regents must be to the participant and the loan institution.

**Section 2. Appropriation.** (1) There is appropriated from the general fund to the board of regents \$37,500 in each year of the biennium beginning July 1,

2009, to provide loan reimbursements to registered professional nurses as provided in [section 1].

(2) The appropriation may not be spent on administrative costs related to the institutional nursing incentive program.

**Section 3. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 20, chapter 26, part 15, and the provisions of Title 20, chapter 26, part 15, apply to [section 1].

**Section 4. Effective date.** [This act] is effective July 1, 2009.

Approved April 28, 2009

## CHAPTER NO. 380

[HB 258]

AN ACT 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.

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

**Section 1. Appropriation.** (1) There is appropriated \$6 million from the state special revenue fund established in 53-6-1201 to the state auditor for the 2011 biennium to add participants to the small business health insurance pool and the tax credit program established in Title 33, chapter 22, part 20, and to revise premium assistance and incentive levels to reflect increased premium levels.

(2) The appropriation in subsection (1) is in addition to any other appropriation for funding the small business health insurance pool and tax credit program and for the cost of administering the tax credits, the purchasing pool, the premium incentive payments, and the premium assistance payments as provided in Title 33, chapter 22, part 20.

**Section 2. Effective date.** [This act] is effective July 1, 2009.

Approved April 28, 2009

## CHAPTER NO. 381

[HB 312]

AN ACT 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.

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

**Section 1.** Section 7-6-1501, MCA, is amended to read:

**“7-6-1501. Resort tax — definitions.** As used in 7-6-1501 through 7-6-1509, the following definitions apply:

(1) “Luxuries” means any gift item, luxury item, or other item normally sold to the public or to transient visitors or tourists. The term does not include food purchased unprepared or unserved, medicine, medical supplies and services, appliances, hardware supplies and tools, or any necessities of life.

(2) "Medical supplies" means items that are sold to be used for curative, prosthetic, or medical maintenance purposes, whether or not prescribed by a physician.

(3) "Medicine" means substances sold for curative or remedial properties, including both physician prescribed and over-the-counter medications.

(4) "Resort area" means an area that:

(a) is an unincorporated area and is a defined contiguous geographic area;

(b) has a population of less than 2,500 according to the most recent federal census ~~or federal estimate~~;

(c) derives the major portion of its economic well-being from businesses catering to the recreational and personal needs of persons traveling to or through the area for purposes not related to their income production; and

(d) has been designated by the department of commerce as a resort area prior to its establishment by the county commissioners as provided in 7-6-1508.

(5) "Resort community" means a community that:

(a) is an incorporated municipality;

(b) has a population of less than ~~5,500~~ 5,500 according to the most recent federal census ~~or federal estimate~~;

(c) derives the primary portion of its economic well-being related to current employment from businesses catering to the recreational and personal needs of persons traveling to or through the municipality for purposes not related to their income production; and

(d) has been designated by the department of commerce as a resort community."

**Section 2. 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].

Approved April 28, 2009

## CHAPTER NO. 382

[HB 315]

AN ACT 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.

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

**Section 1.** Section 15-30-111, MCA, is amended to read:

**"15-30-111. Adjusted gross income.** (1) Adjusted gross income is the taxpayer's federal adjusted gross income as defined in section 62 of the Internal Revenue Code, 26 U.S.C. 62, and in addition includes the following:

(a) (i) interest received on obligations of another state or territory or county, municipality, district, or other political subdivision of another state, except to the extent that the interest is exempt from taxation by Montana under federal law;

(ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, 26 U.S.C. 852(b)(5), that are attributable to the interest referred to in subsection (1)(a)(i);

(b) refunds received of federal income tax, to the extent that the deduction of the tax resulted in a reduction of Montana income tax liability;

(c) that portion of a shareholder's income under subchapter S. of Chapter 1 of the Internal Revenue Code that has been reduced by any federal taxes paid by the subchapter S. corporation on the income;

(d) depreciation or amortization taken on a title plant as defined in 33-25-105;

(e) the recovery during the tax year of an amount deducted in any prior tax year to the extent that the amount recovered reduced the taxpayer's Montana income tax in the year deducted;

(f) if the state taxable distribution of an estate or trust is greater than the federal taxable distribution of the same estate or trust, the difference between the state taxable distribution and the federal taxable distribution of the same estate or trust for the same tax period; and

(g) except for exempt-interest dividends described in subsection (2)(a)(ii), for tax years commencing after December 31, 2002, the amount of any dividend to the extent that the dividend is not included in federal adjusted gross income.

(2) Notwithstanding the provisions of the Internal Revenue Code, adjusted gross income does not include the following, which are exempt from taxation under this chapter:

(a) (i) all interest income from obligations of the United States government, the state of Montana, or a county, municipality, district, or other political subdivision of the state and any other interest income that is exempt from taxation by Montana under federal law;

(ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, 26 U.S.C. 852(b)(5), that are attributable to the interest referred to in subsection (2)(a)(i);

(b) interest income earned by a taxpayer who is 65 years of age or older in a tax year up to and including \$800 for a taxpayer filing a separate return and \$1,600 for each joint return;

(c) (i) except as provided in subsection (2)(c)(ii), the first ~~\$3,600~~ \$3,600 of all pension and annuity income received as defined in 15-30-101;

(ii) for pension and annuity income described under subsection (2)(c)(i), as follows:

(A) each taxpayer filing singly, head of household, or married filing separately shall reduce the total amount of the exclusion provided in subsection (2)(c)(i) by ~~\$2~~ \$2 for every \$1 of federal adjusted gross income in excess of \$30,000 as shown on the taxpayer's return;

(B) in the case of married taxpayers filing jointly, if both taxpayers are receiving pension or annuity income or if only one taxpayer is receiving pension or annuity income, the exclusion claimed as provided in subsection (2)(c)(i) must be reduced by ~~\$2~~ \$2 for every \$1 of federal adjusted gross income in excess of \$30,000 as shown on their joint return;

(d) all Montana income tax refunds or tax refund credits;

(e) gain required to be recognized by a liquidating corporation under 15-31-113(1)(a)(ii);



(f) all tips or gratuities that are covered by section 3402(k) or service charges that are covered by section 3401 of the Internal Revenue Code of 1954, 26 U.S.C. 3402(k) or 3401, as amended and applicable on January 1, 1983, received by a person for services rendered to patrons of premises licensed to provide food, beverage, or lodging;

(g) all benefits received under the workers' compensation laws;

(h) all health insurance premiums paid by an employer for an employee if attributed as income to the employee under federal law;

(i) all money received because of a settlement agreement or judgment in a lawsuit brought against a manufacturer or distributor of "agent orange" for damages resulting from exposure to "agent orange";

(j) principal and income in a medical care savings account established in accordance with 15-61-201 or withdrawn from an account for eligible medical expenses, as defined in 15-61-102, of the taxpayer or a dependent of the taxpayer or for the long-term care of the taxpayer or a dependent of the taxpayer;

(k) principal and income in a first-time home buyer savings account established in accordance with 15-63-201 or withdrawn from an account for eligible costs, as provided in 15-63-202(7), for the first-time purchase of a single-family residence;

(l) contributions withdrawn from a family education savings account or earnings withdrawn from a family education savings account for qualified higher education expenses, as defined in 15-62-103, of a designated beneficiary;

(m) the recovery during the tax year of any amount deducted in any prior tax year to the extent that the recovered amount did not reduce the taxpayer's Montana income tax in the year deducted;

(n) if the federal taxable distribution of an estate or trust is greater than the state taxable distribution of the same estate or trust, the difference between the federal taxable distribution and the state taxable distribution of the same estate or trust for the same tax period;

(o) deposits, not exceeding the amount set forth in 15-30-603, deposited in a Montana farm and ranch risk management account, as provided in 15-30-601 through 15-30-605, in any tax year for which a deduction is not provided for federal income tax purposes;

(p) income of a dependent child that is included in the taxpayer's federal adjusted gross income pursuant to the Internal Revenue Code. The child is required to file a Montana personal income tax return if the child and taxpayer meet the filing requirements in 15-30-142.

(q) principal and income deposited in a health care expense trust account, as defined in 2-18-1303, or withdrawn from the account for payment of qualified health care expenses as defined in 2-18-1303; and

(r) that part of the refundable credit provided in 33-22-2006 that reduces Montana tax below zero.

(3) A shareholder of a DISC that is exempt from the corporation license tax under 15-31-102(1)(l) shall include in the shareholder's adjusted gross income the earnings and profits of the DISC in the same manner as provided by section 995 of the Internal Revenue Code, 26 U.S.C. 995, for all periods for which the DISC election is effective.

(4) A taxpayer who, in determining federal adjusted gross income, has reduced the taxpayer's business deductions by an amount for wages and salaries

for which a federal tax credit was elected under sections 38 and 51(a) of the Internal Revenue Code, 26 U.S.C. 38 and 51(a), is allowed to deduct the amount of the wages and salaries paid regardless of the credit taken. The deduction must be made in the year that the wages and salaries were used to compute the credit. In the case of a partnership or small business corporation, the deduction must be made to determine the amount of income or loss of the partnership or small business corporation.

(5) Married taxpayers filing a joint federal return who are required to include part of their social security benefits or part of their tier 1 railroad retirement benefits in federal adjusted gross income may split the federal base used in calculation of federal taxable social security benefits or federal taxable tier 1 railroad retirement benefits when they file separate Montana income tax returns. The federal base must be split equally on the Montana return.

(6) Married taxpayers filing a joint federal return who are allowed a capital loss deduction under section 1211 of the Internal Revenue Code, 26 U.S.C. 1211, and who file separate Montana income tax returns may claim the same amount of the capital loss deduction that is allowed on the federal return. If the allowable capital loss is clearly attributable to one spouse, the loss must be shown on that spouse's return; otherwise, the loss must be split equally on each return.

(7) In the case of passive and rental income losses, married taxpayers filing a joint federal return and who file separate Montana income tax returns are not required to recompute allowable passive losses according to the federal passive activity rules for married taxpayers filing separately under section 469 of the Internal Revenue Code, 26 U.S.C. 469. If the allowable passive loss is clearly attributable to one spouse, the loss must be shown on that spouse's return; otherwise, the loss must be split equally on each return.

(8) Married taxpayers filing a joint federal return in which one or both of the taxpayers are allowed a deduction for an individual retirement contribution under section 219 of the Internal Revenue Code, 26 U.S.C. 219, and who file separate Montana income tax returns may claim the same amount of the deduction that is allowed on the federal return. The deduction must be attributed to the spouse who made the contribution.

(9) (a) Married taxpayers filing a joint federal return who are allowed a deduction for interest paid for a qualified education loan under section 221 of the Internal Revenue Code, 26 U.S.C. 221, and who file separate Montana income tax returns may claim the same amount of the deduction that is allowed on the federal return. The deduction may be split equally on each return or in proportion to each taxpayer's share of federal adjusted gross income.

(b) Married taxpayers filing a joint federal return who are allowed a deduction for qualified tuition and related expenses under section 222 of the Internal Revenue Code, 26 U.S.C. 222, and who file separate Montana income tax returns may claim the same amount of the deduction that is allowed on the federal return. The deduction may be split equally on each return or in proportion to each taxpayer's share of federal adjusted gross income.

(10) A taxpayer receiving retirement disability benefits who has not attained 65 years of age by the end of the tax year and who has retired as permanently and totally disabled may exclude from adjusted gross income up to \$100 a week received as wages or payments in lieu of wages for a period during which the employee is absent from work due to the disability. If the adjusted gross income before this exclusion exceeds \$15,000, the excess reduces the exclusion by an

equal amount. This limitation affects the amount of exclusion, but not the taxpayer's eligibility for the exclusion. If eligible, married individuals shall apply the exclusion separately, but the limitation for income exceeding \$15,000 is determined with respect to the spouses on their combined adjusted gross income. For the purpose of this subsection, "permanently and totally disabled" means unable to engage in any substantial gainful activity by reason of any medically determined physical or mental impairment lasting or expected to last at least 12 months.

(11) An individual who contributes to one or more accounts established under the Montana family education savings program may reduce adjusted gross income by the lesser of \$3,000 or the amount of the contribution. In the case of married taxpayers, each spouse is entitled to a reduction, not in excess of \$3,000, for the spouses' contributions to the accounts. Spouses may jointly elect to treat half of the total contributions made by the spouses as being made by each spouse. The reduction in adjusted gross income under this subsection applies only with respect to contributions to an account of which the account owner, as defined in 15-62-103, is the taxpayer, the taxpayer's spouse, or the taxpayer's child or stepchild if the taxpayer's child or stepchild is a Montana resident. The provisions of subsection (1)(e) do not apply with respect to withdrawals of contributions that reduced adjusted gross income.

(12) (a) A taxpayer may exclude the amount of the loan payment received pursuant to subsection (12)(a)(iv), not to exceed \$5,000, from the taxpayer's adjusted gross income if the taxpayer:

(i) is a health care professional licensed in Montana as provided in Title 37;

(ii) is serving a significant portion of a designated geographic area, special population, or facility population in a federally designated health professional shortage area, a medically underserved area or population, or a federal nursing shortage county as determined by the secretary of health and human services or by the governor;

(iii) has had a student loan incurred as a result of health-related education; and

(iv) has received a loan payment during the tax year made on the taxpayer's behalf by a loan repayment program described in subsection (12)(b) as an incentive to practice in Montana.

(b) For the purposes of subsection (12)(a), a loan repayment program includes a federal, state, or qualified private program. A qualified private loan repayment program includes a licensed health care facility, as defined in 50-5-101, that makes student loan payments on behalf of the person who is employed by the facility as a licensed health care professional.

*(13) By November 1 of each year, the department shall multiply the amount of pension and annuity income contained in subsection (2)(c)(i) and the federal adjusted gross income amounts in subsection (2)(c)(ii) by the inflation factor for that tax year, but using the year 2009 consumer price index, and rounding the results to the nearest \$10. The resulting amounts are effective for that tax year and must be used as the basis for the exemption determined under subsection (2)(c). (Subsection (2)(f) terminates on occurrence of contingency—sec. 3, Ch. 634, L. 1983; subsection (2)(o) terminates on occurrence of contingency—sec. 9, Ch. 262, L. 2001.)*

**Section 2.** Section 19-2-1004, MCA, is amended to read:

**“19-2-1004. Exemption from taxes and legal process.** Except as provided in 19-2-907 and 19-2-909, the right of a person to any benefit or payment from a retirement system or plan and the money in the system or plan’s pension trust fund is not:

- (1) subject to execution, garnishment, attachment, or any other process;
- (2) subject to state, county, or municipal taxes except for:
  - (a) a benefit or annuity received in excess of ~~the first \$3,600 or~~ *the* amount determined pursuant to 15-30-111(2)(c)(ii); or
  - (b) a refund of a member’s regular contributions picked up by an employer after June 30, 1985, as provided in 19-3-315, 19-5-402, 19-6-402, 19-7-403, 19-8-502, 19-9-710, or 19-13-601; or
- (3) assignable except as specifically provided in this chapter.”

**Section 3.** Section 19-17-407, MCA, is amended to read:

**“19-17-407. Exemption from taxation and legal process.** (1) ~~The first \$3,600 or~~ *The* amount determined pursuant to 15-30-111(2)(c)(ii) of benefits received under this part is exempt from state, county, and municipal taxation.

(2) Benefits received under this part are not subject to execution, garnishment, attachment, or any other process.”

**Section 4.** Section 19-18-612, MCA, is amended to read:

**“19-18-612. Protection of benefits from legal process and taxation — nonassignability.** (1) Except for execution or withholding for the payment of child support or for the payment of spousal support for a spouse or former spouse who is the custodial parent of the child, payments made or to be made under this chapter are not subject to judgments, garnishment, execution, or other legal process. A person entitled to a pension may not assign the right, and the association and trustees may not recognize any assignment or pay over any sum assigned.

(2) ~~The first \$3,600 or~~ *The* amount determined pursuant to 15-30-111(2)(c)(ii) of benefits received under this part is exempt from state, county, and municipal taxation.”

**Section 5.** Section 19-19-504, MCA, is amended to read:

**“19-19-504. Protection of benefits from legal process and taxation.** (1) Except for execution or withholding for the payment of child support or for the payment of spousal support for a spouse or former spouse who is the custodial parent of the child, the benefits provided for in this part are not subject to execution, garnishment, attachment, or the operation of bankruptcy, insolvency, or other process of law and are unassignable except as specifically provided in 19-19-505.

(2) ~~The first \$3,600 or~~ *The* amount determined pursuant to 15-30-111(2)(c)(ii) of benefits received under this part is exempt from state, county, and municipal taxation.”

**Section 6.** Section 19-20-706, MCA, is amended to read:

**“19-20-706. Exemption from taxation and legal process.** Except as provided in 19-20-305 and 19-20-306, the retirement allowances or any other benefits accrued or accruing to any person under the provisions of the retirement system and the accumulated contributions and cash and securities in the various funds of the retirement system are:

(1) exempted from any state, county, or municipal tax of the state of Montana except for:

(a) a retirement allowance received in excess of ~~\$3,600 or adjusted by an~~ *the* amount determined pursuant to 15-30-111(2)(c)(ii); or

(b) a withdrawal paid under 19-20-603 of a member's contributions picked up by an employer after June 30, 1985, as provided in 19-20-602;

(2) not subject to execution, garnishment, attachment by trustee process or otherwise, in law or equity, or any other process; and

(3) unassignable except as specifically provided in this chapter.”

**Section 7.** Section 19-21-212, MCA, is amended to read:

**“19-21-212. Exemption from taxation, legal process, and assessments.** Except for execution or withholding for the payment of child support or for the payment of spousal support for a spouse or former spouse who is the custodial parent of the child, contracts, benefits, and contributions under the optional retirement program and the earnings on the contributions are:

(1) except for a retirement allowance received in excess of ~~\$3,600 or adjusted by an~~ *the* amount determined pursuant to 15-30-111(2)(c)(ii), exempt from any state, county, or municipal tax;

(2) not subject to execution, garnishment, attachment, or other process;

(3) not covered or assessable by an insurance guaranty association; and

(4) unassignable except as specifically provided in the contracts.”

**Section 8. Effective date.** [This act] is effective on passage and approval.

**Section 9. Retroactive applicability.** [This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2008.

Approved April 28, 2009

## CHAPTER NO. 383

[HB 333]

AN ACT 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.

WHEREAS, Montana has unique geological features that include significant geothermal resources; and

WHEREAS, other states in the region are actively exploring and developing these resources for energy production purposes; and

WHEREAS, existing data and analyses of these resources is now largely outdated, and advances in technology, increased energy prices, and increased interest in low-carbon energy sources has increased interest by electric utilities and independent power producers in the state's geothermal resources.

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

**Section 1. Geothermal research.** (1) Subject to subsection (2), the Montana bureau of mines and geology may conduct geothermal research that:

(a) characterizes the geothermal resource base in Montana;

(b) tests high-temperature and high-pressure drilling technologies benefiting geothermal well construction; and

(c) determines reservoir characterization, monitoring, and modeling necessary for commercial application in Montana.

(2) If the research is conducted on private property, the bureau must have written agreements with:

(a) the surface property owner and any owners of the geothermal resource for access and use of the site for research purposes; and

(b) subject to subsections (3) and (4), the utility, as defined in 69-5-102, with a service area nearest the research site if the utility intends to commercially develop the site.

(3) If the utility with a service area nearest the research site intends to develop the site for future commercial use, the utility shall:

(a) contribute, at a minimum, 25% of the research costs as determined by the bureau for research at the site; and

(b) have an agreement in place with the surface property owner and any owners of the geothermal resource where the research site is located for future development of the geothermal resource.

(4) If the utility with a service area nearest the research site does not intend to develop the site for commercial use, the utility with a service area next nearest the site may enter into a written agreement pursuant to subsection (2)(b). If a utility does not intend to develop the site for future commercial use, the agreement pursuant to subsection (2)(b) is not required.

(5) In determining the utility with a service area nearest the site, all measurements must be made on the shortest vector that can be drawn from the line nearest the service area to the nearest portion of the geothermal site.

(6) Prior to September 1 of each even-numbered year, the bureau shall update the energy and telecommunications interim committee on research conducted pursuant to this section and funding received pursuant to [section 2].

(a) a ranking of the top five locations in Montana that offer the best opportunity for near-term development of geothermal energy; and

(b) an estimate of the cost associated with development of each site.

**Section 2. Authority to accept gifts, grants, contributions, and reimbursements.** The Montana bureau of mines and geology may accept gifts, grants, contributions pursuant to [section 1(3)], and reimbursements to be used for the purposes of [section 1].

**Section 3. Codification instruction.** [Sections 1 and 2] are intended to be codified as an integral part of Title 90, and the provisions of Title 90 apply to [sections 1 and 2].

**Section 4. Effective date.** [This act] is effective July 1, 2009.

Approved April 28, 2009

## CHAPTER NO. 384

[HB 478]

AN ACT 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.

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

**Section 1.** Section 80-7-105, MCA, is amended to read:

**“80-7-105. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) “Firm” means an individual, company, partnership, association, or corporation.

(2) “Landscape service” means a firm that buys, sells, or resells nursery stock.

(3) “Nursery” means the business or location where nursery stock is grown or offered for sale or resale or as part of a landscape service.

(4) “Nursery stock” means botanically classified plants or parts of plants, including but not limited to tropical potted plants, aquatic plants, cut trees and their products, and turf or sod grass. The following plants and plant materials may not be considered nursery stock:

(a) field crop plants and seeds;

(b) pasture grasses;

(c) cut plants not for propagation;

(d) fruits or vegetables for human or animal consumption;

(e) cut trees and products that are going to be processed to a point that they no longer represent a pest risk; and

(f) plant debris for disposal or processing.

(5) “Nursery stock certification” means the process by which the nursery stock or other plants have been inspected and found to meet certification standards established by department rule.

(6) “Plant dealer” means a firm that buys plants or plant products from a producer for the purpose of offering the plants or plant products for sale or resale or as part of a landscape service.

(7) “Plant inspection certificate” means a document issued by the department or the plant pest regulatory agency of another state that declares that the nursery stock, plants, or plant material grown by the firm named on the certificate is apparently free of injurious plant pests.

(8) “Plant pest” means an insect, weed, fungus, virus, bacteria, or other organism that can directly or indirectly injure or cause damage in a plant or a product of a plant and that meets the criteria as a pest established by department rule. For purposes of this chapter, noxious weeds, as defined in 7-22-2101(8)(a)(i), or other exotic weeds are defined as plant pests.

(9) “*Small plant vendor*” means a Montana firm engaged in the business of selling or distributing nursery stock that:

(a) grows in Montana the nursery stock offered for sale or distribution; and

(b) has gross annual sales of less than \$1,000 in a calendar year.”

**Section 2.** Section 80-7-106, MCA, is amended to read:

**“80-7-106. License required — application and payment of license fee — exemption.** (1) A firm, nursery, or plant dealer engaging in the business of selling or distributing nursery stock in this state shall obtain a license for each location from the department.

(2) The license must be in the name of the firm, nursery, or plant dealer seeking the license and expires on the anniversary date established by rule by the board of review established in 30-16-302. The applicant shall provide information that the department finds necessary to carry out the provisions and purposes of this chapter and in the form determined by rule by the board of review established in 30-16-302.

(3) The department shall establish license fees by rule. License fees may be no less than \$95 or more than \$125. If the department determines that the revenue from the license fee is inadequate to accomplish the purposes of this chapter, the department may by rule increase the fee within the statutory limit.

(4) A new applicant or a firm, nursery, or plant dealer failing to renew a license on or before the annual anniversary date provided for in subsection (2) shall pay an additional nonrefundable late fee of \$25 for each license.

(5) An out-of-state firm that imports nursery stock into Montana for resale by a licensed Montana nursery or plant dealer is not required to obtain a license if the firm is licensed in the state of origin of the nursery stock and if that state extends a similar exemption to Montana firms.

(6) The fees required by the provisions of this section may be paid by credit card and may be discounted for payment processing charges paid by the department to a third party.

(7) *A small plant vendor must be licensed but is exempt from the license fee requirements of this section.*”

**Section 3.** Section 80-7-108, MCA, is amended to read:

**“80-7-108. Nursery stock inspection — fees.** (1) The department may enter the premises of a *licensed* firm, nursery, or plant dealer *or of a small plant vendor* during regular business hours for the purpose of inspecting nursery stock or other materials for possible plant pests or for determining licensure compliance. An inspection fee may not be assessed if the department requests the inspection.

(2) A firm, nursery, ~~or~~ plant dealer, *or small plant vendor* may request the inspection of nursery stock, plants, or other materials by giving the department 5 days’ notice prior to the time when the nursery stock, plants, or other materials are ready for inspection. A firm, nursery, ~~or~~ plant dealer, *or small plant vendor* requesting an inspection shall pay a fee as established by department rule. The fee must cover the actual costs of inspection, surveys, and other services required to issue the plant inspection certificate.

(3) The department may issue a plant inspection certificate based on the results of a nursery stock or other plant inspection or inspection survey.”

**Section 4.** Section 80-7-109, MCA, is amended to read:

**“80-7-109. Duty to notify department of infestation.** A firm, nursery, ~~or~~ plant dealer, *or small plant vendor* with nursery stock or other materials that are infected or infested with plant pests shall notify the department. The firm, nursery, ~~or~~ plant dealer, *or small plant vendor* shall comply with the instructions of the department for the control of the plant pests.”

**Section 5.** Section 80-7-110, MCA, is amended to read:

**“80-7-110. Removal of nursery stock — assessment of costs.** (1) If a firm, nursery, ~~or~~ plant dealer, *or small plant vendor* that owns nursery stock or other materials infected or infested with any injurious plant pest fails to comply with the instructions of the department for the destruction or control of the injurious plant pest or the destruction of the infested or infected nursery stock or



other material within the time specified by the department, the department may condemn, remove, or destroy the nursery stock or other material or treat it with a proper remedy at the expense of the owner.

(2) If an owner fails to pay the actual cost of the removal, treatment, or destruction within 30 days after notice has been mailed to the owner at the owner's last-known post-office address and to any purchaser of the property under contract for deed at the purchaser's last-known post-office address, the cost becomes a lien on the land of the owner and must be added by the county treasurer to the taxes upon the property and collected as other taxes."

**Section 6.** Section 80-7-122, MCA, is amended to read:

**"80-7-122. Nursery stock certification.** At the request of a licensed firm, nursery, or plant dealer; *or of a small plant vendor*, the department may inspect nursery stock for the purpose of nursery stock certification. The department shall establish certification standards, inspection procedures, and fees by department rule."

**Section 7.** Section 80-7-133, MCA, is amended to read:

**"80-7-133. Acts made unlawful — penalty.** (1) It is unlawful for a firm, nursery, ~~or~~ plant dealer, *or small plant vendor* to:

(a) fail to properly identify nursery stock offered for sale. Identification must include but is not limited to the scientific name, common name, and variety, except with regard to mixed annual plantings. Each nursery plant offered for sale as a separate plant must be identified. A single means of identification is allowed on each bundle of bare root seedlings, liners, or hedging grade nursery stock.

(b) falsely represent or misrepresent the name, age, variety, or class of any nursery stock sold or offered for sale;

(c) falsely represent or state that any nursery stock offered for sale, sold, or delivered was grown in a certain location, when in fact the nursery stock was grown in another location;

(d) deceive or defraud any firm in the sale of any nursery stock by substituting inferior or different varieties or ages from those ordered;

(e) bring into this state, offer for sale or distribution within this state, or ship, sell, or deliver upon any sale any nursery stock that is infected or infested with a plant pest dangerous to the horticultural interests of the state or that violates any federal or state quarantine; or

(f) sell or distribute nursery stock, cut decorative plants, or aquatic plants declared to be noxious weeds as defined in 7-22-2101.

(2) In case of misrepresentation, false representation, deceit, fraud, substitution, or sale and distribution of noxious weeds, the firm, nursery, ~~or~~ plant dealer, *or small plant vendor* is subject to punishment as provided in 80-7-135 and is liable to a party damaged or injured to the extent of all damages sustained, which may be recovered in a civil action in any court of competent jurisdiction."

**Section 8.** Section 80-7-135, MCA, is amended to read:

**"80-7-135. Penalty for violation.** (1) A firm, nursery, ~~or~~ plant dealer, *or small plant vendor* that violates or aids in the violation of a provision of this part or of the rules, orders, or quarantines of the department adopted under Title 2, chapter 4, and this part commits a civil offense and is subject to a civil penalty of not more than \$1,000 for each violation.

(2) Assessment of a civil penalty may be made in conjunction with another warning, order, or administrative action authorized by this chapter. A civil penalty collected under this section must be deposited in the nursery account established in 80-7-123 for education, training, research, and development for the nursery industry pursuant to rules established by the department.

(3) The department shall establish by rule:

(a) a penalty schedule that establishes the types of penalties and the amounts, not to exceed \$1,000, for initial and subsequent offenses; and

(b) other matters necessary for the administration of civil penalties.

(4) Sections 80-7-105, 80-7-106, 80-7-108, 80-7-109, 80-7-122, 80-7-123, and this section may not be construed as requiring the department or its agents to report violations of this part when the department believes that the public interest will be best served by a suitable notice of warning.”

**Section 9. Coordination instruction.** If Senate Bill No. 38 is not passed and approved, then [this act] is void.

**Section 10. Effective date.** [This act] is effective on passage and approval.

Approved April 28, 2009

## CHAPTER NO. 385

[HB 578]

AN ACT 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.

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

**Section 1. Short title.** [Sections 1 through 7] may be cited as the “Montana Health Corps Act”.

**Section 2. Purpose — establishment of program.** (1) The purpose of [sections 1 through 7] is to:

(a) provide primary outpatient care to individuals eligible for medicare or medicaid by retired physicians at affordable prices;

(b) keep the elderly or infirm in their homes longer; and

(c) provide home health care visits for patients who have difficulty in traveling.

(2) The board shall adopt rules to establish the program. The rules must provide procedures for enrolling retired physicians in the health corps and procedures under which physicians or health care facilities may refer medicare or medicaid patients to members of the health corps.

**Section 3. Definitions.** As used in [sections 1 through 7], unless the context requires otherwise, the following definitions apply:

(1) “Health care” has the meaning provided in 50-16-504.

(2) “Health care facility” has the meaning provided in 50-5-101.

**Section 4. Eligibility for participation.** A retired physician who is properly licensed and in good standing in Montana may participate in the health corps provided for in [sections 1 through 7]. The board shall accept applications for participation in the health corps and provide written guidelines to participants in the health corps concerning the provisions of [sections 1 through 7] and rules adopted to implement [sections 1 through 7].

**Section 5. Referral of patients to program — visits — charges.** (1) The board shall adopt rules under which physicians or health care facilities may refer medicare or medicaid patients to the health corps program.

(2) A health corps member shall make home visitations to eligible patients for the purpose of providing health care to eligible patients.

(3) A health corps member may charge \$10 for a patient contact or visit and may submit a charge to medicare or medicaid.

**Section 6. Limitation on liability.** A physician who renders health care within the scope of the physician's license to a patient under [sections 1 through 7] is not liable to a patient or other person for civil damages resulting from the rendering of the care unless the damages were the result of gross negligence or willful or wanton acts or omissions by the physician. Each patient must be given notice that under state law the physician may not be held legally liable for ordinary negligence for services provided under the health corps program.

**Section 7. Termination of participation in health corps.** The board may take disciplinary action against a physician participating in the health corps program as provided in Title 37 and may terminate a physician's participation in the health corps program based upon the disciplinary action.

**Section 8. No appropriation.** It is the intent of the legislature that the requirements of [this act] be conducted within existing levels of funding.

**Section 9. Codification instruction.** [Sections 1 through 7] are intended to be codified as an integral part of Title 37, chapter 3, and the provisions of Title 37, chapter 3, apply to [sections 1 through 7].

**Section 10. Effective date.** [This act] is effective July 1, 2009.

Approved April 28, 2009

## CHAPTER NO. 386

[HB 583]

AN ACT 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.

WHEREAS, the lack of infrastructure in Montana for adding value to the state's agricultural products is a primary barrier to our state capturing a significant portion of the \$3 billion that Montanans spend each year on food; and

WHEREAS, this lack of infrastructure is inhibiting the ability of farmers and ranchers and other agricultural entrepreneurs to serve markets for food, farm-based renewable energy, and other value-added agricultural markets, both within the state and outside the state; and

WHEREAS, producing for local markets on a family or community scale can reconnect Montana's rural and urban economies and enhance stewardship of Montana's natural and human resources; and

WHEREAS, consumer demand for Montana-based, sustainably grown, nutritious, and affordable food in Montana exceeds supply; and

WHEREAS, farm-derived renewable energy and biofuels hold promise to increase the profitability of family farm and ranch operations, promote domestic energy production, and lessen our dependence on foreign sources of energy; and

WHEREAS, previous investment and capacity built in the state for supporting value-added agricultural development needs to be maintained; and

WHEREAS, increasing technical assistance to Montana's food and agricultural entrepreneurs can help keep more of the state's food, agricultural, and energy dollars circulating in Montana communities.

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

**Section 1. Montana food and agricultural development program — definition.** (1) There is a program administered by the department to promote Montana food and agricultural development. The program must fund four Montana food and agricultural development centers that were established before January 1, 2009, and that are charged with:

(a) developing Montana's capacity to produce food and value-added agricultural products, including farm-derived renewable energy; and

(b) providing technical assistance and other services to community-based food, agriculture, and farm-derived renewable energy entrepreneurs.

(2) Technical assistance includes but is not limited to business assistance, product development, marketing, nutritional analysis and labeling, education, assistance with food safety regulation compliance, training to educate business professionals and entrepreneurs on industry dynamics and technology of specific bioproduct industries, and evaluating existing and developing technologies.

(3) Each center must be a certified regional development corporation or a nonprofit organization that serves at least a four-county region.

(4) As used in this section, "farm-derived renewable energy" means renewable energy produced from products developed by farmers and ranchers, as well as entrepreneurs, using Montana farm and ranch products.

**Section 2. Fund transfer.** There is transferred \$250,000 from the research and commercialization state special revenue account established in 90-3-1002 to the state general fund in each year of the biennium, to be spent in accordance with 90-3-1003(4).

**Section 3. Appropriation.** The following amounts are appropriated to the department of agriculture from the general fund for each of the fiscal years 2010 and 2011 to establish and administer the Montana food and agricultural development program as provided in [section 1]:

	FY 2010	FY 2011
Four centers, operation	\$240,000	\$240,000
Administration	\$10,000	\$10,000
Total	\$250,000	\$250,000

**Section 4. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 80, chapter 11, and the provisions of Title 80, chapter 11, apply to [section 1].

**Section 5. Coordination instruction.** If [this act] is passed and approved and House Bill No. 123 fails, then the fund transfer provided for in [section 2 of this act] for fiscal year 2011 is void.

**Section 6. Effective date.** [This act] is effective July 1, 2009.

Approved April 28, 2009

## CHAPTER NO. 387

[HB 615]

AN ACT 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.

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

**Section 1. Creation of online motor vehicle liability insurance verification system.** (1) The department, in cooperation with the commissioner of insurance, shall establish an accessible common carrier-based motor vehicle liability insurance verification system to verify the compliance of a motor vehicle owner or operator with motor vehicle liability policy requirements under 61-6-103, 61-6-301, and 61-6-302 and facilitate or monitor proof of financial responsibility filings under 61-6-133 and 61-6-134.

(2) The department may contract with a private vendor or vendors to establish and maintain the system.

(3) The system must:

(a) send requests to insurers for verification of motor vehicle liability insurance using electronic services established by the insurers, through the internet, world wide web, or a similar proprietary or common carrier electronic system in compliance with the specifications and standards of the insurance industry committee on motor vehicle administration and other applicable industry standards;

(b) include appropriate provisions to secure its data against unauthorized access and to maintain a record of all requests and responses;

(c) be accessible, without fee, to authorized personnel of the department, the courts, law enforcement personnel, county treasurers, and authorized agents under the provisions of 61-3-116;

(d) interface, wherever possible, with existing department and law enforcement systems;

(e) receive insurance data file transfers from insurers under specifications and standards set forth in subsection (3)(a) to identify vehicles that are not covered by an insurance policy;

(f) provide a means by which low-volume insurers that are unable to deploy an online interface with the system can report insurance policy data to the department or its designee for inclusion in the system;

(g) provide a means to track separately or distinguish motor vehicles that are subject to a certificate of self-insurance under 61-6-143, a surety or indemnity bond under 61-6-137 or 61-6-301, or a deposit of cash or securities under 61-6-138;

(h) be available 24 hours a day, 7 days a week, subject to reasonable allowances for scheduled maintenance or temporary system failures, to verify the insurance status of any vehicle in a manner prescribed by the department; and

(i) be installed and operational no later than July 1, 2011, following an appropriate testing period of not less than 6 months.

(4) The provisions of Title 2, chapter 6, parts 1 and 2, do not apply to the information contained in the verification system.

(5) Every insurer shall cooperate with the department in establishing and maintaining the system and shall provide access to motor vehicle liability policy status information to verify liability coverage for:

(a) a vehicle insured by that company that is registered in this state; and

(b) if available, for a vehicle that is insured by that company or that is operated in this state and that is the subject of an accident investigation regardless of where the vehicle is registered.

**Section 2. Law enforcement use of verification system.** (1)

Notwithstanding the requirements of 61-6-302, a peace officer or authorized employee of a law enforcement agency may, during the course of a traffic stop or accident investigation, access the verification system provided under [section 1] to verify whether a motor vehicle is covered by a valid motor vehicle liability policy that meets the requirements of 61-6-103 and 61-6-301.

(2) (a) Except as provided in subsection (2)(b), the response received from the system supersedes an insurance card produced by a vehicle owner or operator, and notwithstanding the display of an insurance card by the owner or operator, the peace officer may issue a complaint and notice to appear to the owner or operator for a violation of 61-6-301 or 61-6-302.

(b) Subsection (2)(a) does not apply if the vehicle is:

(i) covered under a commercial automobile insurance coverage policy;

(ii) part of a self-insured fleet as provided in 61-6-143; or

(iii) included in an insurance binder, as allowed by 33-15-411, that has not been entered into the system at the time the system is accessed under subsection (1) of this section.

(3) Except upon reasonable cause to believe that a driver has violated another traffic regulation or that the driver's vehicle is unsafe or not equipped as required by law, a peace officer may not use the verification system to stop a driver for operating a motor vehicle in violation of 61-6-301.

**Section 3. Online motor vehicle liability insurance verification operating account.** (1) There is an online motor vehicle liability insurance verification operating account in the state special revenue fund, as provided in 17-2-102.

(2) Fees imposed under 61-3-321(20) or established and collected under 61-6-105 must be deposited in the account.

(3) The money in the online motor vehicle liability insurance verification operating account must be used by the department to pay costs directly incurred in the operation, maintenance, and enhancement of the online motor vehicle liability insurance verification system established under [section 1].

**Section 4.** Section 33-19-306, MCA, is amended to read:

**“33-19-306. Disclosure limitations and conditions.** (1) Except as provided in this section, a licensee may not disclose personal or privileged information about an individual collected or received in connection with an insurance transaction.

(2) Disclosure may be made with the written authorization of the individual. The authorization must be in the form provided in 33-19-206.

(3) Disclosure limited to that which is reasonably necessary may be made to a person to enable the person to provide information to the disclosing licensee for the purpose of detecting or preventing criminal activity, fraud, material misrepresentation, or material nondisclosure in connection with an insurance transaction. A person to whom information is disclosed pursuant to this subsection shall agree in writing not to further disclose the information, but this requirement for an agreement does not prevent disclosure of information that is necessary to obtain further information for the purposes set forth in this subsection.

(4) (a) Disclosure may be made between licensees if the information disclosed is limited to that which is reasonably necessary:

(i) to detect or prevent criminal activity, fraud, material misrepresentation, or material nondisclosure in connection with insurance transactions; or

(ii) for either the disclosing or receiving licensee to perform its insurance function.

(b) A licensee receiving information pursuant to this subsection (4) may not further disclose the information unless otherwise permitted by this section.

(5) Disclosure may be made to a medical care institution, a medical professional, or the individual to whom the information pertains if that information is reasonably necessary for the following purposes:

(a) verifying insurance coverage or benefits;

(b) informing an individual of a medical problem of which the individual may not be aware;

(c) conducting an operations or services audit; or

(d) determining the reasonableness or necessity of medical services.

(6) Disclosure:

(a) may be made to an insurance regulatory authority;

(b) must be made as required by law; and

(c) must be or may be made to the commissioner as required or permitted by law.

(7) Disclosure may be made by a licensee or an insurance-support organization to a law enforcement or other government authority or to an insurance regulatory agency:

(a) to protect the interests of a licensee in preventing, investigating, or prosecuting the perpetration of fraud upon a licensee; ~~or~~

(b) if the licensee or insurance-support organization reasonably believes that illegal activities have been conducted by the individual; *or*

(c) *as provided in [section 1].*

(8) Disclosure that is limited to that which is reasonably necessary may be made as otherwise permitted or required by law.

(9) Disclosure that is limited to that which is reasonably necessary may be made in response to a facially valid administrative or judicial order, including a search warrant or subpoena.

(10) (a) Except as provided in subsection (10)(b), disclosure that is limited to that which is reasonably necessary may be made for the purpose of conducting actuarial or research studies if:

(i) an individual is not identified in any actuarial or research report;

(ii) materials allowing the individual to be identified are returned or destroyed as soon as they are no longer needed; and

(iii) the actuarial or research organization agrees not to further disclose the information without the individual's separate, written authorization.

(b) Disclosure of information may be made for:

(i) health research that is subject to the approval of an institutional review board and the requirements of federal law and regulations governing biomedical research; *or*

(ii) epidemiological or drug therapy outcomes research that requires information that has been made anonymous to protect the identity of the patient through coding or encryption.

(11) Disclosure may be made to a party or a representative of a party to a proposed sale, transfer, merger, or consolidation of all or part of the business of the licensee or insurance-support organization if:

(a) prior to the consummation of the sale, transfer, merger, or consolidation only information is disclosed that is reasonably necessary to enable the recipient to make business decisions about the purchase, transfer, merger, or consolidation; and

(b) the recipient agrees not to further disclose the information without the individual's separate, written authorization.

(12) (a) Disclosure that is limited to that which is reasonably necessary may be made to a licensee's affiliate as follows:

(i) to allow use of the information in connection with an audit of the licensee;

(ii) to enable a licensee to perform an insurance function; *or*

(iii) as allowed by 33-19-307.

(b) A licensee disclosing pursuant to this section must have a written agreement with the affiliate that the affiliate will not use or further disclose information received except to carry out the purposes set forth in subsection (12)(a) and that if further disclosure is necessary to meet those purposes, the disclosure will be made only to the licensee or to a person who agrees in writing to be bound by the same prohibition on use and disclosure. A disclosure allowed by 33-19-307 is governed by that section.



(13) Disclosure that is limited to that which is reasonably necessary may be made to an insurance-support organization to perform insurance-support services for the licensee. The insurance-support organization may redisclose the information to the extent necessary to provide its services to its member or subscriber licensees and other insurance-support organizations or as otherwise permitted by law, but not for a marketing purpose.

(14) Disclosure may be made to a group policyholder for the purpose of reporting claims experience or conducting an audit of the licensee's operations or services if the information disclosed is reasonably necessary for the group policyholder to conduct the review or audit and the group policyholder agrees not to further disclose the information without the individual's separate, written authorization. Medical record information disclosed pursuant to this subsection must be edited to prevent the identification of the applicant, policyholder, or certificate holder. Employer audits that are required by the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001, et seq., as amended, are not subject to the provisions of this subsection.

(15) Disclosure that is limited to that which is reasonably necessary may be made to a professional peer review organization for the purpose of reviewing the service or conduct of a medical care institution or medical professional if the professional peer review organization agrees not to further disclose the information without the individual's separate, written authorization.

(16) Disclosure that is limited to that which is reasonably necessary may be made to a governmental authority as required by federal or state law or for the purpose of determining the individual's eligibility for health benefits for which the governmental authority may be liable.

(17) Disclosure that is limited to that which is reasonably necessary may be made to a certificate holder or policyholder for the purpose of providing information regarding the status of an insurance transaction. Disclosure pursuant to this subsection may not be made to a group policyholder without a separate, written authorization from the individual.

(18) Disclosure may be made to a person contractually engaged to provide services to enable a licensee to perform an insurance function, or to perform an insurance function on behalf of a licensee, if the person agrees in writing that the person will not use or further disclose information obtained or developed pursuant to the engagement except to carry out the limited purpose of the engagement and that if further disclosure is necessary to perform the insurance function, that disclosure will be made only to the licensee or to a person who agrees in writing to be bound by the same prohibitions on use and disclosure.

(19) If a licensee has to disclose personal or privileged information in order to perform an insurance function and disclosure is not permitted under another exception in this section, disclosure may be made to a person other than a licensee if the disclosure is limited to that which is reasonably necessary to enable the person to perform services or an insurance function for the disclosing licensee and if the person is notified by the licensee that the person is prohibited from:

(a) using the information other than to carry out the limited purpose for which the information is disclosed; and

(b) disclosing the information other than to the licensee and as allowed in subsection (3).

(20) Disclosure may be made to a lienholder, mortgagee, assignee, lessor, or other person shown on the records of an insurance institution or insurance producer as having a legal interest in a policy of insurance if:

(a) medical record information is not disclosed; and

(b) the information disclosed is limited to that which is reasonably necessary to permit the person with a legal interest in the policy to protect that person's interests in that policy.

(21) Disclosure may be made to provide information to insurance rate advisory organizations, guaranty funds or agencies, agencies that are rating a licensee, persons that are assessing the licensee's compliance with industry standards, and the licensee's attorneys, accountants, and auditors if the disclosure is limited to that which is reasonably necessary to enable the person or entity to perform services or an insurance function for the disclosing licensee and if the person or entity is notified by the licensee that the person or entity is prohibited from using the information, other than to carry out the limited purpose for which the information is disclosed.

(22) Notwithstanding any other provision of this chapter, disclosure for a marketing purpose may be made only as allowed by 33-19-307.

(23) Nothing in this section may be construed to prevent the disclosure of personal information that is otherwise discoverable pursuant to the Montana Rules of Civil Procedure.

(24) The commissioner may adopt rules creating additional exceptions to disclosure restrictions for the purpose of allowing a licensee or insurance-support organization to carry out a necessary insurance function. The commissioner shall adopt rules establishing the methods that must be used by licensees to prevent identification as described in subsection (14)."

**Section 5.** Section 61-3-321, MCA, is amended to read:

**"61-3-321. Registration fees of vehicles and vessels — certain vehicles exempt from registration fees — disposition of fees.** (1) Except as otherwise provided in this section, registration fees must be paid upon registration or, if applicable, renewal of registration of motor vehicles, snowmobiles, watercraft, trailers, semitrailers, and pole trailers as provided in subsections (2) through ~~(19)~~ (20):

(2) Unless a light vehicle is permanently registered under 61-3-562, the annual registration fee for light vehicles, trucks and buses under 1 ton, and logging trucks less than 1 ton is as follows:

(a) if the vehicle is 4 or less years old, \$217;

(b) if the vehicle is 5 through 10 years old, \$87; and

(c) if the vehicle is 11 or more years old, \$28;

(3) Except as provided in subsection (14), the one-time registration fee based on the declared weight of a trailer, semitrailer, or pole trailer is as follows:

(a) if the declared weight is less than 6,000 pounds, \$61.25; or

(b) if the declared weight is 6,000 pounds or more, \$148.25.

(4) Except as provided in subsection (14), the one-time registration fee for motor vehicles owned and operated solely as collector's items pursuant to 61-3-411, based on the weight of the vehicle, is as follows:

(a) 2,850 pounds and over, \$10; and

(b) under 2,850 pounds, \$5.

(5) Except as provided in subsection (14), the one-time registration fee for off-highway vehicles other than a quadricycle or motorcycle is \$61.25.

(6) The annual registration fee for heavy trucks, buses, and logging trucks in excess of 1 ton is \$22.75.

(7) (a) The annual registration fee for a motor home, based on the age of the motor home, is as follows:

(i) less than 2 years old, \$282.50;

(ii) 2 years old and less than 5 years old, \$224.25;

(iii) 5 years old and less than 8 years old, \$132.50; and

(iv) 8 years old and older, \$97.50.

(b) The owner of a motor home that is 11 years old or older and that is subject to the registration fee under this section may permanently register the motor home upon payment of:

(i) a one-time registration fee of \$237.50; and

(ii) if applicable, five times the renewal fees for personalized license plates under 61-3-406.

(8) (a) Except as provided in subsection (14), the one-time registration fee for motorcycles and quadricycles registered for use on public highways is \$53.25, and the one-time registration fee for motorcycles and quadricycles registered for both off-road use and for use on the public highways is \$114.50.

(b) An additional fee of \$16 must be collected for the registration of each motorcycle or quadricycle as a safety fee, which must be deposited in the state motorcycle safety account provided for in 20-25-1002.

(9) Except as provided in subsection (14), the one-time registration fee for travel trailers, based on the length of the travel trailer, is as follows:

(a) under 16 feet in length, \$72; and

(b) 16 feet in length or longer, \$152.

(10) Except as provided in subsection (14), the one-time registration fee for a motorboat, sailboat, personal watercraft, or motorized pontoon required to be numbered under 23-2-512 is as follows:

(a) for a personal watercraft or a motorboat, sailboat, or motorized pontoon less than 16 feet in length, \$65.50;

(b) for a motorboat, sailboat, or motorized pontoon at least 16 feet in length but less than 19 feet in length, \$125.50; and

(c) for a motorboat, sailboat, or motorized pontoon 19 feet in length or longer, \$295.50.

(11) (a) Except as provided in subsections (11)(b) and (14), the one-time registration fee for a snowmobile is \$60.50.

(b) (i) A snowmobile that is licensed by a Montana business and is owned exclusively for the purpose of daily rental to customers is assessed:

(A) a fee of \$40.50 in the first year of registration; and

(B) if the business reregisters the snowmobile for a second year, a fee of \$20.

(ii) If the business reregisters the snowmobile for a third year, the snowmobile must be permanently registered and the business is assessed the registration fee imposed in subsection (11)(a).

(12) A fee of \$5 must be collected when a new set of standard license plates, a new single standard license plate, or a replacement set of special license plates required under 61-3-332 is issued. The \$5 fee imposed under this subsection does not apply when previously issued license plates are transferred under 61-3-335. All registration fees imposed under this section must be paid if the vehicle to which the plates are transferred is not currently registered.

(13) The provisions of this part with respect to the payment of registration fees do not apply to and are not binding upon motor vehicles, trailers, semitrailers, snowmobiles, watercraft, or tractors owned or controlled by the United States of America or any state, county, city, or special district, as defined in 18-8-202, or to a vehicle or vessel that meets the description of property exempt from taxation under 15-6-201(1)(a), (1)(c), (1)(d), (1)(e), (1)(f), (1)(g), (1)(i), (1)(j), (1)(l), or (1)(m), 15-6-203, or 15-6-215, except as provided in 61-3-520.

(14) Whenever ownership of a trailer, semitrailer, pole trailer, off-highway vehicle, motorcycle, quadricycle, travel trailer, motor home, motorboat, sailboat, personal watercraft, motorized pontoon, snowmobile, or motor vehicle owned and operated solely as a collector's item pursuant to 61-3-411 is transferred, the new owner shall title and register the vehicle or vessel as required by this chapter and pay the fees imposed under this section.

(15) A person eligible for a waiver under 61-3-460 is exempt from the fees required under this section.

(16) Except as otherwise provided in this section, revenue collected under this section must be deposited in the state general fund.

(17) The fees imposed by subsections (2) through (11) are not required to be paid by a dealer for the enumerated vehicles or vessels that constitute inventory of the dealership.

(18) (a) Unless a person exercises the option in subsection (18)(b), an additional fee of \$4 must be collected for each light vehicle registered under this part. This fee must be accounted for and transmitted separately from the registration fee. The fee must be deposited in an account in the state special revenue fund to be used for state parks, for fishing access sites, and for the operation of state-owned facilities. Of the \$4 fee, the department of fish, wildlife, and parks shall use \$3.50 for state parks, 25 cents for fishing access sites, and 25 cents for the operation of state-owned facilities at Virginia City and Nevada City.

(b) A person who registers a light vehicle may, at the time of annual registration, certify that the person does not intend to use the vehicle to visit state parks and fishing access sites and may make a written election not to pay the additional \$4 fee provided for in subsection (18)(a). If a written election is made, the fee may not be collected.

(19) For each light vehicle, trailer, semitrailer, pole trailer, heavy truck, motor home, motorcycle, quadricycle, and travel trailer subject to a registration fee under this section, an additional fee of \$5 must be collected and forwarded to the state for deposit in the account established in 44-1-504.

(20) (a) *Until December 31, 2011, for each light vehicle, trailer, semitrailer, pole trailer, heavy truck, motor home, motorcycle, quadricycle, and travel trailer subject to a registration fee under this section, an additional fee of \$1 must be collected and forwarded to the state for deposit in the online motor vehicle liability insurance verification account established in [section 3].*

(b) *Beginning January 1, 2012, for each light vehicle, trailer, semitrailer, pole trailer, heavy truck, motor home, motorcycle, quadricycle, and travel trailer subject to a registration fee under this section, an additional fee of 50 cents must be collected and forwarded to the state for deposit in the online motor vehicle liability insurance verification account established in [section 3].*

(21) This section does not apply to a motor vehicle, trailer, semitrailer, or pole trailer that is governed by 61-3-721.”

**Section 6.** Section 61-6-101, MCA, is amended to read:

**“61-6-101. Short title.** This part may be cited as the “Motor Vehicle ~~Safety-Responsibility Insurance Responsibility and Verification Act”.~~”

**Section 7.** Section 61-6-102, MCA, is amended to read:

**“61-6-102. Definitions.** As used in this part, unless the context clearly indicates a different meaning, the following definitions apply:

(1) *“Commercial automobile insurance coverage” means any coverage provided to an insured, regardless of number of vehicles or entities covered, under a commercial, garage, or truckers coverage form and rated from a commercial manual or rating rule. Vehicle type and ownership are not the primary factors in underwriting the coverage or rating the coverage. The rating may be subject to individual risk characteristics, including but not limited to experience rating, schedule rating, loss rating, or deductible rating.*

(2) *“Insurer” means an authorized insurer, as defined in 33-1-201, who issues or renews a motor vehicle liability policy.*

(1)(3) *“Judgment” means any judgment that has become final by expiration without appeal of the time within which an appeal might have been perfected or by final affirmation on appeal rendered by a court of competent jurisdiction of any state or of the United States upon a cause of action arising out of the ownership, maintenance, or use of any motor vehicle, 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 of property, or upon a cause of action on an agreement of settlement for damages.*

(2)(4) *“License” means ~~any~~ a driver’s license as defined in 61-1-101, temporary instruction permit, or temporary license issued under the laws of this state pertaining to the licensing of persons to operate motor vehicles.*

(5) *“Low-volume insurer” means an insurer that provides motor vehicle liability policies for fewer than 500 vehicles in this state.*

(6) (a) *“Motor vehicle liability policy” means a policy of insurance issued or renewed by an insurer to a person who owns or operates a motor vehicle that meets or exceeds the minimum coverage limits under 61-6-103, including a policy certified as provided in 61-6-133 as proof of financial responsibility.*

(b) *A certificate filed for a nonresident as proof of financial responsibility under 61-6-134 must be treated as a motor vehicle liability policy under this part.*

(3)(7) *“Nonresident’s operating privilege” means the privilege conferred upon a nonresident by the laws of this state pertaining to the operation by the nonresident of a motor vehicle or the use of a motor vehicle owned by the nonresident in this state.*

(4)(8) *“Person” means every natural person, firm, partnership, association, or corporation.*

~~(5)~~(9) "Proof of financial responsibility" means proof of ability to respond in damages for liability on account of accidents occurring subsequent to the effective date of the proof of financial responsibility, arising out of the ownership, maintenance, or use of a motor vehicle.

~~(6)~~(10) "State" means any state, territory, or possession of the United States, the District of Columbia, or any province of the Dominion of Canada.

(11) "Suspension" means the withdrawal by action of the department of a motor vehicle's registration, as defined in 61-1-101, for a period of time prescribed by department rule.

(12) "System" means the online motor vehicle liability insurance verification system created in [section 1]."

**Section 8.** Section 61-6-103, MCA, is amended to read:

**"61-6-103. Motor vehicle liability policy defined minimum limits — other requirements.** (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 as insured.

~~(2)~~ The owner's policy of liability insurance A motor vehicle liability policy must:

(a) designate by explicit description or by appropriate reference all motor vehicles with respect to which the coverage is thereby to be granted; 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 the 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)~~(2) 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 operator by law for damages arising out of the use by him the operator of any motor vehicle not owned by him the operator, within the same territorial limits and subject to the same limits of liability as that are set forth above in subsection (1) with respect to the operator's policy of liability insurance.

~~(4)~~(3) 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 for the policy, 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 bodily injury and death or property damage, or both, and is subject to all the provisions of this part.

~~(5)~~(4) 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)~~(5) 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~~ behalf *of the insured* 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)~~ (1)(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)~~(6) 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)~~(7) 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~~ *is* required by this section.

~~(9)~~(8) ~~Any~~ A 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)~~(9) ~~Any~~ A motor vehicle liability policy may provide for the prorating of the insurance ~~thereunder~~ *under the policy* with other valid and collectible insurance.

~~(11)~~(10) 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)~~(11) ~~Any~~ A binder issued pending the issuance of a motor vehicle liability policy fulfills the requirements for ~~such~~ a policy.

~~(13)~~(12) A reduced limits endorsement may not be issued by ~~any~~ a company to be attached to ~~any~~ a policy issued in compliance with this section.”

**Section 9.** Section 61-6-105, MCA, is amended to read:

**“61-6-105. Department to administer law and make rules.** (1) The department shall administer and enforce the provisions of this part and may make rules necessary for its administration of the online motor vehicle liability insurance verification system.

(2) *The rules must:*

(a) *establish standards and procedures for accessing the system by authorized personnel of the department, the courts, law enforcement personnel, and any other entities authorized by the department that are consistent with specifications and standards of the insurance industry committee on motor vehicle administration and other applicable industry standards;*

(b) *provide for the suspension of a vehicle’s registration if:*

(i) *a person fails to respond to a written inquiry from the department or its designee concerning the insurance status of a vehicle;*

(ii) *a person misrepresents or provides false information to the department or its designee regarding the operational status or use of a vehicle for which liability insurance is mandatory;*

(iii) *the department has reason to believe that a vehicle owner is not complying with the mandatory liability insurance provisions of 61-6-301; or*

(iv) *the department receives a report from a court that a person has been convicted of a violation of 61-6-301 or 61-6-302 and the surrender of the vehicle registration receipt and license plates under 61-6-304 has been ordered;*

(c) *prohibit the reinstatement of a vehicle’s registration and the new registration of a vehicle unless the applicable reinstatement fees have been paid;*

(d) *set a fee for the reinstatement of a vehicle’s registration following a suspension imposed by the department. The fee may not exceed \$100 and is in addition to any other fine or penalty prescribed by law.*

(e) *provide for periodic insurance data file transfers from insurers under specifications and standards set forth in [section 1] to identify vehicles that are not covered by an insurance policy and to monitor ongoing compliance with mandatory vehicle liability insurance requirements; and*

(f) ~~may provide for hearings upon request of persons~~ *a hearing for a person aggrieved by orders or acts of a suspension order issued by the department under the provisions of this part.*

(3) *The department may adopt additional rules to:*

(a) *assist authorized users in interpreting responses received from the system and determining the appropriate action to be taken as a result of a response; and*

(b) *otherwise clarify system operations and business rules.”*

**Section 10.** Section 61-6-302, MCA, is amended to read:

**“61-6-302. Proof of compliance.** (1) The registration receipt required by 61-3-322 must contain a statement that unless the vehicle is eligible for an exemption under 61-6-303, it is unlawful to operate the vehicle without a valid motor vehicle liability insurance policy, a certificate of self-insurance, or a



posted indemnity bond, as required by 61-6-301. *If the card is issued under a commercial automobile insurance policy or a self-insured fleet, the card must indicate the status as "commercially insured" or "fleet".*

(2) Each person shall carry in a motor vehicle being operated by the person an insurance card approved by the department but issued by the insurance carrier to the motor vehicle owner as proof of compliance with 61-6-301. A motor vehicle operator shall exhibit the insurance card 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. A person commits an offense under this subsection if the person fails to carry the insurance card in a motor vehicle or fails to exhibit the insurance card upon demand of a person specified in this subsection. ~~However, a person charged with violating this subsection may not be convicted if~~

(3) *Beginning July 1, 2011, a person charged with violating subsection (2) may not be convicted if:*

(a) *the arresting officer or another person authorized to access information from the online verification system under [section 2] submits to the system a request that provides proof of insurance valid at the time of arrest; or*

(b) *if the system under [section 1] is not available, the person produces in court or the office of the arresting officer proof of insurance valid at the time of arrest.*

(4) *In lieu of charging an operator who is not the owner of the vehicle with violating subsection (2), the officer may issue a complaint and notice to appear charging the owner with a violation of 61-6-301 and serve the complaint and notice to appear on the owner of the vehicle:*

(a) *personally; or*

(b) *by certified mail, return receipt requested, at the address for the owner listed on the registration receipt for the vehicle or, following query through available law enforcement systems, at the address maintained for the vehicle's owner by the jurisdiction in which the vehicle is titled and registered, or both."*

**Section 11. Repealer.** Section 61-6-106, MCA, is repealed.

**Section 12. Codification instruction.** (1) [Sections 1 and 3] are intended to be codified as an integral part of Title 61, chapter 6, part 1, and the provisions of Title 61, chapter 6, part 1, apply to [sections 1 and 3].

(2) [Section 2] is intended to be codified as an integral part of Title 61, chapter 6, part 3, and the provisions of Title 61, chapter 6, part 3, apply to [section 2].

**Section 13. Effective date.** [This act] is effective January 1, 2010.

Approved April 28, 2009

## CHAPTER NO. 388

[HB 634]

AN ACT 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.

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

**Section 1. Transportation of individuals for involuntary commitment or treatment to state hospital.** (1) The department shall develop and implement or contract for services to provide transportation to and from the state hospital for individuals who need to be involuntarily committed to or treated by the state hospital pursuant to the provisions contained in Title 53, chapter 21. A county may choose to not use the services.

(2) (a) Transportation may be provided only for those individuals who have no personal means of transportation to or from the state hospital.

(b) The provisions of this section do not apply to transportation costs of individuals who are voluntarily admitted to a mental health facility under Title 53, chapter 21, or of individuals who are to be admitted to the state hospital pursuant to Title 46.

(3) The transportation service provided for in subsection (1) must include provisions for:

(a) the procurement and use of vehicles suited for the purposes of the service;

(b) the qualifications, training, and safety of individuals providing the service and the safety and dignity of individuals transported by the service;

(c) a written policy for the use of mechanical or medical restraints that provides for the restraint of individuals being transported only for those situations in which the safety of the individuals being transported or providing the transportation clearly requires the use of restraints;

(d) discharge planning that is coordinated with the transportation of individuals who are to be released from the state hospital; and

(e) the payment by a county of fees, commensurate with costs, for services provided:

(i) by the department when the county is seeking the involuntary commitment or treatment of the individual at the state hospital. The fees must be deposited in the account provided for in [section 4].

(ii) by a county containing a regional medical center if it provides for transportation to the state hospital under this section.

(4) If restraints are used while an individual is being transported to the state hospital, the individual must be given a physical examination upon arrival at the state hospital to determine whether any injury to the individual has occurred during the period of transportation.

(5) If an individual cannot for any reason be transported by the service provided pursuant to this section or if a county chooses to not use the service, a sheriff may be used by the county seeking the involuntary commitment or treatment of the individual under the provisions contained in 7-32-2144.

(6) The department shall adopt rules to implement this section.

**Section 2.** Section 7-32-2144, MCA, is amended to read:

**“7-32-2144. Mileage and expenses of sheriff for delivery of prisoners and mentally ill persons.** (1) *A Subject to the provisions of [section 1], a sheriff delivering prisoners at the state prison or a juvenile correctional facility or mentally ill persons at the Montana state hospital or other mental health*

facility is entitled to actual expenses necessarily incurred in their transportation. The expenses include the expenses of the sheriff in going to and returning from the institution. The sheriff shall take vouchers for every item of expense. The amount of these expenses, as shown by the vouchers when presented by the sheriff, must be audited and allowed by the governor or by the board of county commissioners, as the case may be, and paid out of the same money and in the same manner as are other expense claims against the state or counties. No other compensation may be received by sheriffs for the expenses.

(2) Unless otherwise provided, while in the discharge of civil and criminal duties, the sheriff is entitled to a mileage allowance, as provided in 2-18-503. The sheriff must also be reimbursed for actual and necessarily incurred expenses for transporting, lodging, and feeding persons ordered by the court, as provided in 2-18-501 through 2-18-503. The county is not liable for and the board of county commissioners may not pay for any claim of the sheriff or other officer for any other expenses incurred in travel or for expenses in cases for which mileage is allowed under this section."

**Section 3.** Section 53-21-132, MCA, is amended to read:

**"53-21-132. Cost of examination and commitment.** (1) *(a)* The Except as provided in subsection (1)(b), the cost of psychiatric precommitment examination, detention, treatment, and ~~taking transportation of~~ a person who is suffering from a mental disorder and who requires commitment to a mental health facility must be paid pursuant to subsection (2)(a).

*(b) Transportation costs to the state hospital for involuntary commitment or treatment must be covered as provided in [section 1].*

*(c) The A sheriff transporting persons pursuant to 7-32-2144 must be allowed the actual expenses incurred in taking a committed person to the facility, as provided by 7-32-2144.*

(2) (a) The costs of precommitment psychiatric detention, precommitment psychiatric examination, and precommitment psychiatric treatment of the respondent and any cost associated with testimony during an involuntary commitment proceeding by a professional person acting pursuant to 53-21-123 must be billed to the following entities in the listed order of priority:

(i) the respondent, the parent or guardian of a respondent who is a minor, or the respondent's private insurance carrier, if any;

(ii) a public assistance program, such as medicaid, for a qualifying respondent; or

(iii) the county of residence of the respondent in an amount not to exceed the amount paid for the service by a public assistance program.

(b) The county of residence is not required to pay costs of treatment and custody of the respondent after the respondent is committed pursuant to this part. Precommitment costs related to the use of two-way electronic audio-video communication in the county of commitment must be paid by the county in which the person resides at the time that the person is committed. The costs of the use of two-way electronic audio-video communication from the state hospital for a patient who is under a voluntary or involuntary commitment to the state hospital must be paid by the state. The fact that a person is examined, hospitalized, or receives medical, psychological, or other mental health treatment pursuant to this part does not relieve a third party from a contractual obligation to pay for the cost of the examination, hospitalization, or treatment.

(3) The adult respondent or the parent or guardian of a minor shall pay the cost of treatment and custody ordered pursuant to 53-21-127, except to the extent that the adult or minor is eligible for public mental health program funds.

(4) A community service provider that is a private, nonpublic provider may not be required to treat or treat without compensation a person who has been committed.”

**Section 4. Transportation for involuntary commitment or treatment account.** There is a transportation for involuntary commitment or treatment account in the state special revenue fund. The account must be used to lower transportation costs for counties seeking the involuntary commitment or treatment of an individual. Money is payable into the account as provided in [section 1]. Income and earnings on the account must be deposited in the account. The account must be administered by the department.

**Section 5. Report to legislature.** (1) The department of public health and human services shall provide regular interim reports on the status of the program and program expenditures to the legislative finance committee and the children, families, health, and human services interim committee.

(2) The department shall report to the legislature, as provided for in 5-11-210, the following information for the program established in [section 1] for each year of the biennium:

- (a) the number of individuals transported by the program, by county;
- (b) the costs to the department for the program;
- (c) the amount of fees paid by counties to the state;
- (d) the amount, if any, collected from third-party payors for transportation costs; and
- (e) the number of times restraints were used when transporting individuals and the reasons why restraints were used.

**Section 6. Appropriation.** There is appropriated \$750,000 for each fiscal year of the biennium beginning July 1, 2009, from the state special revenue account created in [section 4] to the department for the purposes described in [section 1].

**Section 7. Codification instruction.** [Sections 1 and 4] are intended to be codified as an integral part of Title 53, chapter 21, and the provisions of Title 53, chapter 21, apply to [sections 1 and 4].

**Section 8. Effective date.** [This act] is effective July 1, 2009.

**Section 9. Termination.** [This act] terminates June 30, 2011.

Approved April 28, 2009

## CHAPTER NO. 389

[HB 636]

AN ACT 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.

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

**Section 1. Capital gain exclusion from sale of mobile home park. (1)**

The following amount of the gain recognized from the sale or exchange of a mobile home park as defined in 70-33-103 is excluded from adjusted gross income or gross income under chapter 30 or 31:

(a) 100% of the recognized gain for a mobile home park with 50 or fewer lots;  
or

(b) 50% of the recognized gain for a mobile home park with more than 50 lots.

(2) To qualify for the exclusion under this section, the sale must be made to:

(a) a tenants' association or a mobile home park residents' association;

(b) a nonprofit organization under section 501(c)(3) of the Internal Revenue Code that purchases a mobile home park on behalf of tenants' association or mobile home park residents' association;

(c) a county housing authority created under Title 7, chapter 15, part 21; or

(d) a municipal housing authority created under Title 7, chapter 15, parts 44 and 45.

(3) A corporation, an individual, a partnership, an S. corporation, or a disregarded entity qualifies for the exclusion under this section. If the exclusion allowed under this section is taken by a partnership, an S. corporation, or a disregarded entity, the exclusion must be attributed to shareholders, partners, or other owners, using the same proportion used to report the partnership's, S. corporation's, or disregarded entity's income or loss for Montana income tax purposes.

(4) For the purpose of this section, "tenants' association" or "mobile home park residents' association" means a group of six or more tenants who reside in a mobile home park, have organized for the purpose of eventual purchase of the mobile home park, have established bylaws of the association, and have obtained the approval by vote of at least 51% of the residents of the mobile home park to purchase the mobile home park.

(5) Property subject to an income or corporate tax exclusion under this section is not eligible for a property tax exemption under Title 15, chapter 6, part 2, while the property is used as a mobile home park.

**Section 2.** Section 15-30-111, MCA, is amended to read:

**"15-30-111. Adjusted gross income.** (1) Adjusted gross income is the taxpayer's federal adjusted gross income as defined in section 62 of the Internal Revenue Code, 26 U.S.C. 62, and in addition includes the following:

(a) (i) interest received on obligations of another state or territory or county, municipality, district, or other political subdivision of another state, except to the extent that the interest is exempt from taxation by Montana under federal law;

(ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, 26 U.S.C. 852(b)(5), that are attributable to the interest referred to in subsection (1)(a)(i);

(b) refunds received of federal income tax, to the extent that the deduction of the tax resulted in a reduction of Montana income tax liability;

(c) that portion of a shareholder's income under subchapter S. of Chapter 1 of the Internal Revenue Code that has been reduced by any federal taxes paid by the subchapter S. corporation on the income;

(d) depreciation or amortization taken on a title plant as defined in 33-25-105;

(e) the recovery during the tax year of an amount deducted in any prior tax year to the extent that the amount recovered reduced the taxpayer's Montana income tax in the year deducted;

(f) if the state taxable distribution of an estate or trust is greater than the federal taxable distribution of the same estate or trust, the difference between the state taxable distribution and the federal taxable distribution of the same estate or trust for the same tax period; and

(g) except for exempt-interest dividends described in subsection (2)(a)(ii), for tax years commencing after December 31, 2002, the amount of any dividend to the extent that the dividend is not included in federal adjusted gross income.

(2) Notwithstanding the provisions of the Internal Revenue Code, adjusted gross income does not include the following, which are exempt from taxation under this chapter:

(a) (i) all interest income from obligations of the United States government, the state of Montana, or a county, municipality, district, or other political subdivision of the state and any other interest income that is exempt from taxation by Montana under federal law;

(ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, 26 U.S.C. 852(b)(5), that are attributable to the interest referred to in subsection (2)(a)(i);

(b) interest income earned by a taxpayer who is 65 years of age or older in a tax year up to and including \$800 for a taxpayer filing a separate return and \$1,600 for each joint return;

(c) (i) except as provided in subsection (2)(c)(ii), the first \$3,600 of all pension and annuity income received as defined in 15-30-101;

(ii) for pension and annuity income described under subsection (2)(c)(i), as follows:

(A) each taxpayer filing singly, head of household, or married filing separately shall reduce the total amount of the exclusion provided in subsection (2)(c)(i) by \$2 for every \$1 of federal adjusted gross income in excess of \$30,000 as shown on the taxpayer's return;

(B) in the case of married taxpayers filing jointly, if both taxpayers are receiving pension or annuity income or if only one taxpayer is receiving pension or annuity income, the exclusion claimed as provided in subsection (2)(c)(i) must be reduced by \$2 for every \$1 of federal adjusted gross income in excess of \$30,000 as shown on their joint return;

(d) all Montana income tax refunds or tax refund credits;

(e) gain required to be recognized by a liquidating corporation under 15-31-113(1)(a)(ii);

(f) all tips or gratuities that are covered by section 3402(k) or service charges that are covered by section 3401 of the Internal Revenue Code of 1954, 26 U.S.C. 3402(k) or 3401, as amended and applicable on January 1, 1983, received by a person for services rendered to patrons of premises licensed to provide food, beverage, or lodging;

(g) all benefits received under the workers' compensation laws;

(h) all health insurance premiums paid by an employer for an employee if attributed as income to the employee under federal law;

(i) all money received because of a settlement agreement or judgment in a lawsuit brought against a manufacturer or distributor of "agent orange" for damages resulting from exposure to "agent orange";

(j) principal and income in a medical care savings account established in accordance with 15-61-201 or withdrawn from an account for eligible medical expenses, as defined in 15-61-102, of the taxpayer or a dependent of the taxpayer or for the long-term care of the taxpayer or a dependent of the taxpayer;

(k) principal and income in a first-time home buyer savings account established in accordance with 15-63-201 or withdrawn from an account for eligible costs, as provided in 15-63-202(7), for the first-time purchase of a single-family residence;

(l) contributions withdrawn from a family education savings account or earnings withdrawn from a family education savings account for qualified higher education expenses, as defined in 15-62-103, of a designated beneficiary;

(m) the recovery during the tax year of any amount deducted in any prior tax year to the extent that the recovered amount did not reduce the taxpayer's Montana income tax in the year deducted;

(n) if the federal taxable distribution of an estate or trust is greater than the state taxable distribution of the same estate or trust, the difference between the federal taxable distribution and the state taxable distribution of the same estate or trust for the same tax period;

(o) deposits, not exceeding the amount set forth in 15-30-603, deposited in a Montana farm and ranch risk management account, as provided in 15-30-601 through 15-30-605, in any tax year for which a deduction is not provided for federal income tax purposes;

(p) income of a dependent child that is included in the taxpayer's federal adjusted gross income pursuant to the Internal Revenue Code. The child is required to file a Montana personal income tax return if the child and taxpayer meet the filing requirements in 15-30-142.

(q) principal and income deposited in a health care expense trust account, as defined in 2-18-1303, or withdrawn from the account for payment of qualified health care expenses as defined in 2-18-1303; ~~and~~

(r) that part of the refundable credit provided in 33-22-2006 that reduces Montana tax below zero; *and*

*(s) the amount of the gain recognized from the sale or exchange of a mobile home park as provided in [section 1].*

(3) A shareholder of a DISC that is exempt from the corporation license tax under 15-31-102(1)(l) shall include in the shareholder's adjusted gross income the earnings and profits of the DISC in the same manner as provided by section 995 of the Internal Revenue Code, 26 U.S.C. 995, for all periods for which the DISC election is effective.

(4) A taxpayer who, in determining federal adjusted gross income, has reduced the taxpayer's business deductions by an amount for wages and salaries for which a federal tax credit was elected under sections 38 and 51(a) of the Internal Revenue Code, 26 U.S.C. 38 and 51(a), is allowed to deduct the amount of the wages and salaries paid regardless of the credit taken. The deduction must be made in the year that the wages and salaries were used to compute the credit. In the case of a partnership or small business corporation, the deduction must be made to determine the amount of income or loss of the partnership or small business corporation.

(5) Married taxpayers filing a joint federal return who are required to include part of their social security benefits or part of their tier 1 railroad retirement benefits in federal adjusted gross income may split the federal base used in calculation of federal taxable social security benefits or federal taxable tier 1 railroad retirement benefits when they file separate Montana income tax returns. The federal base must be split equally on the Montana return.

(6) Married taxpayers filing a joint federal return who are allowed a capital loss deduction under section 1211 of the Internal Revenue Code, 26 U.S.C. 1211, and who file separate Montana income tax returns may claim the same amount of the capital loss deduction that is allowed on the federal return. If the allowable capital loss is clearly attributable to one spouse, the loss must be shown on that spouse's return; otherwise, the loss must be split equally on each return.

(7) In the case of passive and rental income losses, married taxpayers filing a joint federal return and who file separate Montana income tax returns are not required to recompute allowable passive losses according to the federal passive activity rules for married taxpayers filing separately under section 469 of the Internal Revenue Code, 26 U.S.C. 469. If the allowable passive loss is clearly attributable to one spouse, the loss must be shown on that spouse's return; otherwise, the loss must be split equally on each return.

(8) Married taxpayers filing a joint federal return in which one or both of the taxpayers are allowed a deduction for an individual retirement contribution under section 219 of the Internal Revenue Code, 26 U.S.C. 219, and who file separate Montana income tax returns may claim the same amount of the deduction that is allowed on the federal return. The deduction must be attributed to the spouse who made the contribution.

(9) (a) Married taxpayers filing a joint federal return who are allowed a deduction for interest paid for a qualified education loan under section 221 of the Internal Revenue Code, 26 U.S.C. 221, and who file separate Montana income tax returns may claim the same amount of the deduction that is allowed on the federal return. The deduction may be split equally on each return or in proportion to each taxpayer's share of federal adjusted gross income.

(b) Married taxpayers filing a joint federal return who are allowed a deduction for qualified tuition and related expenses under section 222 of the Internal Revenue Code, 26 U.S.C. 222, and who file separate Montana income tax returns may claim the same amount of the deduction that is allowed on the federal return. The deduction may be split equally on each return or in proportion to each taxpayer's share of federal adjusted gross income.

(10) A taxpayer receiving retirement disability benefits who has not attained 65 years of age by the end of the tax year and who has retired as permanently and totally disabled may exclude from adjusted gross income up to \$100 a week received as wages or payments in lieu of wages for a period during which the employee is absent from work due to the disability. If the adjusted gross income before this exclusion exceeds \$15,000, the excess reduces the exclusion by an equal amount. This limitation affects the amount of exclusion, but not the taxpayer's eligibility for the exclusion. If eligible, married individuals shall apply the exclusion separately, but the limitation for income exceeding \$15,000 is determined with respect to the spouses on their combined adjusted gross income. For the purpose of this subsection, "permanently and totally disabled" means unable to engage in any substantial gainful activity by reason of any medically determined physical or mental impairment lasting or expected to last at least 12 months.



(11) An individual who contributes to one or more accounts established under the Montana family education savings program may reduce adjusted gross income by the lesser of \$3,000 or the amount of the contribution. In the case of married taxpayers, each spouse is entitled to a reduction, not in excess of \$3,000, for the spouses' contributions to the accounts. Spouses may jointly elect to treat half of the total contributions made by the spouses as being made by each spouse. The reduction in adjusted gross income under this subsection applies only with respect to contributions to an account of which the account owner, as defined in 15-62-103, is the taxpayer, the taxpayer's spouse, or the taxpayer's child or stepchild if the taxpayer's child or stepchild is a Montana resident. The provisions of subsection (1)(e) do not apply with respect to withdrawals of contributions that reduced adjusted gross income.

(12) (a) A taxpayer may exclude the amount of the loan payment received pursuant to subsection (12)(a)(iv), not to exceed \$5,000, from the taxpayer's adjusted gross income if the taxpayer:

(i) is a health care professional licensed in Montana as provided in Title 37;

(ii) is serving a significant portion of a designated geographic area, special population, or facility population in a federally designated health professional shortage area, a medically underserved area or population, or a federal nursing shortage county as determined by the secretary of health and human services or by the governor;

(iii) has had a student loan incurred as a result of health-related education; and

(iv) has received a loan payment during the tax year made on the taxpayer's behalf by a loan repayment program described in subsection (12)(b) as an incentive to practice in Montana.

(b) For the purposes of subsection (12)(a), a loan repayment program includes a federal, state, or qualified private program. A qualified private loan repayment program includes a licensed health care facility, as defined in 50-5-101, that makes student loan payments on behalf of the person who is employed by the facility as a licensed health care professional. (Subsection (2)(f) terminates on occurrence of contingency—sec. 3, Ch. 634, L. 1983; subsection (2)(o) terminates on occurrence of contingency—sec. 9, Ch. 262, L. 2001.)”

**Section 3. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 15, chapter 31, part 1, and the provisions of Title 15, chapter 31, part 1, apply to [section 1].

**Section 4. Effective date.** [This act] is effective on passage and approval.

**Section 5. Retroactive applicability.** [This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2008.

Approved April 28, 2009

## CHAPTER NO. 390

[HB 655]

AN ACT 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.

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

**Section 1. Short title.** [Sections 1 through 4] may be referred to as the “Horse Owner Amnesty Act”.

**Section 2. Horse owner amnesty for horse transferred to department at licensed livestock market — fees.** (1) A horse owner may surrender ownership of a horse to the department at a licensed livestock market, as defined in 81-8-213, if the owner is unable to provide food and water of sufficient quantity and quality to sustain the animal’s normal health.

(2) The owner shall pay to the department a fee to be set by rule by the department.

(3) Except as provided in subsections (4) and (5), the department shall sell the horse at a public auction.

(4) A licensed veterinarian may euthanize a horse if the veterinarian determines it to be medically necessary after an inspection of the horse.

(5) The department may allow a surrendered horse to be adopted if a suitable placement can be made and after payment of:

(a) a fee to be set by the department by rule; and

(b) the costs incurred by the department or the public livestock market to maintain the horse.

(6) The fees imposed and the proceeds collected under subsections (2), (3), and (5) must be deposited in the special revenue account provided for in [section 3].

(7) A person surrendering a horse to the department under the provisions of this section may not be charged with or prosecuted for cruelty towards animals pursuant to 45-8-211 or 45-8-217.

**Section 3. Horse owner amnesty special revenue account.** (1) There is a horse owner amnesty account in the state special revenue fund. Money must be deposited in the account pursuant to [section 1(6)] and subsection (2) of this section.

(2) Money received by the state in the form of gifts, grants, reimbursements, or allocations from any source to be used for the purposes of defraying the costs of [sections 1 through 4] must be deposited in the account.

(3) The money in the account is statutorily appropriated, as provided in 17-7-502, to the department of livestock, which shall use the funds to defray the costs of [sections 1 through 4].

**Section 4. Rulemaking.** The department may adopt rules to administer [sections 1 through 4], including but not limited to rules to:

(1) set fees for horse surrender and adoption;

(2) determine what, if any, proof of financial hardship may be required before an owner may surrender a horse;

(3) create procedures for the adoption of surrendered horses;

(4) reimburse licensed livestock markets for expenses incurred in the upkeep of surrendered horses; and

(5) allow a person who has surrendered a horse to buy the horse back if the person's financial circumstances change and the horse has not been sold or adopted.

**Section 5.** Section 17-7-502, MCA, is amended to read:

**“17-7-502. Statutory appropriations — definition — requisites for validity.** (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-407; 5-13-403; 7-4-2502; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-23-706; 15-31-906; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-369; 15-70-601; 16-11-509; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-4-105; 23-4-202; 23-4-204; 23-4-302; 23-4-304; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 41-5-2011; 42-2-105; 44-1-504; 44-12-206; 44-13-102; 50-4-623; 53-1-109; 53-6-703; 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-150; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-5-510; 80-11-518; *section 3*; 82-11-161; 87-1-513; 90-1-115; 90-1-205; 90-3-1003; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to 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 have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 3 and 6, Ch. 481, L. 2003, the inclusion of 15-35-108 terminates June 30, 2010; pursuant to sec. 17, Ch. 593, L. 2005, the inclusion of 15-31-906 terminates January 1, 2010; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; and pursuant to sec. 6, Ch. 2, Sp. L. September 2007, the inclusion of 76-13-150 terminates June 30, 2009.)”

**Section 6. Codification instruction.** [Sections 1 through 3] are intended to be codified as an integral part of Title 81, and the provisions of Title 81 apply to [sections 1 through 3].

Approved April 28, 2009

## CHAPTER NO. 391

[HB 656]

AN ACT 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.

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

**Section 1.** Section 16-2-101, MCA, is amended to read:

**“16-2-101. Establishment and closure of agency liquor stores — agency franchise agreement — kinds and prices of liquor.** (1) The department shall enter into agency franchise agreements to operate agency liquor stores as the department finds feasible for the wholesale and retail sale of liquor.

(2) (a) The department may from time to time fix the posted prices at which the various classes, varieties, and brands of liquor may be sold, and the posted prices must be the same at all agency liquor stores.

(b) (i) The department shall supply from the state liquor warehouse to agency liquor stores the various classes, varieties, and brands of liquor for resale at the state posted price to persons who hold liquor licenses and to all other persons at the retail price established by the agent.

(ii) (A) According to the ordering and delivery schedule set by the department, an agency liquor store may place a liquor order with the department at its state liquor warehouse in the manner to be established by the department.

(B) The agency liquor store's purchase price is the department's posted price less the agency liquor store's commission rate and less the agency liquor store's weighted average discount ratio. For purposes of this subsection (2)(b)(ii)(B), for agency liquor stores or employee-operated state liquor stores that were operating on June 30, 1994, the weighted average discount ratio is the ratio between an agency liquor store's or the employee-operated state liquor store's full case discount sales divided by the agency liquor store's or employee-operated state liquor store's gross sales, based on fiscal year 1994 reported sales, times the state discount rate for case lot sales, as provided in 16-2-201, divided by the state discount rate for full case lot sales in effect on June 30, 1994. For all other stores that are placed in service after June 30, 1994, the weighted average discount ratio is the average ratio in fiscal year 1994 for similar sized stores for 1 year of operation. The weighted average discount ratio must be computed on the store's first 12 months of operation.

(C) All liquor purchased from the state liquor warehouse by an agency liquor store must be paid for within 60 days of the date on which the department invoices the liquor to the agency liquor store.

(c) An agency liquor store may sell table wine at retail for off-premises consumption.

(3) Agency liquor stores may not be located in or adjacent to grocery stores in communities with populations over 3,000.

(4) (a) Agency liquor stores must receive commissions payable as follows:

~~(i)~~ ~~(i)~~(A) a 10% commission for agencies in communities with less than 3,000 in population, unless adjusted pursuant to subsection (6); or

~~(ii)~~(B) a commission established by competitive bidding unless adjusted pursuant to subsection (6) for agencies in communities with 3,000 or more in population; plus

~~(b)~~(i) for agency liquor stores operating under a renewed franchise agreement or that have been operated for at least 3 years under an original franchise agreement, a percentage based upon the total annual dollar volume of sales in the previous fiscal year, as follows:

~~(i)~~(A) for agency liquor stores with a volume of sales of ~~\$500,000~~ \$560,000 or more, 0.875% beginning July 1, ~~2004~~ 2009;

~~(ii)~~(B) for agency liquor stores with a volume of sales of less than ~~\$500,000~~ \$560,000, 1.5% beginning July 1, ~~2004~~ 2009; or

~~(iii)~~(C) for a city with more than one agency liquor store, in lieu of the addition to a commission increase provided in subsection ~~(4)(b)(i)~~ (4)(a)(i)(A) or ~~(4)(b)(ii)~~ (4)(a)(i)(B), for each agency liquor store in the city, an addition to its commission rate equal to the increase granted the agency liquor store with the lowest commission rate.

(b) *The department shall by April 1 of each year determine the dollar values of sales volumes in subsections (4)(a)(i)(A) and (4)(a)(i)(B) by using an inflation factor based on the change in the cost of liquor to agency liquor stores during the prior calendar year. The department shall establish the method of determining the inflation factor by rule using a liquor-specific base such as the annual change in the cost per case of the 25 items with the highest sales volume for a calendar year or another appropriate method of measuring the change in liquor prices.*

(5) An agency franchise agreement must:

(a) be effective for a 10-year period and must be renewed at the existing commission rate for additional 10-year periods if the requirements of the agency franchise agreement have been satisfactorily performed;

(b) require the agent to maintain comprehensive general liability insurance and liquor liability insurance throughout the term of the agency franchise agreement in an amount established by the department of administration. The insurance policy must:

(i) declare the department as an additional insured; and

(ii) hold the state harmless and agree to defend and indemnify the state in a cause of action arising from or in connection with the agent's negligent acts or activities in the execution and performance of the agency franchise agreement.

(c) provide that upon termination by the department for cause or upon mutual termination, the agent is liable for any outstanding liquor purchase invoices. If payment is not made within the appropriate time, the department may immediately repossess all liquor inventory, wherever located.

(d) specify the reasonable service and space requirements that the agent will provide throughout the term of the agency franchise agreement.

(6) (a) The commission percentage that the department pays the agent under subsection (4)(a) may be reviewed every 3 years at the request of either party. If the agent concurs, the department may adjust the commission percentage to be paid during the remaining term of the agency franchise agreement or until the next time the commission percentage is reviewed, if that is sooner than the term of the agency franchise agreement, to a commission percentage that is equal to the average commission percentage being paid agents with similar sales volumes if:

(i) the agent's commission percentage is less than the average; and

(ii) all the requirements of the agency franchise agreement have been satisfactorily performed.

(b) The adjusted commission percentage determined under subsection (6)(a) may be greater than the average commission paid agents with similar sales volume:

(i) if the agent demonstrates that:

(A) the agent has experienced cost increases that are beyond the agent's control, including but not limited to increases in the federally established minimum wage or escalation in prevailing rent; and

(B) the average commission percentage is insufficient to yield net income commensurate with net income experienced before the cost increases occurred; and

(ii) if the department demonstrates that it is unable to indicate adjustments in the requirements specified in the agent's franchise agreement that will eliminate the impact of cost increases.

(7) The liability insurance requirement may be reviewed every 3 years at the request of either the agent or the department. If the agent concurs, the department may adjust the requirements to be effective during the remaining term of the agency franchise agreement if the adjustments adequately protect the state from risks associated with the agent's negligent acts or activities in the execution and performance of the agency franchise agreement. The amount of liability insurance coverage may not be less than the minimum requirements of the department of administration.

(8) (a) The department may terminate an agency franchise agreement if the agent has not satisfactorily performed the requirements of the agency franchise agreement because the agent:

(i) charges retail prices that are less than the department's posted price for liquor, sells liquor to persons who hold liquor licenses at less than the posted price, or sells liquor at case discounts greater than the discount provided for in 16-2-201 to persons who hold liquor licenses;

(ii) fails to maintain sufficient liability insurance;

(iii) has not maintained a quantity and variety of product available for sale commensurate with demand, delivery cycle, repayment schedule, mixed case shipments from the department, and the ability to purchase special orders;

(iv) at an agency liquor store located 35 miles or more from the nearest agency liquor store, has operated the agency liquor store in a manner that makes the premises unsanitary or inaccessible for the purpose of making purchases of liquor; or

(v) fails to comply with the express terms of the agency franchise agreement.

(b) The department shall give an agent 30 days' notice of its intent to terminate the agency franchise agreement for cause and specify the unmet requirements. The agent may contest the termination and request a hearing within 30 days of the date of notice. If a hearing is requested, the department shall suspend its termination order until after a final decision has been made pursuant to the Montana Administrative Procedure Act.

(c) In the case of failure to make timely payments to the department for liquor purchased, the department may terminate the agency franchise agreement and immediately repossess any liquor purchased and in the possession of the agent. If an agency franchise agreement is terminated, the agent may contest the termination and request a hearing within 30 days of the department's repossession of the liquor. The agency liquor store shall remain closed until a final decision has been reached following a hearing held pursuant to the Montana Administrative Procedure Act.

(9) An agency franchise agreement may be terminated upon mutual agreement by the agent and the department.

(10) An agent may assign an agency franchise agreement to a person who, upon approval of the department, is named agent in the agency franchise agreement, with the rights, privileges, and responsibilities of the original agent for the remaining term of the agency franchise agreement. The agent shall notify the department of an intent to assign the agency franchise agreement 60 days before the intended effective date of the assignment. The department may not unreasonably withhold approval of an assignment request.

(11) A person or entity may not hold an ownership interest in more than one agency liquor store.

(12) The department shall maintain sufficient inventory in the state warehouse in order to meet a monthly service level of at least 97%."

Approved April 28, 2009

## CHAPTER NO. 392

[SB 18]

AN ACT 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.

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

**Section 1.** Section 5-4-204, MCA, is amended to read:

**"5-4-204. Submission of fiscal note — sponsor's fiscal note *rebuttal* — distribution to legislators.** (1) A completed fiscal note must be submitted by the budget director to the presiding officer who requested it. Upon receipt of the completed fiscal note, the presiding officer shall notify the sponsor of the bill for which the fiscal note was prepared that the fiscal note has been completed and is available for review. Within 24 hours following notification, the sponsor shall:

(a) notify the presiding officer that the sponsor concurs with the completed fiscal note;

(b) request additional time, not to exceed 24 hours, to consult with the budget director on the fiscal note; or

(c) elect to prepare a sponsor's fiscal note *rebuttal* as provided in subsection (4).

(2) (a) If the sponsor concurs with the completed fiscal note prepared by the budget director or elects to prepare a sponsor's fiscal note *rebuttal*, the presiding officer shall refer the completed fiscal note prepared by the budget director to the committee considering the bill. If the bill is printed, the note must be reproduced and placed on the members' desks.

(b) If the sponsor requests additional time to consult with the budget director, the presiding officer shall notify the sponsor and the budget director of the time, not to extend beyond the time limitation specified in subsection (1)(b), by which:

(i) the budget director shall submit a revised completed fiscal note to the presiding officer;

(ii) the sponsor shall notify the presiding officer that the sponsor concurs with the original completed fiscal note; or

(iii) the sponsor shall elect to prepare a sponsor's fiscal note *rebuttal* as provided in subsection (4).

(3) At the time specified as provided in subsection (2)(b), the presiding officer shall refer the original or, if revised, the revised fiscal note to the committee considering the bill. If the bill is printed, the note must be reproduced and placed on the members' desks.

(4) (a) If a sponsor elects to prepare a sponsor's fiscal note *rebuttal*, the sponsor shall prepare the fiscal note *rebuttal on a form*, as provided in 5-4-205, by the legislative services division and return the completed sponsor's fiscal note *rebuttal form* to the presiding officer within 4 days of the election to prepare a sponsor's fiscal note *rebuttal*. *The form must identify the bill number, the sponsor of the bill, the date prepared, the version of the fiscal note being rebutted, the reasons the sponsor disagrees with the fiscal note, the items or assumptions in the fiscal note that the sponsor believes are incorrect, and the sponsor's estimate of the fiscal impact, if an estimate is available.*

(b) The presiding officer may grant additional time to the sponsor to prepare the sponsor's fiscal note *rebuttal*.

(c) Upon receipt of the completed sponsor's fiscal note *rebuttal form*, the presiding officer shall refer it to the committee hearing the bill. If the bill is printed, the *note form* must be identified as a sponsor's fiscal note *rebuttal*, reproduced, and placed on the members' desks."

**Section 2.** Section 5-4-205, MCA, is amended to read:

**"5-4-205. Contents of notes.** (1) Fiscal notes ~~shall~~ *must, where when* possible, show in dollar amounts the estimated increase or decrease in ~~revenues~~ *revenue* or expenditures, costs ~~which that~~ *that* may be absorbed without additional funds, and long-range financial implications. ~~No~~ *A* comment or opinion relative to the merits of the bill ~~shall~~ *may not* be included; ~~in the fiscal note. however~~ *However*, technical or mechanical defects may be noted.

(2) *It is the legislature's intent that a fiscal note be prepared as an objective analysis of the fiscal impact of legislation. The fiscal note should represent only the estimate of the revenue and expenditures that would result from the implementation of the legislation, if enacted, and may not in any way reflect the*



*views or opinions of the preparing agencies, the sponsor, or other interested parties. Changes in revenue must be estimated for each reported year based upon appropriate revenue estimating methodologies for the source of revenue described and should reflect a change from the official revenue estimate provided for in 5-5-227. Expenditures must be estimated as the amount required for implementing the legislation, if enacted, in excess of or as a reduction to the present law base level of expenditures in each reported year regardless of whether or not the preparing agency determines that it can absorb the costs in its proposed budget.*

*(3) The fiscal note must clearly differentiate between facts and assumptions made in the preparation of the fiscal note while maintaining a logical flow of both fact and assumption in presenting how the fiscal impact is determined.”*

**Section 3. Effective date.** [This act] is effective on passage and approval.

Approved April 28, 2009

## CHAPTER NO. 393

[SB 38]

AN ACT 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.

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

**Section 1.** Section 80-7-106, MCA, is amended to read:

**“80-7-106. License required — application and payment of license fee.** (1) A firm, nursery, or plant dealer engaging in the business of selling or distributing nursery stock in this state shall obtain a license ~~for each location~~ from the department. *If the firm, nursery, or plant dealer sells or distributes nursery stock at more than one location, the firm, nursery, or plant dealer shall obtain:*

- (a) one license if its combined annual gross sales are less than \$10,000; and*
- (b) a license for each location if its gross annual sales are \$10,000 or more.*

(2) The license must be in the name of the firm, nursery, or plant dealer seeking the license and expires on the anniversary date established by rule by the board of review established in 30-16-302. The applicant shall provide information that the department finds necessary to carry out the provisions and purposes of this chapter and in the form determined by rule by the board of review established in 30-16-302.

(3) ~~(a) The department shall establish license fees by rule. License fees may be no less than \$95 or more than \$125. If the department determines that the revenue from the license fee is inadequate to accomplish the purposes of this chapter, the department may by rule increase the fee within the statutory limit. A firm, nursery, or plant dealer that earns less than \$1,000 in gross annual sales of nursery stock must be licensed but is exempt from licensing fees.~~

*(b) A firm, nursery, or plant dealer that earns \$1,000 but less than \$3,000 in gross annual sales of nursery stock shall pay a license fee of \$50.*

*(c) A firm, nursery, or plant dealer that earns \$3,000 but less than \$10,000 in gross annual sales of nursery stock shall pay a license fee of \$125.*

(d) *A firm, nursery, or plant dealer that earns \$10,000 or more in gross annual sales of nursery stock shall pay a license fee of \$160.*

(e) *The department may seek verification from the department of revenue as to whether the income thresholds established in this section have been met.*

(4) A new applicant or a firm, nursery, or plant dealer failing to renew a license on or before the annual anniversary date provided for in subsection (2) shall pay an additional nonrefundable late fee of \$25 for each license.

~~(5) An out-of-state firm that imports nursery stock into Montana for resale by a licensed Montana nursery or plant dealer is not required to obtain a license if the firm is licensed in the state of origin of the nursery stock and if that state extends a similar exemption to Montana firms.~~

~~(6)~~(5) The fees required by the provisions of this section may be paid by credit card and may be discounted for payment processing charges paid by the department to a third party.”

**Section 2. Coordination instruction.** (1) If House Bill No. 478 is not passed and approved, then [this act] is void.

(2) If both House Bill No. 478 and [this act] are passed and approved, then [section 1] of House Bill No. 478, amending 80-7-105, is void and 80-7-105 must be amended as follows:

**“80-7-105. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) “Firm” means an individual, company, partnership, association, or corporation.

(2) “Landscape service” means a firm that buys, sells, or resells nursery stock.

(3) “Nursery” means the business or location where nursery stock is grown or offered for sale or resale or as part of a landscape service.

(4) “Nursery stock” means botanically classified plants or parts of plants, including but not limited to tropical potted plants, aquatic plants, cut trees and their products, and turf or sod grass. The following plants and plant materials may not be considered nursery stock:

(a) field crop plants and seeds;

(b) pasture grasses;

(c) cut plants not for propagation;

(d) fruits or vegetables for human or animal consumption;

(e) cut trees and products that are going to be processed to a point that they no longer represent a pest risk; and

(f) plant debris for disposal or processing.

(5) “Nursery stock certification” means the process by which the nursery stock or other plants have been inspected and found to meet certification standards established by department rule.

(6) “Plant dealer” means a firm that buys plants or plant products from a producer for the purpose of offering the plants or plant products for sale or resale or as part of a landscape service.

(7) “Plant inspection certificate” means a document issued by the department or the plant pest regulatory agency of another state that declares that the nursery stock, plants, or plant material grown by the firm named on the certificate is apparently free of injurious plant pests.

(8) "Plant pest" means an insect, weed, fungus, virus, bacteria, or other organism that can directly or indirectly injure or cause damage in a plant or a product of a plant and that meets the criteria as a pest established by department rule. For purposes of this chapter, noxious weeds, as defined in 7-22-2101(8)(a)(i), or other exotic weeds are defined as plant pests.

(9) "Small plant vendor" means a Montana firm that is engaged in the business of selling or distributing nursery stock, including coniferous Christmas decorations, and that:

- (a) grows in Montana the nursery stock offered for sale or distribution; and
- (b) has gross annual sales of less than \$1,000 in a calendar year."

**Section 3. Effective date.** [This act] is effective on passage and approval.

Approved April 28, 2009

## CHAPTER NO. 394

[SB 48]

AN ACT 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.

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

**Section 1.** Section 7-15-4282, MCA, is amended to read:

**"7-15-4282. Authorization for tax increment financing.** Any urban renewal plan, as defined in 7-15-4206, industrial district ordinance, adopted pursuant to 7-15-4299, or technology district ordinance, adopted pursuant to 7-15-4295, or aerospace transportation and technology district ordinance adopted pursuant to 7-15-4296 may contain a provision or be amended to contain a provision for the segregation and application of tax increments, as provided in 7-15-4282 through ~~7-15-4292~~ 7-15-4299."

**Section 2.** Section 7-15-4283, MCA, is amended to read:

**"7-15-4283. Definitions related to tax increment financing.** For purposes of 7-15-4282 through ~~7-15-4292~~ and ~~7-15-4297~~ through 7-15-4299, the following definitions apply unless otherwise provided or indicated by the context:

(1) "Actual taxable value" means the taxable value of taxable property at any time, as calculated from the *last equalized* assessment roll ~~last equalized~~.

(2) "Aerospace transportation and technology district" means a tax increment financing aerospace transportation and technology district created pursuant to 7-15-4296.

(3) "Aerospace transportation and technology infrastructure development project" means a project undertaken within or for an aerospace transportation and technology district that consists of any of the activities authorized by 7-15-4288.

(4) "Base taxable value" means the actual taxable value of all taxable property within an urban renewal area, industrial district, technology district, or aerospace transportation and technology district prior to the effective date of a tax increment financing provision. This value may be adjusted as provided in 7-15-4287 or 7-15-4293.

(5) "Incremental taxable value" means the amount, if any, by which the actual taxable value at any time exceeds the base taxable value of all property within an urban renewal area, industrial district, technology district, or aerospace transportation and technology district subject to taxation.

(6) "Industrial district" means a tax increment financing industrial district created pursuant to 7-15-4297 through 7-15-4299.

(7) "Industrial infrastructure development project" means a project undertaken within or for an industrial district that consists of any of the activities authorized by 7-15-4288.

(8) "Municipality", ~~for the purpose of an industrial district created pursuant to 7-15-4297 through 7-15-4299 and operating pursuant to 7-15-4282 through 7-15-4293 and part 43 of this chapter,~~ means any incorporated city or town, county, or city-county consolidated local government *for the purposes of:*

(a) *an industrial district operating pursuant to 7-15-4282 through 7-15-4294 and Title 7, chapter 15, part 43;*

(b) *a technology district operating pursuant to 7-15-4282 through 7-15-4294 and Title 7, chapter 15, part 43; or*

(c) *an aerospace transportation and technology district operating pursuant to 7-15-4282 through 7-15-4294 and Title 7, chapter 15, part 43.*

(9) "Tax increment" means the collections realized from extending the tax levies, expressed in mills, of all taxing bodies in which the urban renewal area, industrial district, technology district, aerospace transportation and technology district, or a part of an area or district is located against the incremental taxable value.

(10) "Tax increment provision" means a provision for the segregation and application of tax increments as authorized by 7-15-4282 through ~~7-15-4292~~ 7-15-4299.

(11) "Taxes" means all taxes levied by a taxing body against property on an ad valorem basis.

(12) "Taxing body" means any *incorporated city; or town, county, city-county consolidated local government,* school district, or other political subdivision or governmental unit of the state, including the state, that levies taxes against property within the urban renewal area, industrial district, technology district, or an aerospace transportation and technology district.

(13) "Technology district" means a tax increment financing district created pursuant to 7-15-4295.

(14) "Technology infrastructure development project" means a project undertaken within or for a technology district that consists of any of the activities authorized by 7-15-4288."

**Section 3.** Section 7-15-4284, MCA, is amended to read:

**"7-15-4284. Filing of tax increment provisions plan or district ordinance.** (1) The clerk of the municipality shall file a certified copy of each urban renewal plan, industrial district ordinance, ~~or~~ technology district ordinance, *or aerospace transportation and technology district ordinance* or an

amendment to any of them containing a tax increment provision with the department of revenue.

(2) A certified copy of each plan, ordinance, or amendment must also be filed with the clerk or other appropriate officer of each of the affected taxing bodies.”

**Section 4.** Section 7-15-4286, MCA, is amended to read:

**“7-15-4286. Procedure to determine and disburse tax increment.** (1) Mill rates of taxing bodies for taxes levied after the effective date of the tax increment provision must be calculated on the basis of the sum of the taxable value, as shown by the last equalized assessment roll, of all taxable property located outside the urban renewal area, industrial district, ~~or~~ technology district, *or aerospace transportation and technology district* and the base taxable value of all taxable property located within the area or district. The mill rate determined must be levied against the sum of the actual taxable value of all taxable property located within as well as outside the area or district.

(2) (a) The tax increment, if any, received in each year from the levy of the combined mill rates of all the affected taxing bodies against the incremental taxable value within the area or district, except for the university system mills levied and assessed against property, must be paid into a special fund held by the treasurer of the municipality and used as provided in 7-15-4282 through ~~7-15-4292~~ 7-15-4299.

(b) The balance of the taxes collected in each year must be paid to each of the taxing bodies as otherwise provided by law.”

**Section 5.** Section 7-15-4288, MCA, is amended to read:

**“7-15-4288. Costs that may be paid by tax increment financing.** The tax increments may be used by the municipality to pay the following costs of or incurred in connection with an urban renewal project, industrial infrastructure development project, technology infrastructure development project, or aerospace transportation and technology infrastructure development project:

- (1) land acquisition;
- (2) demolition and removal of structures;
- (3) relocation of occupants;
- (4) the acquisition, construction, and improvement of infrastructure, industrial infrastructure, technology infrastructure, or aerospace transportation and technology infrastructure that includes streets, roads, curbs, gutters, sidewalks, pedestrian malls, alleys, parking lots and offstreet parking facilities, sewers, sewer lines, sewage treatment facilities, storm sewers, waterlines, waterways, water treatment facilities, natural gas lines, electrical lines, telecommunications lines, rail lines, rail spurs, bridges, spaceports for reusable launch vehicles with associated runways and launch, recovery, fuel manufacturing, and cargo holding facilities, publicly owned buildings, and any public improvements authorized by *Title 7, chapter 12*, parts 41 through 45 ~~of chapter 12;~~ *Title 7, chapter 13*, parts 42 and 43 ~~of chapter 13;~~ and *Title 7, chapter 14*, part 47, ~~of chapter 14~~ and items of personal property to be used in connection with improvements for which the foregoing costs may be incurred;
- (5) costs incurred in connection with the redevelopment activities allowed under 7-15-4233;
- (6) acquisition of infrastructure-deficient areas or portions of areas;

(7) administrative costs associated with the management of the urban renewal area, industrial district, technology district, or aerospace transportation and technology district;

(8) assemblage of land for development or redevelopment by private enterprise or public agencies, including sale, initial leasing, or retention by the municipality itself at its fair value;

(9) the compilation and analysis of pertinent information required to adequately determine the *needs of an urban renewal project in an urban renewal area*, the infrastructure needs of secondary, value-adding industries in the industrial district, the needs of a technology infrastructure development project in the technology district, or the needs of an aerospace transportation and technology infrastructure development project in the aerospace transportation and technology district;

(10) the connection of the urban renewal area, industrial district, technology district, or aerospace transportation and technology district to existing infrastructure outside the district;

(11) the provision of direct assistance, through industrial infrastructure development projects, technology *infrastructure* development projects, or aerospace transportation and technology infrastructure development projects, to secondary, value-adding industries to assist in meeting their infrastructure and land needs within the district; and

(12) the acquisition, construction, or improvement of facilities or equipment for reducing, preventing, abating, or eliminating pollution.”

**Section 6.** Section 7-15-4290, MCA, is amended to read:

**“7-15-4290. Use of property taxes and other revenue for payment of bonds.** (1) (a) The tax increment derived from an urban renewal area may be pledged for the payment of revenue bonds issued for urban renewal projects or of general obligation bonds, revenue bonds, or special assessment bonds issued to pay urban renewal costs described in 7-15-4288 and 7-15-4289.

(b) The tax increment derived from an industrial district may be pledged for the payment of revenue bonds issued for industrial infrastructure development projects or of general obligation bonds, revenue bonds, or special assessment bonds issued to pay industrial district costs described in 7-15-4288 and 7-15-4289.

(c) The tax increment derived from a technology district may be pledged for the payment of revenue bonds issued for technology infrastructure development projects or of general obligation bonds, revenue bonds, or special assessment bonds issued to pay technology district costs described in 7-15-4288 and 7-15-4289.

(d) *The tax increment derived from an aerospace transportation and technology district may be pledged for the payment of revenue bonds issued for aerospace transportation and technology infrastructure development projects or of general obligation bonds, revenue bonds, or special assessment bonds issued to pay aerospace transportation and technology district costs described in 7-15-4288 and 7-15-4289.*

(2) A municipality issuing bonds pursuant to subsection (1) may, by resolution of its governing body, enter into a covenant for the security of the bondholders, detailing the calculation and adjustment of the tax increment and the taxable value on which it is based and, after a public hearing, pledging or appropriating other revenue of the municipality, except property taxes

prohibited by subsection (3), to the payment of the bonds if collections of the tax increment are insufficient.

(3) Property taxes, except the tax increment derived from property within the area or district and tax collections used to pay for services provided to the municipality by a project, may not be applied to the payment of bonds issued pursuant to 7-15-4301 for which a tax increment has been pledged.”

**Section 7.** Section 7-15-4292, MCA, is amended to read:

**“7-15-4292. Termination of tax increment financing — exception.** (1) The tax increment provision terminates upon the later of:

(a) the 15th year following its adoption; or

(b) the payment or provision for payment in full or discharge of all bonds for which the tax increment has been pledged and the interest on the bonds.

(2) (a) Except as provided in subsection (2)(b), any amounts remaining in the special fund or any reserve fund after termination of the tax increment provision must be distributed among the various taxing bodies in proportion to their property tax revenue from the *area or* district.

(b) Upon termination of the tax increment provision, a municipality may retain and use in accordance with the provisions of the urban renewal plan:

(i) funds remaining in the special fund or a reserve fund related to a binding loan commitment, construction contract, or development agreement for an approved urban renewal project that a municipality entered into before the termination of a tax increment provision;

(ii) loan repayments received after the date of termination of the tax increment provision from loans made pursuant to a binding loan commitment; or

(iii) funds from loans previously made pursuant to a loan program established under an urban renewal plan.

(3) After termination of the tax increment provision, all taxes must be levied upon the actual taxable value of the taxable property in the urban renewal area, the industrial district, ~~or~~ the technology district, *or the aerospace transportation and technology district* and must be paid ~~into the funds~~ *to each of the respective taxing bodies as provided by law.*

(4) Bonds secured in whole or in part by a tax increment provision may not be issued after the 15th anniversary of tax increment provisions. However, if bonds secured by a tax increment provision are outstanding on the applicable anniversary, additional bonds secured by the tax increment provision may be issued if the final maturity date of the bonds is not later than the final maturity date of any bonds then outstanding and secured by the tax increment provision.”

**Section 8.** Section 7-15-4293, MCA, is amended to read:

**“7-15-4293. Adjustment of base taxable value following change of law.** (1) If the base taxable value of an urban renewal area, an industrial district, ~~or~~ a technology district, *or an aerospace transportation and technology district* is affected after its original determination by a statutory, administrative, or judicial change in the method of appraising property, the tax rate applied to it, the tax exemption status of property, or the taxable valuation of property if the change in taxable valuation is based on conditions existing at the time the base year was established, the governing body of the municipality may request the department of revenue to estimate the base taxable value so that the tax increment resulting from the increased incremental value is

sufficient to pay all principal and interest on the bonds as those payments become due.

(2) If a tax increment financing district created after January 1, 2002, has not issued bonds, the governing body of a municipality may request the department of revenue to adjust the base taxable value to account for a loss of taxable revenue resulting from the state granting property in the *area or* district tax-exempt status within the first year of creation of the tax increment financing district. The municipality shall give notice of and hold a public hearing on the proposed change.”

**Section 9.** Section 7-15-4294, MCA, is amended to read:

**“7-15-4294. Assessment agreements.** (1) A municipality may enter into a written agreement with any private person:

(a) establishing a minimum market value of land, existing improvements, or improvements or equipment to be constructed or acquired; and

(b) requiring the individual to pay an annual tax deficiency fee whenever the property that is the subject of the agreement is valued by the department of revenue for property tax purposes at a market value that is less than the value established by the agreement. The amount of the deficiency fee may not exceed the difference between the property taxes that would have been imposed on the property based on the minimum value of the property expressed in the agreement and the property taxes that are imposed on the property based on the market value established by the department of revenue.

(2) The property that is the subject of the agreement must be located or installed in an urban renewal area, *an* industrial district, *a technology district*, *an* aerospace transportation and technology district, or any other area or district that is subject to a tax increment financing provision.

(3) The minimum value established by the agreement may be fixed or may increase or decrease in later years from the initial minimum value as provided in the agreement.

(4) The agreement creates a lien on the property pursuant to 71-3-1506 and must be filed and recorded in the office of the county clerk and recorder in each county in which the property or any part of the property is located. Recording an agreement constitutes notice of the agreement to anyone who acquires any interest in the property that is the subject of the agreement, and the agreement is binding upon the person acquiring the interest.

(5) An agreement made pursuant to subsection (1) may be modified or terminated by mutual consent of the current parties to the agreement. Modification or termination of an agreement must be approved by the governing body of the municipality. A document modifying or terminating an agreement must be filed in the office of the county clerk and recorder in each county in which the property or any part of the property is located.

(6) An agreement entered into pursuant to subsection (1) or modified pursuant to subsection (5) terminates on the earliest of:

(a) the date on which conditions in the agreement for termination are satisfied;

(b) the termination date specified in the agreement; or

(c) the date when the tax increment is no longer paid to the municipality under 7-15-4292.



(7) ~~Nothing in this~~ *This section limits does not limit* a municipality's authority to enter into contracts other than tax deficiency agreements as described in this section."

**Section 10.** Section 7-15-4295, MCA, is amended to read:

**"7-15-4295. Technology districts.** (1) A local governing body, by ordinance and following a public hearing, may authorize the creation of a technology district for technology infrastructure development projects. The purpose of a technology district is ~~for~~ the development of infrastructure to encourage the location and retention of technology *infrastructure* development projects in the state. The tenants of a technology district must be businesses or organizations engaged in technology-based operations within Montana that through the employment of knowledge or labor add value to a product, process, or export service that results in the creation of new wealth and for which at least 50% of the sales of the business or organization occur outside of Montana or the business or organization is a manufacturing company with at least 50% of its sales to other Montana companies that have 50% of their sales occurring outside of Montana.

(2) A technology district:

(a) must consist of a continuous area with an accurately described boundary that is large enough to host a diversified tenant base of multiple independent tenants;

(b) must be zoned for use in accordance with the area growth policy, as defined in 76-1-103;

(c) may not comprise any property included within an existing urban renewal area, ~~district or industrial infrastructure development~~ district, *or aerospace transportation and technology district* created pursuant to this part;

(d) must, prior to its creation, be found to be deficient in infrastructure improvements necessary for technology development;

(e) must, prior to its creation, have in place a formally adopted comprehensive development plan that ensures that the district can host a diversified tenant base of multiple independent tenants; and

(f) may not be designed to serve the needs of a single district tenant or group of nonindependent tenants.

(3) A technology district may use tax increment financing pursuant to the provisions of 7-15-4282 through ~~7-15-4293~~ *7-15-4294*."

**Section 11.** Section 7-15-4296, MCA, is amended to read:

**"7-15-4296. Aerospace transportation and technology districts.** (1) A local governing body, by ordinance and following a public hearing, may authorize the creation of an aerospace transportation and technology district for aerospace transportation and technology infrastructure development projects if the proposed aerospace transportation and technology district:

(a) consists of a continuous area with an accurately described boundary;

(b) is zoned for use in accordance with the area growth policy document;

(c) does not include any property included within an existing urban renewal area, ~~district or industrial infrastructure development~~ district, *or technology district* created pursuant to this part;

(d) is found to be deficient in infrastructure improvements for industrial development; and

(e) has as its purpose the development of infrastructure to encourage the location and retention of aerospace transportation and technology infrastructure development projects in the state.

(2) An aerospace transportation and technology district may use tax increment financing pursuant to the provisions of 7-15-4282 through ~~7-15-4293~~ 7-15-4294.”

**Section 12.** Section 7-15-4299, MCA, is amended to read:

**“7-15-4299. Industrial districts.** (1) A local governing body, by ordinance and following a public hearing, may authorize the creation of an industrial district for industrial infrastructure development projects if the proposed industrial district:

(a) consists of a continuous area with an accurately described boundary;

(b) is zoned for light or heavy industrial use in accordance with the area growth policy document;

(c) does not include any property included within an existing urban renewal area, *technology district*, or *aerospace transportation and technology district* created pursuant to this part;

(d) is found to be deficient in infrastructure improvements for industrial development; and

(e) has as its purpose the development of infrastructure to encourage the growth and retention of secondary, value-adding industries.

(2) An industrial district may use tax increment financing pursuant to the provisions of 7-15-4282 through ~~7-15-4293~~ 7-15-4294.”

**Section 13.** Section 7-15-4301, MCA, is amended to read:

**“7-15-4301. Authorization to issue urban renewal bonds, industrial infrastructure development bonds, *technology infrastructure development bonds*, aerospace transportation and technology infrastructure development bonds, ~~technology infrastructure development bonds~~, and refunding bonds.** (1) A municipality may:

(a) issue bonds from time to time, in its discretion, to finance the undertaking of any urban renewal project, industrial infrastructure development project, *technology infrastructure development project*, or aerospace transportation and technology infrastructure development project, ~~or technology infrastructure development project~~ under *Title 7, chapter 15*, part 42, and this part, including, without limiting the generality of projects, the payment of principal and interest upon any advances for surveys and plans for the projects; and

(b) issue refunding bonds for the payment or retirement of bonds previously issued by it.

(2) ~~The~~ *Except as provided in 7-15-4302*, bonds may not pledge the general credit of the municipality and must be made payable, as to both principal and interest, solely from the income, proceeds, revenue, and funds of the municipality derived from or held in connection with its undertaking and carrying out of urban renewal projects, industrial infrastructure development projects, *technology infrastructure development project*, or aerospace transportation and technology infrastructure development projects, ~~or technology infrastructure development projects~~ under *Title 7, chapter 15*, part 42, and this part, including the tax increment received and pledged by the municipality pursuant to 7-15-4282 through ~~7-15-4292~~ 7-15-4299, and, if the

income, proceeds, revenue, and funds of the municipality are insufficient for the payment, from other revenue of the municipality pledged to the payment. Payment of the bonds, both as to principal and interest, may be further secured by a pledge of any loan, grant, or contribution from the federal government or other source in aid of any urban renewal projects, industrial infrastructure development projects, *technology infrastructure development project*, or aerospace transportation and technology infrastructure development projects; ~~or technology infrastructure development projects~~ of the municipality under *Title 7, chapter 15*, part 42, and this part or by a mortgage on all or part of any projects.

(3) Bonds issued under this section must be authorized by resolution or ordinance of the local governing body.”

**Section 14.** Section 7-15-4302, MCA, is amended to read:

**“7-15-4302. Authorization to issue general obligation bonds.** (1) For the purpose of 7-15-4267 or for the purpose of aiding in the planning, undertaking, or carrying out of an urban renewal project, ~~or an~~ industrial infrastructure development project, *technology infrastructure development project*, or aerospace transportation and technology infrastructure project of a municipality, the municipality, in addition to any authority to issue bonds pursuant to 7-15-4301, may issue and sell its general obligation bonds.

(2) Any bonds issued pursuant to this section ~~shall~~ *must* be issued in the manner and within the limitations prescribed by the laws of this state for the issuance and authorization of bonds by ~~such~~ *the* municipality for public purposes generally.

(3) Aiding in the planning, undertaking, or carrying out of an approved urban renewal project, ~~or an~~ industrial infrastructure development project, *technology infrastructure development project*, or aerospace transportation and technology infrastructure project is considered a single purpose for the issuance of general obligation bonds, and the proceeds of the bonds authorized for ~~any such~~ a project may be used to finance the exercise of ~~any and all the~~ powers conferred upon the municipality by *Title 7, chapter 15, part 42*, and this part and ~~part 42 which~~ *that* are necessary or proper to complete the project in accordance with the approved plan, ~~or~~ industrial district ordinance, *technology district ordinance*, or aerospace transportation and technology district ordinance and any modification ~~thereof to the ordinance that is~~ duly adopted by the local governing body.”

**Section 15.** Section 7-15-4304, MCA, is amended to read:

**“7-15-4304. Presumption of regularity of bond issuance.** In a suit, action, or proceeding involving the validity or enforceability of, or security for, any bond issued under *Title 7, chapter 15*, part 42, and this part, a bond reciting in substance that it has been issued by the municipality in connection with an urban renewal project, industrial infrastructure development project, ~~or~~ technology infrastructure development project, or aerospace transportation and technology infrastructure development project is conclusively considered to have been issued for that purpose and the project is conclusively considered to have been planned, located, and carried out in accordance with the provisions of *Title 7, chapter 15*, part 42, and this part.”

**Section 16.** Section 7-15-4324, MCA, is amended to read:

**“7-15-4324. Special bond provisions when tax increment financing is involved.** (1) Bonds issued under this part for which a tax increment is pledged pursuant to 7-15-4282 through ~~7-15-4292~~ *7-15-4299* must be designed

to mature not later than 25 years from their date of issue and must mature in years and amounts so that the principal and interest due on the bonds in each year may not exceed the estimated tax increment, payments in lieu of taxes or other amounts agreed to be paid by the property owners in a district, and other estimated revenue, including proceeds of the bonds available for payment of interest on the bonds, pledged to their payment to be received in that year.

(2) The governing body, in the resolution or ordinance authorizing the bonds, shall determine the estimated tax increment, payments in lieu of taxes or other amounts agreed to be paid by the property owners in a *an area or* district, and other revenue, if any, for each year the bonds are to be outstanding. In calculating the costs under 7-15-4288 for which the bonds are issued, the municipality may include an amount sufficient to pay interest on the bonds prior to receipt of tax increments pledged and sufficient for the payment of the bonds and to fund any reserve fund in respect of the bonds.”

**Section 17.** Section 17-5-820, MCA, is amended to read:

**“17-5-820. Authorization of bonds.** (1) The board of examiners is authorized to issue and sell general obligation bonds in an amount not exceeding \$20 million in accordance with the terms and in the manner required by Title 17, chapter 5, part 8, for the purpose of financing and acquiring infrastructure improvements as enumerated in 7-15-4288 for aerospace transportation and technology *infrastructure development* projects recommended by the department of commerce in accordance with the authority granted to the board by this section. The bonds are in addition to any other authorization to the board to issue and sell general obligation bonds and subject to the conditions set forth in this section.

(2) The department of commerce may request the board of examiners to issue the bonds for one or more specified projects in one or more series, but the total amount of bonds issued may not exceed \$20 million. Bond proceeds are appropriated to the department of commerce, and the department of commerce is authorized to acquire or construct the infrastructure improvements, to contract with the *incorporated city or town, county, or city-county consolidated local government* in which a project is located, to contract with an airport authority; as defined in 67-1-101, a local port authority; as described in 7-14-1101, or a regional port authority; as described in 7-14-1102, to contract with a certified regional development corporation; as defined in 90-1-116, or, upon a determination that it is in the best interest of the project, to contract with the developer of an approved project for the acquisition or construction of the infrastructure improvement. The plans and specifications for the infrastructure to be financed from the proceeds of the bonds must be prepared by an engineer or architect; *who is* licensed and bonded in Montana, and the state must be named as an additional insured under any contract, performance bond, or other documents for the design of any improvements to be financed by the state. The plans and specifications must be reviewed and approved by the department of commerce after consultation with the architecture and engineering division of the department of administration. The design and acquisition or construction of the infrastructure for approved projects are not, with the exception of Title 18, chapter 2, part 4, subject to the public procurement requirements contained in Title 18. All construction contracts entered into for the construction of improvements to be financed under this section must name the state as an additional insured if the state is not otherwise party to the contract. All improvements financed with bond proceeds must be owned by the state, and the use must be governed by a development agreement between the state and the

developer of the project. The agreement may provide for the lease or the use of the infrastructure at less than fair market value, taking into consideration the number of jobs to be created by the project, the salary range of the jobs, the amount of capital contributed by the developer, and the projected tax revenue to be received by the state and local governments from the project over the term of the lease or use agreement. The agreement must require the contractor to insure for liability and workers' compensation claims during construction and must provide the project developer with the right of first refusal for the purchase of any real property and improvements financed by the bonds at fair market value. Fair market value must be determined by a certified appraiser. For purposes of this section, state and local governments may not provide telecommunications or other services in competition with private providers unless private providers cannot provide the services.

(3) It is the intent of the legislature that state individual and corporate income taxes and state property taxes generated by the aerospace transportation and technology infrastructure development projects will be at least equal to the projected amount of the debt service to be paid by the state for the bonds authorized by this section over the term of the bonds. Prior to requesting the board of examiners to issue the bonds, the department of commerce shall determine that the developer of a proposed project has the financial ability to implement the project based upon the audited financial statements of the developer. When requesting the board to issue the bonds, the department of commerce shall present to the department of administration for presentation to the board the following:

(a) evidence satisfactory to the board that *the developer of* each aerospace transportation and technology infrastructure development project has committed itself to locate its project in Montana; and

(b) a certificate signed by the director of the office of budget and program planning that the proposed project will, over the term of the bonds, generate state individual and corporate income taxes and state property taxes at least equal to the total aggregate amount of principal and interest on the bonds over the term of the bonds. In preparing the analysis for the report on the projected tax revenue from the project, the multiplier effect may be taken into account, using the number of jobs, the salary levels for the jobs, and the estimated date of hire for each position that the developer will commit to create as part of the development agreement. The development agreement must provide that if the developer has not created the total number of jobs at the estimated salaries by the date specified in the development agreement and assumed for purposes of meeting the projections, the state may terminate the lease or use of the improvements upon 30 days' notice. If the department of commerce is unable to enter into a new lease or use agreement for the improvements that is advantageous to the state, the state may sell the facility to the highest and best bidder and use the proceeds of the sale to redeem the outstanding bonds.

(4) In determining whether to recommend to the board of examiners that improvements should be constructed by the state from the proceeds of the bonds for a project, the department of commerce may take into consideration only the following factors:

- (a) whether the project is eligible for financing;
- (b) whether there is sufficient evidence to demonstrate the developer's ability to implement the project;
- (c) the projected tax revenue report;

(d) whether the project as proposed and situated can obtain the necessary zoning, building, and environmental permits required; and

(e) whether the project is in the public interest.

(5) In recommending the amount of bonds to be issued for a qualified project, the department of commerce shall independently determine that the proposed estimated cost of the project is not in excess of what is required for the project and independently verify the projected costs of designing and constructing the improvements proposed to be financed exclusive of any development fee to the developer. The authorized bond proceeds must be used for projects on a first-come, first-served basis.”

**Section 18. Effective date.** [This act] is effective on passage and approval.

Approved April 28, 2009

## CHAPTER NO. 395

[SB 55]

AN ACT 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.

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

**Section 1. Regulation of commercial fertilizers and soil amendments by political subdivision prohibited.** (1) Except as provided in subsection (2), a political subdivision may not regulate the registration, packaging, labeling, sale, storage, distribution, use, or application of commercial fertilizers or soil amendments. A political subdivision may not adopt or continue in effect any local legislation relating to the registration, packaging, labeling, sale, storage, distribution, use, or application of commercial fertilizers or soil amendments. Local legislation adopted or continued in violation of this section is void and unenforceable.

(2) (a) A political subdivision may enter into a cooperative agreement with the department concerning the use and application of commercial fertilizers or soil amendments.

(b) Nothing in subsection (1) prevents a political subdivision from adopting or implementing zoning regulations or fire codes governing the physical location or siting of fertilizer manufacturing, storage, and sales facilities.

**Section 2.** Section 7-1-111, MCA, is amended to read:

**“7-1-111. Powers denied.** A local government unit with self-government powers is prohibited from exercising the following:

(1) any power that applies to or affects any private or civil relationship, except as an incident to the exercise of an independent self-government power;

(2) any power that applies to or affects the provisions of 7-33-4128 or Title 39 (labor, collective bargaining for public employees, unemployment

compensation, or workers' compensation), except that subject to those provisions, it may exercise any power of a public employer with regard to its employees;

(3) any power that applies to or affects the public school system, except that a local unit may impose an assessment reasonably related to the cost of any service or special benefit provided by the unit and shall exercise any power that it is required by law to exercise regarding the public school system;

(4) any power that prohibits the grant or denial of a certificate of public convenience and necessity;

(5) any power that establishes a rate or price otherwise determined by a state agency;

(6) any power that applies to or affects any determination of the department of environmental quality with regard to any mining plan, permit, or contract;

(7) any power that applies to or affects any determination by the department of environmental quality with regard to a certificate of compliance;

(8) any power that defines as an offense conduct made criminal by state statute, that defines an offense as a felony, or that fixes the penalty or sentence for a misdemeanor in excess of a fine of \$500, 6 months' imprisonment, or both, except as specifically authorized by statute;

(9) any power that applies to or affects the right to keep or bear arms, except that a local government has the power to regulate the carrying of concealed weapons;

(10) any power that applies to or affects a public employee's pension or retirement rights as established by state law, except that a local government may establish additional pension or retirement systems;

(11) any power that applies to or affects the standards of professional or occupational competence established pursuant to Title 37 (professions and occupations) as prerequisites to the carrying on of a profession or occupation;

(12) except as provided in 7-3-1105, 7-3-1222, or 7-31-4110, any power that applies to or affects Title 75, chapter 7, part 1 (streambeds), or Title 87 (fish and wildlife);

(13) any power that applies to or affects landlords, as defined in 70-24-103, when that power is intended to license landlords or to regulate their activities with regard to tenants beyond what is provided in Title 70, chapters 24 and 25. This subsection is not intended to restrict a local government's ability to require landlords to comply with ordinances or provisions that are applicable to all other businesses or residences within the local government's jurisdiction.

(14) subject to 7-32-4304, any power to enact ordinances prohibiting or penalizing vagrancy;

*(15) subject to [section 1], any power to regulate the registration, packaging, labeling, sale, storage, distribution, use, or application of commercial fertilizers or soil amendments, except that a local government may enter into a cooperative agreement with the department of agriculture concerning the use and application of commercial fertilizers or soil amendments. This subsection is not intended to prevent or restrict a local government from adopting or implementing zoning regulations or fire codes governing the physical location or siting of fertilizer manufacturing, storage, and sales facilities.*

**Section 3.** Section 75-10-701, MCA, is amended to read:

**“75-10-701. Definitions.** As used in this part, unless the context requires otherwise, the following definitions apply:

(1) “Department” means the department of environmental quality provided for in 2-15-3501.

(2) “Director” means the director of the department.

(3) “Environment” means any surface water, ground water, drinking water supply, land surface or subsurface strata, or ambient air within the state of Montana or under the jurisdiction of the state of Montana.

(4) (a) “Facility” means:

(i) any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, or aircraft; or

(ii) any site or area where a hazardous or deleterious substance has been deposited, stored, disposed of, placed, or otherwise come to be located.

(b) The term does not include any consumer product in consumer use.

(5) “Fiduciary” means a trustee, executor, administrator, personal representative, custodian, conservator, guardian, or receiver acting or holding property for the exclusive benefit of another person. The term does not include:

(a) a person who has previously owned or operated the property in a nonfiduciary capacity; or

(b) a person acting as fiduciary with respect to a trust or other fiduciary estate that has no objectively reasonable or substantial purpose apart from avoidance of or limitation of liability under this part. For the purposes of 75-10-715(9), the term does not include the state, a state agency, or a political subdivision of the state acting as trustee of natural resources within the state of Montana.

(6) “Foreclosure” means acquisition of title to property through foreclosure, purchase at foreclosure sale, assignment or acquisition of title in lieu of foreclosure, repossession in the case of a lease financing transaction, or acquisition of a right to title or other agreement in full or partial settlement of a loan obligation.

(7) “Fund” means the environmental quality protection fund established in 75-10-704.

(8) “Hazardous or deleterious substance” means a substance that because of its quantity, concentration, or physical, chemical, or infectious characteristics may pose an imminent and substantial threat to public health, safety, or welfare or the environment and is:

(a) a substance that is defined as a hazardous substance by section 101(14) of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C. 9601(14), ~~as amended~~;

(b) a substance identified by the administrator of the United States environmental protection agency as a hazardous substance pursuant to section 102 of CERCLA, 42 U.S.C. 9602, ~~as amended~~;

(c) a substance that is defined as a hazardous waste pursuant to section 1004(5) of the Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6903(5), ~~as amended~~; including a substance listed or identified in 40 CFR 261; or

(d) any petroleum product.



(9) "Household" means single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, day-use recreational areas, or similar structures or areas.

(10) "Household refuse" means garbage, trash, and sanitary wastes in septic tanks that are derived from a household.

(11) "Institutional control" means a restriction on the use of real property that mitigates the risk posed to public health, safety, and welfare and the environment. Institutional controls include but are not limited to:

- (a) deed restrictions;
- (b) easements;
- (c) reservations;
- (d) covenants, either restrictive or affirmative; and

(e) other mechanisms or physical restrictions for controlling present and future land use, including controlled ground water areas, that are placed upon real property to mitigate the risk to public health, safety, and welfare and the environment.

(12) "Natural resources" means land, fish, wildlife, biota, air, surface water, ground water, drinking water supplies, and any other resources within the state of Montana owned, managed, held in trust, or otherwise controlled by or appertaining to the state of Montana or a political subdivision of the state.

(13) "Orphan share" means the percentage share of remedial action costs for a facility that is attributable, under the procedures in 75-10-742 through 75-10-751, to identified but bankrupt or defunct persons who are not an affiliate of any viable person, unless affiliated by stock ownership.

(14) "Orphan share fund" means the fund for the orphan share account established in 75-10-743.

(15) (a) "Owns or operates" means owning, leasing, operating, managing activities at, or exercising control over the operation of a facility.

(b) The term does not include holding the indicia of ownership of a facility primarily to protect a security interest in the facility or other location unless the holder has participated in the management of the facility. The term does not apply to the state or a local government that acquired ownership or control through bankruptcy, tax delinquency, abandonment, lien foreclosure, or other circumstances in which the government acquires title by virtue of its function as sovereign, unless the state or local government has caused or contributed to the release or threatened release of a hazardous or deleterious substance from the facility. ~~The term also does not include the owner or operator of the Milltown dam licensed under part 1 of the Federal Power Act (FERC license No. 2543-004) if a hazardous or deleterious substance has been released into the environment upstream of the dam and has subsequently come to be located in the reservoir created by the dam, unless the owner or operator is a person who would otherwise be liable for a release or threatened release under 75-10-715(1). The term also does not include the owner or operator of the Milltown dam licensed under part 1 of the Federal Power Act (FERC license No. 2543-004) if a hazardous or deleterious substance has been released into the environment upstream of the dam and has subsequently come to be located in the reservoir created by the dam unless the owner or operator is a person who would otherwise be liable for a release or threatened release under 75-10-715(1).~~

(16) "Person" means an individual, trust, firm, joint-stock company, joint venture, consortium, commercial entity, partnership, association, corporation, commission, state or state agency, political subdivision of the state, interstate body, or the federal government, including a federal agency.

(17) "Petroleum product" includes gasoline, crude oil (except for crude oil at production facilities subject to regulation under Title 82), fuel oil, diesel oil or fuel, lubricating oil, oil sludge or refuse, and any other petroleum-related product or waste or fraction of the product or waste that is liquid at standard conditions of temperature and pressure (60 degrees F and 14.7 pounds per square inch absolute).

(18) "Reasonably anticipated future uses" means likely future land or resource uses that take into consideration:

- (a) local land and resource use regulations, ordinances, restrictions, or covenants;
- (b) historical and anticipated uses of the facility;
- (c) patterns of development in the immediate area; and
- (d) relevant indications of anticipated land use from the owner of the facility and local planning officials.

(19) "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of a hazardous or deleterious substance directly into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles containing any hazardous or deleterious substance), but excludes releases confined to the indoor workplace environment, the use of pesticides as defined in 80-8-102(~~30~~) when they are applied in accordance with approved federal and state labels, and the use of commercial fertilizers, as defined in 80-10-101(~~2~~), when applied as part of accepted agricultural practice.

(20) "Remedial action" includes all notification, investigation, administration, monitoring, cleanup, restoration, mitigation, abatement, removal, replacement, acquisition, enforcement, legal action, health studies, feasibility studies, and other actions necessary or appropriate to respond to a release or threatened release.

(21) "Remedial action contract" means a written contract or agreement entered into by a remedial action contractor with the state, or with a potentially liable person acting pursuant to an order or request issued by the department, the United States, or any federal agency, to provide a remedial action with respect to a release or threatened release of a hazardous or deleterious substance.

(22) "Remedial action contractor" means:

- (a) any person who enters into and is carrying out a remedial action contract; or
- (b) any person who is retained or hired by a person described in subsection (22)(a) to provide services relating to a remedial action.

(23) "Remedial action costs" means reasonable costs that are attributable to or associated with a remedial action at a facility, including but not limited to the costs of administration, investigation, legal or enforcement activities, contracts, feasibility studies, or health studies."

**Section 4.** 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) “Blending” means the physical mixing or combining, including mixing through simultaneous or sequential application, of any combination of materials to produce a uniform mixture of:

(a) one or more fertilizer materials with one or more filler materials; or

(b) two or more fertilizer materials.

(2)(3) (a) “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.

(b) Commercial fertilizer includes the following types of fertilizer:

(a) “Bulk fertilizer” (i) Bulk fertilizer is commercial fertilizer (dry or liquid) distributed in nonpackage form or in containers of greater than 1,000 pounds.

(b) “Fertilizer materials” is a (ii) Fertilizer material is commercial fertilizer ~~which that~~ either:

(i)(A) contains important quantities of not more than one of the primary plant nutrients ~~(nitrogen, phosphoric acid, and potash);~~

(ii)(B) has ~~approximately~~ 85% or more of its plant nutrient content present in the form of a single chemical compound; or

(iii)(C) 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 a (iii) Mixed fertilizer is commercial fertilizer (dry or liquid) containing any combination or mixture of fertilizer materials.

(d) “Packaged fertilizer” is ~~commercial fertilizer (dry or liquid) distributed in sealed containers of 1,000 pounds or less.~~

(e) ~~“Specialty fertilizer” is a (iv) Specialty fertilizer is commercial fertilizer (dry or liquid) 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.~~

(4) “Custom blend” means a fertilizer blended according to specifications provided to a blender in a soil test nutrient recommendation or to meet a specific consumer request prior to blending.

(5) “Deficiency” means the amount of nutrient found by analysis to be less than that guaranteed. Deficiency may result from a lack of nutrient ingredients or a lack of uniformity.

(6) “Distribute” means to offer for sale, sell, barter, or otherwise supply commercial fertilizers or soil amendments.

(7) “Distributor” means any person who distributes.

(8) “Grade” means the percentages of total nitrogen, available phosphorus or phosphoric acid phosphate, and soluble potassium or soluble potash stated in whole numbers in the same terms, order, and percentages as in

the guaranteed analysis. *Specialty fertilizers may be guaranteed in fractional units of less than 1% of total nitrogen, available phosphate, and soluble potash. However, fertilizer materials, bonemeal, manures, and similar raw materials may be guaranteed in fractional units.*

(9) *“Guaranteed analysis” means the minimum percentage of plant nutrients as described in 80-10-102.*

(10) *“Investigational allowance” means an allowance for variations inherent in the taking, preparation, and analysis of an official sample of fertilizer.*

(11) *“Label” means the display of all written, printed, or graphic matter on a container, or a statement accompanying a fertilizer or soil amendment.*

(12) *“Labeling” means all written, printed, or graphic matter on or accompanying any fertilizer or soil amendment and advertisements, brochures, websites, posters, and television and radio announcements used in promoting the sale of a fertilizer or soil amendment.*

(6)(13) *“Licensee” means any person who has obtained a license from the department so he may legally distribute commercial fertilizer other than specialty fertilizers or soil amendment in this state a person licensed under 80-10-202.*

(14) *“Local legislation” means but is not limited to any ordinance, motion, resolution, amendment, regulation, or rule adopted by a political subdivision.*

(7) *“Manipulated manures” means substances composed primarily of excreta, plant remains, or mixtures of such substances which have been processed in any manner, including the addition of plant nutrients, drying, grinding, and other means.*

(8)(15) *“Manufacture” means the formulation, mixing, blending, or further processing of commercial fertilizers or soil amendments.*

(9)(16) *“Manufacturer” means a person who manufactures commercial fertilizer or soil amendments.*

(10)(17) *“Official sample” means any sample of commercial fertilizer taken by the department and so designated as official by the department.*

(18) *“Other ingredients” means nonsoil amending ingredients present in soil amendments.*

(11)(19) *“Percent or percentage” means the percentage by weight.*

(12)(20) *“Person” means an individual, partnership, association, firm, or corporation.*

(21) *“Political subdivision” means any local government entity, including but not limited to any city, county, town, or municipal corporation and any other corporate or political body that is responsible for government activities in a geographic area smaller than the state.*

(22) *“Primary nutrient” means the total nitrogen (N), available phosphate (P<sub>2</sub>O<sub>5</sub>), and soluble potash (K<sub>2</sub>O).*

(23) *“Quarterly” means the periods from January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31.*

(13)(24) *“Registrant” means the person who registers a commercial fertilizer and/or a soil amendment.*

(14)(25) (a) *“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 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 *substance that is intended to improve the physical or chemical characteristics of soil.*

(b) *The term does not include commercial fertilizers, unmanipulated animal or vegetable manures, pesticides, and other ingredients that are exempted from the definition by rule.*

(26) "Supplier" means a person who distributes fertilizers or soil amendments into Montana.

(15)(27) "Ton" means a net weight of 2,000 pounds avoirdupois.

(28) "Unmanipulated animal or vegetable manures" means substances composed primarily of excreta, plant remains, or mixtures of those substances that have not been processed in any manner, including the addition of plant nutrients, drying, grinding, and other means."

**Section 5.** Section 80-10-102, MCA, is amended to read:

**"80-10-102. Guaranteed analysis.** (1) ~~Until the department prescribes the alternative form under subsection (2) of this section, "guaranteed analysis" means~~ *Guaranteed analysis is the minimum percentage of plant nutrients claimed in the following order and form:*

(a) The following plant nutrients ~~shall~~ *must* be guaranteed:

- Total nitrogen (N) ----- %
- Available ~~phosphoric acid phosphate~~ *phosphate* (P<sub>2</sub>O<sub>5</sub>) ----- %
- Soluble potash (K<sub>2</sub>O) ----- %

(b) For unacidulated mineral phosphatic materials and basic slag, ~~bone meal bone~~, tankage, and other organic phosphatic materials, the total ~~phosphoric acid phosphate~~ and degree of fineness may also be guaranteed.

(c) Guarantees for plant nutrients other than nitrogen, phosphorus, and potassium may be permitted or required by rules adopted by the department. The guarantees for other nutrients ~~shall~~ *must* be expressed in the form of the element. The sources of other nutrients, including but not limited to oxides, salt, and chelates, may be required to be stated on the application for registration and may be included ~~as a parenthetical statement~~ on the label. Other beneficial substances or compounds, determinable by laboratory methods, also may be guaranteed by permission of the department. *When any plant nutrients or other substances or compounds are guaranteed, they are subject to inspection and analysis in accordance with the methods and regulations prescribed by the department.*

(d) Potential basicity or acidity expressed in terms of calcium carbonate equivalent in multiples of 100 pounds per ton ~~shall~~ *must* be guaranteed when required by regulation.

~~(2) If the department finds, after public hearing, that the requirement for expressing the guaranteed analysis of phosphorus and potassium in elemental form would not impose an economic hardship on distributors and users of fertilizer by reason of conflicting labeling requirements among the states, it may require by department rule that the guaranteed analysis be in the following form:~~

- Total nitrogen (N) ----- %
- Available phosphorus (P) ----- %

Soluble potassium (K) ----- %

(3) The effective date of the rule may not be less than 6 months following the adoption of the rule. For a period of 2 years following the effective date of the rule, the equivalent of phosphorus and potassium may also be shown in the form of phosphoric acid and potash. However, after the effective date of a rule requiring that phosphorus and potassium be shown in the elemental form, the guaranteed analysis for nitrogen, phosphorus, and potassium is the grade for those elements.

(4)(2) Soil amendments shall *must* guarantee the minimum quantity of each active soil amending ingredient and the total other ingredients in terms approved by the department or in terms as set forth in rules issued by the department. They shall *Soil amendments must* also meet any other requirements established by rule by the department rule.”

**Section 6.** Section 80-10-103, MCA, is amended to read:

**“80-10-103. Assessment to fund educational and experimental programs — collection.** Moneys Money to fund 80-10-104 through 80-10-106 must be produced by an assessment of 35 cents per ton of fertilizer sold within manufactured in or distributed into Montana. Collections shall *must* be made in accordance with procedures in 80-10-207 and shall be collected from payment is the responsibility of the in-state manufacturer or of the supplier if the fertilizer is not manufactured in Montana.”

**Section 7.** Section 80-10-201, MCA, is amended to read:

**“80-10-201. Registration.** (1) (a) Each brand and grade of fertilizer and each soil amendment except unmanipulated animal and or vegetable manures must be registered by ~~or the manufacturer or the supplier~~ 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:

(i) 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;

(ii) a nonrefundable fee of \$35 for each specialty fertilizer; and

(iii) a fee of \$10 for each commercial and specialty fertilizer to be used for ground water protection, as required in 80-15-302(3).

(b) 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) the net weight for packaged products;

~~(vi)~~(vi) a an electronic copy or facsimile of each label and of promotional material labeling when requested by the department; and

~~(vi)~~(vii) 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 or licensee is not be~~ required to register any brand ~~or~~ and grade of commercial fertilizer that is already registered under this section by another person.

(4) *Registration is not required for custom blends resulting from blending of registered products.*

~~(4)~~(5) A manufacturer ~~or supplier may not reregister~~ register 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 *for each product.*"

**Section 8.** Section 80-10-202, MCA, is amended to read:

**"80-10-202. License required.** ~~No~~ A person ~~shall may not~~ distribute in this state any type of fertilizer or soil amendment, except unmanipulated animal or vegetable manures or specialty fertilizer, until a license to distribute has been obtained from the department for each facility distributing into this state and for each handling facility in this state. All new applicants or those failing to renew their licenses by January 1 of each year shall pay a nonrefundable \$75 fee for each license. ~~The department may exempt, by rule, manufacturers.~~ All licenses expire on December 31 of each year and are subject to the following:

(1) The application for license ~~shall must~~ be on forms ~~provided approved~~ by the department.

~~(2) The licensee is not required to register a grade of fertilizer registered by the manufacturer or blended to grade from registered products by the licensee.~~

~~(3)~~(2) License renewals received by the department prior to January 1 of each year must be accompanied by a fee of \$50 for each license.

(3) *Before distributing any commercial fertilizer or soil amendment into the state, a person must be licensed as a supplier.*"

**Section 9.** Section 80-10-204, MCA, is amended to read:

**"80-10-204. Labeling.** (1) ~~Any~~ All commercial fertilizer distributed in this state in ~~packages shall~~ containers ~~must~~ have affixed to ~~or printed on~~ the container a label setting forth in clearly legible and conspicuous form *the following information:*

(a) ~~the~~ net weight;

(b) ~~the~~ name and address of the ~~manufacturer registrant or distributor~~ *guaranteeing the analysis guarantor;*

(c) ~~the~~ brand ~~and product name;~~

(d) ~~the~~ grade, *except if no primary nutrients are claimed;*

(e) ~~the~~ guaranteed analysis;

(f) *directions for use of the fertilizer by the end user;* and

~~(f)~~(g) 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 invoice is delivered~~. The document ~~shall must~~ show:

- (a) net weight;
- (b) name and address of the distributor ~~or manufacturer guaranteeing the analysis, registrant, or guarantor~~;
- (c) guaranteed analysis or, on ~~blended custom-blended~~ fertilizer, the net weight and guaranteed analysis of each ingredient added; and
- (d) other requirements as established by rule.

(4) ~~(a)~~ 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 be clearly legible and shall accompany the delivery of the product. This label shall be supplied to the purchaser at the time of delivery and at the time of invoicing. The label shall contain setting forth in clearly legible and conspicuous form the following information:~~

- ~~(a)(i)~~ net weight;
  - ~~(b)(ii)~~ name and address of the registrant or licensee ~~who is responsible for the product guarantor~~;
  - ~~(c)(iii)~~ brand and product name;
  - ~~(d)(iv)~~ guaranteed analysis;
  - ~~(v)~~ *soil amending ingredients listed in the following form:*  
*Name of ingredient (identify and list all)%*  
*Total other ingredients%;*
  - ~~(vi)~~ *purpose of the product; and*
  - ~~(e)(vii)~~ other requirements, such as particle size, as established by rule.
- ~~(b) In the case of bulk shipments of soil amendments, the information required in subsection (4)(a) must be in clearly legible written or printed form, must accompany delivery, and must be supplied to the purchaser at the time of delivery."~~

**Section 10.** Section 80-10-205, MCA, is amended to read:

**"80-10-205. Misbranding and adulteration prohibited.** (1) ~~No~~ A person ~~shall may not~~ distribute a misbranded ~~or adulterated~~ fertilizer or soil amendment. A ~~commercial~~ fertilizer or soil amendment is misbranded if it:

- ~~(1)(a)~~ ~~carries any its labeling is false or misleading statement upon or attached to the container or if false or misleading statements concerning its agricultural value are made on the container or in any advertising matter accompanying or associated with the product in any manner;~~
- ~~(2)(b)~~ *it is distributed under the name of another fertilizer or soil amendment product;*
- ~~(3)(c)~~ *it is not labeled as required in 80-10-204 and in accordance with rules prescribed under this chapter;*
- ~~(d)~~ *adequate warning statements or directions for use that may be necessary to protect plant life, animals, humans, aquatic life, soil, or water are not shown on the label; or*



(4)(e) *it purports to be or is represented as a commercial fertilizer or soil amendment or is represented as containing a plant nutrient, or commercial fertilizer, or soil amendment ingredient unless that plant nutrient, or commercial fertilizer, or soil amendment conforms to the definition of identity, if any, prescribed by rule of the department. In adopting this type of rule, the department shall give due regard consideration to commonly accepted definitions and official fertilizer and soil amendment terms as issued by the association of American plant food control officials.*

(2) *A person may not distribute an adulterated fertilizer or soil amendment product. A fertilizer or soil amendment is adulterated if:*

(a) *it contains any deleterious or harmful substance in sufficient amount to render it injurious to beneficial plant life, animals, humans, aquatic life, soil, or water when applied in accordance with directions for use on the label;*

(b) *its composition falls below or differs from that which it is purported to possess by its labeling; or*

(c) *it contains crop seed or weed seed."*

**Section 11.** Section 80-10-206, MCA, is amended to read:

**"80-10-206. Inspection, sampling, and analysis.** (1) ~~The department, in cooperation with the agricultural experiment station of Montana state university-Bozeman, shall~~ *may* sample, inspect, analyze, and test commercial fertilizers and soil amendments distributed in this state at a time and place and to an extent necessary to determine whether the commercial fertilizers or soil amendments are in compliance with this chapter. The department may enter upon any public or private premises during regular business hours in order to have access to commercial fertilizers or soil amendments subject to this chapter.

(2) The methods of analysis and sampling ~~shall~~ *must* be those adopted by the department from sources such as those of the association of official analytical chemists. The results of analysis, together with additional information the department considers advisable, ~~shall~~ *must* be transmitted promptly to the manufacturer and to the dealer or person in whose possession the product was sampled.

(3) The department, in determining whether any *deficiency occurred in a commercial fertilizer is deficient in plant food or soil amendment is deficient*, ~~shall~~ *must* be guided solely by the official sample obtained and analyzed as provided for in subsections (1) and (2) ~~of this section. The department may arrange with other laboratories for specific analyses conducted as part of an official analysis.~~

(4) If on the basis of an inspection or the analysis of the official sample a commercial fertilizer or soil amendment is found to be subject to penalty or other legal action, the department shall forward to the ~~registrant~~ *responsible party* notification of the violation ~~at least 10 days before its report is made public. If during that period~~ no adequate evidence to the contrary is made available to the department, the report becomes official.

(5) Upon request, the department shall furnish to the ~~registrant~~ *responsible party* a portion of any sample found subject to penalty or other legal action. *The responsible party may challenge the department's determination of a violation within 30 days following the responsible party's receipt of the analysis. Upon receipt of the challenge, the department shall forward a portion of the remainder of the official sample to any recognized chemical laboratory of the responsible party's choice for analysis. If the results differ significantly from the*

*department's analysis, the responsible party may request a referee analysis by a referee laboratory chosen by the department. Results of the referee analysis must be reported to the responsible party and to the department, and the referee analysis is considered official. If the department's initial analysis is sustained following a referee analysis, the responsible party that requested the referee analysis shall pay the costs of the referee analysis."*

**Section 12.** Section 80-10-207, MCA, is amended to read:

**"80-10-207. Fees.** (1) (a) ~~A manufacturer registering under 80-10-201(1)~~ *Each in-state manufacturer or out-of-state supplier* shall pay to the department fees on all commercial fertilizer distributed in this state, except specialty fertilizers and unmanipulated animal ~~and or~~ vegetable manures, ~~provided that sales. Sales to manufacturers or exchanges between them~~ *manufacturers* are exempt. The fees are as follows:

(i) ~~for inspection of fertilizers other than anhydrous ammonia, 20 cents per ton.~~ The department may by rule adjust the inspection fee to maintain adequate funding for the administration of this part. The fee may not be less than 20 cents per ton or more than 25 cents per ton. A change in fee becomes effective on the first day of a reporting period. All *in-state manufacturers and out-of-state suppliers of nonexempt products* must be given notice of a change in fees before the effective date.

(ii) ~~for inspection of anhydrous ammonia, 65 cents per ton.~~ The department may by rule adjust the anhydrous ammonia inspection fee to maintain adequate funding for the administration and enforcement of part 5 of this chapter. The fee may not be less than 65 cents per ton or more than \$1.30 per ton. A change in fee becomes effective on the first day of a reporting period. All ~~registrants and~~ *in-state manufacturers and out-of-state suppliers* of anhydrous ammonia must be given notice of a change in fees before the effective date of the fee adjustment.

(iii) ~~for assessment, the fee prescribed in 80-10-103.~~ The assessment fee *prescribed in 80-10-103* must be used to fund educational and experimental programs as provided in 80-10-103 through 80-10-106.

(b) If fertilizer *material* or soil amendment ~~material~~ is added to fertilizer for which a fee has been paid under subsection (1)(a), ~~a fee must be paid under that subsection, but only on the added fertilizer or soil amendment~~ *a fee is due only on the fertilizer material or soil amendment for which a fee has not been paid.*

(2) There must be paid to the department on all soil amendments distributed in this state an inspection fee of 10 cents per ton subject to the following provisions:

(a) sales to manufacturers or exchanges between them are exempt; and

(b) when less than 50 tons of *a* registered soil amendment is sold in a ~~6-month quarterly reporting period, there must be paid to the department a fee of \$5 for each soil amendment for each 6-month period in lieu of the fee of 10 cents per ton. Inspection fees must be used by the department for administration of this part~~ *no payment is due.*

(3) (a) (i) Each licensee who distributes a soil amendment or commercial fertilizer, except specialty fertilizer and unmanipulated *animal or vegetable* manures, to an unlicensed ~~or unregistered~~ person in this state shall file with the department on forms ~~furnished or~~ approved by the department a semiannual statement for the periods ending June 30 and December 31 setting forth the number of net tons of each commercial fertilizer ~~or~~ *and* soil amendment distributed in this state during the 6-month period. The report is due on or

before the 30th day of the month following the close of each period. *There are no fees associated with the semiannual report.*

(ii) Each *in-state* manufacturer ~~who registers or a person who registers on the manufacturer's behalf~~ and *out-of-state* supplier ~~who distributes~~ a soil amendment or commercial fertilizer in this state ~~to a person regardless of their license status~~, except specialty fertilizer and unmanipulated *animal or vegetable* manures, shall file with the department on forms ~~furnished or~~ approved by the department a ~~monthly~~ *quarterly* statement setting forth the number of net tons of each registered commercial fertilizer and soil amendment distributed in this state during the ~~month~~ *quarter* and to whom it was distributed. The report is due on or before ~~the 30th day of the following month~~ *30 days after the end of the quarterly reporting period*. The *in-state* manufacturer or ~~person registering on behalf of the manufacturer~~ *out-of-state* supplier shall pay the fees set forth in subsection (1) at that time.

(b) If the tonnage report required by subsection (3)(a)(ii) is not filed and the payment of fees is not made within 30 days after the end of the *quarterly reporting* period, a collection fee ~~amounting to 10%~~ *15% annual percentage rate* on the amount due but not less than \$10 must be assessed against the *in-state* manufacturer or *out-of-state* supplier, and the amount of fees due constitutes a debt and becomes the basis of a judgment against the *in-state* manufacturer or *out-of-state* supplier.

(4) Except as provided in subsection (5), all fees collected for licenses, registration, and inspection and money collected as penalties must be deposited in the state treasury to the credit of the state special revenue fund for the purpose of administering this chapter, including the cost of equipment and facilities and the cost of inspecting, analyzing, and examining commercial fertilizer and soil amendments manufactured or distributed in this state. Reserve funds may be invested by the department with interest credited to the state special revenue fund.

(5) All fees collected under subsection (1)(a)(ii) must be deposited in the state treasury to the credit of the state special revenue fund, anhydrous ammonia account, for the administration and enforcement of part 5 of this chapter and the rules adopted under part 5. The department may direct the board of investments to invest the funds collected under subsection (1)(a)(ii) pursuant to the provisions of 17-6-201. The income from the investment must be deposited in the anhydrous ammonia account in the state special revenue fund."

**Section 13.** Section 80-10-208, MCA, is amended to read:

**"80-10-208. Penalties.** (1) A penalty of two times the commercial value of the deficiency, as determined by the ~~dealer's or manufacturer's price on the date of sampling of the deficiency or deficiencies~~, shall *retail price based on a semiannual state survey*, may be assessed:

(a) if the analysis shows that a commercial fertilizer is deficient in one or more of its guaranteed primary ~~plant foods (NPK)~~ *nutrients* beyond the investigational allowance as established by regulation; or

(b) if the overall index value of the fertilizer is below the level established by regulation.

(2) When a commercial fertilizer is subject to a penalty under both subsections (1)(a) and (1)(b), the larger penalty applies.

(3) Deficiencies beyond the investigational allowances as established by regulation in any other constituent covered under ~~subsections (1)(b), (1)(c), and~~

(1)(d) of 80-10-102 which 80-10-102(1)(b), (1)(c), and (1)(d) that the registrant is required to or may guarantee shall *may* be evaluated, and penalties shall *may* be assessed at two times the commercial value of the deficiency as determined by the dealer's retail price on the date of sampling based on a semiannual state survey.

(4) Nothing contained in this section shall ~~prevent~~ *prevents* any person from appealing the department's decision to a court of competent jurisdiction.

(5) All penalties assessed under this section shall *must* be paid to the consumer of the lot, not to exceed 100 tons, of commercial fertilizer represented by the sample analyzed within 3 months after the date of notice from the department to the ~~registrant or licensee~~ *responsible party*. If at the end of the 3-month period the consumer cannot be found, receipts shall *must* be taken and promptly forwarded to the department for deposit in the state special revenue fund as provided in 80-10-207.

(6) *If the department cannot reasonably determine the lot size, then the lot size is considered to be 2 tons for the purposes of calculating the commercial value of the deficiency.*

(7) *A deficiency in an official sample of mixed fertilizer that results from nonuniformity is not distinguishable from a deficiency to actual plant nutrient shortage and is subject to official action."*

**Section 14.** Section 80-10-209, MCA, is amended to read:

**"80-10-209. Publications.** The department shall *may* publish at least ~~annually~~ *by electronic or other means annual* information concerning the sales of commercial fertilizers and soil amendments, together with data on their production and use as it considers advisable, and shall *may* report the results of the analyses based on official samples of commercial fertilizers and soil amendments sold in this state."

**Section 15.** 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 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 may~~ 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~~ *actions* 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 chapter requires 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 an in-state manufacturer or supplier fails to pay a fee required under 80-10-207, the manufacturer or supplier may be fined an amount up to \$1,000 or twice the fee that should have been paid, whichever is higher. If a supplier fails to obtain a license as required in 80-10-202(3), the supplier may be assessed a civil penalty of \$500 for each quarter that the supplier fails to be licensed, in addition to any other amounts owed to the state.*

~~(6)~~(7) 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 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 it considers proper, just, and equitable."

**Section 16.** Section 80-15-302, MCA, is amended to read:

**"80-15-302. Special funding.** (1) A fee of \$95 is assessed for the registration of pesticides in addition to the fee imposed by 80-8-201(4).

(2) The money collected from the registration fee established by subsection (1) must be deposited in the state special revenue fund as follows:

(a) Each of the following state agencies must be credited \$15,000 for purposes of administering or assisting the department in administering this chapter:

- (i) department of environmental quality; and
- (ii) Montana state university-Bozeman extension service.

(b) The department must be credited with the remainder of the registration fee money to use in administering this chapter.

(3) A fee of \$10 is assessed for the registration of fertilizers in addition to the fee *fees* imposed by 80-10-201(1)(a)(i) and (1)(a)(ii). The additional fee must be used for the ground water protection responsibilities of the department relating to fertilizers. Revenues collected from this fee must be credited to the commercial fertilizer agricultural chemical ground water account within the state special revenue fund for the administration of this chapter.

(4) The department may direct the board of investments to invest the portion of the money collected under this section that is credited to the department pursuant to the provisions of 17-6-201. The income from the investments must be deposited in the state special revenue fund and credited to the department."

**Section 17. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 80, chapter 10, part 1, and the provisions of Title 80, chapter 10, part 1, apply to [section 1].

**Section 18. Effective date.** [This act] is effective July 1, 2009.

Approved April 28, 2009

**CHAPTER NO. 396**

[SB 97]

AN ACT 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.

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

**Section 1.** Section 75-11-302, MCA, is amended to read:

**“75-11-302. Definitions.** Except as provided in subsections (2), ~~(15)~~ (14), and (25), the following definitions apply to this part:

(1) “Accidental release” means a sudden or nonsudden release, neither expected nor intended by the tank owner or operator, of petroleum or petroleum products from a storage tank that results in a need for corrective action or compensation for third-party bodily injury or property damage.

(2) “Aviation gasoline” means aviation fuel as defined in 15-70-201. For the purposes of this chapter, aviation gasoline does not include JP-4 jet fuel sold to a federal defense fuel supply center.

(3) “Board” means the petroleum tank release compensation board established in 2-15-2108.

(4) “Bodily injury” means physical injury, sickness, or disease sustained by an individual, including death that results from the physical injury, sickness, or disease at any time.

(5) “Claim” means a written request prepared and submitted by an owner or operator or an agent of the owner or operator for reimbursement of expenses caused by an accidental release from a petroleum storage tank.

(6) “Corrective action” means investigation, monitoring, cleanup, restoration, abatement, removal, and other actions necessary to respond to a release.

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

(8) “Distributor” means a person who is licensed to sell gasoline, as provided in 15-70-202, and who:

(a) in the state of Montana, engages in the business of producing, refining, manufacturing, or compounding gasoline, aviation gasoline, special fuel, or heating oil for sale, use, or distribution;

(b) imports gasoline, aviation gasoline, special fuel, or heating oil for sale, use, or distribution in this state;

(c) engages in wholesale distribution of gasoline, aviation gasoline, special fuel, or heating oil in this state;

(d) is an exporter;

(e) is a dealer licensed as of January 1, 1969, except a dealer at an established airport; or

(f) either blends gasoline with ethanol or blends heating oil with waste oil.

~~(9)~~ “Double-walled tank system” means a petroleum storage tank and associated product piping that is designed and constructed with rigid inner and outer walls separated by an interstitial space and that is capable of being monitored for leakage. The design and construction of these tank systems must meet standards of the department and the department of justice fire prevention and investigation bureau. The material used in construction must be compatible with the liquid to be stored in the system, and the system must be designed to prevent the release of any stored liquid.

~~(10)~~(9) “Eligible costs” means expenses reimbursable under 75-11-307.

~~(11)~~(10) “Export” means to transport out of the state of Montana, by means other than in the fuel supply tank of a motor vehicle, gasoline, aviation gasoline, special fuel, or heating oil received from a refinery or pipeline terminal within the state of Montana.

~~(12)~~(11) “Exporter” means a person who transports, by means other than in the fuel supply tank of a motor vehicle, gasoline, aviation gasoline, special fuel, or heating oil received from a refinery or pipeline terminal within the state of Montana to a destination outside the state of Montana for sale, use, or consumption beyond the boundaries of the state of Montana.

~~(13)~~(12) “Fee” means the petroleum storage tank cleanup fee provided for in 75-11-314.

~~(14)~~(13) “Fund” means the petroleum tank release cleanup fund established in 75-11-313.

~~(15)~~(14) “Gasoline” means gasoline as defined in 15-70-201. For the purposes of this chapter, gasoline does not include JP-4 jet fuel sold to a federal defense fuel supply center.

~~(16)~~(15) “Heating oil” means petroleum that is No. 1, No. 2, No. 4-light, No. 4-heavy, No. 5-light, No. 5-heavy, and No. 6 technical grades of fuel oil; other residual fuel oils, including navy special fuel oil and bunker C; and other fuels when used as substitutes for one of these fuel oils. Heating oil is typically used in the operation of heating equipment, boilers, or furnaces.

~~(17)~~(16) “Import” means to receive into a person’s possession or custody first after its arrival and coming to rest at a destination within the state any gasoline, aviation gasoline, special fuel, or heating oil shipped or transported into this state from a point of origin outside this state, other than in the fuel supply tank of a motor vehicle.

~~(18)~~(17) “Operator” means a person in control of or having responsibility for the daily operation of a petroleum storage tank.

~~(19)~~(18) (a) “Owner” means:

(i) a person that holds title to, controls, or possesses an interest in a petroleum storage tank; or

(ii) a person that owns the property on which a petroleum storage tank from which a release occurred was located.

(b) The term does not include a person that holds an interest in a storage tank solely for financial security, unless through foreclosure or other related actions the holder of a security interest has taken possession of the tank.

~~(20)~~(19) “Person” means an individual, firm, trust, estate, partnership, company, association, joint-stock company, syndicate, consortium, commercial entity, corporation, or agency of state or local government.

(21)(20) "Petroleum" or "petroleum products" means crude oil or any fraction of crude oil that is liquid at standard conditions of temperature and pressure (60 degrees F and 14.7 pounds per square inch absolute) or motor fuel blend, such as ethanol-blended gasoline, and that is not augmented or compounded by more than a de minimis amount of another substance.

(22)(21) "Petroleum storage tank" means a tank that contains or contained petroleum or petroleum products and that is:

- (a) an underground storage tank as defined in 75-11-503;
- (b) a storage tank that is situated in an underground area, such as a basement, cellar, mine, drift, shaft, or tunnel;
- (c) an aboveground storage tank with a capacity less than 30,000 gallons; or
- (d) aboveground or underground pipes associated with tanks under subsections ~~(22)(b)~~ (21)(b) and ~~(22)(e)~~ (21)(c), except that pipelines regulated under the following laws are excluded:
  - (i) the Natural Gas Pipeline Safety Act of 1968, (49 U.S.C. 1671, et seq.);
  - (ii) the Hazardous Liquid Pipeline Safety Act of 1979, (49 U.S.C. 2001, et seq.); and
  - (iii) state law comparable to the provisions of law referred to in subsections ~~(22)(d)(i)~~ (21)(d)(i) and ~~(22)(d)(ii)~~ (21)(d)(ii), if the facility is intrastate.

(22) "*Properly designed and installed double-walled tank system*" means a petroleum storage tank and associated product piping that is designed and constructed with rigid inner and outer walls separated by an interstitial space and that is capable of being monitored for leakage. The design and construction of these tank systems must meet any applicable standards of the department and the department of justice fire prevention and investigation bureau. The material used in construction must be compatible with the liquid to be stored in the system, and the system must be designed to prevent the release of any stored liquid.

(23) "Property damage" means:

- (a) physical injury to tangible property, including loss of use of that property caused by the injury; or
- (b) loss of use of tangible property that is not physically injured.

(24) "Release" means any spilling, leaking, emitting, discharging, escaping, leaching, or disposing of petroleum or petroleum products from a petroleum storage tank into ground water, surface water, surface soils, or subsurface soils.

(25) "Special fuel" means those combustible liquids commonly referred to as diesel fuel or another volatile liquid of less than 46 degrees A.P.I. (American petroleum institute) gravity test, except liquid petroleum gas. For the purposes of this chapter, special fuel does not include diesel fuel sold to a railroad or a federal defense fuel supply center."

**Section 2.** Section 75-11-307, MCA, is amended to read:

**"75-11-307. Reimbursement for expenses caused by release.** (1) Subject to the availability of money from the fund under subsection ~~(5)~~ (7), an owner or operator who is eligible under 75-11-308 and who complies with 75-11-309 and any rules adopted to implement those sections must be reimbursed by the board from the fund for the following eligible costs caused by a release from a petroleum storage tank:

- (a) corrective action costs as required by a department-approved corrective action plan, except if the corrective action plan addresses releases of substances



other than petroleum products from an eligible petroleum storage tank, the board may reimburse only the costs that would have reasonably been incurred if the only release at the site was the release of the petroleum or petroleum products from the eligible petroleum storage tank; and

(b) compensation paid to third parties for bodily injury or property damage. The board may not reimburse for property damage until the corrective action is completed.

(2) An owner or operator may not be reimbursed from the fund for the following expenses:

(a) corrective action costs or the costs of bodily injury or property damage paid to third parties that are determined by the board to be ineligible for reimbursement;

(b) costs for bodily injury and property damage, other than corrective action costs, incurred by the owner or operator;

(c) penalties or payments for damages incurred under actions by the department, board, or federal, state, local, or tribal agencies or other government entities involving judicial or administrative enforcement activities and related negotiations;

(d) attorney fees and legal costs of the owner, the operator, or a third party;

(e) costs for the repair or replacement of a tank or piping or costs of other materials, equipment, or labor related to the operation, repair, or replacement of a tank or piping;

(f) expenses incurred before April 13, 1989, for owners or operators seeking reimbursement from the petroleum tank release cleanup fund and expenses incurred before May 15, 1991, for owners or operators seeking reimbursement from the petroleum tank release cleanup fund for a tank storing heating oil for consumptive use on the premises where it is stored or for a farm or residential tank with a capacity of 1,100 gallons or less that is used for storing motor fuel for noncommercial purposes;

(g) expenses exceeding the maximum reimbursements provided for in subsection (4); and

(h) costs for which an owner or operator has received reimbursement or payment from an insurer or other third party; and

~~(h)~~(i) expenses for work completed by or on behalf of the owner or operator more than 5 years prior to the owner's or operator's request for reimbursement. This limitation does not apply to claims for compensation paid to third parties for bodily injury or property damage. The running of the 5-year limitation period is suspended by an appeal of the board's denial of eligibility for reimbursement. If a written request for hearing is filed under 75-11-309, the suspension of the 5-year limitation period is effective from the date of the board's initial eligibility denial to the date on which the initial eligibility denial is overturned or reversed by the board, a district court, or the state supreme court, whichever occurs latest. The board may grant reasonable extensions of this limitation period if it is shown that the need for the extension is not due to the negligence of the owner or operator or agent of the owner or operator.

(3) An owner or operator may designate a person as an agent to receive the reimbursement if the owner or operator remains legally responsible for all costs and liabilities incurred as a result of the release.

(4) Subject to the availability of funds under subsection ~~(5)~~ (7):

(a) for releases eligible for reimbursement from the ~~petroleum tank release cleanup~~ fund that are discovered and reported on or after April 13, 1989, from a tank storing heating oil for consumptive use on the premises where it is stored or from a farm or residential tank with a capacity of 1,100 gallons or less that is used for storing motor fuel for noncommercial purposes, the board shall reimburse an owner or operator for:

(i) ~~50% of the first \$10,000 of eligible costs and 100% of subsequent eligible costs, up to a maximum total reimbursement of \$495,000:~~

(A) for single-walled tank system releases; and

(B) for double-walled tank system releases for which the release date was prior to October 1, 1993; or

(ii)(i) 100% of the eligible costs, up to a maximum total reimbursement of \$500,000, for properly designed and installed double-walled tank system ~~accidental~~ releases that were discovered and reported on or after October 1, 1993, and before October 1, 2009; or

(ii) 50% of the first \$10,000 of eligible costs and 100% of subsequent eligible costs, up to a maximum total reimbursement of \$495,000 for all other releases; and

(b) for all other releases eligible for reimbursement from the ~~petroleum tank release cleanup~~ fund that are discovered and reported on or after April 13, 1989, the board shall reimburse an owner or operator for:

(i) ~~50% of the first \$35,000 of eligible costs and 100% of subsequent eligible costs, up to a maximum total reimbursement of \$982,500:~~

(A) for single-walled tank system releases; and

(B) for double-walled tank system releases for which the release date was prior to October 1, 1993; or

(ii)(i) 100% of the eligible costs, up to a maximum total reimbursement of \$1 million, for properly designed and installed double-walled tank system ~~accidental~~ releases that were discovered and reported on or after October 1, 1993, and before October 1, 2009; or

(ii) 50% of the first \$35,000 of eligible costs and 100% of subsequent eligible costs, up to a maximum total reimbursement of \$982,500 for all other releases.

(5) If an insurer pays or reimburses an owner or operator for costs that qualify as eligible costs under subsection (1), the costs paid or reimbursed by the insurer:

(a) are considered to have been paid by the owner or operator toward satisfaction of the 50% share requirements of subsection (4)(a)(ii) or (4)(b)(ii) if the owner or operator receives the payment or reimbursement before applying for reimbursement from the board;

(b) are not reimbursable from the fund; and

(c) except for the amount considered to have been paid by the owner or operator pursuant to subsection (5)(a), are considered to have been reimbursed from the fund for purposes of determining when the board has paid the maximum amount payable from the fund under subsection (4)(a)(ii) or (4)(b)(ii).

(6) If the fund does not contain sufficient money to pay approved claims for eligible costs, a reimbursement may not be made and the fund and the board are not liable for making any reimbursement for the costs at that time. When the fund contains sufficient money, eligible costs must be reimbursed subsequently in the order in which they were approved by the board."

**Section 3.** Section 75-11-309, MCA, is amended to read:

**“75-11-309. Procedures for reimbursement of eligible costs.** (1) An owner or operator seeking reimbursement for eligible costs and the department shall comply with the following procedures:

(a) If an owner or operator discovers or is provided evidence that a release may have occurred from the owner’s or operator’s petroleum storage tank, the owner or operator shall immediately notify the department of the release and conduct an initial response to the release in accordance with state and federal laws and rules to protect the public health and safety and the environment.

(b) Except for a tank for which a permit is sought under 75-11-308(1)(b)(iii) and that is closed within 120 days of discovery of the release, following discovery of the release, the petroleum storage tank must remain in compliance with applicable state and federal laws and rules that the board determines pertain to prevention and mitigation of petroleum releases.

(c) The owner or operator shall conduct a thorough investigation of the release, report the findings to the department, and, as determined necessary by the department, prepare and submit for approval by the department a corrective action plan that conforms with state, tribal (when applicable), and federal corrective action requirements.

(d) (i) The department shall review the corrective action plan and forward a copy to a local government office and, when applicable, a tribal government office with jurisdiction over a corrective action for the release. The local or tribal government office shall inform the department if it wants any modification of the proposed plan.

(ii) Based on its own review and comments received from a local government, tribal government, or other source, the department may approve the proposed corrective action plan, make or request the owner or operator to modify the proposed plan, or prepare its own plan for compliance by the owner or operator. A plan finally approved by the department through any process provided in this subsection (1)(d) is the approved corrective action plan.

(iii) After the department approves a corrective action plan, a local government or tribal government may not impose different corrective action requirements on the owner or operator.

(e) The department shall notify the owner or operator of its approval of a corrective action plan and shall promptly submit a copy of the approved corrective action plan to the board.

(f) The owner or operator shall implement the corrective action plan or plans approved by the department until the release is resolved. The department may oversee the implementation of the plan, require reports and monitoring from the owner or operator, undertake inspections, and otherwise exercise its authority concerning corrective action under Title 75, chapter 10, part 7, Title 75, chapter 11, part 5, and other applicable law and rules.

(g) (i) The owner or operator shall document in the manner required by the board all expenses incurred in preparing and implementing the corrective action plan. The owner or operator shall submit claims and substantiating documents to the board in the form and manner required by the board.

(ii) The board shall review each claim and determine if the claims are actual, reasonable, and necessary costs of responding to the release and implementing the corrective action plan.

(iii) If the board requires additional information to determine if a claimed cost is actual, reasonable, and necessary, the board may request comment from the department and the owner or operator.

(iv) If the department determines that an owner or operator is failing to properly implement a corrective action plan, it shall notify the board.

(h) The owner or operator shall document, in the manner required by the board, any payments to a third party for bodily injury or property damage caused by a release. The owner or operator shall submit claims and substantiating documents to the board in the form and manner required by the board.

(i) In addition to the documentation in subsections (1)(g) and (1)(h), when the release is claimed to have originated from a *properly designed and installed* double-walled tank system, the owner or operator shall document, in the manner required by the board, the following:

(i) the date that the release was discovered; *and*

(ii) that the originating tank was part of a *properly designed and installed* double-walled tank system ~~as defined in 75-11-302; and~~

~~(iii) that the double-walled tank system was properly installed and made of materials and constructed in accordance with applicable department regulations.~~

(2) If an owner or operator is issued an administrative order for failure to comply with requirements imposed by or pursuant to Title 75, chapter 11, part 5, or rules adopted pursuant to Title 75, chapter 11, part 5, all reimbursement of claims submitted after the date of the order must be suspended. Upon a written determination by the department that the owner or operator has returned to compliance with the requirements of Title 75, chapter 11, part 5, or rules adopted pursuant to Title 75, chapter 11, part 5, suspended and future claims may be reimbursed according to criteria established by the board. In establishing the criteria, the board shall consider the effect and duration of the noncompliance.

(3) The board shall review each claim received under subsections (1)(g) and (1)(h), make the determination required by this subsection, inform the owner or operator of its determination, and, as appropriate, reimburse the owner or operator from the fund. Before approving a reimbursement, the board shall affirmatively determine that:

(a) the expenses for which reimbursement is claimed:

(i) are eligible costs; and

(ii) were actually, necessarily, and reasonably incurred for the preparation or implementation of a corrective action plan approved by the department or for payments to a third party for bodily injury or property damage; and

(b) the owner or operator:

(i) is eligible for reimbursement under 75-11-308; and

(ii) has complied with this section and any rules adopted pursuant to this section. Upon a determination by the board that the owner or operator has not complied with this section or rules adopted pursuant to this section, all reimbursement of pending and future claims must be suspended. Upon a determination by the board that the owner or operator has returned to compliance with this section or rules adopted pursuant to this section, suspended and future claims may be reimbursed according to criteria

established by the board. In establishing the criteria, the board shall consider the effect and duration of the noncompliance.

(4) (a) If an owner or operator disagrees with a board determination under subsection (3), the owner or operator may submit a written request for a hearing before the board.

(b) *A written request for a hearing must be received by the board within 120 days after notice of the board's determination is served on the owner or operator by certified mail. The notice of determination must advise the owner or operator of the 120-day time limit for submitting a written request for a hearing to the board. Not less than 50 days or more than 60 days after the board serves the notice of determination, the board shall serve on the owner or operator a second notice by certified mail advising the owner or operator of the deadline for requesting a hearing. Service by certified mail is complete on the date shown on the certified mail receipt.*

(c) *If a written request is received within 120 days, the* The hearing must be held at a meeting of the board or as otherwise permitted under the Montana Administrative Procedure Act no later than 120 days following receipt of the request or at a time mutually agreed to by the board and the owner or operator.

(d) *If a written request is not received within 120 days, the determination of the board is final.*

(5) The board shall obligate money for reimbursement of eligible costs of owners and operators in the order that the costs are finally approved by the board.

(6) (a) The board may, at the request of an owner or operator, guarantee in writing the reimbursement of eligible costs that have been approved by the board but for which money is not currently available from the fund for reimbursement.

(b) The board may, at the request of an owner or operator, guarantee in writing reimbursement of eligible costs not yet approved by the board, including estimated costs not yet incurred. A guarantee for payment under this subsection (6)(b) does not affect the order in which money in the fund is obligated under subsection (5).

(c) When considering a request for a guarantee of payment, the board may require pertinent information or documentation from the owner or operator. The board may grant or deny, in whole or in part, any request for a guarantee."

**Section 4.** Section 75-11-314, MCA, is amended to read:

**"75-11-314. Petroleum storage tank cleanup fee — collection — penalties — warrant for distraint — statute of limitations.** (1) Except as provided in subsection (4), each distributor shall pay to the department of transportation a petroleum storage tank cleanup fee for each gallon of gasoline, aviation gasoline, special fuel, or heating oil distributed by the distributor within the state and upon which the fee has not been paid by any other distributor. The fee must equal:

(a) ~~1 cent for each gallon of gasoline distributed from July 1, 1989, through June 30, 1991;~~

~~(b)(a) 0.75 cent for each gallon of gasoline distributed after July 1, 1991;~~

~~(e)(b) 0.75 cent for each gallon of aviation gasoline distributed after July 1, 1993;~~

~~(d)(c)~~ 0.75 cent for each gallon of special fuel ~~distributed after July 1, 1993~~; and

~~(e)(d)~~ 0.75 cent for each gallon of heating oil ~~distributed after July 1, 1993~~.

(2) Gasoline, aviation gasoline, special fuel, and heating oil exported or sold for export out of the state must be included in the measure of a distributor's fee.

(3) Ethanol that is blended with gasoline to be sold as ethanol-blended gasoline is subject to the fee provided in subsection (1).

(4) A fee may not be imposed or collected beginning on the first day of the first month in the first calendar quarter after the unobligated balance in the fund equals or exceeds \$8 \$10 million. Whenever the unobligated fund balance, less claims anticipated for board approval within the next 90 days, is less than \$4 \$6 million, the department of transportation shall, within 30 days, notify distributors by mail that the fee is reinstated beginning on the first day of the first month that begins no less than 30 days after the date of the notice. Once reinstated, the fee must be imposed and collected until the unobligated fund balance again equals or exceeds \$8 \$10 million.

(5) The department of transportation shall collect the fee in the same manner as the basic gasoline license tax under Title 15, chapter 70, part 2. The provisions of 15-70-103, 15-70-111, 15-70-202, 15-70-205, 15-70-206, 15-70-208 through 15-70-212, 15-70-221(2), and 15-70-232 apply to the fee. The provisions of 15-70-204, 15-70-207, 15-70-221(1), and 15-70-222 through 15-70-224 do not apply to the fee."

**Section 5. Applicability.** [Section 2(5)(a) and (5)(c)] apply to requests for reimbursement submitted to the petroleum tank release cleanup fund after [the effective date of this act].

Approved April 28, 2009

## CHAPTER NO. 397

[SB 131]

AN ACT 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.

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

**Section 1. Designation of wildland-urban interface parcels.** (1) Prior to January 1, 2012, and subject to the provisions of this section, the department shall identify the parcels of property in the state that are considered to be wildland-urban interface parcels, delineate those parcels on maps, and ensure that the maps and information on the maps is available to the public, local governing bodies, and governmental fire agencies organized under Title 7, chapter 33.

(2) (a) Except as provided in subsection (2)(b), the department shall identify a county's wildland-urban interface parcels based on the wildland-urban

interface designation developed as part of the county's completion of a community wildfire protection plan under 16 U.S.C. 6501, et seq., the Healthy Forests Restoration Act of 2003.

(b) If a community wildfire protection plan has not been adopted, the department shall:

(i) provide notice to the county governing body that the department intends to designate the wildland-urban interface within the county's jurisdictional boundary;

(ii) allow up to 18 months for the county to complete and adopt a community wildfire protection plan if a county had begun the process of developing a plan prior to receiving the notice from the department under subsection (2)(b)(i);

(iii) review and consider the analysis of the potential for fire and wildland fire required in 76-1-601(3)(j) of the county's growth policy, if a growth policy has been adopted;

(iv) consult with the county governing body and governmental fire agencies organized under Title 7, chapter 33, regarding appropriate parcels to designate as wildland-urban interface parcels; and

(v) clearly identify and make available to the county governing body and governmental fire agencies the criteria the department intends to use in designating parcels.

(3) Location of a property within the wildland-urban interface designated under this section may not be the sole reason for assessing additional fire protection fees, impact fees, or other fees against the property.

(4) The department shall report its progress in designating wildland-urban interface parcels to an appropriate interim legislative committee assigned to study wildland fire suppression or to the environmental quality council.

(5) The department shall review each county's wildland-urban interface designation every 5 years, make changes as necessary, and maintain accurate maps and other identifying information.

**Section 2. Appropriation.** There is appropriated to the department of natural resources and conservation \$147,327 in fiscal year 2010 and \$140,527 in fiscal year 2011 from federal special revenue for the purpose of [this act] only. If the department does not receive federal funds for this purpose, the department shall proceed with the requirements of [this act] to the extent possible using existing resources.

**Section 3. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 76, chapter 13, part 1, and the provisions of Title 76, chapter 13, part 1, apply to [section 1].

**Section 4. Effective date.** [This act] is effective on passage and approval.

Approved April 28, 2009

## CHAPTER NO. 398

[SB 176]

AN ACT 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.

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

**Section 1.** Section 33-17-1203, MCA, is amended to read:

**“33-17-1203. Continuing education — basic requirements — exceptions.** (1) Unless exempt under subsection (3):

(a) an individual licensed to act as an insurance producer, adjuster, or consultant other than an individual licensed *only for surety bail bonds or for limited lines credit insurance* shall, during each 24-month period, complete at least 24 credit hours of approved continuing education;

(b) an individual licensed to act as an insurance producer *only for surety bail bonds or for limited lines credit insurance* shall, during each biennium, complete 5 credit hours of approved continuing education in the areas of insurance law, ethics, or *topics specific to surety bail bonds or limited lines credit insurance*;

(c) an individual licensed as an insurance producer, adjuster, or consultant shall, during each biennium, complete at least 1 credit hour of approved continuing education on changes in Montana insurance statutes and administrative rules.

(2) The commissioner may, for good cause, grant an extension of time, not to exceed 1 year, during which the requirements imposed by subsection (1) may be completed.

(3) The minimum continuing education requirements do not apply to:

(a) an individual holding a temporary license issued under 33-17-216; ~~or~~ or

(b) an insurance producer, adjuster, or consultant otherwise exempted by the commissioner.”

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

Approved April 28, 2009

## CHAPTER NO. 399

[SB 204]

AN ACT 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.

WHEREAS, farmers and ranchers produce more than just food; they also contribute to the state's economy, maintain open spaces, and support family businesses; and

WHEREAS, Montana farm and ranch families have played a vital role in Montana's past and will continue to be important to our future; and

WHEREAS, many Montana farm and ranch families have withstood pressure from development, drought, and tough economic times in order to maintain their rural heritage.

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

**Section 1. Purpose.** The purpose of [sections 1 through 3] is to recognize and celebrate the agricultural traditions of the state by identifying those places that represent the perseverance and stewardship of Montana families on their farms and ranches. The Montana centennial farm and ranch program



accomplishes this purpose by acknowledging the strength and determination of these families and their efforts to preserve their agricultural traditions, through issuance of a certificate designating a qualified property as a centennial farm or ranch.

**Section 2. Montana centennial farm and ranch program.** (1) There is a Montana centennial farm and ranch program to recognize Montana farm and ranch families that have owned or lived on their land for 100 years or more.

(2) A Montana farm or ranch family may apply for a centennial farm or ranch designation and a certificate through the program if the family:

- (a) has owned or lived on the farm or ranch for 100 years or more;
- (b) submits an application to the Montana historical society; and
- (c) pays the fee set by the historical society to cover the application process and the certificate.

**Section 3. Administration of program — fee — rules.** (1) The Montana centennial farm and ranch program is administered by the Montana historical society.

(2) The historical society may adopt rules for administering the program, including but not limited to rules:

- (a) creating the application form and process;
- (b) setting the application fee;
- (c) creating guidelines for accepting or declining applications; and
- (d) designing and awarding certificates to qualifying families.

(3) The fee provided for in this section must be deposited in an account in the state special revenue fund and may be used by the historical society only for maintaining the program.

**Section 4. Codification instruction.** [Sections 1 through 3] are intended to be codified as an integral part of Title 22, chapter 3, and the provisions of Title 22, chapter 3, apply to [sections 1 through 3].

Approved April 28, 2009

## CHAPTER NO. 400

[SB 214]

AN ACT 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.

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

**Section 1. Forfeiture for theft of commonly domesticated hoofed animal or illegal branding or altering or obscuring of brand.** (1) The following property is subject to criminal forfeiture under this section:

(a) money, raw materials, products, equipment, and other property of any kind that is used or intended for use in the theft of a commonly domesticated hoofed animal or illegal branding or altering or obscuring a brand in violation of 45-6-301 or 45-6-327;

(b) property used or intended for use as a container for property enumerated in subsection (1)(a);

(c) except as provided in subsection (2), a conveyance, including an aircraft, vehicle, or vessel, used or intended for use to facilitate the theft of a commonly domesticated hoofed animal or illegal branding or altering or obscuring a brand in violation of 45-6-301 or 45-6-327;

(d) books, records, research products and materials, formulas, microfilm, tapes, and data used or intended for use in connection with the theft of a commonly domesticated hoofed animal or illegal branding or altering or obscuring a brand in violation of 45-6-301 or 45-6-327;

(e) everything of value furnished or intended to be furnished in exchange for a commonly domesticated hoofed animal in violation of 45-6-301 or 45-6-327 and all proceeds traceable to the exchange;

(f) money, negotiable instruments, securities, and weapons used or intended to be used to facilitate a violation of 45-6-301 or 45-6-327; and

(g) personal property constituting or derived from proceeds obtained directly or indirectly from theft of a commonly domesticated hoofed animal or from illegal branding or altering or obscuring a brand in violation of 45-6-301 or 45-6-327.

(2) A conveyance is not subject to criminal forfeiture under this section unless the owner or other person in charge of the conveyance knowingly used the conveyance or knowingly consented to its use for the purpose of theft of a commonly domesticated hoofed animal or illegal branding or altering or obscuring a brand in violation of 45-6-301 or 45-6-327.

(3) Criminal forfeiture under this section of property that is encumbered by a bona fide security interest is subject to that interest if the secured party did not use or consent to the use of the property in connection with the theft of a commonly domesticated hoofed animal or illegal branding or altering or obscuring a brand in violation of 45-6-301 or 45-6-327.

(4) Property subject to criminal forfeiture under this section may be seized under the following circumstances:

(a) A peace officer who has probable cause to make an arrest for the theft of a commonly domesticated hoofed animal or for illegal branding or altering or obscuring a brand in violation of 45-6-301 or 45-6-327 may seize a conveyance obtained with proceeds derived from the violation or used to facilitate the violation and shall immediately deliver the conveyance to the peace officer's law enforcement agency to be held as evidence until a criminal forfeiture is declared or a release is ordered.

(b) Property subject to criminal forfeiture under this section may be seized by a peace officer under a search warrant issued by a court having jurisdiction over the property.

(c) Seizure without a warrant may be made if:

(i) 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;

(ii) the property was the subject of a prior judgment in favor of the state in a criminal proceeding or a criminal forfeiture proceeding based on Title 44, chapter 12, or this section;

(iii) a peace officer has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(iv) a peace officer has probable cause to believe that the property was used or is intended to be used during the theft of a commonly domesticated hoofed animal or illegal branding or altering or obscuring a brand in violation of 45-6-301 or 45-6-327.

(5) A forfeiture proceeding under subsection (1) must be commenced within 45 days of the seizure of the property involved.

(6) The procedure for forfeiture proceedings in 44-12-201 through 44-12-204 applies to property seized pursuant to this section.

(7) Upon conviction, the property subject to criminal forfeiture is forfeited to the state and must be disposed of in accordance with the provisions of [section 2].

**Section 2. Disposition of property and proceeds of sale.** (1) If the court finds that property seized pursuant to the theft of a commonly domesticated hoofed animal or illegal branding or altering or obscuring a brand was not used for the purpose charged or that the property listed in [section 1(1)] 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 [section 1(1)] was used with the knowledge or consent of the owner, the property must be disposed of as follows:

(a) If proper proof of the 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 the holder of the security interest is equal to or in excess of the value of the property as of the date of seizure. 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 department of livestock in the same manner provided by law for the sale of property under execution or the department of livestock 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 department of livestock or to a person related to a department officer or employee by blood or marriage.

(b) If no claimant exists and the department of livestock wishes to retain the property for its official use, it may do so. If 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 a claim exists and the department of livestock wishes to retain the property for its official use, it may do so 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 section, the court may take any action to protect the rights of innocent persons.

(4) Whenever property is seized, forfeited, and sold under the provisions of this section, the net proceeds of the sale must be distributed as follows:

(a) to the holders of security interests who have presented proper proof of their claims, if any, up to the amount of their interests in the property; and

(b) the remainder, if any, to the credit of the department of livestock to be used in enforcement activities related to the theft of commonly domesticated hoofed animals and illegal branding or altering or obscuring a brand.

**Section 3.** Section 45-2-311, MCA, is amended to read:

**“45-2-311. Criminal responsibility of corporations.** (1) A corporation may be prosecuted for the commission of an offense only if:

(a) the offense is a misdemeanor, is defined by 45-5-204, 45-6-315, 45-6-317, 45-6-318, 45-6-326, ~~45-6-327~~, 45-8-113, 45-8-114, 45-8-212, 45-8-214, 82-1-201, or 82-10-104, or is defined by another statute that clearly indicates a legislative purpose to impose liability on a corporation and an agent of the corporation performs the conduct that is an element of the offense while acting within the scope of the agent’s office or employment and in behalf of the corporation, except that any limitation in the defining statute concerning the corporation’s accountability for certain agents or under certain circumstances is applicable; or

(b) the commission of the offense is authorized, requested, commanded, or performed by the board of directors or by a high managerial agent who is acting within the scope of that agent’s employment in behalf of the corporation.

(2) A corporation’s proof that the high managerial agent having supervisory responsibility over the conduct that is the subject matter of the offense exercised due diligence to prevent the commission of the offense is a defense to a prosecution for any offense to which subsection (1)(a) refers, other than an offense for which absolute liability is imposed. This subsection is inapplicable if the legislative purpose of the statute defining the offense is inconsistent with the provisions of this subsection.

(3) For the purposes of this section:

(a) “agent” means any director, officer, servant, employee, or other person who is authorized to act in behalf of the corporation;

(b) “high managerial agent” means an officer of the corporation or any other agent who has a position of comparable authority for the formulation of corporate policy or the supervision of subordinate employees in a managerial capacity.”

**Section 4.** Section 45-6-301, MCA, is amended to read:

**“45-6-301. Theft.** (1) A person commits the offense of theft when the person purposely or knowingly obtains or exerts unauthorized control over property of the owner and:

(a) has the purpose of depriving the owner of the property;

(b) purposely or knowingly uses, conceals, or abandons the property in a manner that deprives the owner of the property; or

(c) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment probably will deprive the owner of the property.

(2) A person commits the offense of theft when the person purposely or knowingly obtains by threat or deception control over property of the owner and:

(a) has the purpose of depriving the owner of the property;

(b) purposely or knowingly uses, conceals, or abandons the property in a manner that deprives the owner of the property; or

(c) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment probably will deprive the owner of the property.

(3) A person commits the offense of theft when the person purposely or knowingly obtains control over stolen property knowing the property to have been stolen by another and:

(a) has the purpose of depriving the owner of the property;

(b) purposely or knowingly uses, conceals, or abandons the property in a manner that deprives the owner of the property; or

(c) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment probably will deprive the owner of the property.

(4) A person commits the offense of theft when the person purposely or knowingly obtains or exerts unauthorized control over any part of any public assistance provided under Title 52 or 53 by a state or county agency, regardless of the original source of assistance, by means of:

(a) a knowingly false statement, representation, or impersonation; or

(b) a fraudulent scheme or device.

(5) A person commits the offense of theft when the person purposely or knowingly obtains or exerts or helps another obtain or exert unauthorized control over any part of any benefits provided under Title 39, chapter 71, by means of:

(a) a knowingly false statement, representation, or impersonation; or

(b) deception or other fraudulent action.

(6) (a) A person commits the offense of theft when the person purposely or knowingly commits insurance fraud as provided in 33-1-1202 or 33-1-1302;

(b) purposely or knowingly diverts or misappropriates insurance premiums as provided in 33-17-1102; or

(c) purposely or knowingly receives small business health insurance premium incentive payments or premium assistance payments or tax credits under Title 33, chapter 22, part 20, to which the person is not entitled.

(7) A person commits the offense of theft of property by embezzlement when, with the purpose to deprive the owner of the property, the person:

(a) purposely or knowingly obtains or exerts unauthorized control over property of the person's employer or over property entrusted to the person; or

(b) purposely or knowingly obtains by deception control over property of the person's employer or over property entrusted to the person.

(8) (a) Except as provided in subsection (8)(b), a person convicted of the offense of theft of property not exceeding \$1,000 in value shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 6 months, or both. A person convicted of a second offense shall be fined \$1,000 or be imprisoned in the county jail for a term not to exceed 6 months, or both. A person convicted of a third or subsequent offense shall be fined \$1,000 and be imprisoned in the county jail for a term of not less than 30 days or more than 6 months.

(b) (i) Except as provided in subsection (8)(c), a person convicted of the offense of theft of property exceeding \$1,000 in value, ~~theft of any commonly domesticated hoofed animal~~, or theft of any amount of anhydrous ammonia for the purpose of manufacturing dangerous drugs shall be fined an amount not to exceed \$50,000 or be imprisoned in a state prison for a term not to exceed 10 years, or both.

(ii) *A person convicted of the theft of any commonly domesticated hoofed animal shall be fined an amount of not less than \$5,000 or more than \$50,000 or be imprisoned in a state prison for a term not to exceed 10 years, or both. If a prison term is deferred, the court shall order the offender to perform 416 hours of community service during a 1-year period, in the offender's county of residence. In addition to the fine and imprisonment, the offender's property is subject to criminal forfeiture pursuant to [sections 1 and 2].*

(c) A person convicted of the offense of theft of property exceeding \$10,000 in value by embezzlement shall be imprisoned in a state prison for a term of not less than 1 year or more than 10 years and may be fined an amount not to exceed \$50,000. The court may, in its discretion, place the person on probation with the requirement that restitution be made under terms set by the court. If the terms are not met, the required prison term may be ordered.

(9) Amounts involved in thefts committed pursuant to a common scheme or the same transaction, whether from the same person or several persons, may be aggregated in determining the value of the property."

**Section 5.** Section 45-6-327, MCA, is amended to read:

**"45-6-327. Illegal branding or altering or obscuring a of 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 existing mark or brand on any commonly domesticated hoofed animal with the purpose ~~to obtain or exert of obtaining or exerting~~ unauthorized control over ~~said the~~ animal or with the purpose ~~to conceal, misrepresent, transfer, or prevent of concealing, misrepresenting, transferring, or preventing~~ 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~~ a term not to exceed 10 years or be fined an amount of not ~~to exceed less than \$5,000 or more than \$50,000~~, or both. *If a prison term is deferred, the court shall order the offender to perform 416 hours of community service during a 1-year period, in the offender's county of residence. In addition to the fine and imprisonment, the offender's property is subject to criminal forfeiture pursuant to [sections 1 and 2]."*

**Section 6. Codification instruction.** [Sections 1 and 2] are intended to be codified as an integral part of Title 45, chapter 6, part 3, and the provisions of Title 45, chapter 6, part 3, apply to [sections 1 and 2].

**Section 7. Effective date.** [This act] is effective on passage and approval.

**Section 8. Applicability.** [This act] applies to proceedings begun on or after [the effective date of this act].

Approved April 28, 2009

## CHAPTER NO. 401

[SB 260]

AN ACT 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.

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

**Section 1.** Section 15-30-101, MCA, is amended to read:

**“15-30-101. Definitions.** For the purpose of this chapter, unless otherwise required by the context, the following definitions apply:

(1) “Base year structure” means the following elements of the income tax structure:

(a) the tax brackets established in 15-30-103, but unadjusted by 15-30-103(2), in effect on June 30 of the taxable year;

(b) the exemptions contained in 15-30-112, but unadjusted by 15-30-112(6), in effect on June 30 of the taxable year;

(c) the maximum standard deduction provided in 15-30-122, but unadjusted by 15-30-122(2), in effect on June 30 of the taxable year.

(2) “Consumer price index” means the consumer price index, United States city average, for all items, for all urban consumers (CPI-U), using the 1982-84 base of 100, as published by the bureau of labor statistics of the U.S. department of labor.

(3) “Corporation” or “C. corporation” means a corporation, limited liability company, or other entity:

(a) that is treated as an association for federal income tax purposes;

(b) for which a valid election under section 1362 of the Internal Revenue Code (26 U.S.C. 1362) is not in effect; and

(c) that is not a disregarded entity.

(4) “Department” means the department of revenue.

(5) “Disregarded entity” means a business entity:

(a) that is disregarded as an entity separate from its owner for federal tax purposes, as provided in United States treasury regulations 301.7701-2 or 301.7701-3, 26 CFR 301.7701-2 or 26 CFR 301.7701-3, or as those regulations may be labeled or amended; or

(b) that is a qualified subchapter S. subsidiary that is not treated as a separate corporation, as provided in section 1361(b)(3) of the Internal Revenue Code (26 U.S.C. 1361(b)(3)).

(6) “Dividend” means:

(a) any distribution made by a C. corporation out of its earnings and profits to its shareholders or members, whether in cash or in other property or in stock of the corporation, other than stock dividends; and

(b) any distribution made by an S. corporation treated as a dividend for federal income tax purposes.

(7) “Fiduciary” means a guardian, trustee, executor, administrator, receiver, conservator, or any person, whether individual or corporate, acting in any fiduciary capacity for any person, trust, or estate.

(8) "Foreign C. corporation" means a corporation that is not engaged in or doing business in Montana, as provided in 15-31-101.

(9) "Foreign government" means any jurisdiction other than the one embraced within the United States, its territories, and its possessions.

(10) "Gross income" means the taxpayer's gross income for federal income tax purposes as defined in section 61 of the Internal Revenue Code (26 U.S.C. 61) or as that section may be labeled or amended, excluding unemployment compensation included in federal gross income under the provisions of section 85 of the Internal Revenue Code (26 U.S.C. 85) as amended.

(11) "Inflation factor" means a number determined for each tax year by dividing the consumer price index for June of the tax year by the consumer price index for June 2005.

(12) "Information agents" includes all individuals and entities acting in whatever capacity, including lessees or mortgagors of real or personal property, fiduciaries, brokers, real estate brokers, employers, and all officers and employees of the state or of any municipal corporation or political subdivision of the state, having the control, receipt, custody, disposal, or payment of interest, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits, and income with respect to which any person or fiduciary is taxable under this chapter.

(13) "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended, or as it may be labeled or further amended. References to specific provisions of the Internal Revenue Code mean those provisions as they may be otherwise labeled or further amended.

(14) "Knowingly" is as defined in 45-2-101.

(15) "Limited liability company" means a limited liability company, domestic limited liability company, or a foreign limited liability company as defined in 35-8-102.

(16) "Limited liability partnership" means a limited liability partnership as defined in 35-10-102.

(17) "Lottery winnings" means income paid either in lump sum or in periodic payments to:

- (a) a resident taxpayer on a lottery ticket; or
- (b) a nonresident taxpayer on a lottery ticket purchased in Montana.

(18) (a) "Montana source income" means:

(i) wages, salary, tips, and other compensation for services performed in the state or while a resident of the state;

(ii) gain attributable to the sale or other transfer of tangible property located in the state, sold or otherwise transferred while a resident of the state, or used or held in connection with a trade, business, or occupation carried on in the state;

(iii) gain attributable to the sale or other transfer of intangible property received or accrued while a resident of the state;

(iv) interest received or accrued while a resident of the state or from an installment sale of real property or tangible commercial or business personal property located in the state;

(v) dividends received or accrued while a resident of the state;



(vi) net income or loss derived from a trade, business, profession, or occupation carried on in the state or while a resident of the state;

(vii) net income or loss derived from farming activities carried on in the state or while a resident of the state;

(viii) net rents from real property and tangible personal property located in the state or received or accrued while a resident of the state;

(ix) net royalties from real property and from tangible real property to the extent the property is used in the state or the net royalties are received or accrued while a resident of the state. The extent of use in the state is determined by multiplying the royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the royalty period in the tax year and the denominator of which is the number of days of physical location of the property everywhere during all royalty periods in the tax year. If the physical location is unknown or unascertainable by the taxpayer, the property is considered used in the state in which it was located at the time the person paying the royalty obtained possession.

(x) patent royalties to the extent the person paying them employs the patent in production, fabrication, manufacturing, or other processing in the state, a patented product is produced in the state, or the royalties are received or accrued while a resident of the state;

(xi) net copyright royalties to the extent printing or other publication originates in the state or the royalties are received or accrued while a resident of the state;

(xii) partnership income, gain, loss, deduction, or credit or item of income, gain, loss, deduction, or credit:

(A) derived from a trade, business, occupation, or profession carried on in the state;

(B) derived from the sale or other transfer or the rental, lease, or other commercial exploitation of property located in the state; or

(C) taken into account while a resident of the state;

(xiii) an S. corporation's separately and nonseparately stated income, gain, loss, deduction, or credit or item of income, gain, loss, deduction, or credit:

(A) derived from a trade, business, occupation, or profession carried on in the state;

(B) derived from the sale or other transfer or the rental, lease, or other commercial exploitation of property located in the state; or

(C) taken into account while a resident of the state;

(xiv) social security benefits received or accrued while a resident of the state;

(xv) taxable individual retirement account distributions, annuities, pensions, and other retirement benefits received while a resident of the state; ~~and~~

(xvi) any other income attributable to the state, including but not limited to lottery winnings, state and federal tax refunds, nonemployee compensation, recapture of tax benefits, and capital loss addbacks; *and*

*(xvii) in the case of a nonresident who sells the nonresident's interest in a publicly traded partnership doing business in Montana, the gain described in section 751 of the Internal Revenue Code, 26 U.S.C. 751, multiplied by the Montana apportionment factor. If the net gain or loss resulting from the use of the*

*apportionment factor as provided in this subsection (18)(a)(xvii) does not fairly and equitably represent the nonresident taxpayer's business activity interest, then the nonresident taxpayer may petition for, or the department may require with respect to any and all of the partnership interest, the employment of another method to effectuate an equitable allocation or apportionment of the nonresident's income. This subsection (18)(a)(xvii) is intended to preserve the rights and privileges of a nonresident taxpayer and align those rights with taxpayers who are afforded the same rights under 15-1-601 and 15-31-312.*

(b) The term does not include:

(i) compensation for military service of members of the armed services of the United States who are not Montana residents and who are residing in Montana solely by reason of compliance with military orders and does not include income derived from their personal property located in the state except with respect to personal property used in or arising from a trade or business carried on in Montana; or

(ii) interest paid on loans held by out-of-state financial institutions recognized as such in the state of their domicile, secured by mortgages, trust indentures, or other security interests on real or personal property located in the state, if the loan is originated by a lender doing business in Montana and assigned out-of-state and there is no activity conducted by the out-of-state lender in Montana except periodic inspection of the security.

(19) "Net income" means the adjusted gross income of a taxpayer less the deductions allowed by this chapter.

(20) "Nonresident" means a natural person who is not a resident.

(21) "Paid", for the purposes of the deductions and credits under this chapter, means paid or accrued or paid or incurred, and the terms "paid or accrued" and "paid or incurred" must be construed according to the method of accounting upon the basis of which the taxable income is computed under this chapter.

(22) "Partner" means a member of a partnership or a manager or member of any other entity, if treated as a partner for federal income tax purposes.

(23) "Partnership" means a general or limited partnership, limited liability partnership, limited liability company, or other entity, if treated as a partnership for federal income tax purposes.

(24) "Pass-through entity" means a partnership, an S. corporation, or a disregarded entity.

(25) "Pension and annuity income" means:

(a) systematic payments of a definitely determinable amount from a qualified pension plan, as that term is used in section 401 of the Internal Revenue Code (26 U.S.C. 401), or systematic payments received as the result of contributions made to a qualified pension plan that are paid to the recipient or recipient's beneficiary upon the cessation of employment;

(b) payments received as the result of past service and cessation of employment in the uniformed services of the United States;

(c) lump-sum distributions from pension or profit-sharing plans to the extent that the distributions are included in federal adjusted gross income;

(d) distributions from individual retirement, deferred compensation, and self-employed retirement plans recognized under sections 401 through 408 of the Internal Revenue Code (26 U.S.C. 401 through 408) to the extent that the

distributions are not considered to be premature distributions for federal income tax purposes; or

(e) amounts received from fully matured, privately purchased annuity contracts after cessation of regular employment.

(26) "Purposely" is as defined in 45-2-101.

(27) "Received", for the purpose of computation of taxable income under this chapter, means received or accrued, and the term "received or accrued" must be construed according to the method of accounting upon the basis of which the taxable income is computed under this chapter.

(28) "Resident" applies only to natural persons and includes, for the purpose of determining liability to the tax imposed by this chapter with reference to the income of any taxable year, any person domiciled in the state of Montana and any other person who maintains a permanent place of abode within the state even though temporarily absent from the state and who has not established a residence elsewhere.

(29) "S. corporation" means an incorporated entity for which a valid election under section 1362 of the Internal Revenue Code (26 U.S.C. 1362) is in effect.

(30) "Stock dividends" means new stock issued, for surplus or profits capitalized, to shareholders in proportion to their previous holdings.

(31) "Tax year" means the taxpayer's taxable year for federal income tax purposes.

(32) "Taxable income" means the adjusted gross income of a taxpayer less the deductions and exemptions provided for in this chapter.

(33) "Taxpayer" includes any person, entity, or fiduciary, resident or nonresident, subject to a tax or other obligation imposed by this chapter and unless otherwise specifically provided does not include a C. corporation."

**Section 2.** Section 15-30-1102, MCA, is amended to read:

**"15-30-1102. Income or license tax involving pass-through entities — information returns required.** (1) Except as otherwise provided:

(a) a partnership is not subject to taxes imposed in Title 15, chapter 30 or 31;

(b) an S. corporation is not subject to the taxes imposed in Title 15, chapter 30 or 31; and

(c) a disregarded entity is not subject to the taxes imposed in Title 15, chapter 30 or 31.

(2) Except as otherwise provided, each partner of a partnership described in subsection (1)(a), each shareholder of an S. corporation described in subsection (1)(b), and each partner, shareholder, member, or other owner of an entity described in subsection (1)(c), the first-tier pass-through entity, is subject to the taxes provided in this chapter, if an individual, trust, or estate, and to the taxes provided in Title 15, chapter 31, if a C. corporation. If a partner, shareholder, member, or other owner of an entity described in subsection (1) is itself a pass-through entity, any individual, trust, or estate to which the first-tier pass-through entity's Montana source income is directly or indirectly passed through is subject to the taxes provided in this chapter and any C. corporation to which the first-tier pass-through entity's Montana source income is directly or indirectly passed through is subject to the taxes provided in Title 15, chapter 31.

(3) Income realized for federal income tax purposes by a financial institution that has elected to be treated as an S. corporation under subchapter S. of

Chapter 1 of the Internal Revenue Code and by its shareholders that is attributable to the financial institution's change from the bad debt reserve method of accounting provided in section 585 of the Internal Revenue Code, 26 U.S.C. 585, is not taxable under Title 15, chapter 30 or 31, to the extent that the aggregate deductions allowed for federal income tax purposes under 26 U.S.C. 585 exceeded the aggregate deductions that the financial institution is allowed under 15-31-114(1)(b)(i).

*(4) A publicly traded partnership as defined in section 7704(b) of the Internal Revenue Code, 26 U.S.C. 7704(b), that is treated as a partnership for the purposes of the Internal Revenue Code is exempt from paying tax under Title 15, chapter 30, as long as it is in compliance with 15-30-1113.*

~~(4)~~(5) (a) A partnership that has Montana source income shall on or before the 15th day of the 4th month following the close of its annual accounting period file an information return on forms prescribed by the department and a copy of its federal partnership return. The return must include:

- (i) the name, address, and social security or federal identification number of each partner;
- (ii) the partnership's Montana source income;
- (iii) each partner's distributive share of Montana source income, gain, loss, deduction, or credit or item of income, gain, loss, deduction, or credit;
- (iv) each partner's distributive share of income, gain, loss, deduction, or credit or item of income, gain, loss, deduction, or credit from all sources; and
- (v) any other information the department prescribes.

(b) An S. corporation that has Montana source income shall on or before the 15th day of the 3rd month following the close of its annual accounting period file an information return on forms prescribed by the department and a copy of its federal S. corporation return. The return must include:

- (i) the name, address, and social security or federal identification number of each shareholder;
- (ii) the S. corporation's Montana source income and each shareholder's pro rata share of separately and nonseparately stated Montana source income, gain, loss, deduction, or credit or item of income, gain, loss, deduction, or credit;
- (iii) each shareholder's pro rata share of separately and nonseparately stated income, gain, loss, deduction, or credit or item of income, gain, loss, deduction, or credit from all sources; and
- (iv) any other information the department prescribes.

(c) A disregarded entity that has Montana source income shall furnish the information and file the returns the department prescribes. The return must include:

- (i) the name, address, and social security or federal identification number of each member or other owner during the tax year;
- (ii) the entity's Montana source income; and
- (iii) any other information the department prescribes.

(d) (i) Except as provided in subsection ~~(4)(d)(ii)~~ (5)(d)(ii), a pass-through entity that fails to file an information return required by this section by the due date, including any extension, must be assessed a late filing penalty of \$10 multiplied by the number of the entity's partners, shareholders, members, or other owners at the close of the tax year for each month or fraction of a month,

not to exceed 5 months, that the entity fails to file the information return. The department may waive the penalty imposed by this subsection ~~(4)(d)(i)~~ (5)(d)(i) as provided in 15-1-206.

(ii) The penalty imposed under subsection ~~(4)(d)(i)~~ (5)(d)(i) may not be imposed on a pass-through entity that has 10 or fewer partners, shareholders, members, or other owners, each of whom:

(A) is an individual, an estate of a deceased individual, or a C. corporation;

(B) has filed any required return or other report with the department by the due date, including any extension of time, for the return or report; and

(C) has paid all taxes when due.”

**Section 3.** Section 15-30-1113, MCA, is amended to read:

**“15-30-1113. Consent or withholding.** (1) A pass-through entity that is required to file an information return as provided in 15-30-1102 and that has a partner, shareholder, member, or other owner who is a nonresident individual, a foreign C. corporation, or a pass-through entity that itself has any partner, shareholder, member, or other owner that is a nonresident individual, foreign C. corporation, or pass-through entity shall, on or before the due date, including extensions, for the information return:

(a) with respect to any partner, shareholder, member, or other owner who is a nonresident individual:

(i) file a composite return;

(ii) file an agreement of the individual nonresident to:

(A) file a return in accordance with the provisions of 15-30-142;

(B) timely pay all taxes imposed with respect to income of the pass-through entity; and

(C) be subject to the personal jurisdiction of the state for the collection of income taxes and related interest, penalties, and fees imposed with respect to the income of the pass-through entity; or

(iii) remit an amount equal to the highest marginal tax rate in effect under 15-30-103 multiplied by the nonresident individual's share of Montana source income reflected on the pass-through entity's information return;

(b) with respect to any partner, shareholder, member, or other owner that is a foreign C. corporation:

(i) file a composite return;

(ii) file the foreign C. corporation's agreement to:

(A) file a return in accordance with the provisions of 15-31-111;

(B) timely pay all taxes imposed with respect to income of the pass-through entity; and

(C) be subject to the personal jurisdiction of the state for the collection of corporation license and income taxes and related interest, penalties, and fees imposed with respect to the income of the pass-through entity; or

(iii) remit an amount equal to the tax rate in effect under 15-31-121 multiplied by the foreign C. corporation's share of Montana source income reflected on the pass-through entity's information return; and

(c) with respect to any partner, shareholder, member, or other owner that is a pass-through entity, also referred to in this section as a “second-tier pass-through entity”:

(i) file a composite return;

(ii) file a statement of the pass-through entity partner, shareholder, member, or other owner setting forth the name, address, and social security or federal identification number of each of that entity's partners, shareholders, members, or other owners and information that establishes that its share of Montana source income will be fully accounted in individual income or corporation license or income tax returns filed with the state; or

(iii) remit an amount equal to the highest marginal tax rate in effect under 15-30-103 multiplied by its share of Montana source income reflected on the pass-through entity's information return.

(2) Any amount paid by a pass-through entity with respect to a nonresident individual pursuant to subsection (1)(a)(iii) must be considered as a payment on the account of the nonresident individual for the income tax imposed on the nonresident individual for the tax year pursuant to 15-30-105. On or before the due date, including extensions, of the pass-through entity's information return provided in 15-30-1102, the pass-through entity shall furnish to the nonresident individual a record of the amount of tax paid on the individual's behalf.

(3) Any amount paid by a pass-through entity with respect to a foreign C. corporation pursuant to subsection (1)(b)(iii) must be considered as a payment on the account of the foreign C. corporation for the corporation license tax imposed on the foreign C. corporation for the tax year pursuant to 15-31-101 or the corporation income tax imposed on the foreign C. corporation for the tax year pursuant to 15-31-403. On or before the due date, including extensions, of the pass-through entity's information return provided in 15-30-1102, the pass-through entity shall furnish to the foreign C. corporation a record of the amount of tax paid on its behalf.

(4) Any amount paid by a pass-through entity with respect to a second-tier pass-through entity pursuant to subsection (1)(c)(iii) must be considered as payment on the account of the individual, trust, estate, or C. corporation to which Montana source income is directly or indirectly passed through and must be claimed as the distributable share of a refundable credit of the pass-through entity partner, shareholder, member, or other owner on behalf of which the amount was paid. On or before the due date, including extensions, of the pass-through entity's information return provided in 15-30-1102, the pass-through entity shall furnish to the second-tier pass-through entity a record of the refundable credit that may be claimed for the amount paid on its behalf.

(5) A pass-through entity is entitled to recover a payment made pursuant to subsection (1)(a)(iii), (1)(b)(iii), or (1)(c)(iii) from the partner, shareholder, member, or other owner on whose behalf the payment was made.

(6) Following the department's notice to a pass-through entity that a nonresident individual or foreign C. corporation did not file a return or timely pay all taxes as provided in subsection (1), the pass-through entity must, with respect to any tax year thereafter for which the nonresident individual or foreign C. corporation is not included in the pass-through entity's composite return, remit the amount described in subsection (1)(a)(iii) for the nonresident individual and the amount described in subsection (1)(b)(iii) for the foreign C. corporation.

(7) *A publicly traded partnership described in 15-30-1102(4) that agrees to file an annual information return reporting the name, address, and taxpayer identification number for each person or entity that has an interest in the partnership that results in Montana source income or that has sold its interest in*

*the partnership during the tax year is exempt from the composite return and withholding requirements of Title 15, chapter 30. A publicly traded partnership shall provide the department with the information in an electronic form that is capable of being sorted and exported. Compliance with this subsection does not relieve a person or entity from its obligation to pay Montana income taxes.*

(7)(8) Nothing in this section may be construed as modifying the provisions of Article IV(18) of 15-1-601 and 15-31-312 allowing a taxpayer to petition for and the department to require methods to fairly represent the extent of the taxpayer's business activity in the state."

**Section 4. Effective date.** [This act] is effective on passage and approval.

**Section 5. Retroactive applicability.** [This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2008.

Approved April 28, 2009

## CHAPTER NO. 402

[SB 264]

AN ACT 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.

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

**Section 1.** Section 90-7-102, MCA, is amended to read:

**"90-7-102. Definitions.** As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Authority" means the Montana facility finance authority created in 2-15-1815.

(2) "Capital reserve account" means the account established in 90-7-317.

(3) "Costs" means costs allowed under 90-7-103.

(4) "Eligible facility" means any eligible facility as defined in 90-7-104.

(5) (a) "Institution" means any public or private:

(i) nonprofit hospital, corporation, or other organization authorized to provide or operate an eligible facility in this state; or

(ii) nonprofit prerelease center, corporation, or other organization authorized to operate a prerelease center in this state; or

(iii) for-profit or nonprofit corporation or other organization authorized to provide for or to operate a project or a facility with qualified small issue bond financing pursuant to section 144(a) of the Internal Revenue Code, 26 U.S.C. 144(a).

(b) The term also includes the following, provided that the entity is a nonprofit entity or is controlled by one or more nonprofit entities:

(i) a network of health care providers, regardless of how it is organized;

(ii) an integrated health care delivery system;

(iii) a joint venture or partnership between or among health care providers;

(iv) a purchasing alliance composed of health care providers;

(v) any health insurers and third-party administrators that are participants in a system, network, joint venture, or partnership that provides health services through one or more health facilities.

(6) "Participating institution" means an institution that undertakes the financing, refunding, or refinancing of obligations on the construction or acquisition of an eligible facility pursuant to the provisions of this chapter.

(7) "Revenue" means, with respect to eligible facilities, the rents, fees, charges, interest, principal repayments, and other income received or to be received by the authority from any source on account of the eligible facilities."

**Section 2.** Section 90-7-104, MCA, is amended to read:

**"90-7-104. Eligible facility.** (1) The term "eligible facility" means any structure or building suitable for use as:

(a) a hospital, clinic, nursing home, or other health care facility as defined in 50-5-101;

(b) a public health center, as defined in 7-34-2102;

(c) a facility for persons with disabilities;

(d) a chemical dependency treatment facility;

(e) a nursing school;

(f) a medical teaching facility;

(g) a laboratory;

(h) a dental care facility;

(i) a prerelease center;

(j) a diagnostic, treatment, or surgical center;

(k) a facility providing services for the elderly; ~~or~~

*(l) applicable to a project or a facility with qualified small issue bond financing pursuant to section 144(a) of the Internal Revenue Code, 26 U.S.C. 144(a); or*

~~(m)~~ *(m)* a structure or facility related to any of the uses enumerated in subsections (1)(a) through ~~(1)(k)~~ *(1)(l)* or required or useful for the operation of an eligible facility. These related facilities include supporting service structures and all necessary, useful, and related equipment, furnishings, and appurtenances and include without limitation the acquisition, preparation, and development of all lands and real and personal property necessary or convenient as a site for any of the uses enumerated in subsections (1)(a) through ~~(1)(k)~~ *(1)(l)*.

(2) An eligible facility does not include:

(a) items such as food, fuel, supplies, or other items that are customarily considered as current operating expenses; and

(b) a structure used or to be used primarily for sectarian instruction or study or as a place for devotional activities or religious worship."

**Section 3. Taxation of projects.** (1) Regardless of whether the title to a project is held by the authority or a trustee acting for the authority, if the project is being financed by the authority on behalf of a for-profit corporation or other organization, the project is subject to taxation to the same extent, in the same manner, and under the same procedures as privately owned property in similar circumstances if the project is leased to or held by private interests on both the assessment date and the date the county commissioners set the mill levies in any year. The project is not subject to taxation in any year during which it is not



leased to or held by private interests on both the assessment date and the date the county commissioners set the mill levy.

(2) When personal property owned by the authority or a trustee acting for the authority is taxed under this section and the personal property taxes on the personal property are delinquent, levy by warrant for distraint for collection of the delinquent taxes may be made only on the personal property against which the taxes were levied.

**Section 4. Procedure prior to financing certain projects.** (1) In addition to meeting the other requirements contained in this chapter or in state or federal law, the requirements of subsections (2) through (4) must be met before financing is provided for a project described in 90-7-104(1)(l).

(2) The authority shall find that the financing is in the public interest. In order to determine whether or not the financing is in the public interest, a public hearing must be conducted in the following manner:

(a) the city or county in which the project will be located must be notified, and the city and county shall, within 14 days after receipt of the notice, notify the board if it elects to conduct the hearing; or

(b) if a request for a local hearing is not received by the authority within 14 days after the notification in subsection (2)(a), the authority may hold the hearing at a time and place it determines.

(3) Notice of the hearing must be published at least once a week for 2 weeks prior to the date set for the hearing by publication in a newspaper of general circulation in the city or county where the hearing will be held and the project will be located. The notice must include the time and place of the hearing, a general description of the nature and location of the project, the name of the lessee, borrower, or user of the project and the maximum principal amount of the financing to be provided by the authority.

(4) If the hearing required by subsection (2) is conducted by a local government, the governing body of the local government shall notify the authority of its determination of whether the financing is in the public interest within 14 days after the completion of the public hearing.

**Section 5. Codification instruction.** [Sections 3 and 4] are intended to be codified as an integral part of Title 90, chapter 7, and the provisions of Title 90, chapter 7, apply to [sections 3 and 4].

**Section 6. Effective date.** [This act] is effective July 1, 2009.

Approved April 28, 2009

## CHAPTER NO. 403

[SB 271]

AN ACT PROVIDING FOR REGULATION AND LICENSURE OF MARRIAGE AND FAMILY THERAPISTS; PROVIDING DEFINITIONS; PROVIDING LICENSURE REQUIREMENTS AND PRIVILEGES FOR MARRIAGE AND FAMILY THERAPISTS; PROVIDING CERTAIN EXEMPTIONS FROM LICENSURE AS MARRIAGE AND FAMILY THERAPISTS; PROVIDING PENALTIES; AMENDING SECTION 37-22-201, MCA; AND PROVIDING AN EFFECTIVE DATE.

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

**Section 1. Purpose.** The legislature finds and declares that because the profession of marriage and family therapy affects the public safety and welfare of the lives of people in this state, the purpose of [sections 1 through 5] is to provide for the common good by ensuring the ethical, qualified, and professional practice of marriage and family therapy. [Sections 1 through 5] and the rules adopted by the board under 37-22-201 set standards of qualification, education, training, and experience and are intended to establish professional ethics for those who seek to practice marriage and family therapy as licensed marriage and family therapists.

**Section 2. Definitions.** As used in [sections 1 through 5], the following definitions apply:

(1) "Board" means the board of social work examiners and professional counselors established in 2-15-1744.

(2) "Department" means the department of labor and industry.

(3) "Licensee" means a person licensed under [sections 1 through 5].

(4) "Marriage and family therapy" means the diagnosis and treatment of mental and emotional disorders within the context of interpersonal relationships, including marriage and family systems. Marriage and family therapy involves the professional application of psychotherapeutic and family system theories and techniques, counseling, consultation, treatment planning, and supervision in the delivery of services to individuals, couples, and families.

(5) "Practice of marriage and family therapy" means the provision of professional marriage and family therapy services to individuals, couples, and families, singly or in groups, for a fee, monetary or otherwise, either directly or through public or private organizations.

(6) "Qualified supervisor" means a supervisor determined by the board to meet standards established by the board for supervision of clinical services.

(7) "Recognized educational institution" means:

(a) an educational institution that grants a bachelor's, master's, or doctoral degree and that is recognized by the board and by a regional accrediting body; or

(b) a postgraduate training institute accredited by the commission on accreditation for marriage and family therapy education.

**Section 3. License requirements — exemptions — temporary permit.** (1) An applicant for a license shall pay an application fee set by the board by rule. The board may provide a separate, combined fee for persons licensed by the board holding dual licenses. An applicant for a license under this section shall also complete an application on a form provided by the department and provide documentation to the board that the applicant:

(a) (i) has a master's degree or a doctoral degree in marriage and family therapy from a recognized educational institution or a degree from a program accredited by the commission on accreditation for marriage and family therapy education; or

(ii) has a graduate degree in an allied field from a recognized educational institution and graduate level work that the board determines to be the equivalent of a master's degree in marriage and family therapy or marriage and family counseling;

(b) has successfully passed an examination prescribed by the board;

(c) has worked under the direct supervision of a qualified supervisor for at least 3,000 hours, including 1,000 hours of face-to-face client contact in the

practice of marriage and family therapy, of which up to 500 hours may be accumulated while achieving the educational credentials listed in subsection (1)(a); and

(d) is of good moral character. Being of good moral character includes in its meaning that the applicant has not been convicted by a court of competent jurisdiction of a crime described by board rule as being of a nature that renders the applicant unfit to practice marriage and family therapy.

(2) An applicant is exempt from the examination requirement in subsection (1)(b) if the board is satisfied that:

(a) the applicant is licensed, certified, or registered under the laws of a state or territory of the United States that imposes substantially the same requirements as [sections 1 through 5] and has passed an examination similar to that required by the board;

(b) for applications received before July 1, 2011, the applicant is a clinical member of the American association for marriage and family therapy and is a current resident of this state; or

(c) the applicant is licensed as a clinical social worker under Title 37, chapter 22, or as a clinical professional counselor under Title 37, chapter 23, and has practiced marriage and family therapy within the state for a period prescribed by the board.

(3) A person is exempt from licensure as a marriage and family therapist if the person practices marriage and family therapy:

(a) under qualified supervision in a training institution or facility or other supervisory arrangements approved by the board and uses the title of intern;

(b) as part of the person's duties as a member of the clergy or priesthood; or

(c) under a temporary permit that the board may issue under rules adopted to allow a 1-year temporary permit to an applicant for licensure pending examination for a license or processing of the application for a license. An applicant with a temporary permit under this subsection shall use the title of "licensed marriage and family therapy candidate".

**Section 4. Representation to public as licensed marriage and family therapist.** (1) Upon issuance of a license in accordance with [sections 1 through 5], a licensee may:

(a) advertise services as a marriage and family therapist;

(b) use the title of "licensed marriage therapist", "licensed marital therapist", or "licensed marriage and family therapist"; and

(c) practice marriage and family therapy.

(2) Subsection (1) does not prohibit:

(a) individuals licensed as professional counselors, social workers, psychiatric nurses, psychologists, or physicians or members of the clergy or other qualified members of professional groups, identified by board rule, from advertising or performing marriage and family therapy services in a manner consistent with the accepted standards of their respective professions. Only licensees under [sections 1 through 5] may use any title described in subsection (1)(b).

(b) persons employed by or acting as a volunteer for a federal, state, county, or municipal agency or an educational, research, or charitable institution from

providing counseling if the practice of marriage and family therapy is a part of the duties of the office or position.

**Section 5. Violations — penalties.** (1) It is a misdemeanor for a person to knowingly:

(a) indicate that the person is a licensed marriage and family therapist without being licensed under [sections 1 through 5];

(b) obtain or attempt to obtain a license by bribery or fraudulent representation; or

(c) make a false statement on any form used by the board to implement [sections 1 through 5] or the rules adopted under [sections 1 through 5].

(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 or a subsequent offense under this section shall be punished by both a fine and imprisonment.

**Section 6.** Section 37-22-201, MCA, is amended to read:

**“37-22-201. Duties of board.** The board:

(1) shall recommend prosecutions for violations of 37-22-411 ~~and~~, 37-23-311, *and [sections 1 through 5]* to the attorney general or the appropriate county attorney, or both;

(2) shall meet at least once every 3 months to perform the duties described in Title 37, chapters ~~1, 22,~~ and 23, *[sections 1 through 5], and this chapter*. The board may, once a year by a consensus of board members, determine that there is no necessity for a board meeting.

(3) shall adopt rules that set professional, practice, and ethical standards for social workers, *marriage and family therapists*, and professional counselors and other rules as may be reasonably necessary for the administration of chapter 23, *[sections 1 through 5]*, and this chapter; and

(4) may adopt rules governing the issuance of licenses of special competence in particular areas of practice as a licensed professional counselor. The board shall establish criteria for each particular area for which a license is issued.”

**Section 7. Codification instruction.** [Sections 1 through 5] are intended to be codified as an integral part of Title 37, and the provisions of Title 37 apply to [sections 1 through 5].

**Section 8. Effective date.** [This act] is effective July 1, 2009.

Approved April 28, 2009

## CHAPTER NO. 404

[SB 303]

AN ACT 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.

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

**Section 1.** Section 85-1-203, MCA, is amended to read:

**“85-1-203. State water plan.** (1) The department shall gather from any source reliable information relating to Montana’s water resources and prepare

from the information a continuing comprehensive inventory of the water resources of the state. In preparing this inventory, the department may:

- (a) conduct studies;
- (b) adopt studies made by other competent water resource groups, including federal, regional, state, or private agencies;
- (c) perform research or employ other competent agencies to perform research on a contract basis; and
- (d) hold public hearings in affected areas at which all interested parties must be given an opportunity to appear.

(2) The department shall formulate and adopt and amend, extend, or add to a comprehensive, coordinated multiple-use water resources plan known as the "state water plan". The state water plan may be formulated and adopted in sections, *with some of* these sections corresponding with hydrologic divisions of the state. The state water plan must set out a progressive program for the conservation, development, and utilization, and sustainability of the state's water resources and propose the most effective means by which these water resources may be applied for the benefit of the people, with due consideration of alternative uses and combinations of uses.

(3) *Sections of the state water plan must be completed for the Missouri, Yellowstone, and Clark Fork river basins, submitted to the 2015 legislature, and updated at least every 20 years. These basinwide plans must include:*

- (a) *an inventory of consumptive and nonconsumptive uses associated with existing water rights;*
- (b) *an estimate of the amount of surface and ground water needed to satisfy new future demands;*
- (c) *analysis of the effects of frequent drought and new or increased depletions on the availability of future water supplies;*
- (d) *proposals for the best means, such as an evaluation of opportunities for storage of water by both private and public entities, to satisfy existing water rights and new water demands;*
- (e) *possible sources of water to meet the needs of the state; and*
- (f) *any legislation necessary to address water resource concerns in these basins.*

(4) (a) *The department shall create a water user council in both the Yellowstone and Missouri River basins that is inclusive and representative of all water interests and interests in those basins. For the Clark Fork basin, the department shall continue to utilize the Clark Fork River basin task force established pursuant to 85-2-350.*

(b) *The councils in the Missouri and Yellowstone River basins consist of representatives of existing watershed groups or councils within the basins.*

(c) *Each council may have up to 20 members.*

(d) *Each water user council shall make recommendations to the department on the basinwide plans required by subsection (3).*

(5) Before adopting the state water plan or any section of the plan, the department shall hold public hearings in the state or in an area of the state encompassed by a section of the plan if adoption of a section is proposed. Notice of the hearing or hearings must be published for 2 consecutive weeks in a newspaper of general county circulation in each county encompassed by the proposed plan or section of the plan at least 30 days prior to the hearing.

~~(3)~~(6) The department shall submit to the environmental quality council established in 5-16-101 and to the legislature at the beginning of each regular session the state water plan or any section of the plan or amendments, additions, or revisions to the plan that the department has formulated and adopted.

~~(4)~~(7) The legislature, by joint resolution, may revise the state water plan.

~~(5)~~(8) The department shall prepare a continuing inventory of the ground water resources of the state. The ground water inventory must be included in the comprehensive water resources inventory described in subsection (1) but must be a separate component of the inventory.

~~(6)~~(9) The department shall publish the comprehensive inventory, the state water plan, the ground water inventory, or any part of each, and the department may assess and collect a reasonable charge for these publications.

~~(7)~~(10) In developing and revising the state water plan as provided in this section, the department shall consult with the environmental quality council established in 5-16-101 and solicit the advice of the ~~committee~~ *environmental quality council* in carrying out its duties under this section.”

**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.

Approved April 28, 2009

## CHAPTER NO. 405

[SB 305]

AN ACT 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.

WHEREAS, the Montana Subdivision and Platting Act (the Act) is designed to balance the rights of landowners with public health, safety, and general welfare; and

WHEREAS, if the Act is not clear and predictable, neither landowners nor the public health, safety, and general welfare can be effectively protected; and

WHEREAS, land use regulations should be designed to permit and promote economic growth in the state; and

WHEREAS, certain provisions of the Act have proven over time to be unclear and to promote unpredictability in the process; and

WHEREAS, it is believed that these modifications will promote clarity, efficiency, predictability, and increased public participation in the process.

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

**Section 1.** Section 76-3-510, MCA, is amended to read:

**“76-3-510. Payment for extension of capital facilities.** (1) A local government may require a subdivider to pay or guarantee payment for part or all of the costs of extending capital facilities related to public health and safety,

including but not limited to public roads, sewer lines, water supply lines, and storm drains to a subdivision. The costs must reasonably reflect the expected impacts directly attributable to the subdivision. A local government may not require a subdivider to pay or guarantee payment for part or all of the costs of constructing or extending capital facilities related to education.

*(2) All fees, costs, or other money paid by a subdivider under this section must be expended on the capital facilities for which the payments were required.*

**Section 2.** Section 76-3-604, MCA, is amended to read:

**“76-3-604. Review of subdivision application — review for required elements and sufficiency of information.** (1) (a) Within 5 working days of receipt of a subdivision application submitted in accordance with any deadlines established pursuant to 76-3-504(3) and receipt of the review fee submitted as provided in 76-3-602, the reviewing agent or agency shall determine whether the application contains all of the listed materials as required by 76-3-504(1)(a) and shall notify the subdivider or, with the subdivider’s written permission, the subdivider’s agent of the reviewing agent’s or agency’s determination.

(b) If the reviewing agent or agency determines that elements are missing from the application, the reviewing agent or agency shall identify those elements in the notification.

(2) (a) Within 15 working days after the reviewing agent or agency notifies the subdivider or the subdivider’s agent that the application contains all of the required elements as provided in subsection (1), the reviewing agent or agency shall determine whether the application and required elements contain detailed, supporting information that is sufficient to allow for the review of the proposed subdivision under the provisions of this chapter and the local regulations adopted pursuant to this chapter and shall notify the subdivider or, with the subdivider’s written permission, the subdivider’s agent of the reviewing agent’s or agency’s determination.

(b) If the reviewing agent or agency determines that information in the application is not sufficient to allow for review of the proposed subdivision, the reviewing agent or agency shall identify the insufficient information in its notification.

(c) A determination that an application contains sufficient information for review as provided in this subsection (2) does not ensure that the proposed subdivision will be approved or conditionally approved by the governing body and does not limit the ability of the reviewing agent or agency or the governing body to request additional information during the review process.

(3) The time limits provided in subsections (1) and (2) apply to each submittal of the application until:

(a) a determination is made that the application contains the required elements and sufficient information; and

(b) the subdivider or the subdivider’s agent is notified.

(4) After the reviewing agent or agency has notified the subdivider or the subdivider’s agent that an application contains sufficient information as provided in subsection (2), the governing body shall approve, conditionally approve, or deny the proposed subdivision within 60 working days or *80 working days if the proposed subdivision contains 50 or more lots*, based on its determination of whether the application conforms to the provisions of this chapter and to the local regulations adopted pursuant to this chapter, unless:

(a) the subdivider and the reviewing agent or agency agree to an extension or suspension of the review period, not to exceed 1 year; or

(b) a subsequent public hearing is scheduled and held as provided in 76-3-615.

*(5) (a) If the governing body fails to comply with the time limits under subsection (4), the governing body shall pay to the subdivider a financial penalty of \$50 per lot per month or a pro rata portion of a month, not to exceed the total amount of the subdivision review fee collected by the governing body for the subdivision application, until the governing body denies, approves, or conditionally approves the subdivision.*

*(b) The provisions of subsection (5)(a) do not apply if the review period is extended or suspended pursuant to subsection (4).*

~~(5)~~(6) If the governing body denies or conditionally approves the proposed subdivision, it shall send the subdivider a letter, with the appropriate signature, that complies with the provisions of 76-3-620.

~~(6)~~(7) (a) The governing body shall collect public comment submitted at a hearing or hearings regarding the information presented pursuant to 76-3-622 and shall make any comments submitted or a summary of the comments submitted available to the subdivider within 30 days after conditional approval or approval of the subdivision application and preliminary plat.

(b) The subdivider shall, as part of the subdivider's application for sanitation approval, forward the comments or the summary provided by the governing body to the:

(i) reviewing authority provided for in Title 76, chapter 4, for subdivisions that will create one or more parcels containing less than 20 acres; and

(ii) local health department or board of health for proposed subdivisions that will create one or more parcels containing 20 acres or more and less than 160 acres.

~~(7)~~(8) (a) For a proposed subdivision that will create one or more parcels containing less than 20 acres, the governing body may require approval by the department of environmental quality as a condition of approval of the final plat.

(b) For a proposed subdivision that will create one or more parcels containing 20 acres or more, the governing body may condition approval of the final plat upon the subdivider demonstrating, pursuant to 76-3-622, that there is an adequate water source and at least one area for a septic system and a replacement drainfield for each lot.

~~(8)~~(9) (a) Review and approval, conditional approval, or denial of a proposed subdivision under this chapter may occur only under those regulations in effect at the time a subdivision application is determined to contain sufficient information for review as provided in subsection (2).

(b) If regulations change during the review periods provided in subsections (1) and (2), the determination of whether the application contains the required elements and sufficient information must be based on the new regulations."

**Section 3.** Section 76-4-125, MCA, is amended to read:

**"76-4-125. Review of subdivision application — land divisions excluded from review.** (1) Except as provided in subsection (2), an application for review of a subdivision must be submitted to the reviewing authority. The review by the reviewing authority must be as follows:



(a) At any time after the developer has submitted an application under the Montana Subdivision and Platting Act, the developer shall present a subdivision application to the reviewing authority. The application must include preliminary plans and specifications for the proposed development, whatever information the developer feels necessary for its subsequent review, any public comments or summaries of public comments collected as provided in 76-3-604~~(6)~~(7), and information required by the reviewing authority. Subdivision fees assessed by the reviewing authority must accompany the application. If the proposed development includes onsite sewage disposal facilities, the developer shall notify the designated agent of the local board of health prior to presenting the subdivision application to the reviewing authority. The agent may conduct a preliminary site assessment to determine whether the site meets applicable state and local requirements.

(b) Except as provided in 75-1-205(4) and 75-1-208(4)(b), the department shall make a final decision on the proposed subdivision within 60 days after the submission of a complete application and payment of fees to the reviewing authority unless an environmental impact statement is required, at which time this deadline may be increased to 120 days. The reviewing authority may not request additional information for the purpose of extending the time allowed for a review and final decision on the proposed subdivision. If the department approves the subdivision, the department shall issue a certificate of subdivision approval indicating that it has approved the plans and specifications and that the subdivision is not subject to a sanitary restriction.

(2) A subdivision excluded from the provisions of chapter 3 must be submitted for review according to the provisions of this part, except that the following divisions or parcels, unless the exclusions are used to evade the provisions of this part, are not subject to review:

(a) the exclusions cited in 76-3-201 and 76-3-204;

(b) divisions made for the purpose of acquiring additional land to become part of an approved parcel, provided that water or sewage disposal facilities may not be constructed on the additional acquired parcel and that the division does not fall within a previously platted or approved subdivision;

(c) divisions made for purposes other than the construction of water supply or sewage and solid waste disposal facilities as the department specifies by rule;

(d) divisions located within jurisdictional areas that have adopted growth policies pursuant to chapter 1 or within first-class or second-class municipalities for which the governing body certifies, pursuant to 76-4-127, that adequate storm water drainage and adequate municipal facilities will be provided; and

(e) subject to the provisions of subsection (3), a remainder of an original tract created by segregating a parcel from the tract for purposes of transfer if:

(i) the remainder is served by a public or multiple-user sewage system approved before January 1, 1997, pursuant to local regulations or this chapter; or

(ii) the remainder is 1 acre or larger and has an individual sewage system serving a discharge source that was in existence prior to April 29, 1993, and, if required when installed, the system was approved pursuant to local regulations or this chapter.

(3) Consistent with the applicable provisions of 50-2-116, a local health officer may require that, prior to the filing of a plat or a certificate of survey subject to review under this part for the parcel to be segregated from the

remainder referenced in subsection (2)(e)(ii), the remainder include acreage or features sufficient to accommodate a replacement drainfield.”

**Section 4. Effective date.** [This act] is effective on passage and approval.

Approved April 28, 2009

## CHAPTER NO. 406

[SB 310]

AN ACT PROHIBITING A WAIVER OF RIGHT TO PROTEST AS A CONDITION OF SUBDIVISION APPROVAL; AND AMENDING SECTION 76-3-608, MCA.

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

**Section 1.** Section 76-3-608, MCA, is amended to read:

**“76-3-608. Criteria for local government review.** (1) The basis for the governing body’s decision to approve, conditionally approve, or deny a proposed subdivision is whether the subdivision application, preliminary plat, applicable environmental assessment, public hearing, planning board recommendations, or additional information demonstrates that development of the proposed subdivision meets the requirements of this chapter. A governing body may not deny approval of a proposed subdivision based solely on the subdivision’s impacts on educational services.

(2) The governing body shall issue written findings of fact that weigh the criteria in subsection (3), as applicable.

(3) A subdivision proposal must undergo review for the following primary criteria:

(a) except when the governing body has established an exemption pursuant to subsection (6) of this section or except as provided in 76-3-509, 76-3-609(2) or (4), or 76-3-616, the impact on agriculture, agricultural water user facilities, local services, the natural environment, wildlife and wildlife habitat, and public health and safety;

(b) compliance with:

(i) the survey requirements provided for in part 4 of this chapter;

(ii) the local subdivision regulations provided for in part 5 of this chapter; and

(iii) the local subdivision review procedure provided for in this part;

(c) the provision of easements for the location and installation of any planned utilities; and

(d) the provision of legal and physical access to each parcel within the proposed subdivision and the required notation of that access on the applicable plat and any instrument of transfer concerning the parcel.

(4) The governing body may require the subdivider to design the proposed subdivision to reasonably minimize potentially significant adverse impacts identified through the review required under subsection (3). The governing body shall issue written findings to justify the reasonable mitigation required under this subsection (4).

(5) (a) In reviewing a proposed subdivision under subsection (3) and when requiring mitigation under subsection (4), a governing body may not

unreasonably restrict a landowner's ability to develop land, but it is recognized that in some instances the unmitigated impacts of a proposed development may be unacceptable and will preclude approval of the subdivision.

(b) When requiring mitigation under subsection (4), a governing body shall consult with the subdivider and shall give due weight and consideration to the expressed preference of the subdivider.

(6) The governing body may exempt proposed subdivisions that are entirely within the boundaries of designated geographic areas from the review criteria in subsection (3)(a) if all of the following requirements have been met:

(a) the governing body has adopted a growth policy pursuant to chapter 1 that:

(i) addresses the criteria in subsection (3)(a);

(ii) evaluates the impact of development on the criteria in subsection (3)(a);

(iii) describes zoning regulations that will be implemented to address the criteria in subsection (3)(a); and

(iv) identifies one or more geographic areas where the governing body intends to authorize an exemption from review of the criteria in subsection (3)(a); and

(b) the governing body has adopted zoning regulations pursuant to chapter 2, part 2 or 3, that:

(i) apply to the entire area subject to the exemption; and

(ii) address the criteria in subsection (3)(a), as described in the growth policy.

(7) A governing body may conditionally approve or deny a proposed subdivision as a result of the water and sanitation information provided pursuant to 76-3-622 or public comment received pursuant to 76-3-604 on the information provided pursuant to 76-3-622 only if the conditional approval or denial is based on existing subdivision, zoning, or other regulations that the governing body has the authority to enforce.

*(8) A governing body may not require as a condition of subdivision approval that a property owner waive a right to protest the creation of a special improvement district or a rural improvement district for capital improvement projects that does not identify the specific capital improvements for which protest is being waived. A waiver of a right to protest may not be valid for a time period longer than 20 years after the date that the final subdivision plat is filed with the county clerk and recorder."*

Approved April 28, 2009

## CHAPTER NO. 407

[SB 369]

AN ACT 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.

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

**Section 1.** Section 7-22-2123, MCA, is amended to read:

**“7-22-2123. Procedure in case of noncompliance.** (1) When a complaint has been made or the board has reason to believe that noxious weeds described in this part are present upon a person’s land within the district ~~in violation of the law,~~ that person must be notified by mail or telephone of the complaint and the board may request inspection of the land. The board or its authorized agent and the landowner or the landowner’s representative shall inspect the land at an agreeable time, within 10 days of notification of the landowner. If *within 10 days* after ~~reasonable effort~~ *notification* the board is unable to gain cooperation of the person, the board or its authorized agent may enter and inspect the land to determine if the complaint is valid.

(2) If noxious weeds are found, the board or coordinator shall notify the person or the person’s representative and seek voluntary compliance with the district noxious weed management program. If voluntary compliance is ~~not possible,~~ *notice of noncompliance must be sent to the person by certified mail or cooperation has not occurred within 10 days of the notification required under this subsection, the person is considered to be in noncompliance and is subject to appropriate control measures pursuant to 7-22-2124.*

~~(3) The notice must specify:~~

~~(a) the basis for the determination of noncompliance;~~

~~(b) the geographic location of the area of noncompliance, by legal description or other reasonably identifiable description;~~

~~(c) measures to be undertaken in order to comply with the district’s management criteria;~~

~~(d) a reasonable period of time, not less than 10 days, in which compliance measures must be initiated; and~~

~~(e) the right of the person to request, within the time specified in subsection (3)(d), an administrative hearing as provided by 7-22-2110.~~

~~(4)~~(3) A person is considered *to be* in compliance if the person submits and the board accepts a proposal to undertake specified control measures and is in compliance as long as the person performs according to the terms of the proposal. *The proposal must include a requirement that the person notify the board as measures in the proposal are taken.* If the measures proposed to be taken extend beyond the current growing season, the proposal and acceptance must be in writing.

~~(5)~~(4) In accepting or rejecting a proposal, the board shall consider the economic impact on the person and the person’s neighbors, practical biological and environmental limitations, and alternative control methods to be used.”

**Section 2.** Section 7-22-2124, MCA, is amended to read:

**“7-22-2124. Destruction of weeds by board.** (1) If corrective action is not taken *within the time specified in 7-22-2123(2)* and a proposal is not made and accepted ~~or a request for an administrative hearing is not made within the time specified in the notice as provided in 7-22-2123(3),~~ the board may enter upon the person’s land and institute appropriate control measures. In that case, the board shall submit a bill to the person, itemizing hours of labor, material, and equipment time, together with a penalty not exceeding ~~50%~~ *25%* of the total cost incurred ~~except that a penalty may not be assessed if contact was not made with the landowner or the landowner’s representative pursuant to 7-22-2123. When the penalty is collected, it must be credited to the noxious weed fund created~~

*pursuant to 7-22-2141 to be used for appropriate control measures pursuant to this section.* Labor and equipment must be valued at the current rate paid for commercial management operations in the district. The bill must specify and order a payment due date of 30 days from the date the bill is sent. The board may enter into an agreement with a commercial applicator, as defined in 80-8-102, to destroy the weeds. The commercial applicator shall agree to carry any insurance required by the board.

(2) A copy of the bill must also be submitted by the board to the county clerk and recorder.

(3) If a person receiving an order to take corrective action requests an ~~administrative hearing~~ *injunction or stay of the corrective action in district court within 10 days of receipt of the order*, the board may not institute control measures until the matter is finally resolved, except in case of an emergency. In that case, the person is liable for costs as provided in subsection (1) only to the extent determined appropriate by the board, commissioners, or court that finally resolves the matter.”

**Section 3. Repealer.** Section 7-22-2110, MCA, is repealed.

**Section 4. Effective date.** [This act] is effective on passage and approval.

Approved April 28, 2009

## CHAPTER NO. 408

[SB 404]

AN ACT REVISING LAWS RELATING TO THE LOCATION OF SHOOTING PRESERVES; AMENDING SECTION 87-4-502, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

**Section 1.** Section 87-4-502, MCA, is amended to read:

**“87-4-502. Size, location, and posting of preserves.** Operating licenses or permits may be issued to any person, partnership, association, or corporation for the operation of shooting preserves that meet the *following* requirements hereinafter prescribed:

(1) Each shooting preserve ~~shall~~ *must* be restricted to not more than ~~1,280~~ *1,920* contiguous acres ~~and shall not and must be located closer than 10 miles from another preserve and in areas which will~~ *in areas that will* not substantially reduce hunting areas available to the public as determined by the department.

(2) The exterior boundaries of each shooting preserve ~~shall~~ *must* be clearly defined and posted with signs erected around the extremity at intervals of 250 feet or less.”

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

Approved April 28, 2009

## CHAPTER NO. 409

[SB 427]

AN ACT 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.

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

**Section 1. Short title — scope.** (1) [Sections 1 through 5] may be cited as the “Montana Contaminated Property Compensation and Restoration Act”.

(2) [Sections 1 through 5] apply only to common law claims brought in judicial proceedings on behalf of private interests of individuals or entities.

**Section 2. Definitions.** For purposes of [sections 1 through 5], the following definitions apply:

(1) “Department” means the department of environmental quality provided for in 2-15-3501.

(2) (a) “Release” means any spilling, leaking, emitting, discharging, escaping, leaching, or disposing of petroleum or petroleum products from a petroleum storage tank into ground water, surface water, surface soils, or subsurface soils that occurred from a petroleum storage tank, as defined in 75-11-302.

(b) The term does not include a release from the following petroleum storage tanks:

(i) a tank located at a refinery or a terminal of a refiner;

(ii) a tank located at an oil and gas production facility; or

(iii) a tank that is or was previously under the ownership or control of a railroad, except for a tank that was operated by a lessee of a railroad in the course of nonrailroad operations.

(3) “Restoration damages” means the amount of compensation determined necessary by a trier of fact to restore a contaminated special use property to its function and use prior to the contamination upon which a common law claim is based. The term includes reasonable attorney fees and costs incurred by the plaintiff.

(4) “Special use property” means real property contaminated by a release from a petroleum storage tank, as defined in 75-11-302, that is found by a trier of fact to have personal value to the plaintiff not reflected in the market value of the property or to have unique public, historic, cultural, or religious value not reflected in the market value of the property.

**Section 3. Restoration damages for contamination of special use property.** (1) Restoration damages for a common law claim alleging contamination of special use property may be granted by the trier of fact and may only be obtained pursuant to [sections 1 through 5].

(2) Nothing in this section precludes the award of other damages allowed under common law and statute.

**Section 4. Use of restoration damages — request for trust account.**

(1) Restoration damages awarded pursuant to [section 3], exclusive of damages awarded for attorney fees and costs, must be used to conduct any remedial and corrective action necessary to restore the special use property for which the damages were awarded to its function and use prior to the contamination for which the damages were awarded.

(2) Any party may request that a court awarding restoration damages may also order that those damages be deposited in a segregated trust account at a commercial bank or trust company to ensure compliance with subsection (1). The plaintiff may create a trust to be overseen by a qualified professional to restore the special use property.

**Section 5. Burden of proof.** The plaintiff in an action for restoration damages resulting from the contamination of special use property has the burden of proof to show that a property meets the definition of a special use property.

**Section 6. Codification instruction.** [Sections 1 through 5] are intended to be codified as an integral part of Title 75, chapter 11, and the provisions of Title 75, chapter 11, apply to [sections 1 through 5].

**Section 7. Nonseverability.** It is the intent of the legislature that each part of [this act] is essentially dependent upon every other part, and if one part is held unconstitutional or invalid, all other parts are invalid.

**Section 8. Effective date.** [This act] is effective on passage and approval.

**Section 9. Applicability.** [This act] applies to judicial proceedings begun on or after [the effective date of this act].

Approved April 28, 2009

## CHAPTER NO. 410

[SB 457]

AN ACT 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.

WHEREAS, since the inception on the Montana scenic-historic byway program, no scenic-historic byways designations have been applied for by local jurisdictions, nor granted by the Montana Department of Transportation; and

WHEREAS, adjoining states have acquired millions of dollars of federal highway funds for local scenic-historic byway projects; and

WHEREAS, Montana's lack of a viable state scenic-historic byway program has resulted in loss of opportunities to acquire grant funding for scenic-historic byway projects by local jurisdictions including Indian Tribes; and

WHEREAS, designation of a scenic-historic byway can have positive economic, quality of life, and educational outcomes for communities and the state; and

WHEREAS, the designation of a scenic-historic byway does not diminish authorities of existing jurisdictions for local land planning or management, nor does it create any new authorities; and

WHEREAS, applications for designation of a local road as a state scenic-historic byway must be prepared locally following local processes in consultation with local citizens and road administrators; and

WHEREAS, the Montana Department of Transportation has concluded that a scenic-historic byways program is feasible in Montana and that the Department is capable of incorporating a program into its administrative responsibilities; and

WHEREAS, current state law on scenic-historic byways protects private property rights but requires local jurisdictions to make assurances that are difficult to comply with; and

WHEREAS, Montana has roads with outstanding qualifications for scenic-historic byway designation and these roads have significant need for new funding opportunities for project funding.

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

**Section 1. Scenic-historic byways pilot project.** There is a scenic-historic byways pilot project to allow locally developed applications submitted by the local government or governments of jurisdiction to the scenic-historic byways program established in 60-2-601 to be considered, approved, or rejected by the department pursuant to the rules adopted in 60-2-602. The department shall offer to review applications for designations involving the following highways:

- (1) the warrior trail highway as designated in 60-1-214;
- (2) the trail of the arrow, consisting of parts of U.S. highway routes 418, 313, 463, and 451 from the Crow reservation boundary on route 418 to Pryor, Saint Xavier, Lodge Grass, and Crow Agency to the start of the warrior trail highway;
- (3) black otter trail road in swords park in Billings;
- (4) Montana route 1, also known as the pintler scenic route, between the interstate exits at Anaconda and Drummond;
- (5) looking glass road on U.S. highway 49 from Kiowa junction to East Glacier;
- (6) giant springs road in Great Falls from river road to 67th street;
- (7) bureau of Indian affairs route 114 and county road 234; and
- (8) Harding way highway from Butte to Whitehall.

**Section 2. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 60, chapter 2, part 6, and the provisions of Title 60, chapter 2, part 6, apply to [section 1].

**Section 3. Effective date.** [This act] is effective July 1, 2009.

**Section 4. Termination.** [This act] terminates July 1, 2019.

Approved April 28, 2009

## CHAPTER NO. 411

[SB 467]

AN ACT 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.

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

**Section 1.** Section 15-18-212, MCA, is amended to read:

**“15-18-212. Notice — proof of notice — penalty for failure to notify.**  
(1) Not more than 60 days prior to and not more than 60 days following the expiration of the redemption period provided in 15-18-111, a notice must be given as follows:



(a) for each property for which there has been issued to the county a tax lien sale certificate or for which the county is otherwise listed as the purchaser or assignee, the county clerk and recorder shall notify ~~all persons considered interested parties in the property~~ *the parties as required in subsection (4)* and the current occupant of the property, if any, that a tax deed may be issued to the county unless the property tax lien is redeemed prior to the expiration date of the redemption period; or

(b) for each property for which there has been issued a tax lien sale certificate to a purchaser other than the county or for which an assignment has been made, the purchaser or assignee, as appropriate, shall notify ~~all persons considered interested~~ *the parties in the property as required in subsection (4)*, if any, that a tax deed will be issued to the purchaser or assignee unless the property tax lien is redeemed prior to the expiration date of the redemption period.

(2) (a) Except as provided in subsection (2)(b), if the county is the purchaser, an assignment has not been made, and the board of county commissioners has not directed the county treasurer to issue a tax deed during the period described in subsection (1) but the board of county commissioners at a time subsequent to the period described in subsection (1) does direct the county treasurer to issue a tax deed, the county clerk and recorder shall provide notification to ~~all interested~~ *the parties as required in subsection (4)* and the current occupant, if any, in the manner provided in subsection (1)(a). The notification required under this subsection must be made not less than 60 days or more than 120 days prior to the date on which the county treasurer will issue the tax deed.

(b) If the county commissioners direct the county treasurer to issue a tax deed within 6 months after giving the notice required by subsection (1)(a), additional notice need not be given.

(3) (a) If a purchaser other than the county or an assignee fails or neglects to give notice as required by subsection (1)(b) and the failure or neglect is evidenced by failure of the purchaser or assignee to file proof of notice with the county clerk and recorder as required in subsection (8), the county treasurer shall notify the purchaser or assignee of the obligation to give notice under subsection (1)(b). The notice of obligation may be sent by certified mail, return receipt requested, to the purchaser or assignee at the address contained on the tax lien sale certificate provided for in 15-17-212 or on the assignment form provided for in 15-17-323.

(b) If within 120 days after the county treasurer mails the notice of obligation the purchaser or assignee fails to give notice as required by subsection (1)(b), as evidenced by failure to file proof of notice with the county clerk and recorder as required in subsection (8), the county treasurer shall cancel the property tax lien evidenced by the tax lien sale certificate or the assignment. Upon cancellation of the property tax lien, the county treasurer shall file or record with the county clerk and recorder a notice of cancellation on a form provided for in 15-18-217.

(4) (a) The notice required under subsections (1) and (2) must be made by certified mail, return receipt requested, to ~~each interested party and the current occupant, if any, of the property and to each party, other than a utility, listed on a property title guarantee, ordered on the property by the person required to give notice provided that:~~

(i) *the guarantee has been approved by the insurance commissioner and issued by a licensed title insurance producer; and*

(ii) *the guarantee was ordered on the property by the person required to give notice.*

(b) The address to which the notice must be sent is, for each interested party, the address disclosed by the records in the office of the county clerk and recorder or in the title *guarantee* and, for the occupant, the street address or other known address of the subject property.

(5) In all cases in which the address of an interested party is not known, the person required to give notice shall, within the period described in subsection (1) or not less than 60 days or more than 120 days prior to the date upon which the county treasurer will otherwise issue a tax deed, whichever is appropriate, commence publishing once a week for 2 successive weeks, in the official newspaper of the county or another newspaper as the board of county commissioners may by resolution designate, a notice containing the information contained in subsection (6), plus:

(a) the name of the interested party for whom the address is unknown;

(b) a statement that the address of the interested party is unknown;

(c) a statement that the published notice meets the legal requirements for notice of a pending tax deed issuance; and

(d) a statement that the interested party's rights in the property may be in jeopardy.

(6) The notices required by subsections (1), (2), and (5) must contain the following:

(a) a statement that a property tax lien exists on the property as a result of a property tax delinquency;

(b) a description of the property on which the taxes are or were delinquent, which must be the same as the description of the property on the tax lien sale certificate or in the record described in 15-17-214(2)(b);

(c) the date that the property taxes became delinquent;

(d) the date that the property tax lien attached as the result of a tax lien sale;

(e) the amount of taxes due, including penalties, interest, and costs, as of the date of the notice of pending tax deed issuance, which amount must include a separate listing of the delinquent taxes, penalties, interest, and costs that must be paid for the property tax lien to be liquidated;

(f) the name and address of the purchaser;

(g) the name of the assignee if an assignment was made as provided in 15-17-323;

(h) the date that the redemption period expires or expired;

(i) a statement that if all taxes, penalties, interest, and costs are not paid to the county treasurer on or prior to the date on which the redemption period expires or on or prior to the date on which the county treasurer will otherwise issue a tax deed, a tax deed may be issued to the purchaser on the day following the date on which the redemption period expires or on the date on which the county treasurer will otherwise issue a tax deed; and

(j) the business address and telephone number of the county treasurer who is responsible for issuing the tax deed.

(7) The amount of interest and costs provided for in subsection (6)(e) continues to accrue until the date of redemption. The total amount of interest

and costs that must be paid for redemption must be calculated by the county treasurer as of the date of payment.

(8) Proof of notice in whatever manner given must be filed with the county clerk and recorder. If the purchaser or assignee is other than the county, the proof of notice must be filed with the county clerk and recorder within 30 days of the mailing or publishing of the notice. If the purchaser or assignee is the county, the proof of notice must be filed before the issuance of the tax deed under this chapter. Once filed, the proof of notice is prima facie evidence of the sufficiency of the notice.

(9) A county or any officer of a county may not be held liable for any error of notification.”

**Section 2.** Section 15-18-213, MCA, is amended to read:

**“15-18-213. Form of tax deed — prima facie evidence.** (1) The form of a tax deed issued under the provisions of this chapter, executed by a county treasurer, must be made in substance as follows:

This deed is made by ..... (name of county treasurer), county treasurer of the county of ..... (name of county), in the state of Montana, to ..... (name of purchaser, the purchaser’s agent, or assignee), as provided by the laws of the state of Montana:

Whereas, there was assessed for ..... (year) the following real property ..... (description of the property); and

Whereas, the taxes for ..... (year) levied against the property amounted to \$ .....; and

Whereas, the taxes were not paid and a property tax lien for the payment of the taxes attached and was sold to ..... (name of purchaser or the purchaser’s agent or assignee) on ..... (date, including year) for the sum of \$ ....., which amount included delinquent taxes in the amount of \$ ....., penalties in the amount of \$ ....., interest in the amount of \$ ....., and other costs in the amount of \$ .....; and

Whereas, a tax lien sale certificate was issued and filed or the sale otherwise recorded as required by law; and

Whereas, notice was given to ~~interested~~ *required* parties in accordance with 15-18-212 that the issuance of a tax deed was pending; and

Whereas, the property tax lien has not been redeemed by ..... (name of former owner) or any other person entitled to redeem it.

Now, therefore, I, ..... (treasurer’s name), county treasurer of the county of ....., in the state of Montana, in consideration of the sum of \$ ..... paid, hereby grant to ..... (name of purchaser or the purchaser’s agent or assignee) all the property situated in ..... County, state of Montana, described in this document.

Witness my hand on this date ..... (date, including year).

.....County Treasurer

.....County

(2) A tax deed executed in substantially the form provided in subsection (1) is prima facie evidence that:

- (a) the property was assessed as required by law;
- (b) the taxes were levied in accordance with law;
- (c) the taxes were not paid when due;

(d) notice of tax lien sale was given and a property tax lien was sold at the proper time and place as provided by law;

(e) the property was not redeemed, and proper notice of a pending tax deed issuance was made as required by law;

(f) the person who executed the deed was legally authorized to do so; and

(g) if the real property was sold to pay delinquent taxes on personal property, the real property belonged to the person liable to pay the personal property tax.”

**Section 3.** Section 15-18-216, MCA, is amended to read:

**“15-18-216. Form of proof of notice.** Section 15-18-212 requires that proof of notice must be filed with the county clerk. The proof of notice may be made as follows:

**PROOF OF NOTICE**

I, ..... (Name and Address), acting as or on behalf of the owner of the property tax lien, have complied with the notice requirements of Title 15, chapter 18, MCA, as follows:

1. A “Notice of Issuance of Tax Deed” was mailed to the owners, current occupant, and interested parties, as that term is defined in section 15-18-111(3) required by 15-18-212, MCA. A copy of each notice is attached or is on file in the office of the county clerk.

2. The notices were mailed by certified mail, return receipt requested. Copies of the return receipts are attached or are on file in the office of the county clerk.

3. Notice was given to interested parties with unknown addresses by publishing in the official newspaper of the county, which is ....., on ..... and ..... . Proof of publication is attached.

DATED: .....

.....  
(Signature)

SUBSCRIBED AND SWORN TO before me this ..... (Date).

.....  
Notary Public for the State of Montana  
Residing in .....  
My Commission Expires .....”

Approved April 28, 2009

**CHAPTER NO. 412**

[SB 491]

AN ACT 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.

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

**Section 1.** Section 2-9-212, MCA, is amended to read:

**“2-9-212. Political subdivision tax levy to pay premiums contributions.** (1) Subject to 15-10-420 and subsection (2) of this section, a political subdivision, except for a school district, may levy an annual property tax in the amount necessary to fund the ~~premium contribution~~ for insurance, deductible reserve fund, and self-insurance reserve fund as authorized in this section and to pay the principal and interest on bonds or notes issued pursuant to 2-9-211(5).

(2) (a) If a political subdivision ~~made~~ *makes* contributions for group benefits under 2-18-703 ~~on or before July 1, 2001, the increase in the political subdivision's property tax levy for the political subdivision's premium contributions, the amount in excess of the base contribution as determined under 2-18-703(4)(c) for group benefits under 2-18-703 beyond the amount of contributions in effect at the beginning of the last fiscal year~~ is not subject to the mill levy calculation limitation provided for in 15-10-420. Levies implemented under this section must be calculated separately from the mill levies calculated under 15-10-420 and are not subject to the inflation factor described in 15-10-420(1)(a).

(i) *Contributions for group benefits paid wholly or in part from user charges generated by proprietary funds, as defined by generally accepted accounting principles, are not included in the amount exempted from the mill levy calculation limitation provided for in 15-10-420.*

(ii) If tax-billing software is capable, the county treasurer shall list separately the cumulative mill levy or dollar amount on the tax notice sent to each taxpayer under 15-16-101(2). The amount must also be reported to the department of administration pursuant to 7-6-4003. The mill levy must be described as the permissive medical levy.

(b) Each year prior to implementing a levy under subsection (2)(a), after notice of the hearing given under 7-1-2121 or 7-1-4127, a public hearing must be held regarding any proposed increases.

(c) A levy under this section in the previous year may not be included in the amount of property taxes that a governmental entity is authorized to levy for the purposes of determining the amount that the governmental entity may assess under the provisions of 15-10-420(1)(a). When a levy under this section decreases or is no longer levied, the revenue may not be combined with the revenue determined in 15-10-420(1)(a).

(3) (a) *For the purposes of this section, “group benefits” means group hospitalization, health, medical, surgical, life, and other similar and related group benefits provided to officers and employees of political subdivisions, including flexible spending account benefits and payments in lieu of group benefits.*

(b) *The term does not include casualty insurance as defined in 33-1-206, marine insurance as authorized in 33-1-209 and 33-1-221 through 33-1-229, property insurance as defined in 33-1-210, surety insurance as defined in 33-1-211, and title insurance as defined in 33-1-212.”*

**Section 2.** 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 a month from January 2007 through December 2007, \$590 a month from January 2008 through December 2008, and \$626 for January 2009 and for each succeeding month. For employees of the Montana university system, the employer contribution for group benefits is \$557 a month from July 2006 through June 2007, \$590 a month from July 2007 through June 2008, and \$626 for July 2008 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) (a) *For employees of political subdivisions, as defined in 2-9-101, except school districts, the employer's contributions may exceed but may not be less than \$10 a month.*

(b) *Subject to the public hearing requirement provided in 2-9-212(2)(b), the amount in excess of the base contribution of a local government's property tax levy for contributions for group benefits as determined in subsection (4)(c) is not subject to the mill levy calculation limitation provided for in 15-10-420.*

(c) *Subject to subsections (4)(c)(i) and (4)(c)(ii), the base contribution is determined by multiplying the average annual contribution for each employee on July 1, 1999, times the number of employees for whom the employer makes contributions for group benefits under 2-9-212 on July 1 of each fiscal year.*

(i) *If a political subdivision did not make contributions for group benefits on or before July 1, 1999, and subsequently does so, the base contribution is determined by multiplying the average annual contribution for each employee in the first year the political subdivision provides contributions for group benefits times the number of employees for whom the employer makes contributions for group benefits under 2-9-212 on July 1 of each fiscal year.*

(ii) *If a political subdivision has made contributions for group benefits but has not previously levied for contributions in excess of the base contribution, the political subdivision's base is determined by multiplying the average annual contribution for each employee at the beginning of the fiscal year immediately preceding the year in which the levy will first be levied times the number of employees for whom the employer made contributions for group benefits under 2-9-212 in that fiscal year.*

(4)(5) 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)(6) 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)(7) 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 3.** 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 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; ~~or~~
- (v) the portion that is the amount in excess of the base contribution of a governmental entity's property tax levy for contributions for group benefits excluded under 2-9-212 or 2-18-703.*

(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 4. Transition.** (1) Except as provided in subsection (2), a political subdivision that levied mills for group contributions pursuant to 2-18-703 in fiscal year 2009 may for the fiscal years 2010 through 2014 levy the greater of:

- (a) the dollar amount levied in 2009; or
- (b) the amount determined in 2-18-703.

(2) The actual dollar amount under subsection (1)(a) may not include an amount for group benefits paid from user charges described in 2-9-212(2)(a)(i).

**Section 5. 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 6. Effective date.** [This act] is effective July 1, 2009.

Approved April 28, 2009

## CHAPTER NO. 413

[SB 508]

AN ACT 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.

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

**Section 1. Creation of online motor vehicle liability insurance verification system.** (1) The department, in cooperation with the commissioner of insurance, shall establish an accessible common carrier-based motor vehicle insurance verification system to verify the compliance of a motor vehicle owner or operator with motor vehicle liability policy requirements under 61-6-103, 61-6-301, and 61-6-302 and facilitate or monitor proof of financial responsibility filings under 61-6-133 and 61-6-134.

(2) The department may contract with a private vendor or vendors to establish and maintain the system.

(3) The system must:

(a) send requests to insurers for verification of motor vehicle liability insurance using electronic services established by the insurers, through the internet, world wide web, or a similar proprietary or common carrier electronic system in compliance with the specifications and standards of the insurance industry committee on motor vehicle administration and other applicable industry standards;

(b) include appropriate provisions to secure its data against unauthorized access and to maintain a record of all requests and responses;

(c) be accessible, without fee, to authorized personnel of the department, the courts, law enforcement personnel, county treasurers, and authorized agents under the provisions of 61-3-116;

(d) interface, wherever possible, with existing department and law enforcement systems;

(e) receive insurance data file transfers from insurers under specifications and standards set forth in subsection (3)(a) to identify vehicles that are not covered by an insurance policy;

(f) provide a means by which low-volume insurers that are unable to deploy an online interface with the system can report insurance policy data to the department or its designee for inclusion in the system;

(g) provide a means to track separately or distinguish motor vehicles that are subject to a certificate of self-insurance under 61-6-143, a surety or indemnity bond under 61-6-137 or 61-6-301, or a deposit of cash or securities under 61-6-138;

(h) be available 24 hours a day, 7 days a week, subject to reasonable allowances for scheduled maintenance or temporary system failures, to verify the insurance status of any vehicle in a manner prescribed by the department; and

(i) be installed and operational no later than July 1, 2011, following an appropriate testing period of not less than 6 months.

(4) The provisions of Title 2, chapter 6, parts 1 and 2, do not apply to the information contained in the verification system.

(5) Every insurer shall cooperate with the department in establishing and maintaining the system and shall provide access to motor vehicle liability policy status information to verify liability coverage for:

(a) a vehicle insured by that company that is registered in this state; and

(b) if available, for a vehicle that is insured by that company or that is operated in this state and that is the subject of an accident investigation regardless of where the vehicle is registered.

**Section 2. Law enforcement use of verification system.** (1) Notwithstanding the requirements of 61-6-302, a peace officer or authorized employee of a law enforcement agency may, during the course of a traffic stop or accident investigation, access the verification system provided under [section 1] to verify whether a motor vehicle is covered by a valid motor vehicle liability policy that meets the requirements of 61-6-103 and 61-6-301.

(2) (a) Except as provided in subsection (2)(b), the response received from the system supersedes an insurance card produced by a vehicle owner or operator, and notwithstanding the display of an insurance card by the owner or operator, the peace officer may issue a complaint and notice to appear to the owner or operator for a violation of 61-6-301 or 61-6-302.

(b) Subsection (2)(a) does not apply if the vehicle is:

(i) covered under a commercial automobile insurance coverage policy;

(ii) part of a self-insured fleet as provided in 61-6-143; or

(iii) included in an insurance binder, as allowed by 33-15-411, that has not been entered into the system at the time the system is accessed under subsection (1) of this section.

(3) Except upon reasonable cause to believe that a driver has violated another traffic regulation or that the driver's vehicle is unsafe or not equipped as required by law, a peace officer may not use the verification system to stop a driver for operating a motor vehicle in violation of 61-6-301.

**Section 3. Vehicle insurance verification and license plate operating account.** (1) There is a vehicle insurance verification and license plate operating account in the state special revenue fund type as provided in 17-2-102.

(2) Fees imposed under 61-3-321(7)(b)(ii) and (12), 61-3-333, 61-3-465(1)(b)(i), 61-3-480(2)(c)(i), or 61-3-562(1)(a)(ii) or established and collected under 61-6-105 must be deposited in the account.

(3) The money in the vehicle insurance verification and license plate operating account must be used by the department to pay costs incurred in or associated with the operation, maintenance, and enhancement of the online motor vehicle liability insurance verification system established under [section 1] and the contract required in [section 4] for the manufacture and distribution of license plates by Montana correctional enterprises.

**Section 4. Manufacture and distribution of license plates.** (1) The department shall contract with Montana correctional enterprises for the manufacture, inventory control, storage, and distribution of all license plates issued under this chapter.

(2) The contract must include provisions for payment to Montana correctional enterprises after license plates are shipped to the department, the office of a county treasurer, or a vehicle owner, as directed by the department or at the request of a vehicle owner.

(3) The contract must require Montana correctional enterprises to provide the necessary interface to support the automated ordering of license plates by the department or as directed by the department and to acquire and use readability software to assess any new plate design or manufactured plate and, if requested by the department, any previously issued license plates.

**Section 5. Montana correctional enterprises license plate production operating account.** (1) There is a license plate production operating account of the internal service fund type, as provided in 17-2-102.

(2) All payments received by the Montana correctional enterprises program under a contract related to the manufacture of license plates or fees paid under 61-3-478 must be deposited in the account.

(3) The money in the license plate production operating account must be used by Montana correctional enterprises for the operation and enhancement of its license plate manufacturing enterprise.

**Section 6.** Section 33-19-306, MCA, is amended to read:

**“33-19-306. Disclosure limitations and conditions.** (1) Except as provided in this section, a licensee may not disclose personal or privileged information about an individual collected or received in connection with an insurance transaction.

(2) Disclosure may be made with the written authorization of the individual. The authorization must be in the form provided in 33-19-206.

(3) Disclosure limited to that which is reasonably necessary may be made to a person to enable the person to provide information to the disclosing licensee for the purpose of detecting or preventing criminal activity, fraud, material misrepresentation, or material nondisclosure in connection with an insurance transaction. A person to whom information is disclosed pursuant to this subsection shall agree in writing not to further disclose the information, but this requirement for an agreement does not prevent disclosure of information that is necessary to obtain further information for the purposes set forth in this subsection.

(4) (a) Disclosure may be made between licensees if the information disclosed is limited to that which is reasonably necessary:

(i) to detect or prevent criminal activity, fraud, material misrepresentation, or material nondisclosure in connection with insurance transactions; or

(ii) for either the disclosing or receiving licensee to perform its insurance function.

(b) A licensee receiving information pursuant to this subsection (4) may not further disclose the information unless otherwise permitted by this section.

(5) Disclosure may be made to a medical care institution, a medical professional, or the individual to whom the information pertains if that information is reasonably necessary for the following purposes:

(a) verifying insurance coverage or benefits;

(b) informing an individual of a medical problem of which the individual may not be aware;

(c) conducting an operations or services audit; or

(d) determining the reasonableness or necessity of medical services.

(6) Disclosure:

(a) may be made to an insurance regulatory authority;

(b) must be made as required by law; and

(c) must be or may be made to the commissioner as required or permitted by law.

(7) Disclosure may be made by a licensee or an insurance-support organization to a law enforcement or other government authority or to an insurance regulatory agency:

(a) to protect the interests of a licensee in preventing, investigating, or prosecuting the perpetration of fraud upon a licensee; or

(b) if the licensee or insurance-support organization reasonably believes that illegal activities have been conducted by the individual; *or*

(c) *as provided in [section 1].*

(8) Disclosure that is limited to that which is reasonably necessary may be made as otherwise permitted or required by law.

(9) Disclosure that is limited to that which is reasonably necessary may be made in response to a facially valid administrative or judicial order, including a search warrant or subpoena.

(10) (a) Except as provided in subsection (10)(b), disclosure that is limited to that which is reasonably necessary may be made for the purpose of conducting actuarial or research studies if:

(i) an individual is not identified in any actuarial or research report;

(ii) materials allowing the individual to be identified are returned or destroyed as soon as they are no longer needed; and

(iii) the actuarial or research organization agrees not to further disclose the information without the individual's separate, written authorization.

(b) Disclosure of information may be made for:

(i) health research that is subject to the approval of an institutional review board and the requirements of federal law and regulations governing biomedical research; or

(ii) epidemiological or drug therapy outcomes research that requires information that has been made anonymous to protect the identity of the patient through coding or encryption.

(11) Disclosure may be made to a party or a representative of a party to a proposed sale, transfer, merger, or consolidation of all or part of the business of the licensee or insurance-support organization if:

(a) prior to the consummation of the sale, transfer, merger, or consolidation only information ~~is disclosed~~ that is reasonably necessary to enable the recipient to make business decisions about the purchase, transfer, merger, or consolidation *is disclosed*; and

(b) the recipient agrees not to further disclose the information without the individual's separate, written authorization.

(12) (a) Disclosure that is limited to that which is reasonably necessary may be made to a licensee's affiliate as follows:

(i) to allow use of the information in connection with an audit of the licensee;

(ii) to enable a licensee to perform an insurance function; or

(iii) as allowed by 33-19-307.

(b) A licensee disclosing pursuant to this section must have a written agreement with the affiliate that the affiliate will not use or further disclose information received except to carry out the purposes set forth in subsection (12)(a) and that if further disclosure is necessary to meet those purposes, the disclosure will be made only to the licensee or to a person who agrees in writing to be bound by the same prohibition on use and disclosure. A disclosure allowed by 33-19-307 is governed by that section.

(13) Disclosure that is limited to that which is reasonably necessary may be made to an insurance-support organization to perform insurance-support services for the licensee. The insurance-support organization may redisclose the

information to the extent necessary to provide its services to its member or subscriber licensees and other insurance-support organizations or as otherwise permitted by law, but not for a marketing purpose.

(14) Disclosure may be made to a group policyholder for the purpose of reporting claims experience or conducting an audit of the licensee's operations or services if the information disclosed is reasonably necessary for the group policyholder to conduct the review or audit and the group policyholder agrees not to further disclose the information without the individual's separate, written authorization. Medical record information disclosed pursuant to this subsection must be edited to prevent the identification of the applicant, policyholder, or certificate holder. Employer audits that are required by the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001, et seq., as amended, are not subject to the provisions of this subsection.

(15) Disclosure that is limited to that which is reasonably necessary may be made to a professional peer review organization for the purpose of reviewing the service or conduct of a medical care institution or medical professional if the professional peer review organization agrees not to further disclose the information without the individual's separate, written authorization.

(16) Disclosure that is limited to that which is reasonably necessary may be made to a governmental authority as required by federal or state law or for the purpose of determining the individual's eligibility for health benefits for which the governmental authority may be liable.

(17) Disclosure that is limited to that which is reasonably necessary may be made to a certificate holder or policyholder for the purpose of providing information regarding the status of an insurance transaction. Disclosure pursuant to this subsection may not be made to a group policyholder without a separate, written authorization from the individual.

(18) Disclosure may be made to a person contractually engaged to provide services to enable a licensee to perform an insurance function, or to perform an insurance function on behalf of a licensee, if the person agrees in writing that the person will not use or further disclose information obtained or developed pursuant to the engagement except to carry out the limited purpose of the engagement and that if further disclosure is necessary to perform the insurance function, that disclosure will be made only to the licensee or to a person who agrees in writing to be bound by the same prohibitions on use and disclosure.

(19) If a licensee has to disclose personal or privileged information in order to perform an insurance function and disclosure is not permitted under another exception in this section, disclosure may be made to a person other than a licensee if the disclosure is limited to that which is reasonably necessary to enable the person to perform services or an insurance function for the disclosing licensee and if the person is notified by the licensee that the person is prohibited from:

(a) using the information other than to carry out the limited purpose for which the information is disclosed; and

(b) disclosing the information other than to the licensee and as allowed in subsection (3).

(20) Disclosure may be made to a lienholder, mortgagee, assignee, lessor, or other person shown on the records of an insurance institution or insurance producer as having a legal interest in a policy of insurance if:

(a) medical record information is not disclosed; and

(b) the information disclosed is limited to that which is reasonably necessary to permit the person with a legal interest in the policy to protect that person's interests in that policy.

(21) Disclosure may be made to provide information to insurance rate advisory organizations, guaranty funds or agencies, agencies that are rating a licensee, persons that are assessing the licensee's compliance with industry standards, and the licensee's attorneys, accountants, and auditors if the disclosure is limited to that which is reasonably necessary to enable the person or entity to perform services or an insurance function for the disclosing licensee and if the person or entity is notified by the licensee that the person or entity is prohibited from using the information, other than to carry out the limited purpose for which the information is disclosed.

(22) Notwithstanding any other provision of this chapter, disclosure for a marketing purpose may be made only as allowed by 33-19-307.

(23) ~~Nothing in this~~ *This* section may *not* be construed to prevent the disclosure of personal information that is otherwise discoverable pursuant to the Montana Rules of Civil Procedure.

(24) The commissioner may adopt rules creating additional exceptions to disclosure restrictions for the purpose of allowing a licensee or insurance-support organization to carry out a necessary insurance function. The commissioner shall adopt rules establishing the methods that must be used by licensees to prevent identification as described in subsection (14)."

**Section 7.** Section 61-3-301, MCA, is amended to read:

**"61-3-301. Registration — license plate required — display.** (1) (a) Except as provided in 61-4-120, 61-4-129, and subsection (1)(b) of this section, a person may not operate a motor vehicle, trailer, semitrailer, pole trailer, or travel trailer upon the public highways of Montana unless the motor vehicle, trailer, semitrailer, pole trailer, or travel trailer is properly registered and has the proper license plates conspicuously displayed on the motor vehicle, trailer, semitrailer, pole trailer, or travel trailer. A license plate must be securely fastened to prevent it from swinging and may not be obstructed from plain view.

(b) A motorcycle, quadricycle, trailer, semitrailer, pole trailer, or travel trailer must have a single license plate displayed on the rear of the vehicle. A custom vehicle or street rod registered under 61-3-320(1)(b) or (1)(c)(iii) may display a single license plate firmly attached to the rear exterior of the custom vehicle or street rod. All other motor vehicles must have one license plate displayed on the front and one license plate displayed on the rear of the motor vehicle.

(c) A person may not display on a motor vehicle, trailer, semitrailer, pole trailer, or travel trailer at the same time a number assigned to it under any motor vehicle law except as provided in this chapter.

(2) A person may not purchase or display on a motor vehicle, trailer, semitrailer, pole trailer, or travel trailer a license plate bearing the number assigned to any county, as provided in 61-3-332, other than the county where the vehicle is domiciled or the county where the trailer, semitrailer, pole trailer, or travel trailer is domiciled at the time of application for registration.

(3) It is unlawful to:

(a) display license plates issued to one motor vehicle, trailer, semitrailer, pole trailer, or travel trailer on any other motor vehicle, trailer, semitrailer, pole trailer, or travel trailer unless legally transferred as provided by statute;

(b) repaint old license plates to resemble current license plates; or

(c) display a prior design of standard license plates issued under ~~61-3-332(3)(a)~~ or special license plates issued under ~~61-3-332(8)~~ or ~~61-3-421~~ more than 18 months after a new design of standard license plates or special license plates has been issued, *including military, veteran, and amateur radio license plates, or any license plates that have been issued for 5 or more years after the replacement of the license plates is required under 61-3-332(3)(a)*, except as provided in ~~61-3-332(3)(b) and (3)(c) and (3)(d)~~, 61-3-448, or 61-3-468.

(4) For the purposes of this section, “conspicuously displayed” means that the required license plates are obviously visible and firmly attached to:

(a) the front bumper and the rear bumper of a motor vehicle equipped with front and rear bumpers, except for a custom vehicle or street rod as provided in subsection (1)(b); or

(b) a clearly visible location on the rear of a trailer, semitrailer, pole trailer, or travel trailer.”

**Section 8.** 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) *and subsection (11)*, 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.

*(11) Beginning July 1, 2011, the county treasurer shall use the online motor vehicle liability insurance verification system provided in [section 1] to verify that the vehicle owner has complied with the requirements of 61-6-301. Unless the verification system is temporarily unavailable, the county treasurer may not issue license plates to a motor vehicle when compliance with 61-6-301 cannot be verified.*

**Section 9.** Section 61-3-312, MCA, is amended to read:

**“61-3-312. Renewal of registration — exceptions — grace period.** (1) Except as provided in 61-3-313 and 61-3-721, the registration of a motor vehicle under this chapter must be renewed on or before the last day of the month of the motor vehicle’s registration period following the expiration of the motor vehicle’s registration.

(2) *Except as provided in subsection (4), a person may renew a motor vehicle’s registration by submitting full payment for the fees or taxes required under 61-3-303 and 61-3-321(12) to the department, an authorized agent, or a county treasurer in any county of this state.*

(3) *The department, an authorized agent, or a county treasurer may use the online motor vehicle liability insurance verification system provided in [section 1] to verify proof of compliance with 61-6-301.*

(4) *Beginning July 1, 2011, and except when the verification system is temporarily unavailable, a registration may not be renewed when compliance with 61-6-301 cannot be determined using the verification system.*

(5) Except as provided in 61-3-315, the registration period originally assigned under 61-3-311 must be retained and the duration of the renewed registration is determined in accordance with 61-3-311. A registration receipt is valid for the registration period for which it is issued.

~~(2)~~(6) The owner of a motor vehicle subject to registration renewal under the provisions of this section is considered to have renewed the motor vehicle’s registration in a timely manner if the owner submits full payment for the required fees or taxes, as prescribed in the mail renewal notice from the department, to the department, an authorized agent, or a county treasurer on or before the last day of the month of the motor vehicle’s registration period *and if, beginning July 1, 2011, the department, authorized agent, or county treasurer determines the owner is in compliance with 61-6-301 using the verification system provided in [section 1].*

~~(3)~~(7) The department, an authorized agent, or a county treasurer may not renew the registration of a motor vehicle for which ownership has been transferred and that was originally registered without being titled under the provisions of 61-3-303(3)(b) unless:

(a) the previously issued certificate of title has been surrendered to the department, an authorized agent, or the county treasurer and the process for issuing a certificate of title has been completed; or

(b) the person to whom ownership of the motor vehicle has been transferred presents an affidavit and bond in support of the application for a certificate of title as permitted in 61-3-208.”

**Section 10.** Section 61-3-315, MCA, is amended to read:

**“61-3-315. Rules — early renewal.** The department shall adopt rules for the implementation and administration of the registration of motor vehicles under this chapter. The rules adopted by the department pursuant to this section must allow for:

(1) early renewal of registration for motor vehicles when an owner of a motor vehicle presents extenuating circumstances; ~~and~~

(2) simultaneous registration of multiple motor vehicles that have common ownership;

(3) *verification of compliance with 61-6-301 before registering or renewing a registration of a vehicle or issuing new license plates required by 61-3-332(3);*

(4) *automated mailing of license plates by the department or its authorized agent, including an agent under contract with the department pursuant to [section 4]; and*

(5) *devising a method to place license plates that are issued on or before January 1, 2010, and renewed on or after January 1, 2010, on the 5-year reissuance cycle in a manner that minimizes production peaks and valleys.”*

**Section 11.** Section 61-3-321, MCA, is amended to read:

**“61-3-321. Registration fees of vehicles and vessels — certain vehicles exempt from registration fees — disposition of fees.** (1) Except as otherwise provided in this section, registration fees must be paid upon registration or, if applicable, renewal of registration of motor vehicles, snowmobiles, watercraft, trailers, semitrailers, and pole trailers as provided in subsections (2) through (19):

(2) Unless a light vehicle is permanently registered under 61-3-562, the annual registration fee for light vehicles, trucks and buses under 1 ton, and logging trucks less than 1 ton is as follows:

(a) if the vehicle is 4 or less years old, \$217;

(b) if the vehicle is 5 through 10 years old, \$87; and

(c) if the vehicle is 11 or more years old, \$28;

(3) Except as provided in subsection (14), the one-time registration fee based on the declared weight of a trailer, semitrailer, or pole trailer is as follows:

(a) if the declared weight is less than 6,000 pounds, \$61.25; or

(b) if the declared weight is 6,000 pounds or more, \$148.25.

(4) Except as provided in subsection (14), the one-time registration fee for motor vehicles owned and operated solely as collector's items pursuant to 61-3-411, based on the weight of the vehicle, is as follows:

(a) 2,850 pounds and over, \$10; and

(b) under 2,850 pounds, \$5.

(5) Except as provided in subsection (14), the one-time registration fee for off-highway vehicles other than a quadricycle or motorcycle is \$61.25.

(6) The annual registration fee for heavy trucks, buses, and logging trucks in excess of 1 ton is \$22.75.

(7) (a) The annual registration fee for a motor home, based on the age of the motor home, is as follows:

(i) less than 2 years old, \$282.50;

- (ii) 2 years old and less than 5 years old, \$224.25;
- (iii) 5 years old and less than 8 years old, \$132.50; and
- (iv) 8 years old and older, \$97.50.

(b) The owner of a motor home that is 11 years old or older and that is subject to the registration fee under this section may permanently register the motor home upon payment of:

- (i) a one-time registration fee of \$237.50; ~~and~~
- (ii) *unless a new set of license plates is being issued, an insurance verification fee of \$5, which must be deposited in the account established under [section 3]; and*
- (iii) if applicable, five times the renewal fees for personalized license plates under 61-3-406.

(8) (a) Except as provided in subsection (14), the one-time registration fee for motorcycles and quadricycles registered for use on public highways is \$53.25, and the one-time registration fee for motorcycles and quadricycles registered for both off-road use and for use on the public highways is \$114.50.

(b) An additional fee of \$16 must be collected for the registration of each motorcycle or quadricycle as a safety fee, which must be deposited in the state motorcycle safety account provided for in 20-25-1002.

(9) Except as provided in subsection (14), the one-time registration fee for travel trailers, based on the length of the travel trailer, is as follows:

- (a) under 16 feet in length, \$72; and
- (b) 16 feet in length or longer, \$152.

(10) Except as provided in subsection (14), the one-time registration fee for a motorboat, sailboat, personal watercraft, or motorized pontoon required to be numbered under 23-2-512 is as follows:

- (a) for a personal watercraft or a motorboat, sailboat, or motorized pontoon less than 16 feet in length, \$65.50;
- (b) for a motorboat, sailboat, or motorized pontoon at least 16 feet in length but less than 19 feet in length, \$125.50; and
- (c) for a motorboat, sailboat, or motorized pontoon 19 feet in length or longer, \$295.50.

(11) (a) Except as provided in subsections (11)(b) and (14), the one-time registration fee for a snowmobile is \$60.50.

(b) (i) A snowmobile that is licensed by a Montana business and is owned exclusively for the purpose of daily rental to customers is assessed:

- (A) a fee of \$40.50 in the first year of registration; and
- (B) if the business reregisters the snowmobile for a second year, a fee of \$20.

(ii) If the business reregisters the snowmobile for a third year, the snowmobile must be permanently registered and the business is assessed the registration fee imposed in subsection (11)(a).

(12) (a) *Except as provided in subsection (12)(b), a fee of \$5 \$10* must be collected when a new set of standard license plates, a new single standard license plate, or a replacement set of special license plates required under 61-3-332 is issued. The ~~\$5~~ *\$10* fee imposed under this subsection does not apply when previously issued license plates are transferred under 61-3-335. All

registration fees imposed under this section must be paid if the vehicle to which the plates are transferred is not currently registered.

*(b) Until January 1, 2015, an additional fee of \$15 must be collected if a vehicle owner elects to keep the same license plate number from license plates issued on or after January 1, 2006, but before January 1, 2010, when replacement of those plates is required under 61-3-332(3).*

*(c) The fees imposed in this subsection (12) must be deposited in the account established under [section 3], except \$2 of the fee imposed in subsection (12)(a) must be deposited in the state general fund.*

(13) The provisions of this part with respect to the payment of registration fees do not apply to and are not binding upon motor vehicles, trailers, semitrailers, snowmobiles, watercraft, or tractors owned or controlled by the United States of America or any state, county, city, or special district, as defined in 18-8-202, or to a vehicle or vessel that meets the description of property exempt from taxation under 15-6-201(1)(a), (1)(c), (1)(d), (1)(e), (1)(f), (1)(g), (1)(i), (1)(j), (1)(l), or (1)(m), 15-6-203, or 15-6-215, except as provided in 61-3-520.

(14) Whenever ownership of a trailer, semitrailer, pole trailer, off-highway vehicle, motorcycle, quadricycle, travel trailer, motor home, motorboat, sailboat, personal watercraft, motorized pontoon, snowmobile, or motor vehicle owned and operated solely as a collector's item pursuant to 61-3-411 is transferred, the new owner shall title and register the vehicle or vessel as required by this chapter and pay the fees imposed under this section.

(15) A person eligible for a waiver under 61-3-460 is exempt from the fees required under this section.

(16) Except as otherwise provided in this section, revenue collected under this section must be deposited in the state general fund.

(17) The fees imposed by subsections (2) through (11) are not required to be paid by a dealer for the enumerated vehicles or vessels that constitute inventory of the dealership.

(18) (a) Unless a person exercises the option in subsection (18)(b), an additional fee of \$4 must be collected for each light vehicle registered under this part. This fee must be accounted for and transmitted separately from the registration fee. The fee must be deposited in an account in the state special revenue fund to be used for state parks, for fishing access sites, and for the operation of state-owned facilities. Of the \$4 fee, the department of fish, wildlife, and parks shall use \$3.50 for state parks, 25 cents for fishing access sites, and 25 cents for the operation of state-owned facilities at Virginia City and Nevada City.

(b) A person who registers a light vehicle may, at the time of annual registration, certify that the person does not intend to use the vehicle to visit state parks and fishing access sites and may make a written election not to pay the additional \$4 fee provided for in subsection (18)(a). If a written election is made, the fee may not be collected.

(19) For each light vehicle, trailer, semitrailer, pole trailer, heavy truck, motor home, motorcycle, quadricycle, and travel trailer subject to a registration fee under this section, an additional fee of \$5 must be collected and forwarded to the state for deposit in the account established in 44-1-504.

(20) This section does not apply to a motor vehicle, trailer, semitrailer, or pole trailer that is governed by 61-3-721."

**Section 12.** Section 61-3-332, MCA, is amended to read:

**“61-3-332. Standard license plates.** (1) In addition to special license plates, collegiate license plates, generic specialty license plates, and fleet license plates authorized under this chapter, a separate series of standard license plates must be issued for motor vehicles, quadricycles, travel trailers, trailers, semitrailers, and pole trailers registered in this state or offered for sale by a vehicle dealer licensed in this state. Standard license plates issued to licensed vehicle dealers must be readily distinguishable from license plates issued to vehicles owned by other persons.

(2) (a) Except as provided in 61-3-479 and subsections (2)(b), (3)(b), and (3)(c) of this section, all standard license plates for motor vehicles, trailers, semitrailers, or pole trailers must bear a distinctive marking, as determined by the department, and be furnished by the department. In years when standard license plates are not issued *reissued for a vehicle*, the department shall provide a registration decal that must be affixed to the rear license plate of the vehicle.

(b) For light vehicles that are permanently registered as provided in 61-3-562 and motor vehicles described in 61-3-303(9) that are permanently registered, the department shall provide a distinctive registration decal indicating that the motor vehicle is permanently registered. The registration decal must be affixed to the rear license plate of the permanently registered motor vehicle.

(c) *For a travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer that is permanently registered as provided in 61-3-313(2), the department may use the word or an abbreviation for the word “permanent” on the plate in lieu of issuing a registration decal for the plate.*

(3) (a) (i) Beginning January 1, 2010, and every 4 5 years after that date, the department shall ~~manufacture and issue new design~~ standard license plates to replace previously issued standard license plates ~~upon renewal~~. *For the purposes of this subsection (3), all military, veteran, and amateur radio license plates and any license plate with a wheelchair design, excluding collegiate or generic specialty plates with a wheelchair design, are treated as standard license plates.*

(ii) *License plates issued on or after January 1, 2010, must be replaced with the most recent design of standard license plates or a new replacement collegiate or generic speciality license plate if, upon renewal of registration under 61-3-332, the license plates are 5 or more years old or will become older than 5 years during the registration period.*

(iii) *License plates issued on or before January 1, 2010, must be replaced with the most recent design of standard license plates or a new replacement collegiate or generic specialty license plate in accordance with the implementation schedule adopted by the department under 61-3-315. Until January 1, 2015, and upon payment of the fee required in 61-3-321(12)(b), a vehicle owner may elect to keep the same license plate number from license plates issued on or after January 1, 2006, but before January 1, 2010, when replacement of those plates is required under this subsection.*

(b) A motor vehicle that is registered for a 13-month to a 24-month period, as provided in 61-3-311, may display the license plate and plate design in effect at the time of registration for the entire registration period.

(c) A light vehicle ~~described in subsection (2)(b)~~ *described in subsection (2)(b)* or a motor home that is permanently registered ~~may display the license plate and plate design in effect at the time of registration for the entire period that the~~

~~light vehicle or motor home is permanently registered~~ *may display the license plate and plate design in effect at the time of registration for the entire period that the light vehicle or motor home is permanently registered.*

*(d) The provisions of this subsection (3) do not apply to a travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer.*

*(e) The requirements of this subsection (3) apply to collegiate license plates authorized under 61-3-461 through 61-3-468, generic specialty license plates authorized under 61-3-472 through 61-3-481, commemorative centennial license plates authorized under 61-3-448, and special military or veteran license plates authorized under 61-3-458.*

(4) For trailers and motor vehicles, other than motorcycles and quadricycles, plates must be of metal 6 inches wide and 12 inches in length. Except for generic specialty license plates, the outline of the state of Montana must be used as a distinctive border on all license plates, and the word "Montana" must be placed on each license plate. All license plates must be treated with a reflectorized background material according to specifications prescribed by the department.

(5) The distinctive registration numbers for standard license plates must begin with a number one or with a letter-number combination, such as "A 1" or "AA 1", or any other similar combination of letters and numbers. Except for special license plates, collegiate license plates, generic specialty license plates, and fleet license plates, the distinctive registration number or letter-number combination assigned to the motor vehicle must appear on the plate preceded by the number of the county and appearing in horizontal order on the same horizontal baseline. The county number must be separated from the distinctive registration number by a separation mark unless a letter-number combination is used. The dimensions of the numerals and letters must be determined by the department, and all county and registration numbers must be of equal height.

(6) For the use of exempt motor vehicles, trailers, semitrailers, or pole trailers and motor vehicles, trailers, semitrailers, or pole trailers that are exempt from the registration fee as provided in 61-3-321, in addition to the markings provided in this section, standard license plates must bear the following distinctive markings:

(a) For motor vehicles, trailers, semitrailers, or pole trailers owned by the state, the department may designate the prefix number for the various state departments. All numbered plates issued to state departments must bear the words "State Owned", and a year number may not be indicated on the plates because these numbered plates are of a permanent nature and will be replaced by the department only when the physical condition of numbered plates requires it.

(b) For motor vehicles, trailers, semitrailers, or pole trailers that are owned by the counties, municipalities, and special districts, as defined in 18-8-202, organized under the laws of Montana and not operating for profit, and that are used and operated by officials and employees in the line of duty and for motor vehicles on loan from the United States government or the state of Montana to, or owned by, the civil air patrol and used and operated by officials and employees in the line of duty, there must be placed on the standard license plates assigned, in a position that the department may designate, the letter "X" or the word "EXEMPT". Distinctive registration numbers for plates assigned to motor vehicles, trailers, semitrailers, or pole trailers of each of the counties in the state and those of the municipalities and special districts that obtain plates within each county must begin with number one and be numbered consecutively.

Because these standard license plates are of a permanent nature, they are subject to replacement by the department only when the physical condition of the license plates requires it and a year number may not be displayed on the plates.

(7) For the purpose of this chapter, the several counties of the state are assigned numbers as follows: Silver Bow, 1; Cascade, 2; Yellowstone, 3; Missoula, 4; Lewis and Clark, 5; Gallatin, 6; Flathead, 7; Fergus, 8; Powder River, 9; Carbon, 10; Phillips, 11; Hill, 12; Ravalli, 13; Custer, 14; Lake, 15; Dawson, 16; Roosevelt, 17; Beaverhead, 18; Chouteau, 19; Valley, 20; Toole, 21; Big Horn, 22; Musselshell, 23; Blaine, 24; Madison, 25; Pondera, 26; Richland, 27; Powell, 28; Rosebud, 29; Deer Lodge, 30; Teton, 31; Stillwater, 32; Treasure, 33; Sheridan, 34; Sanders, 35; Judith Basin, 36; Daniels, 37; Glacier, 38; Fallon, 39; Sweet Grass, 40; McCone, 41; Carter, 42; Broadwater, 43; Wheatland, 44; Prairie, 45; Granite, 46; Meagher, 47; Liberty, 48; Park, 49; Garfield, 50; Jefferson, 51; Wibaux, 52; Golden Valley, 53; Mineral, 54; Petroleum, 55; Lincoln, 56. Any new counties must be assigned numbers by the department as they are formed, beginning with the number 57.

(8) (a) Each type of special license plate approved by the legislature, except collegiate license plates authorized in 61-3-463 and generic specialty license plates authorized in 61-3-472 through 61-3-481, must be a separate series of plates, numbered as provided in subsection (5), except that the county number must be replaced by a design that distinguishes each separate plate series. Unless otherwise specifically stated in this section, the special plates are subject to the same rules and laws as govern the issuance of standard license plates, must be placed or mounted on a motor vehicle, trailer, semitrailer, or pole trailer owned by the person who is eligible to receive them, with the registration decal affixed to the rear license plate of the motor vehicle, trailer, semitrailer, or pole trailer, and must be removed upon sale or other disposition of the motor vehicle, trailer, semitrailer, or pole trailer.

~~(b) Beginning January 1, 2008, and every succeeding 4 years, the department shall manufacture and issue a new set of special license plates, bearing the same design and, if requested by the owner, the same plate number to replace, upon renewal of the registration of a motor vehicle under 61-3-314 and payment of the new plate fee provided for in 61-3-321, any special license plates issued prior to the prescribed date. This requirement applies to collegiate license plates authorized under 61-3-461 through 61-3-468, generic specialty license plates authorized under 61-3-472 through 61-3-481, and commemorative centennial license plates authorized under 61-3-448.~~

(9) (a) A Montana resident who is eligible to receive a special parking permit under 49-4-301 may, upon written application on a form prescribed by the department, be issued a special license plate with a design or decal bearing a representation of a wheelchair as the symbol of a person with a disability.

(b) If the motor vehicle to which the license plate is attached is permanently registered, the owner of the motor vehicle shall provide, upon request of a person authorized to enforce special parking laws or ordinances in this or any state, evidence of continued eligibility to use the license plate in the form of a valid special parking permit issued to or renewed by the vehicle owner under 49-4-304 and 49-4-305.

(c) A person with a permanent condition, as provided in 49-4-301(2)(b), who has been issued a special license plate upon written application, as provided in this subsection (9), is not required to reapply upon reregistration of the motor vehicle.



(10) The provisions of this section do not apply to a motor vehicle, trailer, semitrailer, or pole trailer that is registered as part of a fleet, as defined in 61-3-712, and that is subject to the provisions of 61-3-711 through 61-3-733.”

**Section 13.** Section 61-3-333, MCA, is amended to read:

**“61-3-333. Replacing license plates or decals.** (1) Except as provided in subsection (2), if one or both license plates registered to a motor vehicle, quadricycle, travel trailer, trailer, semitrailer, or pole trailer or the registration decal for the motor vehicle, quadricycle, travel trailer, trailer, semitrailer, or pole trailer is mutilated or destroyed, the owner of the registered motor vehicle or trailer may obtain a set of replacement license plates, a replacement license plate, or a duplicate registration decal upon filing a sworn declaration stating that fact and payment of a fee of \$5 \$10.

(2) If the owner requests that the replacement license plate or plates bear the same background and license plate number as the plate or plates that were destroyed or mutilated, the duplicate license plate or plates may be issued upon payment of a fee of \$5 \$15.

(3) *The fees imposed in this section must be deposited in the account established in [section 3], except \$2 of the fee imposed in subsection (1) must be deposited in the state general fund.*”

**Section 14.** Section 61-3-407, MCA, is amended to read:

**“61-3-407. Personalized license plates for disabled — special military, veteran, and generic specialty license plates.** Subject to the provisions of 61-3-405 and 61-3-406, an application for standard license plates bearing a wheelchair as the symbol of a person with a disability under 61-3-332(9), special *military or veteran* license plates under 61-3-458(3), or generic specialty license plates under 61-3-472 through 61-3-481 may be combined with an application for personalized plates. The application must be made on a form supplied by the department.”

**Section 15.** Section 61-3-465, MCA, is amended to read:

**“61-3-465. Issuance — application — additional fee — disposition.** (1) The department shall issue or renew collegiate license plates upon receipt of an application that shows:

(a) compliance with 61-3-303, 61-3-311, and 61-3-312; and

(b) payment to the county treasurer of:

(i) an initial application and manufacturing fee of \$5 \$10, when required; and

(ii) an annual scholarship donation of \$30 for the benefit of the institution named in the application.

(2) Once each month, the county treasurer shall, as provided in 15-1-504, transfer to the state the total of the amounts collected for:

(a) the initial application and manufacturing fee for deposit in the state general fund; and

(b) scholarship donations provided for in subsection (1)(b)(ii), along with a schedule showing the number of collegiate license plates issued and the total donations received for the benefit of each institution.

(3) Once each month, an amount equal to the total donations credited to that institution and transferred to the state by the county treasurers during the preceding month must be distributed to the student academic scholarship fund or foundation of each institution.

(4) *The amount of \$8 of the fee imposed in subsection (1)(b)(i) must be deposited in the account established in [section 3] and \$2 of the fee must be deposited in the state general fund.*"

**Section 16.** Section 61-3-478, MCA, is amended to read:

**"61-3-478. Generic specialty license plate sponsor fee — exception.**

(1) ~~Except as provided in subsection (2), upon~~ Upon approval of an organization's application to sponsor a generic specialty license plate and before a sponsor's generic specialty license plates may be manufactured, the department shall assess and the sponsor shall pay a \$4,000 fee to reimburse the department of corrections for the Montana correctional enterprises prison industries training program. ~~for~~ The fee covers the initial costs incurred by Montana correctional enterprises in producing the generic specialty license plates for the sponsor.

(2) ~~In lieu of the fee required in subsection (1), a minimum of 400 applications for a sponsor's generic specialty license plates must be filed and prepaid with the department before the generic specialty license plates may be manufactured and issued. The fee imposed in subsection (1) must be deposited in the Montana correctional enterprises license plate production operating account provided for in [section 5]."~~

**Section 17.** Section 61-3-480, MCA, is amended to read:

**"61-3-480. Fees for generic specialty license plates — disposition. (1)**

In addition to the other fees and taxes imposed by law, an eligible person who applies for a generic specialty license plate shall pay an administrative fee of \$15 \$20 and, except as provided in 61-3-479(1)(b), the donation fee specified by the sponsor.

(2) The county treasurer shall, upon receipt of the fees:

(a) deposit \$5 of the \$15 \$20 administrative fee in the county general fund;

(b) notwithstanding any other provisions of Title 7, Title 17, or this title and unless otherwise provided in 61-3-479(1)(b), accept the donation fee paid by the plate purchaser; and

(c) as provided in 15-1-504, once each month, transmit to the state for distribution:

(i) \$10 of the \$15 \$20 administrative fee to the state general fund for deposit in the account provided in [section 3];

(ii) \$5 of the administrative fee to the state general fund; and

~~(ii)~~(iii) all donation fees provided for in subsections (1) and (3), along with a schedule showing the number and type of generic specialty license plates issued and total donations received for the benefit of each sponsor of a generic specialty license plate issued or renewed, to each respective sponsor.

(3) If the donation fee is required by a sponsor upon renewal of generic specialty license plates, the fee must be paid to the county treasurer upon renewal of registration and transmitted to the state as prescribed in subsection (2).

(4) Once each month, the state shall distribute to the generic specialty license plate liaison designated by a sponsor under 61-3-475(1)(c) or 61-3-476(1)(c) an amount equal to the total donations credited to that sponsor and transferred to the department of revenue by the county treasurers during the preceding month."

**Section 18.** Section 61-3-535, MCA, is amended to read:

**“61-3-535. Motor vehicle registration renewal — reminder notice and renewal by mail.** (1) The owner of a motor vehicle, ~~trailer, semitrailer, or pole trailer~~ subject to renewal of registration under 61-3-312 may renew the registration of a motor vehicle, ~~trailer, semitrailer, or pole trailer~~ by mail or by electronic methods when the value, age, length, weight, or other criteria used to determine the tax or fee for a particular type of motor vehicle, ~~trailer, semitrailer, or pole trailer~~ is *are* available to the department by electronic means.

(2) Any mail renewal procedure developed by the department must:

(a) include a procedure to facilitate automated handling of mail renewal, *including issuance of replacement plates when required by statute; and must*

(b) *include a procedure to verify compliance with 61-6-301 using the system provided in [section 1]; and*

(c) provide for a written reminder notice by mail to the owner of a motor vehicle, ~~trailer, semitrailer, or pole trailer~~ of the requirement to renew the vehicle's registration.”

**Section 19.** Section 61-3-562, MCA, is amended to read:

**“61-3-562. Permanent registration — transfer of light vehicle ownership — rules.** (1) (a) The owner of a light vehicle 11 years old or older subject to the registration fee, as provided in 61-3-321(2), may permanently register the light vehicle upon payment of a \$87.50 registration fee, the applicable registration and license fees under 61-3-412, if applicable, the administrative fee and the annual one-time-only donation fee for a generic specialty license plate under 61-3-480, and an amount equal to five times the local option motor vehicle tax or flat fee on vehicles under 61-3-537 and, *if as applicable, when personalized plates under 61-3-406 are being issued or renewed,* either:

(i) (A) the original fee and four times the renewal fee for personalized plates; or

~~(ii)~~(B) five times the renewal fees for personalized plates; or

*(ii) if a new set of license plates is not being issued, an insurance verification fee of \$5, which must be deposited in the account established under [section 3].*

(b) The following series of license plates may not be used for purposes of permanent registration of a light vehicle:

(i) Montana national guard license plates issued under 61-3-458(2)(b);

(ii) reserve armed forces license plates issued under 61-3-458(2)(c);

(iii) amateur radio operator license plates issued under 61-3-422; and

(iv) collegiate license plates issued under 61-3-465.

(2) In addition to the fees described in subsection (1), an owner of a truck with a manufacturer's rated capacity of 1 ton or less that is permanently registered shall pay five times the applicable fees imposed under 61-10-201.

(3) The owner of a motor vehicle that is permanently registered under this section is not subject to additional registration fees or to other motor vehicle registration fees described in this section for as long as the owner owns the vehicle.

(4) The county treasurer shall once each month remit to the state the amounts collected under this section, other than the local option motor vehicle tax or flat fee, for the purposes of 61-3-321(2) and 61-10-201. The county treasurer shall retain the local option motor vehicle tax or flat fee.

(5) (a) The permanent registration of a light vehicle allowed by this section may not be transferred to a new owner. If the light vehicle is transferred to a new owner, the department shall cancel the light vehicle's permanent registration.

(b) Upon transfer of a light vehicle registered under this section to a new owner, the new owner shall apply for a certificate of title under 61-3-201 and 61-3-216 and register the light vehicle under 61-3-303."

**Section 20.** Section 61-6-101, MCA, is amended to read:

**"61-6-101. Short title.** This part may be cited as the "Motor Vehicle ~~Safety-Responsibility~~ *Insurance Responsibility and Verification Act*."

**Section 21.** Section 61-6-102, MCA, is amended to read:

**"61-6-102. Definitions.** As used in this part, unless the context clearly indicates a different meaning, the following definitions apply:

(1) *"Commercial automobile insurance coverage" means any coverage provided to an insured, regardless of number of vehicles or entities covered, under a commercial, garage, or truckers coverage form and rated from a commercial manual or rating rule. Vehicle type and ownership are not the primary factors in underwriting the coverage or rating the coverage. The rating may be subject to individual risk characteristics, including but not limited to experience rating, schedule rating, loss rating, or deductible rating.*

(2) *"Insurer" means an authorized insurer, as defined in 33-1-201, who issues or renews a motor vehicle liability policy.*

(1)(3) *"Judgment" means any judgment that has become final by expiration without appeal of the time within which an appeal might have been perfected or by final affirmation on appeal rendered by a court of competent jurisdiction of any state or of the United States upon a cause of action arising out of the ownership, maintenance, or use of any motor vehicle, 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 of property, or upon a cause of action on an agreement of settlement for damages.*

(2)(4) *"License" means any a driver's license as defined in 61-1-101, temporary instruction permit, or temporary license issued under the laws of this state pertaining to the licensing of persons to operate motor vehicles.*

(5) *"Low-volume insurer" means an insurer that provides motor vehicle liability policies for fewer than 500 vehicles in this state.*

(6) (a) *"Motor vehicle liability policy" means a policy of insurance issued or renewed by an insurer to a person who owns or operates a motor vehicle that meets or exceeds the minimum coverage limits under 61-6-103, including a policy certified as provided in 61-6-133 as proof of financial responsibility.*

(b) *A certificate filed for a nonresident as proof of financial responsibility under 61-6-134 must be treated as a motor vehicle liability policy under this part.*

(3)(7) *"Nonresident's operating privilege" means the privilege conferred upon a nonresident by the laws of this state pertaining to the operation by the nonresident of a motor vehicle or the use of a motor vehicle owned by the nonresident in this state.*

(4)(8) *"Person" means every natural person, firm, partnership, association, or corporation.*

(5)(9) *"Proof of financial responsibility" means proof of ability to respond in damages for liability on account of accidents occurring subsequent to the*

effective date of the proof of financial responsibility, arising out of the ownership, maintenance, or use of a motor vehicle.

~~(6)~~(10) "State" means any state, territory, or possession of the United States, the District of Columbia, or any province of the Dominion of Canada.

(11) "Suspension" means the withdrawal, by action of the department, of a motor vehicle's registration, as defined in 61-1-101, for a period of time prescribed by department rule.

(12) "System" means the online motor vehicle liability insurance verification system created in [section 1]."

**Section 22.** Section 61-6-103, MCA, is amended to read:

**"61-6-103. Motor vehicle liability policy defined minimum limits — other requirements.** (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 as insured.

~~(2)~~ The owner's policy of liability insurance A motor vehicle liability policy must:

(a) designate by explicit description or by appropriate reference all motor vehicles with respect to which the coverage is to be granted; 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 the 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)~~(2) 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 operator by law for damages arising out of the use by him the operator of any motor vehicle not owned by him the operator, within the same territorial limits and subject to the same limits of liability as that are set forth above in subsection (1) with respect to the operator's policy of liability insurance.

(4)(3) 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 for the policy, 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 bodily injury and death or property damage, or both, and is subject to all the provisions of this part.

~~(5)~~(4) 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)~~(5) 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~~ *behalf of the insured* 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)~~ *(1)(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)~~(6) 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)~~(7) 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 is~~ required by this section.

~~(9)~~(8) ~~Any~~ A 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)~~(9) ~~Any~~ A motor vehicle liability policy may provide for the prorating of the insurance ~~thereunder~~ *under the policy* with other valid and collectible insurance.

~~(11)~~(10) 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)~~(11) Any binder issued pending the issuance of a motor vehicle liability policy fulfills the requirements for ~~such a~~ *the* policy.

~~(13)~~(12) A reduced limits endorsement may not be issued by ~~any~~ a company to be attached to ~~any~~ a policy issued in compliance with this section.”

**Section 23.** Section 61-6-105, MCA, is amended to read:

**“61-6-105. Department to administer law and make rules.** (1) The department shall administer and enforce the provisions of this part and may make rules necessary for ~~its~~ the administration of the online motor vehicle liability insurance system.

(2) The rules must:

(a) establish standards and procedures for accessing the system by authorized personnel of the department, the courts, law enforcement personnel, and any other entities authorized by the department that are consistent with specifications and standards of the insurance industry committee on motor vehicle administration and other applicable industry standards;

(b) provide for the suspension of a vehicle’s registration when:

(i) a person fails to respond to a written inquiry from the department or its designee concerning the insurance status of a vehicle;

(ii) a person misrepresents or provides false information to the department or its designee regarding the operational status or use of a vehicle for which liability insurance is mandatory;

(iii) the department has reason to believe that a vehicle owner is not complying with the mandatory liability insurance requirements of 61-6-301; or

(iv) the department receives a report from a court that a person has been convicted of a violation of 61-6-301 or 61-6-302 and the surrender of the vehicle registration receipt and license plates under 61-6-304 has been ordered;

(c) prohibit the reinstatement of a vehicle’s registration and the new registration of a vehicle unless the applicable reinstatement fees have been paid;

(d) set a fee for the reinstatement of a vehicle’s registration following a suspension imposed by the department. The fee may not exceed \$100 and is in addition to any other fine or penalty prescribed by the law.

(e) provide for periodic insurance data file transfers from insurers under specifications and standards set forth in [section 1] to identify vehicles that are not covered by an insurance policy and to monitor ongoing compliance with mandatory vehicle liability insurance requirements;

(f) provide for random checks to identify vehicles that are not covered by an insurance policy; and

(g) ~~may provide for hearings upon request of persons~~ a hearing for a person aggrieved by ~~orders or acts of~~ a suspension order issued by the department under the provisions of this part.

(3) The department may adopt additional rules to:

(a) assist authorized users in interpreting responses received from the system and determining the appropriate action to be taken as a result of a response; and

(b) otherwise clarify system operations and business rules.”

**Section 24.** Section 61-6-302, MCA, is amended to read:

**“61-6-302. Proof of compliance.** (1) The registration receipt required by 61-3-322 must contain a statement that unless the vehicle is eligible for an exemption under 61-6-303, it is unlawful to operate the vehicle without a valid motor vehicle liability insurance policy, a certificate of self-insurance, or a posted indemnity bond, as required by 61-6-301.

(2) Each person shall carry in a motor vehicle being operated by the person an insurance card approved by the department but issued by the insurance carrier to the motor vehicle owner as proof of compliance with 61-6-301. *If the card is issued under a commercial automobile insurance policy or a self-insured fleet, the card must indicate the status as "commercially insured" or "fleet".* A motor vehicle operator shall exhibit the insurance card 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. A person commits an offense under this subsection if the person fails to carry the insurance card in a motor vehicle or fails to exhibit the insurance card upon demand of a person specified in this subsection. ~~However, a person charged with violating this subsection may not be convicted if~~(3) *Beginning July 1, 2011, a person charged with violating subsection (2) may not be convicted if:*

(a) *the arresting officer or another person authorized to access information from the online motor vehicle liability insurance verification system under [section 2] submits to the system a request that provides proof of insurance valid at the time of arrest; or*

(b) *if the system under [section 1] is not available, the person produces in court or the office of the arresting officer proof of insurance valid at the time of arrest.*

(4) *In lieu of charging an operator who is not the owner of a vehicle with violating subsection (2), the officer may issue a complaint and notice to appear charging the owner with a violation of 61-6-301 and serve the complaint and notice to appear on the owner of the vehicle:*

(a) *personally; or*

(b) *by certified mail, return receipt requested, at the address for the owner listed on the registration receipt for the vehicle or, following query through available law enforcement systems, at the address maintained for the vehicle's owner by the jurisdiction in which the vehicle is titled and registered, or both."*

**Section 25.** Section 61-9-204, MCA, is amended to read:

**"61-9-204. Taillamps.** (1) A motor vehicle, trailer, semitrailer, and pole trailer and any other vehicle that is being drawn at the end of a combination of vehicles must be equipped with at least one properly functioning taillamp mounted on the rear that emits a red light plainly visible from a distance of 500 feet to the rear, except that in the case of a combination of vehicles, only the taillamp on the rearmost vehicle need actually be seen from the distance specified. The vehicles mentioned in this subsection, other than a motorcycle, quadricycle, motor-driven cycle, or truck tractor, registered in this state and manufactured or assembled after January 1, 1956, must be equipped with at least two properly functioning taillamps, *with at least one* mounted on *each side of the rear of the vehicle*, that emit a red light plainly visible from a distance of 1,000 feet to the rear of the vehicle.

(2) A taillamp upon a vehicle must be located at a height of not more than 72 inches or less than 15 inches.

(3) Either a taillamp or a separate lamp must illuminate with a white light the rear registration plate and render it clearly legible from a distance of 50 feet to the rear. A taillamp or taillamps, together with a separate lamp for illuminating the rear registration plate, must be lighted whenever the headlamps are lighted.



(4) Taillamps are not required on a motorcycle that is registered under 61-3-411 as a collector's item, but the motorcycle may not be operated on a highway or street from one-half hour after sunset to one-half hour before sunrise or when persons and vehicles are not clearly discernible at a distance of 500 feet unless it is equipped with the required taillamps.

(5) A person may not operate a motor vehicle on a highway with taillamps that are covered by a lens or a plastic cover or with a tinted or colored material, substance, system, or component placed on or in front of rear lamps, taillamps, license plate lamps, or rear lamp combinations that obscures the taillamps or diminishes the distance of visibility required by this section.

(6) (a) A custom vehicle or street rod may use a blue dot taillight, as defined in subsection (6)(b), as a stop lamp, a rear signal lamp, or a rear reflector.

(b) "Blue dot taillight" means a red lamp installed in the rear of a motor vehicle containing a blue or purple insert that is not more than 1 inch in diameter."

**Section 26. Repealer.** Section 61-6-106, MCA, is repealed.

**Section 27. Codification instruction.** (1) [Sections 1 and 3] are intended to be codified as an integral part of Title 61, chapter 6, part 1, and the provisions of Title 61, chapter 6, part 1, apply to [sections 1 and 3].

(2) [Section 2] is intended to be codified as an integral part of Title 61, chapter 6, part 3, and the provisions of Title 61, chapter 6, part 3, apply to [section 2].

(3) [Section 4] is intended to be codified as an integral part of Title 61, chapter 3, part 3, and the provisions of Title 61, chapter 3, part 3, apply to [section 4].

(4) [Section 5] is intended to be codified as an integral part of Title 53, chapter 30, part 1, and the provisions of Title 53, chapter 30, part 1, apply to [section 5].

**Section 28. Coordination instruction.** If both House Bill No. 615 and [this act] are passed and approved, then House Bill No. 615 is void.

**Section 29. Effective dates.** (1) Except as provided in subsections (2) and (3), [this act] is effective October 1, 2009.

(2) [Sections 5, 14, 16, and 25 and this section] are effective on passage and approval.

(3) [Sections 7 through 9, 11 through 13, 15, 17, and 19] are effective January 1, 2010.

Approved April 28, 2009

## CHAPTER NO. 414

[SB 511]

AN ACT 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.

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

**Section 1. Sacramental wine license.** (1) The department may issue a sacramental wine license to an establishment located in Montana that sells sacramental wine at retail to rabbis, priests, pastors, ministers, or other officials of churches or other established religious organizations exclusively for their off-premises use as sacramental wine or for other religious purposes.

(2) An application for a license under this section must be accompanied by a fee of \$200, which constitutes the first annual license fee. The annual license renewal fee is \$100.

(3) Unless the sacramental wine is purchased on-site at the premises of the licensed retailer, an establishment selling sacramental wine for religious purposes shall deliver directly to the religious organization's premises using the establishment's own employees and equipment.

(4) A sacramental wine licensee shall maintain records of all wine sales made during the preceding 2 years and shall allow the department access to the records when requested so that the department can ascertain whether the limitations of subsection (1) are being complied with.

(5) Upon receipt of a completed application for a license under this section, the department may request that the department of justice make a background investigation of all matters relating to the application.

(6) Based on the results of the investigation or in exercising its sound discretion, the department shall determine whether:

(a) the applicant is qualified to receive a license;

(b) the applicant's premises are suitable for the carrying on of the business; and

(c) the requirements of this code and the rules promulgated by the department are being met and complied with.

(7) License applications submitted under this section are not subject to the provisions of 16-4-203 and 16-4-207.

(8) If the premises proposed for licensing under this section are a new or remodeled structure, the department may issue a conditional license prior to completion of the premises upon reasonable evidence that the premises will be suitable for the carrying on of business as a bona fide establishment for selling sacramental wine.

**Section 2.** Section 16-1-106, MCA, is amended to read:

**“16-1-106. Definitions.** As used in this code, the following definitions apply:

(1) “Agency franchise agreement” means an agreement between the department and a person appointed to sell liquor and table wine as a commission merchant rather than as an employee.

(2) “Agency liquor store” means a store operated under an agency franchise agreement in accordance with this code for the purpose of selling liquor at either the posted or the retail price for off-premises consumption.

(3) “Alcohol” means ethyl alcohol, also called ethanol, or the hydrated oxide of ethyl.

(4) “Alcoholic beverage” means a compound produced and sold for human consumption as a drink that contains more than 0.5% of alcohol by volume.

(5) “Beer” means a malt beverage containing not more than 7% of alcohol by weight.

(6) "Beer importer" means a person other than a brewer who imports malt beverages.

(7) "Brewer" means a person who produces malt beverages.

(8) "Community" means:

(a) in an incorporated city or town, the area within the incorporated city or town boundaries;

(b) in an unincorporated city or area, the area identified by the federal bureau of the census as a community for census purposes; and

(c) in a consolidated local government, the area of the consolidated local government not otherwise incorporated.

(9) "Department" means the department of revenue, unless otherwise specified, and includes the department of justice with respect to receiving and processing, but not granting or denying, an application under a contract entered into under 16-1-302.

(10) "Hard cider" means an alcoholic beverage that is made from the alcoholic fermentation of the juices of apples or pears and that contains not less than 0.5% alcohol by volume and not more than 6.9% alcohol by volume, including but not limited to flavored, sparkling, or carbonated cider.

(11) "Immediate family" means a spouse, dependent children, or dependent parents.

(12) "Import" means to transfer beer or table wine from outside the state of Montana into the state of Montana.

(13) "Liquor" means an alcoholic beverage except beer and table wine.

(14) "Malt beverage" means an alcoholic beverage made by the fermentation of an infusion or decoction, or a combination of both, in potable brewing water, of malted barley with or without hops or their parts or their products and with or without other malted cereals and with or without the addition of unmalted or prepared cereals, other carbohydrates, or products prepared from carbohydrates and with or without other wholesome products suitable for human food consumption.

(15) "Package" means a container or receptacle used for holding an alcoholic beverage.

(16) "Posted price" means the wholesale price of liquor for sale to persons who hold liquor licenses as fixed and determined by the department and in addition an excise and license tax as provided in this code. *In the case of sacramental wine, the wholesale price may not exceed the sum of the department's cost to acquire the sacramental wine, the department's current freight rate to agency liquor stores, and a 20% markup.*

(17) "Proof gallon" means a U.S. gallon of liquor at 60 degrees on the Fahrenheit scale that contains 50% of alcohol by volume.

(18) "Public place" means a place, building, or conveyance to which the public has or may be permitted to have access and any place of public resort.

(19) "Retail price" means the price established by an agent for the sale of liquor to persons who do not hold liquor licenses. The retail price may not be less than the department's posted price.

(20) "Rules" means rules adopted by the department or the department of justice pursuant to this code.

(21) *"Sacramental wine" means wine that is manufactured and sold exclusively for use as sacramental wine or for other religious purposes.*

(21)(22) "Special event", as it relates to an application for a beer and wine special permit, means a short, infrequent, out-of-the-ordinary occurrence, such as a picnic, fair, reception, or sporting contest.

(22)(23) "State liquor warehouse" means a building owned or under control of the department for the purpose of receiving, storing, transporting, or selling alcoholic beverages to agency liquor stores.

(23)(24) "Storage depot" means a building or structure owned or operated by a brewer at any point in the state of Montana off and away from the premises of a brewery, which building or structure is equipped with refrigeration or cooling apparatus for the storage of beer and from which a brewer may sell or distribute beer as permitted by this code.

(24)(25) "Subwarehouse" means a building or structure owned or operated by a licensed beer wholesaler or table wine distributor, located at a site in Montana other than the site of the beer wholesaler's or table wine distributor's warehouse or principal place of business, and used for the receiving, storage, and distribution of beer or table wine as permitted by this code.

(25)(26) "Table wine" means wine that contains not more than 16% alcohol by volume and includes cider.

(26)(27) "Table wine distributor" means a person importing into or purchasing in Montana table wine for sale or resale to retailers licensed in Montana.

(27)(28) "Warehouse" means a building or structure located in Montana that is owned or operated by a licensed beer wholesaler or table wine distributor for the receiving, storage, and distribution of beer or table wine as permitted by this code.

(28)(29) "Wine" means an alcoholic beverage made from or containing the normal alcoholic fermentation of the juice of sound, ripe fruit or other agricultural products without addition or abstraction, except as may occur in the usual cellar treatment of clarifying and aging, and that contains more than 0.5% but not more than 24% of alcohol by volume. Wine may be ameliorated to correct natural deficiencies, sweetened, and fortified in accordance with applicable federal regulations and the customs and practices of the industry. Other alcoholic beverages not defined in this subsection but made in the manner of wine and labeled and sold as wine in accordance with federal regulations are also wine."

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

**Section 4. Effective date.** [This act] is effective on passage and approval.

Approved April 28, 2009

## CHAPTER NO. 415

[HB 173]

AN ACT 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.

WHEREAS, Montana law gives local public health agencies the authority and responsibility to undertake efforts to protect the public health and educate the public on health-related issues; and

WHEREAS, funding for local public health agencies varies widely across the state because of variations in local funding resources; and

WHEREAS, the National Association of County and City Health Officials, American Public Health Association, National Association of Local Boards of Health, and Association of State and Territorial Health Officials recognize that local public health agencies across the country are served by a system unique to each agency based on available financial, medical, and other resources; and

WHEREAS, these national public health organizations are developing a national accreditation program to guide the basic activities that local public health agencies should carry out regardless of the makeup of their local health systems.

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

**Section 1. Pilot project for implementing national public health standards.** (1) Subject to available funding, the department of public health and human services shall administer a pilot project to assist local public health agencies, as defined in 50-1-101, with preparing for national accreditation by using nationally recognized public health standards and guidelines that are based on the 10 essential public health services as outlined by the national association of county and city health officials, the centers for disease control and prevention, the public health accreditation board, and other national public health organizations. The public health standards and guidelines include but are not limited to the operational definition of a functional local health department and the national public health performance standards.

(2) The department shall:

(a) develop grant application and review criteria in accordance with this section;

(b) establish protocol, policy, goals, strategies, and timelines for the local public health agencies selected for the pilot project;

(c) establish evaluation criteria for the pilot project;

(d) provide materials and training to pilot project counties; and

(e) complete and submit a final report to the 2011 legislature as provided in 5-11-210.

(3) To the extent that it receives applications that meet grant review criteria established by the department in accordance with this section, the department shall award grants to eight local public health agencies, including a tribal health department. The grant awards must be made, in consultation with the public health system improvement task force established by the department, to:

(a) two local public health agencies in counties with populations of 40,000 or more residents;

(b) one local public health agency in a county with a population of between 20,000 and 40,000 residents;

(c) two local public health agencies in counties with populations of 5,000 to 20,000 residents; and

(d) three local public health agencies in counties with populations of fewer than 5,000 residents.

(4) A local public health agency selected for a grant shall demonstrate, through the application process, how it will use the funds to:

(a) prepare for national accreditation using the types of nationally recognized public health guidelines and standards described in subsection (1);

(b) effectively participate in a self-assessment of the local public health agency's capacity to deliver the 10 essential public health services as outlined in the nationally recognized public health guidelines and standards described in subsection (1);

(c) work with the department and the public health system improvement task force to ensure proper use of the grant, including participation in a process to evaluate the pilot project efforts; and

(d) complete measurement criteria established by the department and the public health system improvement task force.

(5) The department and the public health system improvement task force shall:

(a) serve as a resource for the local public health agencies selected for the pilot project as they prepare for national accreditation using nationally recognized public health standards and guidelines as described in subsection (1). In this capacity, the task force shall participate in:

(i) regularly scheduled conference calls; and

(ii) at least two meetings a year that are held in one of the counties in which the pilot project agencies are located;

(b) ensure that the technical assistance and training needs of the pilot project agencies are met; and

(c) assess the results of the pilot project.

(6) The public health system improvement task force and the pilot project agencies shall report the following information to the appropriate interim committees of the legislature by September 15, 2010:

(a) the estimated costs of becoming accredited agencies through the national accreditation program, based on their experiences in the pilot project, including information that explains how the costs were determined;

(b) their assessments of the ability of Montana's local public health agencies serving jurisdictions with varying population sizes in becoming accredited agencies through the national accreditation program, including funding and other resource management issues and challenges they encountered;

(c) suggestions for preparing local public health agencies for national accreditation that are relevant to the populations each pilot project agency serves;

(d) the public health benefits created by the pilot project activities for residents within each pilot project agency's jurisdiction;

(e) how their efforts met the nationally recognized public health standards and guidelines described in subsection (1); and

(f) recommendations for improving the local public health system and creating a sustainable model for local public health agencies in Montana.

**Section 2. Allocation of available funds.** (1) If funds are made available for the program in [section 1], then the funds must be allocated as follows:

(a) grants of \$25,000 a year in each year of the biennium to each of eight local public health agencies selected as provided in [section 1]; and

(b) \$50,000 for the biennium to pay for the department's expenses in administering the grant program, providing technical assistance to the local public health agencies, and reimbursing the costs of travel for members of the public health system improvement task force as provided in 2-18-501 through 2-18-503.

(2) If less than \$450,000 is available for the program provided for in [section 1], then the funding must be prorated on the basis of the allocations in subsection (1).

**Section 3. 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 4. Effective date.** [This act] is effective July 1, 2009.

Approved April 30, 2009

## CHAPTER NO. 416

[HB 418]

AN ACT 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.

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

**Section 1. Equine slaughter or processing facilities — no injunction to stop — damages allowed for delay.** (1) A court of this state may not issue an injunction stopping or delaying the construction of an equine slaughter or processing facility licensed pursuant to 81-9-201 based on a challenge or appeal of a permit, license, certificate, or other approval issued in conjunction with a proposed equine slaughter or processing facility based on the provisions of:

- (a) Title 75, chapter 1, parts 1 through 3;
- (b) Title 75, chapter 2, parts 1 through 4;
- (c) Title 75, chapter 5, part 4;
- (d) Title 75, chapter 10, part 1 and parts 3 through 13; or
- (e) Title 81, chapter 9, part 2.

(2) If a person files an action against the operation of an equine slaughter or processing facility and does not prevail, the person is liable for all financial losses the facility suffers if the court issues an injunction that halts operations while the action is pending.

**Section 2. Judicial review of equine slaughter or processing facilities — surety bond — attorney fees — venue.** (1) (a) If an action is filed in district court to challenge the issuance of a license, permit, certificate, or other approval for an equine slaughter or processing facility pursuant to Title 75 or Title 81, chapter 9, the court shall require a surety bond of the person filing the action. The bond must be set at an amount representing 20% of the

estimated cost of building the facility or the operational costs of an existing facility.

(b) The bonding requirements of this subsection (1) do not apply to an indigent person.

(2) If the bond required under subsection (1) is not paid within 30 days of the filing of the action, the action must be dismissed.

(3) An action to challenge a decision to issue a license, permit, certificate, or other approval must be brought in the county or district court jurisdiction in which the facility will be built. If a facility would be located in more than one county, the action may be brought in any of the counties or district court jurisdictions in which the facility would be built.

(4) If the court determines that a judicial action challenging a license, permit, certificate, or other approval for an equine slaughter or processing plant was without merit or was for an improper purpose designed to harass, cause delay, or improperly interfere with the ongoing operation of a facility, the court may award attorney fees and costs incurred in defending the action.

(5) This section does not prevent a defendant in an action brought pursuant to this section from filing an action or counterclaim for any claim for relief available by law and does not limit the recovery that may be obtained in a claim for relief.

**Section 3.** Section 75-1-201, MCA, is amended to read:

**“75-1-201. General directions — environmental impact statements.**

(1) The legislature authorizes and directs that, to the fullest extent possible:

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

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

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

(A) the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking that may have an impact on the human environment; and

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

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

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

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

(A) the environmental impact of the proposed action;



(B) any adverse environmental effects that cannot be avoided if the proposal is implemented;

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

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

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

(III) if the project sponsor believes that an alternative is not reasonable as provided in subsection (1)(b)(iv)(C)(I), the project sponsor may request a review by the appropriate board, if any, of the agency's determination regarding the reasonableness of the alternative. The appropriate board may, at its discretion, submit an advisory recommendation to the agency regarding the issue. The agency may not charge the project sponsor for any of its activities associated with any review under this section. The period of time between the request for a review and completion of a review under this subsection may not be included for the purposes of determining compliance with the time limits established for environmental review in 75-1-208.

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

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

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

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

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

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

(v) in accordance with the criteria set forth in subsection (1)(b)(iv)(C), study, develop, and describe appropriate alternatives to recommend courses of action in any proposal that involves unresolved conflicts concerning alternative uses of available resources;

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

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

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

(ix) assist the environmental quality council established by 5-16-101;

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

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

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

(3) (a) In any action challenging or seeking review of an agency's decision that a statement pursuant to subsection (1)(b)(iv) is not required or that the statement is inadequate, the burden of proof is on the person challenging the decision. Except as provided in subsection (3)(b), in a challenge to the adequacy of a statement, a court may not consider any issue relating to the adequacy or content of the agency's environmental review document or evidence that was not first presented to the agency for the agency's consideration prior to the agency's decision. A court may not set aside the agency's decision unless it finds that there is clear and convincing evidence that the decision was arbitrary or capricious or not in compliance with law. A customer fiscal impact analysis pursuant to 69-2-216 or an allegation that the customer fiscal impact analysis is inadequate may not be used as the basis of any action challenging or seeking review of the agency's decision.

(b) When new, material, and significant evidence or issues relating to the adequacy or content of the agency's environmental review document are presented to the district court that had not previously been presented to the agency for its consideration, the district court shall remand the new evidence or issue relating to the adequacy or content of the agency's environmental review document back to the agency for the agency's consideration and an opportunity to modify its findings of fact and administrative decision before the district court considers the evidence or issue relating to the adequacy or content of the agency's environmental review document within the administrative record under review. Immaterial or insignificant evidence or issues relating to the adequacy or content of the agency's environmental review document may not be remanded to the agency. The district court shall review the agency's findings

and decision to determine whether they are supported by substantial, credible evidence within the administrative record under review.

(4) To the extent that the requirements of subsections (1)(b)(iv)(C)(I) and (1)(b)(iv)(C)(III) are inconsistent with federal requirements, the requirements of subsections (1)(b)(iv)(C)(I) and (1)(b)(iv)(C)(III) do not apply to an environmental review that is being prepared by a state agency pursuant to this part and a federal agency pursuant to the National Environmental Policy Act or to an environmental review that is being prepared by a state agency to comply with the requirements of the National Environmental Policy Act.

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

(b) Nothing in this subsection (5) prevents a project sponsor and an agency from mutually developing measures that may, at the request of a project sponsor, be incorporated into a permit or other authority to act.

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

(6) (a) (i) A challenge to an agency action under this part may only be brought against a final agency action and may only be brought in district court or in federal court, whichever is appropriate.

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

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

(b) Any action or proceeding under subsection (6)(a)(ii) must take precedence over other cases or matters in the district court unless otherwise provided by law.

(c) *Any judicial action or proceeding brought in district court under subsection (6)(a) involving an equine slaughter or processing facility must comply with [sections 1 and 2].*

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

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

**Section 4.** Section 75-2-104, MCA, is amended to read:

**"75-2-104. Limitations — personal cause of action unabridged — venue.** (1) This chapter may not be construed to:

(a) grant to the board any jurisdiction or authority with respect to air contamination existing solely within commercial and industrial plants, works, or shops;

(b) affect the relations between employers and employees with respect to or arising out of any condition of air contamination or air pollution;

(c) supersede or limit the applicability of any law or ordinance relating to sanitation, industrial health, or safety; or

(d) abridge, limit, impair, create, enlarge, or otherwise affect substantively or procedurally the right of a person to damages or other relief on account of injury to persons or property and to maintain an action or other appropriate proceeding.

(2) A judicial challenge to a permit issued pursuant to this chapter by a party other than the permit applicant or permit holder must include the party to whom the permit was issued unless otherwise agreed to by the permit applicant or permit holder. All judicial challenges of permits for projects with a project cost, as determined by the court, of more than \$1 million must have precedence over any civil cause of a different nature pending in that court. If the court determines that the challenge was without merit or was for an improper purpose, such as to harass, to cause unnecessary delay, or to impose needless or increased cost in litigation, the court may award attorney fees and costs incurred in defending the action.

(3) An action to challenge a permit decision pursuant to this chapter must be brought in the county in which the permitted activity will occur. If an activity will occur in more than one county, the action may be brought in any of the counties in which the activity will occur.

(4) *A judicial action or proceeding pursuant to this chapter for an equine slaughter or processing facility must comply with [sections 1 and 2].*

**Section 5.** Section 75-5-614, MCA, is amended to read:

**“75-5-614. Injunctions authorized.** (1) *The Except as provided in [section 1], the department is authorized to commence a civil action seeking appropriate relief, including a permanent or temporary injunction, for a violation that would be subject to a compliance order under 75-5-613. An action under this subsection may be commenced in the district court of the county where a violation occurs or is threatened, and the court has jurisdiction to restrain the violation and to require compliance.*

(2) *The Except as provided in [section 1], the department may bring an action for an injunction against the continuation of an alleged violation of the terms or conditions of a permit issued by the department or any rule or effluent standard promulgated under this chapter or against a person who fails to comply with an emergency order issued by the department under 75-5-621 or a final order of the board. The court to which the department applies for an injunction may issue a temporary injunction if it finds that there is reasonable cause to believe that the allegations of the department are true, and it may issue a temporary restraining order pending action on the temporary injunction.”*

**Section 6.** Section 75-5-621, MCA, is amended to read:

**“75-5-621. Emergencies.** (1) Notwithstanding other provisions of this chapter, if the department finds that a person is committing or is about to commit an act in violation of this chapter or an order or rule issued under this chapter that, if it occurs or continues, will cause substantial pollution the harmful effects of which will not be remedied immediately after the commission

or cessation of the act, the department may order the person to stop, avoid, or moderate the act so that the substantial injury will not occur. The order is effective immediately upon receipt by the person to whom it is directed, unless the department provides otherwise.

(2) Notice of the order must conform to the requirements of 75-5-611(1) so far as practicable. The notice must indicate that the order is an emergency order.

(3) Upon issuing an order, the department shall fix a place and time for a hearing before the board, not later than 5 days after issuing the order unless the person to whom the order is directed requests a later time. The department 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. The hearing must be conducted in the manner specified in 75-5-611. As soon as practicable after the hearing, the board shall affirm, modify, or set aside the order of the department. The order of the board must be accompanied by the information required in 75-5-611(6). An action for review of the order of the board may be initiated in the manner specified in 75-5-641. ~~The~~ *Except as provided in [section 1], the* initiation of 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 7.** 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~~ *Except as provided in [section 1], the* initiation of an action for review or the taking of an appeal does not stay the effectiveness of ~~any an~~ 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 a~~ violation found by the board will not continue or, if it does continue, ~~any the~~ 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 8.** Section 81-9-111, MCA, is amended to read:

**“81-9-111. Hide certificates — inspection of hides before disposal — person slaughtering cattle or horses to exhibit hides.** (1) ~~Every~~ A person or persons, firm, corporation, or association slaughtering cattle *or horses* for its own use must before selling, destroying, or otherwise disposing of the hide or hides from ~~such the~~ *the* cattle *or horses* have the ~~same~~ *hide or hides* inspected by an officer authorized to make ~~such the~~ *the* inspection and secure a certificate of inspection as ~~herein~~ *provided for in this part*.

(2) ~~It shall be unlawful for any~~ A person or persons, firm, corporation, or association ~~to~~ *may not* sell, offer for sale, destroy, or otherwise dispose of ~~any a~~

hide or hides from slaughtered cattle ~~which~~ or horses that have not been inspected and identified by an authorized inspector.

(3) It ~~shall be~~ is the duty of any person or persons, firm, corporation, or association slaughtering cattle or horses, for his own personal use or otherwise, upon demand of an authorized inspector, to exhibit the cattle or horse hide or hides of such animal or animals for inspection or certificate issued by a hide buyer or some evidence of inspection by an authorized inspector.”

**Section 9.** Section 81-9-112, MCA, is amended to read:

**“81-9-112. Inspection and marking of hides and meat of slaughtered cattle or horses — 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 a slaughtered 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, if applicable, 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 receive the original bill of sale, which shall be attached and attach it to the inspector’s certificate sent to the county clerk and recorder. When the bills of sale cover cattle or horses 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 or horses covered by the original bill of sale.

(4) ~~Any~~ A person who kills beef or veal livestock in good faith for his the person’s own use shall not be is not required to have such the meat inspected or stamped.”

**Section 10.** Section 81-9-115, MCA, is amended to read:

**“81-9-115. Unlawful to purchase uninspected hide or carcass — exception.** ~~No~~ A person, firm, corporation, or association may not purchase the hide or carcass or any part thereof of any beef or veal of livestock slaughtered in a facility licensed pursuant to 81-9-201 without the inspection or identification ~~herein provided for~~ required by this part. The provision of this section does not apply to any a person who purchases from a licensed meat establishment beef or veal meat in quantities less than one quarter of an animal.”

**Section 11.** Section 81-9-116, MCA, is amended to read:

**“81-9-116. Officers’ authority concerning enforcement — seizure and sale of meat held in violation.** ~~Any~~ An officer having authority to make the inspection herein provided for in this part may enter into and inspect meat establishments required to be licensed under 81-9-201 or places where beef meat is handled in quantities, for the purpose of determining whether the provisions of this part have been complied with. ~~In case~~ If meat is found which that is being

held in violation of the provisions of this part, the officers may seize the ~~same~~ *meat*. All ~~seized~~ *meat* ~~so seized shall~~ *must* be sold under the direction of a stock inspector, sheriff, or other officer authorized, at either public or private sale, for the best price obtainable, and the proceeds ~~shall~~ *must* be paid to the county treasurer of the county in which ~~said~~ *the* meat is seized for the benefit of the general fund of ~~said~~ *the* county.”

**Section 12.** Section 81-9-201, MCA, is amended to read:

**“81-9-201. Meat establishment license — fees and renewals.** (1) It is unlawful for a person, firm, or corporation to engage in the business of slaughtering livestock or poultry, including the operation of a mobile slaughter facility as defined in 81-9-217, or processing, storing, or wholesaling livestock or poultry products without having a license issued by the department. The department shall establish an annual fee for a license issued under this section, to be paid into the state special revenue fund for the use of the department.

(2) All licenses expire each year on the anniversary date established by rule by the board of review established in 30-16-302 and must be renewed by the department on request of the licensee. However, when the department finds that the establishment for which the license is issued is not conducted in accordance with the rules and orders of the board made under 81-2-102, the department shall revoke the license and may not renew it until the establishment is in a sanitary condition in accordance with department rules.

(3) *Investor-owned equine slaughter or processing facilities must be licensed pursuant to this section.*

(~~3~~)4 A person, firm, or corporation violating this section or any rule or order promulgated by authority of 81-2-102 is guilty of a misdemeanor and upon conviction shall be fined not more than \$500.”

**Section 13.** Section 81-9-229, MCA, is amended to read:

**“81-9-229. Assignment of inspectors.** (1) The chief shall assign inspectors to each official establishment and may assign one inspector to two or more establishments.

(2) No establishment may slaughter or process ~~any~~ cattle, buffalo, *horses*, sheep, swine, goats, or poultry unless ~~there is~~ an assigned inspector *is* present. The hours of the day and days of each week, including holidays or weekends, when the establishment is slaughtering or processing meat must be satisfactorily arranged between the chief and each establishment. Establishments shall pay overtime fees to the board when services are rendered in excess of 8 hours a day or on holidays or weekends.”

**Section 14.** 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~~ *to eliminate* all unfit animals and ~~segregating~~ *segregate* 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 after inspection~~ *that* are permitted to be slaughtered *after inspection* 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, *horses*, 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 *animal* parts ~~thereof~~ for completion of antemortem or postmortem inspection.”

**Section 15. Codification instruction.** [Sections 1 and 2] are intended to be codified as an integral part of Title 81, chapter 9, part 2, and the provisions of Title 81, chapter 9, part 2, apply to [sections 1 and 2].

Approved May 1, 2009

## CHAPTER NO. 417

[HB 459]

AN ACT CREATING THE MONTANA VIRTUAL ACADEMY; PROVIDING FOR THE ACADEMY'S PURPOSES AND GOVERNANCE; REQUIRING A REPORT TO THE LEGISLATURE; AND PROVIDING AN EFFECTIVE DATE.

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

**Section 1. Montana virtual academy — purposes — governance.** (1) There is a Montana virtual academy at a unit of the Montana university system.

(2) The purposes of the Montana virtual academy are to:

(a) make distance learning opportunities available to all school-age children through public school districts in the state of Montana;

(b) offer high-quality instructors who are licensed and endorsed in Montana and courses that are in compliance with all relevant education and distance learning rules, standards, and policies; and

(c) emphasize the core subject matters required under the accreditation standards, offer advanced courses for dual credit in collaboration with the Montana university system, and offer enrichment courses.

(3) The Montana virtual academy must be governed by a board with equal representation from:

(a) the commissioner of higher education or a designee;

(b) the superintendent of public instruction or a designee;

(c) a Montana licensed and endorsed classroom teacher appointed by the board of public education;

(d) a Montana licensed school district administrator appointed by the board of public education;

(e) a trustee of a Montana school district appointed by the board of public education;

(f) the dean of the school of education of the hosting unit of the Montana university system or a designee as a nonvoting member; and

(g) the two officers provided for in subsection (5) as nonvoting members.

(4) The governing board shall elect a presiding officer and vice presiding officer to 2-year terms without limitation on the number of terms.



(5) The governing board shall hire a program director and a curriculum director who shall serve as chief executive officer and vice chief executive officer respectively on the governing board in a nonvoting capacity. The program director shall develop and, upon approval of the governing board, implement policies and guidelines for the Montana virtual academy pertaining to:

- (a) course offerings;
- (b) software and hardware selection;
- (c) instructor selection;
- (d) partnering school agreements;
- (e) instructor training and curriculum development;
- (f) course evaluation;
- (g) grant opportunities; and
- (h) other activities that are essential to the success of a statewide distance learning program.

**Section 2. Report to legislature.** The governing board shall provide the 62nd legislature with a report that details:

- (1) how the line item funding in House Bill No. 645 cited in [section 4] was spent; and
- (2) future funding requirements and recommendations, instructor standards, curriculum development issues, and evaluation of the software for implementing a seamless educational distance learning continuum in the state of Montana.

**Section 3. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 20, chapter 7, and the provisions of Title 20, chapter 7, apply to [section 1].

**Section 4. Coordination instruction.** If both House Bill No. 645 and [this act] are passed and approved and if House Bill No. 645 does not include line item funding for the Montana virtual academy for the purposes of [this act], then [this act] is void.

**Section 5. Effective date.** [This act] is effective July 1, 2009.

Approved May 3, 2009

## CHAPTER NO. 418

[HB 464]

AN ACT CREATING THE ADVANCING AGRICULTURAL EDUCATION IN MONTANA PROGRAM ACCOUNT; AND PROVIDING FOR THE USE OF THE ACCOUNT.

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

**Section 1. Advancing agricultural education in Montana program account.** (1) There is an advancing agricultural education in Montana program account in the state special revenue fund provided for in 17-2-102.

(2) Money in the account must be used by the office of public instruction for addressing the stability of and making improvements to Montana's agricultural education programs. The office of public instruction shall adopt rules to implement the national quality program standards.

(3) (a) Each agricultural education program in the state that completes the national quality program standard evaluation as adopted by rule and submits a plan of improvement to the office of public instruction's agricultural education specialist must receive a one-time payment of \$500.

(b) Each agricultural education program in the state that submits a detailed budget to increase the quality of its agricultural education program based on the plan of improvement may receive a one-time payment of up to \$1,000.

(c) Each school that adds agricultural education to its curriculum and recruits and retains an endorsed agricultural education teacher must receive a one-time payment of up to \$7,500.

(d) Program administrators in Bozeman and Helena must receive a total of \$11,250 annually for the costs of providing a minimum of one onsite visit each year to each participating school.

**Section 2. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 20, chapter 7, part 3, and the provisions of Title 20, chapter 7, part 3, apply to [section 1].

Approved May 3, 2009

## CHAPTER NO. 419

[HB 657]

AN ACT 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.

WHEREAS, oil and natural gas production machinery and equipment, gathering lines, other related property, and transmission lines make up a significant portion of the property tax base of many taxing units in the state; and

WHEREAS, continuous oil and natural gas property that is operated in more than one county or more than one state has been centrally assessed, classified as class nine property under section 15-6-141, MCA, and taxed at 12% of its market value; and

WHEREAS, Omimex Canada Ltd. has been centrally assessed by the Montana Department of Revenue and classified as class nine property; and

WHEREAS, the Montana Supreme Court held in *Omimex Canada, Ltd. v. State*, Department of Revenue that the description of class nine property does not include the physical attributes of Omimex's property and that Omimex's property must be classified as class eight property and taxed at 3% of market value; and

WHEREAS, the overall effect of the Montana Supreme Court decision significantly reduces property tax collections by millions of dollars in counties and school districts across the state; and

WHEREAS, the Montana Supreme Court decision did not deal with constitutional issues raised by Omimex, including due process and equal protection; and

WHEREAS, the Montana Supreme Court decision is symptomatic of the uncertainty regarding the classification, valuation, and taxation of oil and natural gas property; and

WHEREAS, competing legislation has been introduced in the 61st Legislature to deal with the Supreme Court decision and other matters related to the classification, valuation, and taxation of oil and natural gas property; and

WHEREAS, any legislation, if enacted, may not resolve the ambiguity regarding the classification, valuation, and taxation of oil and natural gas property and may contain unintended consequences.

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

**Section 1. Interim study of taxation of oil and natural gas property.**

(1) The revenue and transportation interim committee provided for in 5-5-227 shall conduct an interim study on the classification, valuation, and taxation of oil and natural gas property. The study must include:

(a) an overview of how oil and natural gas markets function, including the effects of state and federal regulatory policy on the operation of these markets;

(b) an inventory of the ownership of oil and natural gas property subject to central assessment or local assessment;

(c) a review of the department of revenue's policies, procedures, and practices for the valuation of locally assessed and centrally assessed oil and natural gas property;

(d) an analysis of the importance of oil and natural gas property to the property tax base of taxing jurisdictions, including the state;

(e) an analysis of state tax appeal board and court decisions affecting the classification, valuation, and taxation of oil and natural gas property;

(f) the development of an appropriate policy of taxing oil and natural gas property that takes into account the balance of the financial needs of taxing jurisdictions within the state and the equitable taxation of oil and natural gas property.

(2) (a) The revenue and transportation interim committee shall establish a subcommittee to conduct the study and report to the full committee. The subcommittee members must be appointed by the presiding officer of the committee in concurrence with the vice presiding officer. The subcommittee must include six members, three from each political party and three from each house, who are legislators appointed to the revenue and transportation interim committee.

(b) The subcommittee shall request the advice and assistance of private and public oil and natural gas associations, local governments and school districts, taxpayer groups, the department of revenue, and other entities the subcommittee considers appropriate.

(c) Any final recommendations and other work products that will be represented as being produced or endorsed by the revenue and transportation interim committee must be finally approved by the revenue and transportation interim committee.

(3) The revenue and transportation interim committee shall complete the study by September 15, 2010, and report its findings and recommendations to the 62nd legislature.

**Section 2. Appropriation.** There is appropriated from the general fund to the legislative services division \$20,000 for the biennium beginning July 1, 2009, for use by the revenue and transportation interim committee for the purposes provided in [section 1].

**Section 3. Effective date.** [This act] is effective on passage and approval.

Approved May 2, 2009

## CHAPTER NO. 420

[HB 659]

AN ACT 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.

WHEREAS, Article VIII, section 15, of the Montana Constitution requires all public retirement systems to be funded on an actuarially sound basis; and

WHEREAS, the recent economic collapse of the financial markets in the United States has severely affected the market value of investments and adversely affected the funding of Montana's statewide retirement systems; and

WHEREAS, the July 1, 2008, actuarial valuation for the Teachers' Retirement System (TRS) showed that current contribution rates will not amortize the system's unfunded liability within the 30-year amortization period considered to be the benchmark for actuarial soundness; and

WHEREAS, if investment earnings for TRS continue to dramatically decline, even with contribution increases, the system's liabilities may not amortize in any length of time unless significant funding is provided and TRS is redesigned to reduce the accrual of benefit liabilities; and

WHEREAS, based on actuarial projections that take into consideration continued market declines since the actuarial valuation of July 1, 2008, for the retirement systems administered by the public employees' retirement board, the unfunded liabilities in the public employees', game wardens' and peace officers', and sheriffs' retirement systems may also not amortize in any length of time without increased contributions and benefit or plan design changes; and

WHEREAS, an appropriate interim committee of the Legislature should examine the funding and benefits in all of the statewide retirement systems, which include the public employees', teachers', judges', game wardens' and peace officers', sheriffs', firefighters' unified, municipal police officers', and volunteer firefighters' retirement systems, review options for changing benefits and plan design, consider the purpose of retirement plans as a part of an overall compensation package for public employees, and develop legislation for consideration by the next Legislature; and

WHEREAS, such an examination and the development of legislation to implement plan redesign and funding changes will require that the committee be authorized to hire actuarial and other expert consulting services.

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

**Section 1. Interim committee to examine and recommend changes to statewide retirement systems.** (1) In addition to fulfilling its duties under 5-5-228(2)(a), the state administration and veterans' affairs interim committee established in 5-5-228 shall:

(a) review current trends and best practices in public retirement plan design and funding;

(b) examine various options for changes to each of the statewide retirement plans administered by the public employees' retirement board, such as but not limited to changes in:

- (i) the benefit formula multiplier for each year of service;
- (ii) the minimum age at which a retirement plan member is eligible for full benefits or for reduced, early retirement benefits; and
- (iii) the minimum years of service required for a retirement plan member to be eligible for full retirement benefits or for reduced, early retirement benefits.

(2) With respect to the teachers' retirement system, the committee shall compare and contrast various options for redesigning the system, including money purchase plan design options and other alternative and hybrid defined benefit plan options, and shall develop legislation to implement a redesign of the teachers' retirement system that:

- (a) ensures members will have a guaranteed benefit in retirement;
- (b) provides that the employer and employee shall share in some manner the risk of actuarial gains and losses and allows for the adjustment of employer and employee contributions accordingly;
- (c) is sustainable and funded on an actuarially sound basis;
- (d) provides benefits designed to attract and retain qualified and competent employees in a competitive labor market and to facilitate effective workforce management;
- (e) complies with the federal Internal Revenue Code governing tax-qualified public pension plans;
- (f) provides that the system is administered by the teachers' retirement board and provides that system assets are invested by the board of investments, as required by the Montana constitution; and
- (g) provides a foundation for financial security in retirement, taking into consideration that:
  - (i) a retirement plan is only one part of an employee's compensation package that also includes salary, health insurance benefits, and other benefits;
  - (ii) an employer-sponsored public retirement plan is not intended to be the sole provider of income to an employee in retirement; and
  - (iii) deferred compensation, personal savings and investments, and social security should be part of an employee's financial planning for retirement.

(3) (a) The committee may hire consulting services as needed.

(b) The public employees' retirement and teachers' retirement boards and their respective staffs shall provide requested information and actuarial analysis to the extent feasible within the framework of the retirement boards' fiduciary and constitutional responsibilities.

(c) The board of investments and its staff shall also provide requested information and analysis to the extent feasible and consistent with its fiduciary and constitutional responsibilities.

(4) The committee shall involve public employers, public employees, members of the current public employees' retirement systems, public employee and retiree representative organizations, public retirement plan administrators, and other interested parties in the process of developing options and recommendations.

(5) Subject to 5-5-211, the speaker of the house and the senate committee on committees are encouraged to:

(a) consult with the legislative council to determine the most appropriate number of members and support staff for the state administration and veterans' affairs interim committee; and

(b) appoint members from the 61st legislature's standing house and senate state administration committees, house appropriations committee, and senate finance and claims committee to the extent feasible.

**Section 2. Appropriation.** There is appropriated from the general fund to the legislative services division \$200,000 for the purposes of [section 1].

**Section 3. Effective date.** [This act] is effective July 1, 2009.

Approved April 30, 2009

## CHAPTER NO. 421

[HB 670]

AN ACT 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.

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

**Section 1. Purpose.** The purpose of [sections 1 through 3] is to facilitate the reopening and continued operation of a commercial or industrial property by reducing the taxable value of property subject to taxation under 15-6-134 and 15-6-138.

**Section 2. Reduction in assessment of taxable value of commercial and industrial property — application — approval.** (1) (a) For property tax years 2009, 2010, and 2011, the governing bodies of a county or consolidated local government unit, incorporated city or town, if the property is located in the city or town, and school district may jointly reduce by 95% the taxable value of commercial real property improvements, personal property, or any combination of that property, other than land, that is subject to taxation. The reduction in taxable value under this section applies only to commercial or industrial property taxed under 15-6-134 or 15-6-138. A taxpayer that has not been operating the property for at least 6 months immediately preceding the request for reduction in taxable value and that does not intend to use the property for at least 6 months following the reduction in taxable value qualifies under this section.

(b) (i) Except as provided in subsection (1)(b)(ii), an application for the reduction in taxable value allowed under this section must be made to the affected local governing bodies by April 15 of the property tax year.

(ii) An application for the reduction in taxable value allowed under this section for property tax year 2009 must be made to the affected local governing bodies by May 15, 2009.

(c) For the purposes of [section 3] and this section, a local governing body includes the board of trustees of a school district.

(2) (a) In order for a taxpayer to receive the tax benefits described in subsection (1), the governing bodies of the affected county or consolidated local government unit, incorporated city or town, if the property is located in the city or town, and school district must have approved by a separate, joint resolution for each commercial or industrial property, following due notice as defined in 76-15-103 and a public hearing, the taxable value reduction provided for in subsection (1) for the respective jurisdictions. The presiding officer of the governing body of the affected county or consolidated local government unit is the presiding officer of the joint meeting of the affected taxing jurisdictions. If the property is located in more than one county, the presiding officer of the governing body of the county in which most of the property is located is the presiding officer of the joint meeting.

(b) For the purpose of this subsection (2), each affected governing body shall provide due notice of the joint meeting.

(c) Subject to 15-10-420, the governing bodies may end the tax benefits by majority vote at any time, but the tax benefits may not be denied a commercial or industrial business that previously qualified for the benefits in the tax year.

(d) The joint resolution provided for in subsection (2)(a) must include a description of the improvements and personal property that qualify for the tax treatment that is to be allowed in the taxing jurisdictions. The joint resolution may provide that commercial real property improvements, personal property, or any combination of that property, other than land, is eligible for the tax benefits described in subsection (1).

(3) The joint resolution must state that the reduction in taxable value is in the best interest of the governing body, based on full disclosure of all pertinent financial information by the owner of the real and personal property as required by the local governing body. The joint resolution must be approved by a majority vote of the governing body of each affected taxing jurisdiction referred to in subsection (2)(a).

(4) The governing bodies may refuse to reduce the taxable value of the property if they determine that the business is restructuring the ownership of the property for the primary purpose of escaping payment of property taxes or if the governing bodies determine that the reduction in taxable value is not in the best interest of the local governments.

(5) The reduction in taxable value granted by the joint resolution may be only for the current tax year. The governing bodies may grant a reduction in taxable value for the same owner of the property in the subsequent tax year under the provisions of this section, but they may not grant a reduction in taxable value for more than 3 tax years as provided in this section. The tax benefit granted under this section applies for the entire tax year.

(6) The tax benefits may not be granted under this section if the business owes delinquent property taxes for prior tax years.

(7) (a) If the reduction in taxable value is granted by a majority vote of the governing body of each affected taxing jurisdiction, the reduction applies only to mills levied in the affected county or consolidated local government unit, the affected incorporated city or town, and the affected school district.

(b) The benefit described in subsection (1) does not apply to levies or assessments required under Title 15, chapter 10, 20-9-331, 20-9-333, or 20-9-360 or otherwise required under state law.

(8) Within 15 days of approving the joint resolution to grant a reduction of taxable value but not later than July 15 of the tax year the reduction is granted, the governing body of the affected county or consolidated local government unit shall notify the department of the approval by each of the affected governing bodies. Upon receipt of the notification of approval by the governing body of the affected county or consolidated local government unit, the department shall make the assessment change pursuant to this section for each affected taxing jurisdiction.

**Section 3. Exclusions from other property tax reductions — recapture.** (1) If a taxable value decrease is taken pursuant to [sections 1 through 3], other property tax reductions, including but not limited to 15-24-1402, 15-24-1501, and 15-24-1502, are not allowed in the tax year the decrease is taken under [sections 1 through 3].

(2) Property taxes abated from the reduction in taxable value allowed by [section 2] are subject to recapture by each local governing body if the ownership or use of the property does not meet the requirements of [section 2] or the joint resolution required by [section 2(2)(a)]. The recapture is equal to the amount of taxes avoided, plus interest and penalties for nonpayment of property taxes as provided in 15-16-102, during any period in which the abatement was in effect. The amount recaptured, including penalty and interest, must be distributed by the treasurer to funds and accounts subject to the abatement in the same ratio as the property tax was abated. A recapture of taxes abated is not allowed with regard to property ceasing to qualify for the abatement by reason of an involuntary conversion or if the property is transferred to another person and the person maintains the same or similar level of operation of the commercial or industrial property. The recapture of abated taxes may be canceled, in whole or in part, if a local governing body determines that the taxpayer's failure to meet the requirements of this section is a result of circumstances beyond the control of the taxpayer.

**Section 4.** 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 for at least 7 months a year as the 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, and [section 1], 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 income 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.”

**Section 5.** 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;

(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, “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) “Commercial establishment” includes any hotel, motel, office, petroleum marketing station, or service, wholesale, retail, or food-handling business.

(4) ~~Class~~ *Except as provided in 15-24-1402 and [section 1],* class eight property is taxed at 3% of its market value.

(5) 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 6. Codification instruction.** [Sections 1 through 3] are intended to be codified as an integral part of Title 15, chapter 24, and the provisions of Title 15, chapter 24, apply to [sections 1 through 3].

**Section 7. Effective date.** [This act] is effective on passage and approval.

**Section 8. Retroactive applicability.** [This act] applies retroactively, within the meaning of 1-2-109, to property tax years beginning after December 31, 2008.

Approved April 30, 2009

## CHAPTER NO. 422

[SB 158]

AN ACT 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.

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

**Section 1.** Section 3-5-102, MCA, is amended to read:

**“3-5-102. Number of judges.** In each judicial district, there must be the following number of judges of the district court:

(1) in the 2nd, 7th, 16th, 20th, and 21st districts, two judges each;

(2) *in the 18th district, three judges;*

~~(2)(3) in the 1st, 4th, 8th, and 11th, and 18th districts, three four judges each;~~

~~(3) in the 4th and 8th districts, four judges;~~

(4) in the 13th district, ~~five six~~ judges;

(5) in all other districts, one judge each.”

**Section 2. Election of judges.** The additional judges for the 1st, 11th, and 13th judicial districts must be elected at the general election to be held in November 2010 for a 6-year term to begin January 3, 2011.

**Section 3. Contingent voidness.** If House Bill No. 2 is passed and approved and if it does not provide funding for personal services and operating expenses to support the additional judges provided for in [this act], then [this act] is void.

**Section 4. Effective date.** [This act] is effective January 1, 2010.

Approved May 2, 2009

## CHAPTER NO. 423

[SB 300]

AN ACT 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.

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

**Section 1.** Section 80-10-103, MCA, is amended to read:

**“80-10-103. Assessment to fund educational and experimental programs — collection.** ~~Moneys~~ Money to fund 80-10-104 through 80-10-106 must be produced by an assessment of ~~35~~ 75 cents per ton of fertilizer sold within Montana. Collections ~~shall~~ *must* be made in accordance with procedures in 80-10-207 and ~~shall~~ *must* be collected from the manufacturer.”

**Section 2.** Section 80-10-104, MCA, is amended to read:

**“80-10-104. Allocation of assessment.** The assessment ~~shall~~ *provided in 80-10-103* *must* be collected by the department and up to 1% ~~shall~~ *must* be retained by the department for costs of collection. The balance ~~shall~~ *must* be deposited in the state special revenue fund with ~~50%~~ 25% for use by the cooperative extension service and ~~50%~~ 75% for use by the agricultural experiment station in programs recommended by the fertilizer advisory committee provided for in 2-15-1516 and approved by the respective directors.”

**Section 3. Effective date.** [This act] is effective July 1, 2009.

Approved May 2, 2009

## CHAPTER NO. 424

[SB 396]

AN ACT 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.

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

**Section 1.** Section 85-2-402, MCA, is amended to read:

**“85-2-402. Changes in appropriation rights — definition.** (1) (a) The right to make a change in appropriation right subject to the provisions of this section in an existing water right, a permit, or a state water reservation is recognized and confirmed. In a change in appropriation right proceeding under this section, there is no presumption that an applicant for a change in appropriation right cannot establish lack of adverse effect prior to the adjudication of other rights in the source of supply pursuant to this chapter. Except as provided in 85-2-410 and subsections (15) and (16) of this section, an appropriator may not make a change in an appropriation right without the approval of the department or, if applicable, of the legislature. An applicant shall submit a correct and complete application.

(b) If an application involves a change in a point of diversion, conveyance, or place of use located on national forest system lands, the application is not correct and complete until the applicant has submitted proof to the department of any written special use authorization required by federal law for the proposed change in occupancy, use, or traverse of national forest system lands for the purpose of diversion, impoundment, storage, transportation, withdrawal, use, or distribution of water.

(c) As used in this part, “national forest system lands” has the same meaning as that provided in 85-20-1401, Article I.

(2) Except as provided in subsections (4) through (6), (15), ~~and~~ (16), *and* (18) and, if applicable, subject to subsection (17), the department shall approve a change in appropriation right if the appropriator proves by a preponderance of evidence that the following criteria are met:

(a) The proposed change in appropriation right will not adversely affect the use of the existing water rights of other persons or other perfected or planned

uses or developments for which a permit or certificate has been issued or for which a state water reservation has been issued under part 3.

(b) Except for a change in appropriation right for instream flow to protect, maintain, or enhance streamflows to benefit the fishery resource pursuant to 85-2-436 or a temporary change in appropriation right authorization to maintain or enhance streamflows to benefit the fishery resource pursuant to 85-2-408 or a change in appropriation right to instream flow to protect, maintain, or enhance streamflows pursuant to 85-2-320, the proposed means of diversion, construction, and operation of the appropriation works are adequate.

(c) The proposed use of water is a beneficial use.

(d) Except for a change in appropriation right for instream flow to protect, maintain, or enhance streamflows to benefit the fishery resource pursuant to 85-2-436 or a temporary change in appropriation right authorization pursuant to 85-2-408 or a change in appropriation right to instream flow to protect, maintain, or enhance streamflows pursuant to 85-2-320, the applicant has a possessory interest, or the written consent of the person with the possessory interest, in the property where the water is to be put to beneficial use or, if the proposed change involves a point of diversion, conveyance, or place of use on national forest system lands, the applicant has any written special use authorization required by federal law to occupy, use, or traverse national forest system lands for the purpose of diversion, impoundment, storage, transportation, withdrawal, use, or distribution of water.

(e) If the change in appropriation right involves salvaged water, the proposed water-saving methods will salvage at least the amount of water asserted by the applicant.

(f) The water quality of an appropriator will not be adversely affected.

(g) The ability of a discharge permit holder to satisfy effluent limitations of a permit issued in accordance with Title 75, chapter 5, part 4, will not be adversely affected.

(3) The applicant is required to prove that the criteria in subsections (2)(f) and (2)(g) have been met only if a valid objection is filed. A valid objection must contain substantial credible information establishing to the satisfaction of the department that the criteria in subsection (2)(f) or (2)(g), as applicable, may not be met.

(4) The department may not approve a change in purpose of use or place of use of an appropriation of 4,000 or more acre-feet of water a year and 5.5 or more cubic feet per second of water unless the appropriator proves by a preponderance of evidence that:

(a) the criteria in subsection (2) are met; and

(b) the proposed change in appropriation right is a reasonable use. A finding of reasonable use must be based on a consideration of:

(i) the existing demands on the state water supply, as well as projected demands for water for future beneficial purposes, including municipal water supplies, irrigation systems, and minimum streamflows for the protection of existing water rights and aquatic life;

(ii) the benefits to the applicant and the state;

(iii) the effects on the quantity and quality of water for existing uses in the source of supply;

(iv) the availability and feasibility of using low-quality water for the purpose for which application has been made;

(v) the effects on private property rights by any creation of or contribution to saline seep; and

(vi) the probable significant adverse environmental impacts of the proposed use of water as determined by the department pursuant to Title 75, chapter 1, or Title 75, chapter 20.

(5) The department may not approve a change in purpose of use or place of use for a diversion that results in 4,000 or more acre-feet of water a year and 5.5 or more cubic feet per second of water being consumed unless:

(a) the applicant proves by clear and convincing evidence and the department finds that the criteria in subsections (2) and (4) are met; and

(b) for the withdrawal and transportation of appropriated water for out-of-state use, the department then petitions the legislature and the legislature affirms the decision of the department after one or more public hearings.

(6) The state of Montana has long recognized the importance of conserving its public waters and the necessity to maintain adequate water supplies for the state's water requirements, including requirements for federal non-Indian and Indian reserved water rights held by the United States for federal reserved lands and in trust for the various Indian tribes within the state's boundaries. Although the state of Montana also recognizes that, under appropriate conditions, the out-of-state transportation and use of its public waters are not in conflict with the public welfare of its citizens or the conservation of its waters, the following criteria must be met before out-of-state use may occur:

(a) The department and, if applicable, the legislature may not approve a change in appropriation right for the withdrawal and transportation of appropriated water for use outside the state unless the appropriator proves by clear and convincing evidence and, if applicable, the legislature approves after one or more public hearings that:

(i) depending on the volume of water diverted or consumed, the applicable criteria and procedures of subsection (2) or (4) are met;

(ii) the proposed out-of-state use of water is not contrary to water conservation in Montana; and

(iii) the proposed out-of-state use of water is not otherwise detrimental to the public welfare of the citizens of Montana.

(b) In determining whether the appropriator has proved by clear and convincing evidence that the requirements of subsections (6)(a)(ii) and (6)(a)(iii) will be met, the department and, if applicable, the legislature shall consider the following factors:

(i) whether there are present or projected water shortages within the state of Montana;

(ii) whether the water that is the subject of the proposed change in appropriation might feasibly be transported to alleviate water shortages within the state of Montana;

(iii) the supply and sources of water available to the applicant in the state where the applicant intends to use the water; and

(iv) the demands placed on the applicant's supply in the state where the applicant intends to use the water.

(c) When applying for a change in appropriation right to withdraw and transport water for use outside the state, the applicant shall submit to and

comply with the laws of the state of Montana governing the appropriation and use of water.

(7) For any application for a change in appropriation right involving 4,000 or more acre-feet of water a year and 5.5 or more cubic feet per second of water, the department shall give notice of the proposed change in appropriation right in accordance with 85-2-307 and shall hold one or more hearings in accordance with 85-2-309 prior to its approval or denial of the proposed change in appropriation right. The department shall provide notice and may hold one or more hearings upon any other proposed change in appropriation right if it determines that the proposed change in appropriation right might adversely affect the rights of other persons.

(8) The department or the legislature, if applicable, may approve a change in appropriation right subject to the terms, conditions, restrictions, and limitations that it considers necessary to satisfy the criteria of this section, including limitations on the time for completion of the change in appropriation right. The department may extend time limits specified in the change in appropriation right approval under the applicable criteria and procedures of 85-2-312(3).

(9) Upon actual application of water to the proposed beneficial use within the time allowed, the appropriator shall notify the department that the appropriation has been completed. The notification must contain a certified statement by a person with experience in the design, construction, or operation of appropriation works describing how the appropriation was completed.

(10) If a change in appropriation right is not completed as approved by the department or legislature or if the terms, conditions, restrictions, and limitations of the change in appropriation right approval are not complied with, the department may, after notice and opportunity for hearing, require the appropriator to show cause why the change in appropriation right approval should not be modified or revoked. If the appropriator fails to show sufficient cause, the department may modify or revoke the change in appropriation right approval.

(11) The original of a change in appropriation right approval issued by the department must be sent to the applicant, and a duplicate must be kept in the office of the department in Helena.

(12) A person holding an issued permit or change in appropriation right approval that has not been perfected may change the place of diversion, place of use, purpose of use, or place of storage by filing an application for change in appropriation right pursuant to this section.

(13) A change in appropriation right contrary to the provisions of this section is invalid. An officer, agent, agency, or employee of the state may not knowingly permit, aid, or assist in any manner an unauthorized change in appropriation right. A person or corporation may not, directly or indirectly, personally or through an agent, officer, or employee, attempt to change an appropriation right except in accordance with this section.

(14) The department may adopt rules to implement the provisions of this section.

(15) (a) An appropriator may change an appropriation right for a replacement well without the prior approval of the department if:

(i) the appropriation right is for:

(A) ground water outside the boundaries of a controlled ground water area;  
or

(B) ground water inside the boundaries of a controlled ground water area and if the provisions of the order declaring the controlled ground water area do not restrict a change in appropriation right;

(ii) the change in appropriation right is to replace an existing well and the existing well will no longer be used;

(iii) the rate and volume of the appropriation from the replacement well are equal to or less than that of the well being replaced and do not exceed:

(A) 450 gallons a minute for a municipal well; or

(B) 35 gallons a minute and 10 acre-feet a year for all other wells;

(iv) the water from the replacement well is appropriated from the same aquifer as the water appropriated from the well being replaced; and

(v) a timely, correct and complete notice of replacement well is submitted to the department as provided in subsection (15)(b).

(b) (i) After completion of a replacement well and appropriation of ground water for a beneficial use, the appropriator shall file a notice of replacement well with the department on a form provided by the department.

(ii) (A) The department shall review the notice of replacement well and shall issue an authorization of a change in an appropriation right if all of the criteria in subsection (15)(a) have been met and the notice is correct and complete.

(B) If the replacement well is located on national forest system lands, the notice is not correct and complete under this subsection (15) until the appropriator has submitted proof of any written special use authorization required by federal law to occupy, use, or traverse national forest system lands for the purpose of constructing the replacement well.

(iii) The department may not issue an authorization of a change in appropriation right until a correct and complete notice of replacement well has been filed with the department. The department shall return a defective notice to the appropriator, along with a description of defects in the notice. The appropriator shall refile a corrected and completed notice of replacement well within 30 days of notification of defects or within a further time as the department may allow, not to exceed 6 months.

(iv) If a notice of replacement well is not completed within the time allowed, the appropriator shall:

(A) cease appropriation of water from the replacement well pending approval by the department; and

(B) submit an application for a change in appropriation right to the department pursuant to subsections (1) through (3).

(c) The provisions of this subsection (15) do not apply to an appropriation right abandoned under 85-2-404.

(d) For each well that is replaced under this subsection (15), the appropriator shall follow the well abandonment procedures, standards, and rules adopted by the board of water well contractors pursuant to 37-43-202.

(e) The provisions of subsections (2), (3), (9), and (10) do not apply to a change in appropriation right that meets the requirements of subsection (15)(a).

(16) (a) An appropriator may change an appropriation right without the prior approval of the department for the purpose of constructing a redundant



water supply well in a public water supply system, as defined in 75-6-102, if the redundant water supply well:

(i) withdraws water from the same ground water source as the original well; and

(ii) is required by a state or federal agency.

(b) The priority date of the redundant water supply well is the same as the priority date of the original well. Only one well may be used at one time.

(c) Within 60 days of completion of a redundant water supply well, the appropriator shall file a notice of construction of the well with the department on a form provided by the department. The department may return a defective notice of construction to the appropriator for correction and completion. If the redundant water supply well is located on national forest system lands, the notice is not correct and complete under this subsection until the appropriator has submitted proof of any written special use authorization required by federal law to occupy, use, or traverse national forest system lands for the purpose of constructing the redundant water supply well.

(d) The provisions of subsections (9) and (10) do not apply to a change in appropriation right that meets the requirements of this subsection (16).

(17) The department shall accept and process an application for a change in appropriation right for instream flow to protect, maintain, or enhance streamflows pursuant to 85-2-320 and this section and to benefit the fishery resource pursuant to 85-2-436 and this section.

*(18) (a) An appropriator may change an appropriation right for a replacement point of diversion without the prior approval of the department if:*

*(i) the existing point of diversion is inoperable due to natural causes or deteriorated infrastructure;*

*(ii) there are no other changes to the water right;*

*(iii) the capacity of the diversion is not increased;*

*(iv) there are no points of diversion or intervening water rights between the existing point of diversion and the replacement point of diversion or the appropriator obtains written waivers from all intervening water right holders;*

*(v) the replacement point of diversion is on the same surface water source and is located as close as reasonably practicable to the existing point of diversion;*

*(vi) the replacement point of diversion replaces an existing point of diversion and the existing point of diversion will no longer be used;*

*(vii) the appropriator can show that the existing point of diversion has been used in the 10 years prior to the notice for change of appropriation right for a replacement point of diversion;*

*(viii) the appropriator can show the change will not increase access to water availability, change the method of irrigation, if applicable, or increase the amount of water diverted, used, or consumed; and*

*(ix) a timely, correct and complete notice of replacement point of diversion is submitted to the department as provided in subsection (18)(b).*

*(b) (i) Within 60 days after completion of a replacement point of diversion, the appropriator shall file a notice of replacement point of diversion with the department on a form provided by the department.*

*(ii) The department shall review the notice of replacement point of diversion and shall issue an authorization of a change in an appropriation right if all of the*

*criteria in subsection (18)(a) have been met and the notice is correct and complete. The department may inspect the diversion to confirm that the criteria under subsection (18)(a) have been met. If the department issues an authorization of a change in an appropriation right for a replacement point of diversion, the department shall prepare a notice of the authorization and provide notice of the authorization in the same manner as required in 85-2-307 for applications.*

*(iii) The department may not issue an authorization of a change in appropriation right until a correct and complete notice of replacement point of diversion has been filed with the department. The department shall return a defective notice to the appropriator, along with a description of defects in the notice. The appropriator shall refile a corrected and completed notice of replacement point of diversion within 30 days of notification of defects or within a further time as the department may allow, not to exceed 6 months.*

*(iv) If a notice of replacement point of diversion is not filed and completed within the time allowed or if the department determines the criteria under (18)(a) have not been met, the appropriator shall:*

*(A) cease appropriation of water from the replacement point of diversion pending approval by the department; and*

*(B) submit an application for a change in appropriation right to the department pursuant to subsections (1) through (3).*

*(c) The provisions of this subsection (18) do not apply to an appropriation right abandoned under 85-2-404.*

*(d) The provisions of subsections (2), (3), (9), and (10) do not apply to a change in appropriation right that meets the requirements of subsection (18)(a).*

*(e) (i) An appropriator may file a correct and complete objection with the department alleging that the change in appropriation right for a replacement point of diversion will adversely affect the use of the existing water rights of other persons or other perfected or planned uses or developments for which a permit or certificate has been issued or for which a state water reservation has been issued under Title 85, chapter 2, part 3.*

*(ii) If the department determines after a contested case hearing between the appropriator and the objector that the rights of other appropriators have been or will be adversely affected, it may revoke the change or make the change subject to terms, conditions, restrictions, or limitations necessary to protect the rights of other appropriators.*

*(iii) The burden of proof to prove lack of adverse effect at the hearing is on the appropriator changing the point of diversion.”*

Approved May 2, 2009

## CHAPTER NO. 425

[SB 100]

AN ACT 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.

*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%~~ 5.8% must be credited to the oil, gas, and coal natural resource account established in 90-6-1001.

(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%~~ 5.8% must be credited to the oil, gas, and coal natural resource account established in 90-6-1001.

(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. Effective date — coordination.** (1) Except as provided in subsection (2), [this act] is effective July 1, 2011.

(2) If House Bill No. 645 is not passed and approved in a form that includes funding for the purposes of [this act], then [this act] is effective July 1, 2009.

**Section 3. Applicability — coordination.** (1) Except as provided in subsection (2), [this act] applies to severance tax collections from coal produced after June 30, 2011.

(2) If House Bill No. 645 is not passed and approved in a form that includes funding for the purposes of [this act], then [this act] applies to severance tax collections from coal produced after June 30, 2009.

**Section 4. Termination — coordination.** (1) Except as provided in subsection (2), [this act] terminates September 30, 2015.

(2) If House Bill No. 645 is not passed and approved in a form that includes funding for the purposes of [this act], then [this act] terminates September 30, 2013.

Approved May 4, 2009

## CHAPTER NO. 426

[SB 117]

AN ACT 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.

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

**Section 1.** Section 17-7-304, MCA, is amended to read:

**“17-7-304. Disposal of unexpended appropriations.** (1) All money appropriated for any specific purpose except that appropriated for the university system units listed in subsection (2) [or state money appropriated for the state children’s health insurance program provided for in Title 53, chapter 4, part 10,] and except as provided in subsection (4) must, after the expiration of the time for which appropriated, revert to the several funds and accounts from which originally appropriated. However, any unexpended balance in any specific appropriation may be used for the years for which the appropriation was made or may be used to fund the provisions of 2-18-1203 through 2-18-1205 and 19-2-706 in the succeeding year.

(2) Except as provided in 17-2-108 and subsection (3) of this section, all money appropriated for the university of Montana campuses at Missoula, Butte, Dillon, and Helena and the Montana state university campuses at Bozeman, Billings, Havre, and Great Falls, the agricultural experiment station with central offices at Bozeman, the forest and conservation experiment station with central offices at Missoula, the cooperative extension service with central offices at Bozeman, and the bureau of mines and geology with central offices in Butte must, after the expiration of the time for which appropriated, revert to an

account held by the board of regents. The board of regents is authorized to maintain a fund balance. ~~There is a statutory appropriation, as provided in 17-7-502,~~ and to use the funds held in this account in accordance with a long-term plan for major and deferred maintenance expenditures and equipment or fixed assets purchases prepared by the affected university system units and approved by the board of regents. The affected university system units may, with the approval of the board of regents, modify the long-term plan at any time to address changing needs and priorities. The board of regents shall communicate the plan to each legislature, to the finance committee when requested by the committee, and to the office of budget and program planning.

(3) Subsection (2) does not apply to reversions that are the result of a reduction in spending directed by the governor pursuant to 17-7-140. Any amount that is a result of a reduction in spending directed by the governor must revert to the fund or account from which it was originally appropriated.

(4) (a) Subject to subsection (4)(b), after the end of a fiscal year, 30% of the money appropriated to an agency for that year by the general appropriations act for personal services, operating expenses, and equipment, by fund type, and remaining unexpended and unencumbered at the end of the year may be reappropriated to be spent during the following 2 years for any purpose that is consistent with the goals and objectives of the agency. The dollar amount of the 30% amount that may be carried forward and spent must be determined by the office of budget and program planning.

(b) (i) Any portion of the 30% of the unexpended and unencumbered money referred to in subsection (4)(a) that was appropriated to a legislative branch entity may be deposited in the account established in 5-11-407.

(ii) After the end of a biennium, any portion of the unexpended and unencumbered money appropriated for the operation of the preceding legislature in a separate appropriation act may be deposited in the account established in 5-11-407. The approving authority shall determine the portion of the unexpended and unencumbered money that is deposited in the account. (Bracketed language terminates on occurrence of contingency—sec. 7, Ch. 565, L. 2005.)”

**Section 2.** Section 17-7-502, MCA, is amended to read:

**“17-7-502. Statutory appropriations — definition — requisites for validity.** (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-407; 5-13-403; 7-4-2502; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-23-706; 15-31-906; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-369; 15-70-601; 16-11-509; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; ~~17-7-304~~; 18-11-112; 19-3-319; 19-6-404; 19-6-410;

19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-4-105; ~~23-4-202; 23-4-204; 23-4-302; 23-4-304; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 41-5-2011; 42-2-105; 44-1-504; 44-12-206; 44-13-102; 50-4-623; 53-1-109; 53-6-703; 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-5-1108; 75-6-214; 75-11-313; 76-13-150; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161; 87-1-513; 90-1-115; 90-1-205; 90-3-1003; and 90-9-306.~~

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to 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 have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 3 and 6, Ch. 481, L. 2003, the inclusion of 15-35-108 terminates June 30, 2010; pursuant to sec. 17, Ch. 593, L. 2005, the inclusion of 15-31-906 terminates January 1, 2010; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; and pursuant to sec. 6, Ch. 2, Sp. L. September 2007, the inclusion of 76-13-150 terminates June 30, 2009.)"

**Section 3.** 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; *and* 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~~ *The* board [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~~ *allocated* under this subsection (1)(b)(ii) are statutorily appropriated *to the board of regents from the general fund*, 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 4.** Section 23-4-105, MCA, is amended to read:

**"23-4-105. Authority of board.** The board shall license and regulate racing, match bronc rides, and wild horse rides and review race meets held in this state under this chapter. All percentages withheld from amounts wagered, *amounts set aside pursuant to 23-4-202(4)(d), percentages collected pursuant to 23-4-204(3), percentages collected pursuant to 23-4-302(3) and (5)(b)(iii), and money collected pursuant to 23-4-304(1)(a) and (1)(b)* must be deposited in a state special revenue account and are statutorily appropriated to the board as provided in 17-7-502. The board shall then distribute all funds collected under 23-4-202(4)(d), 23-4-204(3), ~~and 23-4-302(3) and (5)(b)(iii), and 23-4-304(1)(a) and (1)(b)~~ to live race purses or for other purposes for the good of the existing horseracing industry. If the board decides to authorize new forms of racing, including new forms of simulcast racing, not currently authorized in Montana the board shall do so after holding public hearings to determine the effects of these forms of racing on the existing saddle racing program in Montana. The board shall consider both the economic and safety impacts on the existing racing and breeding industry."

**Section 5.** Section 23-4-202, MCA, is amended to read:

**"23-4-202. Penalty for violations of law — authority of board — judicial review.** (1) (a) A person holding a race meet or an owner, trainer, or jockey participating in a race meet, except a participant in a match bronc ride or a wild horse ride, without first being licensed under this chapter or a person violating this chapter is guilty of a misdemeanor.

(b) A person operating a parimutuel facility, parimutuel network, or simulcast parimutuel network that conducts fantasy sports league wagering without first being licensed under this chapter or a person violating this chapter is guilty of a misdemeanor.

(2) The board or, upon the board's authorization, the board of stewards of a race meet at which the stewards officiate may exclude from racecourses a person whom the board or board of stewards considers detrimental to the best interest of racing as defined by rules of the board.



(3) As its own formal act or through an act of a board of stewards of a race meet, the board may suspend or revoke any license issued by the department to a licensee and assess a fine, not to exceed \$1,000, against a licensee who violates any of the provisions of this chapter or any rule or order of the board. In addition to the suspension or revocation and fine, the board may prohibit application for relicensure for a 2-year period. Fines collected under this subsection must be deposited in the general fund.

(4) The board shall promulgate rules implementing this chapter, including the right to a hearing for individuals against whom action is taken or proposed under this chapter. The rules may include provisions for the following:

(a) summary imposition of penalty by the stewards of a race meet, including a fine and license suspension, subject to review under the contested case provisions of the Montana Administrative Procedure Act;

(b) stay of a summary imposition of penalty by either the board or board of stewards;

(c) retention of purses pending final disposition of complaints, protests, or appeals of stewards' rulings;

(d) setting aside of up to 3% of exotic wagering on races, including simulcast races, to be deposited in a state special revenue account ~~and statutorily appropriated to the board as provided in 17-7-502~~. The board shall then distribute all funds collected under this subsection ~~(4)(d)~~ to live race purses or for other purposes that the board considers appropriate for the good of the existing horseracing industry.

(e) using 2% of exotic wagering on live racing to be immediately and equally distributed to all purses except stakes races;

(f) assessment of penalty and interest on the late payment of fines, which must be paid before licenses are reinstated;

(g) definition of exotic forms of wagering on races to be allowed;

(h) standards for simulcast facilities;

(i) conduct and supervision of simulcast races and parimutuel betting or wagering on simulcast races;

(j) conduct and supervision of parimutuel facilities, parimutuel networks, simulcast parimutuel networks, and parimutuel wagering on fantasy sports leagues conducted at parimutuel facilities;

(k) conduct and supervision of match bronc rides and wild horse rides; and

(l) conduct and supervision of advance deposit wagering.

(5) The district court of the first judicial district of the state has exclusive jurisdiction for judicial review of cases arising under this chapter."

**Section 6.** Section 23-4-204, MCA, is amended to read:

**"23-4-204. Race exclusively for Montana-bred horses — bonus for winner.** (1) For the purpose of encouraging the breeding in this state of valuable registered horses, at least one race each day at each race meet must be limited to horses bred in this state unless, in the board's judgment, there is an insufficient number of Montana-bred horses for the race. If in the opinion of the board sufficient competition cannot be had among this class of horses, the race may be eliminated for the day and a substitute race provided instead. Races with exclusively Montana-bred horses must be run for 20% higher purses than

racers in comparable conditions that are not run with exclusively Montana-bred horses.

(2) The licensee conducting the race meet shall pay a sum equal to 10% of the first money of every purse won by a horse bred in this state to the breeder of the horse within 30 days of the end of the race meet. Only the money contributed by the licensee conducting the race meet may be considered in computing the bonus.

(3) Three percent of exotic wagering on a simulcast race must be deposited in a state special revenue account. ~~Those funds are statutorily appropriated to the board as provided in 17-7-502.~~ The board shall then distribute all funds collected under this subsection to live race purses or for other purposes that the board considers appropriate for the good of the existing horseracing industry.”

**Section 7.** Section 23-4-302, MCA, is amended to read:

**“23-4-302. Distribution of deposits — breakage.** (1) Each licensee conducting the parimutuel system for a simulcast race meet shall distribute all funds deposited in any pool to the winner of the parimutuel pool, less an amount that in the case of exotic wagering on races may not exceed 26% and in all other races may not exceed 20% of the total deposits plus the odd cents of all redistribution to be based on each dollar deposited exceeding a sum equal to the next lowest multiple of 10, known as “breakage”.

(2) Each licensee conducting the parimutuel system for a simulcast race meet shall distribute all funds deposited with the licensee in any pool for the simulcast race meet, less an amount that in the case of exotic wagering on these races may not exceed 26%, unless the signal originator percentage is higher, in which case the Montana simulcast licensee may adopt the same percentage withheld as the place where the signal originated, and that in all other of these races may not exceed 20% of the total deposits plus the odd cents of all redistribution to be based on each dollar deposited exceeding a sum equal to the next lowest multiple of 10, known as “breakage”.

(3) Each licensee conducting a parimutuel system for a simulcast race meet shall deduct 1% of the total amount wagered on the race meet and deposit it in a state special revenue account. ~~The funds deposited are statutorily appropriated to the board as provided in 17-7-502.~~ The board shall then distribute all funds collected under this subsection to live race purses or for other purposes that the board considers appropriate for the good of the existing horseracing industry.

(4) (a) Source market fees from licensed advance deposit wagering hub operators must be deposited by the board in the board’s state special revenue account.

(b) The board shall pay 80% of the source market fees generated between May 1 and the following April 30 to live race meet licensees based on each live race meet licensee’s percentage of the total annual on-track parimutuel handle during the previous live race season. Prior to the beginning of each year’s live race season, the correct percentage must be distributed by the board to each live race meet licensee to be used for race purses or other purposes that the board considers appropriate for the good of the horseracing industry.

(c) Ten percent of the source market fees paid to the board in a calendar year may be retained by the board for the payment of administrative expenses. One-half of the remaining 10% of the source market fees paid to the board in a calendar year must, by January 31 of the following calendar year, be paid to the owner bonus program and the other one-half to the breeder bonus program.

(5) (a) The parimutuel network licensee conducting fantasy sports league wagering shall distribute all funds deposited in the pool to the winner of the parimutuel pool less the takeout amount of 26% of the total deposits.

(b) The takeout amount must be distributed as follows:

(i) 15.3846% to the parimutuel facility licensee;

(ii) 23.0769% to the parimutuel network licensee as an administrative fee; and

(iii) 61.5385% to the board's special revenue account. No more than \$316,000 for fiscal year 2008, or 10% for succeeding fiscal years, of the amount collected under this subsection (5)(b)(iii) may be appropriated by the legislature for administration of this chapter. The remaining portion collected under this subsection (5)(b)(iii) is statutorily appropriated, as provided in 17-7-502, *must be deposited in a state special revenue account. to the* The board shall then distribute this portion for distribution to live race purses and for other purposes that the board considers appropriate for the good of the existing horseracing industry.

(c) The odd cents of all redistribution based on each dollar deposited that exceeds a sum equal to the next lowest multiple of 10, known as "breakage", as well as unclaimed winning tickets from each parimutuel pool, must be distributed to the parimutuel network licensee."

**Section 8.** Section 23-4-304, MCA, is amended to read:

**"23-4-304. Gross receipts — department's percentage — collection and allocation.** (1) (a) Each live race meet licensee shall pay to the department within 5 days following receipt by the licensee 1% of the gross receipts of each day's parimutuel betting at each race meet. At the end of each race meet the licensee shall prepare a report to the department showing the amount of the overpayments and underpayments. If the report shows the underpayments to be in excess of the overpayments, the balance must be paid to the department. Money paid to the department may be used for the expenses incurred in carrying out this chapter. The licensee shall, at the same time, pay to the department all funds collected under 23-4-202(4)(d) on exotic wagering on races. These funds must be deposited in a state special revenue account. The board shall then distribute all funds collected under 23-4-202(4)(d) to live race purses or for other purposes that the board considers appropriate for the good of the existing horseracing industry.

(b) Each licensed simulcast facility shall pay to the department either 1% of the gross receipts of each day's parimutuel betting at each race meet or the actual cost to the board of regulating the simulcast race meet, whichever is higher. The money must be paid to the department within 5 days after receipt of the money by the licensee. At the end of each race meet the licensed simulcast facility shall prepare a report to the department showing the amount of the overpayments and underpayments. If the report shows the underpayments to be in excess of the overpayments, the balance must be paid to the department. Money paid to the department must be deposited in an account in the state special revenue fund and must be used for the administration of this chapter. The licensed simulcast facility shall, at the same time, pay to the department all funds collected under 23-4-202(4)(d) on exotic wagering on races. These funds must be deposited in a state special revenue account. The board shall then distribute all funds collected under 23-4-202(4)(d) to live race purses or for other purposes that the board considers appropriate for the good of the existing horseracing industry.

(c) The licensed parimutuel network conducting fantasy sports league wagering shall pay the funds distributed pursuant to 23-4-302(5)(b)(iii) to the department within 10 days after receipt of the money by the licensee.

(2) Prior to the beginning of the live racing season, funds collected under 23-4-202(4)(d) must be distributed by the department, after first passing through a state special revenue account, to be used for race purses that are distributed to each live race meet by the board or for other purposes that the board considers appropriate for the good of the horseracing industry.

~~(3) Except for funds collected under subsection (1)(c), the funds collected under this section and deposited in a state special revenue account are statutorily appropriated to the board as provided in 17-7-502.”~~

**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 ~~for statutorily appropriated, as provided in 17-7-502, to~~ the department of justice to fund, pursuant to 2-18-303(6):

(a) the base salary and associated operating costs for highway patrol officer positions; and

(b) biennial salary increases for highway patrol officers.”

**Section 10.** Section 53-6-703, MCA, is amended to read:

**“53-6-703. Managed care community network.** (1) A managed care community network shall comply with the federal requirements for prepaid health plans as provided in 42 CFR, part 434.

(2) A managed care community network may contract with the department to provide any combination of medicaid-covered health care services that is acceptable to the department.

(3) The department, prior to entering into a contract, shall require that a managed care community network demonstrate to the department its ability to bear the level of financial risk being assumed by servicing enrollees under a contract for comprehensive physical or mental health care services. The department shall by rule adopt criteria for assessing the financial solvency of a network. The rules must consider risk-bearing and management techniques and protections against financial insolvency if a managed care community network is declared insolvent or bankrupt, as determined appropriate by the department. The rules must also consider whether a network has sufficiently demonstrated its financial solvency and net worth. The department’s criteria must be based on sound actuarial, financial, and accounting principles. The department is responsible for monitoring compliance with the rules. The department shall provide for independent review of any contract provisions and contract compliance with the financial solvency rules.

(4) A managed care community network may not begin operation before the approval of any necessary federal waivers and the completion of the review of an application submitted to the department. The department may charge the applicant an application review fee for the department’s actual cost of review of the application. The fee must be adopted by rule by the department. Fees collected by the department must be deposited in an account in the special revenue fund ~~and are statutorily appropriated, as provided in 17-7-502, to be used by~~ the department to defray the cost of application review.

(5) A health care delivery system that contracts with the department under the program may not be required to provide or arrange for any health care or medical service, procedure, or product that violates religious or moral teachings and beliefs if that health care delivery system is owned, controlled, or sponsored by or affiliated with a religious institution or religious organization but must comply with the notice requirements of 53-6-705(4)(c).”

**Section 11.** Section 75-10-622, MCA, is amended to read:

**“75-10-622. CERCLA match debt service fund.** (1) There is a CERCLA match debt service fund within the debt service fund type established in 17-2-102.

(2) The state pledges, allocates, and directs to be credited to the CERCLA match debt service fund money from the resource indemnity and ground water assessment tax, as provided in 15-38-106, and from the CERCLA cost recovery account, as provided in 75-10-631.

~~(3) Money in the CERCLA match debt service fund is statutorily appropriated, as provided in 17-7-502(4).”~~

**Section 12.** Section 80-5-510, MCA, is amended to read:

**“80-5-510. Administration of fees.** Filing fees and reimbursed costs must be deposited in the seed account established in 80-5-132 for the purpose of funding costs of investigation and alternative dispute resolution. Funds deposited under this section are ~~statutorily appropriated, as provided in 17-7-502,~~ to pay actual expenses incurred by the department to administer the alternative dispute resolution program provided for in this part.”

**Section 13.** Section 87-1-513, MCA, is amended to read:

**“87-1-513. Disposition of proceeds of sale.** (1) The money obtained upon the sale of seized property must be retained and accounted for by the department when the person having the property in possession at the time of seizure is prosecuted or when a prosecution of the person is pending. If the person charged with violation of the law is found guilty of or forfeits bond for violation of the fish and game laws of the state, the money received for the sale of seized property must be paid over to the state treasurer and be deposited to the credit of the fish and game fund, except as provided in subsection (2). If the party from whom the property was taken is not found guilty of any violation of the fish and game laws of this state, the money must be paid to the party from whom the game birds, wild animals, fish, or parts or portions thereof were taken. An officer is not liable for any damage on account of any search, examination, seizure, or sale. When wild animals, game birds, or fish are seized as provided in this part and the person or persons who killed or captured the wild animals, game birds, or fish cannot be ascertained or when the animals sold were killed pursuant to 87-1-225, then the money received from the sale of the wild animals, game birds, or fish must be paid directly to the state treasurer. The cost of advertising notice of sale, as required by 87-1-511, must be paid from the fish and game fund.

(2) The proceeds, after the department’s cost of conducting the sale and costs incurred in donating game animal meat are deducted, from the sale of seized game animal meat must be deposited in the state special revenue fund to the credit of the department of public health and human services ~~and are statutorily appropriated, as provided in 17-7-502, to the department of public health and human services~~ for the purposes of awarding grants to the Montana food bank network in this state. Money from the grants awarded to the Montana food bank network must be used for the processing of donated game animal meat. Any

grant funds remaining after donated game animal meat is processed may be used for other appropriate purposes by the Montana food bank network.”

**Section 14. Effective date.** [This act] is effective July 1, 2009.

Approved May 4, 2009

## CHAPTER NO. 427

[SB 164]

AN ACT 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.

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

**Section 1.** Section 17-7-502, MCA, is amended to read:

**“17-7-502. Statutory appropriations — definition — requisites for validity.** (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-407; 5-13-403; 7-4-2502; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-23-706; 15-31-906; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-369; 15-70-601; 16-11-509; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-4-105; 23-4-202; 23-4-204; 23-4-302; 23-4-304; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 41-5-2011; 42-2-105; 44-1-504; 44-12-206; 44-13-102; 50-4-623; 53-1-109; 53-6-703; 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-150; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161; [section 5]; 87-1-513; 90-1-115; 90-1-205; 90-3-1003; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to 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 have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 3 and 6, Ch. 481, L. 2003, the inclusion of 15-35-108 terminates June 30, 2010; pursuant to sec. 17, Ch. 593, L. 2005, the inclusion of 15-31-906 terminates January 1, 2010; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; and pursuant to sec. 6, Ch. 2, Sp. L. September 2007, the inclusion of 76-13-150 terminates June 30, 2009.)"

**Section 2.** Section 23-1-126, MCA, is amended to read:

**"23-1-126. Good neighbor policy — public recreational lands land.**

(1) The good neighbor policy of public land use, as applied to public recreational lands land, seeks a goal of no impact upon adjoining private and public lands land by preventing impact on ~~these the~~ adjoining lands land from noxious weeds, trespass, litter, noise and light pollution, streambank erosion, and loss of privacy. *To facilitate the good neighbor policy regarding impact to adjoining land from noxious weeds, the department of fish, wildlife, and parks shall, prior to purchasing any land where noxious weeds are present, develop a noxious weed management agreement that complies with the county weed management district's noxious weed management program, as required in 7-22-2154.*

(2) In order to implement the good neighbor policy expeditiously, the legislature finds it necessary to require the department of fish, wildlife, and parks to place maintenance as a priority:

(a) over additional development at all state parks and fishing access sites; and

(b) on recreational land or water acquired pursuant to 87-1-209 for public hunting, fishing, trapping, or outdoor recreation.

(3) The restriction in subsection (2) does not apply to:

(a) ~~development and improvement projects for which the legislature has appropriated funds prior to October 1, 1999;~~

(~~b~~)*(a)* activities directly related to the historic preservation, restoration, or protection of assets in state parks;

(~~e~~)*(b)* at the discretion of the department of fish, wildlife, and parks, projects on the Missouri reach of the Missouri-Madison hydropower project or the Clark Fork basin hydropower project, undertaken pursuant to the federal energy regulatory commission's hydropower relicensing requirements and in conjunction with private entities, political subdivisions of the state of Montana, and federal agencies;

(~~d~~)*(c)* at the discretion of the department of fish, wildlife, and parks, projects on Fort Peck reservoir undertaken in conjunction with the U.S. army corps of engineers; or

(e)(d) partnership projects as designated within the park master plan.

(4) Any development in state parks and fishing access sites beyond those defined as maintenance in 23-1-127(1) must be approved by the legislature.”

**Section 3.** Section 23-1-127, MCA, is amended to read:

**“23-1-127. Maintenance priority — maintenance defined.** (1) With regard to state parks and fishing access sites, implementation of the good neighbor policy requires that priority is to be given to maintenance of existing facilities, rather than to development or improvement. As used in 23-1-126(2)(a) and this section subsection, “maintenance” means:

~~(1)~~(a) weed control;

(b) fence installation and repair of existing fences;

(c) placing, cleaning, and stocking of latrines;

~~(2)~~(d) garbage and litter removal;

~~(3)~~ fence installation and repair of existing fences;

~~(4)~~ weed control;

~~(5)~~(e) implementation of safety and health measures required by law to protect the public;

~~(6)~~(f) upkeep of established trails, roads, parking areas, boat docks, and similar facilities existing in state parks and fishing access sites on October 1, 1999;

~~(7)~~(g) in-kind replacement of existing facilities, including electric lines or facilities, or replacement of those existing facilities with facilities that have less impact on the state park or fishing access site;

~~(8)~~(h) erosion control;

~~(9)~~(i) streambank stabilization;

~~(10)~~(j) erection of barriers necessary to preserve riparian vegetation and habitat;

~~(11)~~(k) minimal signage necessary to inform users of appropriate state park or fishing access site use and applicable regulations and of historical, natural, cultural, geographical, and geological features in the area;

~~(12)~~(l) measures necessary to ensure compliance with the federal Americans With Disabilities Act of 1990, when applicable;

~~(13)~~(m) planting of native trees, grasses, and shrubs for habitat stabilization and privacy shielding;

~~(14)~~(n) installation of fire rings, picnic tables, and trash collection facilities; and

~~(15)~~(o) other necessary activities and expenditures consistent with the good neighbor policy and the intent of 23-1-126, 23-1-128, and this section, including new trails, new boat ramps, and necessary new access roads into and within the state park or fishing access site.

(2) *With regard to recreational land or water rights acquired pursuant to 87-1-209 for public hunting, fishing, trapping, or outdoor recreation, implementation of the good neighbor policy requires that priority is to be given to maintenance. As used in 23-1-126(2)(b) and this subsection, “maintenance” means:*

(a) weed control;



- (b) *garbage and litter removal;*
- (c) *repair of existing fences;*
- (d) *implementation of safety and health measures required by law to protect the public;*
- (e) *in-kind replacement of existing facilities, including electric lines or facilities, or replacement of those existing facilities with facilities that have less impact on the land or water;*
- (f) *erosion control;*
- (g) *streambank stabilization;*
- (h) *erection of barriers necessary to preserve riparian vegetation and habitat;*
- (i) *planting of native trees, grasses, and shrubs for habitat stabilization; and*
- (j) *other necessary activities and expenditures consistent with the good neighbor policy and the intent of 23-1-126 and this section."*

**Section 4.** Section 87-1-209, MCA, is amended to read:

**"87-1-209. Acquisition and sale of ~~lands~~ land or ~~waters~~ water.** (1) The department, with the consent of the commission and, in the case of land acquisition involving more than 100 acres or \$100,000 in value, the approval of the board of land commissioners, may acquire by purchase, lease, agreement, gift, or devise and may acquire easements upon ~~lands~~ land or ~~waters~~ water for the purposes listed in this subsection. *Any acquisition of land or water rights for purposes of this subsection, except that portion of acquisitions made with funds provided under 87-1-242(1), must include an additional 20% above the purchase price to be used for maintenance of land or water acquired by the department. The additional amount above the purchase price or \$300,000, whichever is less, must be deposited in the account established in [section 5]. As used in this subsection, "maintenance" means that term as defined in and consistent with the good neighbor policy in 23-1-127(2).* The department may develop, operate, and maintain acquired ~~lands~~ land or ~~waters~~ water rights:

- (a) for fish hatcheries or nursery ponds;
- (b) as ~~lands~~ land or water suitable for game, bird, fish, or fur-bearing animal restoration, propagation, or protection;
- (c) for public hunting, fishing, or trapping areas;
- (d) to capture, propagate, transport, buy, sell, or exchange any game, birds, fish, fish eggs, or fur-bearing animals needed for propagation or stocking purposes or to exercise control measures of undesirable species;
- (e) for state parks and outdoor recreation;
- (f) to extend and consolidate by exchange, ~~lands~~ land or ~~waters~~ water rights suitable for these purposes.

(2) The department, with the consent of the commission, may acquire by condemnation, as provided in Title 70, chapter 30, ~~lands~~ land or structures for the preservation of historical or archaeological sites that are threatened with destruction or alteration.

(3) (a) Subject to section 2(3), Chapter 560, Laws of 2005, the department, with the consent of the commission, may dispose of ~~lands~~ land and water rights acquired by it on those terms after public notice as required by subsection (3)(b) of this section, without regard to other laws that provide for sale or disposal of state ~~lands~~ land and with or without reservation, as it considers necessary and advisable. The department, with the consent of the commission, may convey

department ~~lands~~ *land* and water rights for full market value to other governmental entities or to adjacent landowners without regard to the requirements of subsection (3)(b) or (3)(c) if the land is less than 10 acres or if the full market value of the interest to be conveyed is less than \$20,000. When the department conveys land or water rights to another governmental entity or to an adjacent landowner pursuant to this subsection, the department, in addition to giving notice pursuant to subsection (3)(b), shall give notice by mail to the landowners whose property adjoins the department property being conveyed.

(b) Subject to section 2(3), Chapter 560, Laws of 2005, notice of sale describing the ~~lands~~ *land* or ~~waters~~ *water rights* to be disposed of must be published once a week for 3 successive weeks in a newspaper with general circulation printed and published in the county where the ~~lands~~ *land* or ~~waters~~ *are* *water right is* situated or, if a newspaper is not published in that county, then in any newspaper with general circulation in that county.

(c) The notice must advertise for cash bids to be presented to the director within 60 days from the date of the first publication. Each bid must be accompanied by a cashier's check or cash deposit in an amount equal to 10% of the amount bid. The highest bid must be accepted upon payment of the balance due within 10 days after mailing notice by certified mail to the highest bidder. If that bidder defaults on payment of the balance due, then the next highest bidders must be similarly notified in succession until a sale is completed. Deposits must be returned to the unsuccessful bidders except bidders defaulting after notification.

(d) The department shall reserve the right to reject any bids that do not equal or exceed the full market value of the ~~lands~~ *land* and ~~waters~~ *or water right* as determined by the department. If the department does not receive a bid that equals or exceeds fair market value, it may then sell the ~~lands~~ *land* or water rights at private sale. The price accepted on any private sale must exceed the highest bid rejected in the bid process.

(4) When necessary and advisable for the management and use of department property, the director is authorized to grant or acquire from willing sellers right-of-way easements for purposes of utilities, roads, drainage facilities, ditches for water conveyance, and pipelines if the full market value of the interest to be acquired is less than \$20,000. Whenever possible, easements must include a weed management plan. Approval of the commission is not required for grants and acquisitions made pursuant to this subsection. In granting any right-of-way pursuant to this subsection, the department shall obtain a fair market value, but the department is not otherwise required to follow the disposal requirements of subsection (3). The director shall report any easement grant or acquisition made pursuant to this subsection to the commission at its next regular meeting.

(5) The department shall convey ~~lands~~ *land* and water rights without covenants of warranty by deed executed by the governor or in the governor's absence or disability by the lieutenant governor, attested by the secretary of state and further countersigned by the director.

(6) The department, with the consent of the commission, is authorized to utilize the installment contract method to facilitate the acquisition of wildlife management areas in which game and nongame fur-bearing animals and game and nongame birds may breed and replenish and areas that provide access to fishing sites for the public. The total cost of installment contracts may not exceed the cost of purchases authorized by the department and appropriated by the legislature.

(7) The department is authorized to enter into leases of land under its control in exchange for services to be provided by the lessee on the leased land.”

**Section 5. Maintenance account — annual report.** (1) There is a maintenance account in the state special revenue fund. In addition to the funds set aside for maintenance of land or water acquired by the department pursuant to 87-1-209(1), the department shall also deposit into the maintenance account:

(a) funds dedicated for development and maintenance of real property used for wildlife habitat under 87-1-242(4)(a);

(b) interest earned on the account; and

(c) any other money that the department considers appropriate or necessary for maintenance of the department’s land or water.

(2) Funds deposited in the account are statutorily appropriated, as provided in 17-7-502, to the department and may be used only for maintenance of any land or water acquired by the department.

(3) (a) The department shall provide an annual report regarding deposits into and withdrawals from the account established in subsection (1) to the oversight subcommittee of the environmental quality council for the purpose of demonstrating the use of funds in the account toward the good neighbor policy.

(b) The report must describe the types of maintenance completed by fish, wildlife, and parks region and maintenance plans for the subsequent fiscal year.

(c) The report is due to the environmental quality council by September 1 following the end of each fiscal year.

**Section 6. Codification instruction.** [Section 5] is intended to be codified as an integral part of Title 87, chapter 1, part 2, and the provisions of Title 87, chapter 1, part 2, apply to [section 5].

**Section 7. Effective date.** [This act] is effective on passage and approval.

**Section 8. Termination.** [This act] terminates June 30, 2013.

Approved May 4, 2009

## CHAPTER NO. 428

[SB 268]

AN ACT REVISING THE LAW REQUIRING CERTAIN VEHICLES TO SECURE CERTAIN LOADS WHEN TRAVELING ON A PUBLIC HIGHWAY; AND AMENDING SECTION 61-8-370, MCA.

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

**Section 1.** Section 61-8-370, MCA, is amended to read:

**“61-8-370. Securing of load — requirement — exemptions.** (1) A person operating a loaded vehicle on a public highway ~~for the purpose of transporting solid waste as defined in 75-10-203, except a commercial motor vehicle or a vehicle transporting unprocessed agricultural products, shall attach, cover, or otherwise load the vehicle or secure the load sufficiently to prevent littering or creating an obstruction dangerous to the public traveling on the highway.~~

(2) *The following vehicles are exempt from the provisions in subsection (1):*

(a) *a commercial motor vehicle that is operating in compliance with state and federal laws and requirements governing the securing of loads;*

*(b) a vehicle transporting processed or unprocessed agricultural products or inputs, including but not limited to fertilizer, manure, and pesticides;*

*(c) a vehicle performing road maintenance; and*

*(d) a vehicle in a marked construction zone.”*

Approved May 4, 2009

## CHAPTER NO. 429

[SB 343]

AN ACT 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.

WHEREAS, invasive species can wreak damage on the economy, environment, recreational opportunities, and human health; and

WHEREAS, aquatic invasive species, including Eurasian watermilfoil, the quagga mussel, and the zebra mussel, pose new and imminent threats, which if left unchecked could cost millions of dollars not only in damage to Montana waterways, rivers, and lakes, to water storage, delivery, and irrigation systems, to hydroelectric power structures and systems, and to aquatic ecosystems, but also to the entire state economy; and

WHEREAS, the enormous impact caused by the zebra mussel is clearly demonstrated in the eastern United States where the species was first observed in Lake Ontario in 1988 and spread to Lake Michigan and the Finger Lakes Region in New York State by the following year; and

WHEREAS, the United States Geological Survey estimates that \$5 billion has been spent thus far in the Great Lakes Basin alone for damages caused by and control efforts for the zebra mussel; and

WHEREAS, the zebra mussel was first discovered in Lake Mead in January 2007 and has now spread to Lakes Mojave and Havasu and the Colorado River, impacting the states of Arizona, Nevada, and California, as well as to Pueblo Reservoir in Colorado, San Justo Reservoir in California, and Electric Lake in Utah; and

WHEREAS, Eurasian watermilfoil, the zebra mussel, and the quagga mussel are easily carried on vessels used in infested water and then transported to another body of water if the vessel has not been properly cleaned; and

WHEREAS, Eurasian watermilfoil is already present in Montana and unless Montana takes action now to prevent the infestation of its waters with the zebra mussel and quagga mussel it is only a matter of time before their introduction in this state occurs; and

WHEREAS, the most cost-effective way of dealing with an aquatic invasive species is preventing an infestation from occurring.

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

**Section 1. Short title.** [Sections 1 through 14] may be cited as the “Montana Aquatic Invasive Species Act”.

**Section 2. Legislative findings and purpose.** (1) The legislature finds that:

(a) invasive species can wreak damage on the economy, environment, recreational opportunities, and human health in Montana;

(b) there is reason to be concerned about the further introduction, importation, and infestation of Eurasian watermilfoil (*Myriophyllum spicatum*) and the introduction, importation, and infestation of additional invasive species not yet present in Montana, such as the zebra mussel (*Dreissena polymorpha*) and the quagga mussel (*Dreissena bugensis*), that could cause catastrophic damage to not only our waterways, rivers, and lakes, our water storage, delivery, and irrigation systems, our hydroelectric power structures and systems, and our aquatic ecosystems, but also to the entire state economy;

(c) as infestations of threatening invasive species move ever closer to Montana’s borders, protecting Montana against these species is of utmost importance to the state economy, environment, recreational opportunities, and human health for the benefit of all Montanans;

(d) preventing the introduction, importation, and infestation of invasive species is the most effective and least costly strategy for combating invasive species that, once established, are often difficult to control or eradicate;

(e) the use of check stations, at which the exterior of vessels may be inspected for the presence of invasive species and cleaned if an invasive species is detected, is an effective way to prevent the introduction, importation, and infestation of invasive species that are easily transferred from infested areas to uninfested areas when proper precautions are not taken; and

(f) preventing the introduction, importation, and infestation of invasive species is best accomplished through coordinated educational and management activities.

(2) The purpose of [sections 1 through 14] is to establish a mechanism for Montana to take concerted action to detect, control, and manage invasive species, including preventing further introduction, importation, and infestation, by educating the public about the threat of these species, coordinating public and private efforts and expertise to combat these species, and authorizing the use of check stations to prevent the intrastate movement of invasive species from infested areas to uninfested areas to protect the state’s economy, environment, recreational opportunities, and human health for the benefit of all Montanans.

**Section 3. Definitions.** As used in [sections 1 through 14], the following definitions apply:

(1) “Departments” means the department of agriculture and the department of fish, wildlife, and parks.

(2) “Invasive species” means, upon the mutual agreement of the directors of the departments of agriculture and fish, wildlife, and parks, a nonnative, aquatic species that has caused, is causing, or is likely to cause harm to the economy, environment, recreational opportunities, or human health.

(3) "Invasive species management area" means a designation made by a department for a specific area, for a body or bodies of water, or for the entire state for a specific or indeterminate amount of time that regulates invasive species or potential carriers of invasive species within the boundaries of that area.

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

(5) "Vessel" has the meaning provided in 61-1-101.

**Section 4. Invasive species account.** (1) There is an invasive species account in the state special revenue fund. The account is administered by the department of agriculture.

(2) Money transferred from the general fund or received from any other lawful source, including but not limited to gifts, grants, donations, securities, or other assets, public or private, may be deposited in the account.

(3) Subject to subsection (4), money deposited in the account must be used to accomplish the purposes of [sections 1 through 14].

(4) Any private contribution deposited in the account for a particular purpose, as stated by the donor, must be used exclusively for that purpose.

(5) Any interest and earnings on the account must be retained in the account.

**Section 5. Cooperative agreement for invasive species detection and control.** (1) In order to implement, administer, and accomplish the purposes of [sections 1 through 14], the departments, collectively or individually, shall enter into a cooperative agreement with each other or may enter into an agreement with any person with the appropriate expertise and administrative capacity to perform the obligations of the agreement.

(2) Prior to entering an agreement with a person other than a department, the departments shall work in collaboration with each other to coordinate their respective responsibilities in order to further the purposes of [sections 1 through 14].

(3) A cooperative agreement may include provisions for funding to implement the agreement.

(4) The overall coordinating authority is the department of agriculture.

**Section 6. Departmental responsibilities.** (1) The departments shall prepare a list of invasive species and identify those departments and other public agencies with jurisdiction over each species on the list. The jurisdiction of each department for the prevention and control of invasive species is according to the department's powers and duties as established by law.

(2) For those invasive species under the jurisdiction of more than one department, the departments with jurisdiction, through cooperative agreement, shall seek to clarify and coordinate their respective responsibilities.

(3) Working in collaboration with each other, the departments, individually or collectively, shall develop and adopt an invasive species strategic plan or plans to accomplish the purposes of [sections 1 through 14]. The plan or plans shall identify and prioritize threats and determine appropriate actions, in the following order of priority, related to:

(a) public awareness and education;

(b) prevention and detection of invasive species, including the use of invasive species management areas authorized under [section 8];

(c) management, control, and restoration of infested areas; and

(d) emergency response.

(4) The departments shall implement education and outreach programs that increase public knowledge and understanding of prevention, early detection, and control of invasive species.

**Section 7. Rulemaking authority.** Unless otherwise provided in Title 81, chapters 2 and 7, or this chapter each of the departments may adopt rules for the prevention, early detection, and control of invasive species under the departments' jurisdiction, including rules for the:

(1) implementation of an invasive species strategic plan;

(2) transportation of an invasive species or any agent likely to be a carrier of an invasive species;

(3) designation, regulation, and treatment of an invasive species management area, including rules pertaining to the movement of vessels within, to, or from the area and the inspection and cleaning of the exterior of vessels moving within, to, or from the area; and

(4) manner in which vessels, including bilges, livewells, bait containers, and other boating-related equipment, traveling in the state must be cleaned to ensure that they are free from the presence of an invasive species.

**Section 8. Invasive species management area — authorization.** (1) When an invasive species is identified as infesting or threatening an area, the department with jurisdiction over that invasive species may designate and administer an invasive species management area for a specific area of land, for a body or bodies of water, or for the entire state for a specific or indeterminate amount of time to prevent and control the infestation or spread of that invasive species.

(2) To the extent practicable, prior to the designation of an invasive species management area, the department making the designation shall coordinate with all of the departments in order to further the purposes of [sections 1 through 14].

(3) The designation of an invasive species management area must specify:

(a) the invasive species present or considered threatening; and

(b) (i) subject to subsection (3)(b)(ii), the method or methods for preventing the introduction of the species or controlling or eradicating the species, including regulations pertaining to the movement of vessels within, to, and from the area and whether check stations will be used to inspect and clean the exterior of vessels moving within, to, or from the area.

(ii) If the invasive species management area encompasses the entire state, departmental authority to prescribe requirements for cleaning and inspecting the exterior of vessels traveling within the state is limited to those vessels required to stop at a check station pursuant to [section 11(3)(b)].

(4) As far as practical, signs indicating that an invasive species management area is in place must be posted in an effective manner at access points to the designated area and along the boundaries and within the area. The signs must include information about the specific regulations that apply to the area. The signs must be paid for with funds from the invasive species account established

in [section 4]. The departments may coordinate with any other governmental entity for the posting of signs.

**Section 9. Arrangements with landowners.** (1) The department designating an invasive species management area pursuant to [section 8] shall work cooperatively with any affected land managers and landowners within the boundaries of the designated area to establish prevention, treatment, control, and eradication methods best suited for the invasive species infesting or threatening the area.

(2) If negotiations with a land manager or landowner fail, the designating department may arrange for the prevention, treatment, control, and eradication of the designated species as it relates to water infrastructure, including but not limited to hydroelectric, municipal, recreational, and irrigation equipment, without the consent of the land manager or landowner. To the extent possible, the arrangements by the department must be made in a manner best suited to preventing, treating, controlling, and eradicating the invasive species, while minimizing disturbances and adverse impacts to the landowner.

**Section 10. Invasive species management area — regulation.** (1) The owner, operator, or person in possession of any vessel authorized for use in an invasive species management area shall comply with any regulations imposed pursuant to [section 8(3)(b)].

(2) After use in a body of water within an invasive species management area, all vessels, bait containers, livewells, bilges, and other boating-related equipment, excluding marine sanitary systems, must be drained in a way that does not impact any state waters before being transported on land or a public highway, as defined in 61-1-101, except where allowed by the department of fish, wildlife, and parks.

(3) In a body of water designated as an invasive species management area, taking from the water or possessing any bait animal, dead or alive, including but not limited to crayfish, leeches, and minnows, is prohibited unless approved by the department of fish, wildlife, and parks.

**Section 11. Check stations.** (1) Departments shall establish a check station within or adjacent to an invasive species management area to prevent the introduction, importation, infestation, and spread of the invasive species for which the designation was issued.

(2) At a check station, the departments may examine the exterior of vessels for the presence of an invasive species and compliance with regulations imposed under [section 8(3)(b)] and with this section.

(3) (a) Except as provided in subsection (3)(b), the owner, operator, or person in possession of a vessel shall stop at any check station unless a medical emergency makes stopping likely to result in death or serious bodily injury.

(b) If a check station is established under regulations pertaining to a statewide invasive species management area, a stop at that check station is required only for a vehicle transporting a vessel, excluding vessels that have never been used.

(4) If during an inspection of the exterior of a vessel the presence of an invasive species is detected upon the exterior of the vessel, that vessel may not leave the check station until it is cleaned and decontaminated in a manner established in accordance with [section 8(3)(b)].

**Section 12. Invasive species possession and transfer prohibited — exceptions.** (1) Except as provided in subsection (2), a person may not import,



purchase, sell, barter, distribute, propagate, transport, introduce, or possess an invasive species except:

(a) when transporting a specimen to any of the departments or another destination as directed by any of the departments in a sealed container for the purpose of containing, identifying, or reporting the presence of the species or for an approved educational purpose;

(b) when done by a government agency for an approved purpose;

(c) with a proper permit issued by the state or federal government; or

(d) as allowed by rule.

(2) A person who learns of the presence of an invasive species on that person's vessel or property shall notify the department with primary jurisdiction of the species immediately. If the person complies with department requirements for the treatment, control, and eradication of the invasive species, the person must be considered to be in compliance with this section and is not subject to penalties under [section 14]. This subsection does not apply to a person who purposely or knowingly introduces or attempts to introduce an invasive species in Montana.

**Section 13. Emergency response.** (1) The governor may declare an invasive species emergency if the introduction or spread of an invasive species has occurred or is imminent.

(2) If an emergency is declared pursuant to subsection (1), the governor may authorize the expenditure of funds pursuant to 10-3-312.

**Section 14. Penalty.** (1) Except as provided in subsection (2), the following penalties apply:

(a) The offense of negligently violating the provisions of [sections 10 through 12] or rules adopted under [sections 10 through 12] pertaining to an invasive species management area is a misdemeanor punishable by a fine not to exceed \$500.

(b) The offense of purposely or knowingly violating the provisions of [sections 10 through 12] or rules adopted under [sections 10 through 12] pertaining to an invasive species management area is a misdemeanor punishable by a fine not to exceed \$1,000.

(c) Purposely or knowingly attempting to introduce an invasive species in Montana is a felony. Any person found guilty under this subsection (1)(c) is subject to a criminal penalty of up to 2 years in prison, a fine not to exceed \$5,000, or both. A person convicted of violating this subsection (1)(c) may also be required to pay restitution for any cost incurred to mitigate the effect of the violation.

(d) A civil penalty not to exceed \$250 may be imposed on any person who violates any other provision of [sections 10 through 12] or rules adopted under [sections 10 through 12] not enumerated in subsections (1)(a) through (1)(c).

(2) A warning without penalty may be issued to any person violating the provisions of [sections 10 through 12] or rules adopted under [sections 10 through 12] if it is determined that a warning best serves the public interest.

(3) Civil penalties collected under this section must be deposited in the general fund.

**Section 15.** Section 10-3-312, MCA, is amended to read:

**“10-3-312. Maximum expenditure by governor — appropriation.** (1)

Whenever *a disaster or an emergency, including an energy emergency as defined in 90-4-302 or an invasive species emergency declared under [section 13], or a disaster* is declared by the governor, there is statutorily appropriated to the office of the governor, as provided in 17-7-502, and, subject to subsection (2), the governor is authorized to expend from the general fund an amount not to exceed \$16 million in any biennium, minus any amount appropriated pursuant to 10-3-310 in the same biennium. The statutory appropriation in this subsection may be used by any state agency designated by the governor.

(2) In the event of the recovery of money expended under this section, the spending authority must be reinstated to a level reflecting the recovery.

(3) If a disaster is declared by the president of the United States, there is statutorily appropriated to the office of the governor, as provided in 17-7-502, and the governor is authorized to expend from the general fund an amount not to exceed \$500,000 during the biennium to meet the state's share of the individual and family grant programs as provided in 42 U.S.C. 5178. The statutory appropriation in this subsection may be used by any state agency designated by the governor.”

**Section 16.** Section 87-1-506, MCA, is amended to read:

**“87-1-506. Enforcement powers of wardens.** (1) A warden may:

(a) serve a subpoena issued by a court for the trial of a violator of the fish and game laws;

(b) search, without a warrant, any tent not used as a residence, any boat, vehicle, box, locker, basket, creel, crate, game bag, or package, or their contents upon probable cause to believe that any fish and game law or department rule for the protection, conservation, or propagation of game, fish, birds, or fur-bearing animals has been violated;

(c) search, with a search warrant, any dwelling house or other building;

(d) seize game, fish, game birds, and fur-bearing animals and any parts of them taken or possessed in violation of the law or the rules of the department;

(e) seize and hold, subject to law or the orders of the department, devices that have been used to unlawfully take game, fish, birds, or fur-bearing animals;

(f) arrest, in accordance with Title 46, chapter 6, a violator of a fish and game law or rule of the department, violation of which is a misdemeanor;

(g) enforce the disorderly conduct and public nuisance laws, 45-8-101 and 45-8-111, as they apply to the operation of motorboats on all waters of the state;

(h) as provided for in 37-47-345, investigate and make arrests for violations of the provisions of Title 37, chapter 47, and of any rules adopted pursuant to that chapter relating to the regulation of outfitters and guides in the state; ~~and~~

*(i) enforce the provisions of [sections 10 through 12] and rules adopted under [sections 10 through 12] for those invasive species that are under the department's jurisdiction; and*

~~(i)(j)~~ exercise the other powers of peace officers in the enforcement of the fish and game laws, the rules of the department, and judgments obtained for violation of those laws or rules.

(2) The meat of game animals that are seized pursuant to subsection (1)(d) must be donated directly to the Montana food bank network, or to public or charitable institutions, to the extent reasonably feasible. Any meat that the

department is unable to donate must be sold pursuant to 87-1-511, with the proceeds to be distributed as provided in 87-1-513(2).”

**Section 17.** Section 87-5-721, MCA, is amended to read:

**“87-5-721. Penalty — license and permit revocation and denial.** (1) Except as provided in subsection (2), a person who violates a provision of this part is guilty of a misdemeanor punishable as provided in 87-1-102, and the department, upon conviction of the person, shall revoke any license or permit issued by it under this title to the person and deny any application by the person for a license or permit under this title for a period not to exceed 2 years from the date of the conviction.

(2) A person who intentionally imports, introduces, or transplants fish in violation of this part:

(a) is guilty of an offense punishable by a fine of not less than \$500 or more than \$5,000 and imprisonment for up to 1 year. A sentencing court may consider an appropriate amount of community service in lieu of imprisonment. A sentencing court may not defer or suspend \$500 of the fine amount.

(b) is civilly liable for the amount necessary to eliminate or mitigate the effects of the violation. The damages may be recovered on behalf of the public by the department or by the county attorney of the county in which the violation occurred, in a civil action in a court of competent jurisdiction. Money recovered by the department or a county attorney must be deposited in the state special revenue fund as provided in 87-1-601(1).

(c) upon conviction or forfeiture of bond or bail, shall forfeit from the date of conviction or forfeiture any current hunting, fishing, or trapping license issued under this title and the privilege to hunt, fish, or trap in this state for not less than 24 months. If the time necessary to eliminate or mitigate the effects of the violation exceeds 24 months, a person may be required to forfeit the privilege to hunt, fish, or trap in this state for more than 24 months. If the effects of the violation cannot be eliminated or mitigated, a person may be required to forfeit the privilege to hunt, fish, or trap in this state for the lifetime of that person.

(3) Any exotic wildlife held in violation of this part must be shipped out of state, returned to the point of origin, or destroyed within ~~6 months of a conviction or sooner if ordered by the court a time set by the department, not to exceed 6 months.~~ The person in possession of the exotic wildlife may choose the method of disposition. If the person in possession of the exotic wildlife does not comply with this requirement, the department may confiscate and then house, transport, or destroy the unlawfully held exotic wildlife. The department may charge any person convicted of a violation of this part for the costs associated with the handling, housing, transporting, or destroying of the exotic wildlife.”

**Section 18. Codification instruction.** [Sections 1 through 14] are intended to be codified as an integral part of Title 80, chapter 7, and the provisions of Title 80, chapter 7, apply to [sections 1 through 14].

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

**Section 20. Effective date.** [This act] is effective July 1, 2009.

Approved May 4, 2009

**CHAPTER NO. 430**

[SB 399]

AN ACT 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.

WHEREAS, the 1993 Montana Legislature recognized that some Montana children have mental health and other needs that require services from multiple agencies; and

WHEREAS, the 1993 Legislature expressed a desire to provide services to these children in their homes or communities whenever possible and to use out-of-state providers as a last resort; and

WHEREAS, subsequent legislatures have strengthened the policy first established in 1993 by encouraging development of an array of in-state services so that children placed out of state may return home and children in the state can remain in their homes, community, or state; and

WHEREAS, the state of Montana has sought and obtained federal funds to help plan for local services that can keep children with multiagency service needs in their homes and communities; and

WHEREAS, information from the Department of Public Health and Human Services indicates that out-of-state placement of children continues and has increased in recent years.

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

**Section 1. Development and use of in-state pool of providers.** In order to accomplish the goals of 52-2-301, the department shall establish a pool of qualified in-state providers identified as willing and able to meet the significant needs of high-risk children with multiagency service needs who are currently placed or may be placed out of state. The department shall design a process in which licensed providers qualify for the pool by demonstrating their ability to provide mental health services for children:

(1) through use of available federal and state special revenue and state general fund money; and

(2) in accordance with the state's goal of using a wraparound philosophy of care.

**Section 2. Out-of-state placement monitoring and reporting.** (1) The department shall collect the following information regarding high-risk children with multiagency service needs:

(a) the number of children placed out of state;

(b) the reasons each child was placed out of state;

(c) the costs for each child placed out of state;

(d) the efforts the department made to avoid out-of-state placements, including:

(i) the number of in-state providers the department contacted about developing service alternatives for a child in or at risk of being placed in an out-of-state facility;

(ii) whether any in-state providers submitted a plan for service alternatives for the child to the department; and

(iii) if a plan for service alternatives was submitted, the reasons the plan was not implemented and the out-of-state placement was determined to be necessary;

(e) the number of children for whom plans for service alternatives were developed, implemented, and resulted in the return of a child from an out-of-state placement or prevented a child from being placed out of state; and

(f) other planning efforts to prepare for a child's return to the state.

(2) On an ongoing basis, the department shall attempt to reduce out-of-state placements.

(3) The department shall report biannually to the children, families, health, and human services interim committee concerning the information it has collected under this section and the results of the efforts it has made to reduce out-of-state placements.

**Section 3.** Section 52-2-302, MCA, is amended to read:

**"52-2-302. Definitions.** The following definitions apply to this part:

(1) (a) "High-risk child with multiagency service needs" means a child under 18 years of age who is seriously emotionally disturbed, who is placed or who imminently may be placed in an out-of-home setting, and who has a need for collaboration from more than one state agency in order to address the child's needs.

(b) The term does not include a child incarcerated in a state youth correctional facility.

(2) "Least restrictive and most appropriate setting" means a setting in which a high-risk child with multiagency service needs is served:

(a) within the child's family or community; or

(b) outside the child's family or community where the needed services are not available within the child's family or community and where the setting is determined to be the most appropriate alternative setting based on:

(i) the safety of the child and others;

(ii) ethnic and cultural norms;

(iii) preservation of the family;

(iv) services needed by the child and the family;

(v) the geographic proximity to the child's family and community if proximity is important to the child's treatment.

(3) "Provider" means an agency of state or local government, a person, or a program authorized to provide treatment or services to a high-risk child with multiagency service needs who is suffering from mental, behavioral, or emotional disorders.

(4) "Services" has the meaning as defined in 52-2-202.

(5) "System of care" means an integrated service support system that:

(a) emphasizes the strengths of the child and the child's family;

(b) is comprehensive and individualized; and

(c) provides for:

(i) culturally competent and developmentally appropriate services in the least restrictive and most appropriate setting;

- (ii) full involvement of families and providers as partners;
- (iii) interagency collaboration; and
- (iv) unified care and treatment planning at the individual child level.

(6) “*Wraparound philosophy of care*” means a planning process that is designed to address the needs of a child and the child’s family and that:

(a) empowers the family to take the lead in making decisions affecting the planning for support systems and services;

(b) reflects the family’s values, preferences, culture, strengths, and needs;

(c) emphasizes community-based natural and informal support systems;

(d) involves collaboration among members of a team that is developed with involvement of the family and that includes agencies, providers, and others who offer support to the child and family;

(e) provides services in the least restrictive and most accessible setting possible; and

(f) contains measurable outcomes that are regularly reviewed by the team and adjusted as necessary.”

**Section 4. Codification instruction.** [Sections 1 and 2] are intended to be codified as an integral part of Title 52, chapter 2, part 3, and the provisions of Title 52, chapter 2, part 3, apply to [sections 1 and 2].

Approved May 4, 2009

## CHAPTER NO. 431

[SB 425]

AN ACT 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.

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

**Section 1.** Section 87-3-235, MCA, is amended to read:

**“87-3-235. Fort Peck multispecies fish hatchery established.** (1) There is a multispecies fish hatchery near Fort Peck dam. The purpose of the hatchery is to provide healthy warm water game fish to improve the warm water fishing opportunities in Montana ~~with minimal impact on cold water fish populations~~ *with minimal impact on cold water fish populations*. Administration of the hatchery must be by the department, consistent with the department’s authority provided for in 87-3-201.

(2) The multispecies hatchery is intended to use 96 acres of rearing ponds to produce warm water species. The hatchery is to employ land available through long-term lease from the U.S. army corps of engineers. It is intended that the hatchery use free, high-quality water from the dredge cut adjacent to Fort Peck dam. Electric power for the hatchery may be purchased from Fort Peck dam at the lowest available rate.

(3) ~~Warm Propagation of warm water species, to be propagated at the hatchery may include~~ *including but not limited to largemouth bass (Micropterus salmoides), smallmouth bass (Micropterus dolomieu), walleye (Stizostedion vitreum Sander vitreus), sauger (Stizostedion canadense Sander*

*canadensis*), black crappie (*Pomoxis nigromaculatus*), white crappie (*Pomoxis annularis*), channel catfish (*Ictalurus punctatus*), yellow perch (*Perca flavescens*), northern pike (*Esox lucius*), pallid sturgeon (*Scaphirhynchus albus*), paddlefish (*Polyodon spathula*), tiger muskellunge, other warm water species classified as species of special concern, threatened, or endangered, and bait fish, including cisco (*Coregonus artedii*), *must be given priority over the propagation of any cold water species at the hatchery. To the greatest extent possible, the department shall maximize the production of warm water species at the hatchery. The propagation of cold water species may not displace or reduce the propagation of warm water species at the hatchery. The department may not produce more than 750,000 cold water fish at the hatchery each year. The hatchery may also include raceways for salmon.*

(4) Costs for hatchery ~~construction~~, operation, maintenance, and personnel are to be funded with revenue in the warm water game fish accounts established in 87-3-236, *revenue in the general license account, or any federal funding available to the department. It is intended that the hatchery be constructed in stages as revenue becomes available in the warm water game fish accounts established in 87-3-236.*

**Section 2.** Section 87-3-235, MCA, is amended to read:

**“87-3-235. Fort Peck multispecies fish hatchery established.** (1) There is a multispecies fish hatchery near Fort Peck dam. The purpose of the hatchery is to provide healthy warm water game fish to improve the warm water fishing opportunities in Montana ~~with minimal impact on cold water fish populations~~ *with minimal impact on cold water fish populations.* Administration of the hatchery must be by the department, consistent with the department’s authority provided for in 87-3-201.

(2) The multispecies hatchery is intended to use 96 acres of rearing ponds to produce warm water species. The hatchery is to employ land available through long-term lease from the U.S. army corps of engineers. It is intended that the hatchery use free, high-quality water from the dredge cut adjacent to Fort Peck dam. Electric power for the hatchery may be purchased from Fort Peck dam at the lowest available rate.

(3) ~~Warm Propagation of warm water species, to be propagated at the hatchery may include~~ *including but not limited to* largemouth bass (*Micropterus salmoides*), smallmouth bass (*Micropterus dolomieu*), walleye (*Stizostedion vitreum Sander vitreus*), sauger (~~*Stizostedion canadense Sander canadensis*~~), black crappie (*Pomoxis nigromaculatus*), white crappie (*Pomoxis annularis*), channel catfish (*Ictalurus punctatus*), yellow perch (*Perca flavescens*), northern pike (*Esox lucius*), pallid sturgeon (*Scaphirhynchus albus*), paddlefish (*Polyodon spathula*), tiger muskellunge, other warm water species classified as species of special concern, threatened, or endangered, and bait fish, including cisco (*Coregonus artedii*), *must be given priority over the propagation of any cold water species at the hatchery. To the greatest extent possible, the department shall maximize the production of warm water species at the hatchery. The propagation of cold water species may not displace or reduce the propagation of warm water species at the hatchery. The department may not produce more than 750,000 cold water fish at the hatchery each year. The hatchery may also include raceways for salmon.*

(4) Costs for hatchery ~~construction~~, operation, maintenance, and personnel are to be funded with ~~revenue in the warm water game fish accounts established in 87-3-236~~ *revenue in the general license account or any federal funding*

~~available to the department. It is intended that the hatchery be constructed in stages as revenue becomes available in the warm water game fish accounts established in 87-3-236."~~

**Section 3. Repealer.** Section 87-3-236, MCA, is repealed.

**Section 4. Effective date.** (1) Except as provided in subsection (2), [this act] is effective on passage and approval.

(2) [Sections 2 and 3] are effective March 1, 2012.

Approved May 4, 2009

## CHAPTER NO. 432

[SB 475]

AN ACT REQUIRING NOTICE OF OIL AND GAS LEASE SALES; AND  
SETTING A NOMINATION DEADLINE.

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

**Section 1. Notice of lease sale required.** (1) Within 15 days of the previous oil and gas lease sale, the department shall publish the date and place of the upcoming sale in a publication of general circulation in Montana and on the department's website.

(2) (a) The department shall accept nominations of tracts for an upcoming sale until 77 days prior to the date of the sale.

(b) Upon receipt of a nomination by the department, the location of the tracts is public information.

(3) At least twice, the department shall publish a notice containing the time and place of the sale, a statement that all sales will be by competitive oral bidding, and the number of tracts in each county offered for sale at the time of the notice on the department's website and in a publication of general circulation in Montana:

(a) not less than 63 days before the date of an upcoming sale; and

(b) between 21 days and 35 days before the date of the sale.

(4) In a publication of general circulation in each county where a tract is nominated for sale, the department shall publish a notice in compliance with subsection (3), except that each notice only needs to contain the number of tracts nominated for sale in that county and notice that a description and maps of tracts nominated are available on the department's website.

(5) The department shall publish on its website a description and maps of all tracts to be offered for sale.

(6) (a) Except as provided in subsection (6)(b), the department shall provide notice by first-class mail to surface owners of a tract being offered for sale using the most current known property owners of record as shown in the records of the county clerk and recorder of the county where the tract is located.

(b) The notice in subsection (6)(a) is not required if the surface is managed by the department pursuant to Title 77, chapter 1.

(7) The notice required by subsection (6) must contain the time and place of the sale, a statement that all sales will be by competitive oral bidding, and a description and area map of each tract offered for sale.



**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. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 77, chapter 3, part 4, and the provisions of Title 77, chapter 3, part 4, apply to [section 1].

Approved May 4, 2009

## CHAPTER NO. 433

[SB 509]

AN ACT 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.

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

**Section 1.** Section 15-23-701, MCA, is amended to read:

**“15-23-701. Reporting gross yield from coal.** (1) Each person engaged in mining coal must, on or before March 31 each year, file with the department of revenue a statement of the gross yield from each coal mine owned or worked by such the person in the preceding calendar year and the value thereof of the coal. The statement shall must be in the form prescribed by the department, which may be coordinated with the form used under 15-35-104 and must be verified by an officer of the firm. The statement shall must include:

(a)(1) the name and address of the owner or lessee or operator of the mine;

(b)(2) the location of the mine;

(c)(3) the tons of coal extracted, treated, and sold from the mine during the taxable tax period;

(d)(4) the gross yield or value in dollars and cents derived from the contract sales price as defined in 15-35-102.

(2) ~~Whenever value is imputed under 15-35-107(1)(b), that value shall be used for purposes of reporting the value of the gross yield of coal under this section.”~~

**Section 2.** Section 15-23-703, MCA, is amended to read:

**“15-23-703. Taxation of gross proceeds — taxable value for county classification and guaranteed tax base aid to schools.** (1) The department shall compute from the reported gross proceeds from coal a tax roll that must be transmitted to the county treasurer on or before September 15 each year. The department may not levy or assess any mills against the reported gross proceeds of coal but shall levy a tax of 5% against the value of the reported gross proceeds as provided in 15-23-701(1)(d)(4). The county treasurer shall give full notice to each coal producer of the taxes due and shall collect the taxes.

(2) For county classification and all nontax purposes, the taxable value of the gross proceeds of coal is 45% of the contract sales price as defined in 15-35-102.

(3) Except as provided in subsection (6), the county treasurer shall calculate and distribute to the state, county, and eligible school districts in the county the amount of the coal gross proceeds tax, determined by multiplying the unit value calculated in 15-23-705 times the tons of coal extracted, treated, and sold on which the coal gross proceeds tax was owed during the preceding calendar year.

(4) Except as provided in subsections (5), (6), and (8), the county treasurer shall credit the amount determined under subsection (3) and the amounts received under 15-23-706:

(a) to the state and to the counties that levied mills in fiscal year 1990 against 1988 production in the relative proportions required by the levies for state and county purposes in the same manner as property taxes were distributed in fiscal year 1990 in the taxing jurisdiction; and

(b) to school districts in the county that either levied mills in school fiscal year 1990 against 1988 production or used nontax revenue, such as impact aid money, as provided in 20 U.S.C. 7701, et seq., in lieu of levying mills against production, in the same manner that property taxes collected or property taxes that would have been collected would have been distributed in the 1990 school fiscal year in the school district.

(5) (a) If the total tax liability in a taxing jurisdiction exceeds the amount determined in subsection (3), the county treasurer shall, immediately following the distribution from taxes paid on May 31 of each year, send the excess revenue, excluding any protested coal gross proceeds tax revenue, to the department for redistribution as provided in 15-23-706.

(b) If the total tax liability in a taxing jurisdiction is less than the amount determined in subsection (3), the taxing jurisdiction is entitled to a redistribution as provided by 15-23-706.

(6) The board of county commissioners of a county may direct the county treasurer to reallocate the distribution of coal gross proceeds taxes that would have gone to a taxing unit, as provided in subsection (4)(a), to another taxing unit or taxing units, other than an elementary school or high school, within the county under the following conditions:

(a) The county treasurer shall first allocate the coal gross proceeds taxes to the taxing units within the county in the same proportion that all other property tax proceeds were distributed in the county in fiscal year 1990.

(b) If the allocation in subsection (6)(a) exceeds the total budget for a taxing unit, the commissioners may direct the county treasurer to allocate the excess to any taxing unit within the county.

(7) The board of trustees of an elementary or high school district may reallocate the coal gross proceeds taxes distributed to the district by the county treasurer under the following conditions:

(a) The district shall first allocate the coal gross proceeds taxes to the budgeted funds of the district in the same proportion that all other property tax proceeds were distributed in the district in fiscal year 1990.

(b) If the allocation under subsection (7)(a) exceeds the total budget for a fund, the trustees may allocate the excess to any budgeted fund of the school district.

(8) The county treasurer shall credit all taxes collected under this part from coal mines that began production after December 31, 1988, in the relative proportions required by the levies for state, county, and school district purposes

in the same manner as property taxes were distributed in the previous fiscal year.”

**Section 3.** Section 15-35-102, MCA, is amended to read:

**“15-35-102. Definitions.** As used in this chapter, the following definitions apply:

(1) “Agreement” means a signed contract that is valid under Montana law between a coal mine operator and a purchaser or broker for the sale of coal that is produced in Montana.

(2) (a) “Base consumption level” for a purchaser, except as provided in subsection (2)(b), applies only for the term of an agreement in effect as of December 31, 1984, and means the lesser of:

(i) the volume of coal purchased during calendar year 1986 from all Montana coal mine operators; or

(ii) the greater of:

(A) the arithmetic average volume of coal purchased during calendar years 1983 and 1984 from all Montana coal mine operators; or

(B) 90% of the maximum tonnage provided for in any agreement executed prior to January 1, 1985, for which the highest scheduled minimum quantity of coal stipulated by the terms of the agreement as they existed on January 1, 1985, has not been purchased at any time during the term of the agreement, plus the arithmetic average volume of coal purchased during calendar years 1983 and 1984 from all Montana coal mine operators under all other agreements.

(b) If the volume calculated in subsection (2)(a)(i) is less than one-third of the volume calculated in subsection (2)(a)(ii), the base consumption level is the volume calculated in subsection (2)(a)(ii).

(3) (a) Except as provided in subsection (3)(b), “base production level” for a coal mine operator applies only for the term of an agreement in effect as of December 31, 1984, and means the lesser of:

(i) the arithmetic average volume of coal produced in Montana and sold to a purchaser in calendar years 1983 and 1984; or

(ii) the volume of coal produced in Montana and sold to a purchaser in 1986.

(b) If the amount calculated in subsection (3)(a)(ii) is less than one-third of the amount calculated in subsection (3)(a)(i), the base production level is the amount calculated in subsection (3)(a)(i).

(4) “Broker” means any person who resells Montana coal.

(5) “*Coal washing*” means any treatment to remove impurities from underground mined coal. Coal washing may include but is not limited to operations such as flotation, air, water, or heavy media separation, drying, and related handling.

(6) “Contract sales price” means either the price of coal extracted and prepared for shipment f.o.b. mine, excluding that amount charged by the seller to pay taxes paid on production, or a price imputed by the department under 15-35-107. Contract sales price includes all royalties paid on production, no matter how the royalties are calculated. However, with respect to royalties paid to the government of the United States, the state of Montana, or a federally recognized Indian tribe, the contract sales price includes 15 cents per ton. *Contract sales price does not include the costs specific to the act of coal washing.*

(7) “Department” means the department of revenue.

~~(7)~~(8) "Energy conversion process" includes any process by which coal in the solid state is transformed into slurry, gas, electrical energy, or any other form of energy.

~~(8)~~(9) "Incremental production" means that quantity of coal produced annually by a coal mine operator and sold to a qualified purchaser that exceeds the base production level of the coal mine operator for that purchaser, but only to the extent the quantity of coal exceeds that purchaser's base consumption level from all Montana producers.

~~(10)~~ "Prepared for shipment" includes but is not limited to services such as in-mine movement, crushing, sizing, screening, storing, mixing, loading, treatment with substances including chemicals or oils, and other preparation of the coal for disposition.

~~(9)~~(11) "Produced" means severed from the earth.

~~(10)~~(12) "Purchaser" means a person who purchases or contracts to purchase Montana coal directly from a coal mine operator or indirectly from a broker and who utilizes that coal in any industrial, commercial, or energy conversion process. A coal broker or any other third party intermediary is not a purchaser under the provisions of this chapter.

~~(11)~~(13) "Qualified purchaser" means a purchaser whose purchases of Montana coal in any given year exceed the purchaser's base consumption level. A purchaser of Montana coal who enters into a coal agreement with another purchaser or a broker that causes a reduction in the base consumption level of a purchaser is not a qualified purchaser.

~~(12)~~(14) "Strip mining" is defined in 82-4-203 and includes "surface mining".

~~(13)~~(15) "Taxes paid on production" includes any tax paid to the federal, state, or local governments upon the quantity of coal produced as a function of either the volume or the value of production and does not include any tax upon the value of mining equipment, machinery, or buildings and lands, any tax upon a person's net income derived in whole or in part from the sale of coal, or any license fee.

~~(14)~~(16) "Ton" means 2,000 pounds.

~~(15)~~(17) "Underground mining" means a coal mining method utilizing shafts and tunnels and as further defined in 82-4-203."

**Section 4.** Section 15-35-107, MCA, is amended to read:

**"15-35-107. When value of coal may be imputed — procedure.** (1) The department may ~~or shall at the request of the taxpayer~~ impute a value to the coal ~~which that~~ approximates market value f.o.b. mine in a case where:

(a) the operator of a coal mine is using the produced coal in an energy-conversion or other manufacturing process; *or*

~~(b) the operator of a coal mine refines the coal by drying, cleaning, or other processing designed to improve the quality of the coal;~~

~~(e)~~(b) a person sells coal under a contract ~~which that~~ is not an arm's-length agreement; *or*

~~(d) a person neglects or refuses to file a statement under 15-23-701 or a statement and tax return under this chapter.~~

(2) For purposes of subsection (1)~~(b)~~, "market value f.o.b. mine" means the value of the coal subsequent to ~~primary and secondary crushing but prior to drying, cleaning, or other processing being prepared for shipment on the mode of transportation taken to its final destination.~~

(3) When imputing value, the department may apply the factors used by the federal government under 26 U.S.C. 613, or that provision as it may be labeled or amended, in determining gross income from mining or the department may apply any other or additional criteria it considers appropriate. Each subject taxpayer shall upon request by the department furnish a copy of its federal income tax return, with any amendments, filed for the year in which the value of coal is being imputed and copies of the contracts under which it is selling coal at the time. When the department's estimate of market value is contested in any proceeding, the burden of proof is on the contesting party."

**Section 5. Effective date.** [This act] is effective on passage and approval.

**Section 6. Applicability.** [This act] applies to coal mined after June 30, 2009.

**Section 7. Termination.** The amendment in [section 3(5)] defining "coal washing" and the amendment in [section 3(6)] revising the definition of "contract sales price" terminate July 1, 2017.

Approved May 4, 2009

## CHAPTER NO. 434

[HB 3]

AN ACT APPROPRIATING MONEY TO VARIOUS STATE AGENCIES FOR THE FISCAL YEAR ENDING JUNE 30, 2009; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

**Section 1. Time limits.** The appropriations contained in [section 2] are intended to provide necessary and ordinary expenditures for the fiscal year ending June 30, 2009. Except as provided in [section 2], the unspent balance of any appropriation must revert to the appropriate fund.

**Section 2. Appropriations — authorization to expend money.** (1) Except as provided in subsection (2), the following money is appropriated, subject to the terms and conditions of [section 1]:

Agency and Program	Amount	Fund
Department of Natural Resources and Conservation		
Wildfire suppression	\$3,633,432	State Special Revenue
Department of Livestock		
Brucellosis	\$2,375,784	General Fund
Crime Control Division		
Domestic violence program	\$15,000	State Special Revenue
Department of Justice		
Montana Highway Patrol	\$175,000	General Fund
Office of Public Defender		
Appellate Defender	\$292,000	General Fund
Office of Public Instruction		
Pupil Transportation	\$360,000	General Fund

## Commissioner of Political Practices

Legal Fees	\$36,000	General Fund
Legal Judgment	\$225,000	General Fund

(2) For expenditures from the Brucellosis appropriation for public information and education, the department of livestock shall contract with the extension service in the Montana university system for education and communication program services. The balance remaining in the Brucellosis appropriation on June 30, 2009, up to \$2 million, is appropriated for fiscal year 2010.

**Section 3. Effective date.** [This act] is effective on passage and approval.

Approved May 5, 2009

## CHAPTER NO. 435

[HB 10]

AN ACT 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.

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

**Section 1. Definitions.** For the purposes of [sections 1 through 4], the following definitions apply:

- (1) "Chief information officer" has the meaning provided in 2-17-506.
- (2) "Information technology" has the meaning provided in 2-17-506.
- (3) "Information technology capital project" means a group of interrelated information technology activities that are planned and executed in a structured sequence to create a unique product or service.
- (4) "LRITP" means the long-range information technology program account in the capital projects fund type.

**Section 2. Appropriations and authorizations.** (1) All business application systems funded under this section must have a plan approved by the chief information officer for the design, definition, creation, storage, and security of the data associated with the application system. The security aspects of the plan must address but are not limited to authentication and granting of system privileges, safeguards against unauthorized access to or disclosure of sensitive information, and, consistent with state records retention policies, plans for the removal of sensitive data from the system when it is no longer

needed. It is the intent of this subsection that specific consideration be given to the potential sharing of data with other state agencies in the design, definition, creation, storage, and security of the data.

(2) Funds may not be released for the project until the chief information officer and budget director approve the plans described in subsection (1).

(3) The following money is appropriated to the department of administration to be used only for the indicated information technology capital projects:

Agency/Project	LRITP	State Special Revenue	Federal Special Revenue	Total
DEPARTMENT OF REVENUE				
Efficiency through Imaging	3,366,178			3,366,178
DEPARTMENT OF LABOR AND INDUSTRY				
Building Standards		2,400,000		2,400,000
Licensing Standards		2,250,000		2,250,000
Unemployment Insurance Tax Modernization		16,735,567	3,000,000	19,735,567
DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES				
Medicaid Management Information System Replacement	3,500,000		62,000,000	65,500,000
SECRETARY OF STATE				
Information Management System	1,500,000			1,500,000

(4) The projects for which funds are appropriated to the department of public health and human services in [section 3] and this section and those projects authorized in section 14, Chapter 3, Special Laws of May 2007, are authorized for the transfer of appropriations and authority within the long-range information technology fund type and among department of public health and human services projects. The projects for which funds are appropriated to the department of public health and human services in [section 3] and this section and those projects authorized in section 14, Chapter 3, Special Laws of May 2007, are authorized for the transfer of appropriations and authority within the federal special revenue fund type and among department of public health and human services projects. The department of public health and human services shall report changes to appropriations and authority related to the information technology projects in section 14, Chapter 3, Special Laws of May 2007, and in [section 3] and this section to the interim legislative finance committee upon occurrence.

(5) The department of labor and industry is authorized to transfer appropriations between federal and state special revenue funds for purposes of funding the unemployment insurance tax modernization project. To reduce state risk, a scoring preference for bidders of not less than 10% of the total scoring for the request for proposals for the unemployment insurance tax modernization project must be established and may be given only to vendors who have installed in at least one other state a substantially similar project, that meets all federal department of labor reporting requirements. In responding to the request for proposals, each vendor shall identify in what states the vendor's substantially similar project has been installed, how long it has been in production, and whether the project meets all federal department of labor reporting requirements.

(6) For the item Medicaid Management Information System Replacement in subsection (3), the department of public health and human services shall provide a work plan with milestones, goals, and measures to guide the medicaid management information system replacement to the Legislative Finance Committee at its June 2009 meeting. At each legislative finance committee meeting, the department shall provide an update on its activities and progress toward achieving elements of the work plan in a format developed in conjunction with the legislative finance committee. To reduce state risk, a vendor who successfully bids on the medicaid management information system replacement project must have experience, proven performance, corporate resources, and corporate qualifications in large-scale data processing system development along with health care claims processing experience in system planning, design, development, implementation, and operation. In responding to the request for proposals, each vendor shall identify whether the vendor's proposed solution is substantially similar to a project that has been installed in another state, how long the project has been in production, and whether the project has been approved by the centers for medicare and medicaid services.

**Section 3. Information technology appropriations.** (1) The following projects and funds are appropriated for the biennium ending June 30, 2011, to the indicated agency to be used only for the specified projects:

Agency/Project	General Fund	Federal Special Revenue	Total
<b>DEPARTMENT OF ADMINISTRATION</b>			
Interoperability Montana Equipment	1,000,000		1,000,000
Enterprise System Services Center Equipment	3,500,000		3,500,000

(2) For the item in subsection (1) for Interoperability Montana Equipment, the department shall exercise due diligence in determining the appropriateness, effectiveness, and reliability of technology and equipment, taking into consideration input and advice from system users, including field personnel and a broad representation of use groups. Recommendations for acquisition of technology and equipment should be reported to the information technology board established in 2-15-1021.

**Section 4. Fund transfers.** The following amounts are transferred from the general fund to the LRITP:

- (1) \$3,433,089 for fiscal year 2010; and
- (2) \$3,433,089 for fiscal year 2011.

**Section 5. Bond authorization.** The board of examiners may issue and sell employment security revenue bonds of the state, in accordance with the provisions of [sections 5 through 12], in an aggregate principal amount not to exceed \$15 million for the unemployment insurance tax modernization project approved in [section 2] and to pay costs associated with the sale and issuance of the bonds, including funding a debt service reserve.

**Section 6. Employment security revenue bond debt service account — deposit of bond proceeds.** (1) There is an employment security revenue bond debt service account in the debt service fund type. The state treasurer shall transfer proceeds of employment security assessments deposited in the employment security account, established in 39-51-409, to the employment security revenue bond debt service account as required by the resolution authorizing the bonds or the trust indenture.



(2) The proceeds of the bonds, other than premiums and accrued interest received, must be deposited in an unemployment insurance tax modernization account to fund the unemployment insurance tax modernization project approved in [section 2].

(3) Premiums and accrued interest must be deposited in the employment security revenue bond debt service account. No more than the principal and interest on the bonds due in any year may be retained in the employment security revenue bond debt service account.

(4) Interest and investment earnings on the debt service account must be retained in the account.

**Section 7. State pledge of employment security assessments — use of employment security account.** The employment security assessments imposed pursuant to 39-51-404 must be pledged to the payment of the principal, interest, and redemption premium, if any, of the employment security revenue bonds authorized in [section 5]. The pledge is and remains at all times a first lien and prior charge upon the pledged employment security assessments. Funds in the employment security account may be used for the payment of employment security revenue bonds to the extent that employment security assessments deposited in the employment security revenue bond debt service account is not sufficient for payment of the bonds.

**Section 8. Continued assessment and collection — deposit in employment security account.** The legislature shall provide for the continued assessment, collection, and deposit of the employment security assessments described in 39-51-404 in the amounts necessary to pay the principal of and premium and interest on the employment security revenue bonds as long as they are outstanding. The payment of principal, interest, and premium of the employment security revenue bonds is considered an administrative expense.

**Section 9. Form — principal and interest — fiscal agent — bonds authorized.** (1) The employment security revenue bonds may be issued by the board of examiners in one or more series, at public or private sale, in denominations and form, in fully registered form, with provisions for the conversion or exchange, bearing interest at a rate or rates or the method of determining the rate or rates, maturing at times, not more than 10 years from date of issue, subject to redemption at earlier times and prices and upon notice, and payable at the office of a fiscal agency of the state that the board shall determine, subject to the limitations contained in [sections 5 through 12]. Any action taken by the board of examiners under [sections 5 through 12] must be approved by at least a majority vote of its members.

(2) In all other respects, the board of examiners is authorized to prescribe the form and terms of the bonds and shall do whatever is lawful and necessary for their issuance and payment.

(3) Bonds and any interest coupons attached to the bonds must be signed by the members of the board of examiners, and the bonds must be issued under the great seal of the state of Montana. The bonds and coupons may be executed with facsimile signatures and seal in the manner and subject to the limitations prescribed by law. The state treasurer shall keep a record of all bonds issued and sold.

(4) The board of examiners may employ a fiscal agent and a bond registrar and transfer agent to assist in the performance of its duties under [sections 5 through 12].

(5) In connection with the issuance and sale of bonds, the board of examiners may arrange for lines of credit or letters of credit with any bank, firm, or person for the purpose of providing an additional source of repayment for bonds issued pursuant to [sections 5 through 12]. Amounts drawn on the lines of credit may be evidenced by negotiable or nonnegotiable notes or other evidences of indebtedness, containing terms and conditions that the board of examiners may authorize in the resolution approving the bonds.

(6) Additional employment security revenue bonds, other than refunding bonds, may not be issued until the pledge in favor of the employment security revenue bonds is satisfied and discharged.

**Section 10. Trust indenture.** (1) In the discretion of the board of examiners, bonds issued under [sections 5 through 12] may be secured by a trust indenture by and between the board and a trustee, which may be any trust company or bank having the powers of a trust company inside or outside of the state. In addition to provisions that the board of examiners determines to be necessary and appropriate to secure the bonds, provide for the rights of the bondholders, and ensure compliance with all applicable law, the trust indenture must contain provisions that:

(a) govern the custody, safeguarding, and disbursement of all money held by the trustee under the trust indenture; and

(b) permit representatives of the state treasurer, department of administration, or department of labor and industry, upon reasonable notice and at reasonable times, to inspect the trustee's books and records concerning the trust indenture.

(2) A trust indenture or an executed counterpart of a trust indenture developed pursuant to [sections 5 through 12] must be filed with the secretary of state. The filing of a trust indenture or an executed counterpart in the office of the secretary of state is constructive notice of its content to all persons from the time of filing, and the recording of the trust indenture or its content is not necessary.

**Section 11. Provisions for protecting bondholders.** The resolution of the board of examiners providing for the issuance of bonds or the trust indenture may contain provisions for protecting and enforcing the rights and remedies of the bondholders that are reasonable, proper, and not in violation of law, including covenants setting forth the duties of the state, the board, and the departments, boards, or agencies of state government in relation to the unemployment insurance tax modernization project financed with the proceeds of the bonds and the custody, safeguarding, and application of all money. The trust indenture may set forth the rights and remedies of the bondholders customary in trust indentures, deeds of trusts, and mortgages securing bonds or debentures of corporations. The enumeration of particular powers granted by this section does not impair any general grant of power contained in [sections 5 through 12].

**Section 12. Pledge of the state.** In accordance with the constitutions of the United States and the state of Montana, the state pledges that it will not in any way impair the obligations of any agreement between the state and the holders of notes and bonds issued by the state under [sections 5 through 12].

**Section 13.** Section 39-51-409, MCA, is amended to read:

**"39-51-409. Employment security account.** (1) There is an account in the state special revenue fund called the employment security account.

(2) Money deposited in the employment security account may be appropriated to the department for payment of:

- (a) unemployment insurance benefits;
- (b) expenses incurred in the administration of the unemployment insurance program;
- (c) expenses incurred in collecting money deposited in the account;
- (d) expenses incurred for the employment offices established in 39-51-307, including expenses for providing services to the business community;
- (e) expenses incurred for the apprenticeship and training program;
- (f) expenses for displaced homemaker programs provided for under 39-7-305;
- (g) expenses for department research and analysis functions that provide employment, wage, and economic data; ~~and~~
- (h) expenses for department functions pertaining to wage and hour laws, prevailing wages, and collective bargaining; *and*
- (i) *principal, interest, and redemption premium on employment security revenue bonds authorized in [section 5].*

(3) ~~The~~ *Except as provided in [sections 6 and 12], the* department may transfer funds from the employment security account to the unemployment insurance fund account provided for in 39-51-402 upon receiving approval from the budget director that the transfer will not decrease the money in the account below the level appropriated by the legislature to provide for the employment services programs identified in subsection (2).

(4) The department may transfer appropriation authority in employment services programs between the federal special revenue and the state special revenue fund types.”

**Section 14. Two-thirds vote required.** Because [section 5] authorizes the creation of state debt, Article VIII, section 8, of the Montana constitution requires a vote of two-thirds of the members of each house of the legislature for passage.

**Section 15. Contingent voidness — reduction of appropriation.** If a vote of two-thirds of the members of each house of the legislature is not received, then [sections 5 through 13] are void and the state special revenue fund appropriation in [section 2] to the department of labor and industry for the unemployment insurance tax modernization project is reduced by \$14 million.

**Section 16. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

**Section 17. Effective date.** [This act] is effective on passage and approval.

Approved May 5, 2009

## CHAPTER NO. 436

[HB 52]

AN ACT 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.

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

**Section 1. Ground water investigation program — advisory committee.** (1) The Montana bureau of mines and geology shall develop and implement a ground water investigation program for the purpose of collecting and compiling ground water and aquifer data. The program shall gather data, compile existing information, conduct field studies, and prepare a detailed hydrogeologic assessment report for each subbasin. The program shall develop a monitoring plan and a hydrogeologic model for each subbasin for which a report is prepared.

(2) The ground water assessment steering committee, established by 2-15-1523, shall prioritize subbasins for investigation based upon current and anticipated growth of agriculture, industry, housing, and commercial activity. Permit applications for the development of surface water or ground water and the timing of adjudication of water rights may be taken into account in prioritizing subbasins.

**Section 2.** Section 2-15-1523, MCA, is amended to read:

**“2-15-1523. Ground water assessment steering committee.** (1) There is a ground water assessment steering committee consisting of an employee of each of the following state agencies that have responsibility for ground water protection, management, or information. The member must be appointed by the head of the respective state agency:

- (a) the department of natural resources and conservation;
- (b) the department of environmental quality;
- (c) the department of agriculture; and
- (d) the Montana state library, natural resource information system.

(2) The ground water assessment steering committee may include representatives of the following agencies and units of government with expertise or management responsibility related to ground water and representatives of the organizations and groups specified in subsection (2)(h), who shall serve as ex officio members:

- (a) the legislative services division;
- (b) the board of oil and gas conservation;
- (c) the Montana bureau of mines and geology;
- (d) a unit of the university system, other than the Montana bureau of mines and geology, appointed by the board of regents of higher education for the Montana university system;
- (e) a county government, appointed by an organization of Montana counties;
- (f) a city, town, or city-county government, appointed by an organization of Montana cities and towns;
- (g) each principal federal agency that has responsibility for ground water protection, management, or research, appointed by the Montana head of the respective federal agency; and
- (h) one representative of each of the following, appointed by the governor:
  - (i) agricultural water users;

- (ii) industrial water users; ~~and~~
- (iii) a conservation or ecological protection organization; *and*
- (iv) *the development community*.

(3) The ground water assessment steering committee shall elect a presiding officer from its voting members.

(4) The Montana bureau of mines and geology shall provide staff support to the committee.”

**Section 3. Appropriation.** There is appropriated \$4.2 million from the state general fund to the Montana bureau of mines and geology for developing and implementing the ground water investigation program described in [section 1].

**Section 4. Contingent voidness.** If House Bill No. 2 is passed and approved and if it contains an appropriation of at least \$4.2 million for the ground water investigation program described in [section 1], then [section 3] is void.

**Section 5. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 85, chapter 2, part 5, and the provisions of Title 85, chapter 2, part 5, apply to [section 1].

**Section 6. Effective date.** [This act] is effective July 1, 2009.

Approved May 5, 2009

## CHAPTER NO. 437

[HB 85]

AN ACT 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.

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

**Section 1. Legislative findings — purpose.** The legislature finds that the provision of prehospital emergency medical service is a critical component of Montana’s health care system because these prehospital services can improve the medical outcomes for people suffering medical emergencies and may improve the safety of motorists on Montana roads by providing emergency response to vehicle crashes. The legislature further finds that emergency medical service providers in many of Montana’s rural areas have difficulty in continuing their operations because of demographic and economic circumstances. It is the purpose of [sections 1 through 7] to establish a grant program that will support emergency medical service providers by creating a source of funds to cover the costs of buying and maintaining the equipment that an emergency medical service needs in order to be ready to respond to calls.

**Section 2. Definitions.** As used in [sections 1 through 7], the following definitions apply:

(1) “Aircraft” has the same meaning given in 67-1-101. The term includes any fixed-wing airplane or helicopter.

(2) (a) “Ambulance” means a privately or publicly owned motor vehicle or aircraft that is maintained and used for the transportation of patients.

(b) The term does not include:

(i) a motor vehicle or aircraft owned by or operated under the direct control of the United States; or

(ii) air transportation services, such as charter or fixed-based operators, that are regulated by the federal aviation administration and that offer no special medical services or provide only transportation to patients or persons at the direction or under the supervision of an independent physician.

(3) "Board" means the Montana state board of medical examiners provided for in 2-15-1731.

(4) "Department" means the department of transportation provided for in 2-15-2501.

(5) "Emergency medical service" means a prehospital or interhospital emergency medical transportation or treatment service provided by an ambulance or nontransporting medical unit.

(6) "Emergency medical technician" means a person who has been specially trained in emergency care in a training program approved by the board and licensed by the board as having demonstrated a level of competence suitable to treat victims of injury or other emergent condition.

(7) (a) "Emergency response vehicle" means a vehicle used for the dedicated purpose of responding to emergency medical calls.

(b) The term does not include a vehicle used for an individual's personal purposes.

(8) "Nontransporting medical unit" means an aggregate of persons who are organized to respond to a call for emergency medical service and to treat a patient until the arrival of an ambulance. Nontransporting medical units provide any one of varying types and levels of service defined by department of public health and human services rule but may not transport patients.

(9) (a) "Patient" means an individual who is sick, injured, wounded, or otherwise incapacitated or helpless.

(b) The term does not include an individual who is nonambulatory and who needs transportation assistance solely because that individual is confined to a wheelchair as the individual's usual means of mobility.

(10) "Person" means an individual, firm, partnership, association, corporation, company, group of individuals acting together for a common purpose, or organization of any kind, including a governmental agency other than the United States.

(11) "Volunteer emergency medical technician" means an individual who is licensed pursuant to Title 50, chapter 6, part 2, and provides emergency medical care:

(a) on the days and the times of the day chosen by the individual; and

(b) for an emergency medical service other than:

(i) a private ambulance company, unless the care is provided without compensation and outside of the individual's regular work schedule; or

(ii) a private business or a public agency, as defined in 7-1-4121, that employs the individual on a regular basis with a regular, hourly wage to provide emergency medical care as part of the individual's job duties.

**Section 3. Emergency medical services grant program — eligibility — matching funds.** (1) The department shall provide competitive grants to

emergency medical service providers for acquiring or leasing ambulances or emergency response vehicles or for purchasing equipment, other than routine medical supplies, for any of the following purposes:

- (a) training;
  - (b) communications; or
  - (c) providing medical care to a patient.
- (2) A licensed emergency medical service may apply for a grant if:
- (a) it has been in operation at least 12 months;
  - (b) it bills for services at a level that is at least equivalent to the medicare billing level; and
  - (c) a majority of its active emergency medical technicians are volunteer emergency medical technicians.
- (3) An emergency medical service is ineligible for grant funding if it is either a private business or a public agency, as defined in 7-1-4121, and employs the majority of its emergency medical technicians on a regular basis with a regular, hourly wage.
- (4) An eligible emergency medical service applying for a grant under this section shall provide a 10% match for any grant funds received.
- (5) The department shall award grants on an annual basis using the criteria contained in [section 4].

(6) Up to 5% of the annual appropriation for the program may be distributed for emergency purposes each year as provided in [section 7].

**Section 4. Grant review criteria.** When evaluating grant applications the department shall consider the following factors:

- (1) demonstrated need;
- (2) size of the geographic area covered by the emergency medical service;
- (3) distance from other emergency medical service providers in the geographic region;
- (4) distance from the closest hospital;
- (5) number of calls in the previous calendar year; and
- (6) number of volunteer emergency medical technicians on the active call roster.

**Section 5. Grant awards — appeals.** (1) If the department denies an application for a grant, the applicant may appeal the decision in writing to the director of the department.

(2) After considering the emergency medical service provider's appeal and the rules in place for reviewing and awarding grants, the director shall affirm or deny the appeal in writing.

(3) There is no further appeal if the director denies the appeal.

**Section 6. Rulemaking authority.** (1) The department shall adopt rules necessary for the administration of [sections 1 through 7].

- (2) The rules must include but are not limited to:
- (a) the weighting of the criteria listed in [section 4] for scoring purposes;
  - (b) allowable reasons for not awarding a grant;

(c) the appeal process for an emergency medical service provider that does not receive a grant; and

(d) reporting requirements for grant recipients.

**Section 7. Emergency grant appropriations.** (1) In a documented situation that the department considers to be an emergency for which an eligible emergency medical service provider cannot pay, the department may provide funding to repair or replace a vehicle or equipment that has been damaged or destroyed.

(2) Emergency funding may be provided only for vehicles or equipment eligible for grant funding, as provided in [section 3].

(3) Normal replacement of an ambulance or equipment may not be considered an emergency.

**Section 8. Coordination instruction.** (1) If House Bill No. 2 is not passed and approved or if House Bill No. 2 does not contain an appropriation of \$1 million for each fiscal year for the purposes of [this act], then there is appropriated from the highway nonrestricted account provided for in 15-70-125 to the department of transportation the difference between \$1 million in each fiscal year and the amount appropriated in House Bill No. 2 for the purposes of [this act].

(2) The department of transportation is authorized to decrease the contingent appropriation from the highway nonrestricted account in subsection (1) and there is appropriated from the federal special revenue fund the amount of money appropriated in subsection (1) if federal funds are available for the purposes of [this act].

**Section 9. Codification instruction.** [Sections 1 through 7] are intended to be codified as an integral part of Title 61, chapter 2, and the provisions of Title 61, chapter 2, apply to [sections 1 through 7].

**Section 10. 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 11. Effective date.** [This act] is effective July 1, 2009.

**Section 12. Termination.** [Sections 1 through 7] terminate June 30, 2011.

Approved May 5, 2009

## CHAPTER NO. 438

[HB 97]

AN ACT EXTENDING THE APPLICATION OF THE BOND VALIDATING ACT; AMENDING SECTION 17-5-205, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

**Section 1.** Section 17-5-205, MCA, is amended to read:

**“17-5-205. Application.** The application of the Bond Validating Act, Title 17, chapter 5, part 2, is extended to bonds issued and proceedings taken prior to February 1, 2007 [the effective date of this act].”

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

Approved May 5, 2009



**CHAPTER NO. 439**

[HB 98]

AN ACT 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.

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

**Section 1. State agency performance contracts — exempt.** Energy performance contracts entered into by state agencies pursuant to Title 90, chapter 4, part 11, are exempt from this part.

**Section 2.** Section 18-2-101, MCA, is amended to read:

**“18-2-101. Definitions of building, costs, and construction.** In part 1 of this chapter, with the exception of 18-2-104, 18-2-107, 18-2-113, 18-2-114, 18-2-122, and 18-2-123:

(1) (a) “building” includes a building, facility, or structure:

(a)(i) constructed or purchased wholly or in part with state money;

(a)(ii) at a state institution;

(a)(iii) owned or to be owned by a state agency, including the department of transportation; or

(a)(iv) constructed for the use or benefit of the state with federal or private money as provided in 18-2-102(2)(d);

(2)(b) “building” does not include a building, facility, or structure:

(a)(i) owned or to be owned by a county, city, town, school district, or special improvement district;

(a)(ii) used as a component part of an environmental remediation or abandoned mine land reclamation project, a highway, or a water conservation project, unless the building will require a continuing state general fund financial obligation after the environmental remediation or abandoned mine land reclamation project is completed; or

(a)(iii) leased or to be leased by a state agency;

(3)(2) (a) “construction” includes the construction, alteration, repair, maintenance, and remodeling of a building and the equipping and furnishing of a building during construction, alteration, repair, maintenance, and remodeling;

(b) “construction” does not include work performed under an energy performance contract entered into pursuant to Title 90, chapter 4, part 11;

(4)(3) “costs” means those expenses defined in 17-5-801.”

**Section 3.** Section 18-4-132, MCA, is amended to read:

**“18-4-132. Application.** (1) This chapter applies to:

(a) the expenditure of public funds irrespective of their source, including federal assistance money, by this state acting through a governmental body under any contract, except a contract exempted from this chapter by this section or by another statute;

(b) a procurement of supplies or services that is at no cost to the state and from which income may be derived by the vendor and to a procurement of

supplies or services from which income or a more advantageous business position may be derived by the state; and

(c) the disposal of state supplies.

(2) This chapter or rules adopted pursuant to this chapter do not prevent any governmental body or political subdivision from complying with the terms and conditions of any grant, gift, bequest, or cooperative agreement.

(3) This chapter does not apply to:

(a) either grants or contracts between the state and its political subdivisions or other governments, except as provided in part 4;

(b) construction contracts;

(c) expenditures of or the authorized sale or disposal of equipment purchased with money raised by student activity fees designated for use by the student associations of the university system;

(d) contracts entered into by the Montana state lottery that have an aggregate value of less than \$250,000;

(e) contracts entered into by the state compensation insurance fund to procure insurance-related services;

(f) employment of:

(i) a registered professional engineer, surveyor, real estate appraiser, or registered architect;

(ii) a physician, dentist, pharmacist, or other medical, dental, or health care provider;

(iii) an expert witness hired for use in litigation, a hearings officer hired in rulemaking and contested case proceedings under the Montana Administrative Procedure Act, or an attorney as specified by executive order of the governor;

(iv) consulting actuaries;

(v) a private consultant employed by the student associations of the university system with money raised from student activity fees designated for use by those student associations;

(vi) a private consultant employed by the Montana state lottery;

(vii) a private investigator licensed by any jurisdiction;

(viii) a claims adjuster; or

(ix) a court reporter appointed as an independent contractor under 3-5-601;

(g) electrical energy purchase contracts by the university of Montana or Montana state university, as defined in 20-25-201. Any savings accrued by the university of Montana or Montana state university in the purchase or acquisition of energy must be retained by the board of regents of higher education for university allocation and expenditure.

(h) the purchase or commission of art for a museum or public display; or

(i) contracting under 47-1-216 of the Montana Public Defender Act; or

(j) *contracting under Title 90, chapter 4, part 11.*

(4) (a) Food products produced in Montana may be procured by either standard procurement procedures or by direct purchase. Montana-produced food products may be procured by direct purchase when:

(i) the quality of available Montana-produced food products is substantially equivalent to the quality of similar food products produced outside the state;

(ii) a vendor is able to supply Montana-produced food products in sufficient quantity; and

(iii) a bid for Montana-produced food products either does not exceed or reasonably exceeds the lowest bid or price quoted for similar food products produced outside the state. A bid reasonably exceeds the lowest bid or price quoted when, in the discretion of the person charged by law with the duty to purchase food products for a governmental body, the higher bid is reasonable and capable of being paid out of that governmental body's existing budget without any further supplemental or additional appropriation.

(b) The department shall adopt any rules necessary to administer the optional procurement exception established in this subsection (4).

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

(a) "Food" means articles normally used by humans as food or drink, including articles used for components of articles normally used by humans as food or drink.

(b) "Produced" means planted, cultivated, grown, harvested, raised, collected, processed, or manufactured."

**Section 4.** Section 90-4-1101, MCA, is amended to read:

**"90-4-1101. Legislative findings and policy.** (1) The legislature finds that:

(a) conserving energy in local government *and state agency* buildings and vehicles will have a beneficial effect on the overall supply of energy and can result in cost savings for taxpayers;

(b) conserving water can result in cost savings for taxpayers; and

(c) energy performance contracts are a means by which local government units *and state agencies* can achieve energy and water conservation without an initial capital outlay.

(2) It is the policy of the state of Montana to promote efficient use of energy and water resources in local government *and state agency* buildings and energy conservation in vehicles by authorizing local government units *and state agencies* to enter into energy performance contracts."

**Section 5.** Section 90-4-1102, MCA, is amended to read:

**"90-4-1102. Definitions.** As used in this part, the following definitions apply:

(1) "Conservation measure" means a study, audit, improvement, equipment, alternative energy system, or change in operating practices that is designed to provide energy, water, or operational cost savings at least equivalent to the amount expended by a local government unit *or state agency* for the study, audit, improvement, or equipment.

(2) "Conservation-related cost savings" means cost savings in the operating budget of a local government unit *or state agency* that are a direct result of conservation measures implemented pursuant to an energy performance contract.

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

(4) "Energy performance contract" means a contract between a local government unit *or a state agency* and a qualified provider for evaluation, recommendation, and implementation of one or more conservation measures, evaluation of conservation-related cost savings, and a guarantee of cost savings.

(5) "Investment grade energy audit" means a comprehensive building energy systems audit, performed by a professional engineer licensed in the state of Montana, for the purpose of identifying and documenting conservation measures, cost savings factors, and estimated conservation-related cost savings from the conservation measures identified.

(6) "Local government unit" means a county, an incorporated city or town, a city-county consolidated government, a school district, a special district, or a community college district.

(7) "Person" means an individual, corporation, partnership, firm, association, cooperative, limited liability company, limited liability partnership, or any other similar entity.

(8) "Qualified provider" means a person that:

(a) is experienced in the design, implementation, and installation of conservation measures and building improvement measures;

(b) has the technical capabilities to ensure that the conservation measures and building improvement measures generate conservation-related cost savings; and

(c) has the financial ability to guarantee performance.

(9) "*State agency*" has the meaning provided in 90-4-602."

**Section 6.** Section 90-4-1103, MCA, is amended to read:

**"90-4-1103. Authority to enter into energy performance contracts.**

(1) A local government unit *or a state agency* may enter into an energy performance contract with a qualified provider under the procedures provided in 90-4-1104 or 90-4-1105.

(2) Nothing in this part prevents a local government unit *or a state agency* from contracting for conservation measures under any other legal authority."

**Section 7.** Section 90-4-1104, MCA, is amended to read:

**"90-4-1104. Selection of qualified providers for energy performance contracts.** (1) A local government unit *or a state agency* may solicit submissions of qualifications to enter into an energy performance contract and proposals for investment grade energy audits. The local government unit *or the state agency* shall give at least 14 days' public notice of a request for qualifications and proposals. The notice must be published at least once a week for 2 consecutive weeks in a newspaper of general circulation in the area where the local government unit *or the state agency* intends to institute the conservation measures, and requests for proposals must be sent to at least three vendors known to be offering energy performance contracts. The notice must invite qualified providers to submit qualifications and proposals for investment grade energy audits.

(2) The local government unit *or the state agency* shall evaluate qualifications and proposals according to the following capabilities and criteria:

(a) knowledge of design, engineering, installation, maintenance, and repairs associated with energy performance contracts;

(b) experience in postinstallation project monitoring, data collection, and reporting of savings;

(c) ability to guarantee conservation savings;

(d) management capability;

(e) ability to arrange long-term financing or to integrate existing financial resources, such as utility rebates and intercap loans, into projects; and

(f) experience with projects of similar size and scope.

(3) The local government unit *or the state agency* shall negotiate a contract with the most qualified provider at a price that the local government unit *or the state agency* determines fair and reasonable, taking into account the scope of the services rendered. If the local government unit *or the state agency* is unable to negotiate a satisfactory contract with the most qualified provider, negotiations with that firm must be formally terminated and the local government unit *or the state agency* shall select the next most qualified provider until an agreement is reached or the process is terminated.”

**Section 8.** Section 90-4-1105, MCA, is amended to read:

**“90-4-1105. Alternative selection process.** The department may solicit requests for qualifications and proposals for qualified providers to offer energy performance contracts to local government units *or state agencies*. The department shall give at least 14 days’ public notice of a request for qualifications and proposals. The notice must be published at least once a week for 2 consecutive weeks in at least two major daily newspapers in Montana, posted on the department’s website, and sent to vendors known by the department to be offering energy performance contracts. The department shall evaluate the qualifications on the basis of the capabilities and criteria contained in 90-4-1104(2). The department may then select qualified providers and negotiate energy performance contract terms with each qualified provider that may be used by a local government unit *or a state agency* as the basis for its energy performance contract with that qualified provider without following the process provided in 90-4-1104.”

**Section 9.** Section 90-4-1106, MCA, is amended to read:

**“90-4-1106. Award of energy performance contracts.** (1) A local government unit *or a state agency* may select and negotiate with a qualified provider identified through the processes provided in 90-4-1104 or 90-4-1105.

(2) Upon selection of a qualified provider, the local government unit *or state agency* shall enter into a contract with the qualified provider. If this qualified provider does not employ a professional engineer licensed in the state of Montana, the qualified provider shall hire one to prepare an investment grade energy audit. The investment grade energy audit serves as the basis for the terms of an energy performance contract. The investment grade energy audit becomes the property of the local government unit *or the state agency*.

(3) If the local government unit *or the state agency* determines that the investment grade energy audit does not provide sufficient conservation-related cost savings, it shall pay the cost of the investment grade energy audit and decline to enter into the energy performance contract.

(4) If the local government unit *or the state agency* determines that the investment grade energy audit provides sufficient conservation-related cost savings, it shall notify the qualified provider. The qualified provider shall provide the local government unit *or the state agency* with plans for the proposed conservation measures that have been prepared by an engineer licensed to practice in Montana and that comply with applicable building and safety codes.

(5) Upon receipt of the information required by subsection (4), the local government unit *or the state agency* may negotiate the conservation measures to be included in the energy performance contract and enter into the energy

performance contract. The energy performance contract may include the option of payment of the costs of the investment grade energy audit and plans provided pursuant to subsection (4) through project financing.”

**Section 10.** Section 90-4-1107, MCA, is amended to read:

**“90-4-1107. Term and conditions of energy performance contracts.**

(1) The term of an energy performance contract must be a minimum of 3 years and may be up to the useful life of the conservation measures or 20 years, whichever is less.

(2) An energy performance contract must require the qualified provider to:

(a) guarantee the conservation-related cost savings to the extent necessary to pay for the conservation measures, including financing charges incurred over the life of the contract;

(b) monitor the reductions in energy consumption and the cost savings attributable to the conservation measures installed pursuant to the energy performance contract; and

(c) annually prepare and provide a report to the local government unit *or the state agency*, documenting the performance of the conservation measures.”

**Section 11.** Section 90-4-1108, MCA, is amended to read:

**“90-4-1108. Assistance to local governments and state agencies.** The department may develop model documents and provide technical assistance to local government units *and state agencies* in the procurement of energy performance contracts and related services.”

**Section 12.** Section 90-4-1109, MCA, is amended to read:

**“90-4-1109. Contracts and agreements not general obligation of local government unit or state.** Payment obligations of a local government unit *or a state agency* pursuant to an energy performance contract are not general obligations of the local government unit *or the state* and are collectible only from conservation-related cost savings provided in the energy performance contract and other revenue, if any, pledged in the energy performance contract.”

**Section 13. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 18, chapter 2, part 3, and the provisions of Title 18, chapter 2, part 3, apply to [section 1].

**Section 14. Effective date.** [This act] is effective on passage and approval.

Approved May 5, 2009

## CHAPTER NO. 440

[HB 135]

AN ACT 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.

WHEREAS, it is the policy of the state to seek negotiated settlements of federal and Indian reserved water rights claims in Montana under Title 85, chapter 2, part 7, MCA; and

WHEREAS, pursuant to this policy, the State of Montana entered into a water rights compact with the Fort Belknap Indian Community of the Fort Belknap Reservation, which was ratified by the Legislature in 2001 and is codified at 85-20-1001; and

WHEREAS, the compact contains provisions requiring state and federal cost sharing; and

WHEREAS, under the cost-sharing provisions of the compact, the state has agreed to contribute \$5 million to the Fort Belknap Tribes for the construction of a dam and reservoir on Peoples Creek; and

WHEREAS, the state anticipates that the planning, design, and construction of the reservoir on Peoples Creek may commence in the 2011 biennium.

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

**Section 1.** Section 85-20-1004, MCA, is amended to read:

**“85-20-1004. Mitigation account.** (1) A private purpose trust account, called the mitigation account, is established, as provided for in 17-2-102, for deposit of funds and interest on funds appropriated by the state for mitigation measures required by Article VI of the compact.

(2) On approval of a final decree pursuant to Article VII of the compact, the funds and interest on funds in the mitigation account must be made available to the ~~United States bureau of reclamation~~ *department of natural resources and conservation* to cover the state’s cost-share for construction of mitigation measures chosen on completion of a feasibility study and appropriate state and federal environmental review ~~by the bureau of reclamation~~ and on consideration of the economic development plan authorized by 85-20-1008.”

**Section 2. General fund transfer.** There is transferred for the 2011 biennium \$1 million from the general fund to the Peoples Creek minimum flow account established in 85-20-1007.

**Section 3. Appropriation.** There is appropriated to the department of natural resources and conservation from the Peoples Creek minimum flow account established in 85-20-1007 \$1 million for the purposes of and subject to 85-20-1007.

**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 July 1, 2009.

Approved May 5, 2009

## CHAPTER NO. 441

[HB 154]

AN ACT 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.

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

**Section 1.** Section 17-7-502, MCA, is amended to read:

**“17-7-502. Statutory appropriations — definition — requisites for validity.** (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-407; 5-13-403; 7-4-2502; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-23-706; 15-31-906; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-369; 15-70-601; 16-11-509; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-4-105; 23-4-202; 23-4-204; 23-4-302; 23-4-304; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 41-5-2011; 42-2-105; 44-1-504; 44-12-206; 44-13-102; 50-4-623; 53-1-109; 53-6-703; 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; ~~76-13-150~~; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161; 87-1-513; 90-1-115; 90-1-205; 90-3-1003; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to 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 have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 3 and 6, Ch. 481, L. 2003, the inclusion of 15-35-108 terminates June 30, 2010; pursuant to sec. 17, Ch. 593, L. 2005, the inclusion of 15-31-906 terminates January 1, 2010; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; and pursuant to sec. 6, Ch. 2, Sp. L. September 2007, the inclusion of 76-13-150 terminates June 30, 2009.)”

**Section 2.** Section 76-13-150, MCA, is amended to read:

**“76-13-150. (Temporary) Fire suppression account — fund transfer.**

(1) There is a fire suppression account in the state special revenue fund to the credit of the department.

(2) ~~The department of administration shall transfer from the state general fund to the account the amount necessary to achieve a \$40 million fund balance.~~



The transfer must be made at the beginning of each fiscal year. The legislature may transfer money from other funds to the account.

(3) Funds received for restitution by private parties must be deposited in the account.

(4) Money in the account may be used only for the purpose of paying *expenses for fire prevention, including fuel mitigation, grants for the purchase of fire suppression equipment for county cooperatives, and fire suppression costs.*

~~(5) Beginning July 1, 2008, the money in the account is statutorily appropriated, as provided in 17-7-502, to the department for use as provided in this section.~~

~~(6)(5) Interest earned on the balance of the account is retained in the account. (Terminates June 30, 2009—sec. 6, Ch. 2, Sp. L. September 2007.)~~

**Section 3. Authorization to pay unpaid fire costs from appropriation for fire prevention and suppression.** (1) Funds in the fire suppression account may be used to pay unpaid fire suppression costs incurred by the state in fiscal year 2008.

(2) (a) Subject to subsection (2)(b), there is appropriated to the department of natural resources and conservation up to \$30 million for the 2011 biennium from the fire suppression account in the state special revenue fund to be used for the purposes described in 76-13-150.

(b) If at least \$15 million of the money remains unspent and unencumbered in the account on May 1, 2010, the department may spend no more than \$2 million of the amount appropriated in subsection (2)(a) on fire prevention, fuel mitigation projects, and grants for the purchase of fire suppression equipment for county cooperatives.

**Section 4. Repealer.** Section 6, Chapter 2, Special Laws of September 2007, is repealed.

**Section 5. Effective date.** [This act] is effective on passage and approval.

Approved May 5, 2009

## CHAPTER NO. 442

[HB 194]

AN ACT 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.

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

**Section 1.** Section 17-7-502, MCA, is amended to read:

**“17-7-502. Statutory appropriations — definition — requisites for validity.** (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-407; 5-13-403; 7-4-2502; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-23-706; 15-31-906; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-369; 15-70-601; 16-11-509; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-4-105; 23-4-202; 23-4-204; 23-4-302; 23-4-304; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 41-5-2011; 42-2-105; 44-1-504; 44-12-206; 44-13-102; 50-4-623; 53-1-109; 53-6-703; 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-150; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161; 87-1-513; 90-1-115; 90-1-205; 90-3-1003; 90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to 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 have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 3 and 6, Ch. 481, L. 2003, the inclusion of 15-35-108 terminates June 30, 2010; pursuant to sec. 17, Ch. 593, L. 2005, the inclusion of 15-31-906 terminates January 1, 2010; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; and pursuant to sec. 6, Ch. 2, Sp. L. September 2007, the inclusion of 76-13-150 terminates June 30, 2009.)"

**Section 2.** Section 90-6-304, MCA, is amended to read:

**"90-6-304. Accounts established.** (1) There is within the state agency fund type a hard-rock mining impact account. Money is payable into this account from payments made by a mining developer in compliance with the written guarantee from the developer to meet the increased costs of public services and facilities as specified in the impact plan provided for in 90-6-307. The state treasurer shall draw warrants from this account upon order of the board.

(2) There is within the state special revenue fund a hard-rock mining impact trust account. Within this trust account, there is established a reserve amount not to exceed \$100,000.

(a) Money within the hard-rock mining impact trust account may be used:

(i) for the administrative and operating expenses of the board, as provided by 90-6-303(4);

(ii) to establish and maintain the reserve amount; and

(iii) for distribution to the counties of origin, as provided by 90-6-331 and this section.

(b) Money within the hard-rock mining impact trust account may be used for the administrative and operating expenses of the board if:

(i) the revenue provided under 15-37-117(1)(b) is less than the amount appropriated for the administrative and operating expenses of the board; or

(ii) the use of the reserve amount of revenue is necessary to allow the board to meet its quasi-judicial responsibilities under 90-6-307, 90-6-311, or 90-6-403(3).

(3) Money is payable into the hard-rock mining impact trust account under the provisions of 15-37-117. After first deducting the administrative and operating expenses of the board, as provided in 90-6-303, and then establishing and maintaining the reserve amount of \$100,000, as provided in subsection (2) of this section, the remaining money must be segregated within the account by county of origin. ~~The state treasurer shall draw warrants from this account upon order of the board.~~

**Section 3.** Section 90-6-331, MCA, is amended to read:

**“90-6-331. Fund transfer Payment to counties — statutory appropriation.** Prior to each October 31, all money segregated by county in the hard-rock mining impact trust account following allocation to the hard-rock mining impact trust account established in 90-6-304(2) as of *the immediately preceding* September 30 ~~immediately preceding~~ must be ~~transferred paid to~~ the county for which the funds have been held in deposit. *The payments to the counties are statutorily appropriated as provided in 17-7-502.* The funds ~~transferred received by the county~~ must be deposited in the county hard-rock mine trust account established in 7-6-2225.”

**Section 4. Effective date.** [This act] is effective July 1, 2009.

**Section 5. Termination.** [This act] terminates June 30, 2019.

Approved May 5, 2009

## CHAPTER NO. 443

[HB 301]

AN ACT 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.

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

**Section 1. Paralegal fees as component of attorney fees.** In any case or proceeding in which attorney fees are awarded to the prevailing party, the court may, as a component of the attorney fees, include reasonable fees of a paralegal, as defined in [section 2].

**Section 2. Paralegal defined — use of title.** (1) As used in [section 1] and this section, “paralegal” means a person qualified through education, training, or work experience who is employed or retained to perform, under supervision by a licensed attorney, substantive legal work that:

(a) requires a substantial knowledge of legal concepts; and

(b) in the absence of the paralegal, would be performed by an attorney.

(2) An individual may use the title “paralegal” if the individual:

(a) has received an associate’s degree in paralegal studies from an accredited institution or a baccalaureate degree in paralegal studies from an accredited college or university;

(b) has received a baccalaureate degree in any discipline from an accredited college or university and has completed not less than 18 semester credits of course work offered by a qualified paralegal studies program;

(c) has received certification by the national association of legal assistants or the national federation of paralegal associations;

(d) has received a high school diploma or its equivalent, has performed not less than 4,800 hours of substantive legal work under the supervision of a licensed attorney documented by the certification of the attorney or attorneys under whom the work was done, and has completed at least 5 hours of approved continuing legal education in the area of legal ethics and professional responsibility; or

(e) has graduated from an accredited law school and has not been disbarred or suspended from the practice of law by any jurisdiction.

(3) A person may not practice as a paralegal except under the supervision of a licensed attorney and is prohibited from engaging in the unauthorized practice of law.

**Section 3.** Section 25-10-302, MCA, is amended to read:

**“25-10-302. Inclusion of attorney’s fees in bill of costs.** The attorney fees mentioned in 25-10-303, 30-9A-607, 71-1-233, and 71-3-124 *and paralegal fees as a component of attorney fees as provided in [section 1]* need not be included in the cost bill if they are made a part of the judgment.”

**Section 4.** Section 37-61-215, MCA, is amended to read:

**“37-61-215. Allowance of attorneys’ attorney fees to unlicensed persons forbidden — authorized paralegal fees.** (1) ~~It shall be~~ *is* unlawful for any court within this state to allow ~~attorneys’ attorney fees~~ *attorney fees* in any action or proceeding before ~~said the~~ *the* court in which ~~attorneys’ attorney fees~~ *attorney fees* are allowed by law to either party to ~~such an~~ *an* action or proceeding when ~~such the~~ *the* party is represented by anyone other than a duly admitted or licensed attorney at law.

(2) *This section does not prevent the award of paralegal fees as a component of attorney fees as provided in [section 1].”*

**Section 5. Codification instruction.** [Sections 1 and 2] are intended to be codified as an integral part of Title 25, chapter 10, part 3, and the provisions of Title 25, chapter 10, apply to [sections 1 and 2].

**Section 6. 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 7. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

**Section 8. Applicability.** [This act] applies to actions and proceedings filed on or after [the effective date of this act].

Approved May 5, 2009

## CHAPTER NO. 444

[HB 332]

AN ACT 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.

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

**Section 1.** Section 20-3-322, MCA, is amended to read:

**“20-3-322. Meetings and quorum.** (1) The trustees of a district shall hold at least the following number of regular meetings:

(a) an organization meeting, as prescribed by 20-3-321;

(b) a final budget meeting, as prescribed by 20-9-131; and

(c) (i) in first-class elementary districts, not less than one regular meeting each month; or

(d)(ii) in any other district, regular meetings at least quarterly.

(2) (a) The trustees of the district shall adopt a policy setting the day and time for the minimum number of regular school meetings prescribed in subsection (1)(c)(i) or ~~(1)(d)~~ (1)(c)(ii) and, in addition, any other regular meeting days the trustees wish to establish. Except for an unforeseen emergency *or as provided in subsection (2)(b)*, meetings must be conducted in school buildings or, upon the unanimous vote of the trustees, in a publicly accessible building located within the district.

(b) *This section does not prohibit the trustees from meeting outside the boundaries of the school district for collaboration or cooperation on educational issues with other school boards, educational agencies, or cooperatives. Adequate notice of the meeting as well as an agenda must be provided to the public in advance. Decisionmaking may only occur at a properly noticed meeting held within the school district’s boundaries.*

(3) Special meetings of the trustees may be called by the presiding officer or any two members of the trustees by giving each member a 48-hour written notice of the meeting, except that the 48-hour notice is waived in an unforeseen emergency *or to consider a violation of the student code of conduct, as defined in accordance with district policy, within a week of graduation.*

(4) Business may not be transacted by the trustees of a district unless it is transacted at a regular meeting or a properly called special meeting. A quorum for any meeting is a majority of the trustees’ membership. All trustee meetings must be public meetings, as prescribed by 2-3-201, except that the trustees may recess to an executive session under the provisions of 2-3-203.

(5) For the purposes of ~~subsection (3)~~ *this section*, “unforeseen emergency” means a storm, fire, explosion, community disaster, insurrection, act of God, or other unforeseen destruction or impairment of school district property that affects the health and safety of the trustees, students, or district employees or the educational functions of the district.”

**Section 2.** Section 20-5-201, MCA, is amended to read:

**“20-5-201. Duties and sanctions.** (1) A pupil shall:

(a) *shall* comply with the policies of the trustees and the rules of the school that the pupil attends;

(b) *shall* pursue the required course of instruction;

(c) *shall* submit to the authority of the teachers, principal, and district superintendent of the district; and

(d) ~~be is~~ subject to the control and authority of the teachers, principal, and district superintendent while the pupil is in school or on school premises, on the way to and from school, or during intermission or recess.

(2) A pupil who ~~continually and willfully~~ disobeys the provisions of this section, shows open defiance of the authority vested in school personnel by this section, defaces or damages any school building, school grounds, furniture, equipment, book belonging to the district, ~~or~~ harms or threatens to harm another person or the person's property, *or otherwise violates district policy regarding pupil conduct* is ~~liable for~~ *subject to* punishment, suspension, or expulsion under the provisions of this title. When a pupil defaces or damages school property, the pupil's parent or guardian is liable for the cost of repair or replacement upon the complaint of the teacher, principal, superintendent, or any trustee and the proof of any damage.

(3) In addition to the sanctions prescribed in this section, ~~the trustees of the trustees of~~ a high school district may deny a high school pupil the honor of participating in the graduation exercise or exclude a high school pupil from participating in school activities. The ~~trustees~~ *trustees* may not take action under this subsection until the incident or infraction causing the consideration has been investigated and the ~~trustees~~ *trustees have* determined that the high school pupil was involved in the incident or infraction.

(4) (a) A school district may withhold the grades, diploma, or transcripts of a pupil who is responsible for the cost of school materials or the loss or damage of school property until the pupil or the pupil's parent or guardian satisfies the obligation.

(b) A school district that decides to withhold a pupil's grades, diploma, or transcripts from the pupil and the pupil's parent or guardian pursuant to subsection (4)(a) shall:

(i) upon receiving notice that the pupil has transferred to another school district in the state, notify the pupil's parent or guardian in writing that the school district to which the pupil has transferred will be requested to withhold the pupil's grades, diploma, or transcripts until any obligation has been satisfied;

(ii) forward appropriate grades or transcripts to the school to which the pupil has transferred;

(iii) at the same time, notify the school district of any financial obligation of the pupil and request the withholding of the pupil's grades, diploma, or transcripts until any obligations are met;

(iv) when the pupil or the pupil's parent or guardian satisfies the obligation, inform the school district to which the pupil has transferred; and

(v) adopt a policy regarding a process for a pupil or the pupil's parent or guardian to appeal the school district's decision to request that another school district withhold a pupil's grades, diploma, or transcripts.

(c) Upon receiving notice that a school district has requested the withholding of the grades, diploma, or transcripts of a pupil under this

subsection (4), a school district to which the pupil has transferred shall withhold the grades, diploma, or transcripts of the pupil until it receives notice; from the district that initiated the decision; that the decision has been rescinded under the terms of subsection (4)(a).”

**Section 3.** Section 20-5-202, MCA, is amended to read:

**“20-5-202. Suspension and expulsion.** (1) As provided in 20-4-302, 20-4-402, and 20-4-403, a pupil may be suspended by a teacher, superintendent, or principal. The trustees of the district shall adopt a policy defining the authority and procedure to be used by a teacher, superintendent, or principal in ~~suspending~~ *the suspension* of a pupil and *in* defining the circumstances and procedures by which the trustees may expel a pupil. Expulsion is *any removal of a pupil for more than 20 school days without the provision of educational services and is* a disciplinary action available only to the trustees. *A pupil may be suspended from school for an initial period not to exceed 10 school days. Upon a finding by a school administrator that the immediate return to school by a pupil would be detrimental to the health, welfare, or safety of others or would be disruptive of the educational process, a pupil may be suspended for one additional period not to exceed 10 school days if the pupil is granted an informal hearing with the school administrator prior to the additional suspension and if the decision to impose the additional suspension does not violate the Individuals With Disabilities Education Act, 20 U.S.C. 1400, et seq.*

(2) The trustees of a district shall adopt a policy for the expulsion of a student who is determined to have brought a firearm, as defined in 18 U.S.C. 921, to school and for referring the matter to the appropriate local law enforcement agency. A student who is determined to have brought a firearm to school under this subsection must be expelled from school for a period of not less than 1 year, except that the trustees may authorize the school administration to modify the requirement for expulsion of a student on a case-by-case basis. A decision to change the placement of a student with a disability who has been expelled pursuant to this section must be made in accordance with the Individuals With Disabilities Education Act.

(3) In accordance with 20-4-302, 20-4-402, 20-4-403, and subsection (1) of this section, a teacher, a superintendent, or a principal shall suspend immediately for good cause a student who is determined to have brought a firearm to school.

(4) Nothing in this section prevents a school district from:

(a) offering instructional activities related to firearms or allowing a firearm to be brought to school for instructional activities sanctioned by the district; or

(b) providing educational services in an alternative setting to a student who has been expelled from the student’s regular school setting.”

Approved May 5, 2009

## CHAPTER NO. 445

[HB 483]

AN ACT 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.

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

**Section 1. Energy development project — hearing and procedures.**

(1) (a) When the department approves or denies the application for a permit under 75-2-211 for an energy development project, the applicant or a person who has provided the department with formal comments and who is directly and adversely affected by the department's decision may request a hearing before the board. If the department provided an opportunity for public comment on the application, the request for a hearing must be limited to those issues raised in comments made to the department during the comment period unless the issues are related to a material change in federal or state law made during the comment period, to a judicial decision issued after the comment period, or to a material change to the draft permit, which was submitted for public comment, made by the department in the final permit decision and upon which the public did not have a meaningful opportunity to comment. The request for hearing must be filed within 30 days after the department renders its decision. An affidavit setting forth the grounds for the request must be filed with the request for a hearing.

(b) (i) If a hearing is requested by a person other than the applicant for or permittee of an energy development project, the applicant or permittee may, by filing a written election with the board within 15 days of receipt of the request for hearing, elect to have the matter proceed to hearing before the board or to have the matter submitted directly to the district court for judicial review of the agency decision. The party who requests the hearing may elect to have the matter submitted either to the board for a hearing or to the district court for judicial review by submitting a written election to the board with the request for hearing. If there are conflicting elections between the parties, the matter must proceed to district court.

(ii) If the applicant or permittee is not the person who requested the hearing and has elected to have the matter submitted to the district court, the person who submitted the request for a hearing shall file a petition for review of the permit decision within 15 days of receipt of notice from the permittee. If the person who requested the hearing has elected to have the matter proceed to district court, that person shall file a petition in district court within 15 days of filing the request.

(iii) The petition must be limited to matters raised in the request for hearing and must be filed in the county in which the facility is located.

(iv) If a party does not elect to submit the matter directly to district court, the matter must proceed through the contested case process before the board pursuant to the Montana Administrative Procedure Act.

(v) The board or the district court shall apply the laws and rules in place when the department issued its decision, and the board or the district court may not consider any issue that was not presented to the department for the



department's consideration during the formal comment period unless the issue is related to a material change in federal or state law made during the comment period, to a judicial decision issued after the comment period or to a material change to the draft permit, which was submitted for public comment, made by the department in the final permit decision and upon which the public did not have a meaningful opportunity to comment.

(c) (i) Except as provided in subsection (1)(c)(ii), if the person requesting the hearing is not the applicant or permittee of an energy development project, the board or the district court shall require a written undertaking to be given by the party requesting the hearing for the payment of costs and damages incurred by the permit applicant and its employees if the request for a hearing or judicial review was for an improper purpose designed to harass, cause unnecessary delay, or improperly interfere with the issuance of the permit without a reasonable basis in law or fact.

(ii) The board or the district court may not require a written undertaking if the party requesting the hearing is an indigent person.

(d) If grounds for requesting the hearing are based on alleged error in applying best available control technology requirements, the board or the district court shall give deference to the best available control technology determination made by the department. The board or the district court may not reject the best available control technology determination unless the determination was incorrect as a matter of law or the factual basis for the determination was clearly erroneous.

(2) The board shall issue a final decision within 4 months from the close of the hearing on the merits or, if no hearing is held, within 3 months from the date that briefing by the parties is complete unless the applicant or permittee and the party other than the applicant or permittee agree in writing to an extension of time. The board shall require the parties to prepare the case for hearing without unreasonable delay.

(3) (a) Any requirement in a permit to commence construction, installation, or alteration within a certain time period is tolled during a contested case or judicial review proceeding, but not by more than 12 months, unless the applicant or permittee in its discretion waives the tolling in writing.

(b) If there are multiple appeals of one permit, tolling under this subsection (3) may not exceed a total of 12 months for all appeals.

(c) The applicant may not engage in construction during the period that the time period is tolled under subsection (3)(a).

(4) The department shall, for good cause shown, waive for up to 1 year any requirement that construction of an energy development project must proceed with due diligence. During the period that a waiver is in effect, an air quality permit does not expire because construction of an energy development project failed to proceed with due diligence.

**Section 2.** Section 2-4-623, MCA, is amended to read:

**“2-4-623. Final orders — notification — availability.** (1) (a) A final decision or order adverse to a party in a contested case must be in writing. A final decision must include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, must be accompanied by a concise and explicit statement of the underlying facts supporting the findings. *Except as provided in [section 1] and 75-20-223, a final decision must be issued within 90 days after a contested case is considered to be submitted for a final*

decision unless, for good cause shown, the period is extended for an additional time not to exceed 30 days.

(b) If an agency intends to issue a final written decision in a contested case that grants or denies relief and the relief that is granted or denied differs materially from a final agency decision that was orally announced on the record, the agency may not issue the final written decision without first providing notice to the parties and an opportunity to be heard before the agency.

(2) Findings of fact must be based exclusively on the evidence and on matters officially noticed.

(3) Each conclusion of law must be supported by authority or by a reasoned opinion.

(4) If, in accordance with agency rules, a party submitted proposed findings of fact, the decision must include a ruling upon each proposed finding.

(5) Parties must be notified by mail of any decision or order. Upon request, a copy of the decision or order must be delivered or mailed in a timely manner to each party and to each party's attorney of record.

(6) Each agency shall index and make available for public inspection all final decisions and orders, including declaratory rulings under 2-4-501. An agency decision or order is not valid or effective against any person or party, and it may not be invoked by the agency for any purpose until it has been made available for public inspection as required in this section. This provision is not applicable in favor of any person or party who has actual knowledge of the decision or order or when a state statute or federal statute or regulation prohibits public disclosure of the contents of a decision or order."

**Section 3.** Section 2-4-702, MCA, is amended to read:

**"2-4-702. Initiating judicial review of contested cases.** (1) (a) *Except as provided in [section 1] and 75-20-223, a person who has exhausted all administrative remedies available within the agency and who is aggrieved by a final written decision in a contested case is entitled to judicial review under this chapter. This section does not limit use of or the scope of judicial review available under other means of review, redress, relief, or trial de novo provided by statute.*

(b) A party who proceeds before an agency under the terms of a particular statute may not be precluded from questioning the validity of that statute on judicial review, but the party may not raise any other question not raised before the agency unless it is shown to the satisfaction of the court that there was good cause for failure to raise the question before the agency.

(2) (a) *Except as provided in [section 1], 75-2-211, and subsection (2)(c) of this section, proceedings for review must be instituted by filing a petition in district court within 30 days after service of the final written decision of the agency or, if a rehearing is requested, within 30 days after the written decision is rendered. Except as otherwise provided by statute or subsection (2)(d), the petition must be filed in the district court for the county where the petitioner resides or has the petitioner's principal place of business or where the agency maintains its principal office. Copies of the petition must be promptly served upon the agency and all parties of record.*

(b) The petition must include a concise statement of the facts upon which jurisdiction and venue are based, a statement of the manner in which the petitioner is aggrieved, and the ground or grounds specified in 2-4-704(2) upon which the petitioner contends to be entitled to relief. The petition must demand

the relief to which the petitioner believes the petitioner is entitled, and the demand for relief may be in the alternative.

(c) If a petition for review is filed pursuant to 33-16-1012(2)(c), the workers' compensation court, rather than the district court, has jurisdiction and the provisions of this part apply to the workers' compensation court in the same manner as the provisions of this part apply to the district court.

(d) If a petition for review is filed challenging a licensing or permitting decision made pursuant to Title 75 or Title 82, the petition for review must be filed in the county where the facility is located or proposed to be located or where the action is proposed to occur.

(3) Unless otherwise provided by statute, the filing of the petition may not stay enforcement of the agency's decision. The agency may grant or the reviewing court may order a stay upon terms that it considers proper, following notice to the affected parties and an opportunity for hearing. A stay may be issued without notice only if the provisions of 27-19-315 through 27-19-317 are met.

(4) Within 30 days after the service of the petition or within further time allowed by the court, the agency shall transmit to the reviewing court the original or a certified copy of the entire record of the proceeding under review. By stipulation of all parties to the review proceedings, the record may be shortened. A party unreasonably refusing to stipulate to limit the record may be required by the court to pay the additional costs. The court may require or permit subsequent corrections or additions to the record."

**Section 4.** Section 75-2-103, MCA, is amended to read:

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

(1) "Advisory council" means the air pollution control advisory council provided for in 2-15-2106.

(2) "Air contaminant" means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substances, or any combination thereof.

(3) "Air pollutants" means one or more air contaminants that are present in the outdoor atmosphere, including those pollutants regulated pursuant to section 7412 and Subchapter V of the federal Clean Air Act, 42 U.S.C. 7401, et seq.

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

(5) "*Associated supporting infrastructure*" means:

(a) *electric transmission and distribution facilities;*

(b) *pipeline facilities;*

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

(d) *rail transportation;*

(e) *aqueducts and diversion dams;*

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

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

~~(5)~~(6) "Board" means the board of environmental review provided for in 2-15-3502.

~~(6)~~(7) (a) "Commercial hazardous waste incinerator" means:

- (i) an incinerator that burns hazardous waste; or
- (ii) a boiler or industrial furnace subject to the provisions of 75-10-406.

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

~~(7)~~(8) "Department" means the department of environmental quality provided for in 2-15-3501.

~~(8)~~(9) "Emission" means a release into the outdoor atmosphere of air contaminants.

~~(10)~~ (a) "Energy development project" means each plant, unit, or other development and associated developments, including any associated supporting infrastructure, designed for or capable of:

- (i) generating electricity;
- (ii) producing gas derived from coal;
- (iii) producing liquid hydrocarbon products;
- (iv) refining crude oil or natural gas;
- (v) producing alcohol to be blended for ethanol-blended gasoline and that are eligible for a tax incentive pursuant to Title 15, chapter 70, part 5;
- (vi) producing biodiesel and that are eligible for a tax incentive for the production of biodiesel pursuant to 15-32-701; or
- (vii) transmitting electricity through an electric transmission line with a design capacity of equal to or greater than 50 kilovolts.

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

~~(9)~~(11) "Environmental protection law" means a law contained in or an administrative rule adopted pursuant to Title 75, chapter 2, 5, 10, or 11.

~~(10)~~(12) "Hazardous waste" means:

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

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

~~(11)~~(13) (a) "Incinerator" means any single- or multiple-chambered combustion device that burns combustible material, alone or with a supplemental fuel or with catalytic combustion assistance, primarily for the purpose of removal, destruction, disposal, or volume reduction of any portion of the input material.

(b) Incinerator does not include:

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

(ii) space heaters that burn used oil;

(iii) wood-fired boilers; or

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

~~(12)~~(14) "Medical waste" means any waste that is generated in the diagnosis, treatment, or immunization of human beings or animals, in medical research on humans or animals, or in the production or testing of biologicals. The term includes:

- (a) cultures and stocks of infectious agents;
- (b) human pathological wastes;
- (c) waste human blood or products of human blood;
- (d) sharps;

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

(f) laboratory wastes and wastes from autopsy or surgery that were in contact with infectious agents; and

(g) biological waste and discarded material contaminated with blood, excretion, exudates, or secretions from humans or animals.

~~(13)~~(15) (a) "Oil or gas well facility" means a well that produces oil or natural gas. The term includes:

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

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

(b) The equipment referred to in subsection ~~(13)~~(a) (15)(a) includes but is not limited to wellhead assemblies, amine units, prime mover engines, phase separators, heater treater units, dehydrator units, tanks, and connecting tubing.

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

~~(14)~~(16) "Person" means an individual, a partnership, a firm, an association, a municipality, a public or private corporation, the state or a subdivision or agency of the state, a trust, an estate, an interstate body, the federal government or an agency of the federal government, or any other legal entity and includes persons resident in Canada.

~~(15)~~(17) "Principal" means a principal of a corporation, including but not limited to a partner, associate, officer, parent corporation, or subsidiary corporation.

~~(16)~~(18) "Small business stationary source" means a stationary source that:

- (a) is owned or operated by a person who employs 100 or fewer individuals;
- (b) is a small business concern as defined in the Small Business Act, 15 U.S.C. 631, et seq.;
- (c) is not a major stationary source as defined in Subchapter V of the federal Clean Air Act, 42 U.S.C. 7661, et seq.;
- (d) emits less than 50 tons per year of an air pollutant;

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

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

~~(17)~~(19) (a) "Solid waste" means all putrescible and nonputrescible solid, semisolid, liquid, or gaseous wastes, including but not limited to garbage; rubbish; refuse; ashes; swill; food wastes; commercial or industrial wastes; medical waste; sludge from sewage treatment plants, water supply treatment plants, or air pollution control facilities; construction, demolition, or salvage wastes; dead animals, dead animal parts, offal, animal droppings, or litter; discarded home and industrial appliances; automobile bodies, tires, interiors, or parts thereof; wood products or wood byproducts and inert materials; styrofoam and other plastics; rubber materials; asphalt shingles; tarpaper; electrical equipment, transformers, or insulated wire; oil or petroleum products or oil or petroleum products and inert materials; treated lumber and timbers; and pathogenic or infectious waste.

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

**Section 5.** 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, 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, 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~~ *Except as provided in [section 1],* when the department approves or denies the application for a permit under this section, a person who is jointly



~~or severally~~ *directly and* 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) *Except as provided in [section 1]:*

(a) ~~The~~ *the* department's decision on the application is not final until 15 days have elapsed from the date of the decision;

(b) ~~The~~ *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~~ *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;

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

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

(1) *“Associated supporting infrastructure” means:*

(a) *electric transmission and distribution facilities;*

(b) *pipeline facilities;*

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

(d) *rail transportation;*

(e) *aqueducts and diversion dams;*

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

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

(1)(2) *“Board” means the board of environmental review provided for in 2-15-3502.*

(2)(3) *“Contamination” means impairment of the quality of state waters by sewage, industrial wastes, or other wastes, creating a hazard to human health.*

(3)(4) *“Council” means the water pollution control advisory council provided for in 2-15-2107.*

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

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

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

(6)(7) *“Department” means the department of environmental quality provided for in 2-15-3501.*

(7)(8) *“Disposal system” means a system for disposing of sewage, industrial, or other wastes and includes sewage systems and treatment works.*

(8)(9) *“Effluent standard” means a restriction or prohibition on quantities, rates, and concentrations of chemical, physical, biological, and other constituents that are discharged into state waters.*

(10) (a) *“Energy development project” means each plant, unit, or other development and associated developments, including any associated supporting infrastructure, designed for or capable of:*

(i) *generating electricity;*

(ii) *producing gas derived from coal;*

(iii) *producing liquid hydrocarbon products;*

(iv) *refining crude oil or natural gas;*

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

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

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

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

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

(10)(12) "High-quality waters" means all state waters, except:

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

(b) surface waters that:

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

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

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

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

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

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

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

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

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

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

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

(20)(22) "Outstanding resource waters" means:

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

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

~~(21)~~(23) "Owner or operator" means a person who owns, leases, operates, controls, or supervises a point source.

~~(22)~~(24) "Parameter" means a physical, biological, or chemical property of state water when a value of that property affects the quality of the state water.

~~(23)~~(25) "Person" means the state, a political subdivision of the state, institution, firm, corporation, partnership, individual, or other entity and includes persons resident in Canada.

~~(24)~~(26) "Point source" means a discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, or vessel or other floating craft, from which pollutants are or may be discharged.

~~(25)~~(27) (a) "Pollution" means:

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

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

(b) A discharge, seepage, drainage, infiltration, or flow that is authorized under the pollution discharge permit rules of the board is not pollution under this chapter. Activities conducted under the conditions imposed by the department in short-term authorizations pursuant to 75-5-308 are not considered pollution under this chapter.

~~(26)~~(28) "Sewage" means water-carried waste products from residences, public buildings, institutions, or other buildings, including discharge from human beings or animals, together with ground water infiltration and surface water present.

~~(27)~~(29) "Sewage system" means a device for collecting or conducting sewage, industrial wastes, or other wastes to an ultimate disposal point.

~~(28)~~(30) "Standard of performance" means a standard adopted by the board for the control of the discharge of pollutants that reflects the greatest degree of effluent reduction achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, when practicable, a standard permitting no discharge of pollutants.

~~(29)~~(31) (a) "State waters" means a body of water, irrigation system, or drainage system, either surface or underground.

(b) The term does not apply to:

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

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

~~(30)~~(32) "Sufficient credible data" means chemical, physical, or biological monitoring data, alone or in combination with narrative information, that supports a finding as to whether a water body is achieving compliance with applicable water quality standards.

~~(31)~~(33) "Threatened water body" means a water body or stream segment for which sufficient credible data and calculated increases in loads show that the water body or stream segment is fully supporting its designated uses but threatened for a particular designated use because of:

(a) proposed sources that are not subject to pollution prevention or control actions required by a discharge permit, the nondegradation provisions, or reasonable land, soil, and water conservation practices; or

(b) documented adverse pollution trends.

~~(32)~~(34) "Total maximum daily load" or "TMDL" means the sum of the individual waste load allocations for point sources and load allocations for both nonpoint sources and natural background sources established at a level necessary to achieve compliance with applicable surface water quality standards.

~~(33)~~(35) "Treatment works" means works, including sewage lagoons, installed for treating or holding sewage, industrial wastes, or other wastes.

~~(34)~~(36) "Waste load allocation" means the portion of a receiving water's loading capacity that is allocated to one of its existing or future point sources.

~~(35)~~(37) "Water quality protection practices" means those activities, prohibitions, maintenance procedures, or other management practices applied to point and nonpoint sources designed to protect, maintain, and improve the quality of state waters. Water quality protection practices include but are not limited to treatment requirements, standards of performance, effluent standards, and operating procedures and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from material storage.

~~(36)~~(38) "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.

~~(37)~~(39) "Watershed advisory group" means a group of individuals who wish to participate in an advisory capacity in revising and reprioritizing the list of water bodies developed under 75-5-702 and in the development of TMDLs under 75-5-703, including those groups or individuals requested by the department to participate in an advisory capacity as provided in 75-5-704."

**Section 7. Written undertaking.** (1) Except as provided in subsection (2), if the person requesting a hearing under 75-5-611 is not the applicant or permittee of an energy development project, the district court shall require a written undertaking to be given by the party requesting the hearing for the payment of costs and damages incurred by the applicant or permittee if the request for judicial review was for an improper purpose designed to harass, cause unnecessary delay, or improperly interfere with the issuance of the permit without a reasonable basis in law or fact.

(2) The district court may not require a written undertaking if the party requesting the hearing is an indigent person.

**Section 8.** Section 75-20-223, MCA, is amended to read:

**"75-20-223. Board review of department decisions.** (1) (a) A person aggrieved by the final decision of the department on an application for a

certificate or the issuance of an air or water quality decision, opinion, order, certification, or permit under this chapter may within 30 days appeal the decision to the board ~~under the contested case procedures of Title 2, chapter 4, part 6.~~ *Except as provided in this section, the contested case provisions of the Montana Administrative Procedure Act, Title 2, chapter 4, part 6, apply to a hearing before the board.*

*(b) If the department provided an opportunity for public comment on the application, the request for a hearing must be limited to those issues the party has raised in comments made to the department during the comment period, unless the issues are related to a material change in law made during the comment period, to a judicial decision issued after the comment period, or to a material change to the draft permit, which was submitted for public comment, made by the department in the final permit decision and upon which the public did not have a meaningful opportunity to comment. The request for hearing must be filed within 30 days after the department renders its decision. An affidavit setting forth the grounds for the request must be filed with the request for a hearing.*

*(c) If a hearing is requested by a person other than the applicant or permittee, the applicant or permittee may, by filing a written election with the board, within 15 days of receipt of the request for hearing, elect to have the matter proceed to hearing before the board or to have the matter submitted directly to the district court for judicial review of the agency decision. The party who requests the hearing may elect to have the matter submitted either to the board for a hearing or to the district court for judicial review by submitting a written election to the board with the request for hearing. If there are conflicting elections between the parties, the matter must proceed to district court. If the applicant or permittee is not the person who requested the hearing and has elected to have the matter submitted to the district court, the person who submitted the request for a hearing shall file a petition for review of the permit decision within 15 days of receipt of notice from the permittee. If the person who requested the hearing has elected to have the matter proceed to district court, that person shall file a petition in district court within 15 days of filing the request. The petition must be limited to matters raised in the request for hearing and must be filed in the county in which the facility is located. If the applicant or permittee fails to make an election, the matter must proceed through the contested case process before the board pursuant to the Montana Administrative Procedure Act. The board or the district court shall apply the laws and rules in place when the department issued its decision, and the board or the district court may not consider any issue from a party that was not presented to the department for the department's consideration during the formal comment period unless the issue is related to a material change in law made during the comment period, to a judicial decision issued after the comment period, or to a material change to the draft permit, which was submitted for public comment, made by the department in the final permit decision and upon which the public did not have a meaningful opportunity to comment.*

(2) A person aggrieved by the final decision of the department on an application for amendment of a certificate may within 15 days appeal the decision to the board ~~under the contested case procedures of Title 2, chapter 4, part 6.~~ *as provided in subsections (1)(b) and (1)(c).*

(3) A person aggrieved by the department's decision not to include an environmental impact statement or analysis in the department's findings pursuant to 75-20-216 may within 30 days appeal the decision ~~to the board~~

~~under the contested case procedures of Title 2, chapter 4, part 6, as provided in subsections (1)(b) and (1)(c).~~

*(4) The board shall issue a final decision within 4 months from the close of the hearing on the merits or, if no hearing is held, within 3 months from the date that briefing by the parties is complete unless the applicant and the party other than the applicant agree in writing to an extension of time.*

~~(4)(5) A customer fiscal impact analysis required by 69-2-216 may not be used as the basis of an appeal of a final decision by the department."~~

**Section 9. Codification instruction.** (1) [Section 1] is intended to be codified as an integral part of Title 75, chapter 2, part 2, and the provisions of Title 75, chapter 2, part 2, apply to [section 1].

(2) [Section 7] is intended to be codified as an integral part of Title 75, chapter 5, part 6, and the provisions of Title 75, chapter 5, part 6, apply to [section 7].

**Section 10. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

**Section 11. Effective date.** [This act] is effective on passage and approval.

**Section 12. Applicability.** [This act] applies to judicial and board of environmental review hearing and appeal proceedings initiated on or after [the effective date of this act].

Approved May 5, 2009

## CHAPTER NO. 446

[HB 486]

AN ACT 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.

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

**Section 1.** Section 70-23-301, MCA, is amended to read:

**“70-23-301. Contents of declaration.** A declaration ~~shall~~ *must* contain:

(1) a description of the land, whether leased or in fee simple, on which the building is *located* or is to be located;

(2) the name by which the property ~~shall~~ *will* be known and a general description of the building, including the number of stories and basements, the number of units, and the principal materials of which it is constructed;

(3) the unit designation, location, approximate area of each unit, and any other data necessary for proper identification;

(4) a description of the general common elements and the percentage of the interest of each unit owner ~~therein~~ *in the common elements*;

(5) a description of the limited common elements, if any, stating to which units their use is reserved and in what percentage;

(6) a statement of the use for which the building and each of the units is intended;

(7) the name of a person to receive service of process in the cases provided in 70-23-901 and the residence or place of business of ~~such~~ *the* person which ~~shall~~ *must* be within the county in which the property is located;

(8) *an exhibit containing certification from the applicable local government that the condominiums are either exempt from review under 76-3-203 or have been approved following review under Title 76, chapter 3, parts 5 and 6; and*

(9) any other details regarding the property that the person executing the declaration considers desirable.”

**Section 2.** Section 76-1-601, MCA, is amended to read:

**“76-1-601. Growth policy — contents.** (1) A growth policy may cover all or part of the jurisdictional area.

(2) The extent to which a growth policy addresses the elements listed in subsection (3) is at the full discretion of the governing body.

(3) A growth policy must include:

(a) community goals and objectives;

(b) maps and text describing an inventory of the existing characteristics and features of the jurisdictional area, including:

(i) land uses;

(ii) population;

(iii) housing needs;

(iv) economic conditions;

(v) local services;

(vi) public facilities;

(vii) natural resources; ~~and~~

*(viii) sand and gravel resources; and*

~~(viii)~~*(ix)* other characteristics and features proposed by the planning board and adopted by the governing bodies;

(c) projected trends for the life of the growth policy for each of the following elements:



- (i) land use;
  - (ii) population;
  - (iii) housing needs;
  - (iv) economic conditions;
  - (v) local services;
  - (vi) natural resources; and
  - (vii) other elements proposed by the planning board and adopted by the governing bodies;
- (d) a description of policies, regulations, and other measures to be implemented in order to achieve the goals and objectives established pursuant to subsection (3)(a);
- (e) a strategy for development, maintenance, and replacement of public infrastructure, including drinking water systems, wastewater treatment facilities, sewer systems, solid waste facilities, fire protection facilities, roads, and bridges;
- (f) an implementation strategy that includes:
- (i) a timetable for implementing the growth policy;
  - (ii) a list of conditions that will lead to a revision of the growth policy; and
  - (iii) a timetable for reviewing the growth policy at least once every 5 years and revising the policy if necessary;
- (g) a statement of how the governing bodies will coordinate and cooperate with other jurisdictions that explains:
- (i) if a governing body is a city or town, how the governing body will coordinate and cooperate with the county in which the city or town is located on matters related to the growth policy;
  - (ii) if a governing body is a county, how the governing body will coordinate and cooperate with cities and towns located within the county's boundaries on matters related to the growth policy;
- (h) a statement explaining how the governing bodies will:
- (i) define the criteria in 76-3-608(3)(a); and
  - (ii) evaluate and make decisions regarding proposed subdivisions with respect to the criteria in 76-3-608(3)(a);
- (i) a statement explaining how public hearings regarding proposed subdivisions will be conducted; and
- (j) an evaluation of the potential for fire and wildland fire in the jurisdictional area, including whether or not there is a need to:
- (i) delineate the wildland-urban interface; and
  - (ii) adopt regulations requiring:
    - (A) defensible space around structures;
    - (B) adequate ingress and egress to and from structures and developments to facilitate fire suppression activities; and
    - (C) adequate water supply for fire protection.
- (4) A growth policy may:
- (a) include one or more neighborhood plans. A neighborhood plan must be consistent with the growth policy.

(b) establish minimum criteria defining the jurisdictional area for a neighborhood plan;

(c) establish an infrastructure plan that, at a minimum, includes:

(i) projections, in maps and text, of the jurisdiction's growth in population and number of residential, commercial, and industrial units over the next 20 years;

(ii) for a city, a determination regarding if and how much of the city's growth is likely to take place outside of the city's existing jurisdictional area over the next 20 years and a plan of how the city will coordinate infrastructure planning with the county or counties where growth is likely to take place;

(iii) for a county, a plan of how the county will coordinate infrastructure planning with each of the cities that project growth outside of city boundaries and into the county's jurisdictional area over the next 20 years;

(iv) for cities, a land use map showing where projected growth will be guided and at what densities within city boundaries;

(v) for cities and counties, a land use map that designates infrastructure planning areas adjacent to cities showing where projected growth will be guided and at what densities;

(vi) using maps and text, a description of existing and future public facilities necessary to efficiently serve projected development and densities within infrastructure planning areas, including, whenever feasible, extending interconnected municipal street networks, sidewalks, trail systems, public transit facilities, and other municipal public facilities throughout the infrastructure planning area. For the purposes of this subsection (4)(c)(vi), public facilities include but are not limited to drinking water treatment and distribution facilities, sewer systems, wastewater treatment facilities, solid waste disposal facilities, parks and open space, schools, public access areas, roads, highways, bridges, and facilities for fire protection, law enforcement, and emergency services;

(vii) a description of proposed land use management techniques and incentives that will be adopted to promote development within cities and in an infrastructure planning area, including land use management techniques and incentives that address issues of housing affordability;

(viii) a description of how and where projected development inside municipal boundaries for cities and inside designated joint infrastructure planning areas for cities and counties could adversely impact:

(A) threatened or endangered wildlife and critical wildlife habitat and corridors;

(B) water available to agricultural water users and facilities;

(C) the ability of public facilities, including schools, to safely and efficiently service current residents and future growth;

(D) a local government's ability to provide adequate local services, including but not limited to emergency, fire, and police protection;

(E) the safety of people and property due to threats to public health and safety, including but not limited to wildfire, flooding, erosion, water pollution, hazardous wildlife interactions, and traffic hazards;

(F) natural resources, including but not limited to forest lands, mineral resources, *sand and gravel resources*, streams, rivers, lakes, wetlands, and ground water; and

(G) agricultural lands and agricultural production; and

(ix) a description of measures, including land use management techniques and incentives, that will be adopted to avoid, significantly reduce, or mitigate the adverse impacts identified under subsection (4)(c)(viii).

(5) The planning board may propose and the governing bodies may adopt additional elements of a growth policy in order to fulfill the purpose of this chapter.”

**Section 3.** Section 76-2-101, MCA, is amended to read:

**“76-2-101. Planning and zoning commission and district.** (1) Subject to the provisions of subsection (5), whenever the public interest or convenience may require and upon petition of 60% of the affected ~~freeholders~~ *real property owners in the proposed district*, the board of county commissioners may create a planning and zoning district and appoint a planning and zoning commission consisting of seven members.

(2) A planning and zoning district may not be created in an area that has been zoned by an incorporated city pursuant to 76-2-310 and 76-2-311.

(3) For the purposes of this part, the word “district” means any area that consists of not less than 40 acres.

(4) Except as provided in subsection (5), an action challenging the creation of a planning and zoning district must begin within ~~5 years~~ *6 months* after the date of the order by the board of county commissioners creating the district.

(5) If ~~freeholders~~ *real property owners* representing 50% of the titled property ownership in the district protest the establishment of the district within 30 days of its creation, the board of county commissioners may not create the district. An area included in a district protested under this subsection may not be included in a zoning district petition under this section for a period of 1 year.”

**Section 4.** Section 76-2-102, MCA, is amended to read:

**“76-2-102. Organization and operation of commission.** (1) The planning and zoning commission consists of ~~the three county commissioners, either the county surveyor or the county clerk and recorder, two citizen members, each of whom resides in a different planning and zoning district, or, if only one district exists in a county or is proposed, both from that district,~~ and a county official appointed by the county commissioners. The citizen members must be appointed by the board of county commissioners to 2-year staggered terms, with one member initially appointed to a 2-year term and the remaining member initially appointed to a 1-year term. Members of the commission shall serve without compensation other than reimbursement for authorized expenses and must be residents of the county in which they serve.

(2) The commission may appoint necessary employees and fix their compensation with the approval of the board of county commissioners, select a presiding officer to serve for 1 year, appoint a secretary to keep permanent and complete records of its proceedings, and adopt rules governing the transaction of its business.

(3) Subject to 15-10-420, the finances necessary for the transaction of the planning and zoning commission’s business and to pay the expenses of the employees and justified expenses of the commission’s members must be paid from a levy on the taxable value of all taxable property within the district.”

**Section 5.** Section 76-2-107, MCA, is amended to read:

**“76-2-107. Preparation of resolutions and other materials.** (1) The planning and zoning commission may, for the benefit and welfare of the county, prepare and submit to the board of county commissioners drafts of resolutions for the purpose of carrying out the development districts or any part thereof of the development districts previously adopted by the commission, including zoning and land use regulations, the making of official maps, and the preservation of the integrity thereof of the development districts and the official maps and including procedure for appeals from decisions made under the authority of such the regulations and regulations for the conservation of the natural resources of the county. The board of county commissioners is hereby authorized to adopt such these resolutions.

(2) *Notwithstanding the provisions of 76-2-104 and subsection (1) of this section, if the planning and zoning commission is unable to make and adopt a development pattern or to adopt a development district, the board of county commissioners may adopt a resolution to void a planning and zoning district created pursuant to 76-2-101.”*

**Section 6.** Section 76-2-202, MCA, is amended to read:

**“76-2-202. Establishment of zoning districts — regulations.** (1) (a) Within the unincorporated portions of a jurisdictional area that has been established under provisions of 76-1-501 through 76-1-503 or 76-1-504 through 76-1-507, and for the purposes provided in 76-2-201, the board of county commissioners may by resolution establish zoning districts and zoning regulations for all or part of the jurisdictional area establish zoning regulations for a part or all of the jurisdictional area or divide the county into zoning districts with zoning regulations that are considered best suited to carry out the purposes of this part. By establishing zoning regulations, the board may regulate the erection, construction, reconstruction, alteration, repair, location, or use of buildings or structures or the use of land.

(b) An action challenging the creation of a zoning district or adoption of zoning regulations must be commenced within ~~5 years~~ 6 months after the date of the order by the board of county commissioners creating the district or adopting the regulations.

~~(2) Within some zoning districts, it is lawful and within others it is unlawful to erect, construct, alter, or maintain certain buildings or to carry on certain trades, industries, or callings.~~

~~(3)~~(2) In a proceeding for a permit or variance to place manufactured housing within a residential zoning district, there is a rebuttable presumption that placement of a manufactured home will not adversely affect property values of conventional housing.

~~(4) Within each district the height and bulk of future buildings and the area of the yards, courts, and other open spaces and the future uses of the land or buildings must be limited and future building setback lines must be established.~~

~~(5)~~(3) All regulations must be uniform for each class or kind of buildings throughout a district, but the The regulations in one district may differ from those in other districts.

~~(6)~~(4) As used in this section, “manufactured housing” means a single-family dwelling for a single household, built offsite in a factory on or after January 1, 1990, that is placed on a permanent foundation, is at least 1,000 square feet in size, has a pitched roof and siding and roofing materials that are customarily, as defined by local regulations, used on site-built homes, and is in compliance with the applicable prevailing standards of the United States department of housing

and urban development at the time of its production. A manufactured home does not include a mobile home or housetrailer, as defined in 15-1-101.

~~(7)(5) Nothing contained in this~~ *This section may not be construed to limit conditions imposed in historic districts, local design review standards, existing covenants, or the ability to enter into covenants pursuant to Title 70, chapter 17, part 2.*

**Section 7.** Section 76-2-203, MCA, is amended to read:

**“76-2-203. Criteria and guidelines for zoning regulations.** (1) Zoning regulations must be:

(a) made in accordance with the growth policy ~~or a master plan, as provided for in 76-2-201(2);~~ and

(b) designed to:

~~(i) lessen congestion in the streets;~~

~~(ii)(i) secure safety from fire, panic, and other dangers;~~

~~(iii)(ii) promote public health, public safety, and general welfare; and~~

~~(iv) provide adequate light and air;~~

~~(v) prevent the overcrowding of land;~~

~~(vi) avoid undue concentration of population; and~~

~~(vii)(iii) facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.~~

~~(2) Zoning regulations must be made with reasonable consideration, among other things, to~~ *In the adoption of zoning regulations, the board of county commissioners shall consider:*

*(a) reasonable provision of adequate light and air;*

*(b) the effect on motorized and nonmotorized transportation systems;*

*(c) compatible urban growth in the vicinity of cities and towns that at a minimum must include the areas around municipalities;*

*(d) the character of the district and its peculiar suitability for particular uses; and*

*(e) with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.*

~~(3) Zoning regulations must, as nearly as possible, be made compatible with the zoning ordinances of the municipality within the jurisdictional area nearby municipalities.”~~

**Section 8.** Section 76-2-205, MCA, is amended to read:

**“76-2-205. Procedure for adoption of regulations and boundaries.** The board of county commissioners shall observe the following procedures in the establishment or revision of boundaries for zoning districts and in the adoption or amendment of zoning regulations:

(1) Notice of a public hearing on the proposed zoning district boundaries and of regulations for the zoning district ~~must be published once a week for 2 weeks in a newspaper of general circulation within the county.~~ The notice must:

(a) state:

~~(a)(i)~~ *(i) the boundaries of the proposed district;*

~~(b)(ii)~~ *(ii) the general character of the proposed zoning regulations;*

(e)(iii) the time and place of the public hearing;

(d)(iv) that the proposed zoning regulations are on file for public inspection at the office of the county clerk and recorder;

(b) be posted not less than 45 days before the public hearing in at least five public places, including but not limited to public buildings and adjacent to public rights-of-way, within the proposed district; and

(c) be published once a week for 2 weeks in a newspaper of general circulation within the county.

(2) At the public hearing, the board of county commissioners shall give the public an opportunity to be heard regarding the proposed zoning district and regulations.

(3) After the public hearing, the board of county commissioners shall review the proposals of the planning board and shall make any revisions or amendments that it determines to be proper.

(4) The board of county commissioners may pass a resolution of intention to create a zoning district and to adopt zoning regulations for the district.

(5) The board of county commissioners shall publish notice of passage of the resolution of intention once a week for 2 weeks in a newspaper of general circulation within the county. The notice must state:

(a) the boundaries of the proposed district;

(b) the general character of the proposed zoning regulations;

(c) that the proposed zoning regulations are on file for public inspection at the office of the county clerk and recorder;

(d) that for 30 days after first publication of this notice, the board of county commissioners will receive written protests to the creation of the zoning district or to the zoning regulations from persons owning real property within the district whose names appear on the last-completed assessment roll of the county.

(6) Within 30 days after the expiration of the protest period, the board of county commissioners may in its discretion adopt the resolution creating the zoning district or establishing the zoning regulations for the district. However, if 40% of the ~~freeholders~~ *real property owners* within the district whose names appear on the last-completed assessment roll or if ~~freeholders~~ *real property owners* representing 50% of the titled property ownership whose property is taxed for agricultural purposes under 15-7-202 or whose property is taxed as forest land under Title 15, chapter 44, part 1, have protested the establishment of the district or adoption of the regulations, the board of county commissioners may not adopt the resolution and a further zoning resolution may not be proposed for the district for a period of 1 year.”

**Section 9.** Section 76-2-206, MCA, is amended to read:

**“76-2-206. Interim zoning map or regulation.** (1) ~~The Subject to subsection (3),~~ the board of county commissioners may ~~adopt~~ establish an interim zoning ~~map~~ *district* or *interim* regulation as an emergency measure in order to promote the public health, safety, morals, and general welfare if:

(a) the purpose of the interim zoning ~~map~~ *district* or *interim* regulation is to classify and regulate those uses and related matters that constitute the emergency; and

(b) the county:

(i) is conducting or in good faith intends to conduct studies within a reasonable time; or

(ii) has held or is holding a hearing for the purpose of considering any of the following:

(A) a growth policy;

(B) zoning regulations; or

(C) a revision to a growth policy, to a master plan, as provided for in 76-1-604(6) and 76-2-201(2), or to zoning regulations pursuant to this part.

(2) ~~An interim~~ A resolution for an interim zoning district or interim regulation must be limited to 1 year from the date it becomes effective. ~~The~~ Subject to subsection (3), the board of county commissioners may extend the ~~interim~~ resolution for 1 year, but not more than one extension may be made.

(3) The board of county commissioners shall observe the following procedures in the establishment of an interim zoning district or interim regulation:

(a) Notice of a public hearing on the proposed interim zoning district boundaries or of the interim regulation must be published once a week for 2 weeks in a newspaper of general circulation within the county. The notice must state:

(i) the boundaries of the proposed district;

(ii) the specific emergency or exigent circumstance compelling the establishment of the proposed interim zoning district or interim regulation;

(iii) the general character of the proposed interim zoning district or interim regulation;

(iv) the time and place of the public hearing; and

(v) that the proposed interim zoning district or interim regulation is on file for public inspection at the office of the county clerk and recorder.

(b) At the public hearing, the board of county commissioners shall give the public an opportunity to be heard regarding the proposed establishment of an interim zoning district or interim regulation.

(c) After the hearing, the board of county commissioners may adopt a resolution to establish an interim zoning district or interim regulation."

**Section 10.** Section 76-2-210, MCA, is amended to read:

**"76-2-210. Enforcement of zoning provisions.** (1) ~~In ease~~ If any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or any building, structure, or land is used in violation of this part or of any resolution ~~made under authority conferred hereby, the proper~~ authorities of adopted under this part, the county, in addition to other remedies, may institute any appropriate action or proceedings to:

(a) prevent ~~such~~ the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use; ~~to~~

(b) restrain, correct, or abate ~~such~~ a violation; ~~to~~

(c) prevent the occupancy of ~~such~~ the building, structure, or land; or ~~to~~

(d) prevent any illegal act, conduct, business, or use in or ~~about~~ ~~such~~ near the premises.

(2) For the purposes of enforcing subsections (1)(a) through (1)(c), the county shall attempt to obtain voluntary compliance at least 30 days before filing a

*complaint for a violation of this part that is subject to the penalties under 76-2-211.*

~~(2)(3)~~ The board of county commissioners may appoint enforcing officers to supervise and enforce the provisions of the zoning resolutions.”

**Section 11.** Section 76-2-304, MCA, is amended to read:

**“76-2-304. Purposes of zoning Criteria and guidelines for zoning regulations.** (1) Zoning regulations must be:

(a) ~~except as provided in subsection (3),~~ made in accordance with a growth policy; and

(b) designed to:

~~(i)~~ ~~lessen congestion in the streets;~~

~~(ii)(i)~~ secure safety from fire, ~~panic,~~ and other dangers;

~~(iii)(ii)~~ promote *public health, public safety,* and the general welfare; *and*

~~(iv)~~ provide adequate light and air;

~~(v)~~ prevent the overcrowding of land;

~~(vi)~~ avoid undue concentration of population; *and*

~~(vii)(iii)~~ facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

~~(2) Zoning regulations must be made with reasonable consideration, among other things, to In the adoption of zoning regulations, the municipal governing body shall consider:~~

~~(a) reasonable provision of adequate light and air;~~

~~(b) the effect on motorized and nonmotorized transportation systems;~~

~~(c) promotion of compatible urban growth;~~

~~(d) the character of the district and its peculiar suitability for particular uses; and~~

~~(e) with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the municipality jurisdictional area.~~

~~(3) Until October 1, 2006, zoning regulations may be adopted or revised in accordance with a master plan that was adopted pursuant to Title 76, chapter 1, before October 1, 1999.”~~

**Section 12.** Section 76-3-207, MCA, is amended to read:

**“76-3-207. Divisions or aggregations of land exempted from review but subject to survey requirements and zoning regulations — exceptions — fees for examination of division.** (1) Except as provided in subsection (2), unless the method of disposition is adopted for the purpose of evading this chapter, the following divisions *or aggregations* of land are not subdivisions under this chapter but are subject to the surveying requirements of 76-3-401 for divisions *or aggregations* of land ~~not amounting to other than~~ subdivisions and are subject to applicable zoning regulations adopted under Title 76, chapter 2:

(a) divisions made outside of platted subdivisions for the purpose of relocating common boundary lines between adjoining properties;

(b) divisions made outside of platted subdivisions for the purpose of a single gift or sale in each county to each member of the landowner’s immediate family;



(c) divisions made outside of platted subdivisions by gift, sale, or agreement to buy and sell in which the parties to the transaction enter a covenant running with the land and revocable only by mutual consent of the governing body and the property owner that the divided land will be used exclusively for agricultural purposes;

(d) for five or fewer lots within a platted subdivision, *the relocation of common boundaries and the aggregation of lots; and*

(e) divisions made for the purpose of relocating a common boundary line between a single lot within a platted subdivision and adjoining land outside a platted subdivision. A restriction or requirement on the original platted lot or original unplatted parcel continues to apply to those areas.

(f) *aggregation of parcels or lots when a certificate of survey or subdivision plat shows that the boundaries of the original parcels have been eliminated and the boundaries of a larger aggregate parcel are established. A restriction or requirement on the original platted lot or original unplatted parcel continues to apply to those areas.*

(2) Notwithstanding the provisions of subsection (1):

(a) within a platted subdivision filed with the county clerk and recorder, a division, *redesign, or rearrangement* of lots that results in an increase in the number of lots or that redesigns or rearranges six or more lots must be reviewed and approved by the governing body ~~and before an amended plat must~~ *may* be filed with the county clerk and recorder;

(b) a change in use of the land exempted under subsection (1)(c) for anything other than agricultural purposes subjects the division to ~~the provisions review~~ *under parts 5 and 6* of this chapter.

(3) (a) Subject to subsection (3)(b), a division of land may not be made under this section unless the county treasurer has certified that all real property taxes and special assessments assessed and levied on the land to be divided have been paid.

(b) (i) If a division of land includes centrally assessed property and the property taxes applicable to the division of land are not specifically identified in the tax assessment, the department of revenue shall prorate the taxes applicable to the land being divided on a reasonable basis. The owner of the centrally assessed property shall ensure that the prorated real property taxes and special assessments are paid on the land being sold before the division of land is made.

(ii) The county treasurer may accept the amount of the tax prorated pursuant to this subsection (3)(b) as a partial payment of the total tax that is due.

(4) The governing body may examine a division *or aggregation* of land to determine whether or not the requirements of this chapter apply to the division *or aggregation* and may establish reasonable fees, not to exceed \$200, for the examination."

**Section 13.** Section 76-3-504, MCA, is amended to read:

**"76-3-504. Subdivision regulations — contents.** (1) The subdivision regulations adopted under this chapter must, at a minimum:

(a) list the materials that must be included in a subdivision application in order for the application to be determined to contain the required elements for the purposes of the review required in 76-3-604(1);

(b) except as provided in ~~76-3-210~~, 76-3-509, ~~or 76-3-609~~, or 76-3-616, require the subdivider to submit to the governing body an environmental assessment as prescribed in 76-3-603;

(c) establish procedures consistent with this chapter for the submission and review of subdivision applications and amended applications;

(d) prescribe the form and contents of preliminary plats and the documents to accompany final plats;

(e) provide for the identification of areas that, because of natural or human-caused hazards, are unsuitable for subdivision development. The regulations must prohibit subdivisions in these areas unless the hazards can be eliminated or overcome by approved construction techniques or other mitigation measures authorized under 76-3-608(4) and (5). Approved construction techniques or other mitigation measures may not include building regulations as defined in 50-60-101 other than those identified by the department of labor and industry as provided in 50-60-901.

(f) prohibit subdivisions for building purposes in areas located within the floodway of a flood of 100-year frequency, as defined by Title 76, chapter 5, or determined to be subject to flooding by the governing body;

(g) prescribe standards for:

(i) the design and arrangement of lots, streets, and roads;

(ii) grading and drainage;

(iii) subject to the provisions of 76-3-511, water supply and sewage and solid waste disposal that meet the:

(A) regulations adopted by the department of environmental quality under 76-4-104 for subdivisions that will create one or more parcels containing less than 20 acres; and

(B) standards provided in 76-3-604 and 76-3-622 for subdivisions that will create one or more parcels containing 20 acres or more and less than 160 acres; and

(iv) the location and installation of public utilities;

(h) provide procedures for the administration of the park and open-space requirements of this chapter;

(i) provide for the review of subdivision applications by affected public utilities and those agencies of local, state, and federal government identified during the preapplication consultation conducted pursuant to subsection (1)(q) or those having a substantial interest in a proposed subdivision. A public utility or agency review may not delay the governing body's action on the application beyond the time limits specified in this chapter, and the failure of any agency to complete a review of an application may not be a basis for rejection of the application by the governing body.

(j) when a subdivision creates parcels with lot sizes averaging less than 5 acres, require the subdivider to:

(i) reserve all or a portion of the appropriation water rights owned by the owner of the land to be subdivided and transfer the water rights to a single entity for use by landowners within the subdivision who have a legal right to the water and reserve and sever any remaining surface water rights from the land;

(ii) if the land to be subdivided is subject to a contract or interest in a public or private entity formed to provide the use of a water right on the subdivision lots, establish a landowner's water use agreement administered through a single

entity that specifies administration and the rights and responsibilities of landowners within the subdivision who have a legal right and access to the water; or

(iii) reserve and sever all surface water rights from the land;

(k) (i) except as provided in subsection (1)(k)(ii), require the subdivider to establish ditch easements in the subdivision that:

(A) are in locations of appropriate topographic characteristics and sufficient width to allow the physical placement and unobstructed maintenance of open ditches or belowground pipelines for the delivery of water for irrigation to persons and lands legally entitled to the water under an appropriated water right or permit of an irrigation district or other private or public entity formed to provide for the use of the water right on the subdivision lots;

(B) are a sufficient distance from the centerline of the ditch to allow for construction, repair, maintenance, and inspection of the ditch; and

(C) prohibit the placement of structures or the planting of vegetation other than grass within the ditch easement without the written permission of the ditch owner.

(ii) Establishment of easements pursuant to this subsection (1)(k) is not required if:

(A) the average lot size is 1 acre or less and the subdivider provides for disclosure, in a manner acceptable to the governing body, that adequately notifies potential buyers of lots that are classified as irrigated land and may continue to be assessed for irrigation water delivery even though the water may not be deliverable; or

(B) the water rights are removed or the process has been initiated to remove the water rights from the subdivided land through an appropriate legal or administrative process and if the removal or intended removal is denoted on the preliminary plat. If removal of water rights is not complete upon filing of the final plat, the subdivider shall provide written notification to prospective buyers of the intent to remove the water right and shall document that intent, when applicable, in agreements and legal documents for related sales transactions.

(l) require the subdivider, unless otherwise provided for under separate written agreement or filed easement, to file and record ditch easements for unobstructed use and maintenance of existing water delivery ditches, pipelines, and facilities in the subdivision that are necessary to convey water through the subdivision to lands adjacent to or beyond the subdivision boundaries in quantities and in a manner that are consistent with historic and legal rights;

(m) require the subdivider to describe, dimension, and show public utility easements in the subdivision on the final plat in their true and correct location. The public utility easements must be of sufficient width to allow the physical placement and unobstructed maintenance of public utility facilities for the provision of public utility services within the subdivision.

(n) establish whether the governing body, its authorized agent or agency, or both will hold public hearings;

(o) establish procedures describing how the governing body or its agent or agency will address information presented at the hearing or hearings held pursuant to 76-3-605 and 76-3-615;

(p) establish criteria that the governing body or reviewing authority will use to determine whether a proposed method of disposition using the exemptions

provided in 76-3-201 or 76-3-207 is an attempt to evade the requirements of this chapter. The regulations must provide for an appeals process to the governing body if the reviewing authority is not the governing body.

(q) establish a preapplication process that:

(i) requires a subdivider to meet with the *authorized* agent or agency, other than the governing body, that is designated by the governing body to review subdivision applications prior to the subdivider submitting the application;

(ii) requires, for informational purposes only, identification of the state laws, local regulations, and growth policy provisions, if a growth policy has been adopted, that may apply to the subdivision review process;

(iii) requires a list to be made available to the subdivider of the public utilities, those agencies of local, state, and federal government, and any other entities that may be contacted for comment on the subdivision application and the timeframes that the public utilities, agencies, and other entities are given to respond. If, during the review of the application, the agent or agency designated by the governing body contacts a public utility, agency, or other entity that was not included on the list originally made available to the subdivider, the agent or agency shall notify the subdivider of the contact and the timeframe for response.

(iv) requires that a preapplication meeting take place no more than 30 days from the date that the *authorized* agent or agency receives a written request for a preapplication meeting from the subdivider; and

(v) establishes a time limit after a preapplication meeting by which an application must be submitted as provided in 76-3-604.;

(r) *requires that the written decision required by 76-3-620 must be provided to the applicant within 30 working days following a decision by the governing body to approve, conditionally approve, or deny a subdivision.*

(2) In order to accomplish the purposes described in 76-3-501, the subdivision regulations adopted under 76-3-509 and this section may include provisions that are consistent with this section that promote cluster development.

(3) The governing body may establish deadlines for submittal of subdivision applications.”

**Section 14.** Section 76-3-506, MCA, is amended to read:

**“76-3-506. Provision for granting variances.** (1) Subdivision regulations may authorize the governing body, *after a public hearing on the variance request before the governing body or its designated agent or agency*, to grant variances from the regulations when strict compliance will result in undue hardship and when it is not essential to the public welfare.

(2) Any variance granted pursuant to this section must be based on specific variance criteria contained in the subdivision regulations.

(3) *A minor subdivision as provided for in 76-3-609(2) is not subject to the public hearing requirement of this section.*”

**Section 15.** Section 76-3-507, MCA, is amended to read:

**“76-3-507. Provision for bonding security requirements to ensure construction of public improvements.** (1) Except as provided in ~~subsection~~ *subsections (2) and (4)*, the governing body shall require the subdivider to complete required improvements within the *proposed* subdivision prior to the approval of the final plat.

(2) (a) In lieu of the completion of the construction of any public improvements prior to the approval of a final plat, the governing body shall at the subdivider's option allow the subdivider to provide or cause to be provided a bond or other reasonable security, in an amount and with surety and conditions satisfactory to the governing body, providing for and securing the construction and installation of the improvements within a period specified by the governing body and expressed in the bonds or other security. The governing body shall reduce bond or security requirements commensurate with the completion of improvements.

(b) In lieu of requiring a bond or other means of security for the construction or installation of all the required public improvements under subsection (2)(a), the governing body may approve an incremental payment or guarantee plan. The improvements in a prior increment must be completed or the payment or guarantee of payment for the costs of the improvements incurred in a prior increment must be satisfied before development of future increments.

(3) Approval by the governing body of a final plat prior to the completion of required improvements and without the provision of the security required under subsection (2) is not an act of a legislative body for the purposes of 2-9-111.

(4) *The governing body may require a percentage of improvements or specific types of improvements necessary to protect public health and safety to be completed before allowing bonding or other reasonable security under subsection (2)(a) for purposes of filing a final plat. The requirement is applicable to approved preliminary plats.*

**Section 16.** Section 76-3-510, MCA, is amended to read:

**"76-3-510. Payment for extension of capital facilities.** (1) A local government may require a subdivider to pay or guarantee payment for part or all of the costs of extending capital facilities related to public health and safety, including but not limited to public roads, sewer lines, water supply lines, and storm drains to a subdivision. The costs must reasonably reflect the expected impacts directly attributable to the subdivision. A local government may not require a subdivider to pay or guarantee payment for part or all of the costs of constructing or extending capital facilities related to education.

(2) *All fees, costs, or other money paid by a subdivider under this section must be expended on the capital facilities for which the payments were required.*

**Section 17.** Section 76-3-608, MCA, is amended to read:

**"76-3-608. Criteria for local government review.** (1) The basis for the governing body's decision to approve, conditionally approve, or deny a proposed subdivision is whether the subdivision application, preliminary plat, applicable environmental assessment, public hearing, planning board recommendations, or additional information demonstrates that development of the proposed subdivision meets the requirements of this chapter. A governing body may not deny approval of a proposed subdivision based solely on the subdivision's impacts on educational services.

(2) The governing body shall issue written findings of fact that weigh the criteria in subsection (3), as applicable.

(3) A subdivision proposal must undergo review for the following primary criteria:

(a) except when the governing body has established an exemption pursuant to subsection (6) of this section or except as provided in 76-3-509, 76-3-609(2) or (4), or 76-3-616, the impact on agriculture, agricultural water user facilities,

local services, the natural environment, wildlife, and wildlife habitat, and public health and safety;

(b) compliance with:

(i) the survey requirements provided for in part 4 of this chapter;

(ii) the local subdivision regulations provided for in part 5 of this chapter; and

(iii) the local subdivision review procedure provided for in this part;

(c) the provision of easements *within and to the proposed subdivision* for the location and installation of any planned utilities; and

(d) the provision of legal and physical access to each parcel within the proposed subdivision and the required notation of that access on the applicable plat and any instrument of transfer concerning the parcel.

(4) The governing body may require the subdivider to design the proposed subdivision to reasonably minimize potentially significant adverse impacts identified through the review required under subsection (3). The governing body shall issue written findings to justify the reasonable mitigation required under this subsection (4).

(5) (a) In reviewing a proposed subdivision under subsection (3) and when requiring mitigation under subsection (4), a governing body may not unreasonably restrict a landowner's ability to develop land, but it is recognized that in some instances the unmitigated impacts of a proposed development may be unacceptable and will preclude approval of the subdivision.

(b) When requiring mitigation under subsection (4), a governing body shall consult with the subdivider and shall give due weight and consideration to the expressed preference of the subdivider.

~~(6) The governing body may exempt proposed subdivisions that are entirely within the boundaries of designated geographic areas from the review criteria in subsection (3)(a) if all of the following requirements have been met:~~

~~(a) the governing body has adopted a growth policy pursuant to chapter 1 that:~~

~~(i) addresses the criteria in subsection (3)(a);~~

~~(ii) evaluates the impact of development on the criteria in subsection (3)(a);~~

~~(iii) describes zoning regulations that will be implemented to address the criteria in subsection (3)(a); and~~

~~(iv) identifies one or more geographic areas where the governing body intends to authorize an exemption from review of the criteria in subsection (3)(a); and~~

~~(b) the governing body has adopted zoning regulations pursuant to chapter 2, part 2 or 3, that:~~

~~(i) apply to the entire area subject to the exemption; and~~

~~(ii) address the criteria in subsection (3)(a), as described in the growth policy.~~

~~(7)(6) A governing body may conditionally approve or deny a proposed subdivision as a result of the water and sanitation information provided pursuant to 76-3-622 or public comment received pursuant to 76-3-604 on the information provided pursuant to 76-3-622 only if the conditional approval or denial is based on existing subdivision, zoning, or other regulations that the governing body has the authority to enforce."~~

**Section 18.** Section 76-3-609, MCA, is amended to read:

**“76-3-609. Review procedure for minor subdivisions — determination of sufficiency of application — governing body to adopt regulations.** (1) Minor subdivisions must be reviewed as provided in this section and subject to the applicable local regulations adopted pursuant to 76-3-504.

(2) If the tract of record proposed to be subdivided has not been subdivided or created by a subdivision under this chapter or has not resulted from a tract of record that has had more than five parcels created from that tract of record under 76-3-201 or 76-3-207 since July 1, 1973, then the proposed subdivision is a first minor subdivision from a tract of record and, when legal and physical access to all lots is provided, must be reviewed as follows:

(a) Except as provided in subsection (2)(b), the governing body shall approve, conditionally approve, or deny the first minor subdivision from a tract of record within 35 working days of a determination by the reviewing agent or agency that the application contains required elements and sufficient information for review. The determination and notification to the subdivider must be made in the same manner as is provided in 76-3-604(1) through (3).

(b) The subdivider and the reviewing agent or agency may agree to an extension or suspension of the review period, not to exceed 1 year.

(c) Except as provided in subsection ~~(2)(d)(iii)~~ (2)(d)(ii), an application must include a summary of the probable impacts of the proposed subdivision based on the criteria described in 76-3-608(3).

(d) The following requirements do not apply to the first minor subdivision from a tract of record as provided in subsection (2):

(i) the requirement to prepare an environmental assessment;

~~(ii) the requirement to hold a hearing on the subdivision application pursuant to 76-3-605; and~~

~~(iii)~~(ii) the requirement to review the subdivision for the criteria contained in 76-3-608(3)(a) if the minor subdivision is proposed in the portion of a jurisdictional area that has adopted zoning regulations that address the criteria in 76-3-608(3)(a).

(e) *The governing body or its authorized agent or agency may not hold a public hearing or a subsequent public hearing under 76-3-615 for a first minor subdivision from a tract of record as described in subsection (2).*

(f) The governing body may adopt regulations that establish requirements for the expedited review of the first minor subdivision from a tract of record. The following apply to a proposed subdivision reviewed under the regulations:

(i) *except as provided in subsection (2)(d), the provisions of 76-3-608(3); and*

(ii) the provisions of Title 76, chapter 4, part 1, whenever approval is required by those provisions.

(3) Except as provided in 76-3-616 and subsection (4) of this section, any minor subdivision that is not a first minor subdivision from a tract of record, as provided in subsection (2), is a subsequent minor subdivision and must be reviewed as provided in 76-3-601 through 76-3-605, 76-3-608, 76-3-610 through 76-3-614, and 76-3-620.

(4) The governing body may adopt subdivision regulations that establish requirements for review of subsequent minor subdivisions that meet or exceed

the requirements that apply to the first minor subdivision, as provided in subsection (2) and this chapter.

(5) (a) Review and approval, conditional approval, or denial of a subdivision under this chapter may occur only under those regulations in effect at the time that a subdivision application is determined to contain sufficient information for review as provided in subsection (2).

(b) If regulations change during the period that the application is reviewed for required elements and sufficient information, the determination of whether the application contains the required elements and sufficient information must be based on the new regulations.”

**Section 19.** Section 76-3-610, MCA, is amended to read:

**“76-3-610. Effect of approval of application and preliminary plat.** (1) Upon approving or conditionally approving an application and preliminary plat, the governing body shall provide the subdivider with a dated and signed statement of approval. This approval must be in force for not more than 3 calendar years or less than 1 calendar year. At the end of this period the governing body may, at the request of the subdivider, extend its approval for no more than 1 calendar year, except that the governing body may extend its approval for a period of more than 1 year if that approval period is included as a specific condition of a written agreement between the governing body and the subdivider, according to 76-3-507.

(2) ~~After~~ *Except as provided in 76-3-507*, after the application and preliminary plat are approved, the governing body and its subdivisions may not impose any additional conditions as a prerequisite to final plat approval if the approval is obtained within the original or extended approval period as provided in subsection (1).”

**Section 20.** Section 76-3-620, MCA, is amended to read:

**“76-3-620. Review requirements — written statement.** In addition to the requirements of 76-3-604 and 76-3-609, following any decision by the governing body to deny or conditionally approve a proposed subdivision, the governing body shall, *in accordance with the time limit established in 76-3-504(1)(r)*, prepare a written statement that must be provided to the applicant, that must be made available to the public, and that:

(1) includes information regarding the appeal process for the denial or imposition of conditions;

(2) identifies the regulations and statutes that are used in reaching the decision to deny or impose conditions and explains how they apply to the decision to deny or impose conditions;

(3) provides the facts and conclusions that the governing body relied upon in making its decision to deny or impose conditions and references documents, testimony, or other materials that form the basis of the decision; and

(4) provides the conditions that apply to the preliminary plat approval and that must be satisfied before the final plat may be approved.”

**Section 21.** Section 76-3-621, MCA, is amended to read:

**“76-3-621. Park dedication requirement.** (1) Except as provided in 76-3-509 or subsections (2), (3), and (6) through (9) of this section, a subdivider shall dedicate to the governing body a cash or land donation equal to:

(a) 11% of the area of the land proposed to be subdivided into parcels of one-half acre or smaller;



(b) 7.5% of the area of the land proposed to be subdivided into parcels larger than one-half acre and not larger than 1 acre;

(c) 5% of the area of the land proposed to be subdivided into parcels larger than 1 acre and not larger than 3 acres; and

(d) 2.5% of the area of the land proposed to be subdivided into parcels larger than 3 acres and not larger than 5 acres.

(2) When a subdivision is located totally within an area for which density requirements have been adopted pursuant to a growth policy under chapter 1 or pursuant to zoning regulations under chapter 2, the governing body may establish park dedication requirements based on the community need for parks and the development densities identified in the growth policy or regulations. Park dedication requirements established under this subsection are in lieu of those provided in subsection (1) and may not exceed 0.03 acres per dwelling unit.

(3) A park dedication may not be required for:

(a) land proposed for subdivision into parcels larger than 5 acres;

(b) subdivision into parcels that are all nonresidential;

(c) a subdivision in which parcels are not created, except when that subdivision provides permanent multiple spaces for recreational camping vehicles, mobile homes, or condominiums; ~~or~~

(d) a subdivision in which only one additional parcel is created; *or*

*(e) except as provided in subsection (8), a first minor subdivision from a tract of record as described in 76-3-609(2).*

(4) The governing body, in consultation with the subdivider and the planning board or park board that has jurisdiction, may determine suitable locations for parks and playgrounds and, giving due weight and consideration to the expressed preference of the subdivider, may determine whether the park dedication must be a land donation, cash donation, or a combination of both. When a combination of land donation and cash donation is required, the cash donation may not exceed the proportional amount not covered by the land donation.

(5) (a) In accordance with the provisions of subsections (5)(b) and (5)(c), the governing body shall use the dedicated money or land for development, acquisition, or maintenance of parks to serve the subdivision.

(b) The governing body may use the dedicated money to acquire, develop, or maintain, within its jurisdiction, parks or recreational areas or for the purchase of public open space or conservation easements only if:

(i) the park, recreational area, open space, or conservation easement is within a reasonably close proximity to the proposed subdivision; and

(ii) the governing body has formally adopted a park plan that establishes the needs and procedures for use of the money.

(c) The governing body may not use more than 50% of the dedicated money for park maintenance.

(6) The local governing body shall waive the park dedication requirement if:

(a) (i) the preliminary plat provides for a planned unit development or other development with land permanently set aside for park and recreational uses sufficient to meet the needs of the persons who will ultimately reside in the development; and

(ii) the area of the land and any improvements set aside for park and recreational purposes equals or exceeds the area of the dedication required under subsection (1);

(b) (i) the preliminary plat provides long-term protection of critical wildlife habitat; cultural, historical, or natural resources; agricultural interests; or aesthetic values; and

(ii) the area of the land proposed to be subdivided, by virtue of providing long-term protection provided for in subsection (6)(b)(i), is reduced by an amount equal to or exceeding the area of the dedication required under subsection (1);

(c) the area of the land proposed to be subdivided, by virtue of a combination of the provisions of subsections (6)(a) and (6)(b), is reduced by an amount equal to or exceeding the area of the dedication required under subsection (1); or

(d) (i) the subdivider provides for land outside of the subdivision to be set aside for park and recreational uses sufficient to meet the needs of the persons who will ultimately reside in the subdivision; and

(ii) the area of the land and any improvements set aside for park and recreational uses equals or exceeds the area of dedication required under subsection (1).

(7) The local governing body may waive the park dedication requirement if:

(a) the subdivider provides land outside the subdivision that affords long-term protection of critical wildlife habitat, cultural, historical, or natural resources, agricultural interests, or aesthetic values; and

(b) the area of the land to be subject to long-term protection, as provided in subsection (7)(a), equals or exceeds the area of the dedication required under subsection (1).

~~(8) A local governing body may, at its discretion, require a park dedication for a minor subdivision. A local governing body that chooses to require a park dedication shall specify in regulations the circumstances under which a park dedication will be required.~~

(8) (a) *A local governing body may, at its discretion, require a park dedication for:*

*(i) a subsequent minor subdivision as described in 76-3-609(3); or*

*(ii) a first minor subdivision from a tract of record as described in 76-3-609(2) if:*

*(A) the subdivision plat indicates development of condominiums or other multifamily housing;*

*(B) zoning regulations permit condominiums or other multifamily housing;*  
*or*

*(C) any of the lots are located within the boundaries of a municipality.*

*(b) A local governing body that chooses to require a park dedication shall specify in regulations the circumstances under which a park dedication will be required.*

(9) Subject to the approval of the local governing body and acceptance by the school district trustees, a subdivider may dedicate a land donation provided in subsection (1) to a school district, adequate to be used for school facilities or buildings.

(10) For the purposes of this section:

(a) “cash donation” is the fair market value of the unsubdivided, unimproved land; and

(b) “dwelling unit” means a residential structure in which a person or persons reside.

(11) A land donation under this section may be inside or outside of the subdivision.”

**Section 22.** Section 76-3-625, MCA, is amended to read:

**“76-3-625. Violations — actions against governing body.** (1) A person who has filed with the governing body an application for a subdivision under this chapter may bring an action in district court to sue the governing body to recover actual damages caused by a final action, decision, or order of the governing body or a regulation adopted pursuant to this chapter that is arbitrary or capricious.

(2) A party identified in subsection (3) who is aggrieved by a decision of the governing body to approve, conditionally approve, or deny an application and preliminary plat for a proposed subdivision or a final subdivision plat may, within 30 days ~~after the~~ *from the date of the written* decision, appeal to the district court in the county in which the property involved is located. The petition must specify the grounds upon which the appeal is made.

(3) The following parties may appeal under the provisions of subsection (2):

(a) the subdivider;

(b) a landowner with a property boundary contiguous to the proposed subdivision or a private landowner with property within the county or municipality where the subdivision is proposed if that landowner can show a likelihood of material injury to the landowner’s property or its value;

(c) the county commissioners of the county where the subdivision is proposed; and

(d) (i) a first-class municipality, as described in 7-1-4111, if a subdivision is proposed within 3 miles of its limits;

(ii) a second-class municipality, as described in 7-1-4111, if a subdivision is proposed within 2 miles of its limits; and

(iii) a third-class municipality or a town, as described in 7-1-4111, if a subdivision is proposed within 1 mile of its limits.

(4) For the purposes of this section, “aggrieved” means a person who can demonstrate a specific personal and legal interest, as distinguished from a general interest, who has been or is likely to be specially and injuriously affected by the decision.”

**Section 23. Repealer.** Section 76-3-210, MCA, is repealed.

**Section 24. Effective date.** [This act] is effective on passage and approval.

**Section 25. Applicability.** (1) [Sections 13, 20, and 22], concerning adoption of regulations and time references in the regulations, apply upon adoption of regulations under [section 13] or on May 1, 2010, whichever occurs first.

(2) [Section 2] applies upon adoption of a new growth policy or upon revision of an existing growth policy.

(3) [Section 21] applies upon revision of subdivision regulations or on December 31, 2010, whichever occurs first.

Approved May 5, 2009

**CHAPTER NO. 447**

[HB 531]

AN ACT 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.

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

**Section 1.** Section 61-8-203, MCA, is amended to read:

**“61-8-203. Department of transportation to place traffic control devices on highways it maintains and approve traffic control devices on highways under its jurisdiction.** (1) The department of transportation shall place and maintain traffic control devices, conforming to its manual and specifications, upon all highways maintained by the department of transportation that the department considers necessary to carry out the provisions of ~~this chapter and chapter 9~~ *and this chapter* or to regulate, warn, or guide traffic.

(2) A local authority or other entity may not place or maintain a traffic control device upon a highway under the jurisdiction of the department of transportation except with the department’s permission.

(3) The unauthorized erection of a sign, marker, emblem, or other traffic control device on a highway under the jurisdiction of the department of transportation by any other entity is a misdemeanor and is punishable as provided in 61-8-712.

(4) The erection or maintenance of a sign, marker, emblem, or traffic control device on a highway under the jurisdiction of the department of transportation is subject to the rules and specifications that the department adopts and publishes in the interest of public safety and convenience.

(5) *(a) An automated enforcement system designed to detect traffic violations that is attached to a traffic control device may not be used to enforce traffic laws.*

*(b) Subsection (5)(a) does not apply to automated enforcement systems attached to traffic control devices at railroad grade crossings.”*

**Section 2.** Section 61-8-206, MCA, is amended to read:

**“61-8-206. Local traffic control devices.** (1) Local authorities in their respective jurisdictions shall place and maintain ~~such~~ traffic control devices upon highways under their jurisdiction ~~as that they may deem consider~~ necessary to indicate and to carry out the provisions of this chapter or local traffic ordinances or to regulate, warn, or guide traffic. All ~~such~~ traffic control devices ~~hereafter erected shall~~ *must* conform to the state manual and specifications.

(2) *(a) An automated enforcement system designed to detect traffic violations that is attached to a traffic control device may not be used to enforce traffic laws.*

*(b) Subsection (2)(a) does not apply to automated enforcement systems attached to traffic control devices at railroad grade crossings.”*

**Section 3. Effective date.** [This act] is effective on passage and approval.

Approved May 5, 2009

**CHAPTER NO. 448**

[HB 536]

AN ACT REVISING IGNITION INTERLOCK DEVICE REQUIREMENTS; AMENDING SECTIONS 61-5-208, 61-8-442, AND 61-8-733, MCA; AND PROVIDING AN APPLICABILITY DATE.

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

**Section 1.** 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 *unless the person completes at least 45 days of the 1-year suspension and the report of conviction includes a recommendation from the court that a probationary driver’s license be issued subject to the requirements of 61-8-442.* 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, 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.

(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 2.** Section 61-8-442, MCA, is amended to read:

**"61-8-442. Driving under influence of alcohol or drugs — driving with excessive alcohol concentration — ignition interlock device.** (1) In addition to the punishments provided in 61-8-714 and 61-8-722, regardless of disposition and if a probationary license is recommended by the court, the court may, for a person convicted of a first offense under 61-8-401 or 61-8-406, restrict the person to driving only a motor vehicle equipped with a functioning ignition interlock device during the probationary period and require the person to pay the reasonable cost of leasing, installing, and maintaining the device.

(2) If a person is convicted of a second or subsequent violation of 61-8-401 or 61-8-406, in addition to the punishments provided in 61-8-714 and 61-8-722, regardless of disposition, the court shall:

(a) *if recommending that a probationary license be issued to the person, restrict the person to driving only a motor vehicle equipped with a functioning ignition interlock device during the probationary period and require the person to pay the reasonable cost of leasing, installing, and maintaining the device; or*

(b) order that each motor vehicle owned by the person at the time of the offense be either:

(a) seized and subjected to the forfeiture procedure provided under 61-8-421; or

(b) ~~during the 12-month period beginning with the end of the period of driver's license revocation, equipped with a functioning ignition interlock device and require the person to pay the reasonable cost of leasing, installing, and maintaining the device.~~

(3) Any restriction imposed under this section must be included in a report of the conviction made by the court to the department in accordance with 61-11-101 and placed upon the person's driving record maintained by the department in accordance with 61-11-102.

(4) The duration of a restriction imposed under this section must be monitored by the department."

**Section 3.** Section 61-8-733, MCA, is amended to read:

**"61-8-733. Driving under influence of alcohol or drugs — driving with excessive alcohol concentration — forfeiture of vehicle.** (1) On the second or subsequent conviction of a violation of 61-8-401 or 61-8-406 or a second or subsequent conviction under 61-5-212 when the reason for the suspension or revocation was that the person was convicted of a violation of 61-8-401 or 61-8-406 or a similar offense under the laws of any other state or the suspension was under 61-8-402 or 61-8-409 or a similar law of any other state for refusal to take a test for alcohol or drugs requested by a peace officer who believed that the person might be driving under the influence, the court, in addition to the punishments provided in 61-5-212, 61-8-714, and 61-8-722 and any other penalty imposed by law, shall:

(a) *if recommending that a probationary license be issued to the person, restrict the person to driving only a motor vehicle equipped with a functioning ignition interlock device during the probationary period and require the person to pay the reasonable cost of leasing, installing, and maintaining the device; or*

(b) *order that each motor vehicle owned by the person at the time of the offense be either seized and subjected to the procedure provided under 61-8-421 or equipped with an ignition interlock device as provided under 61-8-442.*

(2) A vehicle used by a person as a common carrier in the transaction of business as a common carrier is not subject to forfeiture unless it appears that the owner or other person in charge of the vehicle consented to or was privy to the violation. A vehicle may not be forfeited under this section for any act or omission established by the owner to have been committed or omitted by a person other than the owner while the vehicle was unlawfully in the possession of a person other than the owner in violation of the criminal laws of this state or the United States.

(3) Forfeiture of a vehicle encumbered by a security interest is subject to the secured person's interest if the person did not know and could not have reasonably known of the unlawful possession, use, or other act on which the forfeiture is sought."

**Section 4. Applicability.** [This act] applies to offenses committed on or after [the effective date of this act].

Approved May 5, 2009

## CHAPTER NO. 449

[HB 557]

AN ACT 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.

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

**Section 1. Rules for regional public water supply systems.** The board shall adopt rules for approval of regional public water supply systems established by a regional water authority pursuant to Title 75, chapter 6, part 3. The rules must:

(1) include procedures for the construction of regional public water supply systems, including regulatory provisions for a series of project segments over the construction period of the project as contained in the final engineering report, as may be amended and approved by the United States bureau of reclamation, that addresses the:

(a) approval of design and construction standards that may not be subject to change for 72 months;

(b) issuance of deviations from design and construction standards to remain in effect for 72 months; and

(c) approval of an individual regional water supply system's standard construction contract documents and provisions for amendments to those documents to remain in effect for the construction period of the project;

(2) implement plan and specification review periods or deviation request approval periods for storage, pumping, and distribution portions of a regional public water supply system of not more than 40 calendar days for the initial review by the department and not more than 20 working days for any subsequent reviews;

(3) avoid duplicate processes and regulations by coordinating and incorporating the review and approval process applicable to a regional public water supply system by the United States bureau of reclamation.

**Section 2.** Section 75-6-103, MCA, is amended to read:

**“75-6-103. Duties of board.** (1) The board has general supervision over all state waters that are directly or indirectly being used by a person for a public water supply system or domestic purposes or as a source of ice.

(2) The board shall, subject to the provisions of 75-6-116 *and as provided in [section 1]*, adopt rules and standards concerning:

(a) maximum contaminant levels for waters that are or will be used for a public water supply system;

(b) fees, as described in 75-6-108, for services rendered by the department;

(c) monitoring, recordkeeping, and reporting by persons who own or operate public water supply systems;

(d) requiring public notice to all users of a public water supply system when a person has been granted a variance or exemption or is in violation of this part or a rule or order issued pursuant to this part;

(e) the siting, construction, operation, and modification of a public water supply system or public sewage system;

(f) the review of the technical, managerial, and financial capacity of a proposed public water supply system or public sewage system, as necessary to ensure the capability of the system to meet the requirements of this part;

(g) the collection and analysis of samples of water used for drinking or domestic purposes;

(h) the issuance of variances and exemptions as authorized by the federal Safe Drinking Water Act and this part;

(i) administrative enforcement procedures and administrative penalties authorized under this part;

(j) standards and requirements for the review and approval of programs that may be voluntarily submitted by suppliers of public water supply systems to prevent water supply contamination from a cross-connection, including provisions to exempt cross-connections from the standards and requirements if all connected systems are department-approved public water supply systems; and

(k) any other requirement necessary for the protection of public health as described in this part.

(3) Board rules must provide for the following:

(a) *except as provided in [section 1]*, a water supply or water distribution facility reviewed and approved by the department is not subject to changes in department design and construction criteria for a period of 36 months after written approval of the facility is issued by the department;

(b) except for facilities subject to permit requirements under Title 75, chapter 5, part 4, *and except as provided under rules adopted pursuant to*



[section 1], a system of water supply, drainage, wastewater, or sewage reviewed and approved under this section is not subject to changes in department design or construction criteria for a period of 36 months after written approval is issued by the department;

(c) plans and specifications for a portion of a facility or system subject to a 36-month limit on criteria changes pursuant to subsections (3)(a) and (3)(b), but not constructed within the 36-month timeframe, must be resubmitted for department review and approval before construction of that portion of the facility;

(d) the provisions of this subsection (3) may not limit an applicant's ability to alter a proposed project that is otherwise in conformance with applicable laws, rules, standards, and criteria.

(4) The board may issue orders necessary to fully implement the provisions of this part."

**Section 3. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 75, chapter 6, part 1, and the provisions of Title 75, chapter 6, part 1, apply to [section 1].

**Section 4. Applicability.** [This act] applies to plans and specifications for a regional public water supply system submitted after [the effective date of this act].

Approved May 5, 2009

## CHAPTER NO. 450

[HB 598]

AN ACT 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.

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

**Section 1.** Section 39-71-401, MCA, is amended to read:

**"39-71-401. Employments covered and ~~employments exempted exemptions~~ — elections — notice.** (1) Except as provided in subsection (2), the Workers' Compensation Act applies to all employers and to all employees. An employer who has any employee in service under any appointment or contract of hire, expressed or implied, oral or written, shall elect to be bound by the provisions of compensation plan No. 1, 2, or 3. Each employee whose employer is bound by the Workers' Compensation Act is subject to and bound by the compensation plan that has been elected by the employer.

(2) Unless the employer elects coverage for these employments under this chapter and an insurer allows an election, the Workers' Compensation Act does not apply to any of the following ~~employments~~:

- (a) household or domestic employment;
- (b) casual employment;

(c) employment of a dependent member of an employer's family for whom an exemption may be claimed by the employer under the federal Internal Revenue Code;

(d) employment of sole proprietors, working members of a partnership, working members of a limited liability partnership, or working members of a member-managed limited liability company, except as provided in subsection (3);

(e) employment of a real estate, securities, or insurance salesperson paid solely by commission and without a guarantee of minimum earnings;

(f) employment as a direct seller as defined by 26 U.S.C. 3508;

(g) employment for which a rule of liability for injury, occupational disease, or death is provided under the laws of the United States;

(h) employment of a person performing services in return for aid or sustenance only, except employment of a volunteer under 67-2-105;

(i) employment with a railroad engaged in interstate commerce, except that railroad construction work is included in and subject to the provisions of this chapter;

(j) employment as an official, including a timer, referee, umpire, or judge, at an amateur athletic event;

(k) employment of a person performing services as a newspaper carrier or freelance correspondent if the person performing the services or a parent or guardian of the person performing the services in the case of a minor has acknowledged in writing that the person performing the services and the services are not covered. As used in this subsection (2)(k):

(i) "freelance correspondent" means a person who submits articles or photographs for publication and is paid by the article or by the photograph; and

(ii) "newspaper carrier":

(A) means a person who provides a newspaper with the service of delivering newspapers singly or in bundles; and

(B) does not include an employee of the paper who, incidentally to the employee's main duties, carries or delivers papers.

(l) cosmetologist's services and barber's services as referred to in 39-51-204(1)(e);

(m) a person who is employed by an enrolled tribal member or an association, business, corporation, or other entity that is at least 51% owned by an enrolled tribal member or members, whose business is conducted solely within the exterior boundaries of an Indian reservation;

(n) employment of a jockey who is performing under a license issued by the board of horseracing from the time that the jockey reports to the scale room prior to a race through the time that the jockey is weighed out after a race if the jockey has acknowledged in writing, as a condition of licensing by the board of horseracing, that the jockey is not covered under the Workers' Compensation Act while performing services as a jockey;

(o) employment of a trainer, assistant trainer, exercise person, or pony person who is performing services under a license issued by the board of horseracing while on the grounds of a licensed race meet;

(p) employment of an employer's spouse for whom an exemption based on marital status may be claimed by the employer under 26 U.S.C. 7703;

(q) a person who performs services as a petroleum land professional. As used in this subsection, a "petroleum land professional" is a person who:

(i) is engaged primarily in negotiating for the acquisition or divestiture of mineral rights or in negotiating a business agreement for the exploration or development of minerals;

(ii) is paid for services that are directly related to the completion of a contracted specific task rather than on an hourly wage basis; and

(iii) performs all services as an independent contractor pursuant to a written contract.

(r) an officer of a quasi-public or a private corporation or manager of a manager-managed limited liability company who qualifies under one or more of the following provisions:

(i) the officer or manager is not engaged in the ordinary duties of a worker for the corporation or the limited liability company and does not receive any pay from the corporation or the limited liability company for performance of the duties;

(ii) the officer or manager is engaged primarily in household employment for the corporation or the limited liability company;

(iii) the officer or manager either:

(A) owns 20% or more of the number of shares of stock in the corporation or owns 20% or more of the limited liability company; or

(B) owns less than 20% of the number of shares of stock in the corporation or limited liability company if the officer's or manager's shares when aggregated with the shares owned by a person or persons listed in subsection (2)(r)(iv) total 20% or more of the number of shares in the corporation or limited liability company; or

(iv) the officer or manager is the spouse, child, adopted child, stepchild, mother, father, son-in-law, daughter-in-law, nephew, niece, brother, or sister of a corporate officer who meets the requirements of subsection (2)(r)(iii)(A) or (2)(r)(iii)(B);

(s) a person who is an officer or a manager of a ditch company as defined in 27-1-731;

(t) service performed by an ordained, commissioned, or licensed minister of a church in the exercise of the church's ministry or by a member of a religious order in the exercise of duties required by the order;

(u) service performed to provide companionship services, as defined in 29 CFR 552.6, or respite care for individuals who, because of age or infirmity, are unable to care for themselves when the person providing the service is employed directly by a family member or an individual who is a legal guardian;

(v) employment of a person performing the services of an intrastate or interstate common or contract motor carrier when hired by an individual or entity who meets the definition of a broker, as provided in 49 U.S.C. 13102;

(w) employment of a person who is not an employee or worker in this state as defined in 39-71-118(10);

(x) employment of a person who is working under an independent contractor exemption certificate;

(y) employment of an athlete by or on a team or sports club engaged in a contact sport. As used in this subsection, "contact sport" means a sport that includes significant physical contact between the athletes involved. Contact

sports include but are not limited to football, hockey, roller derby, rugby, lacrosse, wrestling, and boxing.

(z) *a musician performing under a written contract.*

(3) (a) (i) A person who regularly and customarily performs services at locations other than the person's own fixed business location shall elect to be bound personally and individually by the provisions of compensation plan No. 1, 2, or 3 unless the person has waived the rights and benefits of the Workers' Compensation Act by obtaining an independent contractor exemption certificate from the department pursuant to 39-71-417.

(ii) Application fees or renewal fees for independent contractor exemption certificates must be deposited in the state special revenue account established in 39-9-206 and must be used to offset the certification administration costs.

(b) A person who holds an independent contractor exemption certificate may purchase a workers' compensation insurance policy and with the insurer's permission elect coverage for the certificate holder.

(c) For the purposes of this subsection (3), "person" means a sole proprietor, a working member of a partnership, a working member of a limited liability partnership, or a working member of a member-managed limited liability company.

(4) (a) A corporation or a manager-managed limited liability company shall provide coverage for its employees under the provisions of compensation plan No. 1, 2, or 3. A quasi-public corporation, a private corporation, or a manager-managed limited liability company may elect coverage for its corporate officers or managers, who are otherwise exempt under subsection (2), by giving a written notice in the following manner:

(i) if the employer has elected to be bound by the provisions of compensation plan No. 1, by delivering the notice to the board of directors of the corporation or to the management organization of the manager-managed limited liability company; or

(ii) if the employer has elected to be bound by the provisions of compensation plan No. 2 or 3, by delivering the notice to the board of directors of the corporation or to the management organization of the manager-managed limited liability company and to the insurer.

(b) If the employer changes plans or insurers, the employer's previous election is not effective and the employer shall again serve notice to its insurer and to its board of directors or the management organization of the manager-managed limited liability company if the employer elects to be bound.

(5) The appointment or election of an employee as an officer of a corporation, a partner in a partnership, a partner in a limited liability partnership, or a member in or a manager of a limited liability company for the purpose of exempting the employee from coverage under this chapter does not entitle the officer, partner, member, or manager to exemption from coverage.

(6) Each employer shall post a sign in the workplace at the locations where notices to employees are normally posted, informing employees about the employer's current provision of workers' compensation insurance. A workplace is any location where an employee performs any work-related act in the course of employment, regardless of whether the location is temporary or permanent, and includes the place of business or property of a third person while the employer has access to or control over the place of business or property for the purpose of carrying on the employer's usual trade, business, or occupation. The

sign must be provided by the department, distributed through insurers or directly by the department, and posted by employers in accordance with rules adopted by the department. An employer who purposely or knowingly fails to post a sign as provided in this subsection is subject to a \$50 fine for each citation.”

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

Approved May 5, 2009

## CHAPTER NO. 451

[HB 662]

AN ACT 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.

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

**Section 1. Short title.** [Sections 1 through 9] may be cited as the “Massage Therapy Licensing Act”.

**Section 2. Purpose.** (1) The legislature finds that the practice of massage therapy affects the health, safety, and welfare of the people of this state and declares that the practice of massage therapy contributes to choice in health care.

(2) It is the purpose of [sections 1 through 9] to regulate the massage therapy profession, to create a board of massage therapy that will issue massage therapy licenses in accordance with [sections 1 through 9] and the board’s rules, and to define the terminology describing competencies of the massage therapy profession.

**Section 3. Definitions.** As used in [sections 1 through 9], the following definitions apply:

(1) “Board” means the board of massage therapy provided for in [section 10].

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

(3) “Massage therapist”, “licensed massage therapist”, “L.M.T.”, “masseur”, or “masseuse” means a person who is licensed by the board to practice massage therapy. The terms are equivalent terms, and any derivation of the phrases or any letters implying the phrases are equivalent terms. Any reference to any one of the terms in [sections 1 through 9] includes the others.

(4) (a) (i) “Massage therapy” when provided by a massage therapist means the application of a system of structured touch, pressure, positioning, or holding to soft tissues of the body, Swedish massage, effleurage, petrissage, tapotement, percussion, friction, vibration, compression, passive and active stretching or movement within the normal anatomical range of motion, the external application of water, heat, cold, lubricants, salts, skin brushing, or other topical preparations not classified as prescription drugs, providing information for self-care stress management, and the determination of whether massage is contraindicated and whether referral to another health care practitioner is recommended.

(ii) The techniques described in subsection (4)(a)(i) must be applied by the massage therapist through the use of hands, forearms, elbows, knees, or feet or through the use of hand-held tools that mimic or support the action of the hands and are primarily intended to enhance or restore health and well-being by promoting pain relief, stress reduction, and relaxation.

(b) The term does not include providing examinations for the purpose of diagnosis, providing treatments that are outside the scope of massage therapy, or attempts to adjust, manipulate, or mobilize any articulations of the body or spine by the use of high-velocity, low-amplitude thrusting force, exercise, exercise instruction or prescription, or the use of tape when applied to restrict joint movement, manual or mechanical traction when applied to the spine or extremities for the purposes of joint mobilization or manipulation, injection therapy, laser therapy, microwave diathermy, electrical stimulation, ultrasound, iontophoresis, or phonophoresis.

**Section 4. Exemptions — rules.** (1) The provisions of [sections 1 through 9] do not limit or regulate the scope of practice of any other profession licensed under the laws of this state, including but not limited to medicine, dentistry, osteopathy, podiatry, nursing, physical therapy, chiropractic, acupuncture, veterinary medicine, occupational therapy, naturopathic medicine, cosmetology, manicuring, barbering, esthetics, electrology, professional counseling, social work, psychology, or athletic training.

(2) A continuing education course instructor is not required to be licensed as a massage therapist.

(3) A massage therapy student, when enrolled in a board-approved program and while practicing the skills of massage therapy designated as a school-sanctioned activity and under the supervision of a licensed massage therapist, is not required to be licensed.

(4) The provisions of [sections 1 through 9] do not limit or regulate the practice of Native American traditional healing or faith healing.

(5) (a) The provisions of [sections 1 through 9] do not limit or regulate the practice of any person who uses:

(i) touch, words, and directed movement to deepen awareness of existing patterns of movement in the body, as well as to suggest new possibilities of movement. Exempt practices under this subsection (5)(a)(i) include but are not limited to the Feldenkrais method of somatic education, the Trager approach to movement education, and body-mind centering.

(ii) touch to affect the human energy systems, energy meridians, or energy fields. Exempt practices under this subsection (5)(a)(ii) include but are not limited to polarity bodywork therapy, Asian bodywork therapy, acupressure, jin shin do, qigong, reiki, shiatsu, and tui na.

(iii) touch to effect change on the integration of the structure of the physical body. Exempt practices under this subsection (5)(a)(iii) include but are not limited to the Rolf method of structural integration, Rolfing, and Hellerwork.

(iv) touch to affect the reflex areas located in the hands, feet, and outer ears. Exempt practices under this subsection (5)(a)(iv) include but are not limited to reflexology.

(b) The exemptions in subsection (5)(a) apply only if:

(i) the person is recognized by or meets the established requirements of either a professional organization or credentialing agency that represents or

certifies the respective practice based on a minimum level of training, demonstration of competence, and adherence to ethical standards; and

(ii) the person's services are not designated as or implied to be massage therapy.

**Section 5. Powers and duties of board — rulemaking authority.** The board shall:

(1) adopt rules necessary or proper to administer and enforce [sections 1 through 9];

(2) adopt rules that endorse equivalent licensure examinations of another state or territory of the United States, the District of Columbia, or a foreign country and that may include licensure by reciprocity;

(3) adopt rules establishing reasonable requirements for continuing education, which must require 12 hours of continuing education to be completed in each 2-year period;

(4) meet as often as necessary for the conduct of business but at least twice a year; and

(5) take disciplinary action necessary to protect the public as provided for in Title 37, chapter 1.

**Section 6. License required — enjoining unlawful practice.** (1) As of July 1, 2010, a person who is not eligible for a license under [section 8] may not practice or purport to practice massage therapy without first obtaining a license under the provisions of [section 7].

(2) A person who is not licensed as a massage therapist under this section or [section 8], whose license has been suspended or revoked, or whose license has lapsed and has not been revived may not use the words or letters “massage therapist”, “licensed massage therapist”, “L.M.T.”, “masseur”, or “masseur” or any other letters, words, or insignia indicating or implying that the person is a licensed massage therapist or in any way, orally, in writing, or in print or by sign, directly or by implication, purport to be a massage therapist. A person who knowingly violates the provisions of this subsection is guilty of a misdemeanor as provided in [section 9].

**Section 7. Qualifications for licensure.** (1) To be eligible for licensure as a massage therapist as provided in [section 6], an applicant:

(a) shall submit an application on a form provided by the department;

(b) shall include with the application the application fee set by the board;

(c) must possess a high school diploma or its equivalent;

(d) must be at least 18 years of age; and

(e) must be of good moral character.

(2) The applicant, in addition to the requirements established in subsection (1), is required to:

(a) successfully complete a massage therapy program of a minimum of 500 hours of study that meets or exceeds the curriculum guidelines established by any program or organization accredited by the national commission for certifying agencies or its equivalent or successor and receive a passing score on an examination prescribed by the board; or

(b) possess an equivalent current license, certification, or registration in good standing from another state.

**Section 8. Initial licensure — grandfather clause.** (1) As of July 1, 2010, the board shall issue a massage therapy license to an applicant who applies or has applied for a license by paying the application fee and by providing a signed affidavit to the board that the applicant has engaged in the practice of massage therapy for at least 100 hours in Montana prior to applying for a massage therapy license under this section and that the applicant meets the requirements of [section 7(1)(a), (1)(b), (1)(d), and (1)(e)]. The board shall by rule establish the application fee not later than January 1, 2010.

(2) (a) A license issued under this section is valid for the same initial period as a license issued under [section 7] and is subject to the same renewal requirements and renewal fees as a license issued under [section 7].

(b) A person may not apply for licensure under this section after July 1, 2012.

**Section 9. Penalty.** Any person who knowingly violates any provisions of [sections 1 through 9] is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$500 or by imprisonment in the county jail for a term of not more than 6 months, or both.

**Section 10. Board of massage therapy.** (1) There is a board of massage therapy.

(2) The board consists of five members appointed by the governor with the consent of the senate. The members are:

(a) one representative of the public who is not a medical practitioner or an owner of a school that educates massage therapists and is not engaged in or directly connected with the practice of massage therapy;

(b) one member who is a licensed health care provider in good standing in Montana and who is not an owner of a school that educates massage therapists; and

(c) three massage therapists, none of whom may be an owner of a school that educates massage therapists, who have been actively engaged in the practice of massage therapy for at least 3 years prior to being appointed to the board. None of the three massage therapists may belong to the same national professional association. After the initial appointments are made to establish the board, each of the three members must be licensed as a massage therapist under [sections 1 through 9].

(3) Members shall serve 4-year, staggered terms. The governor may remove a member from the board for neglect of duty required by law, for incompetence, or for unprofessional or dishonorable conduct.

(4) The governor shall make the initial appointments to the board as follows:

(a) one person who is a massage therapist to serve a 2-year term;

(b) one person who is a massage therapist to serve a 3-year term; and

(c) one person who is a massage therapist to serve a 4-year term.

(5) At the expiration of terms provided in subsection (4), the governor shall appoint the person designated to fill each position to a 4-year term.

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

**Section 11. Codification instruction.** (1) [Sections 1 through 9] are intended to be codified as an integral part of Title 37, and the provisions of Title 37 apply to [sections 1 through 9].



(2) [Section 10] is intended to be codified as an integral part of Title 2, chapter 15, part 17, and the provisions of Title 2, chapter 15, part 17, apply to [section 10].

**Section 12. Effective date.** [This act] is effective on passage and approval.

Approved May 5, 2009

## CHAPTER NO. 452

[SB 119]

AN ACT 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.

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

**Section 1. Medicaid program for workers with disabilities — purpose — eligibility — participant costs.** (1) If appropriations specific for this purpose are provided by the legislature and federal approval of the necessary amendments to the state medicaid plan is secured, the department shall administer a medicaid program that allows individuals with disabilities to participate in the medicaid program if they obtain employment that increases their incomes above eligibility limits. Participants in the program may be required to pay a portion of the costs for participation. The purpose of the program is to support employment for individuals with disabilities by providing medicaid coverage to individuals who would otherwise be ineligible for medicaid due to earnings that exceed the medicaid program's income limits.

(2) The medicaid program provided for under this section must be implemented in accordance with the provisions of 42 U.S.C. 1396a(a)(10)(A)(ii)(XIII) and (r)(2).

(3) An employed individual is eligible for the program if the individual:

(a) has a net family income that is less than 250% of the federal poverty level;

(b) would be categorically eligible for medicaid because the individual is disabled as defined under Title XVI of the Social Security Act, 42 U.S.C. 1382c, except that the person has or has had earnings above the level for substantial gainful activity;

(c) has income and resources equal to or below the income and resource limits established by the department by rule, which may be less stringent than the income and resource limits for supplemental security income benefits; and

(d) satisfies all other eligibility criteria established by the department by rule.

(4) The department may establish:

(a) requirements for the employment status of participants, the verification of employment status, and permissible temporary breaks in employment;

(b) requirements, limitations, and definitions pertaining to the income and resources of participants;

(c) only to the extent allowed under 42 U.S.C. 1396o, requirements for payment of premiums, deductions, and cost sharing as a condition for participating in the program.

(5) The department shall, to the extent allowed by appropriations levels and under applicable state and federal law, coordinate the medicaid program provided for under this section with other state and federal programs and resources that promote opportunities for persons with disabilities to retain, regain, and maintain employment.

**Section 2.** Section 53-6-113, MCA, is amended to read:

**“53-6-113. Department to adopt rules.** (1) The department of ~~public health and human services~~ shall adopt appropriate rules necessary for the administration of the Montana medicaid program as provided for in this part and that may be required by federal laws and regulations governing state participation in medicaid under Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as amended.

(2) The department shall adopt rules that are necessary to further define for the purposes of this part the services provided under 53-6-101 and to provide that services being used are medically necessary and that the services are the most efficient and cost-effective available. The rules may establish the amount, scope, and duration of services provided under the Montana medicaid program, including the items and components constituting the services.

(3) The department shall establish by rule the rates for reimbursement of services provided under this part. The department may in its discretion set rates of reimbursement that it determines necessary for the purposes of the program. In establishing rates of reimbursement, the department may consider but is not limited to considering:

- (a) the availability of appropriated funds;
- (b) the actual cost of services;
- (c) the quality of services;

(d) the professional knowledge and skills necessary for the delivery of services; and

- (e) the availability of services.

(4) The department shall specify by rule those professionals who may deliver or direct the delivery of particular services.

(5) The department may provide by rule for payment by a recipient of a portion of the reimbursements established by the department for services provided under this part.

(6) The department may adopt rules consistent with this part to govern eligibility for the Montana medicaid program, *including the medicaid program provided for in [section 1]*. Rules may include but are not limited to financial standards and criteria for income and resources, treatment of resources, nonfinancial criteria, family responsibilities, residency, application, termination, definition of terms, confidentiality of applicant and recipient information, and cooperation with the state agency administering the child support enforcement program under Title IV-D of the Social Security Act, 42 U.S.C. 651, et seq. The department may not apply financial criteria below \$15,000 for resources other than income in determining the eligibility of a child under 19 years of age for poverty level-related children’s medicaid coverage groups, as provided in 42 U.S.C. 1396a(l)(1)(B) through (l)(1)(D).

(7) The department may adopt rules limiting eligibility based on criteria more restrictive than that provided in 53-6-131 if required by Title XIX of the

Social Security Act, 42 U.S.C. 1396, et seq., as may be amended, or if funds appropriated are not sufficient to provide medical care for all eligible persons.

(8) The department may adopt rules necessary for the administration of medicaid managed care systems. Rules to be adopted may include but are not limited to rules concerning:

- (a) participation in managed care;
- (b) selection and qualifications for providers of managed care; and
- (c) standards for the provision of managed care.

(9) Subject to subsection (6), the department shall establish by rule income limits for eligibility for extended medical assistance of persons receiving section 1931 medicaid benefits, as defined in 53-4-602, who lose eligibility because of increased income to the assistance unit, as that term is defined in the rules of the department, as provided in 53-6-134, and shall also establish by rule the length of time for which extended medical assistance will be provided. The department, in exercising its discretion to set income limits and duration of assistance, may consider the amount of funds appropriated by the legislature.”

**Section 3.** Section 53-6-131, MCA, is amended to read:

**“53-6-131. Eligibility requirements.** (1) Medical assistance under the Montana medicaid program may be granted to a person who is determined by the department of public health and human services, in its discretion, to be eligible as follows:

(a) The person receives or is considered to be receiving supplemental security income benefits under Title XVI of the Social Security Act, 42 U.S.C. 1381, et seq., and does not have income or resources in excess of the applicable medical assistance limits.

(b) The person would be eligible for assistance under the program described in subsection (1)(a) if that person were to apply for that assistance.

(c) The person is in a medical facility that is a medicaid provider and, but for residence in the facility, the person would be receiving assistance under the program in subsection (1)(a).

(d) The person is under 21 years of age and in foster care under the supervision of the state or was in foster care under the supervision of the state and has been adopted as a child with special needs.

(e) The person meets the nonfinancial criteria of the categories in subsections (1)(a) through (1)(d) and:

(i) the person’s income does not exceed the income level specified for federally aided categories of assistance and the person’s resources are within the resource standards of the federal supplemental security income program; or

(ii) the person, while having income greater than the medically needy income level specified for federally aided categories of assistance:

(A) has an adjusted income level, after incurring medical expenses, that does not exceed the medically needy income level specified for federally aided categories of assistance or, alternatively, has paid in cash to the department the amount by which the person’s income exceeds the medically needy income level specified for federally aided categories of assistance; and

(B) has resources that are within the resource standards of the federal supplemental security income program.

(f) The person is a qualified pregnant woman or child as defined in 42 U.S.C. 1396d(n).

(g) The person is under 19 years of age and lives with a family having a combined income that does not exceed 185% of the federal poverty level. The department may establish lower income levels to the extent necessary to maximize federal matching funds provided for in 53-4-1104.

(2) The department may establish income and resource limitations. Limitations of income and resources must be within the amounts permitted by federal law for the medicaid program. Any otherwise applicable eligibility resource test prescribed by the department does not apply to enrollees in the healthy Montana kids plan provided for in 53-4-1104.

(3) The Montana medicaid program shall pay, as required by federal law, the premiums necessary for medicaid-eligible persons participating in the medicare program and may, within the discretion of the department, pay all or a portion of the medicare premiums, deductibles, and coinsurance for a qualified medicare-eligible person or for a qualified disabled and working individual, as defined in section 6408(d)(2) of the federal Omnibus Budget Reconciliation Act of 1989, Public Law 101-239, who:

(a) has income that does not exceed income standards as may be required by the Social Security Act; and

(b) has resources that do not exceed standards that the department determines reasonable for purposes of the program.

(4) The department may pay a medicaid-eligible person's expenses for premiums, coinsurance, and similar costs for health insurance or other available health coverage, as provided in 42 U.S.C. 1396b(a)(1).

(5) In accordance with waivers of federal law that are granted by the secretary of the U.S. department of health and human services, the department of public health and human services may grant eligibility for basic medicaid benefits as described in 53-6-101 to an individual receiving section 1931 medicaid benefits, as defined in 53-4-602, as the specified caretaker relative of a dependent child under the section 1931 medicaid program. A recipient who is pregnant, meets the criteria for disability provided in Title II of the Social Security Act, 42 U.S.C. 416, et seq., or is less than 21 years of age is entitled to full medicaid coverage, as provided in 53-6-101.

(6) The department, under the Montana medicaid program, may provide, if a waiver is not available from the federal government, medicaid and other assistance mandated by Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be amended, and not specifically listed in this part to categories of persons that may be designated by the act for receipt of assistance.

(7) Notwithstanding any other provision of this chapter, medical assistance must be provided to infants and pregnant women whose family income does not exceed 133% of the federal poverty threshold, as provided in 42 U.S.C. 1396a(a)(10)(A)(ii)(IX) and 42 U.S.C. 1396a(l)(2)(A)(i), and whose family resources do not exceed standards that the department determines reasonable for purposes of the program.

(8) Subject to appropriations, the department may cooperate with and make grants to a nonprofit corporation that uses donated funds to provide basic preventive and primary health care medical benefits to children whose families are ineligible for the Montana medicaid program and who are ineligible for any

other health care coverage, are under 19 years of age, and are enrolled in school if of school age.

(9) A person described in subsection (7) must be provided continuous eligibility for medical assistance, as authorized in 42 U.S.C. 1396a(e)(5) through a(e)(7).

(10) Full medical assistance under the Montana medicaid program may be granted to an individual during the period in which the individual requires treatment of breast or cervical cancer, or both, or of a precancerous condition of the breast or cervix, if the individual:

(a) has been screened for breast and cervical cancer under the Montana breast and cervical health program funded by the centers for disease control and prevention program established under Title XV of the Public Health Service Act, 42 U.S.C. 300k, or in accordance with federal requirements;

(b) needs treatment for breast or cervical cancer, or both, or a precancerous condition of the breast or cervix;

(c) is not otherwise covered under creditable coverage, as provided by federal law or regulation;

(d) is not eligible for medical assistance under any mandatory categorically needy eligibility group; and

(e) has not attained 65 years of age.

(11) *Subject to the limitation in [section 1], the department shall provide medicaid coverage to workers with disabilities as provided in [section 1] and in accordance with 42 U.S.C. 1396a(a)(10)(A)(ii)(XIII) and (r)(2) and 42 U.S.C. 1396o.*

**Section 4. Transition.** During the biennium beginning July 1, 2009, the department shall implement the program provided for in [this act] using existing staff.

**Section 5. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 53, chapter 6, part 1, and the provisions of Title 53, chapter 6, apply to [section 1].

**Section 6. Effective date.** [This act] is effective July 1, 2009.

Approved May 5, 2009

## CHAPTER NO. 453

[SB 235]

AN ACT 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.

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

**Section 1.** Section 37-17-104, MCA, is amended to read:

**“37-17-104. Exemptions.** (1) ~~This~~ *Except as provided in subsection (2), this chapter does not prevent:*

(1)(a) qualified members of other professions, such as physicians, social workers, lawyers, pastoral counselors, *professional counselors licensed under Title 37, chapter 23*, or educators, from doing work of a psychological nature consistent with their training if they do not hold themselves out to the public by a title or description incorporating the words “psychology”, “psychologist”, “psychological”, or “psychologic”;

(2)(b) the activities, services, and use of an official title clearly delineating the nature and level of training on the part of a person in the employ of a federal, state, county, or municipal agency or of other political subdivisions or an educational institution, business corporation, or research laboratory insofar as these activities and services are a part of the duties of the office or position within the confines of the agency or institution;

(3)(c) the activities and services of a student, intern, or resident in psychology pursuing a course of study at an accredited university or college or working in a generally recognized training center if these activities and services constitute a part of the supervised course of study of the student, intern, or resident in psychology;

(4)(d) the activities and services of a person who is not a resident of this state in rendering consulting psychological services in this state when these services are rendered for a period which does not exceed, in the aggregate, 60 days during a calendar year if the person is authorized under the laws of the state or country of that person’s residence to perform these activities and services; ~~however.~~ *However*, these persons shall report to the department the nature and extent of the services in this state prior to providing those services if the services are to exceed 10 days in a calendar year;

(5)(e) a person authorized by the laws of the state or country of the person’s former residence to perform activities and services, who has recently become a resident of this state and who has submitted a completed application for a license in this state, from performing the activities and services pending disposition of the person’s application; and

(6)(f) the offering of lecture services.

(2) *Those qualified members of other professions described in subsection (1)(a) may indicate and hold themselves out as performing psychological testing, evaluation, and assessment, as described in 37-17-102(4)(b), provided that they are qualified to administer the test and make the evaluation or assessment.*

(3) *The board of social work examiners and professional counselors shall adopt rules that qualify a licensee under Title 37, chapter 22 or 23, to perform psychological testing, evaluation, and assessment. The rules for licensed clinical social workers and professional counselors must be consistent with the guidelines of their respective national associations. Final rules must be adopted by October 1, 2010. A qualified licensee providing services under this exemption shall comply with the rules no later than 1 year from the date of adoption of the rules.”*

**Section 2.** Section 37-23-102, MCA, is amended to read:

**“37-23-102. Definitions.** As used in this chapter, the following definitions apply:

(1) “Board” means the board of social work examiners and professional counselors established under 2-15-1744.

(2) “Licensee” means a person licensed under this chapter.

(3) "Professional counseling" means engaging in methods and techniques that include:

(a) counseling, which means the therapeutic process of:

(i) conducting assessments and diagnoses for the purpose of establishing treatment goals and objectives; or

(ii) planning, implementing, and evaluating treatment plans that use treatment interventions to facilitate human development and to identify and remediate mental, emotional, or behavioral disorders and associated distresses that interfere with mental health;

(b) assessment, which means selecting, administering, scoring, and interpreting instruments, *including psychological tests, evaluations, and assessments*, designed to assess an individual's aptitudes, attitudes, abilities, achievement, interests, and personal characteristics and using nonstandardized methods and techniques for understanding human behavior in relation to coping with, adapting to, or changing life situations;

(c) counseling treatment intervention, which means those cognitive, affective, behavioral, and systemic counseling strategies, techniques, and methods common to the behavioral sciences that are specifically implemented in the context of a therapeutic relationship. Other treatment interventions include developmental counseling, guidance, and consulting to facilitate normal growth and development, including educational and career development; ~~and~~.

(d) referral, which means evaluating information to identify needs or problems of an individual and to determine the advisability of referral to other specialists, informing the individual of the judgment, and communicating as requested or considered appropriate with the referral sources."

Approved May 5, 2009

## CHAPTER NO. 454

[SB 290]

AN ACT 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.

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

**Section 1.** Section 90-4-1001, MCA, is amended to read:

**"90-4-1001. State energy policy goal statement.** (1) It is the policy of the state of Montana to promote energy *efficiency*, conservation, production, and consumption of a reliable and efficient mix of energy sources that represent the least social, environmental, and economic costs and the greatest long-term benefits to Montana citizens.

(2) In pursuing this goal, it is the policy of the state of Montana to:

(a) recognize that the state's energy system operates within the larger context of and is influenced by regional, national, and international energy markets;

(b) ~~maintain a continual process to~~ review this energy policy statement and any future changes *pursuant to 90-4-1003* so that Montana's energy strategy

will provide for a balance between a sustainable environment and a viable economy; and

(c) adopt a state transportation energy policy as provided in 90-4-1010 and an alternative fuels policy and implementing guidelines as provided in 90-4-1011.”

**Section 2.** Section 90-4-1003, MCA, is amended to read:

**“90-4-1003. Energy policy development process.** (1) ~~(a) The Except as provided for in subsection (1)(b), each interim, the energy and telecommunications interim committee established in 5-5-230 department and the committee, in cooperation with the consumer counsel and the public service commission, shall maintain a continual process to develop the components of a comprehensive review the state energy policy; and recommend potential changes to the state energy policy,~~

~~(2) Because of limited state resources and the need to focus intensive effort on specific issues of importance, the development of a comprehensive state energy policy must occur on an incremental basis. As the need arises, the department, in cooperation with the appropriate state agencies and with extensive public involvement, shall identify and recommend to the committee specific components of a state energy policy for development under the consensus process described in pursuant to subsection (3) (2).~~

~~(b) During the 2009-2010 interim, the committee shall consult with a broad representation of stakeholders, including appropriate state agencies and the public, and focus on the following issues to be included in a revised state energy policy:~~

- ~~(i) increasing the supply of low-cost electricity with coal-fired generation;~~
- ~~(ii) rebuilding and extending electric transmission lines;~~
- ~~(iii) maximizing state land use for energy generation;~~
- ~~(iv) increasing energy efficiency standards for new construction;~~
- ~~(v) promoting conservation;~~
- ~~(vi) promoting energy efficiency incentives;~~
- ~~(vii) promoting alternative energy systems;~~
- ~~(viii) reducing regulations that increase ratepayers’ energy costs; and~~
- ~~(ix) integrating wind energy.~~

~~(3)(2) (a) Upon selection of a specific energy policy component, the Except as provided in subsection (1)(b), the committee shall assign to a working group composed of representatives of the parties with a stake in that specific component the task of developing consensus recommendations for that component of state energy policy.~~

~~(b) The working group must include the broadest possible consult with a broad representation of stakeholders, including appropriate state agencies and the public, in developing the issues to be included within the specific component of proposed, revised state energy policy each interim.~~

~~(c) Whenever possible, the working group shall use a consensus process to develop recommendations for a specific energy policy component to be submitted to the committee. Recommendations that are not based upon consensus must be so noted by the working group. Upon consideration of the working group’s recommendations, the~~



(3) *Each biennium, the committee shall forward its recommendations to the legislature and to the appropriate state agencies for adoption.*

~~(d) The department shall:~~

~~(i) provide staff support to the working group, including policy analysis, data gathering, research, technical analysis, and administrative support;~~

~~(ii) provide administrative coordination among the appropriate state agencies in the energy policy development process;~~

~~(iii) prepare reports for and make recommendations to the committee; and~~

~~(iv) consult regularly with the committee to coordinate each agency's activities.~~

(4) *In carrying out their its responsibilities under this section, the department and the committee may contract with experts, consultants, and facilitators and may seek funding from a variety of private and public sources for technical and other assistance necessary shall use its interim budget, as allocated by the legislative council, and rely on the input of locally available experts and staff research to accomplish their its responsibilities.*

**Section 3. Repealer.** Section 90-4-1002, MCA, is repealed.

**Section 4. Effective date.** [This act] is effective on passage and approval.

Approved May 5, 2009

## CHAPTER NO. 455

[SB 400]

AN ACT LIMITING DISMISSALS IN JUSTICES' COURT; AMENDING SECTION 25-31-409, MCA; AND REPEALING SECTION 25-33-208, MCA.

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

**Section 1.** Section 25-31-409, MCA, is amended to read:

**"25-31-409. *Alias Limitation on dismissal — alias summons.*** (1) *A case is not subject to dismissal by the court for nonservice or failure to proceed during the time that the summons is valid.*

(2) *If the summons is returned without being served upon any or all of the defendants, the justice, upon the demand request of the plaintiff, may issue an alias summons in the same form as the original. The justice may, within 2 years from the date of the filing of the complaint, issue as many alias summonses as may be demanded requested by the plaintiff.*

**Section 2. Repealer.** Section 25-33-208, MCA, is repealed.

Approved May 5, 2009

## CHAPTER NO. 456

[SB 446]

AN ACT 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.

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

**Section 1.** 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 upon their requests and grants accreditation status to the ambulatory surgical centers 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~~ *must* include ~~obstetrical care, medical personnel available to provide emergency care on site 24 hours a day, or and may include~~ 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.

(c) *The emergency care requirement for a hospital that specializes in providing health services for psychiatric, developmentally disabled, or tubercular patients is satisfied if the emergency care is provided within the scope*

*of the specialized services provided by the hospital and by providing 24-hour nursing care by licensed registered nurses.*

(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 2. Hospital discrimination based on ability to pay prohibited — charity care requirements.** (1) Except as provided in subsection (3), a hospital must have in writing:

(a) a policy applying to all patients, including medicaid and medicare patients, that prohibits discrimination based on a patient's ability to pay; and

(b) a charity care policy consistent with industry standards applicable to the area the facility serves and the tax status of the hospital.

(2) A hospital may not transfer a patient to another hospital or health care facility based on the patient's ability to pay for health care services.

(3) A specialty hospital must have in writing a charity care policy consistent with industry standards for nonprofit hospitals irrespective of the tax status of the specialty hospital.

**Section 3. Transfer of hospital patients.** In cases where the federal Emergency Medical Treatment and Active Labor Act, 42 U.S.C. 1395dd, does not apply, a hospital may not transfer a patient to another hospital using only a call to a 9-1-1 service. The hospital shall:

(1) before the transfer, provide notice to the other hospital, including the reason for the transfer; and

(2) during the transfer, provide the medical records related to the patient's current hospitalization.

**Section 4.** Section 50-5-245, MCA, is amended to read:

**"50-5-245. Department to license specialty hospitals — standards — rulemaking — moratorium.** (1) Subject to subsection (4), the department shall license specialty hospitals using the requirements for licensure of hospitals and the procedure provided for in parts 1 and 2 of this chapter.

(2) ~~The~~ *Prior to approving an application under this section, the department shall adopt rules that are necessary to implement and administer this section.*

(3) Notwithstanding the requirements of subsection (1), the department may not *accept an application or issue a license for a specialty hospital until before July 1, 2009.*

(4) A health care facility licensed by the department and in existence on May 8, 2007, may not change its licensure status in order to qualify for licensure as a specialty hospital unless the health care facility is licensed as a hospital *and the hospital is not subject to the provisions of [section 5] and subsections (5) through (9) of this section.*

(5) *A specialty hospital meets the 24-hour emergency care requirements for a hospital, as defined in 50-5-101, if it has an agreement with a hospital in the area served by the specialty hospital stating that the hospital will provide 24-hour emergency care to patients of the specialty hospital.*

(6) *A specialty hospital applying for a license must have:*

(a) *a charity care policy meeting the provisions of [section 2] and, if applicable, subsection (9) of this section; and*

(b) *a joint venture relationship with a hospital; or*

(c) *a signed statement from a nonprofit hospital in the community acknowledging that the hospital declined a bona fide, good faith opportunity to participate in a joint venture with the applicant.*

(7) *A specialty hospital owned by physicians and proposed as a joint venture with a nonprofit hospital in the community may be licensed if:*

(a) *the majority of partnering physicians hold active privileges with the joint venture hospital; and*

(b) *the partnering hospital holds an ownership interest of at least 50%.*

(8) *This section does not prohibit physicians who are partners in a specialty hospital that is proposed as a joint venture from managing the specialty hospital.*



*(9) The charity care policy for a specialty hospital applying as a joint venture with a nonprofit hospital in the community must be the same as the policy used by the nonprofit hospital.”*

**Section 5. Specialty hospital application process — impact study.** (1) The application process for a specialty hospital must include an impact study that analyzes the financial and operational impacts of the proposed specialty hospital on existing health care facilities in the service area.

(2) An applicant for a specialty hospital license shall:

(a) provide the department with a list of independent consultants who could conduct the impact study required under this section; and

(b) pay the costs of the impact study.

(3) The department shall:

(a) approve a consultant to conduct an impact study from among the consultants submitted by the applicant or from a list of consultants known to the department;

(b) determine the scope of the study necessary to assess the potential positive and adverse impacts on access to health care services in the applicant’s proposed service area; and

(c) provide an opportunity for public comment and participation in the study process, including the opportunity to comment on the list of consultants provided by an applicant pursuant to subsection (2)(a).

(4) The scope of the study established by the department may include but is not limited to:

(a) the impact on health care costs in the service area;

(b) the impacts on access to emergency care, mental health care, and other subsidized services provided in the service area; and

(c) the operational impacts on existing health care facilities located in the service area.

(5) The impact study must be completed within 180 days of the date the department establishes the scope of the study.

(6) If the department finds, based on the results of the impact study and public comment, that a proposed specialty hospital would adversely affect an existing hospital or the community’s access to health care services, the department shall:

(a) impose conditions on the applicant and on the specialty hospital, if licensed, to mitigate the adverse impact on the community; or

(b) deny a license to the applicant.

**Section 6. Codification instruction.** (1) [Sections 2 and 3] are intended to be codified as an integral part of Title 50, chapter 5, part 1, and the provisions of Title 50, chapter 5, part 1, apply to [sections 2 and 3].

(2) [Section 5] is intended to be codified as an integral part of Title 50, chapter 5, part 2, and the provisions of Title 50, chapter 5, apply to [section 5].

**Section 7. Coordination instruction.** If both Senate Bill No. 439 and [this act] are passed and approved, then Senate Bill No. 439 is void.

**Section 8. Effective date.** [This act] is effective July 1, 2009.

Approved May 5, 2009

**CHAPTER NO. 457**

[HB 9]

AN ACT ESTABLISHING PRIORITIES FOR CULTURAL AND AESTHETIC PROJECTS GRANT AWARDS; APPROPRIATING MONEY FOR CULTURAL AND AESTHETIC GRANTS; AND PROVIDING AN EFFECTIVE DATE.

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

**Section 1. Appropriation of cultural and aesthetic grant funds — priority of disbursement.** (1) The Montana arts council shall award grants for projects authorized by and limited to the amounts appropriated by [section 2] and this section. Money must be disbursed in priority order, first to projects covered under subsection (3) and second to projects listed in [section 2].

(2) The Montana arts council shall disburse money to projects authorized by [section 2] through grant contracts between the Montana arts council and the grant recipient. The award contract must bind the parties to conditions, if any, listed with the appropriation in [section 2].

(3) There is appropriated from the cultural and aesthetic projects trust fund account to the Montana historical society \$30,000 for the biennium ending July 1, 2011, for care and conservation of capitol complex artwork.

**Section 2. Appropriation of cultural and aesthetic grant funds.** The following projects are approved, and \$885,400 is appropriated to the Montana arts council for the biennium ending June 30, 2011, from the cultural and aesthetic projects trust fund account:

Grant #	Grantee	Grant Amount
A. Special Projects \$4,500 or Less		
1406	Upper Swan Valley Historical Society	\$3,500
1407	Yellowstone Ballet Company	\$4,500
1405	Signatures From Big Sky	\$4,500
1404	Sanders County Historical Soc./USFS Region 1	\$4,500
1402	Miles City Speaker's Bureau	\$4,000
1403	Montana Storytelling Roundup, Inc.	\$4,500
1401	Granite County Museum & Cultural Center	\$2,000
1400	Council for the Arts, Lincoln	\$1,800
B. Special Projects		
1432	Montana Alliance for Arts Education	\$5,000
1418	Glacier National Park	\$4,900
1424	Humanities Montana	\$13,900
1430	Missoula Art Museum	\$12,000
1440	Russell Museum	\$13,900
1414	CoMotion Dance	\$6,000
1408	Alpine Artisans, Inc.	\$7,300
1416	Fort Peck Fine Arts Council	\$11,000
1411	Butte-Silver Bow Public Archives	\$14,000
1436	Museum of the Rockies	\$10,000
1421	Headwaters Dance Company	\$10,000

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1410	Butte Citizens for Preservation and Revitalization	\$8,400
1426	KUFM Montana Public Radio	\$10,000
1423	Hockaday Museum of Art	\$10,400
1427	Livingston Depot Foundation	\$5,000
1415	Emerson Cultural Center	\$8,400
1417	Friends of the Museum of the Plains Indian	\$3,000
1425	International Choral Festival	\$6,200
1412	Butte-Silver Bow Public Library	\$10,000
1433	Montana Historical Society	\$10,400
1428	Mai Wah Society - Museum	\$6,000
1435	Montana Museum of Art and Culture	\$10,700
1437	Musikanten Montana	\$2,000
1409	Big Sky Repertory Theatre	\$10,700
1434	Montana Mandolin Society	\$2,000
1438	North Valley Music School	\$9,300
1413	Butte Symphony Association	\$1,000
1419	Glacier Symphony and Chorale	\$7,500
1420	Hamilton Players, Inc.	\$5,000
1422	Helena Symphony Orchestra & Chorale	\$20,000
C. Operational Support		
1467	Montana Arts	\$9,000
1475	Museums Association of Montana	\$12,500
1468	Montana Dance Arts Association	\$9,000
1469	Montana Performing Arts Consortium	\$15,000
1472	Montana Association of Symphony Orchestras	\$12,500
1473	Museum and Art Gallery Director's Association	\$12,000
1470	Montana Preservation Alliance	\$12,000
1483	Shakespeare in the Parks	\$10,400
1448	Big Horn Arts and Crafts Association	\$13,500
1488	Western Heritage Center	\$10,400
1460	Holter Museum of Art	\$15,000
1462	MCT, Inc.	\$12,000
1444	Alberta Bair Theater	\$11,100
1447	Beaverhead County Museum	\$12,000
1445	Archie Bray Foundation	\$10,400
1446	Art Mobile of Montana	\$13,300
1449	Billings Symphony Society	\$15,000
1492	Yellowstone Art Museum	\$13,900
1458	Great Falls Symphony	\$10,000
1457	Grandstreet Theatre	\$9,000
1461	Intermountain Opera Association	\$7,500

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1482	Schoolhouse History and Art Center	\$20,000
1459	Helena Presents - Myrna Loy Center	\$12,000
1455	Custer County Art Center	\$15,000
1485	Sunburst Community Foundation	\$8,000
1478	Pondera Arts Council	\$5,900
1480	Rimrock Opera Company	\$5,900
1453	Carbon County Historical Society	\$13,300
1479	Pondera Historical Association	\$8,000
1466	Montana Agriculture Center and Museum	\$9,000
1456	District 7 HRDC Growth Thru Art	\$13,300
1487	VSA Arts of Montana	\$8,000
1491	Writer's Voice (Billings YMCA)	\$13,700
1481	Rocky Mountain Ballet Theater	\$7,000
1477	Paris Gibson Square Museum of Art	\$13,900
1450	Bozeman Symphony Society	\$9,000
1452	Carbon County Arts Guild and Depot	\$9,600
1465	MonDak Historical and Art Society	\$15,300
1464	Missoula Cultural Council	\$3,000
1463	Mission Valley Friends of the Arts	\$2,000
1451	Butte Center for the Performing Arts	\$10,000
1486	Vigilante Theatre Company	\$6,000
1454	Copper Village Museum and Arts Center	\$9,500
1474	Museum of the Beartooths - Stillwater Historical Society	\$10,000
1484	Southwest Montana Arts Council	\$10,000
1490	World Museum of Mining	\$11,100
1489	Whitefish Theatre Company	\$10,000
1471	Montana Repertory Theatre	\$20,000
1476	Northwest History Museum - Central School	\$20,000
—	Great Falls History Museum	\$2,000
D. Capital Expenditure		
1503	Sanders County	\$11,100
1501	Polson-Flathead Historical Museum	\$10,000
1494	Billings Preservation Society	\$12,000
1495	City of Great Falls - Mansfield Center	\$5,000
1497	City of Shelby	\$5,000
1499	Mineral County Museum and Historical Society	\$2,000
1502	Ravalli County Museum	\$5,000
1498	Clay Arts Guild of Helena	\$2,000
1500	Old Trail Museum	\$4,000

**Section 3. Reversion of grant money.** On July 1, 2011, the unencumbered balance of the 2011 biennium grants reverts to the cultural and aesthetic projects trust fund account provided for in 15-35-108.

**Section 4. Reduction of grants on pro rata basis.** (1) Except for the appropriation provided for in [section 1(3)], if money in the cultural and aesthetic projects trust fund account is insufficient to fund projects at the appropriation levels contained in [section 2], reductions to projects with funding greater than \$4,500 will be made on a pro rata basis.

(2) If the interest earnings of the cultural trust in the 2011 biennium are over \$20,000 below the projected earnings of \$1.3 million, then the grants for the Helena Symphony Orchestra & Chorale, Montana Repertory Theatre, Northwest History Museum, Great Falls History Museum, and Old Trail Museum projects may be reduced to provide adequate funds for all other projects.

**Section 5. Effective date.** [This act] is effective July 1, 2009.

Approved May 6, 2009

## CHAPTER NO. 458

[HB 11]

AN ACT 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.

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

**Section 1. Appropriations from treasure state endowment state special revenue account.** (1) There is appropriated to the department of commerce \$17.8 million of the interest earnings from the treasure state endowment state special revenue account and any funds appropriated to the department in [section 11] remaining after all obligations to fund eligible projects identified in [section 1(3)] have been fully met, to be used to finance grants authorized by this section.

(2) The funds appropriated in this section must be used by the department to make grants to the governmental entities listed in subsection (3) for the described purposes and in amounts not to exceed the amounts set out in subsection (3). The appropriations are subject to the conditions set forth in [sections 2 and 3] and described in the treasure state endowment program 2011

biennium report to the 61st legislature. The legislature, pursuant to 90-6-710, authorizes the grants for the projects listed in subsection (3). The department shall commit funds to projects listed in subsection (3), up to the amounts authorized, based on the manner of disbursement set forth in [section 3] until interest earnings deposited into the treasure state endowment state special revenue account during the 2011 biennium are expended.

(3) The following applicants and projects are authorized for grants and listed in the order of their priority:

Applicant/Project	Grant Amount
1. Philipsburg, Town of (wastewater)	\$750,000
2. Ravalli County (bridge)	137,193
3. Sweet Grass County (bridge)	93,360
4. Melstone, Town of (water)	625,000
5. Fergus County (bridge)	167,200
6. Rudyard County Water and Sewer District (wastewater)	319,000
7. Cascade, Town of (water)	625,000
8. Powell County (bridge)	304,248
9. Wolf Creek County Water and Sewer District (wastewater)	750,000
10. Judith Gap, Town of (water-wastewater)	750,000
11. Gardiner-Park County Water and Sewer District (wastewater)	358,000
12. Winifred, Town of (wastewater)	500,000
13. Beaverhead County (bridge)	290,668
14. Sweet Grass Community County Water and Sewer District (water)	625,000
15. Nashua, Town of (water)	421,300
16. Laurel, City of (water)	625,000
17. Homestead Acres Water and Sewer District (water)	573,325
18. Crow Tribe (water-wastewater)	750,000
19. Carbon County (bridge)	492,915
20. Lewis and Clark County (bridge)	456,628
21. Madison County (bridge)	413,203
22. Cut Bank, City of (water)	500,000
23. Broadview, Town of (water)	500,000
24. St. Ignatius, Town of (water)	253,000
25. Jefferson County (bridge)	160,690
26. Stillwater County (bridge)	292,979
27. Wibaux, Town of (wastewater)	500,000
28. Bigfork County Water and Sewer District (wastewater)	750,000
29. Choteau, City of (wastewater)	500,000
30. Valier, Town of (water)	625,000
31. Carter-Chouteau County Water and Sewer District (water)	750,000
32. Hardin, City of (wastewater)	500,000
33. Upper and Lower River Road Water and Sewer District (water-wastewater)	500,000

34. Gildford County Water and Sewer District (wastewater)	538,000
35. Big Sandy, Town of (wastewater)	500,000
36. Ronan, City of (water)	750,000
37. Granite County (solid waste)	197,000
38. Seeley Lake Sewer District (wastewater)	750,000
39. Dutton, Town of (wastewater)	500,000
40. Blaine County (bridge)	384,160
41. Loma County Water and Sewer District (water)	750,000
42. Harlowton, Town of (water)	500,000
43. Kevin, Town of (water)	500,000
44. Flathead County (for Bigfork) (stormwater)	625,000
45. Woods Bay Homesites Water and Sewer District (wastewater)	730,000
46. Lockwood, (wastewater)	500,000
47. Shelby, City of (wastewater)	625,000
48. Whitefish, City of (wastewater)	500,000
49. Eureka, Town of (water)	625,000
50. Troy, City of (water)	715,000
51. Fallon County North Baker Water and Sewer District (wastewater)	120,000
52. Sheaver's Creek Water and Sewer District (wastewater)	600,000
53. Yellowstone County (bridge)	228,753
54. Gore Hill County Water District (water)	250,300
55. South Chester County Water District (water)	131,000
56. Livingston, City of (wastewater/solid waste)	500,000
57. Flathead County Water and Sewer District (Happy Valley) (water)	500,000
58. Bynum Teton County Water and Sewer District (water)	567,000
59. Bozeman, City of (wastewater)	500,000
60. Fort Smith Water and Sewer District (water)	500,000
61. Jette Meadows Water and Sewer District (water)	750,000
62. Greater Woods Bay Sewer District (wastewater)	488,000
63. Em-Kayan Village Water and Sewer District (water)	290,619
64. Stevensville, Town of (water)	500,000
65. Bridger Pines County Water and Sewer District (wastewater)	400,000
66. Brockton, Town of (wastewater)	750,000

(4) If sufficient funds are available, this section constitutes a valid obligation of funds to the grant recipients listed in subsection (3) for purposes of encumbering the treasure state endowment state special revenue account funds during the 2011 biennium pursuant to 17-7-302. However, a grant recipient's entitlement to receive funds is dependent on the grant recipient's compliance with the conditions described in [section 3(1)] and on the availability of funds.

(5) Funding for projects numbered 1 through 33 in subsection (3) will be provided only so long as there are sufficient funds available from the amount that was deposited into the treasure state endowment state special revenue account during the biennium ending June 30, 2011. Funding for these projects

will be made available in the order that the grant recipients satisfy the conditions described in [section 3(1)]. Once all funds appropriated in subsection (1) for the biennium are totally committed to projects numbered 1 through 33 in subsection (3) that have satisfied the conditions described in [section 3(1)], the obligation to any remaining projects will cease.

(6) Projects numbered 34 through 66 listed in subsection (3) may receive grant funds in the order that the grant recipients satisfy the conditions described in [section 3(1)] only so long as there are sufficient funds from the amount appropriated in subsection (1). Once all funds appropriated in subsection (1) are totally committed to projects numbered 34 through 66 in subsection (3) that have satisfied the conditions described in [section 3(1)], the obligation to remaining projects will cease. If funds appropriated in subsection (1) are insufficient to fund any of the projects that have satisfied the conditions described in [section 3(1)] prior to June 30, 2011, the treasure state endowment program shall fund the projects by borrowing money from the board of investments pursuant to 90-6-701(1)(b). There is appropriated to the department of commerce up to \$6,512,000 of funds borrowed from the board of investments.

(7) In the event that any remaining funds deposited into the treasure state endowment state special revenue account during the 2011 biennium are insufficient to fully fund any one of the grant recipients listed in subsection (3), the department may make the remaining funds available to the first grant recipient that has satisfied the conditions described in [section 3(1)] and that is able to firmly commit the balance of the amount necessary to fund the project in its entirety.

(8) Grant recipients shall complete all of the conditions described in [section 3(1)] by December 31, 2012, or the grant contract will be terminated.

**Section 2. Approval of grants — completion of biennial appropriation.** (1) The legislature, pursuant to 90-6-701, authorizes grants for the projects identified in [section 1(3)].

(2) The authorization of these grants completes a biennial appropriation from the treasure state endowment special revenue account provided for in 17-5-703(3)(c).

**Section 3. Conditions of grants — disbursement of funds.** (1) The disbursement of grant funds under [sections 1 through 3] for the projects specified in [section 1(3)] is subject to completion of the following conditions:

(a) The grant recipient shall execute a grant agreement with the department of commerce.

(b) The grant recipient shall document that other matching funds required for completion of the project are firmly committed.

(c) The grant recipient must have a project management plan that is approved by the department.

(d) The grant recipient must be in compliance with the auditing and reporting requirements provided for in 2-7-503 and have established a financial accounting system that the department can reasonably ensure conforms to generally accepted accounting principles. Tribal governments shall comply with auditing and reporting requirements provided for in OMB Circular A-133.

(e) The grant recipient shall satisfactorily comply with any conditions described in the application (project) summaries section of the treasure state endowment program 2011 biennium report to the 61st legislature.



(f) The grant recipient shall satisfy other specific requirements considered necessary by the department to accomplish the purpose of the project as evidenced by the application to the department.

(2) With the exception of bridges, all projects must adhere to the design standards required by the department of environmental quality. Recipients of treasure state endowment program funds that are not subject to the department of environmental quality design standards must adhere to generally accepted industry standards, such as Recommended Standards for Wastewater Facilities or Recommended Standards for Water Works, published by the Great Lakes-Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers, latest edition.

(3) Recipients of treasure state endowment program funds are subject to the requirements of the department of commerce as described in the most recent edition of the treasure state endowment program project administration manual, adopted by the department through the administrative rulemaking process.

**Section 4. Other powers and duties of department.** (1) The department of commerce shall disburse grant funds on a reimbursement basis as grant recipients incur eligible project expenses.

(2) If actual project expenses are lower than the projected expense of the project, the department may, at its discretion:

(a) reduce the amount of grant funds to be provided to grant recipients in proportion to all other project funding sources;

(b) authorize the use of the remaining authorized grant amounts for the construction of additional infrastructure components directly related to the approved project that will further enhance the overall system; or

(c) reduce the amount of grant funds to be provided so that the grant recipient's projected average residential user rates do not become lower than their target rate as determined by the department.

(3) If the grant recipient obtains a greater amount of grant funds than was contained in the treasure state endowment program application, the department may reduce the amount of the treasure state endowment program grant funds to be provided to ensure that the grant recipient continues to meet the threshold requirements contained in program guidelines for receiving the larger treasure state endowment program grant.

**Section 5. Appropriations from treasure state endowment state special revenue account for emergency grants.** There is appropriated to the department of commerce \$100,000 for the biennium beginning July 1, 2009, from the interest earnings of the treasure state endowment state special revenue account for the purpose of providing local governments, as defined in 90-6-701, with emergency grants for infrastructure projects, as defined in 90-6-701.

**Section 6. Appropriations from treasure state endowment state special revenue account for preliminary engineering grants.** There is appropriated to the department of commerce \$900,000 for the biennium beginning July 1, 2009, from the interest earnings of the treasure state endowment state special revenue account for the purpose of providing local governments, as defined in 90-6-701, with preliminary engineering grants for infrastructure projects as defined in 90-6-701.

**Section 7. Appropriation from treasure state endowment regional water system special revenue account.** (1) There is appropriated \$15 million to the department of natural resources and conservation from the interest earnings of the treasure state endowment regional water system special revenue account and other funds to finance the state's share of regional water system projects authorized by this section and as set forth in 90-6-715.

(2) The dry prairie rural water authority and the north central Montana regional water authority are authorized to receive funds.

(3) A regional water authority's receipt of funds is dependent on the authority's compliance with the conditions described in [section 9(1)].

(4) This section constitutes a valid obligation of funds to the regional water authorities listed in subsection (2) for purposes of encumbering the treasure state endowment regional water system special revenue account funds received during the 2011 biennium under 17-7-302.

**Section 8. Approval of funds — completion of appropriation.** (1) The legislature, pursuant to 90-6-715, authorizes funds for the regional water authorities identified in [section 7(2)].

(2) The authorization of these funds completes an appropriation from the treasure state endowment regional water system special revenue account provided for in 17-5-703(3)(d).

**Section 9. Conditions — manner of disbursement of funds.** (1) The disbursement of funds under [sections 7 and 8] is subject to completion of the following conditions:

(a) The regional water authority shall execute an agreement with the department of natural resources and conservation.

(b) The regional water authority must have a project management plan that is approved by the department.

(c) The regional water authority shall establish a financial accounting system that the department can reasonably ensure conforms to generally accepted accounting principles.

(d) The regional water authority shall provide the department with a detailed preliminary engineering report.

(2) The department shall disburse funds on a reimbursement basis as the regional water authority incurs eligible project expenses.

**Section 10.** Section 90-6-701, MCA, is amended to read:

**“90-6-701. Treasure state endowment program created — definitions.** (1) (a) There is a treasure state endowment program that consists of:

(i) the treasure state endowment fund established in 17-5-703;

(ii) the infrastructure portion of the coal severance tax bond program provided for in 17-5-701(2).

(b) The treasure state endowment program may borrow from the board of investments to provide additional financial assistance for local government infrastructure projects under this part, provided that no part of the loan may be made from retirement funds.

(2) Interest from the treasure state endowment fund and from proceeds of the sale of bonds under 17-5-701(2) may be used to provide financial assistance for local government infrastructure projects under this part, *to provide funding*

to the department of commerce for the administrative costs of the treasure state endowment program, and to repay loans from the board of investments.

(3) As used in this part, the following definitions apply:

(a) "Infrastructure projects" means:

(i) drinking water systems;

(ii) wastewater treatment;

(iii) sanitary sewer or storm sewer systems;

(iv) solid waste disposal and separation systems, including site acquisition, preparation, or monitoring; or

(v) bridges.

(b) "Local government" means an incorporated city or town, a county, a consolidated local government, a tribal government, a county or multicounty water, sewer, or solid waste district, or an authority as defined in 75-6-304.

(c) "Treasure state endowment fund" means the coal severance tax infrastructure endowment fund established in 17-5-703(1)(b).

(d) "Treasure state endowment program" means the local government infrastructure investment program established in subsection (1).

(e) "Tribal government" means a federally recognized Indian tribe within the state of Montana."

**Section 11.** Section 1, Chapter 383, Laws of 2007, is amended to read:

**"Section 1. Appropriation from treasure state endowment state special revenue account.** (1) There is appropriated to the department of commerce ~~\$17,333,653~~ up to \$40,173,080 of the interest earnings from the treasure state endowment state special revenue account and from other funds to finance grants authorized by this section.

(2) The funds appropriated in this section must be used by the department to make grants to the governmental entities listed in subsection (3) for the described purposes and in amounts not to exceed the amounts set out in subsection (3). The appropriations are subject to the conditions set forth in [sections 2 and 3] and described in the treasure state endowment program 2009 biennium report to the 60th legislature. The legislature, pursuant to 90-6-710, authorizes the grants for the projects listed in subsection (3). The department shall commit funds to projects listed in subsection (3), up to the amounts authorized, based on the manner of disbursement set forth in [section 3] until interest earnings and other funds deposited into the treasure state endowment state special revenue account during the 2009 biennium are expended.

(3) The following applicants and projects are authorized for grants:

Applicant/Project	Grant Amount
1. Lewis and Clark County for the Woodlawn Addition (water)	\$596,420
2. Bainville, Town of (wastewater)	715,000
3. Madison County (bridge)	370,100
4. Sweet Grass County (bridge)	151,493
5. Powell County (bridge)	263,074
6. Circle, Town of (wastewater)	750,000
7. Harlem, City of (water)	750,000
8. Jordan, Town of (wastewater)	700,000

9. Thompson Falls, City of (water)	363,000
10. Twin Bridges, Town of (wastewater)	750,000
11. Seeley Lake-Missoula County Water District (water)	750,000
12. Fergus County (bridge)	238,362
13. Sunny Meadows-Missoula County Water and Sewer District (water)	325,000
14. Tri-County Water District (water)	313,500
15. Blaine County (bridge)	617,017
<del>16. Loma County Water and Sewer District (water)</del>	<del>750,000</del>
17. Ekalaka, Town of (water and wastewater)	706,369
18. Stillwater County (bridge)	407,500
19. Sheridan, Town of (wastewater)	750,000
<del>20. Carter-Chouteau County Water and Sewer District (water)</del>	<del>750,000</del>
21. Bigfork County Water and Sewer District (wastewater)	750,000
22. Dayton-Lake County Water and Sewer District (wastewater)	750,000
23. Judith Basin County (bridge)	192,215
24. Pinesdale, Town of (water)	750,000
25. Power-Teton County Water and Sewer District (water)	604,286
26. Superior, Town of (water)	600,000
27. RAE Subdivision County Water and Sewer District No. 313 (water)	750,000
28. Jefferson County (bridge)	295,800
29. Fort Benton, City of (stormwater)	750,000
30. Laurel, City of (wastewater)	750,000
31. Yellowstone County (bridge)	97,079
32. Neihart, Town of (water)	223,000
33. Three Forks, City of (wastewater)	750,000
34. Manhattan, Town of (water)	600,000
35. Cut Bank, City of (water)	550,000
36. Whitehall, Town of (wastewater)	750,000
37. Crow Tribe (wastewater)	750,000
38. Big Sandy, Town of (wastewater)	750,000
39. Fairfield, Town of (wastewater)	750,000
40. Hamilton, City of (wastewater)	750,000
41. Gallatin County/Hebgen Lake Estates (wastewater)	750,000
42. Shelby, City of (water)	750,000
43. Whitefish, City of (wastewater)	750,000
44. Panoramic Mountain River Heights (water)	191,500
45. Custer County (bridge)	63,750
46. Brady, Town of (wastewater)	750,000
47. Elk Meadows (water)	410,000
48. Polson, City of (water)	750,000
49. Darby, Town of (water)	750,000

50. Goodan-Keil (water)	532,250
51. Butte-Silver Bow (water)	750,000
52. Columbia Falls, City of (wastewater)	750,000
53. North Valley County (water)	750,000
54. Saltese, Town of (wastewater)	390,000
55. Red Lodge, City of (water)	750,000
56. Black Eagle, Town of (water)	365,000

(4) This section constitutes a valid obligation of funds to the grant recipients listed in subsection (3) for purposes of encumbering the treasure state endowment state special revenue account funds *and other funds* during the 2009 biennium pursuant to 17-7-302. However, a grant recipient's entitlement to receive funds is dependent on the grant recipient's compliance with the conditions described in [section 3(1)] and on the availability of funds.

(5) Funding for projects numbered 1 through 56 in subsection (3) ~~and for the department of natural resources and conservation project in subsection (6)~~ will be provided from interest earnings *and other funds* deposited into the treasure state endowment special revenue account during the biennium ending June 30, 2009, *for the projects that have satisfied the conditions described in [section 3(1)] prior to June 30, 2009*. Funding for the projects listed in subsection (3) will be made available in the order that the grant recipients satisfy the conditions described in [section 3(1)]. ~~If funds appropriated in subsection (1) are insufficient to fund any of the projects that have satisfied the conditions described in [section 3(1)] prior to June 30, 2009, the treasure state endowment program must fund the projects by borrowing money from the board of investments pursuant to 90-6-701(1)(b) for those projects that have satisfied the conditions described in [section 3(1)] by June 30, 2009. There is appropriated to the department of commerce up to \$17,563,890 for funds borrowed from the board of investments.~~

~~(6) Up to \$2,200,000 is granted to the department of natural resources and conservation in fiscal year 2009, which must be used to fund local government renewable resource projects. The grant may only be awarded for the amount of anticipated shortfall in funding all of the renewable resource program grants authorized in [section 1(3) of House Bill No. 6]. Any unexpended funds remaining from this grant on July 1, 2009, will be remitted to the department of commerce, treasure state endowment program, to be used for repayment of loans."~~

**Section 12. 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 13. Coordination instruction.** (1) If the total transfers for the treasure state endowment program TSEP infrastructure in section 51-F, item 3, of House Bill No. 645 is reduced below a total of \$23 million, the appropriation of \$40,173,080 from the treasure state endowment state special revenue account in [section 11 of this act] is reduced by a like amount.

(2) If the total transfers for the treasure state endowment program regional water system in section 51-F, item 3, of House Bill No. 645 is reduced below a total of \$8 million, the appropriation of \$15 million from the treasure state endowment regional water system special revenue account in [section 7 of this act] is reduced by a like amount.

**Section 14. Effective dates.** (1) Except as provided in subsection (2), [this act] is effective on passage and approval.

(2) [Section 10] is effective July 1, 2011.

Approved May 6, 2009

## CHAPTER NO. 459

[HB 123]

AN ACT 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.

*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.

(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~~ \$625,000 for the growth through agriculture program provided for in Title 90, chapter 9;

(iii) ~~\$3.65~~ \$1.275 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~~ 2019—sec. 6, Ch. 481, L. 2003.)

**15-35-108.** (Effective July 1, ~~2010~~ 2019) **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.

(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 3, Chapter 481, Laws of 2003, is amended to read:

“**Section 3.** Section 10, Chapter 10, Special Laws of May 2000, is amended to read:

“**Section 10. Termination.** (1) [Section 1] terminates June 30, 2001.

(2) [~~Sections 2 through 4~~] [*Sections 2 and 4*] terminate June 30, 2005.

(3) [*Section 3*] terminates June 30, ~~2010~~ 2019.”

**Section 3.** Section 6, Chapter 481, Laws of 2003, is amended to read:

“**Section 6. Termination.** [Section 1] terminates June 30, ~~2010~~ 2019.”

**Section 4. Effective dates.** (1) [Section 1] is effective July 1, 2010.

(2) [Sections 2, 3, and 5 and this section] are effective October 1, 2009.

**Section 5. Termination.** [Section 1] terminates June 30, 2013.

Approved May 6, 2009

## CHAPTER NO. 460

[HB 158]

AN ACT 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.

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

**Section 1.** Section 90-1-201, MCA, is amended to read:

“**90-1-201. Big sky economic development program — definitions.**

(1) (a) There is a big sky economic development program that consists of:

(i) the big sky economic development fund established in 17-5-703; and

(ii) the economic development special revenue account provided for in 90-1-205.

(b) Interest and income from the big sky economic development fund may be used to administer the big sky economic development program and to provide financial assistance for qualified economic development purposes under this part.

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



(a) "Certified regional development corporation" has the meaning provided in 90-1-116.

(b) "Department" means the department of commerce provided for in 2-15-1801.

(c) "Economic development organization" means:

(i) (A) a private, nonprofit corporation, as provided in Title 35, chapter 2, that is exempt from taxation under section 501(c)(3) or 501(c)(6) of the Internal Revenue Code, 26 U.S.C. 501(c)(3) or 501(c)(6);

(B) an entity certified by the department under 90-1-116; or

(C) an entity established by a local government; or

(ii) an entity actively engaged in economic development and business assistance work in a region of the state.

(d) "High-poverty county" means a county in this state in which 14% or more of people of all ages are in poverty as determined by the U.S. bureau of the census estimates for the most current year available.

(e) "Local government" means a ~~tribal government~~, county, consolidated government, city, town, or district or local public entity with the authority to spend or receive public funds.

(f) "*Tribal government*" means any one of the seven federally recognized tribal governments of Montana and the Little Shell Band of Chippewa Indians."

**Section 2.** Section 90-1-202, MCA, is amended to read:

**"90-1-202. Purpose.** The legislature finds and declares that economic development is a public purpose. The purpose of the big sky economic development program is to assist in economic development for Montana that will:

(1) create good-paying jobs for Montana residents;

(2) promote long-term, stable economic growth in Montana;

(3) encourage local economic development organizations;

(4) create partnerships between the state, local governments, *tribal governments*, and local economic development organizations that are interested in pursuing these same economic development goals;

(5) retain or expand existing businesses;

(6) provide a better life for future generations through greater economic growth and prosperity in Montana; and

(7) encourage workforce development, including workforce training and job creation, in high-poverty counties by providing targeted assistance."

**Section 3.** Section 90-1-203, MCA, is amended to read:

**"90-1-203. Types of financial assistance available.** (1) The department shall provide for and make grants and loans available to local governments *and tribal governments* for economic development projects and to certified regional development corporations from the money in the economic development special revenue account provided for in 90-1-205.

(2) A grant or loan may not be used for a project that would result in the transfer or relocation of jobs from one part of the state to another part of the state."

**Section 4.** Section 90-1-204, MCA, is amended to read:

**“90-1-204. Priorities for funding — rulemaking.** (1) The department must receive proposals for grants and loans from local governments *and tribal governments*. A local government shall work with an economic development organization on a proposal. The department shall work with the local government and the economic development organization *or with an applicant tribal government* in preparing cost estimates for a proposed project. In reviewing proposals, the department may consult with other state agencies with expertise pertinent to the proposal.

(2) (a) The department shall adopt rules necessary to implement the big sky economic development program. In adopting rules, the department shall look to the rules adopted for the treasure state endowment program and other similar state programs. To the extent feasible, the department shall make the rules compatible with those other programs. To the extent feasible, the department shall employ an approach pertaining to the use of funds so that, except as provided in subsection (2)(b), the needs of rural areas are balanced with the needs of the state’s urban centers.

(b) For high-poverty counties, the department shall employ an approach pertaining to the use of funds that is intended to lower poverty levels in the county to a percentage at which the county no longer is defined as a high-poverty county.

(c) The rules must provide for the types of uses of funds available under the big sky economic development program. The types of uses of funds by:

(i) local governments *and tribal governments* include but are not limited to:

(A) a reduction in the interest rate of a commercial loan for the expansion of a basic sector company;

(B) a grant or low-interest loan for relocation expenses for a basic sector company; and

(C) rental assistance or lease buy-downs for a relocation or expansion project for a basic sector company;

(ii) a certified regional development corporation *or a tribal government* include:

(A) support for business improvement districts and central business district redevelopment;

(B) industrial development;

(C) feasibility studies;

(D) creation and maintenance of baseline community profiles; and

(E) matching funds for federal funds, including but not limited to brownfields funds and natural resource damage funds.

(d) (i) The rules must provide for distribution methods for financial assistance available to local governments *and tribal governments*. The rules must provide for distribution based upon the number of jobs expected to be created because of the funding.

(ii) Funding may not exceed \$5,000 for each expected job, except that funding for a project in a high-poverty county may not exceed \$7,500 for each expected job.

(iii) The rules must require equal matching funds for a grant or loan, except that the rules for a grant or a loan in a high-poverty county may allow a 50% to 100% match requirement for the high-poverty county.

(e) The rules may provide for greater incentives for a high-poverty county.

(f) The rules must provide for the full or partial repayment of a grant if the new jobs or some of the new jobs for which a grant is given are not created.

(g) A grant or loan may be made only for a new job that has an average weekly wage that meets or exceeds the current average weekly wage of the county in which the employees are to be principally employed.”

**Section 5.** Section 90-1-205, MCA, is amended to read:

**“90-1-205. Economic development special revenue account.** (1) There is an economic development state special revenue account. The account receives earnings from the big sky economic development fund as provided in 17-5-703. The money in the account may be used only as provided in this part.

(2) The money in the account is statutorily appropriated, as provided in 17-7-502, to the department. Of the money that is deposited in the account that is not used for administrative expenses:

(a) 75% must be allocated for distribution to local governments *and tribal governments* to be used for job creation efforts; and

(b) 25% must be ~~distributed~~ *allocated for distribution* to certified regional development corporations, ~~and~~ economic development organizations that are located in a county that is not part of a certified regional development corporation, *and tribal governments.*”

**Section 6. 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.

Approved May 6, 2009

## CHAPTER NO. 461

[HB 213]

AN ACT 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.

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

**Section 1. State veterans' home in southwestern Montana.** (1) A southwestern Montana state veterans' home is established at a site determined as provided for in this section.

(2) The governor shall, by June 1, 2009, appoint a site selection committee, which shall select a site in Beaverhead, Deer Lodge, Jefferson, Madison, Powell, or Silver Bow County for the state veterans' nursing home.

(3) (a) The voting membership of the committee consists of six honorably discharged veterans of the United States armed forces. One member must be appointed from each county listed in subsection (2).

(b) Representatives of the state departments of administration, public health and human services, and military affairs shall serve as nonvoting members of the committee.

(4) The committee shall:

(a) establish objective criteria in compliance with federal law and state health requirements for the selection of the most favorable site for a state veterans' home;

(b) solicit proposals from communities interested in becoming the location for the state veterans' home;

(c) organize and conduct public hearings in each of the interested communities for the purpose of gathering input and information; and

(d) prepare and forward its designation of the most favorable location for the state veterans' home to the governor no later than April 1, 2010.

(5) The designation of the site selection committee is binding.

(6) The committee's expenses must be paid by the senior and long-term care division of the department of public health and human services.

(7) The department of administration shall direct the architecture and engineering division to prepare a long-range building plan for the state veterans' home in southwestern Montana pursuant to 17-7-202.

**Section 2. Account — state veterans' home in southwestern Montana.** There is an account in the state special revenue fund established in 17-2-102. The cigarette tax collections allocated in 16-11-119(1)(b) must be deposited in the account. Money deposited in the account is subject to appropriation by the 62nd legislature and may be used only for capital construction of a state veterans' home in southwestern Montana at the site selected pursuant to [section 1].

**Section 3.** Section 10-2-401, MCA, is amended to read:

**“10-2-401. Location and function of homes — persons admitted.** The institutions at Columbia Falls, ~~and~~ in eastern Montana, *and in southwestern Montana* are the Montana veterans' homes, and their primary function is to provide a home and subsistence for veterans. The department of public health and human services may also admit spouses or surviving spouses of veterans to the homes if space allows.”

**Section 4.** Section 10-2-416, MCA, is amended to read:

**“10-2-416. Pledge to continue operation and maintenance.** Pursuant to 38 U.S.C. 8134 and 8135(a)(6), the state shall appropriate funds either from the general fund or from funds generated under 16-11-111 to the department of public health and human services for financial support necessary to provide for continued operation and maintenance of the state ~~home~~ *homes* for veterans in eastern Montana *and southwestern Montana*. The department of public health and human services may contract with a private vendor to provide for the operation of the eastern Montana veterans' home *and the southwestern Montana veterans' home* and may charge the contract vendor a rental fee for the maintenance and upkeep of the facility.”

**Section 5.** Section 16-11-119, MCA, is amended to read:

**“16-11-119. Disposition of taxes.** (1) Cigarette taxes collected under the provisions of 16-11-111 must, in accordance with the provisions of 17-2-124, be deposited as follows:

(a) 8.3% or \$2 million, whichever is greater, in the state special revenue fund to the credit of the department of public health and human services for the operation and maintenance of state veterans' nursing homes;

(b) for fiscal years ending June 30, 2010, and June 30, 2011, 1.2% in the state special revenue fund to the credit of the account established in [section 2] for the construction of the state veterans' home in southwestern Montana.

~~(b)~~(c) 2.6% in the long-range building program account provided for in 17-7-205;

~~(e)~~(d) 44% in the state special revenue fund to the credit of the health and medicaid initiatives account provided for in 53-6-1201; and

~~(d)~~(e) the remainder to the state general fund.

(2) If money in the state special revenue fund for the operation and maintenance of state veterans' nursing homes exceeds \$2 million at the end of the fiscal year, the excess must be transferred to the state general fund.

(3) The taxes collected on tobacco products, other than cigarettes, must in accordance with the provisions of 17-2-124 be deposited as follows:

(a) one-half in the state general fund; and

(b) one-half in the state special revenue fund account for health and medicaid initiatives provided for in 53-6-1201."

**Section 6.** Section 53-1-402, MCA, is amended to read:

**"53-1-402. Residents and financially responsible persons liable for cost of care.** (1) A resident and a financially responsible person are liable to the department for the resident's cost of care as provided in this part. The cost of care includes the applicable per diem and ancillary charges or all-inclusive rate charges for the care of residents in the following institutions:

(a) Montana state hospital;

(b) Montana developmental center;

(c) Montana veterans' home;

(d) eastern Montana veterans' home;

(e) *southwestern Montana veterans' home*;

~~(e)~~(f) Montana mental health nursing care center; and

~~(f)~~(g) Montana chemical dependency treatment center.

(2) The eastern Montana veterans' home may assess charges on either a per diem and ancillary charge basis or an all-inclusive rate basis if the department contracts with a private vendor to operate the facility as provided for in 10-2-416.

(3) The Montana state hospital and the Montana mental health nursing center may determine the cost of care using an all-inclusive rate or per diem and ancillary charges if the department contracts with a private entity to operate a mental health managed care program."

**Section 7.** Section 53-1-413, MCA, is amended to read:

**"53-1-413. Deposit of payments and collections.** (1) Except as provided in 90-7-220, 90-7-221, and this section, the department shall deposit payments and collections of charges for a resident's cost of care in the state treasury to the credit of the general fund.

(2) Payments and collections for services provided to residents of the Montana veterans' home ~~home~~ *homes* must be deposited in the special revenue account for the benefit of the ~~home~~ *homes*. Payments and collections for services provided to residents of the Montana chemical dependency treatment center must be deposited in the state special revenue account for the facility."

**Section 8.** Section 53-1-602, MCA, is amended to read:

**“53-1-602. Department of public health and human services.** (1) The following components are in the department of public health and human services to carry out the purposes of the department:

(a) mental health services, consisting of the following institutional components for care and treatment of the mentally ill pursuant to Title 53, chapter 21:

- (i) the Montana state hospital; and
- (ii) the Montana mental health nursing care center;

(b) a community services component, consisting of appropriate services for the care and treatment of the mentally ill pursuant to Title 53, chapter 21, part 10;

(c) chemical dependency services, consisting of appropriate detoxification, inpatient, intensive outpatient, outpatient, prevention, education, and other necessary chemical dependency services pursuant to Title 53, chapter 24;

(d) an institutional and residential component of the developmental disabilities system for those persons with developmental disabilities who require institutional or residential care according to Title 53, chapter 20, which component consists of the Montana developmental center; and

(e) the veterans' nursing homes for the nursing home and domiciliary care of honorably discharged veterans as provided by law, consisting of:

- (i) the Montana veterans' home; ~~and~~
- (ii) the eastern Montana veterans' home at Glendive; *and*
- (iii) *the southwestern Montana veterans' home.*

(2) A state institution may not be moved, discontinued, or abandoned without the consent of the legislature.”

**Section 9.** 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)(e)~~ *16-11-119(1)(d)*;

(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)(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 10. Effective dates.** (1) Except as provided in subsection (2), [this act] is effective on passage and approval.

(2) [Sections 5 and 9] are effective July 1, 2009.

Approved May 6, 2009

**CHAPTER NO. 462**

[HB 279]

AN ACT PROHIBITING THE DEPARTMENT OF TRANSPORTATION FROM RECOVERING INDIRECT COSTS FOR THE COMMUNITY TRANSPORTATION ENHANCEMENT PROGRAM; AND AMENDING SECTION 17-1-106, MCA.

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

**Section 1.** Section 17-1-106, MCA, is amended to read:

**“17-1-106. Agency recovery of indirect costs — exemption.** (1) An agency receiving nongeneral funds shall, in accordance with all applicable regulations, guidelines, or grant rules governing those funds, negotiate indirect cost reimbursement amounts and methodologies so that the agency may recover indirect costs.

(2) An agency, except for a unit of the university system, that applies for or otherwise receives funds through federal or private grants or contracts that do not allow the agency to fully recover indirect costs shall notify and must receive written approval from its approving authority prior to accepting the funds.

(3) *The department of transportation may not recover indirect costs from a local government for the community transportation enhancement program.*

~~(3)~~(4) An agency, except for a unit of the university system, may not, as part of the grant or contract proposal or negotiation process, waive or otherwise forfeit the agency’s ability to recover indirect costs that are otherwise allowable costs under the program, except for intra-agency or interagency grants or contracts. For grants or contracts for which the entity providing the funds limits administrative cost reimbursements or indirect cost recoveries by regulation, policy, or guideline, statewide and agency indirect costs paid originally from the general fund must be claimed first, other indirect costs must be claimed second, agency direct costs of administration must be claimed third, and program direct costs must be claimed last. For grants or contracts for which there is no limit on indirect costs or administrative costs, indirect and administrative costs must be claimed first and direct program costs must be claimed last.

~~(4)~~(5) Each agency receiving federal funds and not directly charging a grant or program for the recovery of indirect costs shall submit an indirect cost proposal to the appropriate federal agency. The department shall provide technical assistance to an agency on how to build an indirect cost proposal.

~~(5)~~(6) Except as provided for a unit of the university system under 20-25-427, indirect costs recovered by an agency to pay the agency’s indirect costs under 17-1-105 must be deposited as provided in 17-1-105. All other indirect costs must be deposited in the fund from which the indirect costs were originally paid.”

Approved May 6, 2009

**CHAPTER NO. 463**

[HB 602]

AN ACT 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.



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

**Section 1. Limit on use of state vehicle to commute to worksite — definitions.** (1) Except as provided in subsection (2), a state-owned vehicle may not be used by a state agency employee to commute from the employee's residence to the employee's worksite.

(2) (a) The department director may authorize an exception to subsection (1) if the commute from an employee's residence to the employee's worksite is less than 30 miles, the employee is required to be on call for quick response to an emergency that threatens life or property and on-call duty is a specifically identified duty in the employee's position description, and employees in the position have frequently responded to emergency calls in the past 6 months.

(b) Any exception authorized pursuant to subsection (2)(a) and the rationale for the exception must be documented in a memorandum or letter signed by the employee's department director and kept on file with the agency head. A copy of the letter or memorandum must be sent to the governor.

(c) This section does not apply:

(i) to the psychiatrist employed by the department of corrections and assigned to the Montana state prison;

(ii) when the vehicle is, in effect, the employee's worksite; or

(iii) when 24-hour use of a state-owned vehicle is specifically authorized by law for an elected or appointed state official and use of the vehicle is considered part of the official's compensation package.

(3) Using a state-owned vehicle to commute between the employee's residence and a worksite that is more than 30 miles from the employee's residence is not permitted under any circumstance unless that use is authorized by the employee's department director pursuant to rules adopted under 2-17-424, the rationale for the exception is documented in a memorandum or letter signed by the employee's department director and kept on file with the agency head, and a copy of the letter or memorandum is sent to the governor.

(4) As used in this section, "state agency" or "agency" means any office, board, commission, department, or other entity of the executive, judicial, or legislative branch of state government, including the university system.

**Section 2.** Section 2-17-411, MCA, is amended to read:

**"2-17-411. Motor pool — department of transportation — exceptions.** (1) The department of transportation's motor pool is responsible for the acquisition, operation, maintenance, repair, and administration of all motor vehicles in the custody of the motor pool.

(2) ~~This Except as provided in [section 1], this part does not apply to a motor vehicle used in the service of the governor; or the attorney general; or the highway patrol.~~

(3) *This part does not apply to a motor vehicle used in the service of the highway patrol.*"

**Section 3. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 2, chapter 17, part 4, and the provisions of Title 2, chapter 17, part 4, apply to [section 1].

**Section 4. Effective date.** [This act] is effective on passage and approval.

Approved May 6, 2009

**CHAPTER NO. 464**

[HB 644]

AN ACT 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.

WHEREAS, the lingering effects of changes in mining practices worldwide and in southwestern Montana, and the general and specific ripple effects of those changes, have reduced the availability of cultural resources and the frequency, nature, and scope of cultural events in southwestern Montana, especially in Butte-Silver Bow; and

WHEREAS, diminishing access to cultural resources and cultural events is only one of the ripple effects felt by the residents of and visitors to southwestern Montana in general and Butte-Silver Bow in particular; and

WHEREAS, the reinvigoration of cultural resources and cultural events within Butte-Silver Bow has the potential to create new jobs and stimulate greater economic vitality in Butte-Silver Bow specifically and in southwestern Montana generally; and

WHEREAS, in 2008, Butte-Silver Bow hosted the 70th National Folk Festival, the oldest multicultural festival in the nation, and will host the event in 2009 and 2010; and

WHEREAS, an estimated 75,000 people attended the 2008 Festival, a number that is expected to double in 2009, with an economic impact of \$8 million in the Southwest Montana trade area; and

WHEREAS, the success of the 2008 National Folk Festival demonstrates that cultural events can provide a sustainable basis for economic activity; and

WHEREAS, although events like the National Folk Festival bring entertainment, people, and money into the host community and the surrounding area, funding is also necessary to plan and produce the events; and

WHEREAS, the late Representative George Groesbeck, Jr. recognized the importance of attracting cultural events to Montana communities, not only to bolster local economies but to provide residents and tourists with a unique opportunity to experience the wide range of music, art, and dance that multicultural events like the National Folk Festival bring to a community; and

WHEREAS, it is the policy of the National Folk Festival to offer this cultural event at no charge to maximize the opportunity for the general public; and

WHEREAS, the current economic climate in Montana and the nation makes it difficult to fund the planning and production of events like the National Folk Festival.

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

**Section 1. Appropriation.** (1) There is appropriated \$200,000 from the state general fund to the department of commerce for the biennium beginning July 1, 2009, for the sole purpose of assisting Butte-Silver Bow in the reinvigoration of cultural resources and cultural events within Butte-Silver Bow through grants or loans to the Butte-Silver Bow consolidated government, to the Butte-Silver Bow economic development authority, or to other entities within Butte-Silver Bow whose primary purpose is the expansion or

enhancement of the cultural resources and cultural opportunities available within Butte-Silver Bow.

**Section 2. Effective date.** [This act] is effective July 1, 2009.

Approved May 6, 2009

## CHAPTER NO. 465

[SB 65]

AN ACT 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.

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

**Section 1.** Section 17-2-107, MCA, is amended to read:

**"17-2-107. Accurate accounting records and interentity loans.** (1)

The department shall record receipts and disbursements for treasury funds and for accounting entities within treasury funds and shall maintain records in a manner that reflects the total cash and invested balance of each fund and each accounting entity. The department shall adopt the necessary procedures to ensure that interdepartmental or intradepartmental transfers of money or loans do not result in inflation of figures reflecting total governmental costs and revenue.

(2) (a) ~~Subject~~ *Except as provided in 77-1-108 and subject to 17-2-105*, when the expenditure of an appropriation from a fund designated in 17-2-102(1) through (3) is necessary and the cash balance in the accounting entity from which the appropriation was made is insufficient, the department may authorize a temporary loan, bearing no interest, of unrestricted money from other accounting entities if there is reasonable evidence that the income will be sufficient to repay the loan within 1 calendar year and if the loan is recorded in the state accounting records. An accounting entity receiving a loan or an accounting entity from which a loan is made may not be so impaired that all proper demands on the accounting entity cannot be met even if the loan is extended.

(b) (i) When an expenditure from a fund or subfund designated in 17-2-102(4) is necessary and the cash balance in the fund or subfund from which the expenditure is to be made is insufficient, the commissioner of higher education may authorize a temporary loan, bearing interest as provided in

subsection (4) of this section, of money from the agency's other funds or subfunds if there is reasonable evidence that the income will be sufficient to repay the loan within 1 calendar year and if the loan is recorded in the state accounting records. A fund or subfund receiving a loan or from which a loan is made may not be so impaired that all proper demands on the fund or subfund cannot be met even if the loan is extended.

(ii) One accounting entity within each fund or subfund designated in 17-2-102(4) must be established for the sole purpose of recording loans between the funds or subfunds. This accounting entity is the only accounting entity within each fund or subfund that may receive a loan or from which a loan may be made.

(c) A loan made under subsection (2)(a) or (2)(b) must be repaid within 1 calendar year of the date on which the loan is approved unless it is extended under subsection (3) or by specific legislative authorization.

(3) Under unusual circumstances, the director of the department or the board of regents may grant one extension for up to 1 year for a loan made under subsection (2)(a) or (2)(b). The director or board shall prepare a written justification and proposed repayment plan for each loan extension authorized and shall furnish a copy of the written justification and proposed repayment plan to the house appropriations and senate finance and claims committees at the next legislative session.

(4) Any loan from the current unrestricted subfund to funds designated in 17-2-102(4)(a)(iv) and (4)(b) through (4)(f) must bear interest at a rate equivalent to the previous fiscal year's average rate of return on the board of investments' short-term investment pool.

(5) If for 2 consecutive fiscal yearends a loan or an extension of a loan has been authorized to the same accounting entity as provided in subsection (2) or (3), the department or the commissioner of higher education shall submit to the legislative finance committee by September 1 of the following fiscal year a written report containing an explanation as to why the second loan or extension was made, an analysis of the solvency of the accounting entity or accounting entities within the university fund or subfund, and a plan for repaying the loans.

(6) If for 2 consecutive fiscal yearends an accounting entity in a fund or subfund designated in 17-2-102(4) has a negative cash balance, the commissioner of higher education shall submit to the legislative finance committee by September 1 of the following fiscal year a written report containing an explanation as to why the accounting entity has a negative cash balance, an analysis of the solvency of the accounting entity, and a plan to address any problems concerning the accounting entity's negative cash balance or solvency.

(7) (a) An accounting entity in a fund designated in 17-2-102(1) through (3) may not have a negative cash balance at fiscal yearend. The department may, however, allow a fund type within each agency to carry a negative balance at any point during the fiscal year if the negative cash balance does not exist for more than 7 working days.

(b) (i) Except as provided in subsection (7)(b)(ii) of this section, a unit of the university system shall maintain a positive cash balance in the funds and subfunds designated in 17-2-102(4).

(ii) If a fund or subfund inadvertently has a negative cash balance, the department may allow the fund or subfund to carry the negative cash balance for no more than 7 working days. If the negative cash balance exists for more

than 7 working days, a transaction may not be processed through the statewide accounting system for that fund or subfund.

(8) Notwithstanding the provisions of subsections (2) through (4), the department may authorize loans to accounting entities in the federal and state special revenue funds with long-term repayment whenever necessary because of the timing of the receipt of agreed-upon reimbursements from federal, private, or other governmental entity sources for disbursements made. If possible, the loans must be made from funds other than the general fund. The department may approve the loans if the requesting agency can demonstrate that the total loan balance does not exceed total receivables from federal, private, or other governmental entity sources and receivables have been billed on a timely basis. The loan must be repaid under terms and conditions that may be determined by the department or by specific legislative authorization.

(9) A loan may not be authorized under this section to any fund or accounting entity that is owed federal or other third-party funds unless the requesting agency certifies to the agency approving the loan that it has and will continue to bill the federal government or other third party for the requesting agency's share of costs incurred in the fund or accounting entity on the earliest date allowable under federal or other third-party regulations applicable to the program. The requesting agency shall recertify its timely billing status to the agency that approved the loan at least monthly during the term of the loan. If at any time the requesting agency fails to recertify the timely billing, the agency that approved the loan shall cancel the loan and return the money to its original source."

**Section 2.** Section 17-3-1003, MCA, is amended to read:

**"17-3-1003. Support of state institutions.** (1) For the support and endowment of each state institution, there is annually and perpetually appropriated, after any deductions made under 77-1-109, ~~Title 77, chapter 1, part 6, and 77-2-362,~~ the income from all permanent endowments for the institution and from all land grants as provided by law. All money received or collected in connection with permanent endowments by all higher educational institutions, reformatory, custodial and penal institutions, state hospitals, and sanitariums, for any purpose, except revenue pledged to secure the payment of principal and interest of obligations incurred for the purchase, construction, equipment, or improvement of facilities at units of the Montana university system and for the refunding of obligations or money that constitutes temporary deposits, all or part of which may be subject to withdrawal or repayment, must be paid to the state treasurer, who shall deposit the money to the credit of the proper fund.

(2) Except as provided in subsections (1) and (3), all money received from the investment of grants of a state institution and all money received from the leasing of lands granted to a state institution must be deposited with the state treasurer of Montana for each institution, to the credit of the state special revenue fund.

(3) Except as provided in 77-1-109 and subsection (4) of this section, all money received from the sale of timber from lands granted to a state institution must be deposited to the credit of the permanent trust fund for the support of the institution.

(4) *The board of regents shall designate, at least once a biennium, whether the timber sale proceeds from Montana university system lands must be distributed to the beneficiaries or placed in the permanent fund.*"

**Section 3.** Section 18-2-107, MCA, is amended to read:

**“18-2-107. Deposit of capitol building grant revenue.** (1) The state treasurer shall deposit in a capital projects fund all revenue from the capitol building land grant after any deductions made under 77-1-109, ~~Title 77, chapter 1, part 6, and 77-2-362.~~

(2) The funds must be held and dedicated for the purpose of constructing capitol buildings or additions to buildings in accordance with the provisions of section 12 of The Enabling Act.”

**Section 4.** Section 20-9-341, MCA, is amended to read:

**“20-9-341. Definition of interest and income money.** (1) ~~As Subject to deductions made under 77-1-109, as used in this title, the term “interest and income money” means the total of the following revenue, as provided for by Article X, section 5, of the 1972 Montana constitution:~~

(a) 95% of the interest received from the investment of the public school fund;

(b) 95% of the interest received from the investment of any other school funds held in trust by the state board of land commissioners;

(c) 95% of the income received from the leasing of or sale of timber from state school lands ~~after any deductions that may be made under the provisions of Title 77, chapter 1, part 6;~~ and

(d) 95% of any other income derived from any other covenant affecting the use of state school lands.

(2) The remaining 5% of the revenue described in subsections (1)(a) through (1)(d) must be annually credited to the public school fund after any deductions made under 77-1-109.”

**Section 5.** Section 20-9-620, MCA, is amended to read:

**“20-9-620. Definition.** (1) As used in 20-9-621, 20-9-622, and this section, “distributable revenue” means, except for that portion of revenue described in 20-9-343(4)(a)(ii) and ~~available on or after July 1, 2003, 77-1-607, and 77-1-613 77-1-109,~~ 95% of all revenue from the management of school trust lands and the permanent fund, including timber sale proceeds, lease fees, interest, dividends, and net realized capital gains.

(2) The term does not include mineral royalties or land sale proceeds that are deposited directly in the permanent fund or net unrealized capital gains that remain in the permanent fund until realized.”

**Section 6.** Section 20-25-422, MCA, is amended to read:

**“20-25-422. Support of university system.** (1) For the support and endowment of the university, there is annually and perpetually appropriated:

(a) the university fund income, the proceeds and revenue from the grant of any estate or interest disposed of pursuant to 20-25-307, and all other sums of money appropriated by law to the university fund after any deductions made under 77-1-109 ~~and Title 77, chapter 1, part 6;~~

(b) all tuition and matriculation fees; and

(c) all contributions derived from public or private bounty.

(2) The entire income of all the funds must be placed at the disposal of the board of regents by transfer to its treasurer and must be kept separate and distinct from all other funds. The income must be used solely for the support of

the colleges and departments of the university or those connected with the colleges and departments.

(3) All means derived from other public or private bounty must be exclusively devoted to the specific objects designated by the donor.”

**Section 7.** Section 77-1-101, MCA, is amended to read:

**“77-1-101. Definitions.** Unless the context requires otherwise and except for the definition of state land in 77-1-701, in this title, the following definitions apply:

(1) “Board” means the board of land commissioners provided for in Article X, section 4, of the Montana constitution.

(2) “Commercial or concentrated recreational use” means any recreational use that is organized, developed, or coordinated, whether for profit or otherwise. Commercial or concentrated recreational use includes all outfitting activity and all activities not included within the definition of general recreational use.

(3) “Department” means the department of natural resources and conservation provided for in Title 2, chapter 15, part 33.

(4) “Distributable revenue” applies to all land trusts managed by the board, except property 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 329, and includes:

(a) 95% of all revenue from the management of school trust lands and the common school permanent fund;

(b) 95% of the interest and income described in 20-9-341, less any unrealized gains or losses;

(c) the income received from the leasing, licensing, or other use of state trust lands; and

(d) subject to 17-3-1003, the proceeds and income from the sale of timber from capitol building land grant and university system lands.

~~(4)~~(5) (a) “General recreational use” includes noncommercial and nonconcentrated hunting, fishing, and other activities determined by the board to be compatible with the use of state lands.

(b) ~~General recreational use~~ The term does not include the use of streams and rivers by the public under the stream access laws provided in Title 23, chapter 2, part 3.

~~(5)~~(6) “Legally accessible state lands” means state lands that can be accessed by:

(a) dedicated public road, right-of-way, or easement;

(b) public waters;

(c) adjacent federal, state, county, or municipal land if the land is open to public use; or

(d) adjacent contiguous private land if permission to cross the land has been secured from the landowner. The granting of permission by a private landowner to cross private property in a particular instance does not subject the state land that is accessed to general recreational use by members of the public, other than those granted permission.

~~(6)~~(7) “Noxious weeds” or “weeds” means any exotic plant species established or that may be introduced in the state that may render land unfit for agriculture, forestry, livestock, wildlife, or other beneficial uses or that may harm native plant communities and that is designated:

(a) as a statewide noxious weed by rule of the department of agriculture; or  
(b) as a district noxious weed by a district weed board organized under 7-22-2103.

(7)(8) (a) "State land" or "lands" means:

(i) lands granted to the state by the United States for any purpose, either directly or through exchange for other lands;

(ii) lands deeded or devised to the state from any person; and

(iii) lands that are the property of the state through the operation of law.

(b) The term does not include:

(i) lands that the state conveys through the issuance of patent;

(ii) lands that are used for building sites, campus grounds, or experimental purposes by a state institution and that are the property of that institution;

(iii) lands that the board of regents of higher education has authority to dispose of pursuant to 20-25-307; or

(iv) lands acquired through investments under the provisions of 17-6-201.

(8)(9) "Weed management" or "control" has the meaning provided in 7-22-2101."

**Section 8.** Section 77-1-108, MCA, is amended to read:

**"77-1-108. Trust land administration account — administrative costs — appropriation.** (1) There is a trust land administration account in the state special revenue fund. Money in the account is available to the department by appropriation and must be used to pay the costs of administering state trust lands. *This includes the cost of managing assets, including but not limited to real property and monetary assets.*

(2) Appropriations from the account for each fiscal year may not exceed the sum of 1 1/8% of the book value balance in the permanent funds administered by the department, an amount equal to 25% of the distributable revenue, as defined in 77-1-101, generated in the fiscal year completed prior to the legislative session that will appropriate money for the next biennium. *This excludes revenue generated by the forest improvement fee provided for in 77-5-204 other than the fund containing proceeds derived from land granted to the state 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 329, on the first day of January preceding the new biennium and 10% of the revenue deposited in the capitol building land grant trust fund in the last completed fiscal year prior to the new biennium.*

(3) (a) *Pursuant to subsection (1), the administrative costs must be determined for each land trust. The department may adopt rules regarding the calculation of administrative costs as necessary.*

(b) *Each fiscal year, the department shall compare administrative costs for each land trust to the amount of revenue that land trust generates for the account. If the amount of revenue deposited pursuant to 77-1-109(2) exceeds the administrative costs for a specific land trust, the excess revenue must be distributed as provided in subsection (4) of this section.*

(c) *If revenue deposited from a specific land trust is insufficient to defray the administrative costs associated with managing that land trust and the money held for that trust in the earnings reserve account, established in [section 23], is also insufficient, the board may receive a general fund loan pursuant to 17-2-107 to offset the difference. A general fund loan made pursuant to this subsection*



(3)(c) *must be repaid within 5 years and must bear interest at a rate of return equal to that earned by the board of investments' short-term investment pool during that period.*

~~(3)(4)~~ (a) Except as provided in ~~subsection (4)~~ subsections (4)(b) and (5), up to one-third of the unreserved distributable revenue funds remaining in the account at the end of a fiscal year ~~must~~ may be transferred to the earnings reserve account, provided for in [section 23], and accounted for by trust. The remaining unreserved revenue must be transferred to each of the permanent funds in proportionate shares to each fund's contribution to the account as calculated in 77-1-109(3).

(b) *At the end of the fiscal year, unreserved funds received pursuant to 77-1-109(2)(a)(ii) and (2)(a)(iii) must be transferred to each of the permanent funds or to the appropriate trust or distributed to the beneficiary in proportionate shares to each fund's contribution to the account.*

(4)(a)(5) (a) The amount of \$80,000 each biennium is transferred from the state general fund to an account in the state special revenue fund. The account is statutorily appropriated, as provided in 17-7-502, to the department for the purposes of administering the land granted to the state 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 329. Any unexpended portion of the statutory appropriation may be retained in the account and used for the administration of the Morrill Act land.

(b) *At the end of each fiscal year, the department shall pay from the appropriation in subsection (4) (5)(a) to the trust containing proceeds derived from land granted to the state 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 329, an amount calculated to be the cost of administering the investment of the fund derived from that trust. The payment must be based upon the percentage that the Morrill Act fund constitutes of the total fund derived from all trust lands. If the appropriation in subsection (5)(a) is insufficient to pay the calculated administrative cost, a general fund loan may be used pursuant to 17-2-107 to offset the difference."*

**Section 9.** Section 77-1-109, MCA, is amended to read:

**"77-1-109. Deposits of proceeds in trust land administration account.** (1) *The amount of money that is deposited into the trust land administration account established in 77-1-108 may not exceed an amount equal to 25% of distributable revenue generated in the fiscal year completed prior to the legislative session that will appropriate money for the next biennium. This excludes revenue generated by the forest improvement fee provided for in 77-5-204.*

~~(1)(2)~~ (a) *Subject to subsection (1), the* The department shall, ~~until the deposit equals the amount appropriated for the fiscal year pursuant to 77-1-108,~~ deposit into the trust land administration account created by 77-1-108 the following:

- (i) *distributable revenue;*
- ~~(i) mineral royalties;~~
- ~~(ii)~~ (ii) *the proceeds or income from the sale of easements and timber, except timber from public school and Montana university system lands;*
- ~~(iii) 5% of the interest and income annually credited to the public school fund in accordance with 20-9-341~~ (iii) *mineral royalties; and*
- (iv) *fees collected pursuant to 77-2-328.*

(b) *As deposits are made, they must be identified and accounted for by trust.*

~~(b)(c)~~ The department may not make deductions from interest or income generated from lands granted to the state 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 329.

~~(2)(3)~~ After the deposits in subsection ~~(1)~~ (2) have been made, the remainder of the proceeds, other than proceeds from timber from Montana university system lands and other than those purchased pursuant to 17-6-340, must be deposited in ~~the appropriate permanent fund and the capitol building land grant trust fund~~ *accordance with 17-3-1003, 18-2-107, and 20-9-341(2)*. Timber proceeds from university system lands must be paid over to the state treasurer, who shall deposit the money to the credit of the proper fund for use as provided in 17-3-1003~~(1)~~. Royalty payments purchased pursuant to 17-6-340 must be used as provided in that section and 20-9-622.

~~(3)~~ *The amount of money that is deposited into the trust land administration account may not exceed 1 1/8% of the book value balance in each of the permanent funds, other than the fund containing proceeds derived from lands granted to the state 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 329, administered by the department on the first day of January preceding the new biennium and 10% of the previous fiscal year revenue deposited into the capitol building land grant trust fund.*

**Section 10.** Section 77-1-127, MCA, is amended to read:

**“77-1-127. Department authorized to control weeds — billing for weed control.** (1) If the lessee, licensee, or permittee fails to take corrective action or if a request for an administrative hearing is not made within the time specified in the notice, the department may enter state land covered by the lease, license, or permit and institute appropriate weed control measures. The department may enter into an agreement with a commercial applicator, as defined in 80-8-102, or with the appropriate weed management district organized under 7-22-2102 to control the weeds. The commercial applicator or the weed management district shall agree to carry any insurance required by the department.

(2) The department shall submit a bill to the lessee, licensee, or permittee itemizing the hours of labor, material, and equipment time and listing the actual total cost incurred by the department to take the weed control measures, together with a penalty not exceeding 50% of the total cost. The bill must specify and order a payment due date of 30 days from the date the bill is sent. If payment is not received within 30 days, the department may cancel the lease, license, or permit. Money recovered under this section must be placed in the ~~resource development trust land administration~~ *resource development trust land administration* account established in ~~77-1-604~~ *77-1-108*, except that penalties collected must be distributed annually to the trusts for the lands on which the weed control action was taken.

(3) If a person receiving an order to take corrective action requests an administrative hearing, the department may not institute control measures until the matter is finally resolved, except in case of an emergency. In an emergency, the person is liable for department costs allowed by this section only to the extent determined appropriate by the director or the court that finally resolves the matter.”

**Section 11.** Section 77-1-605, MCA, is amended to read:

**“77-1-605. Types of resource developments.** (1) The developments contemplated by *this part* may include those projects that will develop or

conserve the various state land resources, including water, both surface and underground, grazing land, agricultural land, and timber land, and other land to the benefit of the state. They may also include expenses necessary to perfect title to lands claimed by the state which that are suitable for development and other expenses or costs which that in the judgment of the board are desirable or necessary in order to develop or increase the value of the land or the revenue therefrom from the land.

(2) *The department may use funds appropriated from the trust land administration account provided for in 77-1-108 for the purposes of subsection (1).*”

**Section 12.** Section 77-1-613, MCA, is amended to read:

**“77-1-613. Deduction of portion of income received from Administrative costs associated with sale of timber from state trust lands — creation of account.** (1) ~~There is an account in the state special revenue fund called the state timber sale account. Money in the account may be appropriated by the legislature for use by the department in the manner set out in this section to enhance the revenue creditable to the trusts. There must be placed in the account an amount from timber sales on state lands, other than land granted to the state 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 329, each fiscal year equal to the amount appropriated from the account for the corresponding fiscal year~~ *The department may use funds appropriated from the trust land administration account provided for in 77-1-108 for timber sale preparation, documentation, administration, and contract harvesting costs.*

~~(2) Timber sale program funds deducted under subsection (1) must be directly applied to timber sale preparation, timber sale documentation, and contract harvesting costs as provided in 77-5-219.~~

~~(3)~~(2) In order to increase the volume of timber sold at the earliest possible time while continuing to meet the requirements of applicable state and federal laws and in order to avoid unnecessary delays and extra costs that would result from increasing its permanent staff, the department may contract for services that will enable achievement of the purposes of this section and that will achieve the highest net return to the trusts.

~~(4)~~(3) To maximize overall return to the trusts, the timely salvage of timber must be considered. However, salvage timber sales may not adversely affect the implementation of green timber sales programs *conducted pursuant to 77-5-201.*”

**Section 13.** Section 77-1-802, MCA, is amended to read:

**“77-1-802. (Temporary) Recreational use — fee.** (1) The fee for recreational use on state trust land must attain full market value whether the license is sold on an individual basis or on a group basis through an agreement with the department of fish, wildlife, and parks as provided in 77-1-815.

(2) Money received by the department from the sale of recreational use licenses must be credited as follows:

(a) Except as provided in subsection (2)(b), license fees must be apportioned on a pro rata basis to the land trusts, in proportion to the respective trust’s percentage of acreage in the total acreage of all state land trusts.

(b) ~~Two dollars from the fee for each license~~ *Revenue from recreational use license fees, less 50 cents from the fee for each license that must to be returned to the license dealer as a commission, is distributable revenue and* must be

deposited pursuant to 77-1-109 and used to pay for administrative costs as provided in 77-1-108 in the state lands recreational use account established by 77-1-808.

(3) The department may contract with the department of fish, wildlife, and parks for the distribution and sale of recreational use licenses through the license agents appointed by and the administrative offices of the department of fish, wildlife, and parks and in accordance with the provisions of Title 87, chapter 2, part 9. (Void on occurrence of contingency—sec. 8, Ch. 596, L. 2003.)

**77-1-802.** (Effective on occurrence of contingency) **Recreational use license — fee.** (1) The fee for a recreational use license must attain full market value.

(2) Money received by the department from the sale of recreational use licenses must be credited as follows:

(a) Except as provided in subsection (2)(b), license fees must be apportioned on a pro rata basis to the land trusts, in proportion to the respective trust's percentage contribution to the total acreage of all state land trusts.

(b) ~~Two dollars from the fee for each license~~ *Revenue from recreational use license fees, less 50 cents from the fee for each license that must be returned to the license dealer as a commission, is distributable revenue and must be deposited pursuant to 77-1-109 and used to pay for administrative costs as provided in 77-1-108 in the state lands recreational use account established by 77-1-808.*

(3) The department may contract with the department of fish, wildlife, and parks for the distribution and sale of recreational use licenses through the license agents appointed by and the administrative offices of the department of fish, wildlife, and parks and in accordance with the provisions of Title 87, chapter 2, part 9.”

**Section 14.** Section 77-1-808, MCA, is amended to read:

**“77-1-808.** (Temporary) **State lands recreational use account.** (1) There is a state lands recreational use account in the state special revenue fund provided for in 17-2-102.

(2) There must be deposited in the account:

(a) all revenue received from the recreational use license established by 77-1-802;

(b) 10% of the revenue received as a result of an agreement with the department of fish, wildlife, and parks for the use and impacts of hunting, fishing, and trapping as provided in 77-1-815; and

(c) money received by the department in the form of legislative appropriations, reimbursements, gifts, federal funds, or appropriations from any source intended to be used for the purposes of this account.

(3) Money deposited in the appropriated for the purpose of managing recreational use of state lands recreational use account must be used by the department for the following purposes:

(a)(1) compensation pursuant to 77-1-809 for damage to the improvements of leases that has been proved to be caused by recreational users;

(b)(2) assistance in weed control management necessary as a result of recreational use of state lands;

(e)(3) protection of the resource value of the trust assets;

~~(d)(4)~~ administration and management for the implementation of recreational use of state lands; and

~~(e)(5)~~ maintenance of roads necessary for public recreational use of state trust land. (Void on occurrence of contingency—sec. 8, Ch. 596, L. 2003.)

**77-1-808.** (Effective on occurrence of contingency) **State lands recreational use account.** ~~(1) There is a state lands recreational use account in the state special revenue fund provided for in 17-2-102.~~

~~(2) There must be deposited in the account:~~

~~(a) all revenue received from the recreational use license established by 77-1-802; and~~

~~(b) money received by the department in the form of legislative appropriations, reimbursements, gifts, federal funds, or appropriations from any source intended to be used for the purposes of this account.~~

~~(3) Money deposited in the *appropriated for the purpose of managing recreational use of state lands recreational use account* must be used by the department for the following purposes:~~

~~(a)(1) compensation pursuant to 77-1-809 for damage to the improvements of leases that has been proved to be caused by recreational users;~~

~~(b)(2) assistance in weed control management necessary as a result of recreational use of state lands;~~

~~(c)(3) protection of the resource value of the trust assets; and~~

~~(d)(4) administration and management for the implementation of recreational use of state lands.”~~

**Section 15.** Section 77-1-809, MCA, is amended to read:

**“77-1-809. Compensation for damage to improvements, growing crops, or livestock.** A lessee may apply to the department for reimbursement of documented costs of repair to or replacement of improvements, growing crops, or livestock damaged by recreational users of state lands. The application must include an affidavit by the applicant setting forth the nature of the loss, allegations and reasonable proof supporting the involvement of recreational users, and documentation of repair or replacement costs. Upon review of the application and supporting proof and upon additional investigation as required, the department shall grant, modify, or deny the claim. The department, by reason of payment to the lessee for damage to improvements, is entitled to be subrogated to the rights of the lessee to recover the amount paid from the party causing the damage. Payments under this section must be made from appropriations from the *state lands recreational use trust land administration account* established by ~~77-1-808 77-1-108~~, and the liability of the department for damage payments is limited to ~~the available appropriation~~ *10% of revenue received from the recreational use fee and deposited in the account*. Claim applications are to be considered in the order they are received.”

**Section 16.** Section 77-1-810, MCA, is amended to read:

**“77-1-810. Weed control management.** (1) The department shall establish a weed control management program for the control of noxious weeds reasonably proved to be caused by the recreational use of state lands. The department may by rule establish a noxious weed management program that may include direct compensation for noxious weed control activities or participation in district and county weed control projects or department-initiated weed control activities.

(2) Funding for this program must come from appropriations from the state lands recreational use trust land administration account pursuant to 77-1-808 provided for in 77-1-108.”

**Section 17.** Section 77-1-815, MCA, is amended to read:

**“77-1-815. (Temporary) Recreational use agreement for hunting, fishing, and trapping on legally accessible state trust land.** (1) The board is authorized to enter into an agreement with the department of fish, wildlife, and parks to compensate state trust land beneficiaries for the use and impacts associated with hunting, fishing, and trapping on legally accessible state trust land as defined in department rule. The department may impose restrictions it considers necessary to coordinate the uses of state trust land or to preserve the purposes of the various trust lands. Hunting, fishing, and trapping on state trust land must be conducted in accordance with rules and provisions provided in this part.

(2) An agreement may be issued to the department of fish, wildlife, and parks for a term of up to 10 years. Through this agreement, the board shall recover for the beneficiaries of the trust the full market value for the use and impacts associated with hunting, fishing, and trapping on legally accessible state trust land. ~~Ten percent of the gross receipts from the agreement must be deposited in the state lands recreational use account established in 77-1-808. The remaining 90%~~ *The department may use funds appropriated from the trust land administration account provided for in 77-1-108 to implement and manage the agreement. Except as provided for in 17-7-304, any unexpended amount in the account that resulted from recreational use fees* must be apportioned on a pro rata basis to the land trusts, in proportion to the respective trust’s percentage of acreage in the total acreage of all state land trusts.

(3) Any agreement entered into is subject to the following conditions:

(a) The department maintains sole discretion, throughout the term of the agreement, with regard to identifying legally accessible parcels, coordinating uses on state trust land, and *making* any other necessary state trust land management decisions.

(b) An agreement between the department and the department of fish, wildlife, and parks may not convey any additional authority to the department of fish, wildlife, and parks.

(4) During any period that the department of fish, wildlife, and parks and the department have reached an agreement as provided in subsection (1), an individual recreational use license under 77-1-801 or 77-1-802 may not be required for a member of the public to hunt, fish, or trap upon legally accessible state trust land. (Void on occurrence of contingency—sec. 8, Ch. 596, L. 2003.)”

**Section 18.** Section 77-1-905, MCA, is amended to read:

**“77-1-905. Rental provisions for commercial leasing — payments and credits — administration — lease options.** (1) The first year’s annual rental payment for state trust land leased for commercial purposes must be paid by cashier’s check, and payment is due upon execution of the lease. The department may require the lessee of state trust land for commercial purposes to pay the department’s cost of the request for proposals process, including publication and other reasonable expenses. Failure to pay the first year’s rental at the time of lease execution must result in the cancellation of the lease and forfeiture of all money paid. In the event of cancellation or in the event that the successful proposer is offered and does not accept the lease, the board may enter

into negotiations with other persons who submitted a proposal for commercial purposes in response to the department request for proposals on that tract.

(2) The board shall specify in any commercial lease an annual rental equal to the full market rental value of the land. The annual rent may not be less than the product of the appraised value of the land multiplied by a rate that is 2 percentage points a year less than the rate of return of the unified investment program administered by the board of investments pursuant to 17-6-201. The rate of return from the unified investment program used in this subsection must be determined no less than 30 days prior to the execution of the competitive bid. A commercial lease may include a rental adjustment formula established by the board that periodically adjusts the annual rent provided for in the lease at frequencies specified in the lease. The board may allow a credit against the annual rent due for payments made by the lessee on behalf of the state of Montana for construction of structures and improvements, special improvement district assessments, annexation fees, or other city or county fees attributable to the state's property interest in land leased for commercial purposes. The board may accept as lawful consideration in-kind payments of services or materials equal to the full market value of the rent calculated to be owed on any commercial lease. A lease issued under this part may include an amortization schedule to be used to determine the value to the lessee of improvements when the lease is terminated.

(3) ~~Except for rent received from lands granted to the state 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 329, the~~ *The* department may use up to 10% of the annual rent received from a commercial lease *funds appropriated from the trust land administration account provided for in 77-1-108* to contract with realtors, property managers, surveyors, legal counsel, or lease administrators to administer the commercial lease, either singly or in common with other leases, or to provide assistance to the department in the administration of commercial leases.

(4) In anticipation of entering into a commercial lease, the board may issue an option to lease at a rental rate that the board determines to be appropriate. An option to lease may not exceed a term of 2 years. An option to lease may not be construed to grant a right of immediate possession or control over the land but may only preserve the optionholder's exclusive right to obtain a commercial lease on the land in the future."

**Section 19.** Section 77-2-328, MCA, is amended to read:

**"77-2-328. Additional rules — deposit of fees.** The board may prescribe any additional rules for the conduct of sales of state land as in its judgment the interests of the state may demand. The rules may not include a deduction of fees from land granted to the state 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 329. Any fees collected by a rule adopted pursuant to this section must be deposited in the trust land administration account as provided in ~~77-1-108~~ *77-1-109*."

**Section 20.** 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~~ *Funds appropriated from the trust land administration account provided for in 77-1-108* 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, 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 21.** Section 77-5-204, MCA, is amended to read:

**"77-5-204. Sale of timber — fee for forest improvement.** (1) The board may sell timber on state lands or other forest products removed from state lands, as provided in 77-5-214 through 77-5-219, at a per-unit price when, in the board's judgment, it is in the best interest of the state, provided that live timber is not sold for less than full market value.

(2) Timber sold or cut from state lands must be cut and removed under rules that may be prescribed by the board for standing timber preservation and fire prevention. In all cases, the board shall require the person cutting the timber to pile and burn or otherwise dispose of the brush and slash in the manner that may be prescribed by the board.

(3) Before the sale of timber is granted, the value of the timber must be appraised under the direction of the department, upon the request and subject to the approval of the board. An appraisal must show as nearly as possible the per-unit value, when appropriate, of all merchantable forest products.

(4) In addition to the price of the forest products established under subsection (1), the board may require a timber or other forest product purchaser to pay a fee for forest improvement unless the timber is to be harvested from land granted to the state 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 329. Revenue



from the fee must be deposited in the ~~state special revenue fund~~ *forest improvement account, established in [section 24]*, to the credit of the department and, as appropriated by the legislature, may be used only for:

- (a) disposing of logging slash;
- (b) acquiring access and maintaining roads necessary for timber harvesting on state lands;
- (c) reforestation, thinning, and otherwise improving the condition and income potential of forested state lands; and
- (d) complying with legal requirements for timber harvesting.”

**Section 22.** Section 77-5-219, MCA, is amended to read:

**“77-5-219. Contract harvesting account — authorized expenditures — termination.** (1) An account, called the contract harvesting account, must be created as a subaccount of the ~~timber sale trust land administration~~ account established in ~~77-1-613~~ *77-1-108*, in which to deposit gross revenue and for the payment of expenditures associated with contract harvesting sales. All proceeds of the sale of forest products from a contract harvesting sale must be deposited into this account and must be retained in the account to be used to pay for all contract harvesting costs, as provided in subsection (2).

(2) Expenditures may be credited against the account for contract harvesting costs. Personnel services costs for state employees may not be credited against the account.

(3) An amount equal to the contract harvesting costs must be retained in the account and must be deducted from the gross proceeds to determine the net proceeds. The net proceeds from the sale of the forest products must be distributed to the appropriate trust.

(4) An initial account balance must be created by transferring up to \$500,000 into the contract harvesting account from the ~~timber sale trust land administration~~ account.

(5) If the contract harvesting program is terminated or discontinued for more than 10 years, any balance remaining in the contract harvesting account in excess of \$500,000 must be distributed to the appropriate trust. The remaining balance up to \$500,000 must be transferred back to the ~~timber sale trust land administration~~ account provided for in ~~77-1-613~~ *77-1-108*.”

**Section 23. Earnings reserve account.** (1) There is an earnings reserve account in the state special revenue fund.

(2) Funds are deposited in the earnings reserve account in accordance with the provisions of 77-1-108(4)(a) and must be accounted for by trust.

(3) The balance of this account may not exceed two times the appropriation to the trust land administration account for the last completed fiscal year prior to the legislative session that will appropriate money for the next biennium.

(4) The earnings reserve account must be invested. Any interest earned must be deposited in the earnings reserve account in proportionate share to each fund's contribution to the account.

**Section 24. Forest improvement account.** (1) There is a forest improvement account in the state special revenue fund.

(2) Forest improvement fees collected pursuant to 77-5-204 must be deposited in the forest improvement account and accounted for by trust.

(3) Funds in the forest improvement account must be invested. Any interest earned must be deposited in the forest improvement account in proportionate share to each fund's contribution to the account.

**Section 25. Unencumbered balances — transfer.** (1) Except as provided in 17-7-304, any unencumbered fund balances remaining at the end of the fiscal year prior to [the effective date of this act] must be transferred to the earnings reserve account, established in [section 23], from the former:

- (a) resource development account;
  - (b) state timber sale account;
  - (c) state lands recreational use account; and
  - (d) state special revenue account into which commercial leasing revenue was deposited pursuant to 77-1-905(3).
- (2) The distribution of any unencumbered balances must occur:
- (a) in proportionate share to each fund's contribution to the accounts; and
  - (b) within 3 months of [the effective date of this act].

**Section 26. Repealer.** Sections 77-1-602, 77-1-604, 77-1-606, 77-1-607, 77-1-608, and 77-1-609, MCA, are repealed.

**Section 27. Codification instruction.** [Section 23] is intended to be codified as an integral part of Title 77, chapter 1, part 1, and the provisions of Title 77, chapter 1, part 1, apply to [section 23].

**Section 28. Codification instruction.** [Section 24] is intended to be codified as an integral part of Title 77, chapter 5, part 2, and the provisions of Title 77, chapter 5, part 2, apply to [section 24].

**Section 29. Effective date.** [This act] is effective July 1, 2009.

Approved May 6, 2009

## CHAPTER NO. 466

[SB 171]

AN ACT CREATING THE OFFENSE OF DAMAGE TO RENTAL PROPERTY; PROVIDING A PENALTY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

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

**Section 1. Damage to rental property.** (1) A tenant commits the offense of damage to rental property if the tenant purposely or knowingly destroys, defaces, damages, impairs, or removes any part of the premises with a value of at least \$1,000 over the amount of any damage deposit or, if no damage deposit was paid, a value of at least \$1,000 in violation of 70-24-321(2) or 70-33-321(3).

(2) A person convicted of the offense of damage to rental property shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

(3) A person convicted of damage to rental property must be ordered to make restitution in an amount and manner to be set by the court pursuant to 46-18-201(5) and 46-18-241 through 46-18-249.

(4) A prosecution under this section is independent of and does not constitute a waiver of any of the rights, duties, obligations, and remedies otherwise provided for under Title 70, chapter 24 or 33.

**Section 2. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 45, chapter 6, part 1, and the provisions of Title 45, chapter 6, part 1, apply to [section 1].

**Section 3. Effective date.** [This act] is effective on passage and approval.

**Section 4. Applicability.** [This act] applies to criminal acts committed on or after [the effective date of this act].

Approved May 6, 2009

## CHAPTER NO. 467

[SB 263]

AN ACT 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.

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

**Section 1.** Section 46-8-113, MCA, is amended to read:

**“46-8-113. Payment by defendant for assigned counsel — costs to be filed with court.** (1) As part of or as a condition under a sentence imposed under the provisions of this title, the court ~~may~~ *shall* require a convicted defendant to pay the costs of counsel assigned to represent the defendant *as follows, except as provided in subsections (2)- and (3):*

(a) *in every misdemeanor case, \$150; and*

(b) *in every felony case, \$500.*

(2) Costs must be limited to costs incurred by the office of state public defender, provided for in 47-1-201, for providing the defendant with counsel in the criminal proceeding. *- If the criminal proceeding includes a jury trial, counsel assigned by the office of state public defender shall file with the court a statement of the hours spent on the case and the costs and expenses incurred and, except as provided in subsection (3), the court shall require the defendant to pay the costs of counsel and other costs and expenses as reflected in the statement.*

(3) The court may not sentence a defendant to pay the costs for assigned counsel 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.

(4) A defendant who has been sentenced to pay costs may at any time petition the court that sentenced the defendant for remission of the payment of costs or of any unpaid portion 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 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 2.** Section 47-1-111, MCA, is amended to read:

**“47-1-111. Eligibility — determination of indigence — rules.** (1) (a) ~~Beginning July 1, 2006, when~~ *When* a court orders the office to assign counsel,

the office shall immediately assign counsel prior to a determination under this section.

(b) If the person for whom counsel has been assigned is later determined pursuant to this section to be ineligible for public defender services, the office shall immediately notify the court so that the court's order may be rescinded.

(c) A person for whom counsel is assigned is entitled to the full benefit of public defender services until the court's order requiring the assignment is rescinded.

(d) Any determination pursuant to this section is subject to the review and approval of the court. *The propriety of an assignment of counsel by the office is subject to inquiry by the court, and the court may deny an assignment.*

(2) (a) An applicant who is eligible for a public defender only because the applicant is indigent shall also provide a detailed financial statement and sign an affidavit.

(b) The application, financial statement, and affidavit must be on a form prescribed by the commission.

(c) Information disclosed in the application, financial statement, or affidavit is not admissible in a civil or criminal action except when offered for impeachment purposes or in a subsequent prosecution of the applicant for perjury or false swearing.

(d) The office may not withhold the timely provision of public defender services for delay or failure to fill out an application. However, a court may find a person in civil contempt of court for a person's unreasonable delay or failure to comply with the provisions of this subsection (2).

(3) An applicant is indigent if:

(a) the applicant's gross household income, as defined in 15-30-171, is at or less than 133% of the poverty level set according to the most current federal poverty guidelines updated periodically in the federal register by the United States department of health and human services under the authority of 42 U.S.C. 9902(2); or

(b) the disposable income and assets of the applicant and the members of the applicant's household are insufficient to retain competent private counsel without substantial hardship to the applicant or the members of the applicant's household.

(4) A determination of indigence may not be denied based solely on an applicant's ability to post bail or solely because the applicant is employed.

(5) A determination may be modified by the office or the court if additional information becomes available or if the applicant's financial circumstances change.

(6) The commission shall establish procedures and adopt rules to implement this section. Commission procedures and rules:

(a) must ensure that the eligibility determination process is fair and consistent statewide;

(b) must allow a qualified private attorney to represent an applicant if the attorney agrees to accept from the applicant a compensation rate that will not constitute a substantial financial hardship to the applicant or the members of the applicant's household;

(c) may provide for the use of other public or private agencies or contractors to conduct eligibility screening under this section;

(d) must avoid unnecessary duplication of processes; and

(e) must prohibit individual public defenders from performing eligibility screening pursuant to this section.”

**Section 3. Contingent voidness.** If House Bill No. 2 is passed and approved and does not include the restoration of the \$250,000 per year general fund reduction in the Office of State Public Defender related to the passage and approval of [this act], then [this act] is void.

**Section 4. Effective date.** [This act] is effective July 1, 2009.

Approved May 6, 2009

## CHAPTER NO. 468

[SB 322]

AN ACT 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.

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

**Section 1. Application fee.** At the time a new application to register an apiary site is submitted to the department by an owner or applicant not currently registered in the department’s apiary database, the owner or applicant shall pay an application fee. The fee may not be less than \$10 or more than \$100. The department may adjust the fee by rule to maintain adequate funding for this part.

**Section 2.** Section 80-6-101, MCA, is amended to read:

**“80-6-101. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) “Apiary” means a location where one or more colonies of bees are kept or one or more hives containing honeycombs or bee combs are kept.

(2) “Bee diseases” means a disease or abnormal condition of egg, larval, pupal, or adult stages of bees. Specific bee diseases that are subject to regulation under parts 1 through 3 of this chapter must be designated by department rule.

(3) “Bees” means any stage of the bees in the genus *Apis mellifera* and all European subspecies.

(4) “Colony” means the *bees and the* hive and all equipment used in connection with ~~the~~ *that* hive.

(5) “Department” means the department of agriculture, provided for in 2-15-3001.

(6) “Equipment” means hives, supers, frames, veils, gloves, or any apparatus, tools, machines, or other devices used in the handling and manipulation of bees, honey, wax, and hives ~~and~~. *The term* includes containers of honey and wax used in an apiary or in transporting bees and their products and *includes* apiary supplies.

(7) "Family unit" means two or more persons living together or residing in the same dwelling, house, or other place of residence.

(8) "General apiary *site*" means an apiary *site* other than a pollination apiary *site*, landowner apiary *site*, or hobbyist apiary *site*.

(9) "Hive" means a frame hive, box hive, box, barrel, log gum, skep, or other receptacle or container or a part of a container, natural or artificial, used as a domicile for bees.

(10) "Hobbyist apiary *site*" means an apiary ~~owned~~ *site registered* by a hobbyist beekeeper.

(11) "Hobbyist beekeeper" means a person who owns a total of no more than five hives.

(12) (a) "Landowner" means the person who has the use and exclusive possession of the land upon which a ~~landowner~~ *the* apiary is to be registered.

(b) ~~However, The term does not include~~ a person leasing or renting land for the primary purpose of locating or establishing an apiary ~~is not considered a landowner~~.

(13) "Landowner apiary *site*" means an apiary ~~owned~~ *site registered* by a landowner ~~as defined in this section~~.

(14) "Persons" means individuals, associations, partnerships, or corporations.

(15) "Pest" means the African honeybee (*Apis mellifera scutellata* and *Apis mellifera capensis*), those honeybees Africanized by interbreeding with the African honeybee, and any other parasite or predator that attacks the egg, larval, pupal, or adult stages of the honeybee that are subject to regulation under parts 1 through 3 of this chapter as identified by rule of the department.

(16) "Pollination apiary *site*" means an apiary ~~operated~~ *site registered* for pollination of a commercial seed, fruit, or other commercial agricultural product as provided in 80-6-112."

**Section 3.** Section 80-6-102, MCA, is amended to read:

**"80-6-102. Registration classes — reregistration — fees.** (1) ~~A~~ *Except as provided in 80-6-114, a person who owns or possesses an apiary in the state shall, before April 1 each year, register reregister the apiary site. 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 or reregister as provided in this part is subject to a civil penalty as set forth in 80-6-303.*

(2) (a) *Before a certificate of registration may be issued for an apiary site, the owner or applicant for a certificate shall pay a reregistration fee to the department.*

(b) *The annual fee for reregistering an apiary site may not be less than \$10 or more than \$50. The department may adjust the fee by rule to maintain adequate funding for this part.*

(c) *If, after reregistration, additional or new apiary sites are authorized for a registered apiary, fees must be paid by the registrant in accordance with subsection (2)(b).*

(d) *A site reregistration not applied for by April 1 of each year is a delinquent reregistration and is subject to a penalty fee of 10% of the regular reregistration fee or \$10, whichever is greater.*

(3) (a) A registrant who fails to apply for reregistration by April 1 of each year must be notified of the delinquency by the department. Notification must be by certified mail, addressed to the registrant at the registrant's most recent address listed in the department's apiary registration files and is considered sufficient when deposited in a United States post office box or mail box on or before April 21.

(b) If a delinquent reregistration is not reregistered by June 1, the registration is forfeited and all rights under the registration are terminated. After June 1, apiary sites that have not been reregistered may be deleted from the registration database.

(4) There are four classes of apiary site 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 80-6-114.

~~(2) Applications shall be made to the department for registration application blanks.~~

~~(3)~~(5) Registration application blanks shall *must* be furnished by the department. The applicant shall provide the following information:

(a) a statement of the *applicant's* name and place of residence, telephone number, and mailing address;

~~(b) the number of colonies of bees, hives, and equipment in the apiary;~~

~~(c)~~(b) the location of the apiary site, setting forth specifically the location by sectional division to the nearest quarter section, and the section, township, and range or the GPS coordinates of the site and, if within the corporate limits of a town or city, the number of the lot and block in the town or city;

~~(d)~~(c) the name of the *current* owner, renter, or occupant of the land on which the apiary site is located; and,

(d) when the application is for a new apiary site being registered for the first time, the application must also show that the owner, renter, or occupant of the land has consented *in writing* to the apiary being located on his *that* land;

~~(e) the date when the apiary was first established;~~

~~(f)~~(e) the class of apiary site registration for which application is being made; and

~~(g)~~(f) other information *that* the department may require under rules adopted by it for the protection, safety, and welfare of the public and the beekeeping industry.

~~(4)~~(6) Upon receipt of the application and payment of the fees prescribed, the department may issue a certificate *certificates* of registration for ~~an~~ the apiary sites, setting forth the name of the owner, the specific location *locations*, the number of colonies of bees or size of the apiary authorized under the registration, and the class of apiary sites authorized by the registration.

~~(5)~~(7) In issuing certificates of registration for ~~apiaries~~ apiary sites, if there is a conflict between applicants with respect to location, the department shall give preference to the applicant having the oldest ~~continuous~~ continuously registered apiary site.

~~(6) Certificates of registration may not be issued for new apiaries which 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 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 *site*. If an owner has more than one apiary *site*, suitable evidence of registration furnished by the department shall *must* be posted at each apiary *site*. *If the identity of hives cannot be determined, the apiary site may be quarantined by the department and all hives may be removed, destroyed, sold at public auction, or handled in another appropriate manner at the discretion of the department.*~~

~~(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 be notified of their delinquency by the department. The notification shall 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 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 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 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 80-6-111 through 80-6-115 shall 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.~~

~~(9) A reregistration may not be granted pursuant to this section if a civil penalty due under 80-6-303 has not been paid."~~

**Section 4.** Section 80-6-103, MCA, is amended to read:

**~~"80-6-103. Changing locations — enlarging or selling apiaries transfer of apiary sites.~~** (1) An owner of ~~an established~~ a registered apiary *site* may not change the location of the apiary *site* without first receiving from the department authorization to establish the new apiary *site* ~~if the apiary site is outside the currently registered quarter-section~~. In making the application, ~~he~~ the owner shall specify the location of the apiary *site* with the same particularity as in the application for original registration.

(2) If the new apiary *site* 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 needs consistent with good beekeeping practice.



~~(2)(3)~~ A registered apiary *site* may be sold or transferred to a purchaser subject to parts 1 through 3 of *this chapter* if all bees and equipment on the apiary *site* are sold to the purchaser *transferee*.

~~(3)~~ No person may increase the number of hives on an apiary to exceed the number of hives authorized by his 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 bees during adverse weather or crop conditions or to protect his 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 bees for shipment out of the state or to winter his bees on that apiary.

~~(4)~~ A person enlarging an apiary so as to exceed the number of hives herein allowed is guilty of a misdemeanor and is subject to the penalties set forth in 80-6-303."

**Section 5.** Section 80-6-104, MCA, is amended to read:

**"80-6-104. Apiaries — termination of rights — abandonment.** (1) *The Except for a hobbyist apiary site, the registration of an apiary which is site 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 at least 10 working hives for 10 consecutive days between April 1 and October 1 of each year is considered forfeited. Exceptions may be granted by the department if sites cannot be used because of a natural disaster or other circumstances. When an exception is granted, movement of hives must be to other registered apiary sites.*

(2) ~~An~~ *If an apiary site is not regularly attended in accordance with good beekeeping practice, which and that lack of attendance comprises a hazard or threat to disease or pest control in the beekeeping industry, or which if by reason of its physical condition or construction an apiary site cannot be inspected, or if an any apiary site is not registered in accordance with 80-6-102, the apiary site may be considered an abandoned apiary and the bees and equipment at the site may be seized by the department.*

(3) Any pest-infected *equipment*, or diseased equipment, or equipment ~~which that~~ by reason of its physical condition or construction cannot be inspected may be burned, and the remainder.

(4) *Abandoned equipment and bees may be sold by the department at public auction. Proceeds, after the cost of the sale is deducted, shall may be returned to the former owner or his the owner's estate, if the owner is known, or placed in the apiary account in 80-6-315 if the owner cannot be determined.*

(5) Before burning or selling any equipment, the department shall give the owner or person in charge of the *apiary site* 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~~ *apiary site*. If the owner or person in charge of the *apiary site* cannot be located, a certified letter sent to the owner's ~~last most recent~~ address registered with the department is sufficient notice under this section. *At least 5 days before the burning or sale, a legal notice must also be published in a newspaper in the county where the equipment was found.*

(6) *Before burning any equipment pursuant to subsection (3), the department shall notify the owner of the land on which the apiary site is located."*

**Section 6.** Section 80-6-111, MCA, is amended to read:

**“80-6-111. General apiary site 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, *as it relates to bee health* of established apiaries, general apiaries registered to different persons ~~on October 1, 1981, apiary sites~~ 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 site ~~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 site that is situated less than 3 miles from another general apiary ~~he site that person has registered so long as if~~ the location of the general apiary site being applied for is 3 or more miles from general ~~apiaries~~ *apiary sites* registered to other persons.

(3) A general apiary site may be registered even ~~though~~ *if* it is less than 3 miles from any registered pollination apiary site, landowner apiary site, or hobbyist apiary site.

(4) (a) A person with an existing apiary site that is located less than 3 miles from an existing general apiary site ~~registered to another person~~ may register ~~his that~~ apiary site as a general apiary site under the following conditions:

~~(a) his 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)(i) his the existing apiary site is registered with the department as a general apiary site as of July 1, 1981; and~~

~~(e)(ii) the registration of his the existing apiary site has not been forfeited or abandoned under the provisions of 80-6-102(9)(3) or 80-6-104.~~

~~(b) General apiary sites registered prior to July 1, 1981, may be moved if authorized by the department.~~

~~(5) Certificates of registration may not be issued for new apiary sites that are within such close proximity to established registered apiary sites that there is or may be danger of the spread of disease or pests or if the proximity will or may interfere with the proper feeding and honey flow of established apiaries.~~

~~(6) Before registering new apiary sites, the department shall give at least 10 days' notice by certified mail to all registered apiarists who are likely to be affected by the proposed new apiary site. Any affected party may file a written protest with the department against registering the new apiary site. If a written protest is filed, the department may require a hearing. Notice of the time and place of the hearing must be given to all interested parties by certified mail at least 10 days before the date set for the hearing. If a hearing is held, the department in its discretion may issue or refuse to issue the new apiary site registration.”~~

**Section 7.** Section 80-6-112, MCA, is amended to read:

**“80-6-112. Pollination apiary site registrations.** (1) The department may grant pollination apiary site registrations to commercial seed ~~and producers~~, fruit producers, or other commercial agricultural producers under the following conditions:

(a) (i) the applicant must own, lease, or rent the land upon which the pollination apiary site is to be located and the applicant must use the land for the

purpose of growing a commercial seed, fruit, or other crop ~~which that~~ is dependent upon bees or other insects for pollination;

(ii) the applicant ~~does~~ *may* not own the bees or the hives ~~which that~~ are to be placed upon the pollination apiary *site*; and

(iii) the only purpose of the *pollination* apiary *site* is to pollinate a commercial agricultural crop.

(b) The applicant shall provide the department with all pertinent information necessary to determine if pollination ~~apiaries~~ *apiary sites* are needed to *adequately* pollinate the applicant's crop ~~adequately~~.

(c) The department may refuse to register a pollination apiary *site* based upon its own investigation ~~of the matter~~, but if the department approves the application, it shall specify the number and location of pollination ~~apiaries~~ *apiary sites* needed for the purpose of *adequately* pollinating the applicant's commercial agricultural crop ~~adequately~~.

(2) A pollination apiary *site* registration is valid only for the time ~~period~~ specified by the department, and all pollination apiaries must be removed within 2 weeks after the full bloom period of the crop to be pollinated.

(3) ~~No~~ A certificate of registration of a pollination apiary *site* may *not* be leased, assigned, or transferred ~~and no person other~~. A *person, other* than the pollination apiary *site* registrant, may *not* exercise any rights or privileges, directly or indirectly, authorized by the certificate of registration.

(4) *The department shall attempt to notify any general apiarist with registered apiary sites located within 3 miles of a proposed pollination apiary site of the potential location of the proposed pollination apiary site.*"

**Section 8.** Section 80-6-113, MCA, is amended to read:

**"80-6-113. Landowner apiary *site* registrations.** (1) The department may grant landowner apiary *site* registrations under the following conditions:

(a) The applicant must be a landowner, ~~as defined in 80-6-101~~, and must own the land upon which the apiary *site* will be located.

(b) The applicant must own the bees and the hives that will be placed on the apiary *site*.

(c) The bees and the hives must be personally managed and operated by the applicant.

(2) ~~No~~ A certificate of registration of a landowner apiary *site* may *not* be leased, assigned, or transferred, ~~and no person other~~. A *person, other* than the landowner apiary *site* registrant, may *not* exercise any rights or privileges, directly or indirectly, authorized by the certificate of registration.

(3) *The department shall attempt to notify any general apiarist with registered apiary sites located within 3 miles of a proposed landowner apiary site of the potential location of the landowner apiary site.*

(4) *When a landowner apiary business changes to a general apiary business, the landowner apiary sites established and registered with the department as landowner apiary sites under the department's rules in effect prior to July 1, 2009, remain valid regardless of location with regard to other apiary sites, including general apiary sites within 3 miles, as long as the registration of the landowner apiary sites has not been forfeited or abandoned pursuant to 80-6-102 or 80-6-104."*

**Section 9.** Section 80-6-114, MCA, is amended to read:

**“80-6-114. Hobbyist apiary site — voluntary registrations.** (1) *A hobbyist apiary site is exempt from the registration provisions of this part, but a hobbyist beekeeper may voluntarily register with the department under this section. A hobbyist beekeeper voluntarily registering a site shall pay any required registration fee but is not required to reregister pursuant to 80-6-102.*

~~(1)~~(2) The department may grant hobbyist apiary site registrations to hobbyist beekeepers under the following conditions:

(a) The applicant ~~must~~ may not own a total of more than five hives, and all of the hives must be placed on the hobbyist apiary site.

(b) The applicant must own the bees and the hives and must personally manage and operate the bees and the hives.

(c) Only one hobbyist apiary site registration is allowed for an applicant and only two hobbyist apiary site registrations are allowed for a family unit.

~~(d) If the department determines that too many hobbyist apiaries are being registered within too close proximity of each other or of other established apiaries so that there is or may be danger of the spread of bee diseases, pests, or other contagious or infectious diseases among bees or apiaries or that there will be interference with the proper feeding and honey flow of established apiaries, the department may refuse to grant any further hobbyist registrations in the locality and area of the danger, in accordance with 80-6-102(6).~~

~~(2)~~(3) ~~No~~ A certificate of registration of a hobbyist apiary site may not be leased, assigned, or transferred, and no person other than the hobbyist apiary site registrant, may not exercise any rights or privileges, directly or indirectly, authorized by the certificate of registration.”

**Section 10.** Section 80-6-201, MCA, is amended to read:

**“80-6-201. Apiaries — powers and duties of the department.** (1) To prevent the spread of pests and contagious and infectious disease among bees and apiaries, the department may:

(a) *enter private land containing an apiary site and fly over or enter any farm, railroad right-of-way, or other grounds or premises containing an apiary site to determine the health or ownership of the bees. The department shall provide at least 24 hours’ notice to a private landowner before entering private land.*

~~(a)~~(b) order the transfer of colonies of bees from hives or containers that cannot be properly examined for brood or other diseases to other hives or containers;

~~(b)~~(c) order disinfection of any bee bees, beehive hives, brood comb, or any other equipment that is infected or contaminated with disease or pests and burn ~~any the~~ infected or contaminated bee bees, beehive hives, brood comb, or any other equipment if, in its judgment, disinfection will not remove the infection or contamination. Before burning any property, the department shall give the owner or person in charge to whom the apiary site is registered or the owner of an unregistered hobbyist apiary site a written notice at least 5 days before the date the property will be burned. The notice must be given by certified mail or personal service upon the owner or person in charge of the property. Before burning any equipment, the department shall notify the owner of the land on which the apiary site is located.

~~(e)~~(d) quarantine any apiary site where pests, foulbrood, or any other contagious or infectious diseases are present and, during the with the following conditions:

(i) *During the quarantine, the department shall prevent the removal from the apiary site of any bees or equipment except under a special permit issued by the department permitting the removal under conditions prescribed by the department.*

(ii) A person may not sell or offer for sale any apiary site, bees, or equipment under quarantine unless a permit authorizing the sale or removal is issued by the department.

(iii) Written notice of quarantine must be posted by the department, owner, or person in charge at the quarantined apiary site at a conspicuous place, and a copy must be personally served or sent by certified mail to the owner of the apiary site at the owner's last-known address or to the person in charge. The quarantine continues in effect until it is ordered removed and a copy of the removal order is served in the same manner.

(iv) *The owner or person in charge of the quarantined apiary site may enter the premises for standard care and maintenance of the bees.*

(d)(e) establish by rule interior and exterior quarantines to prevent the entry or spread of diseases or pests that are not known to occur in Montana;

(e)(f) inspect apiaries, hives, equipment, or premises for the presence of disease or pests;

(g) *inspect any apiary site at the request of and at the expense of any interested party;*

(f)(h) promulgate and enforce rules adopted pursuant to parts 1 through 3 of this chapter.

(2) A person failing to comply with a rule, order, or provision of a quarantine pursuant to this section is subject to penalties provided for in 80-6-303.

(3) The department may provide disease and pest inspection, sampling, and laboratory analysis services for a fee. The department shall adopt rules setting the fee commensurate with costs and establishing procedures for sampling and analysis.

(4) The department may enter into agreements with the United States department of agriculture, other federal agencies, other states, municipal authorities, and individual Montana beekeepers in carrying out the provisions of this part."

**Section 11.** Section 80-6-202, MCA, is amended to read:

**"80-6-202. Inspection of bees or used beekeeping equipment transported interstate.** (1) ~~A person may not transport or bring into the state bees or used Bees and beekeeping equipment or containers, including honey to be extracted, unless under a compliance agreement certificate of health that allows for seasonal transportation of bees and beekeeping equipment into Montana without inspection, or certified and marked as being apparently pest- and disease-free by an official responsible for apiary regulations of the state from which they are being moved that are transported into Montana from another state must be certified as pest-free and disease-free by either the originating state or by the department. A person who transports bees or beekeeping equipment into Montana shall present the required certification to the department. If the bees or beekeeping equipment cannot be certified as pest-free and disease-free, the bees or beekeeping equipment must be treated appropriately under the supervision of a federal authority, a representative of the originating state, or a representative of the department.~~

(2) The department must be advised in advance of the date of entry and the destination of the bees or material. Used equipment or bees transported into the state may be quarantined by the department, in accordance with 80-6-201(1)(e)(1)(d), from the time they enter the state until they have been inspected and found to be apparently free of pests and diseases or until they have been in use while under quarantine for a minimum of 90 days ~~and at least until the following July 1~~. The beekeeping materials are also subject to quarantine as provided in this section.

(3) The department may also inspect and certify as being apparently ~~pest-free~~ and disease-free bees or beekeeping equipment to be transported from Montana to a state that requires an inspection in the state of origin.

~~(2)(4)~~ (a) The costs of making the inspections provided for in ~~subsection (1) subsections (1) through (3)~~ must be paid ~~in advance~~ by the owner of the bees or equipment *following the inspection*.

(b) Inspection fees for persons without a valid Montana ~~compliance agreement~~ *inspection* must include:

(i) per diem pursuant to Title 2, chapter 18, part 5;

(ii) necessary traveling expenses; *and*

(iii) an hourly rate established by department rule; ~~and~~

~~(iv) except as provided in this subsection (2)(b)(iv), a fee of \$75 for the issuance of a certificate of health~~. The department may adjust the fee by rule to maintain adequate funding for this part. The fee may not be less than \$50 or more than ~~\$100~~ *\$150*.

(c) Persons transporting bees interstate with a valid Montana ~~compliance agreement~~ *certificate of health* shall pay inspection fees that include:

(i) per diem pursuant to Title 2, chapter 18, part 5;

(ii) necessary traveling expenses; *and*

~~(iii) except as provided in this subsection (2)(c)(iii), a fee of \$75 for the issuance of a certificate of health, which may not be less than \$50 or more than \$150~~. The department may adjust the fee by rule to maintain adequate funding for this part. ~~The fee may not be less than \$50 or more than \$100.~~

(d) If inspection by an official of any other state is considered insufficient for the protection of the Montana bee industry by the department, the department shall ~~so state~~ *that fact* by public statement. Importation of bees or beekeeping materials, including honey for extracting, from that other state must be denied unless the materials, bees, or honey is first inspected by the department and there is obtained from ~~it~~ *the department* a certificate of inspection showing that the materials, bees, or honey is apparently free from pests and contagious or infectious disease. The costs of making the inspection must be paid by the person requesting it, and inspection may be made at any point outside this state convenient to the person making the inspection. The department may require that the costs of making the inspection be paid in advance, and the costs must include:

(i) per diem pursuant to Title 2, chapter 18, part 5;

(ii) necessary traveling expenses;

(iii) an hourly rate established by department rule; *and*

~~(iv) except as provided in this subsection (2)(d)(iv), a fee of \$75 for the issuance of the certificate of inspection~~. The department may adjust the fee by

rule to maintain adequate funding for this part. The fee may not be less than \$50 or more than ~~\$100~~ \$150.”

**Section 12.** Section 80-6-203, MCA, is amended to read:

**“80-6-203. Importation of bees in ~~combless~~ packages or queen cages.**

A person or common carrier may not transport or bring *bees* into this state ~~bees~~ in ~~combless~~ packages or *queen cages* unless ~~they~~ *the packages or queen cages* are accompanied by a certificate of health issued by the official inspector of the state or country from which they came.”

**Section 13.** Section 80-6-303, MCA, is amended to read:

**“80-6-303. Penalty.** (1) ~~(a) A~~ *Except as provided in subsection (2), a person violating or aiding in the violation of parts 1 through 3 of this chapter or rules adopted under parts 1 through 3 is subject to one or both of the following penalties:*

~~(a)~~ *an administrative civil penalty of not more than \$1,000* \$1,000 for each offense. Assessment of a penalty under this subsection (1)~~(a)~~ may be made in conjunction with any other warning, order, or administrative action that is issued by the department under this part. The proceeds of an administrative civil penalty must be deposited in the state special revenue account provided for in 80-6-315.

~~(b) if the offense is a misdemeanor, a fine of not less than \$25 or more than \$500 or imprisonment in the county jail not exceeding 1 year, or both.~~

~~(b)~~ *A person who is assessed a penalty for violating parts 1 through 3 of this chapter is also subject to payment of costs incurred by the department for inspections or investigations related to the violation.*

~~(2)~~ *(a) A person violating or aiding in the violation of the provisions of 80-6-202 is subject to an administrative civil penalty of not more than \$10,000 for each offense. Assessment of a penalty under this subsection (2)(a) may be made in conjunction with any other warning, order, or administrative action that is issued by the department under this part. The proceeds of an administrative civil penalty must be deposited in the state special revenue account provided for in 80-6-315.*

~~(b)~~ *A person who is assessed a penalty for violating 80-6-315 is also subject to payment of costs incurred by the department for inspections or investigations related to the violation.*

~~(2)(3)~~ *The department shall establish by rule a penalty matrix that schedules the types of penalties, the amounts of penalties for initial and subsequent offenses, and any other matters necessary for the administration of civil penalties under subsection (1)(a). The issuance of a civil penalty is subject to the contested case procedures of Title 2, chapter 4, part 6.*

~~(3)(4)~~ *This part may not be construed as requiring the department or its representatives to report violations of this part when it is believed that the public interest will be best served by a suitable notice of warning.”*

**Section 14. Repealer.** Sections 80-6-105 and 80-6-115, MCA, are repealed.

**Section 15. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 80, chapter 6, part 1, and the provisions of Title 80, chapter 6, part 1, apply to [section 1].

Approved May 6, 2009

**CHAPTER NO. 469**

[SB 360]

AN ACT 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.

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

**Section 1.** Section 75-20-104, MCA, is amended to read:

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

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

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

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

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

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

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

(6) "Commence to construct" means:

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

(b) the fracturing of underground formations by any means if the activity is related to the possible future development of a gasification facility or a facility employing geothermal resources but does not include the gathering of geological data by boring of test holes or other underground exploration, investigation, or experimentation;

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

(d) the relocation or upgrading of an existing facility defined by subsection (8)(a) or (8)(b), including upgrading to a design capacity covered by subsection (8)(a), except that the term does not include normal maintenance or repair of an existing facility.

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



(8) "Facility" means:

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

(i) does not include an electric transmission line and associated facilities of a design capacity of 230 kilovolts or less and 10 miles or less in length;

(ii) does not include an electric transmission line with a design capacity of more than 69 kilovolts but less than 230 kilovolts for which the person planning to construct the line has obtained right-of-way agreements or options for a right-of-way from more than 75% of the owners who collectively own more than 75% of the property along the centerline;

(iii) does not include an electric transmission line that is less than 150 miles in length and extends from an electrical generation facility, as defined in 15-24-3001(4), or a wind generation facility, as defined in 15-6-157, to the point at which the transmission line connects to a regional transmission grid at an existing transmission substation or other facility for which the person planning to construct the line has obtained right-of-way agreements or options for a right-of-way from more than 75% of the owners who collectively own more than 75% of the property along the centerline;

(iv) does not include an upgrade to an existing transmission line to increase that line's capacity ~~within an~~ *to less than or equal to 230 kilovolts, including construction outside the existing easement or right-of-way. Except for a newly acquired easement or right-of-way necessary to comply with electromagnetic field standards, a newly acquired easement or right-of-way outside the existing easement or right-of-way as described in this subsection (8)(a)(iv) may not exceed a total of 10 miles in length or be more than 10% of the existing transmission right-of-way, whichever is greater, and the purpose of the easement must be to avoid sensitive areas or inhabited areas.* ~~and~~

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

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

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

(B) a pipeline greater than 25 inches in inside diameter and 50 miles in length for which the person planning to construct the pipeline has obtained right-of-way agreements or options for a right-of-way from more than 75% of the owners who collectively own more than 75% of the property along the centerline;

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

(c) any use of geothermal resources, including the use of underground space in existence or to be created, for the creation, use, or conversion of energy, designed for or capable of producing geothermally derived power equivalent to ~~25 million Btu's per hour~~ *50 megawatts* or more or any addition thereto, except pollution control facilities approved by the department and added to an existing plant; or

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

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

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

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

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

- (a) installing larger conductors;
- (b) replacing insulators;
- (c) replacing pole or tower structures; or
- (d) changing structure spacing, design, or guying.

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

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

**Section 3. Applicability.** [This act] applies to applications filed after [the effective date of this act].

Approved May 6, 2009

## CHAPTER NO. 470

[SB 418]

AN ACT 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.

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

**Section 1. Relief from joint and several liability on joint return — limitations — rules.** (1) A taxpayer who has obtained relief from joint and several liability under section 6015 of the Internal Revenue Code, 26 U.S.C. 6015, may apply to the department for relief from joint and several liability of the tax imposed by Title 15, chapter 30. The taxpayer must have filed a Montana joint return for each of the tax years for which relief is sought under this section.

(2) In applying for relief under this section, the taxpayer shall provide the department with the following:

- (a) the tax years for which relief is sought;
- (b) complete copies of all correspondence sent to and received from the internal revenue service;
- (c) any court order stating that the taxpayer's spouse or former spouse is responsible for paying the Montana individual income tax liability; and
- (d) other information demonstrating that it would be unfair to hold the taxpayer responsible for the tax, penalty, and interest.

(3) If the department determines, after consideration of the facts and circumstances presented by the taxpayer, that it would be unfair to hold the taxpayer responsible for some or all of the tax, penalty, and interest, the department shall grant the taxpayer relief from joint and several liability. The relief from joint and several liability granted by the department:

- (a) must be based on the same circumstances for which relief was granted the taxpayer by the internal revenue service; and
- (b) may not exceed the relief granted by the internal revenue service.

(4) The department shall adopt rules to implement and administer this section, including but not limited to establishing procedures for applying for relief allowed under this section.

**Section 2.** Section 15-30-112, MCA, is amended to read:

**"15-30-112. Exemptions — inflation adjustment.** (1) ~~Except as provided in~~ *Subject to subsection (6), in the case of an individual, is allowed as deductions in computing taxable income* the exemptions provided by subsections (2) through (5) ~~must be allowed as deductions in computing taxable income.~~

- (2) (a) An exemption of \$1,900 is allowed for all taxpayers.
- (b) An additional exemption of \$1,900 is allowed for the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the tax year of the taxpayer begins, does not have gross income and is not the dependent of another taxpayer.
- (3) (a) An additional exemption of \$1,900 is allowed for the taxpayer if the taxpayer has attained the age of 65 before the close of the taxpayer's tax year.
- (b) An additional exemption of \$1,900 is allowed for the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse has attained the age of 65 before the close of the tax year and, for the calendar year in which the tax year of the taxpayer begins, does not have gross income and is not the dependent of another taxpayer.
- (4) (a) An additional exemption of \$1,900 is allowed for the taxpayer if the taxpayer is blind at the close of the taxpayer's tax year.
- (b) An additional exemption of \$1,900 is allowed for the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse is blind and, for the calendar year in which the tax year of the taxpayer begins, does not

have gross income and is not the dependent of another taxpayer. For the purposes of this subsection (4)(b), the determination of whether the spouse is blind must be made as of the close of the tax year of the taxpayer, except that if the spouse dies during the tax year, the determination must be made as of the time of death.

(c) For purposes of this subsection (4), an individual is blind only if the person's central visual acuity does not exceed 20/200 in the better eye with correcting lenses or if visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision to an extent that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

(5) (a) An exemption of \$1,900 is allowed for each dependent:

(i) whose gross income for the calendar year in which the tax year of the taxpayer begins is less than \$800 or equal to the exemption amount provided in subsection (2)(a); or

(ii) who is a *qualifying child of the taxpayer and who:*

~~(A) has not attained the age of 19 years at the close of the calendar year in which the tax year of the taxpayer begins; or~~

~~(B) is as defined in section 152 of the Internal Revenue Code, 26 U.S.C. 152, including a student as defined in that section.~~

(b) An exemption is not allowed under this subsection for a dependent who has made a joint return with the dependent's spouse for the tax year beginning in the calendar year in which the tax year of the taxpayer begins.

~~(c) For purposes of subsection (5)(a)(ii), the term "child" means an individual who is a son, stepson, daughter, or stepdaughter of the taxpayer.~~

~~(d) For purposes of subsection (5)(a)(ii)(B), the term "student" means an individual who, during each of 5 calendar months during the calendar year in which the tax year of the taxpayer begins:~~

~~(i) is a full-time student at an educational institution; or~~

~~(ii) is pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational institution or of a state or political subdivision of a state. For purposes of this subsection (5)(d)(ii), the term "educational institution" means only an educational institution that normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on.~~

(6) The department, by November 1 of each year, shall multiply all the exemptions provided in this section by the inflation factor for that tax year and round the product to the nearest \$10. The resulting adjusted exemptions are effective for that tax year and must be used in calculating the tax imposed in 15-30-103."

**Section 3.** Section 15-30-136, MCA, is amended to read:

**"15-30-136. Computation of income of estates or trusts — exemption.**

(1) Except as otherwise provided in this chapter, "gross income" of estates or trusts means all income from whatever source derived in the tax year, including but not limited to the following items:

(a) dividends;

(b) interest received or accrued, including interest received on obligations of another state or territory or a county, municipality, district, or other political subdivision of the state, but excluding interest income from obligations of:

- (i) the United States government or the state of Montana;
  - (ii) a school district *in the state*; or
  - (iii) a county, municipality, district, or other political subdivision of the state;
  - (c) income from partnerships and other fiduciaries;
  - (d) gross rents and royalties;
  - (e) gain from sale or exchange of property, including those gains that are excluded from gross income for federal fiduciary income tax purposes by section 641(c) of the Internal Revenue Code of 1954 (now deleted);
  - (f) gross profit from trade or business; and
  - (g) refunds recovered on federal income tax, to the extent that the deduction of the tax resulted in a reduction of Montana income tax liability.
- (2) In computing net income, there are allowed as deductions:
- (a) interest expenses deductible for federal tax purposes according to section 163 of the Internal Revenue Code, 26 U.S.C. 163;
  - (b) taxes paid or accrued within the tax year, including but not limited to federal income ~~tax~~ taxes to the extent allowed a single taxpayer under 15-30-121(1)(b), but excluding Montana income ~~tax~~ taxes;
  - (c) that fiduciary's portion of depreciation or depletion that is deductible for federal tax purposes according to sections 167, 611, and 642 of the Internal Revenue Code, 26 U.S.C. 167, 611, and 642;
  - (d) charitable contributions that are deductible for federal tax purposes according to section 642(c) of the Internal Revenue Code, 26 U.S.C. 642(c);
  - (e) administrative expenses claimed for federal income tax purposes, according to sections 212 and 642(g) of the Internal Revenue Code, 26 U.S.C. 212 and 642(g);
  - (f) losses from fire, storm, shipwreck, or other casualty or from theft, to the extent not compensated for by insurance or otherwise, that are deductible for federal tax purposes according to section 165 of the Internal Revenue Code, 26 U.S.C. 165;
  - (g) net operating loss deductions allowed for federal income tax under section 642(d) of the Internal Revenue Code, 26 U.S.C. 642(d), except estates may not claim losses that are deductible on the decedent's final return;
  - (h) Montana income tax refunds or tax refund credits.
- (3) The following additional deductions are allowed in deriving taxable income of estates and trusts:
- (a) any amount of income for the tax year ~~currently~~ required to be distributed to beneficiaries for the year;
  - (b) any other amounts properly paid or credited or required to be distributed for the tax year.
- (4) The exemption allowed for estates and trusts is that exemption provided in 15-30-112(2)(a) and (6)."

**Section 4.** Section 15-30-142, MCA, is amended to read:

**"15-30-142. Returns and payment of tax — penalty and interest — refunds — credits — inflation adjustment.** (1) For both resident and nonresident taxpayers, each single individual and each married individual not filing a joint return with a spouse and having a gross income for the tax year of

more than \$3,560, as adjusted under the provisions of subsection (6), and married individuals not filing separate returns and having a combined gross income for the tax year of more than \$7,120, as adjusted under the provisions of subsection (6), are liable for a return to be filed on forms and according to rules that the department may prescribe. The gross income amounts referred to in ~~the preceding sentence~~ *this subsection (1)* must be increased by \$1,900, as adjusted under the provisions of 15-30-112(6), for each additional personal exemption allowance that the taxpayer is entitled to claim for the taxpayer and the taxpayer's spouse under 15-30-112(3) and (4).

(2) In accordance with instructions set forth by the department, each taxpayer who is married and living with a husband or wife and is required to file a return may, at the taxpayer's option, file a joint return with *the* husband or wife even though one of the spouses has neither gross income nor deductions. If a joint return is made, the tax must be computed on the aggregate taxable income and, *subject to [section 1]*, the liability with respect to the tax is joint and several. If a joint return has been filed for a tax year, the spouses may not file separate returns after the time for filing the return of either has expired unless the department consents.

(3) If a taxpayer is unable to make the taxpayer's own return, the return must be made by an authorized agent or by a guardian or other person charged with the care of the person or property of the taxpayer.

(4) All taxpayers, including but not limited to those subject to the provisions of 15-30-202 and 15-30-241, shall compute the amount of income tax payable and shall, on or before the date required by this chapter for filing a return, pay to the department any balance of income tax remaining unpaid after crediting the amount withheld, as provided by 15-30-202, and any payment made by reason of an estimated tax return provided for in 15-30-241. However, the tax computed must be greater by \$1 than the amount withheld and paid by estimated return as provided in this chapter. If the amount of tax withheld and the payment of estimated tax exceed by more than \$1 the amount of income tax as computed, the taxpayer is entitled to a refund of the excess.

(5) If the department determines that the amount of tax due is greater than the amount of tax computed by the taxpayer on the return, the department shall mail a notice to the taxpayer as provided in 15-30-323 of the additional tax proposed to be assessed, including penalty and interest as provided in 15-1-216.

(6) By November 1 of each year, the department shall multiply the minimum amount of gross income necessitating the filing of a return by the inflation factor for the tax year. These adjusted amounts are effective for that tax year, and persons who have gross incomes less than these adjusted amounts are not required to file a return.

(7) Individual income tax forms distributed by the department for each tax year must contain instructions and tables based on the adjusted base year structure for that tax year."

**Section 5.** Section 15-30-144, MCA, is amended to read:

**"15-30-144. Time for filing — extensions of time.** (1) A return must be made to the department on or before the 15th day of the 4th month following the close of the taxpayer's fiscal year, or if the return is made on the basis of the calendar year, then the return must be made on or before the 15th day of April following the close of the calendar year. Each return must set forth those facts that the department considers necessary for the proper enforcement of this chapter. There must be ~~annexed~~ *attached* to the return the affidavit or

affirmation of the persons making the return to the effect that the statements contained in the return are true. Blank forms of return must be furnished by the department upon application, but failure to secure the form does not relieve any taxpayer of the obligation to make any return required under this chapter. Each taxpayer liable for a tax under this chapter shall pay a minimum tax of \$1.

~~(2) An automatic 4-month extension of time for filing a return is allowed, provided that:~~

~~(a) on or before the due date of the return, the taxpayer has applied with the internal revenue service for a 4-month extension of time for filing the taxpayer's federal individual income tax return for the same tax year. The extension of time for filing a return is not an extension of time for the payment of taxes.~~

~~(b) the taxpayer has paid by estimated tax payments, withholding tax, or a combination of estimated tax payments and withholding tax 90% of the current year's tax liability or 100% of the previous year's tax liability.~~

~~(3) An additional 2-month extension of time for filing a return is automatically allowed provided that the taxpayer has applied with the internal revenue service for an additional 2-month extension of time for filing the taxpayer's federal individual income tax return for the same tax year and has satisfied the requirements of subsection (2)(b).~~

~~(2) (a) Subject to subsections (2)(b) and (2)(c), a taxpayer is allowed an automatic extension of time for filing the taxpayer's return of up to 6 months following the date prescribed for filing of the tax return.~~

~~(b) On or before the due date of the return, the taxpayer shall pay by estimated tax payments, withholding tax, or a combination of estimated tax payments and withholding tax 90% of the current year's tax liability or 100% of the previous year's tax liability.~~

~~(c) The remaining tax, penalty, and interest of the current year's tax liability not paid under subsection (2)(b) must be paid when the return is filed. Penalty and interest must be added to the tax due as provided in 15-1-216.~~

~~(3) The department may grant an additional extension of time for the filing of a return whenever in its judgment good cause exists.~~

~~(4) The extension of time for filing a return is not an extension of time for the payment of taxes."~~

**Section 6.** Section 15-30-146, MCA, is amended to read:

**"15-30-146. Tolling of statute of limitations.** The running of the statute of limitations provided for under 15-30-145 shall *must* be suspended during any period that the federal statute of limitations for collection of federal income tax has been suspended by written agreement signed by the taxpayer or when the taxpayer has instituted an action which *that* has the effect of suspending the running of the federal statute of limitations and for 1 additional year. If the taxpayer fails to file a record of changes in federal taxable income or an amended Montana return as required by 15-30-304, the statute of limitations shall *does* not apply until 5 years from the date the federal changes become final or the amended federal return was filed. If the taxpayer omits from gross income an amount properly includable therein which *as gross income and the amount* is in excess of 25% of the amount of adjusted gross income stated in the return, the statute of limitations shall *does* not apply for 2 additional years from the time specified in 15-30-145."

**Section 7.** Section 15-30-149, MCA, is amended to read:

**“15-30-149. Credits and refunds — period of limitations.** (1) If the department discovers from the examination of a return or upon a claim filed by a taxpayer or upon final judgment of a court that the amount of income tax collected is in excess of the amount due or that any penalty or interest was erroneously or illegally collected, the amount of the overpayment must be credited against any income tax, penalty, or interest then due from the taxpayer and the balance of the excess must be refunded to the taxpayer.

(2) (a) A credit or refund under the provisions of this section may be allowed only if, prior to the expiration of the period provided by 15-30-146 and 15-30-147, the taxpayer files a claim or the department determines there has been an overpayment.

(b) If an overpayment of tax results from a net operating loss carryback, the overpayment may be refunded or credited within the period that expires on the 15th day of the 40th month following the close of the tax year of the net operating loss if that period expires later than 5 years from the due date of the return for the year to which the net operating loss is carried back.

(3) Within 6 months after a claim for refund is filed, the department shall examine the claim and either approve or disapprove it. If the claim is approved, the credit or refund must be made to the taxpayer within 60 days after the claim is approved. If the claim is disallowed, the department shall notify the taxpayer and a review of the determination of the department may be pursued as provided in 15-1-211.

(4) (a) Interest is allowed on overpayments at the same rate as charged on delinquent taxes as provided in 15-1-216. ~~Interest~~ *Except as provided in subsection (4)(b), interest* is payable from the due date of the return or from the date of the overpayment, whichever date is later, to the date the department approves refunding or crediting of the overpayment. With respect to tax paid by withholding or by ~~estimate~~ *estimated tax payments*, the date of overpayment is the date on which the return for the tax year was due. Interest does not accrue on an overpayment if the taxpayer elects to have it applied to the taxpayer's estimated tax for the succeeding ~~taxable~~ *tax* year. Interest does not accrue during any period *for which* the processing of a claim for refund is delayed more than 30 days by reason of failure of the taxpayer to furnish information requested by the department for the purpose of verifying the amount of the overpayment. Interest is not allowed if:

(a)(i) the overpayment is refunded within 45 days from the date the return is due or the date the return is filed, whichever date is later;

(b)(ii) the overpayment results from the carryback of a net operating loss; or

(c)(iii) the amount of interest is less than \$1.

(b) *Subject to the provisions of subsection (4)(a)(i), if the return is filed after the time prescribed for filing in 15-30-144, including any extension, interest is payable from the date the return was filed.*

(5) An overpayment not made incident to a bona fide and orderly discharge of an actual income tax liability or one reasonably assumed to be imposed by this law is not considered an overpayment with respect to which interest is allowable.”

**Section 8. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 15, chapter 30, part 3, and the provisions of Title 15, chapter 30, part 3, apply to [section 1].



**Section 9. Coordination instruction.** If House Bill No. 261 is not passed and approved, then [section 3 of this act], amending 15-30-136, is void.

**Section 10. Effective dates.** (1) Except as provided in subsection (2), [this act] is effective October 1, 2009.

(2) [Sections 1, 4, and 11(2) and this section] are effective on passage and approval.

**Section 11. Applicability — retroactive applicability.** (1) Except as provided in subsection (2), [this act] applies to tax periods beginning after December 31, 2009.

(2) [Sections 1 and 4] apply retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2002.

Approved May 6, 2009

## CHAPTER NO. 471

[SB 439]

AN ACT EXTENDING THE MORATORIUM ON LICENSURE OF SPECIALTY HOSPITALS; AMENDING SECTION 50-5-245, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

**Section 1.** Section 50-5-245, MCA, is amended to read:

**“50-5-245. Department to license specialty hospitals — standards — rulemaking — moratorium.** (1) Subject to subsection (4), the department shall license specialty hospitals using the requirements for licensure of hospitals and the procedure provided for in parts 1 and 2 of this chapter.

(2) The department shall adopt rules that are necessary to implement and administer this section.

(3) Notwithstanding the requirements of subsection (1), the department may not license a specialty hospital until July 1, ~~2009~~ 2011.

(4) A health care facility licensed by the department and in existence on May 8, 2007, may not change its licensure status in order to qualify for licensure as a specialty hospital unless the health care facility is licensed as a hospital.”

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

Approved May 6, 2009

## CHAPTER NO. 472

[SB 465]

AN ACT 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.

WHEREAS, the Department of Natural Resources and Conservation has asserted regulatory jurisdiction over the beds of various rivers and streams based on the premise that the streams are navigable and that the state therefore owns the riverbeds and streambeds; and

WHEREAS, very few Montana rivers or streams have been adjudicated as navigable, either in whole or in part; and

WHEREAS, it is not economically feasible for either the Department of Revenue or the Department of Natural Resources and Conservation to obtain judicial determinations of riverbed or streambed ownership by statewide quiet title actions, yet that ownership determination may not be made legally by unilateral administrative decisions; and

WHEREAS, if the Department of Natural Resources and Conservation wishes to assert regulatory control over the bed of a river or stream that has not been adjudicated to be navigable and was not determined navigable at the time of the original federal government surveys of the public land as evidenced by the recorded and monumented surveys of the meander lines of the river, it is required to provide written notice of the claim of state ownership to the affected property owners; and

WHEREAS, because the present claims of state ownership of riverbeds and streambeds is contrary to longstanding administrative practice and because the test for navigability depends upon evidence concerning the log floating capability of a stream at the time of statehood, there is no presumption of correctness attached to a navigability claim made by any state agency.

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

**Section 1. Findings.** The legislature finds that:

(1) for 120 years since the admission of Montana as a state in 1889, the department of revenue and its predecessor agencies have taxed some landowners whose property abuts a river or stream on the assumption that those riparian landowners owned the property to the middle of the river or stream;

(2) in *Montana v. United States*, 450 U.S. 544 (1981), the United States supreme court recognized that if a river or stream is not navigable, the abutting riparian landowners own the land in the bed of the stream to the middle of the stream, but if a river or stream is navigable, the state owns the bed of the river or stream, having acquired ownership from the United States when the state was admitted to the union, and therefore Montana owns the bed of the Bighorn River where it flows through the Crow reservation;

(3) for the purpose of determining the ownership of a riverbed or streambed, the test of navigability is whether logs could be floated in the stream at the time of statehood as stated in *Montana Coalition for Stream Access v. Curran*, 210 Mont. 38, 682 P.2d 163 (1984), based upon *The Montello*, 87 U.S. 430 (1874), *Sierra Pacific Power Co. v. Federal Energy Regulatory Commission*, 681 F.2d 1134 (9th Cir. 1982), and *State of Oregon v. Riverfront Protection Association*, 672 F.2d 792 (9th Cir. 1982);

(4) beginning with tax assessments that were effective January 1, 2008, the lien date for real property taxes, the department of revenue reassessed the property of riparian landowners whose land abuts various rivers and streams by

reducing the amount of land assessed based upon the premise that the landowners did not own to the middle of the river or stream because the river or stream was navigable and these reassessments, if correct, have enormous impact upon the riparian landowners because they affect land titles, acreage owned, qualification for various conservation and price support programs, and ownership of water diversion facilities and other structures that the riparian landowners have constructed for water usage;

(5) the 2008 reassessments were made by simply sending out tax bills without any notice that they were based upon a claim of state ownership of the riverbeds or streambeds and some riparian landowners have paid the first installment of 2008 real property taxes based upon the reassessments without realizing that a claim of state ownership of the riverbeds and streambeds was the basis for the reassessments;

(6) procedural due process requires that if a claim of change in ownership is involved, the state agency involved shall afford the affected property owners both notice of the claim and the opportunity to be heard;

(7) the 2008 real property tax assessments based upon claims of state ownership did not comply with the constitutional requirement for procedural due process and under that circumstance payment by the property owners of taxes based on the reassessment does not constitute acquiescence in the underlying state ownership claim;

(8) The department of revenue is required to provide written notice to the affected property owners of the state's claim of ownership so that the affected property owners have a fair opportunity to be heard and to dispute the government's claim.

**Section 2. Adjustment of taxes for formerly taxed property — presumption of taxability.** (1) If the department reduces the amount of taxable property owned by a person or entity because of a determination that the property consists of the bed of a navigable river or stream, the department shall, as applicable, reduce the amount of tract land that is taxable or grazing land that is taxable before reducing the amount of irrigated land or nonirrigated land that is taxable.

(2) In the absence of adjudication by a court of competent jurisdiction of the ownership of the bed of any river or stream, it is the policy of the state that the department shall assess all land that is part of the bed and banks of a river or stream to the owner of record of the property.

(3) The department shall notify landowners of their right to request and shall provide upon request a revised assessment for tax year 2008 for the bed of any stream:

(a) not adjudicated to be navigable by a court of competent jurisdiction; or

(b) not determined navigable at the time of the original federal government surveys of the public land as evidenced by the recorded and monumented surveys of the meander lines of the river.

**Section 3. No presumption from tax status of property.** In a dispute over the title to the bed of a river or stream, a presumption may not be made based upon whether the department of revenue considers the property to be taxable or nontaxable.

**Section 4. Irrigation structures, utility structures, and bridges of formerly taxable land — water rights.** (1) If an irrigation structure, a utility structure, or a bridge was placed on land that consists of the bed of a navigable

river or stream, the irrigation structure, utility structure, or bridge remains the property of the original owner or the original owner's successors in interest or assignees. Access to the irrigation structures, utility structures, and bridges described in this section for the purposes of operation, maintenance, repair, enhancement, or improvement may not be impeded by the state.

(2) The change of designation of the bed of a navigable river or stream from a taxable to a nontaxable status may not interfere with or impede the exercise of a water right, including a livestock watering right for which a claim was not required to be filed pursuant to 85-2-212 and 85-2-222.

**Section 5.** Section 61-8-371, MCA, is amended to read:

**“61-8-371. Operation of motor vehicle or off-highway vehicle below high-water mark on certain state or federal lands prohibited — exceptions.** (1) Except as provided in 77-1-111(3), 77-1-806(4), and subsections (2) and (3) of this section, a person may not operate a motor vehicle or an off-highway vehicle below the ordinary high-water mark, as defined in 23-2-301, of class I or class II waters, as defined in 23-2-301, that occurs on state or federal lands or below the ordinary high-water mark of class I waters flowing through private lands, within that portion of the streambed that is covered with water.

(2) A motor vehicle or an off-highway vehicle may be operated below the ordinary high-water mark on state or federal lands on an established road or trail that enters or crosses a stream, but the stream crossing must be by the shortest practical or designated route to the road or trail on the opposite bank.

(3) The prohibition in subsection (1) does not apply to:

(a) off-highway or motor vehicle use that occurs on state or federal land that is designated for off-highway or motor vehicle use below the ordinary high-water mark if the use is in accordance with the requirements of the authorization;

(b) off-highway or motor vehicle use conducted on state or federal land pursuant to and in accordance with a specific written authorization from the appropriate land management agency for that use below the ordinary high-water mark; and

(c) operation of an off-highway vehicle by a nonambulatory person who is using the vehicle for recreational use, as defined in 23-2-301, as long as operation of the vehicle is prudent and minimizes destruction.

(4) The state may authorize the use of a motor vehicle or off-highway vehicle on state property below the ordinary high-water mark only when the state has determined that the use will have a minimal impact on the streambed and on the fish and wildlife ecology of the stream or river. Federal land management agencies are requested to apply the same criteria when authorizing use of federal land.”

**Section 6.** 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 be *are* 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~~ *is not be* entitled to charge the state any compensation for ~~such~~ services beyond ~~his~~ *the county attorney's* regular salary.

*(3) The use of a ford or crossing on a navigable river or stream may not be considered a trespass."*

**Section 7.** Section 77-1-126, MCA, is amended to read:

**"77-1-126. Notice of noncompliance.** (1) When the department finds that noxious weeds on leased state land or on state land subject to a license or permit have not been controlled as required by 7-22-2116, the lease, the license, or the permit, the department shall contact the lessee, licensee, or permittee and require that a weed management and control program be implemented. The lessee, licensee, or permittee may request that an inspection of the state land be made with department staff. The department shall seek voluntary compliance with a noxious weed management and control program for the state lands prior to issuing a notice of noncompliance. If the lessee, licensee, or permittee fails to implement a weed management and control program when directed by the department, the department shall notify the lessee, licensee, or permittee by mail of the noncompliance. The notice must specify:

- (a) the basis for the determination of noncompliance;
- (b) the geographic location of the area of noncompliance by legal description or other reasonably identifiable description;
- (c) measures to be undertaken in order to comply with the weed control responsibilities of the lease, license, or permit;
- (d) a reasonable period of time, not less than 15 days, in which compliance measures must be initiated;
- (e) the right of the person to request, within 15 days, an administrative hearing as provided by 77-1-128; and
- (f) the right of the person to request an extension if the measures in subsection (1)(c) cannot be implemented due to climatic or growing conditions.

(2) At least 2 weeks prior to sending a notice of noncompliance, the department shall send by certified mail to the lessee, licensee, or permittee a final notice that the weed management and control program has not been implemented.

*(3) This section may not be construed to interfere with the right of the owner of property adjacent to a navigable river or stream to control noxious weeds on the land adjacent to the navigable river or stream."*

**Section 8.** Section 77-1-127, MCA, is amended to read:

**"77-1-127. Department authorized to control weeds — billing for weed control.** (1) If the lessee, licensee, or permittee fails to take corrective action or if a request for an administrative hearing is not made within the time specified in the notice, the department may enter state land covered by the lease, license, or permit and institute appropriate weed control measures. The department may enter into an agreement with a commercial applicator, as defined in 80-8-102, or with the appropriate weed management district organized under 7-22-2102 to control the weeds. The commercial applicator or the weed management district shall agree to carry any insurance required by the department.

(2) The department shall submit a bill to the lessee, licensee, or permittee itemizing the hours of labor, material, and equipment time and listing the actual total cost incurred by the department to take the weed control measures, together with a penalty not exceeding 50% of the total cost. The bill must specify and order a payment due date of 30 days from the date the bill is sent. If payment is not received within 30 days, the department may cancel the lease, license, or permit. Money recovered under this section must be placed in the resource development account established in 77-1-604, except that penalties collected must be distributed annually to the trusts for the lands on which the weed control action was taken.

(3) If a person receiving an order to take corrective action requests an administrative hearing, the department may not institute control measures until the matter is finally resolved, except in case of an emergency. In an emergency, the person is liable for department costs allowed by this section only to the extent determined appropriate by the director or the court that finally resolves the matter.

(4) *This section may not be construed to interfere with the right of the owner of property adjacent to a navigable river or stream to control noxious weeds on the land adjacent to the navigable river or stream.*

**Section 9.** 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* 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~~ *the 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 landowner’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, 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.

(4) *The use of a ford or crossing on a navigable river or stream by the adjacent landowner may not be considered a trespass for the purposes of this section.*

**Section 10.** Section 77-1-809, MCA, is amended to read:

**“77-1-809. Compensation for damage to improvements, growing crops, or livestock.** A lessee may apply to the department for reimbursement of documented costs of repair to or replacement of improvements, growing crops, or livestock damaged by recreational users of state lands. *For the purpose of this section, improvements includes the structures described in [section 4].* The application must include an affidavit by the applicant setting forth the nature of

the loss, allegations and reasonable proof supporting the involvement of recreational users, and documentation of repair or replacement costs. Upon review of the application and supporting proof and upon additional investigation as required, the department shall grant, modify, or deny the claim. The department, by reason of payment to the lessee for damage to improvements, is entitled to be subrogated to the rights of the lessee to recover the amount paid from the party causing the damage. Payments under this section must be made from appropriations from the state lands recreational use account established by 77-1-808, and the liability of the department for damage payments is limited to the available appropriation. Claim applications are to be considered in the order they are received.”

**Section 11.** Section 77-3-442, MCA, is amended to read:

**“77-3-442. Disposition of property of lessee upon termination of lease.** (1) Upon the termination for any cause of a lease issued under this part, the former lessee has 6 months after the date of the termination to remove from the premises all machinery, fixtures, improvements, buildings, and equipment belonging to the lessee, except for casing in the wells and other equipment or apparatus necessary for the preservation of any oil or gas well or wells *and the structures described in [section 4]*. As to the casing, equipment, and apparatus, any succeeding lessee or, in the event there is no succeeding lessee, the state wishing to have the property left upon the premises shall pay a reasonable value for the property to the former lessee.

(2) If the succeeding lessee or the board is unable to agree with the former lessee upon the reasonable cash value of the casing, equipment, and apparatus, the succeeding lessee or, if there is no succeeding lessee, the state shall pay in cash to the former lessee a sum fixed as a reasonable price by a board of three appraisers, one of whom must be chosen by the successful bidder, one by the former lessee, and the third by the two appraisers chosen. If a person refuses to appoint an appraiser within 15 days of a request to do so by the department, the department may appoint an appraiser for that person. The appraisal must be reported to the respective parties in writing and is final and conclusive.

(3) *Unless Except as provided in [section 4], unless* the department gives written authorization, the former lessee may not remain in possession or manage the land and property formerly covered by the lease. During the time the former lessee remains in authorized possession, the lessee may retain the same share of the products of the premises as inured to the lessee during the term of the lease. *If Except as provided in [section 4], if* the state or other bidder does not desire any of the lessee’s property as provided in this section, the lessee shall properly plug all wells and remove all of the lessee’s property from the premises.”

**Section 12.** Section 77-6-113, MCA, is amended to read:

**“77-6-113. Lease conditions — cancellation.** (1) ~~It shall be~~ *is* a condition of all leases of agricultural or grazing state lands that:

(a) in the case of agricultural lands, the lessee shall observe the ordinary rules for good management of agricultural lands and shall handle the leased land with the view of maintaining its productivity and minimizing wind and soil erosion and noxious weeds and planting crops with a view of securing the greatest yields of good quality; and

(b) in the case of grazing lands, the lessee shall observe the ordinary rules for good range management and shall manipulate the numbers, class, distribution, and season of the range use and the handling, feeding, breeding, and marketing

of grazing livestock with a view of securing the production of the maximum of livestock and livestock products, consistent with the conservation of the land resources and the perpetuation of its productivity, and to these ends the state land lease may not be abused by overgrazing.

(2) For the gross violation of any of these rules, the lease involved ~~shall~~ *must* be canceled by the department, subject to the appeal procedure provided in 77-6-211.

(3) *This section may not be construed to interfere with the right of the owner of property adjacent to a navigable river or stream to control noxious weeds on the land adjacent to the navigable river or stream.*"

**Section 13.** Section 77-6-115, MCA, is amended to read:

**"77-6-115. Acquisition of water right by lessee — limitation.** (1) ~~The Subject to subsection (4), 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 Subject to subsection (4), if 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 improvement,~~ 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~~ irrigation improvements.

(4) *A water right acquired under this section may not interfere with a water right used in conjunction with a structure described in [section 4].*"

**Section 14.** Section 77-6-302, MCA, is amended to read:

**"77-6-302. Compensation for improvements — actual costs.** (1) ~~Prior Except for the improvements described in [section 4], prior~~ to renewal of a lease, the department shall request from the lessee a listing of improvements on the land associated with the lease, including the reasonable value of the improvements. This information must be provided to any party requesting to bid on the lease. ~~When Except for the improvements described in [section 4], when~~ another person becomes the lessee of the ~~lands land~~, the person shall pay to the former lessee the reasonable value of the improvements. The reasonable value may not be less than the full market value of the improvements.

(2) If the former lessee is unable to produce records establishing the reasonable value or if the former lessee and the new lessee are unable to agree on the reasonable value of the improvements, the value must be ascertained and fixed as provided in 77-6-306. The former lessee shall initiate this process within 60 days of notification from the department that there is a new lessee. The department notification must include an explanation of the requirements of 77-6-306. Failure to initiate the process within this time period results in all improvements, *except those described in [section 4],* becoming the property of the state.



(3) Upon the termination of a lease, the department may grant a license to the former lessee to remove the movable improvements from the land. Upon authorization, the movable improvements must be removed within 60 days or they become the property of the state unless the department for good cause grants additional time for the removal. The department shall charge the former lessee for the period of time that the improvements remain on the land after the termination of the lease.”

**Section 15.** Section 77-6-303, MCA, is amended to read:

**“77-6-303. Determination of compensation.** (1) In determining the value of ~~these~~ *the* improvements *described in 77-6-302*, consideration ~~shall~~ *must* be given to their original cost, their present condition, their ~~suitableness~~ *suitability* for the uses ordinarily made of the ~~lands~~ *land* on which they are located, and to the general state of cultivation of the land, its productive capacity as affected by former use, and its condition with reference to the infestation of noxious weeds. Consideration ~~shall~~ *must* be given to all actual improvements and to all known effects that the use and occupancy of the land have had upon its productive capacity and ~~desirableness~~ *desirability* for the new lessee.

(2) However, if any of the improvements ~~consists~~ *consist* of ~~breaking~~ *(meaning the original plowing of the land)* and 1 year’s crops have been raised on the land after the ~~breaking~~ *plowing*, the compensation for the ~~breaking~~ *improvement* may not exceed \$2.50 per acre, and if two or more crops have been raised on the land after the ~~breaking~~ *original plowing*, the ~~breaking~~ *shall original plowing* may not be considered as an improvement to the land.”

**Section 16.** Section 77-6-501, MCA, is amended to read:

**“77-6-501. Agricultural leases.** (1) ~~As to~~ *For* agricultural ~~lands~~ *land*, all leases except lease renewals upon which the lessee has made improvements at the lessee’s expense, as provided in subsection (3), must be continued or made upon a crop share rental basis of not less than one-fourth of the annual crops to the state or the usual landlord’s share prevailing in the district, whichever is greater. The board may, however, approve special crop share rentals of less than one-fourth for high production cost crops, such as but not limited to potatoes and sugar beets, or for high production cost methods when these methods would result in more income to the state. The board may not delegate the authority to approve special crop share rentals.

(2) Except in the case of cash lease renewals under subsection (3), if it is in the best interests of the state, the department may authorize a lease upon other bases than crop share, but in these cases, the rental must at least equal the value of the usual landlord’s share prevailing in the district under similar circumstances, and the department shall set forth in the records the conditions of the case and the rental to be charged.

(3) ~~In~~ *Subject to [section 4]*, in a case in which the lessee has made substantial improvements for irrigation purposes to the lease at the lessee’s own expense, the department shall authorize a cash lease renewal at not less than \$15 an acre on the portion of the lease that has been improved.

(4) For all agricultural leases issued through competitive bidding provided for under 77-6-202 or 77-6-205, the department shall require on any competitive bid greater than a one-third crop share a minimum annual guarantee of not less than \$15 an acre.”

**Section 17. Codification instruction.** (1) [Section 2] is intended to be codified as an integral part of Title 15, chapter 24, part 12, and the provisions of Title 15, chapter 24, part 12, apply to [section 2].

(2) [Section 3] is intended to be codified as an integral part of Title 26, chapter 1, part 6, and the provisions of Title 26, chapter 1, part 6, apply to [section 3].

(3) [Section 4] is intended to be codified as an integral part of Title 77, chapter 1, part 1, and the provisions of Title 77, chapter 1, part 1, apply to [section 4].

**Section 18. Effective date.** [This act] is effective on passage and approval.

Approved May 6, 2009

## CHAPTER NO. 473

[SB 476]

AN ACT 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.

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

**Section 1.** Section 45-2-101, MCA, is amended to read:

**“45-2-101. General definitions.** Unless otherwise specified in the statute, all words must be taken in the objective standard rather than in the subjective, and unless a different meaning plainly is required, the following definitions apply in this title:

(1) “Acts” has its usual and ordinary meaning and includes any bodily movement, any form of communication, and when relevant, a failure or omission to take action.

(2) “Administrative proceeding” means a proceeding the outcome of which is required to be based on a record or documentation prescribed by law or in which a law or a regulation is particularized in its application to an individual.

(3) “Another” means a person or persons other than the offender.

(4) (a) “Benefit” means gain or advantage or anything regarded by the beneficiary as gain or advantage, including benefit to another person or entity in whose welfare the beneficiary is interested.

(b) Benefit does not include an advantage promised generally to a group or class of voters as a consequence of public measures that a candidate engages to support or oppose.

(5) “Bodily injury” means physical pain, illness, or an impairment of physical condition and includes mental illness or impairment.

(6) “Child” or “children” means any individual or individuals under 18 years of age, unless a different age is specified.

(7) “Cohabit” means to live together under the representation of being married.

(8) “Common scheme” means a series of acts or omissions motivated by a purpose to accomplish a single criminal objective or by a common purpose or plan that results in the repeated commission of the same offense or that affects the same person or the same persons or the property of the same person or persons.

(9) "Computer" means an electronic device that performs logical, arithmetic, and memory functions by the manipulation of electronic or magnetic impulses and includes all input, output, processing, storage, software, or communication facilities that are connected or related to that device in a system or network.

(10) "Computer network" means the interconnection of communication systems between computers or computers and remote terminals.

(11) "Computer program" means an instruction or statement or a series of instructions or statements, in a form acceptable to a computer, that in actual or modified form permits the functioning of a computer or computer system and causes it to perform specified functions.

(12) "Computer services" include but are not limited to computer time, data processing, and storage functions.

(13) "Computer software" means a set of computer programs, procedures, and associated documentation concerned with the operation of a computer system.

(14) "Computer system" means a set of related, connected, or unconnected devices, computer software, or other related computer equipment.

(15) "Conduct" means an act or series of acts and the accompanying mental state.

(16) "Conviction" means a judgment of conviction or sentence entered upon a plea of guilty or nolo contendere or upon a verdict or finding of guilty of an offense rendered by a legally constituted jury or by a court of competent jurisdiction authorized to try the case without a jury.

(17) "Correctional institution" means a state prison, detention center, multijurisdictional detention center, private detention center, regional correctional facility, private correctional facility, or other institution for the incarceration of inmates under sentence for offenses or the custody of individuals awaiting trial or sentence for offenses.

(18) "Deception" means knowingly to:

(a) create or confirm in another an impression that is false and that the offender does not believe to be true;

(b) fail to correct a false impression that the offender previously has created or confirmed;

(c) prevent another from acquiring information pertinent to the disposition of the property involved;

(d) sell or otherwise transfer or encumber property without disclosing a lien, adverse claim, or other legal impediment to the enjoyment of the property, whether the impediment is or is not of value or is or is not a matter of official record; or

(e) promise performance that the offender does not intend to perform or knows will not be performed. Failure to perform, standing alone, is not evidence that the offender did not intend to perform.

(19) "Defamatory matter" means anything that exposes a person or a group, class, or association to hatred, contempt, ridicule, degradation, or disgrace in society or to injury to the person's or its business or occupation.

(20) "Deprive" means:

(a) to withhold property of another:

(i) permanently;

(ii) for such a period as to appropriate a portion of its value; or

(iii) with the purpose to restore it only upon payment of reward or other compensation; or

(b) to dispose of the property of another and use or deal with the property so as to make it unlikely that the owner will recover it.

(21) "Deviate sexual relations" means sexual contact or sexual intercourse between two persons of the same sex or any form of sexual intercourse with an animal.

(22) "Document" means, with respect to offenses involving the medicaid program, any application, claim, form, report, record, writing, or correspondence, whether in written, electronic, magnetic, microfilm, or other form.

(23) "Felony" means an offense in which the sentence imposed upon conviction is death or imprisonment in a state prison for a term exceeding 1 year.

(24) "Forcible felony" means a felony that involves the use or threat of physical force or violence against any individual.

(25) A "frisk" is a search by an external patting of a person's clothing.

(26) "Government" includes a branch, subdivision, or agency of the government of the state or a locality within it.

(27) "Harm" means loss, disadvantage, or injury or anything so regarded by the person affected, including loss, disadvantage, or injury to a person or entity in whose welfare the affected person is interested.

(28) A "house of prostitution" means a place where prostitution or promotion of prostitution is regularly carried on by one or more persons under the control, management, or supervision of another.

(29) "Human being" means a person who has been born and is alive.

(30) An "illegal article" is an article or thing that is prohibited by statute, rule, or order from being in the possession of a person subject to official detention.

(31) "Inmate" means a person who is confined in a correctional institution.

(32) (a) "Intoxicating substance" means a controlled substance, as defined in Title 50, chapter 32, and an alcoholic beverage, including but not limited to a beverage containing 1/2 of 1% or more of alcohol by volume.

(b) Intoxicating substance does not include dealcoholized wine or a beverage or liquid produced by the process by which beer, ale, port, or wine is produced if it contains less than 1/2 of 1% of alcohol by volume.

(33) An "involuntary act" means an act that is:

(a) a reflex or convulsion;

(b) a bodily movement during unconsciousness or sleep;

(c) conduct during hypnosis or resulting from hypnotic suggestion; or

(d) a bodily movement that otherwise is not a product of the effort or determination of the actor, either conscious or habitual.

(34) "Juror" means a person who is a member of a jury, including a grand jury, impaneled by a court in this state in an action or proceeding or by an officer authorized by law to impanel a jury in an action or proceeding. The term "juror" also includes a person who has been drawn or summoned to attend as a prospective juror.

(35) “Knowingly”—a person acts knowingly with respect to conduct or to a circumstance described by a statute defining an offense when the person is aware of the person’s own conduct or that the circumstance exists. A person acts knowingly with respect to the result of conduct described by a statute defining an offense when the person is aware that it is highly probable that the result will be caused by the person’s conduct. When knowledge of the existence of a particular fact is an element of an offense, knowledge is established if a person is aware of a high probability of its existence. Equivalent terms, such as “knowing” or “with knowledge”, have the same meaning.

(36) “Medicaid” means the Montana medical assistance program provided for in Title 53, chapter 6.

(37) “Medicaid agency” has the meaning in 53-6-155.

(38) “Medicaid benefit” means the provision of anything of pecuniary value to or on behalf of a recipient under the medicaid program.

(39) (a) “Medicaid claim” means a communication, whether in oral, written, electronic, magnetic, or other form:

(i) that is used to claim specific services or items as payable or reimbursable under the medicaid program; or

(ii) that states income, expense, or other information that is or may be used to determine entitlement to or the rate of payment under the medicaid program.

(b) The term includes related documents submitted as a part of or in support of the claim.

(40) “Mentally defective” means that a person suffers from a mental disease or defect that renders the person incapable of appreciating the nature of the person’s own conduct.

(41) “Mentally incapacitated” means that a person is rendered temporarily incapable of appreciating or controlling the person’s own conduct as a result of the influence of an intoxicating substance.

(42) “Misdemeanor” means an offense for which the sentence imposed upon conviction is imprisonment in the county jail for a term or a fine, or both, or for which the sentence imposed is imprisonment in a state prison for a term of 1 year or less.

(43) “Negligently”—a person acts negligently with respect to a result or to a circumstance described by a statute defining an offense when the person consciously disregards a risk that the result will occur or that the circumstance exists or when the person disregards a risk of which the person should be aware that the result will occur or that the circumstance exists. The risk must be of a nature and degree that to disregard it involves a gross deviation from the standard of conduct that a reasonable person would observe in the actor’s situation. “Gross deviation” means a deviation that is considerably greater than lack of ordinary care. Relevant terms, such as “negligent” and “with negligence”, have the same meaning.

(44) “Nolo contendere” means a plea in which the defendant does not contest the charge or charges against the defendant and neither admits nor denies the charge or charges.

(45) “Obtain” means:

(a) in relation to property, to bring about a transfer of interest or possession, whether to the offender or to another; and

(b) in relation to labor or services, to secure the performance of the labor or service.

(46) "Obtains or exerts control" includes but is not limited to the taking, the carrying away, or the sale, conveyance, or transfer of title to, interest in, or possession of property.

(47) "Occupied structure" means any building, vehicle, or other place suitable for human occupancy or night lodging of persons or for carrying on business, whether or not a person is actually present, including any outbuilding that is immediately adjacent to or in close proximity to an occupied structure and that is habitually used for personal use or employment. Each unit of a building consisting of two or more units separately secured or occupied is a separate occupied structure.

(48) "Offender" means a person who has been or is liable to be arrested, charged, convicted, or punished for a public offense.

(49) "Offense" means a crime for which a sentence of death or of imprisonment or a fine is authorized. Offenses are classified as felonies or misdemeanors.

(50) (a) "Official detention" means imprisonment resulting from a conviction for an offense, confinement for an offense, confinement of a person charged with an offense, detention by a peace officer pursuant to arrest, detention for extradition or deportation, or lawful detention for the purpose of the protection of the welfare of the person detained or for the protection of society.

(b) Official detention does not include supervision of probation or parole, constraint incidental to release on bail, or an unlawful arrest unless the person arrested employed physical force, a threat of physical force, or a weapon to escape.

(51) "Official proceeding" means a proceeding heard or that may be heard before a legislative, a judicial, an administrative, or another governmental agency or official authorized to take evidence under oath, including any referee, hearings examiner, commissioner, notary, or other person taking testimony or deposition in connection with the proceeding.

(52) "Other state" means a state or territory of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(53) "Owner" means a person other than the offender who has possession of or other interest in the property involved, even though the interest or possession is unlawful, and without whose consent the offender has no authority to exert control over the property.

(54) "Party official" means a person who holds an elective or appointive post in a political party in the United States by virtue of which the person directs or conducts or participates in directing or conducting party affairs at any level of responsibility.

(55) "Peace officer" means a person who by virtue of the person's office or public employment is vested by law with a duty to maintain public order or to make arrests for offenses while acting within the scope of the person's authority.

(56) "Pecuniary benefit" is benefit in the form of money, property, commercial interests, or anything else the primary significance of which is economic gain.

(57) "Person" includes an individual, business association, partnership, corporation, government, or other legal entity and an individual acting or purporting to act for or on behalf of a government or subdivision of government.

(58) “Physically helpless” means that a person is unconscious or is otherwise physically unable to communicate unwillingness to act.

(59) “Possession” is the knowing control of anything for a sufficient time to be able to terminate control.

(60) “Premises” includes any type of structure or building and real property.

(61) “Property” means a tangible or intangible thing of value. Property includes but is not limited to:

(a) real estate;

(b) money;

(c) commercial instruments;

(d) admission or transportation tickets;

(e) written instruments that represent or embody rights concerning anything of value, including labor or services, or that are otherwise of value to the owner;

(f) things growing on, affixed to, or found on land and things that are part of or affixed to a building;

(g) electricity, gas, and water;

(h) birds, animals, and fish that ordinarily are kept in a state of confinement;

(i) food and drink, samples, cultures, microorganisms, specimens, records, recordings, documents, blueprints, drawings, maps, and whole or partial copies, descriptions, photographs, prototypes, or models thereof;

(j) other articles, materials, devices, substances, and whole or partial copies, descriptions, photographs, prototypes, or models thereof that constitute, represent, evidence, reflect, or record secret scientific, technical, merchandising, production, or management information or a secret designed process, procedure, formula, invention, or improvement; and

(k) electronic impulses, electronically processed or produced data or information, commercial instruments, computer software or computer programs, in either machine- or human-readable form, computer services, any other tangible or intangible item of value relating to a computer, computer system, or computer network, and copies thereof.

(62) “Property of another” means real or personal property in which a person other than the offender has an interest that the offender has no authority to defeat or impair, even though the offender may have an interest in the property.

(63) “Public place” means a place to which the public or a substantial group has access.

(64) (a) “Public servant” means an officer or employee of government, including but not limited to legislators, judges, and firefighters, and a person participating as a juror, adviser, consultant, administrator, executor, guardian, or court-appointed fiduciary. The term “public servant” includes one who has been elected or designated to become a public servant.

(b) The term does not include witnesses.

(65) “Purposely”—a person acts purposely with respect to a result or to conduct described by a statute defining an offense if it is the person’s conscious object to engage in that conduct or to cause that result. When a particular purpose is an element of an offense, the element is established although the purpose is conditional, unless the condition negatives the harm or evil sought to

be prevented by the law defining the offense. Equivalent terms, such as “purpose” and “with the purpose”, have the same meaning.

(66) (a) “Serious bodily injury” means bodily injury that:

(i) creates a substantial risk of death;

(ii) causes serious permanent disfigurement or protracted loss or impairment of the function or process of a bodily member or organ; or

(iii) at the time of injury, can reasonably be expected to result in serious permanent disfigurement or protracted loss or impairment of the function or process of a bodily member or organ.

(b) The term includes serious mental illness or impairment.

(67) “Sexual contact” means touching of the sexual or other intimate parts of the person of another, directly or through clothing, in order to knowingly or purposely:

(a) cause bodily injury to or humiliate, harass, or degrade another; or

(b) arouse or gratify the sexual response or desire of either party.

(68) (a) “Sexual intercourse” means penetration of the vulva, anus, or mouth of one person by the penis of another person, penetration of the vulva or anus of one person by a body member of another person, or penetration of the vulva or anus of one person by a foreign instrument or object manipulated by another person to knowingly or purposely:

(i) cause bodily injury or humiliate, harass, or degrade; or

(ii) arouse or gratify the sexual response or desire of either party.

(b) For purposes of subsection (68)(a), any penetration, however slight, is sufficient.

(69) “Solicit” or “solicitation” means to command, authorize, urge, incite, request, or advise another to commit an offense.

(70) “State” or “this state” means the state of Montana, all the land and water in respect to which the state of Montana has either exclusive or concurrent jurisdiction, and the air space above the land and water.

(71) “Statute” means an act of the legislature of this state.

(72) “Stolen property” means property over which control has been obtained by theft.

(73) A “stop” is the temporary detention of a person that results when a peace officer orders the person to remain in the peace officer’s presence.

(74) “Tamper” means to interfere with something improperly, meddle with it, make unwarranted alterations in its existing condition, or deposit refuse upon it.

(75) “Telephone” means any type of telephone, including but not limited to a corded, uncorded, cellular, or satellite telephone.

(76) “Threat” means a menace, however communicated, to:

(a) inflict physical harm on the person threatened or any other person or on property;

(b) subject any person to physical confinement or restraint;

(c) commit a criminal offense;

(d) accuse a person of a criminal offense;

(e) expose a person to hatred, contempt, or ridicule;



- (f) harm the credit or business repute of a person;
- (g) reveal information sought to be concealed by the person threatened;
- (h) take action as an official against anyone or anything, withhold official action, or cause the action or withholding;
- (i) bring about or continue a strike, boycott, or other similar collective action if the person making the threat demands or receives property that is not for the benefit of groups that the person purports to represent; or
- (j) testify or provide information or withhold testimony or information with respect to another's legal claim or defense.

(77) (a) "Value" means the market value of the property at the time and place of the crime or, if the market value cannot be satisfactorily ascertained, the cost of the replacement of the property within a reasonable time after the crime. If the offender appropriates a portion of the value of the property, the value must be determined as follows:

(i) The value of an instrument constituting an evidence of debt, such as a check, draft, or promissory note, is considered the amount due or collectible. The figure is ordinarily the face amount of the indebtedness less any portion of the indebtedness that has been satisfied.

(ii) The value of any other instrument that creates, releases, discharges, or otherwise affects any valuable legal right, privilege, or obligation is considered the amount of economic loss that the owner of the instrument might reasonably suffer by virtue of the loss of the instrument.

(iii) The value of electronic impulses, electronically produced data or information, computer software or programs, or any other tangible or intangible item relating to a computer, computer system, or computer network is considered to be the amount of economic loss that the owner of the item might reasonably suffer by virtue of the loss of the item. The determination of the amount of economic loss includes but is not limited to consideration of the value of the owner's right to exclusive use or disposition of the item.

(b) When it cannot be determined if the value of the property is more or less than ~~\$1,000~~ \$1,500 by the standards set forth in subsection (77)(a), its value is considered to be an amount less than ~~\$1,000~~ \$1,500.

(c) Amounts involved in thefts committed pursuant to a common scheme or the same transaction, whether from the same person or several persons, may be aggregated in determining the value of the property.

(78) "Vehicle" means a device for transportation by land, water, or air or by mobile equipment, with provision for transport of an operator.

(79) "Weapon" means an instrument, article, or substance that, regardless of its primary function, is readily capable of being used to produce death or serious bodily injury.

(80) "Witness" means a person whose testimony is desired in an official proceeding, in any investigation by a grand jury, or in a criminal action, prosecution, or proceeding."

**Section 2.** Section 45-6-101, MCA, is amended to read:

**"45-6-101. Criminal mischief.** (1) A person commits the offense of criminal mischief if the person knowingly or purposely:

- (a) injures, damages, or destroys any property of another or public property without consent;

(b) without consent tampers with property of another or public property so as to endanger or interfere with persons or property or its use;

(c) damages or destroys property with the purpose to defraud an insurer; or

(d) fails to close a gate previously unopened that the person has opened, leading in or out of any enclosed premises. This does not apply to gates located in cities or towns.

(2) A person convicted of criminal mischief must be ordered to make restitution in an amount and manner to be set by the court. The court shall determine the manner and amount of restitution after full consideration of the convicted person's ability to pay the restitution. Upon good cause shown by the convicted person, the court may modify any previous order specifying the amount and manner of restitution. Full payment of the amount of restitution ordered must be made prior to the release of state jurisdiction over the person convicted.

(3) A person convicted of the offense of criminal mischief shall be fined not to exceed ~~\$1,000~~ \$1,500 or be imprisoned in the county jail for any term not to exceed 6 months, or both. If the offender commits the offense of criminal mischief and causes pecuniary loss in excess of ~~\$1,000~~ \$1,500, injures or kills a commonly domesticated hoofed animal, or causes a substantial interruption or impairment of public communication, transportation, supply of water, gas, or power, or other public services, the offender shall be fined an amount not to exceed \$50,000 or be imprisoned in the state prison for a term not to exceed 10 years, or both.

(4) Amounts involved in criminal mischiefs committed pursuant to a common scheme or the same transaction, whether against the public or the same person or several persons, may be aggregated in determining pecuniary loss."

**Section 3.** Section 45-6-103, MCA, is amended to read:

**"45-6-103. Arson.** (1) A person commits the offense of arson when, by means of fire or explosives, the person knowingly or purposely:

(a) damages or destroys a structure, vehicle, personal property (other than a vehicle) that exceeds ~~\$1,000~~ \$1,500 in value, crop, pasture, forest, or other real property that is property of another without consent;

(b) damages or destroys a structure, vehicle, crop, pasture, forest, or other property that the person owns or has a possessory interest in, with the purpose of obtaining a pecuniary or other gain through fraud or deception; or

(c) places another person in danger of death or bodily injury, including a firefighter responding to or at the scene of a fire or explosion.

(2) A person convicted of the offense of arson shall be imprisoned in the state prison for a term not to exceed 20 years or be fined an amount not to exceed \$50,000, or both."

**Section 4.** Section 45-6-104, MCA, is amended to read:

**"45-6-104. Desecration of capitol, place of worship, cemetery, or public memorial.** (1) In this section, "capitol" means the Montana state capitol building and any permanent monuments on the capitol grounds.

(2) A person commits the offense of desecration if the person purposely:

(a) defiles or defaces the capitol or a place of worship, cemetery, or public memorial;

(b) places on or attaches to the capitol or a place of worship, cemetery, or public memorial any mark, design, or material not properly a part of the capitol, place of worship, cemetery, or public memorial; or

(c) injures, damages, or destroys any portion of the capitol or of a place of worship, cemetery, or public memorial.

(3) A person convicted of the offense of desecration shall be:

(a) incarcerated for any term not to exceed 6 months or be fined an amount not to exceed \$500, or both, if the damage does not exceed ~~\$1,000~~ \$1,500; or

(b) 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, if there is ~~\$1,000~~ \$1,500 or more of damage.

(4) With regard to the capitol, this section does not apply to displays or actions authorized by the department of administration.”

**Section 5.** Section 45-6-301, MCA, is amended to read:

**“45-6-301. Theft.** (1) A person commits the offense of theft when the person purposely or knowingly obtains or exerts unauthorized control over property of the owner and:

(a) has the purpose of depriving the owner of the property;

(b) purposely or knowingly uses, conceals, or abandons the property in a manner that deprives the owner of the property; or

(c) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment probably will deprive the owner of the property.

(2) A person commits the offense of theft when the person purposely or knowingly obtains by threat or deception control over property of the owner and:

(a) has the purpose of depriving the owner of the property;

(b) purposely or knowingly uses, conceals, or abandons the property in a manner that deprives the owner of the property; or

(c) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment probably will deprive the owner of the property.

(3) A person commits the offense of theft when the person purposely or knowingly obtains control over stolen property knowing the property to have been stolen by another and:

(a) has the purpose of depriving the owner of the property;

(b) purposely or knowingly uses, conceals, or abandons the property in a manner that deprives the owner of the property; or

(c) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment probably will deprive the owner of the property.

(4) A person commits the offense of theft when the person purposely or knowingly obtains or exerts unauthorized control over any part of any public assistance provided under Title 52 or 53 by a state or county agency, regardless of the original source of assistance, by means of:

(a) a knowingly false statement, representation, or impersonation; or

(b) a fraudulent scheme or device.

(5) A person commits the offense of theft when the person purposely or knowingly obtains or exerts or helps another obtain or exert unauthorized control over any part of any benefits provided under Title 39, chapter 71, by means of:

- (a) a knowingly false statement, representation, or impersonation; or
- (b) deception or other fraudulent action.

(6) (a) A person commits the offense of theft when the person purposely or knowingly commits insurance fraud as provided in 33-1-1202 or 33-1-1302;

(b) purposely or knowingly diverts or misappropriates insurance premiums as provided in 33-17-1102; or

(c) purposely or knowingly receives small business health insurance premium incentive payments or premium assistance payments or tax credits under Title 33, chapter 22, part 20, to which the person is not entitled.

(7) A person commits the offense of theft of property by embezzlement when, with the purpose to deprive the owner of the property, the person:

(a) purposely or knowingly obtains or exerts unauthorized control over property of the person's employer or over property entrusted to the person; or

(b) purposely or knowingly obtains by deception control over property of the person's employer or over property entrusted to the person.

(8) (a) Except as provided in subsection (8)(b), a person convicted of the offense of theft of property not exceeding ~~\$1,000~~ \$1,500 in value shall be fined an amount not to exceed ~~\$1,000~~ \$1,500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. A person convicted of a second offense shall be fined ~~\$1,000~~ \$1,500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. A person convicted of a third or subsequent offense shall be fined ~~\$1,000~~ \$1,500 and be imprisoned in the county jail for a term of not less than 30 days or more than 6 months.

(b) Except as provided in subsection (8)(c), a person convicted of the offense of theft of property exceeding ~~\$1,000~~ \$1,500 in value, theft of any commonly domesticated hoofed animal, or theft of any amount of anhydrous ammonia for the purpose of manufacturing dangerous drugs shall be fined an amount not to exceed \$50,000 or be imprisoned in a state prison for a term not to exceed 10 years, or both.

(c) A person convicted of the offense of theft of property exceeding \$10,000 in value by embezzlement shall be imprisoned in a state prison for a term of not less than 1 year or more than 10 years and may be fined an amount not to exceed \$50,000. The court may, in its discretion, place the person on probation with the requirement that restitution be made under terms set by the court. If the terms are not met, the required prison term may be ordered.

(9) Amounts involved in thefts committed pursuant to a common scheme or the same transaction, whether from the same person or several persons, may be aggregated in determining the value of the property."

**Section 6.** Section 45-6-309, MCA, is amended to read:

**"45-6-309. Failure to return rented or leased personal property.** (1) A person commits the offense of failure to return rented or leased personal property if, without notice to and permission of the lessor, the person purposely and knowingly fails to return the property within 48 hours after the time provided for return in the rental agreement, provided that clear written notice, in bold print, of the date and time when return of the property is required and of the penalty prescribed in this section is stated in the rental or lease agreement.

(2) Presentation to the lessor by the lessee of identification that is false for the purpose of obtaining a rental or lease agreement constitutes prima facie evidence of commission of the offense.

(3) After the rental or lease period specified in the rental or lease agreement has expired, failure to return rented or leased personal property within 72 hours of written demand by the lessor, sent by certified mail to the renter or lessee at the address given at the time of entering the rental or lease agreement, constitutes prima facie evidence of commission of the offense.

(4) (a) A person convicted of failure to return rented or leased personal property not exceeding ~~\$1,000~~ \$1,500 in value shall be fined not to exceed ~~\$1,000~~ \$1,500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

(b) A person convicted of failure to return rented or leased personal property exceeding ~~\$1,000~~ \$1,500 in value shall be imprisoned in the state prison for a term not to exceed 10 years.”

**Section 7.** Section 45-6-311, MCA, is amended to read:

**“45-6-311. Unlawful use of a computer.** (1) A person commits the offense of unlawful use of a computer if the person knowingly or purposely:

(a) obtains the use of any computer, computer system, or computer network without consent of the owner;

(b) alters or destroys or causes another to alter or destroy a computer program or computer software without consent of the owner; or

(c) obtains the use of or alters or destroys a computer, computer system, computer network, or any part thereof as part of a deception for the purpose of obtaining money, property, or computer services from the owner of the computer, computer system, computer network, or part thereof or from any other person.

(2) A person convicted of the offense of unlawful use of a computer involving property not exceeding ~~\$1,000~~ \$1,500 in value shall be fined not to exceed ~~\$1,000~~ \$1,500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. A person convicted of the offense of unlawful use of a computer involving property exceeding ~~\$1,000~~ \$1,500 in value shall be fined not more than 2 1/2 times the value of the property used, altered, destroyed, or obtained or be imprisoned in the state prison for a term not to exceed 10 years, or both.”

**Section 8.** 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 if the person knowingly:

(a) acquires, purchases, possesses, or uses any food stamp or coupon that the person is not entitled to; or

(b) transfers, sells, trades, gives, or otherwise disposes of any food stamp or coupon 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~~ \$1,500 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 exceeds ~~\$1,000~~ \$1,500, 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” 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 9.** Section 45-6-313, MCA, is amended to read:

**“45-6-313. Medicaid fraud.** (1) A person commits the offense of medicaid fraud when:

(a) the person obtains a medicaid payment or benefit for the person or another person by purposely or knowingly making, submitting, or authorizing the making or submitting of a false or misleading medicaid claim, statement, representation, application, or document to a medicaid agency for a service or item that the person is not entitled to under applicable statutes or under rules adopted under Title 2, chapter 4;

(b) the person purposely or knowingly:

(i) solicits, accepts, offers, or provides any remuneration, including but not limited to a kickback, bribe, or rebate, other than an amount legally payable under the medical assistance program, for furnishing services or items for which payment may be made under the medicaid program or in return for purchasing, leasing, ordering, arranging for, or recommending the purchasing, leasing, or ordering of any services or items from a provider for which payment may be made under the medicaid program; or

(ii) makes, offers, or accepts a remuneration, a rebate of a fee, or a charge for referring a recipient to another provider for the furnishing of services or items for which payment may be made under the medicaid program; or

(c) the person, with respect to a managed care contract, health maintenance organization contract, or similar contract or subcontract under the medicaid program, purposely or knowingly fails or refuses to provide covered medically necessary services to eligible recipients as required by the contract.

(2) Any conduct or activity that does not violate or that is protected under the provisions of, or federal regulations adopted under, 42 U.S.C. 1395nn or 42 U.S.C. 1320a-7b(b), as may be amended, is not considered an offense under subsection (1)(b), and the conduct or activity must be accorded the same protections allowed under federal laws and regulations.

(3) In a prosecution for a violation of this section, it is a defense if the person acted in reliance upon the written authorization or advice of the department.

(4) (a) A person convicted of the offense of medicaid fraud involving payments, benefits, or claims not exceeding ~~\$1,000~~ *\$1,500* in value shall be fined an amount not to exceed ~~\$1,000~~ *\$1,500* or be imprisoned in the county jail for a term not to exceed 6 months, or both. A person convicted of a second offense shall be fined ~~\$1,000~~ *\$1,500* and be imprisoned in the county jail for a term not less than 10 days or more than 6 months. A person convicted of a third or subsequent offense shall be fined ~~\$1,000~~ *\$1,500* and be imprisoned in the county jail for a term not less than 30 days or more than 1 year.

(b) A person convicted of the offense of medicaid fraud involving payments, benefits, or claims exceeding ~~\$1,000~~ *\$1,500* in value shall be fined an amount not to exceed the greater of \$50,000 or 10 times the value of the payments obtained or be imprisoned in the state prison for a term not to exceed 10 years, or both.

(c) For purposes of imposing sentence for a conviction under subsection (1)(b), the value of payments or benefits involved is the greater of the value of medicaid payments or benefits received as a result of the illegal conduct or activity or the value of the remuneration, rebate, or charge involved.

(d) Amounts involved in medicaid fraud committed pursuant to a common scheme or the same transaction may be aggregated in determining the value involved.

(e) A person convicted of the offense of medicaid fraud must be suspended from participation in the medicaid program:

(i) for any period of time not less than 1 year for a first offense, or the person may be permanently terminated from participation in the medical assistance program;

(ii) for any period of time not less than 3 years for a second offense, or the person may be permanently terminated from participation in the medical assistance program; or

(iii) permanently for a third offense.

(5) In addition to any other penalty provided by law, a person convicted of medicaid fraud is not entitled to bill or collect from the recipient, the medicaid program, or any other third-party payor for the services or items involved and shall repay to the medicaid program any payments or benefits obtained by any person for the services or items involved.

(6) The establishment of the criminal offenses specified in this section does not preclude the application of any other provision of law.”

**Section 10.** Section 45-6-316, MCA, is amended to read:

**“45-6-316. Issuing a bad check.** (1) A person commits the offense of issuing a bad check when the person issues or delivers a check or other order upon a real or fictitious depository for the payment of money knowing that it will not be paid by the depository.

(2) If the offender 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 the offender knew that it would not be paid by the depository.

(3) A person convicted of issuing a bad check shall be fined not to exceed ~~\$1,000~~ \$1,500 or be imprisoned in the county jail for any term not to exceed 6 months, or both. If the offender has engaged in issuing bad checks that are part of a common scheme or if the value of any property, labor, or services obtained or attempted to be obtained exceeds ~~\$1,000~~ \$1,500, 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 11.** Section 45-6-317, MCA, is amended to read:

**“45-6-317. Deceptive practices.** (1) A person commits the offense of deceptive practices when the person purposely or knowingly:

(a) causes another, by deception or threat, to execute a document disposing of property or a document by which a pecuniary obligation is incurred;

(b) makes or directs another to make a false or deceptive statement addressed to the public or any person for the purpose of promoting or procuring the sale of property or services;

(c) makes or directs another to make a false or deceptive statement to any person respecting the financial condition of the person making or directing another to make the statement for the purpose of procuring a loan or credit or accepts a false or deceptive statement from any person who is attempting to procure a loan or credit regarding that person’s financial condition; or

(d) obtains or attempts to obtain property, labor, or services by any of the following means:

(i) using a credit card that was issued to another without the other’s consent;

- (ii) using a credit card that has been revoked or canceled;
- (iii) using a credit card that has been falsely made, counterfeited, or altered in any material respect;
- (iv) using the pretended number or description of a fictitious credit card;
- (v) using a credit card that has expired when the credit card clearly indicates the expiration date.

(2) A person convicted of the offense of deceptive practices shall be fined not to exceed ~~\$1,000~~ \$1,500 or imprisoned in the county jail for a term not to exceed 6 months, or both. If the deceptive practices are part of a common scheme or the value of any property, labor, or services obtained or attempted to be obtained exceeds ~~\$1,000~~ \$1,500, the offender shall be fined not to exceed \$50,000 or be imprisoned in the state prison for a term not to exceed 10 years, or both.”

**Section 12.** Section 45-6-325, MCA, is amended to read:

**“45-6-325. Forgery.** (1) A person commits the offense of forgery when with purpose to defraud the person knowingly:

(a) without authority makes or alters a document or other object apparently capable of being used to defraud another in a manner that it purports to have been made by another or at another time or with different provisions or of different composition;

(b) issues or delivers the document or other object knowing it to have been thus made or altered;

(c) possesses with the purpose of issuing or delivering any such document or other object knowing it to have been thus made or altered; or

(d) possesses with knowledge of its character any plate, die, or other device, apparatus, equipment, or article specifically designed for use in counterfeiting or otherwise forging written instruments.

(2) A purpose to defraud means the purpose of causing another to assume, create, transfer, alter, or terminate any right, obligation, or power with reference to any person or property.

(3) A document or other object capable of being used to defraud another includes but is not limited to one by which any right, obligation, or power with reference to any person or property may be created, transferred, altered, or terminated.

(4) A person convicted of the offense of forgery shall be fined not to exceed ~~\$1,000~~ \$1,500 or be imprisoned in the county jail for any term not to exceed 6 months, or both. If the forgery is part of a common scheme or if the value of the property, labor, or services obtained or attempted to be obtained exceeds ~~\$1,000~~ \$1,500, the offender shall be fined not to exceed \$50,000 or be imprisoned in the state prison for any term not to exceed 20 years, or both.”

**Section 13.** Section 45-6-332, MCA, is amended to read:

**“45-6-332. Theft of identity.** (1) A person commits the offense of theft of identity if the person purposely or knowingly obtains personal identifying information of another person and uses that information for any unlawful purpose, including to obtain or attempt to obtain credit, goods, services, financial information, or medical information in the name of the other person without the consent of the other person.

(2) (a) A person convicted of the offense of theft of identity if no economic benefit was gained or was attempted to be gained or if an economic benefit of less



than ~~\$1,000~~ \$1,500 was gained or attempted to be gained shall be fined an amount not to exceed ~~\$1,000~~ \$1,500, imprisoned in the county jail for a term not to exceed 6 months, or both.

(b) A person convicted of the offense of theft of identity if an economic benefit of ~~\$1,000~~ \$1,500 or more was gained or attempted to be gained shall be fined an amount not to exceed \$10,000, imprisoned in a state prison for a term not to exceed 10 years, or both.

(3) As used in this section, "personal identifying information" includes but is not limited to the name, date of birth, address, telephone number, driver's license number, social security number or other federal government identification number, tribal identification card number, place of employment, employee identification number, mother's maiden name, financial institution account number, credit card number, or similar identifying information relating to a person.

(4) If restitution is ordered, the court may include, as part of its determination of an amount owed, payment for any costs incurred by the victim, including attorney fees and any costs incurred in clearing the credit history or credit rating of the victim or in connection with any civil or administrative proceeding to satisfy any debt, lien, or other obligation of the victim arising as a result of the actions of the defendant."

**Section 14.** Section 45-6-341, MCA, is amended to read:

**"45-6-341. Money laundering.** (1) A person commits the offense of money laundering if the person knowingly:

(a) receives or acquires the proceeds of, or engages in transactions involving proceeds of, any activity that is unlawful under the laws of the United States or the state in which the activity occurred;

(b) gives, sells, transfers, trades, invests, conceals, transports, or otherwise makes available anything of value that the person knows is intended to be used for the purpose of committing or furthering the commission of any activity that is unlawful under the laws of the United States or the state in which the committing or furthering of the commission of the activity occurs;

(c) directs, plans, organizes, initiates, finances, manages, supervises, or facilitates the transportation or transfer of proceeds that the person knows are derived from any activity that is unlawful under the laws of the United States or the state in which the activity occurred; or

(d) conducts a financial transaction involving proceeds that the person knows are derived from any activity that is unlawful under the laws of the United States or the state in which the activity occurred when the transaction is designed in whole or in part to conceal or disguise the nature, location, source, ownership, or control of the proceeds or to avoid a transaction reporting requirement under federal law.

(2) A person convicted of money laundering shall be fined an amount not to exceed ~~\$1,000~~ \$1,500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. If the money laundering is part of a common scheme or if the value of the proceeds or item of value exceeds ~~\$1,000~~ \$1,500, the person shall be fined not to exceed \$50,000 or be imprisoned in the state prison for a term not to exceed 20 years, or both.

(3) (a) Upon conviction, the court shall order the following property possessed by a person convicted of money laundering to be forfeited:

(i) money, including digital currency, and raw materials, products, equipment of any kind, and any other personal property involved in the money laundering;

(ii) personal property constituting or derived from proceeds obtained directly or indirectly from the money laundering; and

(iii) 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 to commit or facilitate the commission of, or that is derived from or maintained by the proceeds resulting from, the money laundering.

(b) The sheriff of the county where forfeited property is located shall sell the property at auction. The proceeds of the sale must be deposited in the state general fund.

(4) For purposes of this section, "digital currency" means money represented by digital information that is stored, spent, and transferred electronically by a person as part of a financial transaction."

**Section 15.** Section 45-7-210, MCA, is amended to read:

**"45-7-210. False claim to public agency.** (1) A person commits an offense under this section if the person knowingly presents for allowance, for payment, or for the purpose of concealing, avoiding, or decreasing an obligation to pay a false or fraudulent claim, bill, account, voucher, or writing to a public agency, public servant, or contractor authorized to allow or pay valid claims presented to a public agency.

(2) (a) Except as provided in subsection (2)(b), a person convicted of an offense under this section shall be fined not to exceed ~~\$1,000~~ *\$1,500* or imprisoned in the county jail for a term not to exceed 6 months, or both.

(b) If a false or fraudulent claim is knowingly submitted as part of a common scheme or if the value of the claim or the aggregate value of one or more claims exceeds ~~\$1,000~~ *\$1,500*, a person convicted of an offense under this section shall be fined not to exceed \$10,000 or imprisoned in the state prison for a term not to exceed 10 years, or both."

Approved May 6, 2009

## CHAPTER NO. 474

[SB 498]

AN ACT 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.

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

**Section 1. Preservation of property rights.** (1) Title 82, chapter 11, parts 1 and 2, and the issuance of a permit for a carbon dioxide injection well pursuant to Title 82, chapter 11, parts 1 and 2, do not:

(a) prejudice the rights of property owners within a geologic storage reservoir to exercise rights that have not been committed to a storage reservoir; or

(b) prevent a mineral owner or mineral lessee from drilling through or near a storage reservoir to explore for and develop minerals, provided that the drilling, production, and related activities comply with board requirements that preserve the storage reservoir's integrity and implement Title 82, chapter 11, parts 1 and 2.

(2) Title 82, chapter 11, parts 1 and 2, may not be construed to:

(a) change or alter common law in accordance with 1-1-108 as it relates to the rights belonging to or the dominance of the mineral estate, including but not limited to the right to mine, drill, or recomplete a well, to inject substances to facilitate production, or to implement enhanced recovery for the purposes of recovery of oil, gas, or other minerals;

(b) impede or impair the ability of an oil and gas operator to inject carbon dioxide for enhanced recovery or to establish, verify, register, and sell emission reduction credits or attributes associated with the project;

(c) change or alter common law or statutory provisions regarding the ownership of surface or subsurface rights;

(d) diminish, impair, or in any way affect the rights of a natural gas public utility, as defined in 82-10-301, to own, operate, or control a gas storage reservoir in use prior to [the effective date of this section]; or

(e) apply within the exterior boundaries of any federally recognized Indian reservation within the state of Montana unless the governing body of the tribe adopts a carbon sequestration law and enters into a cooperative agreement with the state.

(3) If the ownership of the geologic storage reservoir cannot be determined from the deeds or severance documents related to the property by reviewing statutory or common law, it is presumed that the surface owner owns the geologic storage reservoir.

**Section 2. Geologic storage reservoir administrative fee — account established.** (1) (a) A geologic storage operator shall pay to the board a fee on each ton of carbon dioxide injected for storage for the purpose of carrying out the state's responsibility to monitor and manage geologic storage reservoirs. If a geologic storage operator chooses to indefinitely accept liability pursuant to [section 4(9)(a)], the board shall remit the fee to the operator. If a geologic

storage operator is required to maintain liability pursuant to [section 4(9)(b)], the board may not remit the fee.

(b) The fee must be in the amount set by board rule.

(c) The amount must be based on the anticipated actual expenses that the board will incur in monitoring and managing geologic storage reservoirs during their postclosure phases.

(2) There is a geologic storage reservoir program account in the special revenue fund.

(3) (a) Each fiscal year there must be deposited in the account the fees collected pursuant to [section 5(2)(b)] and subsection (1) of this section, to be used by the board for monitoring and managing geologic storage reservoirs pursuant to [section 4(6) and (8)].

(b) Funds received from bonds or other surety as authorized in 82-11-123(1)(f) and [section 4] must be deposited in the account.

(4) Interest and earnings on the funds in the geologic storage reservoir program account accrue to that account.

**Section 3. Liability for carbon dioxide during injection.** (1) Until the certificate of project completion is issued pursuant to [section 4(1)] and title to the stored carbon dioxide and geologic storage reservoir is transferred to the state pursuant to [section 4(8)], the geologic storage operator is liable for the operation and management of the carbon dioxide injection well, the geologic storage reservoir, and the injected or stored carbon dioxide.

(2) Bond or other surety furnished pursuant to 82-11-123(1)(f) must be adequate to meet the requirements of subsection (1).

(3) For the purposes of [section 4] and this section, "title" includes title to the geologic storage reservoir and the stored carbon dioxide.

**Section 4. Certificate of completion — department of environmental quality participation — transfer of liability.** (1) Pursuant to subsection (3), after carbon dioxide injections into a reservoir end and upon completion of the certification requirements pursuant to subsections (4) and (5), the board shall issue the geologic storage operator a certificate of project completion.

(2) The board:

(a) shall adopt rules pursuant to 82-11-111 necessary for implementing subsection (4) of this section, including rules for public notice and hearing; and

(b) may, pursuant to 82-11-111, adopt any other rules necessary for administration of this section.

(3) The certificate may not be issued until at least 15 years after carbon dioxide injections end.

(4) Subject to subsection (5), the certificate may be issued only if the geologic storage operator:

(a) is in full compliance with regulations governing the geologic storage reservoir pursuant to this part;

(b) shows that the geologic storage reservoir will retain the carbon dioxide stored in it;

(c) shows that all wells, equipment, and facilities to be used in the postclosure period are in good condition and retain mechanical integrity;

(d) shows that it has plugged wells, removed equipment and facilities, and completed reclamation work as required by the board;

(e) shows that the carbon dioxide in the geologic storage reservoir has become stable, which means that it is essentially stationary or chemically combined or, if it is migrating or may migrate, that any migration will not cross the geologic storage reservoir boundary; and

(f) shows that the geologic storage operator will continue to provide adequate bond or other surety after receiving the certificate of completion for at least 15 years following issuance of the certificate of completion and that the operator continues to accept liability for the geologic storage reservoir and the stored carbon dioxide.

(5) (a) Prior to issuing a certificate of completion, the board shall solicit, document, consider, and address comments from the department of environmental quality.

(b) Notwithstanding subsection (5)(a), the board makes the final decision on issuance of the certificate.

(6) After issuing a certificate of completion, the board shall ensure adequate monitoring by the operator of the wells and reservoir, verifying compliance with subsection (4), for a period of 15 years.

(7) (a) Following the monitoring and verification required in subsection (6) and subject to subsections (7)(b) and (7)(c), if the geologic storage operator has title to the geologic storage reservoir and the stored carbon dioxide, the geologic storage operator may transfer title to the geologic storage reservoir and to the stored carbon dioxide to the state.

(b) Prior to a transfer of title, the monitoring pursuant to subsection (6) must show that:

(i) the reservoir and wells are in full compliance with regulations pursuant to this part; and

(ii) the reservoir will maintain its structural integrity and will not allow carbon dioxide to move out of one stratum into another or pollute drinking water supplies.

(c) (i) Prior to a transfer of title, the board shall solicit, document, consider, and address comments from the department of environmental quality.

(ii) The board shall make a recommendation to the board of land commissioners as to whether title should transfer to the state.

(iii) Notwithstanding subsections (7)(c)(i) and (7)(c)(ii), the board of land commissioners shall make the final decision on the transfer of title.

(8) If liability is transferred pursuant to subsection (7):

(a) title is transferred, without payment or any compensation, to the state;

(b) title acquired by the state includes all rights and interests in and all responsibilities associated with the geologic storage reservoir and the stored carbon dioxide;

(c) the geologic storage operator and all persons who generated any injected carbon dioxide are released from all regulatory requirements and liability associated with the geologic storage reservoir and the stored carbon dioxide;

(d) any bonds or other surety posted by the geologic storage operator must be released; and

(e) monitoring and managing the geologic storage reservoir and the stored carbon dioxide is the state's responsibility to be overseen by the board until the federal government assumes responsibility for the long-term monitoring and management of geologic storage reservoirs and stored carbon dioxide.

(9) (a) If the operator does not transfer title to the state pursuant to subsection (7), the operator indefinitely accepts liability, except as provided in subsection (10), for the stored carbon dioxide and the geologic storage reservoir.

(b) If the operator is found not to be in compliance with subsection (7)(b), the operator retains liability until the operator is able to meet the requirements.

(10) After receiving a certificate of completion, every 15 years after completing the monitoring and verification required by subsection (6), an operator may petition the board and request to transfer liability to the state and be released from liability pursuant to subsection (8). An operator who petitions the board pursuant to this subsection (10) may not request that the fee required by [section 2(1)] or [section 5(2)(b)] be remitted.

**Section 5. Conversion of enhanced recovery wells.** (1) A well regulated under this chapter in which carbon dioxide is injected for the purpose of enhancing the recovery of oil and gas may be converted to a carbon dioxide injection well.

(2) (a) The board shall develop rules with regard to the conversion of wells referred to in subsection (1) to carbon dioxide injection wells. The rules must be in accordance with all application, permitting, and regulatory requirements for carbon dioxide injection wells pursuant to this part.

(b) The rules must include provisions for a fee to be paid by the owner of a converted well in an amount equivalent to the fee required to be paid by a geologic storage operator pursuant to [section 2(1)].

(3) Wells converted to carbon dioxide injection wells pursuant to this section are subject to carbon dioxide injection well and geologic storage reservoir regulations pursuant to this chapter, including requirements for bonding or other surety, the issuance of a certificate of completion, and acceptance or transfer of liability.

**Section 6. Makoshika Park requirements.** (1) Except as provided in subsection (3), on lands managed as Makoshika state park pursuant to Title 23, chapter 1, and under the control of the department of fish, wildlife, and parks by grant, acquisition, lease, easement, or other means, a person may not:

(a) drill, construct, convert, or operate an oil or gas well, stratigraphic test well, or core hole;

(b) conduct vibroseis, drill a seismic shot hole, or set a surface charge;

(c) explore for oil or gas in a manner that damages the land surface; or

(d) construct or place any surface facility associated with oil or gas exploration or development.

(2) The prohibitions in subsection (1) do not preclude the development of geologic storage reservoirs or of oil or gas resources from beneath Makoshika state park through directional drilling or access from property outside the boundaries of the state park provided that the surface resources of the state park are not disturbed.

(3) The prohibitions listed in subsection (1) do not apply to geologic storage reservoirs or to oil or gas resources within Makoshika state park that are owned by a private person, nor do the prohibitions apply to school trust lands within

the boundaries of the park. The state acknowledges the mineral rights of Dawson County and the state school trust and the private property rights of persons owning private mineral rights within Makoshika state park. The department of fish, wildlife, and parks is directed to conduct negotiations with the owners of mineral rights within Makoshika state park with the purpose of acquiring those rights in the name of the state.

**Section 7.** Section 70-30-105, MCA, is amended to read:

**“70-30-105. Taking of underground natural gas storage reservoir — effect on owner’s right to drill.** (1) The taking of any sand, stratum, or formation for use as an underground natural gas storage reservoir is without prejudice to the rights of the owner or owners of the land or of the oil, gas, or other mineral rights in the land to drill or bore through the sand, stratum, or formation taken for use as an underground natural gas storage reservoir in order to explore for, produce, process, treat, or market any oil, gas, or other minerals that might be contained in the land above or below the sand, stratum, or formation taken.

(2) Any additional cost or expense required to be incurred in order to protect the underground natural gas storage reservoir against pollution and the escape of the gas from the reservoir by reason of boring or drilling through the sand, stratum, or formation used as an underground natural gas storage reservoir must be paid by the persons, firm, or corporation owning the underground natural gas storage reservoir at the time of the boring or drilling.

(3) *After [the effective date of this section], if the sand, stratum, or formation is used as a geologic storage reservoir as defined in 82-11-101, it may not be taken for use as an underground natural gas storage reservoir.”*

**Section 8.** Section 75-5-103, MCA, is amended to read:

**“75-5-103. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) “Board” means the board of environmental review provided for in 2-15-3502.

(2) “Contamination” means impairment of the quality of state waters by sewage, industrial wastes, or other wastes, creating a hazard to human health.

(3) “Council” means the water pollution control advisory council provided for in 2-15-2107.

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

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

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

(6) “Department” means the department of environmental quality provided for in 2-15-3501.

(7) “Disposal system” means a system for disposing of sewage, industrial, or other wastes and includes sewage systems and treatment works.

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

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

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

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

(b) surface waters that:

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

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

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

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

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

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

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

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

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

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

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

(20) "Outstanding resource waters" means:

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



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

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

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

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

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

(25) (a) "Pollution" means:

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

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

(b) A discharge, seepage, drainage, infiltration, or flow that is authorized under the pollution discharge permit rules of the board is not pollution under this chapter. Activities conducted under the conditions imposed by the department in short-term authorizations pursuant to 75-5-308 are not considered pollution under this chapter.

(c) *Contamination of ground water within the boundaries of a geologic storage reservoir, as defined in 82-11-101, by a carbon dioxide injection well in accordance with a permit issued pursuant to Title 82, chapter 11, part 1, is not pollution and does not require a mixing zone.*

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

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

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

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

(b) The term does not apply to:

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

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

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

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

(a) proposed sources that are not subject to pollution prevention or control actions required by a discharge permit, the nondegradation provisions, or reasonable land, soil, and water conservation practices; or

(b) documented adverse pollution trends.

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

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

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

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

(36) "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.

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

**Section 9.** Section 75-5-401, MCA, is amended to read:

**"75-5-401. Board rules for permits — ground water exclusions.** (1) Except as provided in subsection (5), the board shall adopt rules:

(a) governing application for permits to discharge sewage, industrial wastes, or other wastes into state waters, including rules requiring the filing of plans and specifications relating to the construction, modification, or operation of disposal systems;

(b) governing the issuance, denial, modification, or revocation of permits. The board may not require a permit for a water conveyance structure or for a natural spring if the water discharged to state waters does not contain industrial waste, sewage, or other wastes. Discharge to surface water of ground

water that is not altered from its ambient quality does not constitute a discharge requiring a permit under this part if:

- (i) the discharge does not contain industrial waste, sewage, or other wastes;
- (ii) the water discharged does not cause the receiving waters to exceed applicable standards for any parameters; and
- (iii) to the extent that the receiving waters in their ambient state exceed standards for any parameters, the discharge does not increase the concentration of the parameters.

(c) governing authorization to discharge under a general permit for storm water associated with construction activity. These rules must allow an owner or operator to notify the department of the intent to be covered under the general permit. This notice of intent must include a signed pollution prevention plan that requires the applicant to implement best management practices in accordance with the general permit. The rules must authorize the owner or operator to discharge under the general permit on receipt of the notice and plan by the department.

(2) The rules must allow the issuance or continuance of a permit only if the department finds that operation consistent with the limitations of the permit will not result in pollution of any state waters, except that the rules may allow the issuance of a temporary permit under which pollution may result if the department ensures that the permit contains a compliance schedule designed to meet all applicable effluent standards and water quality standards in the shortest reasonable period of time.

(3) The rules must provide that the department may revoke a permit if the department finds that the holder of the permit has violated its terms, unless the department also finds that the violation was accidental and unforeseeable and that the holder of the permit corrected the condition resulting in the violation as soon as was reasonably possible.

(4) The board may adopt rules governing reclamation of sites disturbed by construction, modification, or operation of permitted activities for which a bond is voluntarily filed by a permittee pursuant to 75-5-405, including rules for the establishment of criteria and procedures governing release of the bond or other surety and release of portions of a bond or other surety.

(5) Discharges of sewage, industrial wastes, or other wastes into state ground waters from the following activities or operations are not subject to the ground water permit requirements adopted under subsections (1) through (4):

- (a) discharges or activities at wells injecting fluids associated with oil and gas exploration and production regulated under the federal underground injection control program;
- (b) disposal by solid waste management systems licensed pursuant to 75-10-221;
- (c) individuals disposing of their own normal household wastes on their own property;
- (d) hazardous waste management facilities permitted pursuant to 75-10-406;
- (e) water injection wells, reserve pits, and produced water pits used in oil and gas field operations and approved pursuant to Title 82, chapter 11;
- (f) agricultural irrigation facilities;
- (g) storm water disposal or storm water detention facilities;

(h) subsurface disposal systems for sanitary wastes serving individual residences;

(i) in situ mining of uranium facilities controlled under Title 82, chapter 4, part 2;

(j) mining operations subject to operating permits or exploration licenses in compliance with The Strip and Underground Mine Reclamation Act, Title 82, chapter 4, part 2, or the metal mine reclamation laws, Title 82, chapter 4, part 3; ~~or~~

(k) projects reviewed under the provisions of the Montana Major Facility Siting Act, Title 75, chapter 20; *or*

(l) *a carbon dioxide injection well for which a permit has been issued pursuant to Title 82, chapter 11, part 1.*

(6) Notwithstanding the provisions of 75-5-301(4), mixing zones for activities excluded from permit requirements under subsection (5) of this section must be established by the permitting agency for those activities in accordance with 75-5-301(4)(a) through (4)(c).

(7) Notwithstanding the exclusions set forth in subsection (5), any excluded source that the department determines may be causing or is likely to cause violations of ground water quality standards may be required to submit monitoring information pursuant to 75-5-602.

(8) The board may adopt rules identifying other activities or operations from which a discharge of sewage, industrial wastes, or other wastes into state ground waters is not subject to the ground water permit requirements adopted under subsections (1) through (4).

(9) The board may adopt rules authorizing general permits for categories of point source discharges. The rules may authorize discharge upon issuance of an individual authorization by the department or upon receipt of a notice of intent to be covered under the general permit.”

**Section 10.** Section 77-3-430, MCA, is amended to read:

**“77-3-430. Pooling agreements and unit operations.** Nothing contained in this or in prior related laws prevents the board from entering into agreements for the pooling of acreage with others for unit operations for the *storage of carbon dioxide in a geologic storage reservoir or the* production of oil or gas or both and the apportionment of oil or gas royalties or both on an acreage or other equitable basis and from modifying leases with respect to delay rentals, delay drilling penalties, and royalties in accordance with ~~such~~ pooling agreements and ~~such~~ unit plans of operation. However, ~~such~~ agreements may not change the percentage of royalties ~~to be~~ paid to the state from the percentages ~~as~~ fixed in its leases. The board may modify existing pooling and unit agreements ~~so as~~ to commit the state lands included ~~therein~~ *in the pooling or unit agreements* for as long as the unitized substance or substances for which the state lands are committed ~~is~~ *are* produced from any lands in the unit.”

**Section 11.** 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 person ~~se~~ 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 applicant'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.

(5) *When the person who abandoned a carbon dioxide injection well, as defined in 82-11-101, cannot be identified or located to pay for complete reclamation, the board may then reclaim the disturbed land with funds available in the geologic storage reservoir program account."*

**Section 12.** Section 82-11-101, MCA, is amended to read:

**"82-11-101. Definitions.** As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Administrator" means the administrator of the division of oil and gas conservation.

(2) "Board" means the board of oil and gas conservation provided for in 2-15-3303.

(3) *"Carbon dioxide" means carbon dioxide produced by anthropogenic sources that is of such purity and quality that it will not compromise the safety of a geologic storage reservoir and will not compromise those properties of a geologic storage reservoir that allow the reservoir to effectively enclose and contain a stored gas.*

(4) (a) *"Carbon dioxide injection well" means a well that injects carbon dioxide for the underground storage of carbon dioxide in a geologic storage reservoir.*

(b) *The term does not include a class II injection well in which carbon dioxide is injected for the purpose of enhancing the recovery of oil and gas.*

~~(3)~~(5) "Class II injection well" means a well, as defined by the federal environmental protection agency or any successor agency, that injects fluids:

(a) that have been brought to the surface in connection with oil or natural gas production;

(b) for purposes of enhancing the ultimate recovery of oil or natural gas; or

(c) for purposes of storing liquid hydrocarbons.

~~(4)~~(6) "Department" means the department of natural resources and conservation provided for in Title 2, chapter 15, part 33.

~~(5)~~(7) "Determinations" means those decisions delegated to the state by or under authority of the Natural Gas Policy Act of 1978 or any successor or similar legislation relating to oil and gas.

(6)(8) "Enhanced recovery" means the increased recovery from a pool achieved by artificial means or by the application of energy extrinsic to the pool; ~~such~~ artificial means or application includes pressuring, cycling, pressure maintenance, or injection into the pool of any substance or form of energy as is contemplated in secondary recovery and tertiary programs but does not include the injection in a well of a substance or form of energy for the sole purpose of aiding in the lifting of fluids in the well or stimulating of the reservoir at or near the well by mechanical, chemical, thermal, or explosive means.

(7)(9) "Field" means the general area underlaid by one or more pools.

(8)(10) "Fluid" means any material or substance that flows or moves, whether in a semisolid, liquid, sludge, gas, or any other form or state.

(11) "Geologic storage operator" means a person holding or applying for a carbon dioxide injection well permit.

(12) (a) "Geologic storage reservoir" means a subsurface sedimentary stratum, formation, aquifer, cavity, or void, whether natural or artificially created, including vacant or filled reservoirs, saline formations, and coal seams suitable for or capable of being made suitable for injecting and storing carbon dioxide.

(b) The term does not include a natural gas storage reservoir. However, the owner of a natural gas storage reservoir may convert a depleted natural gas storage reservoir into a geologic storage reservoir to be used pursuant to Title 82, chapter 11, parts 1 and 2.

(9)(13) "Owner" means the person who has the right to drill into and produce from a pool and to appropriate the oil or gas the person produces from a pool either for the person or others or for the person and others, and the term includes all persons holding that authority by or through the person with the right to drill.

(10)(14) "Person" means any natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, or other representative of any kind and includes any agency or instrumentality of the state or any governmental subdivision of the state.

(11)(15) "Pollution" means contamination or other alteration of the physical, chemical, or biological properties of any state waters that exceeds that permitted by state water quality standards or standards adopted by the board, including but not limited to the disposal, discharge, seepage, drainage, infiltration, flow, or injection of any liquid, gaseous, solid, or other substance into any state waters that will or is likely to create a nuisance or render the waters harmful, detrimental, or injurious to public health, recreation, safety, welfare, livestock, wild animals, birds, fish, or other wildlife. A disposal, discharge, seepage, drainage, infiltration, flow, or injection of fluid that is authorized under a rule, permit, or order of the board is not pollution under this chapter.

(12)(16) "Pool" means an underground reservoir containing a common accumulation of oil or gas or both; ~~each~~ Each zone of a structure ~~which that~~ is completely separated from any other zone in the same structure is a pool, ~~as that term is used in this chapter.~~ For the purposes of unitization pursuant to Title 82, chapter 11, part 2, "pool" also includes an underground reservoir for the long-term storage of carbon dioxide after [the effective date of this section].

(13)(17) "Producer" means the owner of a well or wells capable of producing oil or gas or both.

(14)(18) "Responsible person" means a person who is determined by the board under 82-10-402 to have abandoned an oil or gas well, injection well, disposal well, water source well, drill site, sump, seismographic shot hole, or other area where oil and gas drilling and production operations were conducted.

(15)(19) "State waters" means any body of water, either surface or underground.

(20) "Verification and monitoring" means measuring the amount of carbon dioxide stored at a specific geologic storage reservoir, checking the site for leaks or deterioration of storage integrity, and ensuring that carbon dioxide is stored in a way that is permanent and not harmful to the ecosystem. The term includes:

(a) using models to show, before injection is allowed, that injected carbon dioxide will be securely stored. Modeling includes but is not limited to consideration of seismic activity, possible paths for fugitive emissions, and chemical reactions in the geologic formation.

(b) tracking plume behavior after injection of carbon dioxide, including the use of pressure monitoring; and

(c) establishing a system of leak monitors.

(16)(21) (a) "Waste" means:

(i) physical waste, as that term is generally understood in the oil and gas industry;

(ii) the inefficient, excessive, or improper use of or the unnecessary dissipation of reservoir energy;

(iii) the location, spacing, drilling, equipping, operating, or producing of any oil or gas well or wells in a manner which that causes or tends to cause reduction in the quantity of oil or gas ultimately recoverable from a pool under prudent and proper operations or which that causes or tends to cause unnecessary or excessive surface loss or destruction of oil or gas; and

(iv) the inefficient storing of oil or gas.

(b) (i) (The production of oil or gas from any pool or by any well to the full extent that the well or pool can be produced in accordance with methods designed to result in maximum ultimate recovery, as determined by the board, is not waste within the meaning of this definition subsection (21)(a).)

(b)(ii) The loss of gas to the atmosphere during coal mining operations is not waste within the meaning of this definition subsection (21)(a)."

**Section 13.** Section 82-11-104, MCA, is amended to read:

**"82-11-104. Construction — no conflict with board of land commissioners' authority.** No provision of this chapter may not be construed to conflict with 77-3-430, granting the board of land commissioners the authority to enter into pooling and unitization agreements for the storage of carbon dioxide in a geologic storage reservoir or the production of oil or gas with others, provided that state lands are subject to the provisions of this chapter concerning spacing and statutory pooling and unitization in the absence of voluntary pooling and unitization agreements."

**Section 14.** Section 82-11-111, MCA, is amended to read:

**"82-11-111. Powers and duties of board.** (1) The board shall make such investigations as investigate matters it considers proper to determine whether waste exists or is imminent or whether other facts exist which justify any action by the board under the authority granted by this chapter with respect thereto.

(2) Subject to the administrative control of the department under 2-15-121, the board shall:

(a) require measures to be taken to prevent contamination of or damage to surrounding land or underground strata caused by drilling operations and production, including but not limited to regulating the disposal or injection of water, *carbon dioxide*, and disposal of oil field wastes;

(b) classify wells as oil or gas wells, *carbon dioxide injection wells*, or class II injection wells for purposes material to the interpretation or enforcement of this chapter;

(c) adopt and enforce rules and orders to effectuate the purposes and the intent of this chapter.

(3) The board shall determine and prescribe what producing wells ~~shall be~~ *are* defined as “stripper wells” and what wells ~~shall be~~ *are* defined as “wildcat wells” and make ~~such orders as that~~ in its judgment are required to protect those wells and provide that stripper wells may be produced to capacity if it is considered necessary in the interest of conservation to do so.

(4) With respect to any pool ~~from which gas was~~ *with gas* being produced by a gas well on or prior to April 1, 1953, this chapter does not authorize the board to limit or restrain the rate, (daily or otherwise), of production of gas from that pool by any well then or ~~hereafter~~ *after April 1, 1953*, drilled and producing from that pool to less than the rate at which the well can be produced without adversely affecting the quantity of gas ultimately recoverable by the well.

(5) ~~The~~ *Subject to subsection (7),* the board has exclusive jurisdiction over *carbon dioxide injection wells, geologic storage reservoirs*, all class II injection wells, and all pits and ponds in relation to those injection wells. The board may:

(a) issue, suspend, revoke, modify, or deny permits to operate *carbon dioxide injection wells and class II injection wells*, consistent with rules made by it ~~and pursuant to 82-11-123~~. *If a permit for a carbon dioxide injection well is revoked, an operator may not seek a refund of application or permitting fees or fees paid pursuant to [section 2] or [section 5(2)(b)].*

(b) examine plans and other information needed to determine whether a permit should be issued or require changes in plans as a condition to the issuance of a permit;

(c) clearly specify in a permit any limitations imposed as to the volume and characteristics of the fluids to be injected and the operation of the well;

(d) authorize its staff to enter upon any public or private property at reasonable times to:

(i) investigate conditions relating to violations of permit conditions;

(ii) have access to and copy records required under this chapter;

(iii) inspect monitoring equipment or methods; and

(iv) sample fluids which the operator *or geologic storage operator* is required to sample; and

(e) adopt standards for the design, construction, testing, and operation of *carbon dioxide injection wells and class II injection wells*.

(6) The board shall determine, for the purposes of using the oil and gas production damage mitigation account established in 82-11-161 *or the geologic storage reservoir program account established in [section 2]*:



(a) when the person responsible for an abandoned well, sump, or hole cannot be identified or located, or if the person is identified or located, when the person does not have sufficient financial resources to properly plug the well, sump, or hole; or

(b) when a previously abandoned well, sump, or hole is the cause of potential environmental problems and ~~no~~ a responsible party ~~can~~ cannot be identified or located or, if a responsible party can be identified and located, the person does not have sufficient financial resources to correct the problems.

(7) (a) *Before holding a hearing on a proposed permit for a carbon dioxide injection well, the board shall solicit, document, consider, and address comments from the department of environmental quality on the proposal.*

(b) *Notwithstanding subsection (7)(a), the board makes the final decision on issuance of a permit.*

(8) *Solely for the purposes of administering carbon dioxide injection wells under this part, carbon dioxide within a geologic storage reservoir is not a pollutant, nuisance, or a hazardous or deleterious substance."*

**Section 15.** Section 82-11-118, MCA, is amended to read:

**"82-11-118. Fees for processing applications.** (1) The board shall establish a fee schedule to defray the expenses incurred for processing an application from a *geologic storage operator* or an operator or producer of oil seeking approval of a new or expanded enhanced recovery project, as defined in 15-36-303. The fee must be paid by the owner, *geologic storage operator*, or operator seeking approval of the project.

(2) The board shall, by rule, determine the amount of the fee based on the complexity of processing the application."

**Section 16.** Section 82-11-122, MCA, is amended to read:

**"82-11-122. Notice of intention to drill or conduct seismic operations — notice to surface owner.** (1) It is unlawful to commence the drilling of a well for oil or gas without first filing with the board written notice of intention to drill and obtaining a drilling permit as provided in 82-11-134. After the permit is issued, an oil and gas developer or operator as defined under 82-10-502 shall comply with the notice requirements of 82-10-503 before commencing drilling operations. It is unlawful to conduct seismic explorations without first giving the board a copy of the notice of intention to explore filed with the county under 82-1-103.

(2) *It is unlawful to commence the drilling of a carbon dioxide injection well without first filing with the board written notice of intention to drill and obtaining a drilling permit. Prior to issuing the permit, the board shall provide notice of an application for a permit. The notice must be:*

(a) *published in a newspaper of general circulation in each county where the carbon dioxide injection well and geologic storage reservoir is located; and*

(b) *mailed to all surface owners, mineral claimants, mineral owners, lessees, and other owners of record of subsurface interests that are located within 1 mile of the proposed boundary of the geologic storage reservoir."*

**Section 17.** Section 82-11-123, MCA, is amended to read:

**"82-11-123. Requirements for oil and gas and carbon dioxide injection operations.** (1) Subject to the administrative control of the department under 2-15-121, the board shall require:

(1)(a) identification of ownership of *carbon dioxide injection wells, carbon dioxide, geologic storage reservoirs, and* oil or gas wells, producing properties, and tanks;

(2)(b) the making and filing of acceptable well logs, including bottom-hole temperatures, (in order to facilitate the discovery of potential geothermal energy sources), the making and filing of reports on well locations, and the filing of directional surveys, geological sample logs, mud logs, core descriptions, and ordinary core analysis, if made; ~~however~~ *However*, logs of exploratory or wildcat wells need not be filed for a period of 6 months following completion of those wells;

(3)(c) the drilling, casing, producing, and plugging of wells, *carbon dioxide injection wells*, and class II injection wells in a manner that prevents the escape of *carbon dioxide*, oil, or gas out of one stratum into another, the intrusion of water into *carbon dioxide*, oil, or gas strata, blowouts, cave-ins, seepages, and fires and the pollution of fresh water supplies by *carbon dioxide*, oil, gas, salt, or brackish water;

(4)(d) the restoration of surface lands to their previous grade and productive capability after a well is plugged or a seismographic shot hole has been utilized and necessary measures to prevent adverse hydrological effects from the well or hole, unless the surface owner agrees in writing, with the approval of the board or its representatives, to a different plan of restoration;

(5)(e) *except as provided in subsection (1)(f)*, the furnishing of a reasonable bond with good and sufficient surety, conditioned for performance of the duty to properly plug each dry or abandoned well. The bond may be forfeited in its entirety by the board for failure to perform the duty to properly plug each dry or abandoned well and may not be canceled or absolved if the well fails to produce oil or gas in commercial quantities, until:

(a)(i) the board determines the well is properly plugged and abandoned as provided in the board's rules; or

(b)(ii) the requirements of 82-11-163 are met.

(f) *the furnishing of reasonable bond or other surety for a carbon dioxide injection well, geologic storage reservoir, and the carbon dioxide stored in the reservoir with good and sufficient surety for performance of the duty to operate and manage a carbon dioxide injection well, geologic storage reservoir, and the carbon dioxide stored in the reservoir and to properly plug and reclaim each carbon dioxide injection well. The bond or other surety may be forfeited in its entirety by the board for failure to perform the duty to properly manage and operate a well, reservoir, and stored carbon dioxide or to plug a well. Except as provided in [section 4(8)], the bond or other surety may not be canceled or absolved.*

(6)(g) proper gauging or other measuring of oil and gas produced and saved to determine the quantity and quality of oil and gas;

(7)(h) that every person who produces, transports, or stores oil or gas or injects or disposes of water or *carbon dioxide* in this state shall make available within this state for a period of 5 years complete and accurate records of the quantities. The records must be available for examination by the board or its employees at all reasonable times. The person shall file with the board reports as it may prescribe with respect to quantities, transportations, and storages of the oil, gas, *carbon dioxide*, or water.

(8)(i) the installation, use, and maintenance of monitoring equipment or methods in the operation of *carbon dioxide injection wells* and class II injection wells.

(2) *In addition to the requirements of subsection (1), the geologic carbon dioxide injection well permitting system must include:*

(a) *recordkeeping and reporting requirements sufficient to measure the effectiveness of carbon dioxide injection wells and geologic storage reservoirs;*

(b) *characterization of the injection zone and aquifers above and below the injection zone that may be affected, including applicable pressure and fluid chemistry data to describe the projected effects of injection activities;*

(c) *verification and monitoring at geologic storage reservoirs;*

(d) *mitigation of leaks, including the ability to stop the leaking of carbon dioxide and to address impacts of leaks;*

(e) *adequate baseline monitoring of drinking water wells within 1 mile of the perimeter of the geologic storage reservoir; and*

(f) *at a minimum, requirements pursuant to applicable federal regulatory standards established by:*

(i) *the Energy Independence and Security Act of 2007, Public Law 110-140, and subsequent acts;*

(ii) *the Safe Drinking Water Act, 42 U.S.C. 300f, et seq.; and*

(iii) *the underground injection control program, 40 CFR, parts 144 through 147.”*

**Section 18.** Section 82-11-127, MCA, is amended to read:

**“82-11-127. Prohibited activity — ~~Makoshika state park.~~** (1) A person may not:

(a) cause pollution of any state waters or place or cause to be placed any liquid, gaseous, solid, or other substance in a location where the substance is likely to cause pollution of any state waters;

(b) violate any provision set forth in a permit or stipulation, including but not limited to limitations and conditions contained in it;

(c) violate an order issued pursuant to this chapter; or

(d) violate a provision of this chapter.

(2) A person may not drill, construct, convert, or operate a class II injection well or a *carbon dioxide injection well* or drill an oil or gas well or stratigraphic test well or core hole as described under 82-11-134 without a valid permit or order from the board.

~~(3) Except as provided in subsection (5), on lands managed as Makoshika state park, pursuant to Title 23, chapter 1, and under the control of the department of fish, wildlife, and parks, by grant, acquisition, lease, easement, or other means, a person may not:~~

~~(a) drill, construct, convert, or operate an oil or gas well, stratigraphic test well, or core hole;~~

~~(b) conduct vibroseis, drill a seismic shot hole, or set a surface charge;~~

~~(c) explore for oil or gas in a manner that damages the land surface; or~~

~~(d) construct or place any surface facility associated with oil or gas exploration or development.~~

~~(4) The prohibitions in subsection (3) do not preclude the development of oil or gas resources from beneath Makoshika state park through directional drilling or access from property outside the boundaries of the state park provided that the surface resources of the state park are not disturbed.~~

~~(5) The prohibitions listed in subsection (3) do not apply to oil or gas resources within Makoshika state park that are owned by a private person, nor do the prohibitions apply to school trust lands within the boundaries of the park. The state acknowledges the mineral rights of Dawson County and the state school trust and the private property rights of persons owning private mineral rights within Makoshika state park. The department of fish, wildlife, and parks is directed to conduct negotiations with the owners of mineral rights within Makoshika state park, with the purpose of acquiring those rights in the name of the state, and to report the results of the negotiations to the legislature no later than January 8, 2001."~~

**Section 19.** Section 82-11-136, MCA, is amended to read:

**"82-11-136. Expenditure of funds from bonds for plugging wells.** (1)

The board may accept and expend all funds received by it from bonds for properly plugging dry or abandoned wells as authorized in ~~82-11-123(5) 82-11-123(1)(e).~~

*(2) The board may accept and expend all funds received by it from bonds for properly plugging abandoned carbon dioxide injection wells as authorized in 82-11-123(1)(f)."*

**Section 20.** Section 82-11-137, MCA, is amended to read:

**"82-11-137. Class II injection well operating fee — carbon dioxide injection well operating fee.** (1) For the purpose of providing funds for defraying the expenses of operating and enforcing:

*(a) the class II injection well regulatory program, as defined by the federal environmental protection agency or any successor agency, each operator of a class II injection well may be required to pay an annual operating fee not to exceed \$300 per injection well; and*

*(b) the carbon dioxide injection well regulatory program, each geologic storage operator of a carbon dioxide injection well may be required to pay an annual operating fee not to exceed \$5,000 per injection well.*

(2) The department shall collect the operating fee at ~~such a time as the established by board may prescribe~~ by rule. All money collected under this section must be forwarded to the state treasurer for deposit in the state special revenue fund and must be used for the purpose prescribed in subsection (1).

(3) The board shall, by rule adopted pursuant to the provisions of the Montana Administrative Procedure Act, fix the amount of the fee described in subsection (1) and may from time to time reduce or increase the amount ~~thereof of the fee~~ as the expenses chargeable against the state special revenue fund may require. However, the assessment fixed by the board may not exceed the limits prescribed in subsection (1). The amount of the fee must be expressed in dollars."

**Section 21.** Section 82-11-161, MCA, is amended to read:

**"82-11-161. Oil and gas production damage mitigation account — statutory appropriation.** (1) There is an oil and gas production damage mitigation account within the state special revenue fund established in 17-2-102. The oil and gas production damage mitigation account is controlled by the board.

(2) At the beginning of each biennium, there must be allocated to the oil and gas production damage mitigation account \$50,000 from the interest income of the resource indemnity trust fund, except that if at the beginning of a biennium the unobligated cash balance in the oil and gas production damage mitigation account:

(a) equals or exceeds \$200,000, no allocation will be made; or

(b) is less than \$200,000, then an amount less than or equal to the difference between the unobligated cash balance and \$200,000, but not more than \$50,000, must be allocated to the oil and gas production damage mitigation account from the interest income of the resource indemnity trust fund.

(3) In addition to the allocation provided in subsection (2), there must be deposited in the oil and gas production damage mitigation account all funds received by the board pursuant to ~~82-11-136~~ 82-11-136(1).

(4) If a sufficient balance exists in the account, funds are statutorily appropriated, as provided in 17-7-502, from the oil and gas production damage mitigation account, upon the authorization of the board, to pay the reasonable costs of properly plugging a well and either reclaiming or restoring, or both, a drill site or other drilling or producing area damaged by oil and gas operations if the board determines that the well, sump, hole, drill site, or drilling or producing area has been abandoned and the responsible person cannot be identified or located or if the responsible person fails or refuses to properly plug, reclaim, or restore the well, sump, hole, drill site, or drilling or producing area within a reasonable time after demand by the board. ~~The~~ *However, the* responsible person shall, ~~however,~~ pay costs to the extent of that person's available resources and is subsequently liable to fully reimburse the account or is subject to a lien on property as provided in 82-11-164 for costs expended from the account to properly plug, reclaim, or restore the well, sump, hole, drill site, or drilling or producing area and to mitigate any damage for which the person is responsible.

(5) Interest from funds in the oil and gas production damage mitigation account accrues to that account."

**Section 22.** Section 82-11-163, MCA, is amended to read:

**"82-11-163. Landowner's bond on noncommercial well.** If the owner of the surface land upon which has been drilled a well that fails to produce oil or gas in commercial quantities acquires the well for domestic purposes, the board may cancel and absolve the bond required in ~~82-11-123~~ 82-11-123(1)(e) upon its acceptance of surety in the form of a certificate of deposit or a surety bond in the amount of \$5,000 for a single well or in the amount of \$10,000 for more than one well or in the form of a property bond of two times the value of the required certificate of deposit or surety bond. The release of the certificate of deposit, surety bond, or property bond must be conditioned on proof provided by the landowner that the well has been properly plugged."

**Section 23.** Section 82-11-201, MCA, is amended to read:

**"82-11-201. Establishment of well spacing units.** (1) To prevent or to assist in preventing waste of oil or gas prohibited by this chapter, to avoid the drilling of unnecessary wells, or to protect correlative rights, the board, upon its own motion or upon application of an interested person, after hearing, may by order establish:

(a) temporary spacing units on a statewide basis or for defined areas within the state for *carbon dioxide injection wells*, oil, gas, or oil and gas wells drilled to varying depths; and

(b) permanent spacing units for a discovered pool, except in those pools that, prior to April 1, 1953, have been developed to such an extent that it would be impracticable or unreasonable to establish spacing units at the existing stage of development.

(2) The size and the shape of temporary spacing units must be established to promote the orderly development of unproven areas and must be uniform throughout the surface area and depths covered by the unit. A temporary spacing unit must remain in effect until superseded by an order issued by the board or until a permanent spacing unit is established.

(3) Permanent spacing units do not need to be uniform in size or shape but must result in the efficient and economic development of the pool as a whole. In establishing permanent spacing units, the acreage to be embraced within a unit and the shape of the unit must be determined by the board based upon evidence introduced at the hearing. The board may divide a pool into zones and establish spacing units for each zone if necessary for a purpose mentioned in subsection (1) or to facilitate production through the use of innovative drilling and completion methods. The spacing units within the zone may differ in size and shape from spacing units in any other zone but may not be smaller than the maximum area that can be efficiently and economically drained by one well.

(4) An order establishing temporary or permanent spacing units may permit only one well to be drilled and produced from the common source of supply on any spacing unit, and the well must be drilled at a location authorized by the order, with an exception as may be reasonably necessary. The exception may be included if, upon application, notice, and hearing, the board finds that the spacing unit is located on the edge of a pool or field and adjacent to a producing unit or, for some other reason, that the requirement to drill the well at the authorized location on the spacing unit would be inequitable or unreasonable. The board shall take action to offset any advantage that the person securing the exception may have over other producers by reason of drilling the well as an exception. The order must include provisions to prevent production from the spacing unit from being more than its just and equitable share of the producible oil and gas in the pool.

(5) An order establishing temporary or permanent spacing units for a pool must cover all lands determined or believed to be underlaid by the pool and may be modified after notice and hearing by the board to include additional areas subsequently determined to be underlaid by the pool.

(6) The board, upon application, notice, and hearing, may increase or decrease the size of a temporary or permanent spacing unit or permit the drilling of additional wells in a spacing unit for a purpose mentioned in subsection (1)."

**Section 24.** Section 82-11-204, MCA, is amended to read:

**"82-11-204. Hearing on operation of pool as unit.** (1) (a) The board, upon the application of persons owning leasehold interests underlying 60% of the surface within the delineated area, shall hold a hearing to consider the need for the operation as a unit of one or more pools or parts thereof of the pools in a field for enhanced recovery purposes as related to oil or oil and gas, to increase ultimate recovery, or to prevent waste of gas from pools or portions of pools where gas only is produced.

(b) *The board, upon the application of persons owning or holding subsurface storage rights of 60% of the storage capacity of the proposed storage area, shall*

hold a hearing to consider the need for the operation of a unit for the long-term storage of carbon dioxide.

(2) (a) At least 60 days prior to application, the applicant shall, by registered or certified mail, notify all known persons owning an interest in the oil and gas within the proposed unit area as disclosed by the records of the county or counties in which where the proposed unit area is situated, at those persons' last known last-known addresses, of the applicant's intention to make the application.

(b) *At least 60 days prior to application, if the application is for a carbon dioxide storage reservoir, the applicant shall, by registered or certified mail, notify all persons with an ownership interest in the surface, subsurface storage rights, and the subsurface minerals within the proposed unit area as disclosed by the records of the county or counties where the proposed unit area is situated, at those persons' last-known addresses, of the applicant's intention to make the application.*

(c) At the same time producers shall must be furnished with a plan of unit operations. Upon written request of an operator of a lease which that is in whole or in part within the confines of the proposed delineated area, the applicant shall furnish the operator with copies of any exhibits to be submitted to the board at the time of hearing."

**Section 25.** Section 82-11-205, MCA, is amended to read:

**"82-11-205. Board order for unit operation — criteria.** The board shall make an order providing for the unit operation of a pool or pools or part thereof of the pools or of a geologic storage reservoir if it determines, based on evidence presented at the hearing, that:

(1) ~~such~~ the operation is reasonably necessary to increase the ultimate recovery of oil or gas or the operation is necessary for the long-term storage of carbon dioxide;

(2) the value of the estimated additional recovery of oil or gas less royalties or, as to gas pools only, the value of the economies to be effected, exceeds the estimated additional cost incident to conducting ~~such~~ the operations; and

(3) (a) the full areal extent of the pool or pools or part thereof of the pools has been reasonably defined and determined by drilling operations; or

(b) *in the case of a geologic storage reservoir, the full areal extent of the project has been reasonably defined and determined by drilling operations, geologic interpretation, seismic information, or other information acceptable to the board.*"

**Section 26.** Section 82-11-214, MCA, is amended to read:

**"82-11-214. Title to oil and gas rights not affected by board order.** Except to the extent that the parties affected so agree and in accordance with [section 4(8)], an order providing for unit operations does not result in a transfer of all or any part of the title of any person to the carbon dioxide rights or oil and gas rights in any tract in the unit area. All property, whether real or personal, that may be acquired in the conduct of unit operations hereunder shall under this part must be acquired for the account of the owners within the unit area and shall be are the property of those owners in the proportion that the expenses of unit operations are charged."

**Section 27. 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 28. Codification instruction.** [Sections 1 through 6] are intended to be codified as an integral part of Title 82, chapter 11, part 1, and the provisions of Title 82, chapter 11, part 1, apply to [sections 1 through 6].

**Section 29. 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 30. Transition — contingent implementation.** If the United States environmental protection agency adopts regulations allowing states to apply for primacy over carbon dioxide sequestration wells under the federal underground injection control program adopted by the environmental protection agency, the board of oil and gas conservation shall in consultation with the department of environmental quality and the department of natural resources and conservation develop draft rules to implement [this act] and seek primacy.

**Section 31. Effective dates — contingency.** (1) [Sections 2 through 26] are effective on the date that the board of oil and gas conservation is granted primacy to administer activities at carbon dioxide sequestration wells by the United States environmental protection agency.

(2) [Sections 1 and 27 through 30 and this section] are effective on passage and approval.

(3) The board of oil and gas conservation shall provide a copy of the grant of primacy provided for in subsection (1) to the code commissioner.

Approved May 6, 2009

## CHAPTER NO. 475

[SB 507]

AN ACT 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.

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

**Section 1. Legislative findings — purpose.** (1) The legislature finds that:

(a) Article IX, section 3, of the Montana constitution provides that the use of all water that is or may be appropriated for sale, rent, distribution, or other beneficial use, the right-of-way over the lands of others for all ditches, drains, flumes, canals, and aqueducts necessarily used in connection with the beneficial use, and the sites for reservoirs necessary for collecting and storing water are a public use;

(b) a person who has historically used the bed of a navigable river in conjunction with a legal use of water or for other uses or a person who desires to use the bed of a navigable river in conjunction with a legal use of water or for other uses must be able to do so provided that statutory provisions are met;



(c) owners of property adjacent to navigable rivers in Montana have historically been assessed property taxes on the beds of navigable rivers on the premise that the riverbeds are the property of the adjacent property owners;

(d) the historic payment of property taxes on the bed of a navigable river constitutes adequate compensation for any past use of the riverbed and relieves the owner of adjacent property of the duty to compensate the state for past use of the riverbed;

(e) any person who uses the bed of a navigable river after [the effective date of this act] shall apply to the state for a lease, license, or easement and pay full market value for the use of the riverbed; and

(f) the department has not consistently required payment for riverbed uses over time.

(2) The purpose of [sections 1 through 8] is to clarify the historic and future use of the beds of navigable rivers and how the state should be compensated for that use.

**Section 2. Definitions.** For the purposes of [sections 1 through 8], the following definitions apply:

(1) "Footprint" means a structure or other constructed interruption or modification to the bed of a navigable river below the low-water mark as provided in 70-16-201.

(2) "Full market value" means an amount calculated based upon the area of a footprint and the fair market value as determined by rule or statute. The annual payment for a license issued under [sections 1 through 8] is \$150.

(3) "Navigable river" means a river that:

(a) was determined navigable at the time of the original federal government surveys of the public land as evidenced by the recorded and monumented surveys of the meander lines of the river; or

(b) has been adjudicated as navigable by a court of competent jurisdiction.

**Section 3. Historic use of navigable riverbeds — authorization required — exemptions.** (1) A person using the bed of a navigable river below the low-water mark without written authorization from the department prior to [the effective date of this act] who wants to continue use of the bed of a navigable river after [the effective date of this act] shall file for authorization of the use on a form prescribed by the department for a lease, license, or easement by July 15, 2015.

(2) The application must include:

(a) an application fee of \$50;

(b) a notarized affidavit:

(i) demonstrating that the applicant or the applicant's predecessor in interest used the bed of a river that has been determined navigable pursuant to [section 8] and that the use continues;

(ii) describing the acreage covered by the footprint prior to [the effective date of this act]; and

(iii) demonstrating that the use applied for under this section is the use shown in the evidence provided in subsection (2)(c); and

(c) (i) aerial photographs demonstrating the use to which the application for authorization applies; or

(ii) other evidence of the use to which the application for authorization applies.

(3) The department shall issue the authorization for a lease, license, or easement if:

(a) the applicant provides evidence to satisfy the requirements of subsection (2);

(b) the applicant pays the application fee and the full market value of the footprint acreage;

(c) the department has, if necessary, made a site inspection of the use to which the application for authorization applies;

(d) the authorization is only for the acreage of the footprint historically used by the applicant or the applicant's predecessor in interest; and

(e) the authorization is approved by the board. The authorization must be approved if the requirements of this section are met.

(4) Proceeds from the application fee must be deposited in the account in [section 4] and must be used by the department to administer the provisions of this section.

(5) The full market value collected pursuant to subsection (3)(b) must be deposited in the appropriate trust fund established for receipt of income from the land over which an authorized use is granted.

(6) Issuance of an authorization pursuant to this section is exempt from the requirements of Title 22, chapter 3, part 4, and Title 75, chapter 1, parts 1 and 2.

(7) The department shall waive the survey requirements of 77-2-102 if the department determines that there is sufficient information available to define the boundaries of the proposed use for the purposes of recording the easement or issuing a license or lease.

(8) The requirements of this section do not apply to footprints:

(a) related to hunting, fishing, or trapping;

(b) that existed prior to November 8, 1889;

(c) for which the applicant can show an easement obtained from a state agency prior to [the effective date of this act]; or

(d) associated with a power site regulated pursuant to Title 77, chapter 4, part 2.

**Section 4. Historic riverbed use account.** (1) There is an account in the state special revenue fund into which the fees collected pursuant to [section 3] must be deposited.

(2) The funds in the account may be used only for administering the provisions of [section 3].

**Section 5. Navigable riverbed uses — lease, license, or easement required — challenges.** (1) (a) After [the effective date of this act], the department shall require a person who proposes to use the bed of a navigable river up to the low-water mark to obtain a lease, license, or easement pursuant to the provisions of this title.

(b) The requirements of subsection (1)(a) do not apply to footprints related to hunting, fishing, or trapping.

(2) An applicant for authorization to use the bed of a navigable river pursuant to [section 3] or for a lease, license, or easement under this section may challenge the requirement of the authorization based on the navigability of the

river, the location of footprint related to the low-water mark, or other factors. There is no presumption of navigability because an entity has applied for or received a lease, license, or easement.

**Section 6. Easement transferable — relocation of structure — increased footprint.** (1) An easement granted pursuant to [section 3 or 5] runs with the benefited land and may be transferred or assigned.

(2) (a) Pursuant to rules adopted under [section 7], the holder of a lease, license, or easement under [section 3 or 5] may relocate a footprint and associated facilities due to the natural relocation of a navigable river or other factors.

(b) (i) The holder of a lease, license, or easement shall provide written notice to the department when a footprint or associated facilities are proposed to be relocated.

(ii) The holder of a lease, license, or easement for water diversion structures associated with a water right may increase the size of the footprint if the increase is necessary to accomplish the purpose for which the lease, license, or easement was granted if the holder pays full market value for the portion of the footprint that is greater than the original footprint and the applicant has the appropriate state or federal permits.

(3) Section 77-1-805 applies to the use of navigable rivers for which leases, licenses, or easements for the use of the bed have been granted.

**Section 7. Board to adopt rules.** To fulfill the requirement of [sections 1 through 8], the board shall adopt rules to:

(1) determine the full market value for the use of a bed of a navigable river and establish a minimum payment for leases and easements;

(2) allow an applicant to choose to apply for a lease, license, or easement depending on the type of proposed use and the duration of the use; and

(3) allow the holder of a lease, license, or easement for water diversion structures associated with a water right to relocate a footprint based on certain circumstances, including but not limited to natural relocation of a navigable river.

**Section 8. Ownership of beds of navigable rivers.** The board or the department may only require a lease, license, or easement for the use of the bed of a river that has been adjudicated as navigable for title purposes by a court of competent jurisdiction or was meandered by official government survey at the time of statehood.

**Section 9.** Section 77-2-101, MCA, is amended to read:

**“77-2-101. Easements for specific uses.** (1) Upon proper application as provided in 77-2-102, the board may grant easements on state lands for the following purposes:

(a) schoolhouse sites and grounds;

(b) public parks;

(c) community buildings;

(d) cemeteries;

(e) conservation purposes:

(i) to the department of fish, wildlife, and parks for parcels that are surrounded by or adjacent to land owned by the department of fish, wildlife, and parks as of January 1, 2001;

(ii) to a nonprofit corporation for parcels that are surrounded by or adjacent to land owned by that same nonprofit corporation as of January 1, 2001; and

(iii) to a nonprofit corporation for the Owen Sowerwine natural area located within section 16, township 28 north, range 21 west, in Flathead County; and

(f) for other public uses.

(2) The board may grant easements on state lands for the following purposes:

(a) right-of-way across or upon any portion of state lands for any public highway or street, any ditch, reservoir, railroad, private road, or telegraph or telephone line, or any other public use as defined in 70-30-102; or

(b) any private building or private sewage system that encroaches on state lands; or

(c) *the use of the bed of a navigable river pursuant to [section 3 or 5].*"

**Section 10. Codification instruction.** [Sections 1 through 8] are intended to be codified as an integral part of Title 77, chapter 1, and the provisions of Title 77, chapter 1, apply to [sections 1 through 8].

**Section 11. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

**Section 12. Contingent voidness.** If the supreme court determines that the beds of navigable rivers are not owned by the state or are not school trust lands, [this act] is void.

Approved May 6, 2009

## CHAPTER NO. 476

[SB 510]

AN ACT 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.

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

**Section 1. New or expanding underground mines — tax abatement.**

(1) A county may abate taxation under this chapter for production from a new or expanding underground coal mine by 50% for 5 or 10 years by directing the department to levy the tax at a lower tax rate as provided in 15-23-703(1)(b).

(2) An abatement must be authorized by the governing body of a county. Before an abatement authorization is effective, the school boards of all affected school districts must be notified of the abatement. The authorization must be made by a resolution of the county governing body after a public hearing. The county governing body shall publish notice of the hearing in a newspaper that meets the requirements of 7-1-2121. The notice must be published twice, with at least 6 days separating publications. The first publication may be no more than

30 days prior to the hearing and the last publication must be at least 3 days prior to the hearing.

(3) An abatement authorization may be made for a 5-tax-year period, and upon expiration of that period, it may be authorized for one more 5-tax-year period. An abatement authorization must be made prior to the beginning of the property tax year in which abatement is in effect. The department must be notified of each abatement authorization prior to the beginning of the tax year.

(4) (a) Production from a new underground mine is all production from a mine that in the year prior to the tax year in which the first abatement will apply had production of less than 500,000 tons of coal and the production during the course of the abatement period is estimated to be and actually amounts to at least five times the preabatement production amount.

(b) Production from an expanding underground mine is that portion of the mine's production that exceeds the average production for the previous 3 years. To qualify for the abatement, the total of the prior average production and the new production may not decrease during the time of the abatement.

**Section 2.** Section 15-23-703, MCA, is amended to read:

**"15-23-703. Taxation of gross proceeds — taxable value for county classification and guaranteed tax base aid to schools.** (1) (a) The department shall compute from the reported gross proceeds from coal a tax roll that must be transmitted to the county treasurer on or before September 15 each year. The department may not levy or assess any mills against the reported gross proceeds of coal but shall, *subject to subsection (1)(b)*, levy a tax ~~of 5%~~ of 5% against the value of the reported gross proceeds as provided in 15-23-701(1)(d). The county treasurer shall give full notice to each coal producer of the taxes due and shall collect the taxes.

(b) *If the county grants a tax abatement for production from a new or expanding underground mine as provided in [section 1], the department shall levy a tax at a rate that would, after providing for payment to the state of the amount attributable to all applicable state mill levies as if the tax rate were 5%, reduce the tax received by county taxing jurisdictions and any school district on the new or expanded production by 50%.*

(2) For county classification and all nontax purposes, the taxable value of the gross proceeds of coal is 45% of the contract sales price as defined in 15-35-102.

(3) Except as provided in ~~subsection~~ *subsections (6) and (7)*, the county treasurer shall calculate and distribute to the state, county, and eligible school districts in the county the amount of the coal gross proceeds tax, determined by multiplying the unit value calculated in 15-23-705 times the tons of coal extracted, treated, and sold on which the coal gross proceeds tax was owed during the preceding calendar year.

(4) Except as provided in subsections (5), (6), (7), and ~~(8)~~ (9), the county treasurer shall credit the amount determined under subsection (3) and the amounts received under 15-23-706:

(a) to the state and to the counties that levied mills in fiscal year 1990 against 1988 production in the relative proportions required by the levies for state and county purposes in the same manner as property taxes were distributed in fiscal year 1990 in the taxing jurisdiction; and

(b) to school districts in the county that either levied mills in school fiscal year 1990 against 1988 production or used nontax revenue, such as impact aid

money, as provided in 20 U.S.C. 7701, et seq., in lieu of levying mills against production, in the same manner that property taxes collected or property taxes that would have been collected would have been distributed in the 1990 school fiscal year in the school district.

(5) (a) If the total tax liability in a taxing jurisdiction exceeds the amount determined in subsection (3), the county treasurer shall, immediately following the distribution from taxes paid on May 31 of each year, send the excess revenue, excluding any protested coal gross proceeds tax revenue, to the department for redistribution as provided in 15-23-706.

(b) If the total tax liability in a taxing jurisdiction is less than the amount determined in subsection (3), the taxing jurisdiction is entitled to a redistribution as provided by 15-23-706.

(6) *If there is a distribution of coal gross proceeds from a new or expanding underground mine with a tax abatement as provided under [section 1], the county treasurer shall distribute:*

(a) *the state's share of the coal gross proceeds determined under subsection (1)(b) in the relative proportion required by the appropriate levies for state purposes; and*

(b) *the county's share and any school district's share of the coal gross proceeds determined under subsection (1)(b) as provided in this section.*

(6)(7) The board of county commissioners of a county may direct the county treasurer to reallocate the distribution of coal gross proceeds taxes that would have gone to a taxing unit, as provided in subsection (4)(a), to another taxing unit or taxing units, other than an elementary school or high school, within the county under the following conditions:

(a) The county treasurer shall first allocate the coal gross proceeds taxes to the taxing units within the county in the same proportion that all other property tax proceeds were distributed in the county in fiscal year 1990.

(b) If the allocation in subsection (6)(a) (7)(a) exceeds the total budget for a taxing unit, the commissioners may direct the county treasurer to allocate the excess to any taxing unit within the county.

(7)(8) The board of trustees of an elementary or high school district may reallocate the coal gross proceeds taxes distributed to the district by the county treasurer under the following conditions:

(a) The district shall first allocate the coal gross proceeds taxes to the budgeted funds of the district in the same proportion that all other property tax proceeds were distributed in the district in fiscal year 1990.

(b) If the allocation under subsection (7)(a) (8)(a) exceeds the total budget for a fund, the trustees may allocate the excess to any budgeted fund of the school district.

(8)(9) The county treasurer shall credit all taxes collected under this part from coal mines that began production after December 31, 1988, in the relative proportions required by the levies for state, county, and school district purposes in the same manner as property taxes were distributed in the previous fiscal year."

**Section 3. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 15, chapter 23, part 7, and the provisions of Title 15, chapter 23, part 7, apply to [section 1].

**Section 4. Coordination instruction.** If House Bill No. 588 and [this act] are both passed and approved and if both contain a section amending 15-23-703, then the sections amending 15-23-703 are void and 15-23-703 must be amended as follows:

**“15-23-703. Taxation of gross proceeds — taxable value for county classification and guaranteed tax base aid to schools nontax purposes.**

(1) (a) The department shall compute from the reported *value of coal* gross proceeds ~~from coal~~ a tax roll that must be transmitted to the county treasurer on or before September 15 of each year. The department may not levy or assess any mills against the reported *coal* gross proceeds ~~of coal~~ but shall, *subject to subsection (1)(b)*, levy a tax of 5% against the value of the reported ~~gross proceeds coal~~ as provided in 15-23-701(1)(d). The county treasurer shall give full notice to each coal producer of the taxes due and shall collect the taxes.

(b) *If the county grants a tax abatement for production from a new or expanding underground mine as provided in [section 1], the department shall levy a tax at a rate that would, after providing for payment to the state of the amount attributable to all applicable state mill levies as if the tax rate were 5%, reduce the tax received by county taxing jurisdictions and any school district on the new or expanded production by 50%.*

(2) For county classification and all nontax purposes, the taxable value of the gross proceeds of coal is 45% of the contract sales price as defined in 15-35-102.

~~(3) Except as provided in subsection (6), the county treasurer shall calculate and distribute to the state, county, and eligible school districts in the county the amount of the coal gross proceeds tax, determined by multiplying the unit value calculated in 15-23-705 times the tons of coal extracted, treated, and sold on which the coal gross proceeds tax was owed during the preceding calendar year.~~

~~(4) Except as provided in subsections (5), (6), and (8), the county treasurer shall credit the amount determined under subsection (3) and the amounts received under 15-23-706:~~

~~(a) to the state and to the counties that levied mills in fiscal year 1990 against 1988 production in the relative proportions required by the levies for state and county purposes in the same manner as property taxes were distributed in fiscal year 1990 in the taxing jurisdiction; and~~

~~(b) to school districts in the county that either levied mills in school fiscal year 1990 against 1988 production or used nontax revenue, such as impact aid money, as provided in 20 U.S.C. 7701, et seq., in lieu of levying mills against production, in the same manner that property taxes collected or property taxes that would have been collected would have been distributed in the 1990 school fiscal year in the school district.~~

~~(5) (a) If the total tax liability in a taxing jurisdiction exceeds the amount determined in subsection (3), the county treasurer shall, immediately following the distribution from taxes paid on May 31 of each year, send the excess revenue, excluding any protested coal gross proceeds tax revenue, to the department for redistribution as provided in 15-23-706.~~

~~(b) If the total tax liability in a taxing jurisdiction is less than the amount determined in subsection (3), the taxing jurisdiction is entitled to a redistribution as provided by 15-23-706.~~

~~(3) (a) Except as provided in subsections (4) and (7) and subject to subsection (3)(b), coal gross proceeds taxes must be allocated to the state, county, and school~~

*districts in the same relative proportions as the taxes were distributed in fiscal year 1990.*

*(b) The county treasurer shall multiply the coal gross proceeds taxes collected in the county under this part by the relative proportions determined for the state, county, and school districts under subsection (3)(a). Those amounts must be distributed as follows:*

*(i) the state share must be distributed in the relative proportions required by levies for state purposes in the same manner as property taxes were distributed in fiscal year 1990;*

*(ii) except as provided in subsection (5), the county share must be distributed in the relative proportions required by levies for county purposes, other than an elementary school or high school, in the same manner as property taxes were distributed in the previous fiscal year;*

*(iii) except as provided in subsection (6), the school districts' share must be distributed in the relative proportions required by levies for school district purposes in the same manner as property taxes were distributed in the previous fiscal year.*

*(4) If there is a distribution of coal gross proceeds from a new or expanding underground mine with a tax abatement as provided under [section 1], the county treasurer shall distribute:*

*(a) the state's share of the coal gross proceeds determined under subsection (1)(b) in the relative proportion required by the appropriate levies for state purposes; and*

*(b) the county's share and any school district's share of the coal gross proceeds determined under subsection (1)(b) as provided in this section.*

~~(6)(5)~~ The board of county commissioners of a county may direct the county treasurer to reallocate the distribution of coal gross proceeds taxes that would have gone to a taxing unit, as provided in subsection ~~(4)(a)~~ ~~(3)(b)(i)~~, to another taxing unit or taxing units, other than an elementary school or high school, within the county under the following conditions:

(a) The county treasurer shall first allocate the coal gross proceeds taxes to the taxing units within the county in the same proportion that all other property tax proceeds were distributed in the county in *the previous* fiscal year ~~1990~~.

(b) If the allocation in subsection ~~(6)(a)~~ ~~(5)(a)~~ exceeds the total budget ~~for~~ of a taxing unit, the commissioners may direct the county treasurer to ~~allocate~~ *reallocate* the excess to any taxing unit within the county.

~~(7)(6)~~ The board of trustees of an elementary or high school district may reallocate the coal gross proceeds taxes distributed to the district by the county treasurer under the following conditions:

(a) The district shall first allocate the coal gross proceeds taxes to the budgeted funds of the district in the same proportion that all other property tax proceeds were distributed in the district in *the previous* fiscal year ~~1990~~.

(b) If the allocation under subsection ~~(7)(a)~~ ~~(6)(a)~~ exceeds the total budget for a fund, the trustees may ~~allocate~~ *reallocate* the excess to any budgeted fund of the school district.

~~(8)(7)~~ *The Except as provided in subsections (8) and (9), the county treasurer shall credit all taxes collected under this part from coal mines that began production after December 31, 1988, in the relative proportions required by the*



levies for state, county, and school district purposes in the same manner as property taxes were distributed in the previous fiscal year.

(8) *The board of county commissioners of a county may direct the county treasurer to reallocate the distribution of coal gross proceeds under subsection (7) in the same manner as provided in subsection (5).*

(9) *The board of trustees of an elementary or high school district may reallocate the coal gross proceeds taxes distributed to the district by the county treasurer under subsection (7) in the same manner as provided in subsection (6)."*

**Section 5. Applicability.** [This act] applies to tax years beginning after December 31, 2009.

Approved May 6, 2009

## CHAPTER NO. 477

[HB 678]

AN ACT 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.

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

**Section 1. Opencut fund — use of fund.** (1) There is an account in the state special revenue fund established by 17-2-102 to be known as the opencut fund.

(2) There must be deposited in the account 85% of the money received from the fee established in 82-4-437.

(3) Money in the fund must be spent for the purposes of administering and enforcing this part.

**Section 2.** Section 15-38-104, MCA, is amended to read:

**“15-38-104. Tax on mineral production.** (1) Except as provided in 15-38-113 and subsections (2) through (5) of this section, the annual tax to be paid by a person engaged in or carrying on the business of mining, extracting, or producing a mineral is \$25, plus an additional amount computed on the gross value of product that was derived from the business work or operation within this state during the calendar year immediately preceding at the rate of 1/2 of 1% of the amount of gross value of product at the time of extraction from the ground, if in excess of \$5,000. Unless otherwise provided in a contract or lease, the pro rata share of any royalty owner or owners may be deducted from any settlements under the lease or leases or division of proceeds orders or other contracts.

(2) The annual tax to be paid by a person engaged in or carrying on the business of mining, extracting, or producing:

(a) talc is \$25 plus an additional amount computed on the gross value of product for talc derived from the business work or operation within this state during the calendar year immediately preceding at the rate of 4% of the gross value of product in excess of \$625; and

(b) coal is \$25 plus an additional amount computed on the gross value of product for coal produced in Montana during the calendar year immediately preceding at the rate of 0.4% of the gross value of product in excess of \$6,250.

(3) The annual tax to be paid by a person engaged in or carrying on the business of mining, extracting, or producing vermiculite is \$25 plus an additional amount computed on the gross value of product for vermiculite derived from the business work or operation within this state during the calendar year immediately preceding at the rate of 2% of the gross value of product in excess of \$1,250.

(4) The annual tax to be paid by a person engaged in or carrying on the business of mining, extracting, or producing limestone for the production of quicklime is \$25 plus an additional amount computed on the gross value of product for limestone derived from the business work or operation within this state during the calendar year immediately preceding at the rate of 10% of the gross value of product in excess of \$250.

(5) The annual tax to be paid by a person engaged in or carrying on the business of mining, extracting, or producing industrial garnets and associated byproducts is \$25 plus an additional amount computed on the gross value of product for industrial garnets and associated byproducts derived from the business work or operation within this state during the calendar year immediately preceding at the rate of 1% on the gross value of product in excess of \$2,500.”

**Section 3.** Section 15-38-106, MCA, is amended to read:

**“15-38-106. Payment of tax — records — collection of taxes — refunds.** (1) The tax imposed by this chapter must be paid by each person to which the tax applies, on or before the due date of the annual statement established in 15-38-105, on the value of product in the year preceding January 1 of the year in which the tax is paid. The tax must be paid to the department at the time that the statement of yield for the preceding calendar year is filed with the department.

(2) The department shall, in accordance with the provisions of 17-2-124, deposit the proceeds from the resource indemnity and ground water assessment tax *and money deposited pursuant to 82-4-424(3)* in the following order:

(a) annually in due course, from the proceeds of the tax to the CERCLA match debt service fund provided in 75-10-622, the amount necessary, as certified by the department of environmental quality, after crediting to the CERCLA match debt service fund amounts transferred from the CERCLA cost recovery account established under 75-10-631, to pay the principal of, premium, if any, and interest during the next fiscal year on bonds or notes issued pursuant to 75-10-623;

(b) \$366,000 of the proceeds from the tax in the ground water assessment account established by 85-2-905;

(c) for the biennium beginning July 1, 2007, \$150,000 of the proceeds from the tax in the water storage state special revenue account established in 85-1-631;

(d) 50% of the remaining proceeds from the tax divided equally between the environmental quality protection fund established in 75-10-704 and the hazardous waste/CERCLA special revenue account established in 75-10-621; and

(e) all remaining proceeds from the tax in the natural resources projects state special revenue account, established in 15-38-302, for the purpose of making grants to be used for mineral development reclamation projects and renewable resource projects.

(3) Each person to whom the tax applies shall keep records in accordance with 15-38-105, and the records are subject to inspection by the department upon reasonable notice during normal business hours.

(4) The department shall examine the statement and compute the taxes to be imposed, and the amount computed by the department is the tax imposed, assessed against, and payable by the taxpayer. If the tax found to be due is greater than the amount paid, the excess must be paid by the taxpayer to the department within 30 days after written notice of the amount of deficiency is mailed by the department to the taxpayer. If the tax imposed is less than the amount paid, the difference must be applied as a tax credit against tax liability for subsequent years or refunded if requested by the taxpayer.”

**Section 4.** Section 15-38-113, MCA, is amended to read:

**“15-38-113. Exemption from resource indemnity and ground water assessment tax.** *The following persons are exempt from the resource indemnity and ground water assessment tax:*

(1) *A a person who has paid the license tax on a metal mine under the provisions of Title 15, chapter 37, part 1, ~~is exempt from the resource indemnity and ground water assessment tax.~~*

(2) *A a person who has paid the tax on oil and natural gas production under the provisions of Title 15, chapter 36, part 3, ~~is exempt from the resource indemnity and ground water assessment tax.~~*

(3) *a person who holds a permit pursuant to Title 82, chapter 4, part 4, and is subject to the fee provided for in 82-4-437(2); or*

(4) *a county, city, or town that holds a permit pursuant to Title 82, chapter 4, part 4.”*

**Section 5.** Section 82-4-405, MCA, is amended to read:

**“82-4-405. Inapplicability to government.** *The (1) Except as provided in subsection (2), the provisions of this part relating to fees or fees or bonds do not apply to the federal government or its agencies, the state of Montana, counties, cities, or towns.*

(2) *Counties, cities, and towns are responsible for the fee required pursuant to 82-4-437(2).”*

**Section 6.** Section 82-4-424, MCA, is amended to read:

**“82-4-424. Receipt and expenditure of funds — disposition of penalties and other money.** (1) The department may receive any federal funds, state funds, or any other funds for the reclamation of affected land. The department may cause the reclamation work to be done by its employees, by employees of other governmental agencies, by soil conservation districts, or through contracts with qualified persons.

(2) All penalties and other money paid under the provisions of this part, *except annual fees*, must be deposited in the environmental rehabilitation and response account in the state special revenue fund provided for in 75-1-110. Funds held by the department as bond or as a result of bond forfeiture that are no longer needed for reclamation and for which the department is not able to locate a surety or other person who owns the funds after diligent search must be

deposited in the environmental rehabilitation and response account in the state special revenue fund.

*(3) The department shall deposit 85% of proceeds from annual fees into the opencut fund established in [section 1] and transfer 15% of the proceeds from the fees to the department of revenue for distribution in accordance with 15-38-106."*

**Section 7.** Section 82-4-432, MCA, is amended to read:

**"82-4-432. Application for permit — contents — issuance — amendment.** (1) An application for a permit must be made using forms furnished by the department and must contain the following:

(a) the name of the applicant and, if other than the owner of the land, the name and address of the owner;

(b) the type of operation to be conducted;

(c) the estimated volume of overburden and materials to be removed;

(d) the location of the proposed opencut operation by legal description and county;

(e) the date when the opencut operation is proposed to commence; and

(f) a statement that the applicant has the legal right to mine the designated materials in the lands described.

(2) The application must be accompanied by:

(a) a bond or security meeting the requirements as set out in this part;

(b) a statement from the local governing body having jurisdiction over the area to be mined certifying that the proposed sand and gravel opencut operation complies with applicable local zoning regulations adopted under Title 76, chapter 2;

(c) a plan of operation that ~~meets~~ *addresses* the requirements of 82-4-434 and rules adopted pursuant to this part related to 82-4-434; ~~and~~

(d) written documentation that the landowner has been consulted about the proposed plan of operation; *and*

(e) *a list of surface owners of land located within one-half mile of the boundary of the proposed opencut permit area using the most current known owners of record as shown in the records of the county clerk and recorder in the county where the proposed opencut operation is located.*

(3) If, prior to applying for a permit, a person notifies the department of the intention to submit an application and requests that the department examine the area to be mined, the department shall examine the area and make recommendations to the person regarding the proposed opencut operation. The person may request a meeting with the department. The department shall hold a meeting if requested.

(4) (a) (i) Except as provided in 75-1-208(4)(b), upon receipt of an application ~~containing all items listed in subsections (1) and (2),~~ the department shall, within ~~30~~ *5 working* days, review the application, ~~inspect the proposed site,~~ and notify the person *as to* whether or not the department believes that the application is ~~acceptable complete~~. An application is ~~acceptable complete~~ if it ~~complies with all requirements of~~ *contains the items listed in* subsections (1) and (2). If the department determines that the application is not ~~acceptable complete~~, the department shall ~~include in the notification~~ *notify the applicant in writing and include a detailed identification of all deficiencies information necessary to make the application complete.*

~~(b) Within 30 days of receipt of the applicant's responses to the identified deficiencies, the department shall notify the applicant if the application is acceptable or not. If the application is unacceptable, the notice must include a detailed explanation of the remaining deficiencies.~~

*(ii) The time limit provided in subsection (4)(a)(i) applies to each submittal of the application until the department determines that the application is complete.*

*(b) (i) A determination that an application is complete does not ensure that the application is acceptable and does not limit the department's ability to request additional information or inspect the site during the review process.*

*(ii) Upon determining that an application is complete, the department shall begin reviewing the application for acceptability pursuant to this section.*

*(iii) The department shall accept public comment throughout the review process.*

*(c) The department may declare an application abandoned and void if:*

*(i) the applicant fails to respond to the department's written request for more information within 1 year; and*

*(ii) the department notifies the applicant of its intent to abandon the application and the applicant fails to provide information within 30 days.*

*(d) The department shall notify the applicant when an application is complete and post the complete application on the department's website.*

*(5) Within 15 days after the department sends notice of a complete application to the applicant, the applicant shall provide public notice, which must include:*

*(a) the name, address, and telephone number of the applicant;*

*(b) a description of the acreage, the estimated volume of overburden and materials to be removed, the type of materials to be removed, the facilities, the duration of activities, and the access points of the proposed opencut operation;*

*(c) a legal description of the proposed opencut operation and a map showing the location of the proposed opencut operation and immediately surrounding property; and*

*(d) on a form provided by the department, information on how to request a public meeting pursuant to this section.*

*(6) To provide public notice, the applicant shall:*

*(a) publish notice at least twice in a newspaper of general circulation in the locality of the proposed opencut operation;*

*(b) mail the notice by first-class mail to the board of county commissioners of the county in which the proposed opencut operation is located and to surface owners of land located within one-half mile of the boundary of the proposed opencut permit area using the most current known owners of record as shown in the records of the county clerk and recorder in the county where the proposed opencut operation is located;*

*(c) post the notice in at least two prominent locations at the site of the proposed opencut operation, including near a public road if possible; and*

*(d) provide the department with the names and addresses of those notified pursuant to subsection (6)(b).*

*(7) (a) Except as provided in subsection (7)(b), the department shall accept requests for a public meeting for 45 days after the department sends notice to the applicant of a complete application. Within this period, unless a public meeting*

is required pursuant to subsection (9), the department shall notify the applicant as to whether or not the application is acceptable pursuant to subsection (10).

(b) If the applicant and the department mutually agree or the applicant submits documentation to the department showing that a public meeting will not be required pursuant to subsection (9), the department shall inform the applicant within 30 days of the notice of a complete application as to whether or not the application is acceptable pursuant to subsection (10).

(8) If a public meeting is required pursuant to subsection (9), within 30 days from the closing date of the public meeting request period in subsection (7), the department shall:

(a) hold a meeting; and

(b) notify the applicant as to whether or not the application is acceptable pursuant to subsection (10) or that the application requires an extended review pursuant to [section 8].

(9) (a) The department shall hold a public meeting in the area of the proposed opencut operation at the request of:

(i) the applicant; or

(ii) at least 30% of the property owners or 10 property owners, whichever is greater, notified pursuant to this section.

(b) To provide notice for a public meeting, the department shall notify by first-class mail the property owners on the list provided by the applicant pursuant to this section and the board of county commissioners in the county where the proposed opencut operation is located.

(10) (a) An application is acceptable if it complies with the requirements of subsections (1) and (2) and includes a plan of operation that satisfies the requirements of 82-4-434 and rules adopted pursuant to this part related to 82-4-434. If the department determines that the application is not acceptable, the department shall notify the applicant in writing and include a detailed identification of all deficiencies.

(b) Within 10 working days of receipt of the applicant's response to the identified deficiencies, the department shall review the responses and notify the applicant as to whether or not the application is acceptable. If the application is unacceptable, the department shall notify the applicant in writing and include a detailed identification of the deficiencies.

~~(e) The department may for sufficient cause extend either or both of the 30-day review periods for an additional 30 days if it notifies the applicant of the extension prior to the end of the respective original 30-day period. The department shall include in the notification of extension the reason for the extension.~~

~~(d)(c)~~ If the application is acceptable, the department shall issue a permit to the operator that entitles the operator to engage in the opencut operation on the land described in the application.

~~(5)(11)~~ (a) An operator may amend a permit by submitting an amendment application to the department. Upon receipt of the amendment application, the department shall review it in accordance with the requirements and procedures in ~~subsection (4)~~ this section. If the amendment application is acceptable, the department shall issue an amendment to the original permit.

(b) An application for an amendment is not subject to the public notice or public meeting requirements of this section or an extended review pursuant to

[section 8] unless it proposes an increase in permitted acreage of 50% or more of the amount of permitted acreage in the original permit.

(c) For amendment applications not subject to the public notice and public meeting requirements of this section, the department shall, within 45 days of notifying the applicant that the application is complete, notify the applicant as to whether or not the application is acceptable pursuant to subsection (10) or that the application requires an extended review pursuant to [section 8].

(12) The department shall publish a copy of an acceptable permit or amendment on its website.”

**Section 8. Extended review — criteria — timeframes.** (1) The department may subject an opencut application to an extended review if the department determines that comments received at a public meeting held pursuant to 82-4-432 reveal substantial issues not adequately satisfied in the proposed plan of operation.

(2) (a) For a complete application subject to an extended review, the department shall, within 60 days from the date the department determines the application warrants an extended review, inspect the proposed site if the department determines an inspection is necessary and notify the applicant as to whether or not the application is acceptable pursuant to 82-4-432. If the application is unacceptable, the notice must include a detailed explanation of the deficiencies.

(b) Within 30 days of receipt of the applicant’s response to the identified deficiencies, the department shall review the responses and notify the applicant as to whether or not the application is acceptable. If the application is unacceptable, the department shall notify the applicant in writing and include a detailed identification of the deficiencies.

(c) The department may for sufficient cause extend either or both of the review periods in subsection (2)(a) or (2)(b) for an additional 30 days if it notifies the applicant of the extension prior to the end of the respective original period. The department shall include in the notification of extension the reason for the extension.

(d) If the application is acceptable, the department shall issue a permit or a permit amendment to the operator that entitles the operator to engage in the opencut operation on the land described in the application.

**Section 9.** Section 82-4-437, MCA, is amended to read:

**“82-4-437. Annual report — fee.** (1) For each permitted operation, the operator shall file an annual report on a form furnished by the department. The report must contain the information and be submitted at times provided in rules of the board.

(2) (a) Except as provided in subsection (2)(b), each permitted operation shall submit with the annual report a fee of 2.5 cents per cubic yard of material mined during the period covered by the report.

(b) Permitted operations that mine, extract, or produce bentonite are not subject to the fee in this section.”

**Section 10. Codification instruction.** [Sections 1 and 8] are intended to be codified as an integral part of Title 82, chapter 4, part 4, and the provisions of Title 82, chapter 4, part 4, apply to [sections 1 and 8].

**Section 11. Effective date.** [This act] is effective on passage and approval.

**Section 12. Applicability — retroactive applicability.** (1) Except as provided in subsection (4), [sections 1 through 6 and 9] apply retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2007.

(2) Except as provided in subsection (3), [sections 7 and 8] apply to permit applications and amendment applications pursuant to 82-4-432 submitted after [the effective date of this act].

(3) [Section 7(4)(c)] applies retroactively, within the meaning of 1-2-109, to permit applications and amendment applications submitted prior to [the effective date of this act].

(4) The exemption provided for in 15-38-113(4) applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2000, for counties, cities, and towns.

Approved May 8, 2009

## CHAPTER NO. 478

[HB 5]

AN ACT 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.

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

**Section 1. Definitions.** For the purposes of [sections 1 through 12], unless otherwise stated, the following definitions apply:

(1) “Authority only” means approval provided by the legislature to expend money that does not require an appropriation, including grants, donations, auxiliary funds, proprietary funds, and university funds.

(2) “Capital project” means the acquisition of land or improvements or the planning, capital construction, renovation, furnishing, or major repair projects authorized in [sections 1 through 12].

(3) “LRBP” means the long-range building program account in the capital projects fund type.

(4) “Other funding sources” means money other than LRBP, state special revenue, or federal special revenue money that accrues to an agency under the provisions of law.



**Section 2. Capital project appropriations and authorizations.** The following money is appropriated for the indicated capital projects to the department of environmental quality for state building energy conservation funds and from all other indicated sources to the department of administration. Funds not requiring legislative appropriation are included for the purpose of authorization. The department of administration is authorized to transfer the appropriations and/or authority among the necessary fund types for these projects:

Agency/Project	LRBP Fund	State Special Revenue	Federal Special Revenue	Other Funding Sources	Authority Only	Total
<b>MONTANA SCHOOL FOR THE DEAF AND BLIND</b>						
Energy and Facility Improvements	250,000			25,000		275,000
Other funds consist of state building energy conservation funds.						
<b>DEPARTMENT OF ADMINISTRATION</b>						
<b>Renovation and Energy Improvements</b>						
State Liquor Warehouse				2,210,000		2,210,000
Other funds consist of 460,000 of state building energy conservation funds and 1,750,000 of proprietary funds.						
<b>Mechanical and Energy Projects</b>						
Capitol Complex			1,924,000		1,600,000	3,524,000
Federal special revenue funds consist of federal funds received pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-5, for state energy programs.						
Authority-only funds consist of general services division internal service funds.						
Energy Related Deferred Maintenance, Statewide	1,073,568		1,276,432			2,350,000
Federal special revenue funds consist of federal funds received pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-5, for state energy programs.						
Spending Authority, Utility Energy Conservation Funds					2,000,000	2,000,000
Authority-only funds consist of utility company grants, rebates and incentives.						
Hazardous Materials Abatement, Statewide	400,000					400,000
Roof Repairs and Replacements, Statewide	1,310,000		700,000			2,010,000
Elevator and ADA Modifications, Capitol Complex					1,450,000	1,450,000
Authority-only funds consist of general services division internal service funds.						
Repair/Preserve Building Envelopes, Statewide	1,500,000					1,500,000
Code/Deferred Maintenance, Statewide	1,150,000					1,150,000
Infrastructure Repairs, State Capitol	500,000				300,000	800,000
Authority-only funds consist of general services division internal service funds.						
Parking Lot Upgrades, Capitol Complex					250,000	250,000
Authority-only funds consist of general services division internal service funds.						
Upgrade Fire Protection Systems, Statewide	800,000					800,000
Campus Master Planning, Statewide	200,000	100,000			200,000	500,000
Authority-only funds may include federal special revenue, auxiliary, donations, grants, and higher education funds.						
<b>DEPARTMENT OF CORRECTIONS</b>						
Energy Conservation Improvements	1,260,000		2,610,000	10,000	500,000	4,380,000

Federal special revenue funds consist of federal funds received pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-5, for state energy programs.

Other funds consist of state building energy conservation funds.

Authority-only funds may include federal special revenue, donations, grants, and proprietary funds.

Alternative Energy-Biomass Boiler, MT State Prison	250,000	740,000	990,000
Other funds consist of state building energy conservation funds.			
Emergency Power System, MT State Prison	500,000		500,000
Renovate Low Support, MT State Prison	1,660,000		1,660,000
New Building for Youth Transition Center, Great Falls	1,310,000		1,310,000
Improve Food Production	300,000		300,000
DEPARTMENT OF FISH, WILDLIFE, AND PARKS			
Hatchery Maintenance	575,000	275,000	850,000
Administration Facilities Repair and Maintenance	1,390,000		1,390,000
DEPARTMENT OF MILITARY AFFAIRS			
Energy Conservation Improvements	885,000	265,000	1,150,000
Other funds consist of state building energy conservation funds.			
Storm Water Improvements/Infrastructure, Phase 3, Fort Harrison	1,600,000		1,600,000
Paving Parking Lots, Statewide	100,000	100,000	200,000
MONTANA UNIVERSITIES AND COLLEGES			
Code Compliance/Deferred Maintenance			
Montana University System	3,600,000		1,000,000 4,600,000
Authority-only funds may include federal special revenue, auxiliary, donations, grants, and higher education funds.			
Animal Bioscience Facility, MSU-Bozeman	2,500,000		2,500,000
Renovate Existing Laboratory Facilities, MSU-Bozeman			7,500,000 7,500,000
Authority is hereby granted to Montana state university to convert existing laboratories to long-term use and to make capital improvements in the indicated amount contingent upon receipt of federal special revenue, grants, or both.			
Federal special revenue funds consist of federal funds received pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-5.			
Simulated Hospital and Child Care Center, MSU-Great Falls			
College of Technology	1,600,000	500,000	2,100,000
Authority only funds may include federal special revenue, auxiliary, donations, grants, and higher education funds.			
Funds must be used for construction costs. Any remaining funds will be redirected to construction projects at Montana colleges of technology.			
UM-Helena College of Technology Project Completion	850,000		850,000
DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES			
Improve Medical Services, MT Developmental Center, Boulder	450,000		450,000
DEPARTMENT OF TRANSPORTATION			
Equipment Storage Buildings, Statewide	1,175,000		1,175,000
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION			
Energy/Major Repairs and Small Projects, Statewide	1,000,000		1,000,000

Building Addition, Billings Oil and Gas Office	1,300,000	1,300,000
DEPARTMENT OF AGRICULTURE		
Renovation and Energy Upgrades, State Grain Lab, Great Falls	525,000	525,000

**Section 3. Fund transfers.** (1) Subject to subsection (4), there is transferred from the state general fund \$2.6 million in fiscal year 2010 and \$2.6 million in fiscal year 2011 to the long-range building program account in the capital projects fund type for the projects enumerated in [sections 2 and 4].

(2) Subject to subsection (4), there is transferred from the state general fund \$10.4 million in fiscal year 2010 and \$2.957 million in fiscal year 2011 to the energy conservation capital projects account in the capital projects fund type for the projects enumerated in [sections 2 and 4].

(3) Subject to subsection (4), there is transferred from the state general fund \$1 million in fiscal year 2010 and \$500,000 in fiscal year 2011 to the energy conservation repayment account created in 90-4-615 to be available to the department of environmental quality by appropriation to fund the costs of the state building energy conservation program.

(4) In order to maintain an adequate general fund ending balance, if at any time during the 2011 biennium, the office of budget and program planning projects a 2011 biennium unreserved general fund ending balance of less than \$125 million, the office of budget and program planning may direct the department of administration to reduce the fund transfers in subsections (1) through (3). The department of administration shall transfer the funds on a schedule approved by the office of budget and program planning that enables the statewide management goals for cash flow and for fund balance. If the projected unreserved general fund ending balance increases at a later point in the biennium, the fund transfers may be increased back up to the original authorized level. The office of budget and program planning may not direct fund transfers to be reduced below the level of encumbrance obligations made against the appropriation at the time of the reduction.

**Section 4. Capital improvements.** (1) The following money is appropriated to the department of fish, wildlife, and parks in the indicated amounts for the purpose of making capital improvements to statewide facilities. Funds not requiring legislative appropriation are included for the purpose of authorization:

Agency/Project	LRBP Fund	State Special Revenue	Federal Special Revenue	Other Funding Sources	Authority Only	Total
Future Fisheries		1,150,000				1,150,000
Community Fishing Ponds		50,000				50,000
Clearwater Fish Barrier		825,000	25,000			850,000
Upland Game Bird Program		1,041,400				1,041,400
Wildlife Habitat Maintenance		1,010,000				1,010,000
Migratory Bird Stamp Program		620,000				620,000
Bighorn Sheep		150,000				150,000
Parks Program		3,040,000	2,000,000			5,040,000
Fishing Access Site Protection		900,000				900,000
Grant Programs/Federal Projects		320,000	1,500,000			1,820,000

(2) The following money is appropriated to the department of commerce, Montana heritage preservation and development commission, in the indicated

amount for the purpose of making capital improvements to facilities located in Virginia City, Nevada City, and Reeder's Alley:

Agency/Project	LRBP Fund	State Special Revenue	Federal Special Revenue	Other Funding Sources	Authority Only	Total
Historic Preservation & Supporting Improvements, MHC Properties Statewide	750,000					750,000

(3) Authority is being granted to the university of Montana in the indicated amount for the purpose of making capital improvements to campus facilities. Authority-only funds may include federal special revenue, donations, grants, and higher education funds. All costs for the operations and maintenance of any new improvements constructed under this authorization must be paid by the university of Montana with nonstate revenue.

Agency/Project	LRBP Fund	State Special Revenue	Federal Special Revenue	Other Funding Sources	Authority Only	Total
General Spending Authority, UM-All Campuses					6,000,000	6,000,000
Interdisciplinary Science Building Finish Out, UM-Missoula					8,000,000	8,000,000

Authority is hereby granted to the university of Montana to make capital improvements for the interdisciplinary science building finish out in the indicated amount contingent upon receipt of federal special revenue as part of funds made available pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-5, through competitive grants. All costs for the operation and maintenance of the improvements constructed under this appropriation must be paid by the university of Montana from nonstate sources.

(4) Authority is being granted to Montana state university in the indicated amount for the purpose of making capital improvements to campus facilities. Authority-only funds may include federal special revenue, donations, grants, and higher education funds. All costs for the operations and maintenance of new improvements constructed under this authorization must be paid by Montana state university from nonstate sources.

Agency/Project	LRBP Fund	State Special Revenue	Federal Special Revenue	Other Funding Sources	Authority Only	Total
General Spending Authority, MSU-All Campuses					5,000,000	5,000,000

(5) The following money is appropriated to the department of military affairs in the indicated amount for the purpose of making capital improvements to statewide facilities. All costs for the operation and maintenance of any new improvements constructed with these funds must be paid by the department of military affairs with nonstate revenue.

Agency/Project	LRBP Fund	State Special Revenue	Federal Special Revenue	Other Funding Sources	Authority Only	Total
Federal Spending Authority			2,000,000			2,000,000

(6) The following money is appropriated to the department of transportation in the indicated amounts for the purpose of making capital improvements as indicated:

Agency/Project	LRBP Fund	State Special Revenue	Federal Special Revenue	Other Funding Sources	Authority Only	Total
Statewide Maintenance, Repair and Small Projects		2,625,000				2,625,000
US Highway 93 Projects		24,100,000				24,100,000

(7) The following money is appropriated to the department of environmental quality in the indicated amounts for the purpose of making capital improvements as indicated:

Agency/Project	LRBP Fund	State Special Revenue	Federal Special Revenue	Other Funding Sources	Authority Only	Total
Department of Public Health and Human Services Energy Projects, Statewide		2,132,000		2,132,000		

Federal special revenue funds consist of federal funds received pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-5, for state energy programs.

Energy Projects at Community Colleges, Statewide			1,000,000			1,000,000
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Federal special revenue funds consist of federal funds received pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-5, for state energy programs.

Cabinet Agency Energy Projects, Statewide			5,375,000			5,375,000
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Federal special revenue funds consist of federal funds received pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-5, for state energy programs.

Energy Conservation Improvements, Montana University System			8,697,000			8,697,000
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Federal special revenue funds consist of federal funds received pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-5, for state energy programs.

(8) The following money is appropriated to the department of natural resources and conservation in the indicated amounts for the purpose of making capital improvements as indicated:

Agency/Project	LRBP Fund	State Special Revenue	Federal Special Revenue	Other Funding Sources	Authority Only	Total
Rehabilitation of State-Owned Dams		575,000				575,000
Rehabilitation of Ruby Dam		5,000,000				5,000,000

**Section 5. Land acquisition appropriations.** The following money is appropriated to the department of fish, wildlife, and parks in the indicated amounts for purposes of land acquisition, land leasing, easement purchase, or development agreements:

Agency/Project	LRBP Fund	State Special Revenue	Federal Special Revenue	Other Funding Sources	Authority Only	Total
Fishing Access Site Acquisition		500,000	100,000			600,000
Habitat Montana		8,110,000				8,110,000
Hunting Access		2,500,000				2,500,000

**Section 6. Montana stimulus capital improvements.** (1) The following money is appropriated for the indicated capital projects from the indicated sources to the department of administration. Funds not requiring legislative appropriation are included for the purpose of authorization. The department of administration is authorized to transfer the appropriations, authority, or both among the necessary fund types for these projects.

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Agency/Project	LRBP Fund	State Special Revenue	Federal Special Revenue	Other Funding Sources	Authority Only	Total
Exterior Envelope Improvements, Montana Law Enforcement Academy	425,000					425,000
Facility Repairs and Improvements, WATCH East	650,000					650,000
Facility Repairs and Improvements, DNRC Swan and Stillwater Units	400,000					400,000
Renovate Low Support, Phase 2, Montana State Prison	1,240,000					1,240,000
Renovate Main Hall, Phase 2, UM-Western	6,000,000					6,000,000
Renovation/Addition to Spratt Building, Montana State Hospital	1,640,000					1,640,000
Montana Veterans' Home Improvements, Statewide	1,200,000					1,200,000
Consolidate DNRC Divisions, Missoula	350,000					350,000
Office of Public Assistance, Wolf Point	2,250,000					2,250,000
Statewide Facilities Planning	400,000					400,000
Central Land Office Building Renovation/Replacement, DNRC	1,600,000					1,600,000
Energy Conservation Improvements, Montana University System	12,300,000			4,500,000		16,800,000

The highest priority use of funds provided in this appropriation is to augment projects initiated with the state energy program funds received pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-5, and appropriated in [section 4] for the Montana university system to address related modernization, repairs, and renovation costs that the department of administration considers prudent to construct within the same project. If the federal state energy program funds are exhausted, the remaining funds in this appropriation may be used to entirely fund additional energy conservation projects and related improvements.

Rose Creek Hatchery			5,000,000			5,000,000
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Federal special revenue funds consist of federal funds received pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-5.

(2) The following money is appropriated to the department of military affairs in the indicated amounts for the purpose of making capital improvements to statewide facilities. Funds not requiring legislative appropriation are included for the purpose of authorization. All costs for the operation and maintenance of any new improvements constructed with these funds must be paid by the department of military affairs with nonstate revenue.

Agency/Project	LRBP Fund	State Special Revenue	Federal Special Revenue	Other Funding Sources	Authority Only	Total
Construct Female Latrines - Department of Military Affairs, Culbertson and Malta			451,800			451,800
Federal special revenue funds consist of federal funds received pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-5, for national guard operations and maintenance.						
Helicopter Dip Site - Department of Military Affairs, Fort Harrison			279,268			279,268
Federal special revenue funds consist of federal funds received pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-5, for national guard operations and maintenance.						
Vault Modifications - Department of Military Affairs, Statewide			500,000			500,000

Federal special revenue funds consist of federal funds received pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-5, for national guard operations and maintenance.

(3) The following money is appropriated to the department of fish, wildlife, and parks in the indicated amounts for the purpose of making capital improvements to statewide facilities. Funds not requiring legislative appropriation are included for the purpose of authorization.

Agency/Project	LRBP Fund	State Special Revenue	Federal Special Revenue	Other Funding Sources	Authority Only	Total
Mobley Diversion Watershed			300,000			300,000
Federal special revenue funds consist of federal funds received pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-5.						
Fort Peck Hatchery Infrastructure			720,000			720,000
Federal special revenue funds consist of federal funds received pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-5.						
Fort Peck Hatchery Hydroelectric Generation			9,200,000			9,200,000
Federal special revenue funds consist of federal funds received pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-5.						
Willow Creek Feeder Canal Project			1,250,000			1,250,000
Federal special revenue funds consist of federal funds received pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-5.						
Vandalia Fish Passage			5,000,000			5,000,000
Federal special revenue funds consist of federal funds received pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-5.						

**Section 7. Transfer of appropriations — definition.** (1) The department of fish, wildlife, and parks and the department of transportation are authorized to transfer the appropriations and authority, as appropriate, in [sections 4 and 5] among the necessary fund types for these projects.

(2) (a) The department of environmental quality may transfer appropriations between projects in [section 2 or 4] to respond to energy-saving opportunities.

(b) For purposes of this subsection (2), “energy-saving opportunities” means opportunities to achieve energy cost savings that will be technically infeasible or uneconomical if the project is delayed until specific legislative approval can be obtained.

(3) The department of administration may transfer appropriations and authority, as appropriate, between projects in [section 2 or 6] to maximize utilization of the federal funds received pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-5.

**Section 8. Reappropriation of remaining balance to Montana tech.**

(1) Any portion of the Augment Petroleum, Bureau of Mines and Geology, UM-MT Tech project appropriation of \$5.2 million of long-range building program (LRBP) funds appropriated in section 2, Chapter 3, Special Laws of May 2007, that is unexpended for the project is reappropriated for the following projects:

Mining and Geology Building, HVAC Upgrade, UM-MT Tech	\$530,000
Health Sciences Building, ADA Accessible Bathrooms on Floors 1 and 2 and Elevator, UM-MT Tech	\$1,930,000
Evaluation of Main Hall Structure, UM-MT Tech	\$40,000

(2) There are no additional operations and maintenance costs associated with the new projects, and energy upgrades will offset the costs of operating the new elevator.

**Section 9. Planning and design.** The department of administration may proceed with the planning and design of capital projects prior to the receipt of funds from other funding sources. The department may use interaccount loans in accordance with 17-2-107 to pay planning and design costs incurred before the receipt of funds from other funding sources.

**Section 10. Capital projects — contingent funds.** If a capital project is financed, in whole or in part, with appropriations contingent upon the receipt of funds from other funding sources, the department of administration may not let the project for bid until the agency has submitted a financial plan for approval by the director of the department of administration. A financial plan may not be approved by the director if:

(1) the level of funding provided under the financial plan deviates substantially from the funding level provided in [sections 2 through 5] for that project; or

(2) the scope of the project is substantially altered or revised from the preliminary plans presented for that project in the 2011 biennium long-range building program presented to the 61st legislature.

**Section 11. Review by department of environmental quality.** The department of environmental quality shall review capital projects authorized in [sections 2 through 7] for potential inclusion in the state building energy conservation program under Title 90, chapter 4, part 6. When a review shows that a capital project will result in energy improvements, that project must be submitted to the energy conservation program for funding consideration. Funding provided under the energy conservation program guidelines must be used to offset or add to the authorized funding for the project, and the amount will be dependent on the annual utility savings resulting from the facility improvement. Agencies must be notified of potential funding after the review.

**Section 12. Legislative consent.** The appropriations authorized in [sections 1 through 11] constitute legislative consent for the capital projects contained in [sections 1 through 11] within the meaning of 18-2-102.

**Section 13.** 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) energy cost saving information as required by [section 17]; and*

~~(h)~~(i) 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 14.** 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 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) *energy cost saving information as required by [section 17] and energy conservation program information as required by 90-4-606; and*

(g)(h) 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 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 15.** Section 90-4-602, MCA, is amended to read:

**“90-4-602. Definitions.** As used in this part, unless the context requires otherwise, the following definitions apply:

(1) “Board” means the board of examiners provided for in 2-15-1007.

(2) “Cost” includes the expenses related to planning, design, construction, and installation of energy conservation improvements and any administrative expenses of the department incurred in the performance of its duties under the energy conservation program.

(3) “Department” means the department of environmental quality provided for in 2-15-3501.

(4) “Energy conservation program” means a program for the financing, acquisition, construction, and installation of *alternative energy saving systems, as defined in 15-32-102, or* equipment, systems, and improvements in state-owned buildings, structures, and facilities *that save energy or water.*

(5) “Energy conservation program bonds” includes all series of bonds issued to finance any portion of the energy conservation program.

(6) “Energy cost savings” means the savings in utility costs to a state agency as a result of an energy conservation program.

(7) “Participating state agency” means, for a state-owned building, structure, or facility, the state agency that pays the utilities for that building.

(7)(8) “State agency” means:

(a) each executive, legislative, or judicial branch department, office, or agency; and

(b) the university system; and

(c) a community college district.”

**Section 16.** Section 90-4-615, MCA, is amended to read:

**“90-4-615. Energy conservation repayment account.** (1) There is an energy conservation repayment account in the state special revenue fund established in 17-2-102.

(2) There must be deposited in the energy conservation repayment account:

(a) the amount of energy costs saved as a result of ~~the acquisition, installation, and construction of energy saving equipment, systems, or improvements~~ *energy conservation projects* in state buildings, facilities, or structures using ~~general fund~~ appropriations ~~to~~ *from the energy conservation capital projects account or the general fund* for the energy conservation program until total payments to the account for a project equal the cost of the project, including the cost of the investment grade energy audit on the project and the design of the project; and

(b) interest earned on the account;

(c) *interest earned on the energy conservation capital projects account created in [section 18]; and*

(d) *funds transferred to the account by the legislature.*

(3) Money in the energy conservation repayment account is available to the department of environmental quality by appropriation to fund the costs of the energy conservation program for:

(a) *conducting energy analysis;*

(b) *data collection and analysis;*

(c) *program administration and oversight; and*

(d) *monitoring the results of state building energy conservation projects.*

(4) *If the unencumbered funds in the account at the end of a biennium exceed \$2 million, the department shall transfer to the energy conservation capital projects account the amount of funds in excess of \$2 million."*

**Section 17. Transfer of energy savings from projects.** (1) In preparing the executive budget each biennium, for each state agency participating in the state energy conservation program by using appropriations from the general fund or the energy conservation capital projects account created in [section 18], the governor shall include an estimate of the energy cost savings expected for that agency in each year of the biennium.

(2) Each session, the legislature shall review the governor's submission pursuant to 90-4-606 and subsection (1) of this section and, unless the legislature disapproves, shall include in the general appropriations act authority for each participating state agency to transfer funds in an amount equal to the agency's estimated energy cost savings to the energy conservation repayment account established in 90-4-615. These transfers must continue until the cost of the project, including energy analysis, acquisition and installation costs of energy saving equipment or systems, and the cost of the construction of improvements in state buildings, facilities, or structures, plus annual interest payments of 3% of the unpaid balance of the cost of the project, has been paid into the energy conservation repayment account.

(3) The current level utility appropriations of state agencies participating in the energy conservation program must be reduced by the sum of the amounts approved to be transferred pursuant to subsection (2).

(4) Upon request of the department, each participating state agency shall transfer the amounts approved pursuant to subsection (2).

**Section 18. Energy conservation capital projects account.** (1) There is an energy conservation capital projects account in the capital projects fund type established in 17-2-102.

(2) There must be deposited in the account:

(a) money transferred from the energy conservation repayment account; and

(b) other amounts transferred to the account by the legislature.

(3) Money in the account is available to the department by appropriation and must be used to pay the costs of the acquisition, installation, and construction of energy saving equipment, systems, or improvements in state buildings, facilities, or structures.

**Section 19. Reappropriation of energy conservation projects.** The remaining balances on energy conservation projects previously approved by the legislature are reappropriated for the purposes of the original appropriation until the projects are completed.

**Section 20.** Section 2, Chapter 560, Laws of 2005, is amended to read:

**“Section 2. Capital projects appropriations and authorizations. (1)** Subject to [section 9(2)], the following money is appropriated for the indicated capital projects from the indicated sources to the department of administration. Funds not requiring legislative appropriation are included for the purpose of authorization. The department of administration is authorized to transfer either or both the appropriations and authority among the necessary fund types for these projects:

Agency/Project	LRBP	Other Funding Sources	
<b>MONTANA SCHOOL FOR THE DEAF AND BLIND</b>			
Facility Improvements, Montana School for the Deaf and Blind	\$398,000		
<b>DEPARTMENT OF ADMINISTRATION</b>			
Roof Repair and Replacement, Statewide	3,076,242	\$206,500	Federal Special Revenue
Repair/Preserve Building Exteriors, Statewide	497,500		
Window Repairs and Replacement, Statewide	1,268,625		
Deferred Maintenance, Montana Law Enforcement Academy	761,175		
Hazardous Materials Abatement, Statewide	497,500		
Code/Deferred Maintenance Projects, Statewide	1,255,989	90,000	Federal Special Revenue
Repair Deteriorated Campus Infrastructure, Statewide	547,250		
Major Maintenance and Repairs to State Capitol	497,500		
Upgrade Fire Alarm Systems, Statewide	398,000		
Repair Elevators, Capitol Complex	796,000		
Upgrade 1100 North Last Chance Gulch	1,201,960		
DPHHS Commodity Warehouse Expansion, Helena		2,000,000	Federal Special Revenue
Public Restrooms, Virginia City and Nevada City	99,450		
Public Safety Learning Center, Montana Law Enforcement Academy		3,450,000	Federal Special Revenue
Long-range Building Program Funding Interim Project	8,000		
Capitol Annex or Alternatives Feasibility Study		500,000	Capitol Land Grant Funds
<b>MONTANA HISTORICAL SOCIETY</b>			
Montana Historical Society Building, Helena		30,000,000	Donations and Grants
Authority is granted to the department of administration in the indicated amount for the construction of a new historical society building.			
<b>DEPARTMENT OF CORRECTIONS</b>			
Improve Water System, Montana State Prison	124,375		
Improve High-Side Kitchen Ventilation, Montana State Prison	116,714		
Improve Perimeter Security, Montana State Prison	1,393,000		
<b>DEPARTMENT OF FISH, WILDLIFE, AND PARKS</b>			
Hatchery Maintenance, Statewide		575,000	State Special Revenue
		575,000	Federal Special Revenue
Rose Creek Hatchery		1,700,000	State Special Revenue

Fort Peck Storage/Office Space	50,000		State Special Revenue
	150,000		Federal Special Revenue
Administrative Facilities Repair, Maintenance and Improvements	800,000		State Special Revenue
DEPARTMENT OF MILITARY AFFAIRS			
Federal Spending Authority	2,100,000		Federal Special Revenue
Western Montana Veterans' Cemetery, Missoula	3,200,000		Federal Special Revenue
Montana State Veterans' Cemetery Columbarium, Fort Harrison	500,000		Federal Special Revenue
MONTANA UNIVERSITIES AND COLLEGES			
ADA/Code/Deferred Maintenance Projects, Montana University System	1,393,000		
Upgrade Steam Distribution System, UM-Missoula	5,905,325	3,060,000	Auxiliary Funds
Upgrade HVAC Systems, Pershing and Brockman Halls, MSU-Northern	521,380		
Heating System Improvements, Academic Center and McMullen Halls, MSU-Billings	243,775		
Mining and Geology Building Mechanical System Renovation, UM-Butte	915,400		
Upgrade Health Sciences HVAC System, Phase 2, UM-Missoula	965,150		
Renovate Domestic Water Distribution System, UM-Dillon	182,185		
Classroom/Laboratory Upgrades, Montana University System	995,000		
Facility Repairs and Improvements, MSU-Billings	542,275		
Heating Plant Phase 3, MSU-Bozeman	945,250		
Renovate HVAC Systems, Science Complex 3rd and 4th Floors, UM-Missoula	606,950		
Water/Sewer System Repairs and Maintenance, MSU-Bozeman	248,750	250,000	Auxiliary Funds
Upgrade Primary Electrical Distribution, MSU-Bozeman	746,250	750,000	Auxiliary Funds
Facility Repairs and Improvements, MSU-Agricultural Experiment Stations	477,600		
MSU-Agricultural Experiment Station Projects	646,750		
Campus Improvements, MSU-Northern	636,800	300,000	Auxiliary Funds
New Construction, Consolidate Campus, UM-Missoula College of Technology	24,500,000		Federal Special Revenue, Donations, Grants, and Higher Education Funds

Authority is granted to the department of administration in the indicated amount for the purpose of constructing a new university of Montana-Missoula college of technology.

Native American Study Center, UM-Missoula	2,500,000		Federal Special Revenue, Donations, Grants, and Higher Education Funds
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Authority is granted to the department of administration in the indicated amount for the purpose of constructing the Native American center. This authority augments \$3,500,000 of existing authority for this capital improvement.

New Gallery Space, UM-Missoula	6,000,000		Federal Special Revenue, Donations, Grants, and Higher Education Funds
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Authority is granted to the department of administration in the indicated amount for the purpose of constructing new gallery space.

New Forestry Complex, UM-Missoula	20,000,000	Federal Special Revenue, Donations, Grants, and Higher Education Funds
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Authority is granted to the department of administration in the indicated amount for the purpose of constructing the new forestry complex.

MBMG/Petroleum Building, UM-Tech, Butte	5,400,000	Federal Special Revenue, Donations, Grants, and Higher Education Funds
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Authority is granted to the department of administration in the indicated amount for the purpose of constructing the MBMG/petroleum building.

Research Lab Facility, UM-Missoula	3,000,000	Federal Special Revenue, Donations, Grants, and Higher Education Funds
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Authority is granted to the department of administration in the indicated amount for the purpose of constructing the research lab facility. Any increase in costs for the operations and maintenance of the research lab facility must be paid by the university of Montana with nonstate revenue.

Law Building ADA Improvements/ Renovation/Expansion, UM-Missoula	500,000	
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This state money augments \$5,000,000 of existing authority for this project.

School of Journalism Building, UM-Missoula	500,000	
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This state money augments \$12,000,000 of existing authority for this project.

VisComm Black Box Theater, MSU-Bozeman	2,750,000	Federal Special Revenue, Donations, Grants, and Higher Education Funds
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Authority is granted to the department of administration in the indicated amount for the purpose of constructing the new viscomm black box theater.

Animal Bioscience Building, MSU-Bozeman	7,500,000	Federal Special Revenue, Donations, Grants, and Higher Education Funds
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Authority is granted to the department of administration in the indicated amount for the purpose of constructing the new animal bioscience building. This authority augments \$5,000,000 of existing authority for this capital improvement.

Museum of the Rockies, MSU-Bozeman	12,000,000	Federal Special Revenue, Donations, Grants, and Higher Education Funds
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Authority is granted to the department of administration in the indicated amount for the purpose of constructing improvements to the museum of the rockies.

Native American Student Center, MSU-Bozeman	8,000,000	Federal Special Revenue, Donations, Grants, and Higher Education Funds
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Authority is granted to the department of administration in the indicated amount for the purpose of constructing the new Native American student center.

#### DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

Facility Improvements, Montana State Hospital, Warm Springs	592,523	
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Facility Improvements, Montana Developmental Center, Boulder	218,044	
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Demolish Abandoned Buildings, Public Health and Human Services	1,741,250	
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Stabilize Old Administration Building, Montana Developmental Center, Boulder	179,100	
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Housing for High-Risk Behaviors	2,529,290	
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Special Care Unit Renovations, Eastern Montana Veterans' Home, Glendive	475,000	State Special Revenue
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Facility Renovation and Improvements, Montana Veterans' Home, Columbia Falls	465,000	State Special Revenue
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Construct Chapel, Montana State Hospital, Warm Springs	350,000	Donations and Grants
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Authority is granted to the department of administration in the indicated amount for the purpose of constructing the chapel at the Montana state hospital in Warm Springs.

## DEPARTMENT OF TRANSPORTATION

Equipment Storage Buildings, Statewide	635,000	State Special Revenue
Chiller/Cooling Towers Replacement, Helena Headquarters	350,000	State Special Revenue
Office Addition, Billings	500,000	State Special Revenue

## DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

Replace Clearwater Unit Fire Cache	248,750	
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## OFFICE OF THE GOVERNOR

Historic and Cultural Properties Interim Study	20,000	
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(2) (a) For the purpose of constructing a privately funded chapel at the Montana state hospital in Warm Springs, the department of administration may waive, in whole or in part, the requirements pertaining to:

- (i) bidding and bonding for state building projects in Title 18;
- (ii) labor requirements in Title 18; and
- (iii) contractor registration in Title 39.

(b) The waiver pursuant to subsection (2)(a) may be exercised in the following circumstances:

- (i) to obtain the volunteer services and donated materials from members of the public, civic organizations, and other entities;
- (ii) to obtain the compensated services of contractors who are donating significant amounts of labor, time, and materials; and
- (iii) to meet the terms and conditions for receipt of major sums of money from private or public funding sources, including individual donations.

(3) (a) For the purpose of selling the Jocko fish hatchery to the Confederated Salish and Kootenai tribes and in exchange for constructing and improving the fish hatchery at the Rose Creek hatchery, the department of fish, wildlife, and parks may waive, in whole or in part, the requirements pertaining to:

- (i) public bids for land disposal in 87-1-209(3); and
- (ii) the real property trust fund in 87-1-601.

(b) The waiver pursuant to subsection (3)(a) may be exercised only under the circumstances described in subsection (3)(a). The waiver does not affect the department's requirement to obtain full market value pursuant to Article X, section 11, of the Montana constitution.

(4) *It is the intent of the legislature that the department of administration plan and construct a Montana historical society building at the 6th avenue and Roberts street site in Helena, Montana, with the remaining balance of the \$7.5 million of bonds authorized in Chapter 499, Laws of 2005, and the \$30 million in donation and grant authority in this section.*

**Section 21. Codification instruction.** [Sections 17 through 19] are intended to be codified as an integral part of Title 90, chapter 4, part 6, and the provisions of Title 90, chapter 4, part 6, apply to [sections 17 through 19].

**Section 22. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

**Section 23. Effective date.** [This act] is effective on passage and approval.

**Section 24. Retroactive applicability.** [Section 18] applies retroactively, within the meaning of 1-2-109, to May 2, 2005.

Approved May 10, 2009

## CHAPTER NO. 479

[HB 130]

AN ACT 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.

WHEREAS, the 2007 Legislature passed House Joint Resolution No. 26, requesting an interim legislative study to examine diversion of mentally ill adults from the justice system, and House Joint Resolution No. 50, requesting a study to examine county precommitment costs related to involuntary commitment proceedings; and

WHEREAS, these studies were assigned to the Law and Justice Interim Committee; and

WHEREAS, after 14 months of testimony and examination of data and information from all stakeholders, the Law and Justice Interim Committee identified crisis intervention and jail diversion to be the most critical need and the most effective way to divert mentally ill individuals from the criminal justice system and recommends this bill as part of a package of bills to address this need; and

WHEREAS, the lack of local crisis intervention and jail diversion alternatives means counties must rely on the Montana State Hospital for emergency and court-ordered detention and evaluation, which increases county costs, strains the Montana State Hospital, and diverts resources from community-based services; and

WHEREAS, sections 53-21-138 and 53-21-139, MCA, originally enacted by the 1991 Legislature, provide a solid statutory framework for diversion of mentally ill adults from the justice system but do not provide state funding; and

WHEREAS, state matching funds granted to counties based on certain criteria, including the commitment of county and other local funds, is an appropriate way to share costs and provide incentives for local resources to be spent on community-based treatment capacity rather than on jail capacity or on transportation to and capacity in the Montana State Hospital; and

WHEREAS, crisis intervention team training and collaboration between local law enforcement officers, mental health professionals, and private corporations can offer creative solutions that should be encouraged and sustained; and

WHEREAS, counties should be encouraged to participate in a county self-insurance pool to help pay for unpredictable and sometimes financially catastrophic precommitment costs.

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

**Section 1. State matching fund grants for county crisis intervention, jail diversion, precommitment, and short-term inpatient**

**treatment costs.** (1) As soon as possible after July 1 of each year, from funds appropriated by the legislature for the purposes of this section, the department shall grant to each eligible county state matching funds for:

(a) jail diversion and crisis intervention services to implement 53-21-138 and 53-21-139;

(b) insurance coverage against catastrophic precommitment costs, if a county insurance pool is established pursuant to 2-9-211; and

(c) short-term inpatient treatment.

(2) Grant amounts must be based on available funding and the prospects that a county or multicounty plan submitted pursuant to subsection (3) will, if implemented, reduce admissions to the state hospital for emergency and court-ordered detention and evaluation and ultimately result in cost savings to the state. The department shall develop a sliding scale for state grants based upon the historical county use of the state hospital with a high-use county receiving a lower percentage of matching funds. The sliding scale must be based upon the number of commitments by county compared to total commitments and upon the population of each county compared to the state population.

(3) In order to be eligible for the state matching funds, a county shall, in the time and manner prescribed by the department:

(a) apply for the funds and include in the grant application a detailed plan for how the county and other local entities will collaborate and commit local funds for the mental health services listed in subsection (1);

(b) develop and submit to the department a county or multicounty jail diversion and crisis intervention services strategic plan pursuant to 53-21-138 and 53-21-139, including a plan for community-based or regional emergency and court-ordered detention and examination services and short-term inpatient treatment;

(c) participate in a statewide or regional county insurance plan for precommitment costs under 53-21-132, if a statewide or regional insurance plan has been established, as authorized under 2-9-211;

(d) participate in a statewide or regional jail suicide prevention program, if one has been established by the department for the state or for the region in which the county is situated; and

(e) collect and report data and information on county jail diversion, crisis intervention, and short-term inpatient treatment services in the form and manner prescribed by the department to support program evaluation and measure progress on performance goals.

(4) The department shall adopt rules by August 1, 2009, to implement the provisions of this section.

**Section 2. Implementation — report.** (1) Implementation of the grant program established in [section 1] may be conducted in phases. However, it is the legislature's intent that the grant program be fully implemented by no later than September 1, 2009.

(2) Upon request, the department shall report to the law and justice interim committee established in 5-5-226 on the implementation status of [section 1].

**Section 3. Codification instruction — instructions to code commissioner.** (1) [Section 1] is intended to be codified as an integral part of Title 53, chapter 21, and the provisions of Title 53, chapter 21, apply to [section 1].

(2) Sections 53-21-138 and 53-21-139 are intended to be renumbered and codified with [section 1] as an integral new part of Title 53, chapter 21.

**Section 4. Coordination instruction.** If both House Bill No. 645 and [this act] are passed and approved and if House Bill No. 645 does not include line item funding for a community mental health crisis services demonstration project for the purposes of [this act], then [this act] is void.

**Section 5. Effective dates.** (1) Except as provided in subsection (2), [this act] is effective July 1, 2009.

(2) [Sections 1(4) and 4 and this section] are effective on passage and approval.

Approved May 9, 2009

## CHAPTER NO. 480

[HB 131]

AN ACT 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.

WHEREAS, the 2007 Legislature passed House Joint Resolution No. 26, requesting an interim legislative study to examine diversion of mentally ill adults from the justice system, and House Joint Resolution No. 50, requesting an interim legislative study to examine county precommitment costs related to involuntary commitment proceedings; and

WHEREAS, these studies were assigned to the Law and Justice Interim Committee; and

WHEREAS, this bill is one in a package of bills recommended by the Law and Justice Interim Committee to address diversion of mentally ill adults from the justice system to appropriate treatment; and

WHEREAS, the Law and Justice Interim Committee found that one of the biggest challenges to diverting mentally ill individuals from the justice system is a lack of community-based mental health treatment beds; and

WHEREAS, 63% of admissions to the Montana State Hospital, whose daily census routinely exceeds its licensed capacity of 189, are for emergency and court-ordered detention and evaluation; and

WHEREAS, 38% of emergency and court-ordered admissions to the Montana State Hospital do not result in commitments; and

WHEREAS, it is preferable for these psychiatric services to be provided locally and without fiscal pressure driving treatment decisions or decisions about whether to file an involuntary commitment petition; and

WHEREAS, the costs for local hospitals to provide psychiatric treatment services is very high and counties help pay some of these costs only after an involuntary commitment petition has been filed and only in an amount that would have been paid by a public assistance program; and

WHEREAS, these high unrecoverable costs can deter hospitals from providing community-based psychiatric treatment beds; and

WHEREAS, current involuntary commitment laws and funding mechanisms create tensions between mental health professionals concerned

about the medical necessity for treatment, hospitals concerned that county funding is available only after an involuntary commitment petition is filed, county attorneys concerned that medical necessity is not necessarily legal sufficiency for an involuntary commitment petition, and county commissioners concerned about county costs after a commitment petition is filed; and

WHEREAS, some mental health facilities may be able to provide inpatient psychiatric services at lower cost by providing services in a nonhospital mental health facility or through a telepsychiatry linkage with a psychiatric unit at a community hospital or with the Montana State Hospital; and

WHEREAS, by contracting with private providers for dedicated local or regional psychiatric treatment beds at rates that would help subsidize county funding and reduce the risks to private providers, the state can become a partner in fostering creative local solutions that reduce emergency admissions to the Montana State Hospital.

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

**Section 1. Department to contract for detention beds — rulemaking.** (1) To the extent funding is appropriated for the purposes of this section, for each service area, as defined in 53-21-1001, the department shall contract with a mental health facility for psychiatric treatment beds that may be used for:

(a) inpatient crisis intervention services needed prior to an involuntary commitment petition being filed; and

(b) emergency detention under 53-21-129 and court-ordered detention under 53-21-124 after an involuntary commitment petition has been filed but before final disposition.

(2) Contracting pursuant to this section must take into consideration county strategic plans developed pursuant to 53-21-138 and 53-21-139 and local need for precommitment and short-term inpatient treatment services.

(3) Each contract must provide that for payment of costs for detention, evaluation, and treatment pursuant to subsection (1), the facility shall bill for payment of costs in the order of priority provided for under 53-21-132(2)(a).

(4) Each contract must require the collection and reporting of fiscal and program data in the time and manner prescribed by the department to support program evaluation and measure progress on performance objectives. The department shall establish baseline data on emergency and court-ordered detention admissions to the state hospital from each county and analyze the effect of contracting under this section on state hospital admissions.

(5) The department shall adopt rules to implement this section.

**Section 2. Implementation — report.** (1) The provisions of [section 1] may be implemented in phases. However, it is the legislature's intent that contracted beds be operational in at least one service area by no later than July 1, 2010, and that full implementation be completed by no later than July 1, 2011.

(2) Upon request, the department shall report to the law and justice interim committee established in 5-5-226 on the implementation status of contracting under [section 1].

**Section 3. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 53, chapter 21, and the provisions of Title 53, chapter 21, apply to [section 1].

**Section 4. Coordination instruction.** If both House Bill No. 645 and [this act] are passed and approved and if House Bill No. 645 does not include line item funding for a community mental health crisis services demonstration project for the purposes of [this act], then [this act] is void.

**Section 5. Effective dates.** (1) Except as provided in subsection (2), [this act] is effective July 1, 2009.

(2) [Sections 1(5) and 4 and this section] are effective on passage and approval.

Approved May 9, 2009

## CHAPTER NO. 481

[HB 132]

AN ACT 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.

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

**Section 1.** Section 53-21-102, MCA, is amended to read:

**“53-21-102. Definitions.** As used in this ~~part~~ *chapter*, the following definitions apply:

(1) “Abuse” means any willful, negligent, or reckless mental, physical, sexual, or verbal mistreatment or maltreatment or misappropriation of personal property of any person receiving treatment in a mental health facility that insults the psychosocial, physical, or sexual integrity of any person receiving treatment in a mental health facility.

(2) “Behavioral health inpatient facility” means a facility or a distinct part of a facility of 16 beds or less licensed by the department that is capable of providing secure, inpatient psychiatric services, including services to persons with mental illness and co-occurring chemical dependency.

(3) “Board” or “mental disabilities board of visitors” means the mental disabilities board of visitors created by 2-15-211.

(4) “Commitment” means an order by a court requiring an individual to receive treatment for a mental disorder.

(5) “Court” means any district court of the state of Montana.

(6) “Department” means the department of public health and human services provided for in 2-15-2201.

(7) “Emergency situation” means a situation in which any person is in imminent danger of death or bodily harm from the activity of a person who appears to be suffering from a mental disorder and appears to require commitment.

(8) “Friend of respondent” means any person willing and able to assist a person suffering from a mental disorder and requiring commitment or a person alleged to be suffering from a mental disorder and requiring commitment in dealing with legal proceedings, including consultation with legal counsel and

others. The friend of respondent may be the next of kin, the person's conservator or legal guardian, if any, representatives of a charitable or religious organization, or any other person appointed by the court to perform the functions of a friend of respondent set out in this part. Only one person may at any one time be the friend of respondent within the meaning of this part. In appointing a friend of respondent, the court shall consider the preference of the respondent. The court may at any time, for good cause, change its designation of the friend of respondent.

(9) (a) "Mental disorder" means any organic, mental, or emotional impairment that has substantial adverse effects on an individual's cognitive or volitional functions.

(b) The term does not include:

- (i) addiction to drugs or alcohol;
- (ii) drug or alcohol intoxication;
- (iii) mental retardation; or
- (iv) epilepsy.

(c) A mental disorder may co-occur with addiction or chemical dependency.

(10) "Mental health facility" or "facility" means the state hospital, the Montana mental health nursing care center, or a hospital, a behavioral health inpatient facility, a mental health center, a residential treatment facility, or a residential treatment center licensed or certified by the department that provides treatment to children or adults with a mental disorder. A correctional institution or facility or jail is not a mental health facility within the meaning of this part.

(11) "Mental health professional" means:

- (a) a certified professional person;
- (b) a physician licensed under Title 37, chapter 3;
- (c) a professional counselor licensed under Title 37, chapter 23;
- (d) a psychologist licensed under Title 37, chapter 17;
- (e) a social worker licensed under Title 37, chapter 22; or
- (f) an advanced practice registered nurse, as provided for in 37-8-202, with a clinical specialty in psychiatric mental health nursing.

(12) (a) "Neglect" means failure to provide for the biological and psychosocial needs of any person receiving treatment in a mental health facility, failure to report abuse, or failure to exercise supervisory responsibilities to protect patients from abuse and neglect.

(b) The term includes but is not limited to:

- (i) deprivation of food, shelter, appropriate clothing, nursing care, or other services;
- (ii) failure to follow a prescribed plan of care and treatment; or
- (iii) failure to respond to a person in an emergency situation by indifference, carelessness, or intention.

(13) "Next of kin" includes but is not limited to the spouse, parents, adult children, and adult brothers and sisters of a person.

(14) "Patient" means a person committed by the court for treatment for any period of time or who is voluntarily admitted for treatment for any period of time.

(15) "Peace officer" means any sheriff, deputy sheriff, marshal, police officer, or other peace officer.

(16) "Professional person" means:

(a) a medical doctor;

(b) an advanced practice registered nurse, as provided for in 37-8-202, with a clinical specialty in psychiatric mental health nursing;

(c) a licensed psychologist; or

(d) a person who has been certified, as provided for in 53-21-106, by the department.

(17) "Reasonable medical certainty" means reasonable certainty as judged by the standards of a professional person.

(18) "Respondent" means a person alleged in a petition filed pursuant to this part to be suffering from a mental disorder and requiring commitment.

(19) "State hospital" means the Montana state hospital."

**Section 2.** Section 53-21-122, MCA, is amended to read:

**"53-21-122. Petition for commitment — filing of — initial hearing on.**

(1) The petition must be filed with the clerk of court, who shall immediately notify the judge.

(2) The judge shall consider the petition. If the judge finds no probable cause, the petition must be dismissed. If the judge finds probable cause and the respondent does not have private counsel present, the judge may order the office of state public defender, provided for in 47-1-201, to immediately assign counsel for the respondent, and the respondent must be brought before the court with the respondent's counsel. The respondent must be advised of the respondent's constitutional rights, the respondent's rights under this part, and the substantive effect of the petition. *The respondent must also be advised that the professional person appointed to conduct the examination under 53-21-123 will include in the professional person's report a recommendation about whether the respondent should be diverted from involuntary commitment to short-term inpatient treatment provided for in [sections 5 and 6].* The respondent may at this appearance object to the finding of probable cause for filing the petition. The judge shall appoint a professional person and a friend of respondent and set a date and time for the hearing on the petition that may not be on the same day as the initial appearance and that may not exceed 5 days, including weekends and holidays, unless the fifth day falls upon a weekend or holiday and unless additional time is requested on behalf of the respondent. The desires of the respondent must be taken into consideration in the appointment of the friend of respondent.

(3) If a judge is not available in the county in person, the clerk shall notify a resident judge by telephone and shall read the petition to the judge. The judge may do all things necessary through the clerk of court by telephone as if the judge were personally present, including ordering the office of state public defender, provided for in 47-1-201, to immediately provide assigned counsel. The judge, through the clerk of court, may also order that the respondent be brought before a justice of the peace with the respondent's counsel to be advised of the respondent's constitutional rights, the respondent's rights under this part, and the contents of the order, as well as to furnish the respondent with a copy of the order. *The respondent must also be advised that the professional person appointed to conduct the examination under 53-21-123 will include in the professional person's report a recommendation about whether the respondent*



*should be diverted from involuntary commitment to short-term inpatient treatment provided for in [sections 5 and 6].* The justice of the peace shall ascertain the desires of the respondent with respect to the assignment of counsel or the hiring of private counsel, pursuant to 53-21-116 and 53-21-117, and this information must be immediately communicated to the resident judge.”

**Section 3.** Section 53-21-123, MCA, is amended to read:

**“53-21-123. Examination of respondent following initial hearing — recommendation of professional person.** (1) Following the initial hearing, whether before a judge or justice of the peace, the respondent must be examined by the professional person without unreasonable delay. The examination may not exceed a period of 4 hours. The professional person shall immediately notify the county attorney of the findings in person or by phone and shall make a written report of the examination to the court, with copies to the respondent’s attorney and the county attorney.

(2) (a) *The professional person shall include in the report a recommendation about whether the respondent should be diverted from involuntary commitment to short-term inpatient treatment provided for under [sections 5 and 6].*

(b) If the professional person recommends commitment, the professional person’s written report must contain a statement of the professional person’s recommendations to the court for disposition under 53-21-127.

~~(2)~~(3) The following action must be taken based on the professional person’s findings:

(a) If the professional person recommends dismissal, the professional person shall additionally notify counsel and the respondent must be released and the petition dismissed. However, the county attorney may, upon good cause shown, request the court to order an additional, but no more than one, examination by a different professional person for a period of no more than 4 hours.

(b) *If the professional person recommends diversion from involuntary commitment to short-term inpatient treatment, the court shall suspend the commitment hearing unless the county attorney or the respondent’s attorney objects within 24 hours of receiving notice of the professional person’s recommendation.*

(c) If the court finds that commitment proceedings should continue, the hearing must be held as scheduled.

~~(3)~~(4) The court may not order further evaluation pending the hearing unless sound medical reasons require additional time for a complete evaluation. The reasons must be set forth in the order, along with the amount of additional time needed.”

**Section 4.** Section 53-21-162, MCA, is amended to read:

**“53-21-162. Establishment of patient treatment plan — patient’s rights.** (1) Each patient admitted as an inpatient to a mental health facility must have a comprehensive physical and mental examination and review of behavioral status within 48 hours after admission to the mental health facility, *except as provided in [section 6].*

(2) Each patient must have an individualized treatment plan. This plan must be developed by appropriate professional persons, including a psychiatrist, and must be implemented no later than 10 days after the patient’s admission, *except as provided in [section 6].* Each individualized treatment plan must contain:

(a) a statement of the nature of the specific problems and specific needs of the patient;

(b) a statement of the least restrictive treatment conditions necessary to achieve the purposes of hospitalization;

(c) a description of treatment goals, with a projected timetable for their attainment;

(d) a statement and rationale for the plan of treatment for achieving these goals;

(e) a specification of staff responsibility for attaining each treatment goal;

(f) criteria for release to less restrictive treatment conditions; and

(g) a notation of any therapeutic tasks and labor to be performed by the patient.

(3) Overall development, implementation, and supervision of the treatment plan must be assigned to an appropriate professional person.

(4) The inpatient mental health facility shall periodically reevaluate the patient and revise the individualized treatment plan based on changes in the patient's condition. At a minimum, the treatment plan must be reviewed:

(a) at the time of any transfer within the facility;

(b) at the time of discharge;

(c) upon any major change in the patient's condition;

(d) at the conclusion of the initial estimated length of stay and subsequent estimated lengths of stay;

(e) no less than every 90 days; and

(f) at each of the times specified in subsections (4)(a) through (4)(e), by a treatment team that includes at least one professional person who is not primarily responsible for the patient's treatment plan.

(5) A patient has the right:

(a) to ongoing participation, in a manner appropriate to the patient's capabilities, in the planning of mental health services to be provided and in the revision of the plan;

(b) to a reasonable explanation of the following, in terms and language appropriate to the patient's condition and ability to understand:

(i) the patient's general mental condition and, if given a physical examination, the patient's physical condition;

(ii) the objectives of treatment;

(iii) the nature and significant possible adverse effects of recommended treatments;

(iv) the reasons why a particular treatment is considered appropriate;

(v) the reasons why access to certain visitors may not be appropriate; and

(vi) any appropriate and available alternative treatments, services, or providers of mental health services; and

(c) not to receive treatment established pursuant to the treatment plan in the absence of the patient's informed, voluntary, and written consent to the treatment, except treatment:

(i) during an emergency situation if the treatment is pursuant to or documented contemporaneously by the written order of a responsible mental health professional; or

(ii) permitted under the applicable law in the case of a person committed to a facility by a court.

(6) In the case of a patient who lacks the capacity to exercise the right to consent to treatment described in subsection (5)(c), the right must be exercised on behalf of the patient by a guardian appointed pursuant to the provisions of Title 72, chapter 5.

(7) The department shall develop procedures for initiating limited guardianship proceedings in the case of a patient who appears to lack the capacity to exercise the right to consent described in subsection (5)(c)."

**Section 5. Short-term inpatient treatment — process — placement — length — conditions for proceeding with commitment hearing.** (1) When a commitment hearing has been suspended pursuant to 53-21-123(3)(b) so that the respondent may be diverted to short-term inpatient treatment, the professional person who conducted the examination shall, with the concurrence of the county attorney, recommend to the court an appropriate placement in a mental health facility with available short-term treatment beds.

(2) Short-term inpatient treatment may not exceed 14 days, except pending a commitment hearing scheduled pursuant to subsection (5).

(3) Subject to the provisions of this section, a respondent may be released before completing 14 days of treatment if the professional person responsible for the respondent's treatment plan determines that the respondent no longer requires inpatient treatment. However, the county attorney and the respondent's attorney must be notified at least 24 hours before a respondent is released.

(4) When a respondent is released, the professional person shall notify the court and the court shall dismiss the commitment petition.

(5) The court must be notified and shall proceed with a commitment hearing within 5 business days of receiving notice of any of the following circumstances:

(a) the professional person responsible for the respondent's treatment plan determines that the respondent should not be released after 14 days of treatment because, in the professional person's judgment, an emergency situation would exist if the respondent were released;

(b) the respondent refuses treatment;

(c) the respondent's attorney requests the respondent's release before the 14-day treatment period is completed; or

(d) the county attorney objects to the respondent's release within 24 hours of being notified of the respondent's pending release as required in subsection (3).

**Section 6. Treatment and discharge plan — safety — rights.** (1) For each respondent admitted as an inpatient to a mental health facility for short-term inpatient treatment pursuant to [sections 5 and 6], the provisions of 53-21-162 and 53-21-180 apply, except as follows:

(a) the comprehensive physical and mental examination and review of behavioral status must be completed within 24 hours of admission;

(b) the individualized treatment plan must be implemented no later than 3 days after the admission; and

(c) a discharge plan must be developed prior to discharge.

(2) Short-term inpatient treatment must be provided in a manner that considers the safety of the respondent, other patients, staff, and the general public.

(3) A respondent in a mental health facility for short-term inpatient treatment is entitled to all of the rights and protections provided in part 1 of this chapter.

**Section 7.** Section 53-21-1001, MCA, is amended to read:

**“53-21-1001. Definitions.** As used in this part, the following definitions apply:

(1) “Community mental health center” means a licensed mental health center that provides comprehensive public mental health services in a multicounty region under contract with the department, counties, or one or more service area authorities.

~~(2) “Department” means the department of public health and human services as provided for in 2-15-2201.~~

~~(3)~~(2) “Licensed mental health center” means an entity licensed by the department of public health and human services to provide mental health services and has the same meaning as mental health center as defined in 50-5-101.

~~(4)~~(3) “Service area” means a region of the state as defined by the department by rule within which mental health services are administered.

~~(5)~~(4) “Service area authority” means an entity, as provided for in 53-21-1006, that has incorporated to collaborate with the department for the planning and oversight of mental health services within a service area.”

**Section 8. Report.** Upon request, the department shall report to the law and justice interim committee established in 5-5-226 on the use of the short-term inpatient treatment process established in [sections 5 and 6].

**Section 9. Codification instruction.** [Sections 5 and 6] are intended to be codified as an integral part of Title 53, chapter 21, and the provisions of Title 53, chapter 21, apply to [sections 5 and 6].

**Section 10. Effective date.** [This act] is effective July 1, 2009.

Approved May 9, 2009

## CHAPTER NO. 482

[HB 331]

AN ACT 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.

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

**Section 1.** Section 50-50-103, MCA, is amended to read:

**“50-50-103. Department authorized to adopt rules — advisory council.** (1) To protect public health, the department may adopt rules relating to the operation of establishments defined in 50-50-102, including coverage of food, personnel, food equipment and utensils, sanitary facilities and controls, construction and fixtures, and housekeeping.

(2) (a) The department and local health authorities may not adopt rules prohibiting the sale of baked goods and preserves by nonprofit organizations or by persons at farmer's markets.

(b) The department and local health authorities may not require that foods sold pursuant to this subsection (2) be prepared in certified or commercial kitchens.

(3) (a) The department shall ~~use~~ *establish* a food safety task force or advisory council to assist in the development of administrative rules or *to review any proposed legislation related to the provisions of this chapter.*

(b) The task force or advisory council must be composed of equal numbers of representatives of the food establishments and representatives of state and local government.

(c) ~~Administrative~~ *The department shall present administrative rules and any legislation to be proposed by the department must be presented to the task force or advisory council prior to its proposal or introduction. When the department learns of proposed legislation related to the provisions of this chapter that has not been proposed by the department, the department shall provide copies of that legislation for review by the task force or advisory council and shall provide to the legislature any comments of the task force or advisory council.*"

**Section 2.** Section 50-50-205, MCA, is amended to read:

**"50-50-205. License fee — late fee — preemption of local authority — exception.** (1) (a) ~~Except as provided in subsection (1)(b), for each license issued, the~~ *The department shall collect for each license issued or renewed a fee of \$90 as provided in subsection (1)(b). It shall deposit 90% of* ~~Of the fees collected under this section, 90% must be deposited into the local board inspection fund account created in 50-2-108, 5% of the fees into the general fund, and 5% of the fees into the account provided for in 50-50-216.~~

~~(b) For each license issued to an establishment that does not have more than two employees working at any one time, the department shall collect a fee of \$60, which must be deposited in accordance with the percentages provided in subsection (1)(a).~~

(b) *License fees are:*

(i) *\$85 for each license issued to an establishment that does not have more than two employees working at any one time; and*

(ii) *\$115 for establishments not referred to in subsection (1)(b)(i).*

(2) (a) In addition to the license fee required under subsection (1), the department shall collect a late fee of \$25 from any licensee who has failed to submit a license renewal fee prior to the expiration of the licensee's current license and who operates an establishment governed by this part in the next licensing year.

(b) The late fee is ~~\$25 and~~ must be deposited in the account provided for in 50-50-216.

(3) A county or other local government may not impose an inspection fee or charge in addition to the fee provided for in subsection (1) unless a violation of this chapter or rule persists and is not corrected after two visits to the establishment.

(4) The fees in subsections (1) and (2) may be paid by credit card and may be discounted for payment processing charges paid by the department to a third

party. However, the discounting of license fees may not reduce the fees paid into the local board inspection fund account established in 50-2-108.”

**Section 3.** Section 50-51-204, MCA, is amended to read:

**“50-51-204. License fee — late fee.** (1) ~~(a) There shall be paid to the department with each application for such~~ *The department shall collect fees for each license required under 50-51-201 or for each annual license renewal of such license an annual license fee of \$40 as provided in subsection (1)(b).* 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.

(b) *Initial and renewal license fees are:*

(i) *\$40 annually for an establishment with no more than 10 rooms available for rental;*

(ii) *\$80 annually for an establishment with more than 10 but not more than 25 rooms available for rental; and*

(iii) *\$160 annually for an establishment with more than 25 rooms available for rental.*

(2) (a) In addition to the license *renewal* fee required under subsection (1), the department shall collect a late fee of \$25 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.

(b) ~~The late fee is \$25 and~~ must be deposited in the account provided for in 50-51-110.”

**Section 4.** Section 50-52-202, MCA, is amended to read:

**“50-52-202. License fee — late fee.** (1) (a) Each application ~~shall~~ *for a new license required under 50-52-103 or a license renewal must be accompanied by a fee of \$40 as provided in subsection (1)(b).*

(b) *License fees are:*

(i) *\$40 annually for a campground or trailer court with no more than 10 spaces available for rental;*

(ii) *\$60 annually for a campground or trailer court with more than 10 but not more than 25 spaces available for rental; and*

(iii) *\$120 annually for a campground or trailer court with more than 25 spaces available for rental.*

(2) ~~The~~ *Of the fees collected under subsection (1), 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) (a) In addition to the license *renewal* fee required under subsection (1), the department shall collect a late fee of \$25 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.

(b) ~~The late fee is \$25 and~~ must be deposited in the account provided for in 50-52-210.”

**Section 5.** Section 50-57-205, MCA, is amended to read:

**“50-57-205. License fee — late renewal fee — allocation of fees.** (1) For each annual license issued *or renewed*, the department shall collect a fee of ~~\$90~~. ~~For an operation containing an establishment and a retail food establishment, as provided in 50-57-201(3), the department shall collect one fee of \$90 for each license of \$115.~~

~~(2)~~(2) A person operating an establishment who fails to renew a license by the expiration date provided in 50-57-206 and who operates the establishment in the license year for which an annual renewal fee was not paid shall, upon renewal, pay to the department a late renewal fee of \$25 in addition to the annual renewal fee required by subsection ~~(1)~~ (1). Payment of the late renewal fee does not relieve the operator of responsibility for operating without a license.

~~(3)~~(3) The department shall deposit the annual fees collected under subsection ~~(1)~~ (1) as follows:

(a) 90% into the state special revenue fund to the credit of the local board inspection fund account, created in 50-2-108;

(b) 5% into the general fund; and

(c) 5% into the account created in 50-57-213 in the state special revenue fund.

~~(4)~~(4) The department shall deposit all of the fees collected under subsection ~~(2)~~ (2) into the account created by 50-57-213 in the state special revenue fund.”

**Section 6. Effective date.** [This act] is effective on passage and approval.

Approved May 10, 2009

## CHAPTER NO. 483

[HB 658]

AN ACT 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.

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

**Section 1.** Section 7-15-4285, MCA, is amended to read:

**“7-15-4285. Determination and report of original, actual, and incremental taxable values.** The department of revenue shall, immediately upon receipt of the a qualified tax increment provision and each succeeding year, calculate and report to the municipality and to any other affected taxing body in accordance with Title 15, chapter 10, part 2, the base, actual, and incremental taxable values of the property.”

**Section 2.** 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~~ \$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 for at least 7 months a year as the 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 one or more qualified claimants:

(i) for tax year 2009, whose federal adjusted gross income did not exceed the thresholds established in subsection (2)(b)(i); or

(ii) for tax years after tax year 2009, whose total household income did not exceed the thresholds established in subsection (2)(b)(i).

(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%~~ 2.93% of its taxable market value in tax year ~~2005~~ 2009;

(ii) ~~3.14%~~ 2.82% of its taxable market value in tax year ~~2006~~ 2010;

(iii) ~~3.07%~~ 2.72% of its taxable market value in tax year ~~2007~~ 2011;

(iv) 2.63% of its taxable market value in tax year 2012;

(v) 2.54% of its taxable market value in tax year 2013; and

~~(iv)~~(vi) ~~3.01%~~ 2.47% of its taxable market value in tax years after ~~2007~~ 2013.

(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 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 \$6,000	\$0 - \$8,000 \$8,000	20%
\$6,001 - \$9,200 \$6,001 \$9,200	\$8,001 - \$14,000 \$8,001 \$14,000	50%
\$9,201 - \$15,000 \$9,201 \$15,000	\$14,001 - \$20,000 \$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~~ 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)~~(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 income 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) For the purposes of subsection (1)(c), total household income is the income as reported on the tax return or returns required by chapter 30 or 31 for the year in which the assistance is being claimed excluding losses, depletion, and depreciation and before any federal or state adjustments to income. In cases in which the claimant is not required to file a tax return under chapter 30 or 31, household income means the household’s total income as it would have been calculated under this subsection (4)(b) if the claimant had been required to file a return.

(c) The combined income of two or more owners who are qualified claimants:

(i) may not exceed the married couple and head of household thresholds provided in subsection (2)(b); and

(ii) determines the amount of tax reduction under subsection (2)(b).”

**Section 3.** Section 15-6-143, MCA, is amended to read:

**“15-6-143. Class ten property — description — taxable percentage.**

(1) Class ten property includes all forest lands as defined in 15-44-102.

(2) Class ten property is taxed at 0.79% of its forest productivity value in tax year 1999, and the rate is reduced by 0.11% each year until the property is taxed at:

(a) for tax year 2009, ~~0.35%~~ 0.34% of its forest productivity value;

(b) for tax year 2010, 0.33% of its forest productivity value;

(c) for tax year 2011, 0.32% of its forest productivity value;

(d) for tax year 2012, 0.31% of its forest productivity value;

(e) for tax year 2013, 0.3% of its forest productivity value; and

(f) for tax years after 2013, 0.29% of its forest productivity value.”

**Section 4.** Section 15-6-193, MCA, is amended to read:

**“15-6-193. Extended property tax assistance — phasein.** (1) For the purpose of mitigating extraordinary market value increases during revaluation cycles that begin after December 31, 2008, the rate of taxation of ~~class four residential dwellings and appurtenant land not to exceed 5 acres otherwise set in 15-6-134(2)~~(a) qualified residences is adjusted in this section for properties with extraordinary increases in market value with owners that meet income requirements.

(2) An annual application on a form provided by the department is required to receive a tax rate adjustment under this section. The application must be

signed under oath. A tax rate adjustment may be granted only for the current tax year and may not be granted for a previous year.

(3) A rate adjustment may not be granted for:

(a) any property that was sold or for which the ownership was changed after December 31 of the last year of the previous revaluation cycle unless the change in ownership is between husband and wife or parent and child with only nominal actual consideration or the change is pursuant to a divorce decree;

(b) the value of new construction, including remodeling, on the property occurring after December 31 of the last year of the previous revaluation cycle that is greater than 25% of the market value of the improvements; or

(c) a land use change occurring after December 31 of the last year of the previous revaluation cycle that increases the market value of the land by more than 25%.

(4) For the purposes of determining the adjustment in the class four property tax rate in this section, the following provisions apply for revaluation cycles beginning after December 31, 2008:

~~(a) (i) The percentage increase in taxable value is measured as the percentage change in taxable value before reappraisal to the taxable value after reappraisal. The taxable value before reappraisal is calculated by multiplying the value before reappraisal times the result of 1.00 minus the homestead exemption before reappraisal times the tax rate before reappraisal. The taxable value after reappraisal is calculated by multiplying the market value after reappraisal times the result of 1.00 minus the homestead exemption after reappraisal times the tax rate after reappraisal.~~

~~(ii) The tax rate before reappraisal is the tax rate that was in effect during the last year of the previous reappraisal cycle.~~

~~(iii) The tax rate after reappraisal is the tax rate that will be in effect during the last year of the current reappraisal cycle.~~

~~(iv) The homestead exemption before reappraisal is the homestead exemption that was in effect during the last year of the previous reappraisal cycle.~~

~~(v) The homestead exemption after reappraisal is the homestead exemption that will be in effect during the last year of the current reappraisal cycle.~~

~~(b) The dollar increase in tax liability is measured as the percentage change in tax liability before reappraisal to the tax liability after reappraisal. The tax liability before reappraisal is calculated by multiplying the value before reappraisal times the result of 1.00 minus the homestead exemption before reappraisal times the tax rate before reappraisal times the mill levy applied to the property before reappraisal. The tax liability after reappraisal is calculated by multiplying the market value after reappraisal times the result of 1.00 minus the homestead exemption after reappraisal times the tax rate after reappraisal times the mill levy applied to the property before reappraisal. The mill levy applied to the property before reappraisal is the total of all mills applied to the property in the last year of the previous reappraisal cycle.~~

~~(c) Total household income is the sum of the income of all members of the household and all other persons who are owners of the property. Income, as used in this section, includes 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. Net business income is gross income less ordinary expenses but before deducting depreciation or depletion allowance, or~~

both. For an entity, as defined in subsection (8), income also includes the income of any natural person or entity that is a trustee of or controls 25% or more of the entity. A household is an association of persons who live in the same dwelling, sharing its furnishings, facilities, accommodations, and expenses. For single-family rental dwellings, total household income does not include the income of the tenant.

(d) The phase-in value is the valuation change made pursuant to 15-7-111(3) since the last reappraisal.

(5) (a) If total household income is \$25,000 or less, the percentage increase in taxable value is greater than 24%, and the dollar increase in taxable liability is \$250 or greater, then the property qualifies for an adjusted tax rate. The adjusted tax rate must be calculated such that the total increase in taxable value over the reappraisal cycle is 24% and such that the change in taxable value is phased in over the reappraisal cycle in equal increments.

(b) If total household income is greater than \$25,000 but less than or equal to \$50,000, the percentage increase in taxable value is greater than 30%, and the dollar increase in taxable liability is \$250 or greater, then the property qualifies for an adjusted tax rate. The adjusted tax rate must be calculated such that the total increase in taxable value over the reappraisal cycle is 30% and such that the change in taxable value is phased in over the reappraisal cycle in equal increments.

(c) If total household income is greater than \$50,000 but less than or equal to \$75,000, the percentage increase in taxable value is greater than 30%, and the dollar increase in taxable liability is \$250 or greater, then the property qualifies for an adjusted tax rate. The adjusted tax rate will be calculated such that the total increase in taxable value over the reappraisal cycle is 36% and such that the change in taxable value is phased in over the reappraisal cycle in equal increments.

(a) *The change in taxable value before reappraisal is the 2008 tax year value adjusted for any new construction or destruction that occurred in the 2008 tax year. The taxable value before reappraisal for the 2009 tax year and subsequent years is the same as the 2008 tax year value if no new construction, destruction, land splits, land use changes, land reclassifications, land productivity changes, improvement grade changes, or other changes are made to the property during 2008 or subsequent tax years.*

(b) *The percentage increase in taxable value is measured as the percentage change in taxable value before reappraisal to the taxable value after reappraisal. The taxable value before reappraisal is calculated by multiplying the value before reappraisal in 2009 times 0.66 times 0.0301. The taxable value after reappraisal is calculated by multiplying the 2009 market value after reappraisal times 0.53 times 0.0247.*

(c) *The dollar increase in tax liability is measured as the change in tax liability before reappraisal to the tax liability after reappraisal. The tax liability before reappraisal is calculated by multiplying the value before reappraisal in 2009 times 0.66 times 0.0301 times the tax year 2008 mill levy applied to the property. The tax liability after reappraisal is calculated by multiplying the 2009 market value after reappraisal times 0.53 times 0.0247 times the tax year 2008 mill levy applied to the property. The tax year 2008 mill levy is the total of all mills applied to the property for fiscal year 2009.*

(d) *Total household income is the sum of the income of all members of the household and all other persons who are owners of the property. Income, as used*

*in this section, includes 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. Net business income is gross income less ordinary expenses but before deducting depreciation or depletion allowance, or both. For an entity, as defined in subsection (8), income also includes the income of any natural person or entity that is a trustee of or controls 25% or more of the entity. A household is an association of persons who live in the same dwelling, sharing its furnishings, facilities, accommodations, and expenses. For single-family rental dwellings, total household income does not include the income of the tenant.*

*(e) The phase-in value is the valuation change made pursuant to 15-7-111(3) since the last reappraisal.*

*(5) (a) If total household income is \$25,000 or less, the percentage increase in taxable value is greater than 24%, and the dollar increase in taxable liability is \$250 or greater, then the property qualifies for an adjusted tax rate as follows:*

*(i) For tax year 2009, the tax rate is 0.03269 times the value before reappraisal divided by the 2009 phase-in value.*

*(ii) For tax year 2010, the tax rate is 0.03546 times the value before reappraisal divided by the 2010 phase-in value.*

*(iii) For tax year 2011, the tax rate is 0.03823 times the value before reappraisal divided by the 2011 phase-in value.*

*(iv) For tax year 2012, the tax rate is 0.04115 times the value before reappraisal divided by the 2012 phase-in value.*

*(v) For tax year 2013, the tax rate is 0.04374 times the value before reappraisal divided by the 2013 phase-in value.*

*(vi) For tax year 2014 and after, the tax rate is 0.04648 times the value before reappraisal divided by the 2014 phase-in value.*

*(b) If total household income is greater than \$25,000 but less than or equal to \$50,000, the percentage increase in taxable value is greater than 30%, and the dollar increase in taxable liability is \$250 or greater, then the property qualifies for an adjusted tax rate as follows:*

*(i) For tax year 2009, the tax rate is 0.03301 times the value before reappraisal divided by the 2009 phase-in value.*

*(ii) For tax year 2010, the tax rate is 0.03612 times the value before reappraisal divided by the 2010 phase-in value.*

*(iii) For tax year 2011, the tax rate is 0.03925 times the value before reappraisal divided by the 2011 phase-in value.*

*(iv) For tax year 2012, the tax rate is 0.04257 times the value before reappraisal divided by the 2012 phase-in value.*

*(v) For tax year 2013, the tax rate is 0.0456 times the value before reappraisal divided by the 2013 phase-in value.*

*(vi) For tax year 2014 and after, the tax rate is 0.04873 times the value before reappraisal divided by the 2014 phase-in value.*

*(c) If total household income is greater than \$50,000 but less than or equal to \$75,000, the percentage increase in taxable value is greater than 36%, and the dollar increase in taxable liability is \$250 or greater, then the property qualifies for an adjusted tax rate as follows:*

(i) For tax year 2009, the tax rate is 0.03332 times the value before reappraisal divided by the 2009 phase-in value.

(ii) For tax year 2010, the tax rate is 0.03678 times the value before reappraisal divided by the 2010 phase-in value.

(iii) For tax year 2011, the tax rate is 0.04028 times the value before reappraisal divided by the 2011 phase-in value.

(iv) For tax year 2012, the tax rate is 0.04399 times the value before reappraisal divided by the 2012 phase-in value.

(v) For tax year 2013, the tax rate is 0.04739 times the value before reappraisal divided by the 2013 phase-in value.

(vi) For tax year 2014 and after, the tax rate is 0.0598 times the value before reappraisal divided by the 2014 phase-in value.

(d) The adjusted tax rate computed under this subsection (5) must be rounded to the nearest 1/100 of 1%.

(6) A person who applies for a tax rate adjustment under this section shall provide the department with documentation of total household income and other information that the department considers necessary to determine the person's eligibility for the tax rate adjustment. Documents provided to the department to determine eligibility for a tax rate adjustment are subject to the confidentiality provisions in 15-30-303.

(7) A person who applies for a tax rate adjustment and submits a false or fraudulent application for a tax rate adjustment is guilty of false swearing under 45-7-202.

(8) For the purposes of this section,:

(a) "entity" means:

(~~a~~)*(i)* a corporation, fiduciary, or pass-through entity, as those terms are defined in 15-30-101; and

(~~b~~)*(ii)* an association, joint-stock company, syndicate, trust or estate, or any other nonnatural person; and

(b) "qualified residence" means any class four residential dwelling in Montana 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 actually occupied by itself or in combination with another class four residential dwelling in Montana for at least 7 months a year."

**Section 5.** Section 15-6-222, MCA, is amended to read:

**"15-6-222. Residential and commercial improvements — percentage of value exempt.** (1) (~~a~~) The *Except as provided in subsection (1)(b)*, the following percentage of the market value of residential property described in 15-6-134(1)(e) and (1)(f) is exempt from property taxation:

(~~a~~)*(i)* ~~32%~~ 36.8% for tax year ~~2005~~ 2009;

(~~b~~)*(ii)* ~~32.6%~~ 39.5% for tax year ~~2006~~ 2010;

(~~c~~)*(iii)* ~~33.2%~~ 41.8% for tax year ~~2007~~ 2011;

(iv) 44% for tax year 2012;

(v) 45.5% for tax year 2013;

(~~d~~)*(vi)* ~~34%~~ 47% for tax year ~~2008~~ 2014 and succeeding tax years.

(b) *For single-family residential dwellings, the exemption provided under subsection (1)(a) is applied to the first \$1.5 million or less in market value.*

(2) The following percentage of the market value of commercial property described in 15-6-134(1)(g) is exempt from property taxation:

- (a) ~~13.8%~~ 14.2% for tax year ~~2005~~ 2009;
- (b) ~~14.2%~~ 15.9% for tax year ~~2006~~ 2010;
- (c) ~~14.6%~~ 17.5% for tax year ~~2007~~ 2011;
- (d) 19% for tax year 2012;
- (e) 20.3% for tax year 2013;
- ~~(d)~~(f) 15% 21.5% for tax year ~~2008~~ 2014 and succeeding tax years.”

**Section 6.** Section 15-7-102, MCA, is amended to read:

**“15-7-102. Notice of classification and appraisal to owners — appeals.** (1) (a) Except as provided in 15-7-138, the department shall mail to each owner or purchaser under contract for deed a notice of the classification of the land owned or being purchased and the appraisal of the improvements on the land only if one or more of the following changes pertaining to the land or improvements have been made since the last notice:

- (i) change in ownership;
- (ii) change in classification;
- (iii) except as provided in subsection (1)(b), change in valuation; or
- (iv) addition or subtraction of personal property affixed to the land.

(b) After the first year, the department is not required to mail the notice provided for in subsection (1)(a)(iii) if the change in valuation is the result of an annual incremental change in valuation caused by the phasing in of a reappraisal under 15-7-111 or the application of the exemptions under 15-6-222 or caused by an incremental change in the tax rate.

(c) The notice must include the following for the taxpayer’s informational purposes:

(i) *a notice of the availability of all the property tax assistance programs available to property taxpayers, including the property tax assistance program under 15-6-134, the extended property tax assistance program under 15-6-193, the disabled or deceased veterans’ residence exemption under 15-6-211, and the residential property tax credit for the elderly under 15-30-171 through 15-30-179;*

~~(i)~~(ii) the total amount of mills levied against the property in the prior year; and

~~(ii)~~(iii) a statement that the notice is not a tax bill.

(d) Any misinformation provided in the information required by subsection (1)(c) does not affect the validity of the notice and may not be used as a basis for a challenge of the legality of the notice.

(2) (a) Except as provided in subsection (2)(c), the department shall assign each assessment to the correct owner or purchaser under contract for deed and mail the notice of classification and appraisal on a standardized form, adopted by the department, containing sufficient information in a comprehensible manner designed to fully inform the taxpayer as to the classification and appraisal of the property and of changes over the prior tax year.

(b) The notice must advise the taxpayer that in order to be eligible for a refund of taxes from an appeal of the classification or appraisal, the taxpayer is required to pay the taxes under protest as provided in 15-1-402.

(c) The department is not required to mail the notice of classification and appraisal to a new owner or purchaser under contract for deed unless the department has received the transfer certificate from the clerk and recorder as provided in 15-7-304 and has processed the certificate before the notices required by subsection (2)(a) are mailed. The department shall notify the county tax appeal board of the date of the mailing.

(3) If the owner of any land and improvements is dissatisfied with the appraisal as it reflects the market value of the property as determined by the department or with the classification of the land or improvements, the owner may request an assessment review by submitting an objection in writing to the department, on forms provided by the department for that purpose, within 30 days after receiving the notice of classification and appraisal from the department. The review must be conducted informally and is not subject to the contested case procedures of the Montana Administrative Procedure Act. As a part of the review, the department may consider the actual selling price of the property, independent appraisals of the property, and other relevant information presented by the taxpayer in support of the taxpayer's opinion as to the market value of the property. The department shall give reasonable notice to the taxpayer of the time and place of the review. After the review, the department shall determine the correct appraisal and classification of the land or improvements and notify the taxpayer of its determination. In the notification, the department shall state its reasons for revising the classification or appraisal. When the proper appraisal and classification have been determined, the land must be classified and the improvements appraised in the manner ordered by the department.

(4) Whether a review as provided in subsection (3) is held or not, the department may not adjust an appraisal or classification upon the taxpayer's objection unless:

(a) the taxpayer has submitted an objection in writing; and

(b) the department has stated its reason in writing for making the adjustment.

(5) A taxpayer's written objection to a classification or appraisal and the department's notification to the taxpayer of its determination and the reason for that determination are public records. The department shall make the records available for inspection during regular office hours.

(6) If any property owner feels aggrieved by the classification or appraisal made by the department after the review provided for in subsection (3), the property owner has the right to first appeal to the county tax appeal board and then to the state tax appeal board, whose findings are final subject to the right of review in the courts. The appeal to the county tax appeal board must be filed within 30 days after notice of the department's determination is mailed to the taxpayer. A county tax appeal board or the state tax appeal board may consider the actual selling price of the property, independent appraisals of the property, and other relevant information presented by the taxpayer as evidence of the market value of the property. If the county tax appeal board or the state tax appeal board determines that an adjustment should be made, the department shall adjust the base value of the property in accordance with the board's order."

**Section 7.** 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. 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 revaluation of class three, four, and ten property is complete on December 31, 2008. The amount of the change in valuation from the 2002 base year for each property in classes three, four, and ten must be phased in each year at the rate of 16.66% of the change in valuation.*

(4) *During the end of the second and fourth year of each revaluation cycle, the department shall provide the revenue and transportation interim committee with a sales assessment ratio study of residences to be used to allow the committee to be apprised of the housing market and value trends.*

(3)(5) 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~~ 2015, effective for January 1, ~~2009~~ 2015, 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 8.** Section 15-7-201, MCA, is amended to read:

**“15-7-201. Legislative intent — value of agricultural property.** (1) Because the market value of many agricultural properties is based upon speculative purchases that do not reflect the productive capability of agricultural land, it is the legislative intent that bona fide agricultural properties be classified and assessed at a value that is exclusive of values attributed to urban influences or speculative purposes.

(2) Agricultural land must be classified according to its use, which classifications include but are not limited to irrigated use, nonirrigated use, and grazing use.

(3) Within each class, land must be subclassified by production categories. Production categories are determined from the productive capacity of the land based on yield.

(4) In computing the agricultural land valuation schedules to take effect on the date when each revaluation cycle takes effect pursuant to 15-7-111, the department of revenue shall determine the productive capacity value of all agricultural lands using the formula  $V = I/R$  where:

(a) V is the per-acre productive capacity value of agricultural land in each land use and production category;

(b) I is the per-acre net income of agricultural land in each land use and production category and is to be determined as provided in subsection (5); and

(c) R is the capitalization rate and, unless the advisory committee recommends a different rate and the department adopts the recommended

capitalization rate by rule, is equal to 6.4%. This capitalization rate must remain in effect until the next revaluation cycle.

(5) (a) Net income must be determined separately in each land use based on production categories.

(b) Net income must be based on commodity price data, which may include grazing fees, crop and livestock share arrangements, cost of production data, and water cost data for the base period using the best available data.

(i) Commodity price data and cost of production data for the base period must be obtained from the Montana Agricultural Statistics, the Montana crop and livestock reporting service, and other sources of publicly available information if considered appropriate by the advisory committee.

(ii) Crop share and livestock share arrangements are based on typical agricultural business practices and average landowner costs.

(iii) Allowable water costs consist only of the per-acre labor costs, energy costs of irrigation, and, unless the advisory committee recommends otherwise and the department adopts the recommended cost by rule, a base water cost of ~~\$5.50~~ \$15 for each acre of irrigated land. Total allowable water costs may not exceed ~~\$40~~ \$50 for each acre of irrigated land. Labor and energy costs must be determined as follows:

(A) Labor costs are ~~zero~~ \$5 an acre for pivot sprinkler irrigation systems; ~~\$4.50~~ \$10 an acre for tow lines, side roll, and lateral sprinkler irrigation systems; and ~~\$9~~ \$15 an acre for hand-moved and flood irrigation systems.

(B) Energy costs must be based on per-acre energy costs incurred in the energy cost base year, which is the calendar year immediately preceding the year specified by the department in 15-7-103(5). By July 1 of the year following the energy cost base year, an owner of irrigated land shall provide the department, on a form prescribed by the department, with energy costs incurred in that energy cost base year. In the event that no energy costs were incurred in the energy cost base year, the owner of irrigated land shall provide the department with energy costs from the most recent year available. The department shall adjust the most recent year's energy costs to reflect costs in the energy cost base year.

(c) The base crop for valuation of irrigated land is ~~alfalfa hay~~ alfalfa hay adjusted to 80% of the sales price, ~~adjusted to 80% of sales price~~, and the base crop for valuation of nonirrigated land is *spring* wheat. The base unit for valuation of grazing lands is animal unit months (AUM), defined as the average monthly requirement of pasture forage to support a 1,000-pound cow with a calf or its equivalent.

(d) Unless the advisory committee recommends a different base period and the department adopts the recommended base period by rule, the base period used to determine net income must be the most recent 7 years for which data is available prior to the date the revaluation cycle ends. Unless the advisory committee recommends a different averaging method and the department adopts the recommended averaging method by rule, data referred to in subsection (5)(b) must be averaged, but the average must exclude the lowest and highest yearly data in the period.

(6) The department shall compile data and develop valuation manuals adopted by rule to implement the valuation method established by subsections (4) and (5).

(7) The governor shall appoint an advisory committee of persons knowledgeable in agriculture and agricultural economics. The advisory committee shall include one member of the Montana state university-Bozeman, college of agriculture, staff. The advisory committee shall:

(a) compile and review data required by subsections (4) and (5);

(b) recommend to the department any adjustments to data or to landowners' share percentages if required by changes in government agricultural programs, market conditions, or prevailing agricultural practices;

(c) recommend appropriate base periods and averaging methods to the department;

(d) evaluate the appropriateness of the capitalization rate and recommend a rate to the department;

(e) verify for each class of land that the income determined in subsection (5) reasonably approximates that which the average Montana farmer or rancher could have attained; and

(f) recommend agricultural land valuation schedules to the department. With respect to irrigated land, the recommended value of irrigated land may not be below the value that the land would have if it were not irrigated."

**Section 9.** 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)(ii), the value of newly taxable class four property that was constructed, expanded, or remodeled property since the completion of the last reappraisal cycle is the current year market value of that property less the previous year market value of that property.*

(e)(d) 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 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 tenths of~~ *whole tenths of* mills. If the mill levy calculation does not result in ~~a whole number~~ *an even tenth of* mills a mill, then the calculation must be rounded up to the nearest ~~whole tenth of~~ *whole tenth of* a 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 10.** Section 15-16-101, MCA, is amended to read:

**“15-16-101. Treasurer to publish notice — manner of publication.** (1) Within 10 days after the receipt of the property tax record, the county treasurer shall publish a notice specifying:

(a) that one-half of all taxes levied and assessed will be due and payable before 5 p.m. on the next November 30 or within 30 days after the notice is postmarked and that unless paid prior to that time the amount then due will be delinquent and will draw interest at the rate of 5/6 of 1% a month from the time of delinquency until paid and 2% will be added to the delinquent taxes as a penalty;

(b) that one-half of all taxes levied and assessed will be due and payable on or before 5 p.m. on the next May 31 and that unless paid prior to that time the taxes will be delinquent and will draw interest at the rate of 5/6 of 1% a month from the time of delinquency until paid and 2% will be added to the delinquent taxes as a penalty; and

(c) the time and place at which payment of taxes may be made.

(2) (a) The county treasurer shall send to the last-known address of each taxpayer a written notice, postage prepaid, showing the amount of taxes and assessments due for the current year and the amount due and delinquent for other years. The written notice must include:

(i) the taxable value of the property;

(ii) the total mill levy applied to that taxable value;

(iii) itemized city services and special improvement district assessments collected by the county;

(iv) the number of the school district in which the property is located; ~~and~~

(v) the amount of the total tax due that is levied as city tax, county tax, state tax, school district tax, and other tax; *and*

(iv) *a notice of the availability of all the property tax assistance programs available to property taxpayers, including the property tax assistance program under 15-6-134, the extended property tax assistance program under 15-6-193, the disabled or deceased veterans' residence exemption under 15-6-211, and the residential property tax credit for the elderly under 15-30-171 through 15-30-179.*

(b) If the property is the subject of a tax lien sale for which a tax lien sale certificate has been issued under 15-17-212, the notice must also include, in a manner calculated to draw attention, a statement that the property is the subject of a tax lien sale and that the taxpayer may contact the county treasurer for complete information.

(3) The municipality shall, upon request of the county treasurer, provide the information to be included under subsection (2)(a)(iii) ready for mailing.

(4) The notice in every case must be published once a week for 2 weeks in a weekly or daily newspaper published in the county, if there is one, or if there is not, then by posting it in three public places. Failure to publish or post notices does not relieve the taxpayer from any tax liability. Any failure to give notice of the tax due for the current year or of delinquent tax will not affect the legality of the tax.

(5) 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.”

**Section 11.** Section 15-44-103, MCA, is amended to read:

**“15-44-103. Legislative intent — value of forest lands — valuation zones.** (1) In order to encourage landowners of private forest lands to retain and improve their holdings of forest lands, to promote better forest practices, and to encourage the investment of capital in reforestation, forest lands must be classified and assessed under the provisions of this section.

(2) The forest productivity value of forest land must be determined by:

(a) capitalizing the value of the mean annual net wood production at the culmination of mean annual increment plus other agriculture-related income, if any; less

(b) annualized expenses, including but not limited to the establishment, protection, maintenance, improvement, and management of the crop over the rotation period.

(3) To determine the forest productivity value of forest lands, the department shall:

(a) divide the state into appropriate forest valuation zones, with each zone designated so as to recognize the uniqueness of marketing areas, timber types, growth rates, access, operability, and other pertinent factors of that zone; and

(b) establish a uniform system of forest land classification that takes into consideration the productive capacity of the site to grow forest products and furnish other associated agricultural uses.

(4) In computing the forest land valuation schedules for each forest valuation zone ~~to take effect on January 1, 1994~~, the department shall determine the productive capacity value of all forest lands in each forest valuation zone using the formula  $V = I/R$ , where:

(a)  $V$  is the per-acre forest productivity value of the forest land;

(b)  $I$  is the per-acre net income of forest lands in each valuation zone and is determined by the department using the formula  $I = (M \times SV) + AI - C$ , where:

(i)  $I$  is the per-acre net income;

(ii)  $M$  is the mean annual net wood production;

(iii)  $SV$  is the stumpage value;

(iv)  $AI$  is the per-acre agriculture-related income; and

(v)  $C$  is the per-unit cost of the forest product and agricultural product produced, if any; and

(c)  $R$  is the capitalization rate determined by the department as provided in subsection (6).

(5) Net income must:

(a) be calculated for each year of a base period, which is the most recent 5-year period for which data is available;

(b) be based on a rolling average of stumpage value of timber harvested within the forest valuation zone and on the associated production cost data for the base period from sources considered appropriate by the department; and

(c) include agriculture-related net income for the same time period as the period used to determine average stumpage values.

(6) The capitalization rate must be calculated for each year of the base period and is the ~~annual average interest rate on agricultural loans as reported by the Northwest farm credit services, agricultural credit association of Spokane, Washington~~ capitalization rate determined by the department after consultation with the forest lands taxation advisory committee, plus the effective tax rate. *The capitalization rate must be adopted by rule. However, the capitalization rate for each year of the base period for tax years 2009 through 2014 may not be less than 8%.*

(7) The effective tax rate must be calculated for each year of the base period by dividing the total estimated tax due on forest lands subject to the provisions of this section by the total forest value of those lands.

(8) For the purposes of this section, if forest service sales are used in the determination of stumpage values, the department shall take into account purchaser road credits.

(9) In determining the forest productivity value of forest lands and in computing the forest land valuation schedules, the department shall use information and data provided by the university of Montana-Missoula.

*(10) (a) There is a forest lands taxation advisory committee consisting of:*

*(i) four members with expertise in forest matters, one appointed by the majority leader of the senate, one by the minority leader of the senate, one by the majority leader of the house of representatives, and one by the minority leader of the house of representatives; and*

*(ii) three members appointed by the governor, one who is an industrial forest landowner, one who is a nonindustrial forest landowner, and one who is a county commissioner.*

*(b) The terms of the members expire on June 30 of the first year of each reappraisal cycle.*

*(c) The advisory committee shall:*

*(i) review data required by subsections (2) through (6), (8), and (9), including data on productivity value, stumpage value, wood production, capitalization rate, net income, and agriculture-related income;*

*(ii) recommend to the department any adjustments to data if required by changes in government forest land programs, market conditions, or prevailing forest lands practices;*

*(iii) recommend appropriate base periods and averaging methods to the department;*

*(iv) verify for each forest valuation zone and forest land classification under subsection (3) that the income determined in subsection (5) reasonably approximates that which the average Montana forest landowner could have attained; and*

*(v) recommend forest land valuation schedules to the department.”*

**Section 12. Extension of 2009 deadlines relating to property taxation.** As a result of the changes in the mitigation strategy of reappraisal for

class three, four, and ten property enacted by the 61st legislature, it may not be possible to comply with certain statutory deadlines relating to appraisals, assessments, reimbursements, budgets, and collection of property taxes. The state appraisal and assessment process may be delayed, which in turn may cause delays for the tax appeal boards, school districts, and local government taxing jurisdiction budgeting and collection processes. Therefore, for tax year 2009, all deadlines are extended as necessary and reasonable, except that the time limits allowed for filing an appeal remain the same as provided by law in order to allow for the orderly and efficient assessment and collection of taxes.

**Section 13. Application deadline extensions.** Because the application deadlines for the property tax assistance program in 15-6-134(1)(c) and the disabled or deceased veterans' residence property tax exemption program under 15-6-211 will have passed by [the effective date of this act], the application deadlines for those programs have been extended for tax year 2009 to July 15, 2009.

**Section 14. Revenue and transportation interim committee review of property tax assistance.** The revenue and transportation interim committee is requested, under the committee's oversight duties, as provided in 5-5-227, to review methods of providing assistance to property taxpayers, including circuit breaker programs and assistance to low-income, veteran, and elderly property owners and whether the assistance should be accomplished through income tax or property taxation means.

**Section 15. Appropriation — contingency.** (1) There is appropriated \$1,587,053 from the general fund to the department of revenue for the biennium ending June 30, 2011, for the administration of [this act].

(2) If there is a specific appropriation for the administration of the mitigation of reappraisal pursuant to [this act] in House Bill No. 2, then the appropriation made in subsection (1) is void.

**Section 16. Coordination instruction.** If both Senate Bill No. 115 and [this act] are passed and approved, then [section 1 of Senate Bill No. 115], amending 15-6-134, is void.

**Section 17. 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 18. Effective date.** [This act] is effective on passage and approval.

**Section 19. Retroactive applicability.** [This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2008.

Approved May 10, 2009

## CHAPTER NO. 484

[HB 669]

AN ACT 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.

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



**Section 1. Revolving loan program for distressed wood products industry — finding.** (1) Due to the current, well-documented decline in the wood products industry in Montana, the legislature finds that there is a need to assist the Montana wood products industry as a whole through a revolving loan program.

(2) There is a special revenue account called the distressed wood products industry revolving loan account to the credit of the department of commerce.

(3) (a) The distressed wood products industry revolving loan account consists of money deposited into the account from an appropriation in House Bill No. 645 and money from any other source. Any interest earned by the account must be deposited into the account and used to sustain the program.

(b) Loan repayments and any interest generated from loan repayments may be used as revolving loans for the wood products industry or for primary sector businesses statewide and are not subject to the provisions of this section.

(4) In any biennium, up to 36% of the funds in the distressed wood products industry revolving loan account, not to exceed \$2.7 million, may be used as matching funds to secure additional federal money. Except as provided in subsection (3)(b), federal funds must be deposited in a federal special revenue account and used for loans in accordance with [sections 1 through 4]. State matching funds must be deposited in a special revenue account called the distressed wood products matching fund.

(5) (a) Funds from the distressed wood products industry revolving loan account may be loaned to:

(i) individuals, including private contractors related to the wood products industry; or

(ii) businesses defined as small businesses pursuant to the regulations promulgated by the United States small business administration pursuant to 13 CFR 121, et seq.

(b) Loans made pursuant to this subsection (5) must be made to individuals or small businesses that are part of the critical, primary wood processing infrastructure and have suffered economic hardships.

(6) Loans must be used to sustain and grow the wood products industry in Montana. Loans may be used for:

(a) the purchase or lease of land or equipment;

(b) updating infrastructure, including retrofitting of infrastructure to facilitate new uses;

(c) working capital;

(d) debt service;

(e) matching funds for grants or other loans that comply with the intent of this section; or

(f) any other use the department determines would sustain and grow the wood products industry.

(7) (a) A loan may not exceed \$2 million and the loan must be repaid within 15 years.

(b) A loan recipient may apply for another loan pursuant to this section 2 years or more after the date the previous loan was approved.

**Section 2. Administration of revolving loan account — rulemaking authority.** (1) The department of commerce may adopt rules to implement [sections 1 through 4] establishing:

(a) eligibility criteria, including demonstrated need, criteria for defining capital investments, feasibility to create and retain jobs, financial capacity to repay the loans, estimated return on investment, and other matters that the department considers necessary to ensure repayment of loans and to encourage maximum use of the account;

(b) terms and conditions for the loans, including repayment schedules and interest; and

(c) a loan application fee.

(2) Loans must be made at a low interest rate. The department may set the interest rate at an amount that will cover its administrative costs, but the rate may not be less than 1% a year. The department may determine terms and conditions of loans, including recovery of funds in the event of default.

**Section 3. Outcome measures.** (1) The department of commerce shall develop reasonable outcome measures by which the success of the distressed wood products industry loan program provided for in [sections 1 through 4] must be measured on an annual basis. Minimal outcome that must be measured includes:

(a) the uses of loan funds that provided the best overall results; and

(b) a determination of the overall success of the loan program, including but not limited to the number of jobs created or retained, pay levels, financial status, reports on project activities, the growth of a local economy, and the taxable value of property or equipment.

(2) The department may require information from entities receiving loans in order to measure outcome.

(3) In accordance with 5-11-210, the department shall provide a status report of the distressed wood products industry loan account to the economic affairs interim committee provided for in 5-5-223.

**Section 4. Use of funds — statutory appropriation.** Money in the distressed wood products industry revolving loan account, the distressed wood products matching fund, and the related federal special revenue fund is statutorily appropriated, as provided in 17-7-502, for the purpose of administering [sections 1 through 3].

**Section 5.** Section 17-7-502, MCA, is amended to read:

**“17-7-502. Statutory appropriations — definition — requisites for validity.** (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-407; 5-13-403; 7-4-2502; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-23-706; 15-31-906; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-369; 15-70-601; 16-11-509; 17-3-106; 17-3-212;

17-3-222; 17-3-241; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-4-105; 23-4-202; 23-4-204; 23-4-302; 23-4-304; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 41-5-2011; 42-2-105; 44-1-504; 44-12-206; 44-13-102; 50-4-623; 53-1-109; 53-6-703; 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-150; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161; 87-1-513; 90-1-115; [section 4]; 90-1-205; 90-3-1003; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to 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 have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 3 and 6, Ch. 481, L. 2003, the inclusion of 15-35-108 terminates June 30, 2010; pursuant to sec. 17, Ch. 593, L. 2005, the inclusion of 15-31-906 terminates January 1, 2010; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; and pursuant to sec. 6, Ch. 2, Sp. L. September 2007, the inclusion of 76-13-150 terminates June 30, 2009.)"

**Section 6. Codification instruction.** [Sections 1 through 4] are intended to be codified as an integral part of Title 90, and the provisions of Title 90 apply to [sections 1 through 4].

**Section 7. Coordination instruction.** If House Bill No. 674 is not passed, then [this act] is void.

**Section 8. Coordination instruction.** If [this act] and House Bill No. 645 are both passed and approved, then [section 25] of House Bill No. 645 relating to the distressed wood products industry recovery program is void and the appropriation for the distressed wood products industry recovery program provided for in House Bill No. 645 must be deposited in the distressed wood products industry revolving loan account provided for in [this act].

**Section 9. Effective date.** [This act] is effective on passage and approval.

Approved May 9, 2009

## CHAPTER NO. 485

[HB 674]

AN ACT 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.

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

**Section 1. Public school land acquisition account.** (1) There is a public school land acquisition account in the state special revenue fund established in 17-2-102. The account must be administered by the department.

(2) Money in the account may be used only for the purpose of purchasing and managing interests in and appurtenances to real property in accordance with [section 2].

(3) After deductions are made pursuant to 77-1-109 and 77-1-613, the net interest and income earned on real property and appurtenances purchased with funds from the account must be distributed to the school facility improvement account provided for in 20-9-516.

**Section 2. Public school land purchases — considerations — distributions.** (1) The board may request the board of examiners to issue bonds for the purpose of purchasing interests in and appurtenances to real property selected by the board in accordance with the requirements of this section. Upon issuance of the bonds, the board shall purchase the real property and its appurtenances.

(2) Prior to requesting the issuance of bonds under subsection (1), the board shall consider the following:

(a) the income-generating potential of the real property and appurtenances;

(b) the opportunity for sustainable forest management activities and outcomes as described in 76-13-701 and 76-13-702; and

(c) the opportunity for recreational use of the real property and appurtenances consistent with Title 77, chapter 1, part 8.

(3) Prior to requesting the issuance of bonds, the board or the department, at the board's direction, shall complete a cost-benefit analysis of potential real property and appurtenance purchases. This cost-benefit analysis must be made available to the public upon request.

(4) Prior to purchasing any real property and appurtenances, the board shall determine that the benefits of the purchase are significant and that the financial risks are prudent. In order to reach that determination, the board shall examine the purchase of any real property and appurtenances as if the board had a fiduciary duty as a reasonably prudent trustee of a perpetual trust. For the purposes of this section, that duty requires the board to:

(a) discharge its duties with the care, skill, and diligence that a prudent person acting in a similar capacity with the same resources and familiar with

similar matters should exercise in the conduct of an enterprise of similar character and aims;

(b) manage the land holdings purchased pursuant to [section 1] and this section in accordance with an asset management plan to minimize the risk of loss and maximize the sustained rate of return;

(c) discharge its duties and powers solely in the interest of and for the benefit of the trust; and

(d) discharge its duties subject to the fiduciary standards set forth in 72-34-114.

(5) All interests in real property and appurtenances acquired under this section must be managed pursuant to Title 77.

**Section 3. Offsetting purchases.** To the extent practical and consistent with the board's powers and duties pursuant to 77-1-202, the board shall offset purchases made pursuant to [sections 1 and 2] by selling an equal amount of land.

**Section 4.** Section 17-5-803, MCA, is amended to read:

**"17-5-803. Form — principal and interest — fiscal agent — bond registrar and transfer agent — deposit of proceeds.** (1) Subject to the limitations contained in this part and in the bond act and in the furtherance of each bond act, bonds may be issued by the board upon request of the department. The bonds may be issued in the denominations and form, whether payable to bearer or registered as to principal or both principal and interest, with provisions for conversion or exchange, and for the issuance of temporary bonds bearing interest at a rate or rates, maturing at times not exceeding 30 years from date of issue, subject to redemption at earlier times and prices and on notice, and payable at the office of the fiscal agency of the state as the board determines.

(2) In all other respects, the board is authorized to prescribe the form and terms of the bonds and do whatever is lawful and necessary for their issuance and payment. Action taken by the board under this part must be by a majority vote of its members. The state treasurer shall keep a record of all bonds issued and sold.

(3) The board is authorized to employ a fiscal agent and a bond registrar and transfer agent to assist in the performance of its duties under this part.

(4) The board, in its discretion, is authorized to pay all costs of issuance of bonds, including without limitation rating agency fees, printing costs, legal fees, bank or trust company fees, costs to employ persons or firms to assist in the sale of the bonds, line of credit fees and charges, and all other amounts related to the costs of issuing the bonds from amounts available for these purposes in the general fund or from the proceeds of the bonds.

(5) ~~All~~ *Unless otherwise provided in statute authorizing a bond, all* proceeds of bonds and notes issued under this part must be deposited in the capital projects account, except that any premiums and accrued interest received and the proceeds of refunding bonds or notes must be deposited in the debt service account."

**Section 5.** Section 17-7-502, MCA, is amended to read:

**"17-7-502. Statutory appropriations — definition — requisites for validity.** (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-407; 5-13-403; 7-4-2502; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-23-706; 15-31-906; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-369; 15-70-601; 16-11-509; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-4-105; 23-4-202; 23-4-204; 23-4-302; 23-4-304; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 41-5-2011; 42-2-105; 44-1-504; 44-12-206; 44-13-102; 50-4-623; 53-1-109; 53-6-703; 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-150; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161; 87-1-513; 87-1-603; 90-1-115; 90-1-205; 90-3-1003; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to 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 have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 3 and 6, Ch. 481, L. 2003, the inclusion of 15-35-108 terminates June 30, 2010; pursuant to sec. 17, Ch. 593, L. 2005, the inclusion of 15-31-906 terminates January 1, 2010; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; and pursuant to sec. 6, Ch. 2, Sp. L. September 2007, the inclusion of 76-13-150 terminates June 30, 2009.)"

**Section 6.** Section 87-1-209, MCA, is amended to read:

**"87-1-209. Acquisition and sale of lands or waters.** (1) *The Subject to [section 7], the department, with the consent of the commission and, in the case of land acquisition involving more than 100 acres or \$100,000 in value, the approval of the board of land commissioners, may acquire by purchase, lease, agreement, gift, or devise and may acquire easements upon lands or waters for the purposes listed in this subsection. The department may develop, operate, and maintain acquired lands or waters:*

(a) for fish hatcheries or nursery ponds;

(b) as lands or water suitable for game, bird, fish, or fur-bearing animal restoration, propagation, or protection;

(c) for public hunting, fishing, or trapping areas;

(d) to capture, propagate, transport, buy, sell, or exchange any game, birds, fish, fish eggs, or fur-bearing animals needed for propagation or stocking purposes or to exercise control measures of undesirable species;

(e) for state parks and outdoor recreation;

(f) to extend and consolidate by exchange, lands or waters suitable for these purposes.

(2) The department, with the consent of the commission, may acquire by condemnation, as provided in Title 70, chapter 30, lands or structures for the preservation of historical or archaeological sites that are threatened with destruction or alteration.

(3) (a) Subject to section 2(3), Chapter 560, Laws of 2005, the department, with the consent of the commission, may dispose of lands and water rights acquired by it on those terms after public notice as required by subsection (3)(b) of this section, without regard to other laws that provide for sale or disposal of state lands and with or without reservation, as it considers necessary and advisable. The department, with the consent of the commission, may convey department lands and water rights for full market value to other governmental entities or to adjacent landowners without regard to the requirements of subsection (3)(b) or (3)(c) if the land is less than 10 acres or if the full market value of the interest to be conveyed is less than \$20,000. When the department conveys land or water rights to another governmental entity or to an adjacent landowner pursuant to this subsection, the department, in addition to giving notice pursuant to subsection (3)(b), shall give notice by mail to the landowners whose property adjoins the department property being conveyed.

(b) Subject to section 2(3), Chapter 560, Laws of 2005, notice of sale describing the lands or waters to be disposed of must be published once a week for 3 successive weeks in a newspaper with general circulation printed and published in the county where the lands or waters are situated or, if a newspaper is not published in that county, then in any newspaper with general circulation in that county.

(c) The notice must advertise for cash bids to be presented to the director within 60 days from the date of the first publication. Each bid must be accompanied by a cashier's check or cash deposit in an amount equal to 10% of the amount bid. The highest bid must be accepted upon payment of the balance due within 10 days after mailing notice by certified mail to the highest bidder. If that bidder defaults on payment of the balance due, then the next highest bidders must be similarly notified in succession until a sale is completed. Deposits must be returned to the unsuccessful bidders except bidders defaulting after notification.

(d) The department shall reserve the right to reject any bids that do not equal or exceed the full market value of the lands and waters as determined by the department. If the department does not receive a bid that equals or exceeds fair market value, it may then sell the lands or water rights at private sale. The price accepted on any private sale must exceed the highest bid rejected in the bid process.

(4) When necessary and advisable for the management and use of department property, the director is authorized to grant or acquire from willing sellers right-of-way easements for purposes of utilities, roads, drainage facilities, ditches for water conveyance, and pipelines if the full market value of the interest to be acquired is less than \$20,000. Whenever possible, easements

must include a weed management plan. Approval of the commission is not required for grants and acquisitions made pursuant to this subsection. In granting any right-of-way pursuant to this subsection, the department shall obtain a fair market value, but the department is not otherwise required to follow the disposal requirements of subsection (3). The director shall report any easement grant or acquisition made pursuant to this subsection to the commission at its next regular meeting.

(5) The department shall convey lands and water rights without covenants of warranty by deed executed by the governor or in the governor's absence or disability by the lieutenant governor, attested by the secretary of state and further countersigned by the director.

(6) ~~The~~ *Subject to [section 7],* the department, with the consent of the commission, is authorized to utilize the installment contract method to facilitate the acquisition of wildlife management areas in which game and nongame fur-bearing animals and game and nongame birds may breed and replenish and areas that provide access to fishing sites for the public. The total cost of installment contracts may not exceed the cost of purchases authorized by the department and appropriated by the legislature.

(7) The department is authorized to enter into leases of land under its control in exchange for services to be provided by the lessee on the leased land."

**Section 7. Notice of proposed land acquisitions.** (1) For all land acquisitions proposed pursuant to 87-1-209, the department shall provide notice to the board of county commissioners in the county where the proposed acquisition is located.

(2) The notice must be provided at least 30 days before the proposed acquisition appears before the commission for its consent.

(3) The notice must include:

(a) a description of the proposed acquisition, including acreage and the use proposed by the department;

(b) an estimate of the measures and costs the department plans to undertake in furtherance of the proposed use, including operating, staffing, and maintenance costs;

(c) an estimate of the property taxes payable on the proposed acquisition and a statement that if the department acquires the land pursuant to 87-1-603, the department would pay a sum equal to the amount of taxes that would be payable on the county assessment of the property if it was taxable to a private citizen; and

(d) a draft agenda of the meeting at which the proposed acquisition will be presented to the commission and information on how the board of county commissioners may provide comment.

**Section 8.** Section 87-1-603, MCA, is amended to read:

**"87-1-603. Payments to counties for department-owned land — exceptions.** (1) *Except as provided in subsection (3), before* ~~Before~~ November 30 of each year, the treasurer of each county in which the department owns any land shall describe the land, state the number of acres in each parcel, and request the drawing of a warrant to the county in a sum equal to the amount of taxes ~~which that~~ *that* would be payable on county assessment of the property ~~were it if it was~~ taxable to a private citizen. The director shall approve or disapprove the request. The director may disapprove a request only if the director finds it to be inconsistent with this section. If the director disapproves a request, the director



shall return it with an explanation detailing the reasons for the disapproval to the appropriate county treasurer for correction. If the director approves a request, the director shall transmit it to the department of administration, which shall draw a warrant payable to the county in the amount shown on the request and shall send the warrant to the county treasurer. The warrant is payable out of any funds to the credit of the department of fish, wildlife, and parks. A payment may not be made to a county in which the department owns less than 100 acres. A payment may not be made to a county for lands owned by the department for game or bird farms or for fish hatchery purposes or lands acquired and managed for the purposes of Title 23, chapter 1.

(2) *After [the effective date of this act], for every department purchase of land, the department shall notify the treasurer in the county where land was purchased.*

(3) (a) *After [the effective date of this act] and before November 30 of each subsequent year, the treasurer of each county in which the department owns land purchased after [the effective date of this act] shall describe the land, state the number of acres in each parcel, and request the drawing of a warrant to the county in a sum equal to the amount of taxes that would be payable on county assessment of the property if it was taxable to a private citizen.*

(b) *The director shall approve or disapprove the request. The director may disapprove a request only if the director finds it to be inconsistent with this subsection (3). If the director disapproves a request, the director shall return it with an explanation detailing the reasons for the disapproval to the appropriate county treasurer for correction. If the director approves a request, the director shall transmit it to the department of administration, which shall draw a warrant payable to the county in the amount shown on the request and shall send the warrant to the county treasurer. The warrant is payable out of any funds to the credit of the department of fish, wildlife, and parks.*

(c) *All land purchased by the department after [the effective date of this act] is subject to this subsection (3).*

(4) *The amount to be paid to each county pursuant to this section is statutorily appropriated, as provided in 17-7-502."*

**Section 9. Authorization of bonds.** Upon request of the board of land commissioners, the board of examiners is authorized to issue and sell general obligation bonds in an amount not exceeding \$21 million for the purchase of interests in and appurtenances to real property described in [section 2] in addition to the amount of general obligation bonds outstanding or authorized on January 1, 2009. The proceeds from the bonds sold under this section must be deposited in the public school land acquisition account established in [section 1]. The bonds must be sold and issued in accordance with the terms and in the manner required by Title 17, chapter 5, part 8.

**Section 10. Appropriation of bond proceeds.** Up to \$21 million is appropriated to the board of land commissioners from the public school land acquisition account from the proceeds of the bonds authorized in [section 9] and investment earnings on the account for the purchase of interests in and appurtenances to real property by the board as authorized in [section 2].

**Section 11. Codification instruction.** (1) [Sections 1 through 3] are intended to be codified as an integral part of Title 77, chapter 1, part 2, and the provisions of Title 77, chapter 1, part 2, apply to [sections 1 through 3].

(2) [Section 7] is intended to be codified as an integral part of Title 87, chapter 1, part 2, and the provisions of Title 87, chapter 1, part 2, apply to [section 7].

**Section 12. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

**Section 13. Coordination instruction.** If House Bill No. 669 is not passed or if there is not an appropriation in House Bill No. 645 to provide loans to the wood products industry, then this act is void.

**Section 14. Two-thirds vote required.** Because [section 9] authorizes the creation of state debt, Article VIII, section 8, of the Montana constitution requires a vote of two-thirds of the members of each house of the legislature for passage.

**Section 15. Effective date.** [This act] is effective on passage and approval.

Approved May 10, 2009

## CHAPTER NO. 486

[HB 676]

AN ACT 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.

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

**Section 1.** Section 2-15-3004, MCA, is amended to read:

**“2-15-3004. Montana alfalfa seed committee — composition — allocation.** (1) There is a Montana alfalfa seed committee composed of eight members as follows:

(a) five members appointed by the governor who are citizens of Montana and who are actively engaged in the growing of alfalfa seed within the state, deriving a substantial portion of their income from handling, packing, shipping, buying, or selling alfalfa seed, or acting as a broker or factor of alfalfa seed. These five members must be compensated as provided in 80-11-305.

(b) two members appointed by the governor who are citizens of Montana and who are actively engaged in the growing of alfalfa seed within the state and the rearing of alfalfa leaf-cutting bees. Each member must be compensated from the ~~enterprise fund~~ *state special revenue account* established in 80-6-1109 at \$25 for each day in which the member is engaged in the official business of the committee, plus expenses as provided for in 2-18-501 through 2-18-503.

(c) the director of the department of agriculture or the director’s authorized representative.

(2) A list of nominees for appointment may be submitted to the governor by the Montana alfalfa seed association, the Montana seed trade association, the Montana seed growers association, and any other organization representing alfalfa seed growers or dealers. 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.

(3) The appointed members serve staggered terms of 3 years. The initial appointments are as follows: two members for 1-year terms, two members for 2-year terms, and three members for 3-year terms.

(4) The committee is allocated to the department of agriculture for administrative purposes only as prescribed in 2-15-121.”

**Section 2.** Section 7-14-112, MCA, is amended to read:

**“7-14-112. Senior citizen and persons with disabilities transportation services account — use.** (1) There is a senior citizen and persons with disabilities transportation services account in the state special revenue fund. Money must be deposited in the account pursuant to ~~15-1-122(3)(e)~~ *15-1-122(2)(e)*.

(2) Except as provided in subsection (6), the account must be used to provide operating funds or matching funds for operating grants pursuant to 49 U.S.C.

5311 to counties, incorporated cities and towns, transportation districts, or nonprofit organizations for transportation services for persons 60 years of age or older and for persons with disabilities.

(3) (a) Subject to the conditions of subsection (3)(b), the department of transportation is authorized to award grants to counties, incorporated cities and towns, transportation districts, and nonprofit organizations for transportation services using guidelines established in the state management plan for the purposes described in 49 U.S.C. 5310 and 5311.

(b) Priority for awarding grants must be determined according to the following factors:

(i) the most recent census or federal estimate of persons 60 years of age or older and persons with disabilities in the area served by a county, incorporated city or town, transportation district, or nonprofit organization;

(ii) the annual number of trips provided by the transportation provider to persons 60 years of age or older and to persons with disabilities in the transportation service area;

(iii) the ability of the transportation provider to provide matching money in an amount determined by the department of transportation; and

(iv) the coordination of services as required in subsection (5).

(4) The department of transportation shall ensure that the available funding is distributed equally among the five transportation districts provided in 2-15-2502.

(5) In awarding grants, the department of transportation shall give preference to proposals that:

(a) include the establishment of a transit authority to coordinate service area or regional transportation services;

(b) address and document the transportation needs within the community, county, and service area or region;

(c) identify all other transportation providers in the community, county, and service area or region;

(d) explain how services are going to be coordinated with the other transportation providers in the service area or region;

(e) indicate how services are going to be expanded to meet the unmet needs of senior citizens and disabled persons within the community, county, and service area or region who are dependent upon public transit;

(f) include documentation of coordination with other local transportation programs within the community, county, and service area or region, including:

(i) utilization of existing resources and equipment to maximize the delivery of service; and

(ii) the projected increase in ridership and expansion of service;

(g) invite school districts to participate or be included in the transportation coordination efforts within the community, county, and service area or region; and

(h) at a minimum, comply with the provisions in subsections (5)(b) through (5)(f).

(6) Any money remaining after grants have been awarded to transportation providers who provide transportation services for persons 60 years of age or

older and persons with disabilities may be awarded to other transportation providers for operating costs or matching funds for operating grants for the purposes described in 49 U.S.C. 5311 other than for transportation services for persons 60 years of age or older or persons with disabilities.”

**Section 3.** Section 10-2-112, MCA, is amended to read:

**“10-2-112. Veterans’ services special revenue account — sources of funds — designated uses.** (1) There is a veterans’ services account in the state special revenue fund, established pursuant to 17-2-102(1)(b), to the credit of the board.

(2) Money transferred pursuant to ~~15-1-122(3)(d)~~ 15-1-122(2)(d) from license plate sales as described in 10-2-114 and from gifts, grants, or donations must be deposited in the veterans’ services account.

(3) Legislative appropriations of money in the veterans’ services account must be used for the purposes identified in 10-2-102 or other functions authorized by the board.

(4) There is a veterans’ services federal account in the federal special revenue fund established for federal funds received under 10-2-106.”

**Section 4.** Section 10-2-603, MCA, is amended to read:

**“10-2-603. Special revenue account — use of funds — solicitation.** (1) There is an account in the special revenue fund to the credit of the board for the state veterans’ cemeteries.

(2) Plot allowances, donations to the cemetery program, and fund transfers pursuant to ~~15-1-122(3)(d)~~ 15-1-122(2)(d) must be deposited into the account.

(3) The account is statutorily appropriated, as provided in 17-7-502, to the board and may be used only for the construction, maintenance, operation, and administration of the state veterans’ cemeteries.

(4) The board shall solicit veterans’ license plate sales and donations on behalf of the state veterans’ cemeteries.”

**Section 5.** Section 10-3-801, MCA, is amended to read:

**“10-3-801. Account created for funding search and rescue operations — rules.** (1) There is an account in the state special revenue fund established in 17-2-102. The account must be administered by the disaster and emergency services division of the department exclusively for the purposes of search and rescue as provided in this section. The department may retain up to 5% of the money in the account to pay its costs of administering this section.

(2) There must be deposited in the account:

(a) fund transfers pursuant to ~~15-1-122(3)(f)~~ 15-1-122(2)(f);

(b) fund transfers pursuant to 87-1-601(9). These funds may be used only as provided in 87-1-601(9).

(c) all money received by the department in the form of gifts, grants, reimbursements, or appropriations from any source intended to be used for search and rescue operations.

(3) (a) Not less than 50% of the money in the account must be used by the department to defray costs of:

(i) local search and rescue units for search and rescue missions conducted through a county sheriff’s office at a maximum of \$3,000 for each rescue mission, regardless of the number of counties or county search and rescue organizations involved. To fulfill the purposes of this subsection (3)(a)(i), the department shall

transmit reimbursement money to the county treasurer, who shall deposit the funds in a separate search and rescue fund accessible by the local search and rescue unit that requested the reimbursement. The county treasurer shall notify the reimbursed local search and rescue unit by mail when the deposit occurs.

(ii) a county sheriff's office at a maximum of \$3,000 for each rescue mission, regardless of the number of counties or county search and rescue organizations involved.

(b) The remaining money in the account may be used by the department:

(i) to match local funds for the purchase of equipment for use by local search and rescue units at a maximum of \$2,000 for each unit in a calendar year. The cost-sharing match must be 35% local funds to 65% from the account.

(ii) for reimbursement of expenses related to the training of search and rescue volunteers.

(4) The department may adopt rules to implement the proper administration of the account. The rules may include:

(a) a method of reimbursing local search and rescue units or a county sheriff's office, on a case-by-case basis, for authorized search and rescue operations conducted pursuant to subsection (3)(a), including verification of search missions, claims procedures, fiscal accountability, and the number and circumstances of search missions involving persons engaged in hunting, fishing, and trapping in a fiscal year;

(b) methods for processing requests for equipment matching funds and training funds made pursuant to subsection (3)(b), including any verification and accounting necessary to ensure that the provisions of subsection (3)(b) are met, and determining the percentage of all search missions involving persons engaged in hunting, fishing, or trapping in a fiscal year;

(c) a system involving input from representatives of county sheriff organizations and state and local search and rescue organizations for assistance in verifying and processing claims for reimbursement, equipment, and training; and

(d) a method for compiling and keeping current a contact list of all search and rescue units in Montana and in neighboring states and provinces in order to ensure collaboration, communication, and cooperation between the various county search and rescue units and between the department and the county units and dedication of a page on the department's website for posting the contact list and other relevant search and rescue information."

**Section 6.** Section 15-1-122, MCA, is amended to read:

**"15-1-122. Fund transfers.** (1) There is transferred from the state general fund to the adoption services account, provided for in 42-2-105, a base amount of \$36,764, and the amount of the transfer must be increased by 10% in each succeeding fiscal year.

~~(2) There is transferred from the state general fund to the department of transportation state special revenue nonrestricted account a base amount of \$3,050,205, increased by 1.5% in each succeeding fiscal year.~~

(3)(2) For each fiscal year, there is transferred from the state general fund to the accounts, entities, or recipients indicated the following amounts:

(a) to the motor vehicle recycling and disposal program provided for in Title 75, chapter 10, part 5, 1.48% of the motor vehicle revenue deposited in the state

general fund in each fiscal year. The amount of 9.48% of the allocation in each fiscal year must be used for the purpose of reimbursing the hired removal of abandoned vehicles. Any portion of the allocation not used for abandoned vehicle removal reimbursement must be used as provided in 75-10-532.

(b) to the noxious weed state special revenue account provided for in 80-7-816, 1.50% of the motor vehicle revenue deposited in the state general fund in each fiscal year;

(c) to the department of fish, wildlife, and parks:

(i) 0.46% of the motor vehicle revenue deposited in the state general fund, with the applicable percentage to be:

(A) used to:

(I) acquire and maintain pumpout equipment and other boat facilities, 4.8% in each fiscal year;

(II) administer and enforce the provisions of Title 23, chapter 2, part 5, 19.1% in each fiscal year;

(III) enforce the provisions of 23-2-804, 11.1% in each fiscal year; and

(IV) develop and implement a comprehensive program and to plan appropriate off-highway vehicle recreational use, 16.7% in each fiscal year; and

(B) deposited in the state special revenue fund established in 23-1-105 in an amount equal to 48.3% in each fiscal year;

(ii) 0.10% of the motor vehicle revenue deposited in the state general fund in each fiscal year, with 50% of the amount to be used for enforcing the purposes of 23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-618, 23-2-621, 23-2-622, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644 and 50% of the amount designated for use in the development, maintenance, and operation of snowmobile facilities; and

(iii) 0.16% of the motor vehicle revenue deposited in the state general fund in each fiscal year to be deposited in the motorboat account to be used as provided in 23-2-533;

(d) 0.64% of the motor vehicle revenue deposited in the state general fund in each fiscal year, with 24.55% to be deposited in the state veterans' cemetery account provided for in 10-2-603 and with 75.45% to be deposited in the veterans' services account provided for in 10-2-112(1);

(e) 0.30% of the motor vehicle revenue deposited in the state general fund in each fiscal year for deposit in the state special revenue fund to the credit of the senior citizens and persons with disabilities transportation services account provided for in 7-14-112; and

(f) to the search and rescue account provided for in 10-3-801, 0.04% of the motor vehicle revenue deposited in the state general fund in each fiscal year.

~~(4)~~(3) For the purposes of this section, "motor vehicle revenue deposited in the state general fund" means revenue received from:

(a) fees for issuing a motor vehicle title paid pursuant to 61-3-203;

(b) fees, fees in lieu of taxes, and taxes for vehicles, vessels, and snowmobiles registered or reregistered pursuant to 61-3-321 and 61-3-562;

(c) GVW fees for vehicles registered for licensing pursuant to Title 61, chapter 3, part 3; and

(d) all money collected pursuant to 15-1-504(3).

(5)(4) The amounts transferred from the general fund to the designated recipient must be appropriated as state special revenue in the general appropriations act for the designated purposes.”

**Section 7.** 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~~ *Beginning July 1, 2012, 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.

(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~~ *Beginning July 1, 2012, 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.

(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 8.** Section 15-38-301, MCA, is amended to read:

**“15-38-301. Natural resources operations state special revenue account created — revenue allocated — appropriations from account.**

(1) There is a natural resources operations state special revenue account within the state special revenue fund established in 17-2-102.

(2) Except to the extent required to be credited to the renewable resource loan debt service fund pursuant to 85-1-603, there must be paid into the natural resources operations state special revenue account:

(a) the interest income of the resource indemnity trust fund as provided in and subject to the conditions of 15-38-202;

(b) the metal mines license tax proceeds as provided in 15-37-117(1)(d);

(c) the oil and natural gas production tax as provided in 15-36-331; ~~and~~

(d) any fees or charges collected by the department pursuant to 85-1-616 for the servicing of loans, including arrangements for obtaining security interests; *and*

(e) *fund transfers by the legislature.*

(3) Appropriations may be made from the natural resources operations state special revenue account for administrative expenses, including salaries and expenses for personnel and equipment, office space, and other expenses necessarily incurred in the administration of natural resources operations.”

**Section 9.** Section 16-11-119, MCA, is amended to read:

**“16-11-119. Disposition of taxes.** (1) Cigarette taxes collected under the provisions of 16-11-111 must, in accordance with the provisions of 17-2-124, be deposited as follows:

(a) 8.3% or \$2 million, whichever is greater, in *an account* in the state special revenue fund to the credit of the department of public health and human services for the operation and maintenance of state veterans’ nursing homes; *The department of public health and human services may not expend more money from the account than is appropriated by the legislature. Subject to subsection (2) of this section, the department may not transfer funds in the account or expenditure authority related to the account pursuant to 17-7-139, 17-7-301, or 17-8-101.*

(b) 2.6% in the long-range building program account provided for in 17-7-205;

(c) 44% in the ~~state special revenue fund to the credit of the health and medicaid initiatives account~~ provided for in 53-6-1201; and

(d) the remainder to the state general fund.

(2) If money in the state special revenue ~~fund~~ *account* for the operation and maintenance of state veterans’ nursing homes exceeds \$2 million at the end of the fiscal year, the excess must be transferred to the state general fund.

(3) The taxes collected on tobacco products, other than cigarettes, must in accordance with the provisions of 17-2-124 be deposited as follows:

(a) one-half in the state general fund; and

(b) one-half in the state special revenue fund account for health and medicaid initiatives provided for in 53-6-1201.”

**Section 10.** Section 17-6-606, MCA, is amended to read:

**“17-6-606. Tobacco settlement accounts — purpose — uses.** (1) The purpose of this section is to dedicate a portion of the tobacco settlement proceeds to fund statewide programs for tobacco disease prevention designed to:

- (a) discourage children from starting use of tobacco;
- (b) assist adults in quitting use of tobacco;
- (c) provide funds for the ~~children's health insurance program~~ *healthy Montana kids plan provided for in Title 53, chapter 4, part 11*; and
- (d) provide funds for the comprehensive health association programs.

(2) An amount equal to 32% of the total yearly tobacco settlement proceeds received after June 30, 2003, must be deposited in a state special revenue account. Subject to subsection (5), the funds referred to in this subsection may be used only for funding statewide programs for tobacco disease prevention designed to prevent children from starting tobacco use and to help adults who want to quit tobacco use. The department of public health and human services shall manage the tobacco disease prevention programs and shall adopt rules to implement the programs. In adopting rules, the department shall consider the standards contained in Best Practices for Comprehensive Tobacco Control Programs—August 1999 or its successor document, published by the U.S. department of health and human services, centers for disease control and prevention.

(3) An amount equal to 17% of the total yearly tobacco settlement proceeds received after June 30, 2003, must be deposited in a state special revenue account. Subject to subsection (5), the funds referred to in this subsection may be used only for:

(a) matching funds to secure the maximum amount of federal funds for the ~~Children's Health Insurance Program Act~~ *healthy Montana kids plan* provided for in Title 53, chapter 4, part ~~10~~ 11; and

(b) programs of the comprehensive health association provided for in Title 33, chapter 22, part 15, with funding use subject to 33-22-1513.

(4) Funds deposited in a state special revenue account, as provided in subsection (2) or (3), that are not appropriated within 2 years after the date of deposit must be transferred to the trust fund.

(5) The legislature shall appropriate money from the state special revenue accounts provided for in this section for programs for tobacco disease prevention, for the programs referred to in the subsection establishing the account, and for funding the tobacco prevention advisory board.

(6) Programs funded under this section that are private in nature may be funded through contracted services.”

**Section 11.** Section 17-7-102, MCA, is amended to read:

**“17-7-102. (Temporary) Definitions.** As used in this chapter, the following definitions apply:

(1) “Additional services” means different services or more of the same services.

(2) “Agency” means all offices, departments, boards, commissions, institutions, universities, colleges, and any other person or any other administrative unit of state government that spends or encumbers public money by virtue of an appropriation from the legislature under 17-8-101.

(3) “Approving authority” means:

(a) the governor or the governor’s designated representative for executive branch agencies;

(b) the chief justice of the supreme court or the chief justice’s designated representative for judicial branch agencies;

- (c) the speaker for the house of representatives;
  - (d) the president for the senate;
  - (e) appropriate legislative committees or a designated representative for legislative branch agencies; or
  - (f) the board of regents of higher education or its designated representative for the university system.
- (4) (a) "Base budget" means the resources for the operation of state government that are of an ongoing and nonextraordinary nature in the current biennium. The base budget for the state general fund and state special revenue funds may not exceed that level of funding authorized by the previous legislature.
- (b) The term does not include funding for water adjudication if the accountability benchmarks contained in 85-2-271 are not met.
- (5) "Budget amendment" means a temporary appropriation as provided in Title 17, chapter 7, part 4.
- (6) "Emergency" means a catastrophe, disaster, calamity, or other serious unforeseen and unanticipated circumstance that has occurred subsequent to the time that an agency's appropriation was made, that was clearly not within the contemplation of the legislature and the governor, and that affects one or more functions of a state agency and the agency's expenditure requirements for the performance of the function or functions.
- (7) "Funds subject to appropriation" means those funds required to be paid out of the treasury as set forth in 17-8-101.
- (8) "Necessary" means essential to the public welfare and of a nature that cannot wait until the next legislative session for legislative consideration.
- (9) "New proposals" means requests to provide new nonmandated services, to change program services, to eliminate existing services, or to change sources of funding. For purposes of establishing the present law base, the distinction between new proposals and the adjustments to the base budget to develop the present law base is to be determined by the existence of constitutional or statutory requirements for the proposed expenditure. Any proposed increase or decrease that is not based on those requirements is considered a new proposal.
- (10) (a) "Present law base" means, *subject to subsection (10)(b)*, that level of funding needed under present law to maintain operations and services at the level authorized by the previous legislature, including but not limited to:
- (~~a~~)*(i)* changes resulting from legally mandated workload, caseload, or enrollment increases or decreases;
  - (~~b~~)*(ii)* changes in funding requirements resulting from constitutional or statutory schedules or formulas;
  - (~~c~~)*(iii)* inflationary or deflationary adjustments; and
  - (~~d~~)*(iv)* elimination of nonrecurring appropriations.
- (b) *For the budget for the 2011 legislative session, present law base must be adjusted by reducing general fund budgets by the equivalent of that portion of the 2% across-the-board reduction assessed by the 61st legislature on selected agencies that was allocated by those agencies to personal services in the 2011 biennium. The director of the governor's office of budget and program planning and the legislative fiscal analyst shall agree on a mechanism for determining how agencies have allocated this reduction.*

(11) “Program” means a principal organizational or budgetary unit within an agency.

(12) “Requesting agency” means the agency of state government that has requested a specific budget amendment.

(13) “University system unit” means the board of regents of higher education; office of the commissioner of higher education; university of Montana, with campuses at Missoula, Butte, Dillon, and Helena; Montana state university, with campuses at Bozeman, Billings, Havre, and Great Falls; the agricultural experiment station, with central offices at Bozeman; the forest and conservation experiment station, with central offices at Missoula; the cooperative extension service, with central offices at Bozeman; the bureau of mines and geology, with central offices at Butte; the fire services training school at Great Falls; and the community colleges at Miles City, Glendive, and Kalispell. (Terminates June 30, 2020—sec. 11, Ch. 319, L. 2007.)

**17-7-102.** (Effective July 1, 2020) **Definitions.** As used in this chapter, the following definitions apply:

(1) “Additional services” means different services or more of the same services.

(2) “Agency” means all offices, departments, boards, commissions, institutions, universities, colleges, and any other person or any other administrative unit of state government that spends or encumbers public money by virtue of an appropriation from the legislature under 17-8-101.

(3) “Approving authority” means:

(a) the governor or the governor’s designated representative for executive branch agencies;

(b) the chief justice of the supreme court or the chief justice’s designated representative for judicial branch agencies;

(c) the speaker for the house of representatives;

(d) the president for the senate;

(e) appropriate legislative committees or a designated representative for legislative branch agencies; or

(f) the board of regents of higher education or its designated representative for the university system.

(4) “Base budget” means the resources for the operation of state government that are of an ongoing and nonextraordinary nature in the current biennium. The base budget for the state general fund and state special revenue funds may not exceed that level of funding authorized by the previous legislature.

(5) “Budget amendment” means a temporary appropriation as provided in Title 17, chapter 7, part 4.

(6) “Emergency” means a catastrophe, disaster, calamity, or other serious unforeseen and unanticipated circumstance that has occurred subsequent to the time that an agency’s appropriation was made, that was clearly not within the contemplation of the legislature and the governor, and that affects one or more functions of a state agency and the agency’s expenditure requirements for the performance of the function or functions.

(7) “Funds subject to appropriation” means those funds required to be paid out of the treasury as set forth in 17-8-101.

(8) “Necessary” means essential to the public welfare and of a nature that cannot wait until the next legislative session for legislative consideration.

(9) "New proposals" means requests to provide new nonmandated services, to change program services, to eliminate existing services, or to change sources of funding. For purposes of establishing the present law base, the distinction between new proposals and the adjustments to the base budget to develop the present law base is to be determined by the existence of constitutional or statutory requirements for the proposed expenditure. Any proposed increase or decrease that is not based on those requirements is considered a new proposal.

(10) "Present law base" means that level of funding needed under present law to maintain operations and services at the level authorized by the previous legislature, including but not limited to:

(a) changes resulting from legally mandated workload, caseload, or enrollment increases or decreases;

(b) changes in funding requirements resulting from constitutional or statutory schedules or formulas;

(c) inflationary or deflationary adjustments; and

(d) elimination of nonrecurring appropriations.

(11) "Program" means a principal organizational or budgetary unit within an agency.

(12) "Requesting agency" means the agency of state government that has requested a specific budget amendment.

(13) "University system unit" means the board of regents of higher education; office of the commissioner of higher education; university of Montana, with campuses at Missoula, Butte, Dillon, and Helena; Montana state university, with campuses at Bozeman, Billings, Havre, and Great Falls; the agricultural experiment station, with central offices at Bozeman; the forest and conservation experiment station, with central offices at Missoula; the cooperative extension service, with central offices at Bozeman; the bureau of mines and geology, with central offices at Butte; the fire services training school at Great Falls; and the community colleges at Miles City, Glendive, and Kalispell."

**Section 12.** 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~~ *Subject to subsections (7) and (8), 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.

(7) (a) *The department of public health and human services' budget request for the 2013 biennium must identify changes necessary to reduce the 2013*



*biennium expenditures to the level funded in the general appropriations act. The department may include changes such as reducing administrative costs, developing more cost-efficient methods to deliver services, limiting the number of medicaid services that adults may receive, changing medicaid services included in the Montana medicaid state plan, changing eligibility or level-of-care requirements for medicaid waiver services, limiting or changing services that are fully state-funded, or implementing other initiatives that reduce state funds. Achieving the necessary general fund reduction in the 2013 biennium budget request may not include shifting costs to state special revenue funds.*

*(b) The department of public health and human services shall prepare a work plan with goals, milestones, and measures to guide its review of alternatives to identify, evaluate, and select initiatives to reduce ongoing state spending in its 2013 biennium budget submission. The department shall submit the work plan, goals, milestones, and measures to the legislative finance committee at its first meeting after the adjournment of the 2009 legislative session for its review and comment. The department shall provide an update of its budget reduction for review and comment at each legislative finance committee meeting in a format developed with and agreed upon by the committee.*

*(8) Each agency budget request for the 2013 biennium must include the adjustments to present law base specified in 17-7-102(10)(b)."*

**Section 13.** Section 17-7-304, MCA, is amended to read:

**"17-7-304. Disposal of unexpended appropriations.** (1) All money appropriated for any specific purpose except that appropriated for the university system units listed in subsection (2) ~~for state money appropriated for the state children's health insurance program provided for in Title 53, chapter 4, part 10,~~ and except as provided in subsection (4) must, after the expiration of the time for which appropriated, revert to the several funds and accounts from which originally appropriated. However, any unexpended balance in any specific appropriation may be used for the years for which the appropriation was made or may be used to fund the provisions of 2-18-1203 through 2-18-1205 and 19-2-706 in the succeeding year.

(2) Except as provided in 17-2-108 and subsection (3) of this section, all money appropriated for the university of Montana campuses at Missoula, Butte, Dillon, and Helena and the Montana state university campuses at Bozeman, Billings, Havre, and Great Falls, the agricultural experiment station with central offices at Bozeman, the forest and conservation experiment station with central offices at Missoula, the cooperative extension service with central offices at Bozeman, and the bureau of mines and geology with central offices in Butte must, after the expiration of the time for which appropriated, revert to an account held by the board of regents. The board of regents is authorized to maintain a fund balance. There is a statutory appropriation, as provided in 17-7-502, to use the funds held in this account in accordance with a long-term plan for major and deferred maintenance expenditures and equipment or fixed assets purchases prepared by the affected university system units and approved by the board of regents. The affected university system units may, with the approval of the board of regents, modify the long-term plan at any time to address changing needs and priorities. The board of regents shall communicate the plan to each legislature, to the finance committee when requested by the committee, and to the office of budget and program planning.

(3) Subsection (2) does not apply to reversions that are the result of a reduction in spending directed by the governor pursuant to 17-7-140. Any

amount that is a result of a reduction in spending directed by the governor must revert to the fund or account from which it was originally appropriated.

(4) (a) Subject to subsection (4)(b), after the end of a fiscal year, 30% of the money appropriated to an agency for that year by the general appropriations act for personal services, operating expenses, and equipment, by fund type, and remaining unexpended and unencumbered at the end of the year may be reappropriated to be spent during the following 2 years for any purpose that is consistent with the goals and objectives of the agency. The dollar amount of the 30% amount that may be carried forward and spent must be determined by the office of budget and program planning.

(b) (i) Any portion of the 30% of the unexpended and unencumbered money referred to in subsection (4)(a) that was appropriated to a legislative branch entity may be deposited in the account established in 5-11-407.

(ii) After the end of a biennium, any portion of the unexpended and unencumbered money appropriated for the operation of the preceding legislature in a separate appropriation act may be deposited in the account established in 5-11-407. The approving authority shall determine the portion of the unexpended and unencumbered money that is deposited in the account. ~~(Bracketed language terminates on occurrence of contingency—sec. 7, Ch. 565, L. 2005.)~~”

**Section 14.** Section 20-9-306, MCA, is amended to read:

**“20-9-306. Definitions.** As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) “BASE” means base amount for school equity.

(2) “BASE aid” means:

(a) direct state aid for 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district;

(b) guaranteed tax base aid for an eligible district for any amount up to 35.3% of the basic entitlement, up to 35.3% of the total per-ANB entitlement budgeted in the general fund budget of a district, and 40% of the special education allowable cost payment;

(c) the total quality educator payment;

(d) the total at-risk student payment;

(e) the total Indian education for all payment; and

(f) the total American Indian achievement gap payment.

(3) “BASE budget” means the minimum general fund budget of a district, which includes 80% of the basic entitlement, 80% of the total per-ANB entitlement, 100% of the total quality educator payment, 100% of the total at-risk student payment, 100% of the total Indian education for all payment, 100% of the total American Indian achievement gap payment, and 140% of the special education allowable cost payment.

(4) “BASE budget levy” means the district levy in support of the BASE budget of a district, which may be supplemented by guaranteed tax base aid if the district is eligible under the provisions of 20-9-366 through 20-9-369.

(5) “BASE funding program” means the state program for the equitable distribution of the state’s share of the cost of Montana’s basic system of public elementary schools and high schools, through county equalization aid as provided in 20-9-331 and 20-9-333 and state equalization aid as provided in

20-9-343, in support of the BASE budgets of districts and special education allowable cost payments as provided in 20-9-321.

(6) "Basic entitlement" means:

(a) for each high school district:

(i) ~~\$236,552~~ \$246,085 for fiscal year ~~2008~~ 2010; and

(ii) ~~\$243,649~~ \$253,468 for each succeeding fiscal year;

(b) for each elementary school district or K-12 district elementary program without an approved and accredited junior high school, 7th and 8th grade program, or middle school:

(i) ~~\$21,290~~ \$22,141 for fiscal year ~~2008~~ 2010;

(ii) ~~\$21,922~~ \$22,805 for each succeeding fiscal year; and

(c) for each elementary school district or K-12 district elementary program with an approved and accredited junior high school, 7th and 8th grade program, or middle school:

(i) for kindergarten through grade 6 elementary program:

(A) ~~\$21,290~~ \$22,141 for fiscal year ~~2008~~ 2010; and

(B) ~~\$21,922~~ \$22,805 for each succeeding fiscal year; plus

(ii) for an approved and accredited junior high school program, 7th and 8th grade program, or middle school:

(A) ~~\$60,275~~ \$62,704 for fiscal year ~~2008~~ 2010; and

(B) ~~\$62,083~~ \$64,585 for each succeeding fiscal year.

(7) "Budget unit" means the unit for which the ANB of a district is calculated separately pursuant to 20-9-311.

(8) "Direct state aid" means 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district and funded with state and county equalization aid.

(9) "Maximum general fund budget" means a district's general fund budget amount calculated from the basic entitlement for the district, the total per-ANB entitlement for the district, the total quality educator payment, the total at-risk student payment, the total Indian education for all payment, the total American Indian achievement gap payment, and the greater of:

(a) 175% of special education allowable cost payments; or

(b) the ratio, expressed as a percentage, of the district's special education allowable cost expenditures to the district's special education allowable cost payment for the fiscal year that is 2 years previous, with a maximum allowable ratio of 200%.

(10) "Over-BASE budget levy" means the district levy in support of any general fund amount budgeted that is above the BASE budget and below the maximum general fund budget for a district.

(11) "Total American Indian achievement gap payment" means the payment resulting from multiplying \$200 times the number of American Indian students enrolled in the district as provided in 20-9-330.

(12) "Total at-risk student payment" means the payment resulting from the distribution of any funds appropriated for the purposes of 20-9-328.

(13) "Total Indian education for all payment" means the payment resulting from multiplying \$20.40 times the ANB of the district or \$100 for each district, whichever is greater, as provided for in 20-9-329.

(14) "Total per-ANB entitlement" means the district entitlement resulting from the following calculations and using either the current year ANB or the 3-year ANB provided for in 20-9-311:

(a) for a high school district or a K-12 district high school program, a maximum rate of ~~\$5,861~~ *\$6,097* for fiscal year ~~2008~~ *2010* and ~~\$6,037~~ *\$6,280* for each succeeding fiscal year for the first ANB, decreased at the rate of 50 cents per ANB for each additional ANB of the district up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB;

(b) for an elementary school district or a K-12 district elementary program without an approved and accredited junior high school, 7th and 8th grade program, or middle school, a maximum rate of ~~\$4,579~~ *\$4,763* for fiscal year ~~2008~~ *2010* and ~~\$4,716~~ *\$4,906* for each succeeding fiscal year for the first ANB, decreased at the rate of 20 cents per ANB for each additional ANB of the district up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(c) for an elementary school district or a K-12 district elementary program with an approved and accredited junior high school, 7th and 8th grade program, or middle school, the sum of:

(i) a maximum rate of ~~\$4,579~~ *\$4,763* for fiscal year ~~2008~~ *2010* and ~~\$4,716~~ *\$4,906* for each succeeding fiscal year for the first ANB for kindergarten through grade 6, decreased at the rate of 20 cents per ANB for each additional ANB up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(ii) a maximum rate of ~~\$5,861~~ *\$6,097* for fiscal year ~~2008~~ *2010* and ~~\$6,037~~ *\$6,280* for each succeeding fiscal year for the first ANB for grades 7 and 8, decreased at the rate of 50 cents per ANB for each additional ANB for grades 7 and 8 up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB.

(15) "Total quality educator payment" means the payment resulting from multiplying ~~\$3,036~~ for fiscal year 2008 and ~~\$3,042~~ for each succeeding fiscal year times the number of full-time equivalent educators as provided in 20-9-327."

**Section 15.** Section 33-2-708, MCA, is amended to read:

**"33-2-708. Fees and licenses.** (1) (a) Except as provided in 33-17-212(2), the commissioner shall collect a fee of \$1,900 from each insurer applying for or annually renewing a certificate of authority to conduct the business of insurance in Montana.

(b) The commissioner shall collect certain additional fees as follows:

(i) nonresident insurance producer's license:

(A) application for original license, including issuance of license, if issued, \$100;

(B) biennial renewal of license, \$50;

(C) lapsed license reinstatement fee, \$100;

(ii) resident insurance producer's license lapsed license reinstatement fee, \$100;

(iii) surplus lines insurance producer's license:

(A) application for original license and for issuance of license, if issued, \$50;

(B) biennial renewal of license, \$100;

- (C) lapsed license reinstatement fee, \$200;
  - (iv) insurance adjuster's license:
    - (A) application for original license, including issuance of license, if issued, \$50;
    - (B) biennial renewal of license, \$100;
    - (C) lapsed license reinstatement fee, \$200;
  - (v) insurance consultant's license:
    - (A) application for original license, including issuance of license, if issued, \$50;
    - (B) biennial renewal of license, \$100;
    - (C) lapsed license reinstatement fee, \$200;
  - (vi) viatical settlement broker's license:
    - (A) application for original license, including issuance of license, if issued, \$50;
    - (B) biennial renewal of license, \$100;
    - (C) lapsed license reinstatement fee, \$200;
  - (vii) resident and nonresident rental car entity producer's license:
    - (A) application for original license, including issuance of license, if issued, \$100;
    - (B) quarterly filing fee, \$25;
  - (viii) an original notification fee for a life insurance producer acting as a viatical settlement broker, in accordance with 33-20-1303(2)(b), \$50;
  - (ix) 50 cents for each page for copies of documents on file in the commissioner's office.
- (c) The commissioner may adopt rules to determine the date by which a nonresident insurance producer, a surplus lines insurance producer, an insurance adjuster, or an insurance consultant is required to pay the fee for the biennial renewal of a license.
- (2) (a) The commissioner shall charge a fee of \$75 for each course or program submitted for review as required by 33-17-1204 and 33-17-1205, but may not charge more than \$1,500 to a sponsoring organization submitting courses or programs for review in any biennium.
- (b) Insurers and associations composed of members of the insurance industry are exempt from the charge in subsection (2)(a).
- (3) (a) ~~Except as provided in subsection (3)(b), the~~ *Except as provided in subsection (3)(b), the* commissioner shall promptly deposit with the state treasurer to the credit of the general fund all fines and penalties and those amounts received pursuant to 33-2-311, 33-2-705, 33-28-201, and 50-3-109.
- ~~(b) The commissioner shall deposit 33% of the money collected under 33-2-705 in the special revenue account provided for in 53-4-1115.~~
- (b) The commissioner shall deposit 16.67% of the money collected under 33-2-705 in the special revenue account provided for in 53-4-1115.*
- (e)(c) All other fees collected by the commissioner pursuant to Title 33 and the rules adopted under Title 33 must be deposited in the state special revenue fund to the credit of the state auditor's office.
- (4) All fees are considered fully earned when received. In the event of overpayment, only those amounts in excess of \$10 will be refunded."

**Section 16.** Section 47-1-201, MCA, is amended to read:

**“47-1-201. Office of state public defender — personnel — compensation — expenses — reports.** (1) There is an office of state public defender. The office must be located in Butte, Montana. The head of the office is the chief public defender, who is supervised by the commission.

(2) The chief public defender must be an attorney licensed to practice law in the state. The chief public defender is appointed by and serves at the pleasure of the commission. The position of chief public defender is exempt from the state classification and pay plan, as provided in 2-18-103. The commission shall establish compensation for the position commensurate with the position’s duties and responsibilities, taking into account the compensation paid to prosecutors with similar responsibilities.

(3) The chief public defender shall hire or contract for and supervise other personnel necessary to perform the function of the office and to implement the provisions of this chapter, including but not limited to:

(a) the following personnel who are exempt from the state classification and pay plan, as provided in 2-18-103:

(i) an administrative director, who must be experienced in business management and contract management;

(ii) a chief appellate defender;

(iii) a chief contract manager to oversee and enforce the contracting program;

(iv) a training coordinator, appointed as provided in 47-1-210;

(v) deputy public defenders, as provided in 47-1-215; and

(b) assistant public defenders; and

(c) other necessary administrative and professional support staff for the office.

(4) Positions established pursuant to subsections (3)(b) and (3)(c) are classified positions, and persons in those positions are entitled to salaries, wages, benefits, and expenses as provided in Title 2, chapter 18.

(5) ~~Beginning July 1, 2006, the~~ *The* following expenses are payable by the office if the expense is incurred at the request of a public defender:

(a) witness and interpreter fees and expenses provided in Title 26, chapter 2, part 5, and 46-15-116; and

(b) transcript fees, as provided in 3-5-604.

(6) If the costs to be paid pursuant to this section are not paid directly, reimbursement must be made within 30 days of the receipt of a claim.

(7) The office may accept gifts, grants, or donations, which must be deposited in the account provided for in 47-1-110.

(8) The chief public defender shall establish procedures to provide for the approval, payment, recording, reporting, and management of defense expenses paid pursuant to this section.

(9) *(a) The office of public defender is required to report data for each fiscal year representing the caseload for the entire public defender system to the legislative finance committee. The report must include data for both employee and contract attorneys, the number of new cases opened, the number of cases closed, the number of cases that remain open and active, the number of cases that remain open but are inactive, and the average number of days between case*

*opening and closure for each case type. The report for fiscal year 2009 must be provided to the legislative finance committee by January 1, 2010, and the report for fiscal year 2010 must be provided to the legislative finance committee by September 30, 2010.*

*(b) The office of public defender is required to report to the legislative finance committee for each fiscal year on the amount of funds collected as reimbursement for services rendered, including the number of cases for which a collection is made, the number of cases for which an amount is owed, the amount collected, and the amount remaining unpaid. The report for fiscal year 2009 must be provided to the legislative finance committee by January 1, 2010, and the report for fiscal year 2010 must be provided to the legislative finance committee by September 30, 2010.”*

**Section 17.** Section 53-4-212, MCA, is amended to read:

**“53-4-212. Department to make adopt rules.** (1) The department shall ~~make~~ *adopt* rules and take action as necessary or desirable for the administration of public assistance programs.

(2) ~~The Subject to subsection (3),~~ the department shall adopt rules that may include but are not limited to rules concerning:

(a) eligibility requirements, including gross and net income limitations, resource limitations, and income and resource exclusions;

(b) amounts of assistance, methods for computing benefit amounts, and the length of time for which benefits may be granted;

(c) the degree of kinship required for a person to qualify as a specified caretaker relative in order to be eligible for assistance;

(d) procedures and policies for employment and training programs, requirements for participation in employment and training programs, and exemptions, if any, from participation requirements;

(e) requirements for specified caretaker relatives, including cooperation with assessments, the number of hours of participation required for each month, specific activities required to address employment barriers, and other terms of performance;

(f) eligibility for and terms and conditions of child-care assistance for financial assistance recipients, including maximum amounts of assistance payable and amounts of copayments required by specified caretaker relatives;

(g) eligibility criteria and participation requirements for nonfinancial assistance recipients;

(h) terms of ineligibility or sanctions against a specified caretaker relative or other family member who fails to enter into a family investment agreement, as provided for in 53-4-606, or to comply with the individual’s obligations under the agreement, including the length of the period of ineligibility, if any;

(i) requirements, if any, for participation in the employment and training demonstration project;

(j) eligibility for and terms and conditions of extended medical assistance benefits;

(k) reporting requirements;

(l) sanctions, disqualification, or other penalties for failure or refusal to comply with the rules or requirements of a public assistance program;

(m) exemptions from the 60-month limitation on assistance provided in 53-4-231 based on hardship or for families that include an individual who has

been battered or subjected to extreme cruelty, as defined in section 103 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 42 U.S.C. 608, including but not limited to the duration of the exemption;

(n) individuals who must be included as members of an assistance unit;

(o) categories of aliens who may receive assistance, if any;

(p) requirements relating to the assignment of child and medical support rights and cooperation in establishing paternity and obtaining child and medical support;

(q) requirements for eligibility and other terms and conditions of other programs to strengthen and preserve families;

(r) special eligibility or participation requirements applicable to teenage parents, if any;

(s) conditions under which assistance may be continued when an adult or a dependent child is temporarily absent from the home and the length of time for which assistance may be continued;

(t) any random drug testing or reporting requirements for persons who are required to comply with the conditions provided under 53-4-231(3) and graduated sanctions that may include terms of ineligibility for violations of conditions of supervision or treatment requirements. The department may enter into agreements with the department of corrections regarding testing and reporting on offenders under the supervision of the department of corrections.

(u) approved educational programs, appropriate educational courses of study, employee assessment instruments, and administration of the Montana parents as scholars program provided for in 53-4-209.

(3) *By October 1, 2009, the department shall adopt rules establishing a net income limit of 250% of the current federal poverty level for federal funds or state general fund money used for participating families in the child care for working caretaker relatives program. The department may incorporate an earned income work disregard of \$200 and an additional 25% disregard from the household's gross income to determine the household's net income."*

**Section 18.** Section 53-4-1005, MCA, is amended to read:

**"53-4-1005. (Temporary) Benefits provided.** (1) Benefits provided to participants in the program may include but are not limited to:

(a) inpatient and outpatient hospital services;

(b) physician and advanced practice registered nurse services;

(c) laboratory and x-ray services;

(d) well-child and well-baby services;

(e) immunizations;

(f) clinic services;

(g) dental services;

(h) prescription drugs;

(i) mental health and substance abuse treatment services;

(j) hearing and vision exams; and

(k) eyeglasses.

(2) The department shall adopt rules, pursuant to its authority under 53-4-1009, allowing it to cover significant dental needs beyond those covered in the basic plan. Expenditures under this subsection may not exceed \$100,000 in state funds, plus any matched federal funds, each fiscal year.



~~(3) The department is specifically prohibited from providing payment for birth control contraceptives under this program.~~

*(3) The department is specifically prohibited from providing payment for birth control contraceptives under this program.*

*(4) The department shall notify enrollees of any restrictions on access to health care providers, of any restrictions on the availability of services by out-of-state providers, and of the methodology for an out-of-state provider to be an eligible provider. (Terminates on occurrence of contingency—sec. 15, Ch. 571, L. 1999; sec. 3, Ch. 169, L. 2007.)*

**Section 19.** Section 53-4-1007, MCA, is amended to read:

**“53-4-1007. (Temporary) Department may contract for services. (1)** The department of public health and human services may administer the program directly or contract with insurance companies or other entities to provide services for a set monthly or yearly fee based on the number of participants in the program and the types of services provided or based on a fee for service as established by the department.

(2) The department of public health and human services may contract for a health care service based on a fee for service when the department does not contract for a health care service through an insurance plan, a health maintenance organization, or a managed care plan. *A contract entered into or renewed on or after [the effective date of this act] may not limit enrollee access to providers who are willing to provide services at the rates provided for under the program.* In operating the program and providing health services, the department may:

(a) pay providers on a fee-for-service basis in a self-funded program and contract with an insurance company, third-party administrator, or other entity to provide administrative services, including but not limited to processing and payment of claims with program funds;

(b) purchase health coverage for eligible children from an insurance company or other entity through premiums, capitated payments, or other appropriate methods;

(c) purchase health coverage as provided in subsection (2)(b) for some types of health services and contract directly with providers for other types of health services on a fee-for-service basis; or

(d) pay providers on a fee-for-service basis and directly provide administrative services in a self-funded program.

(3) If the department of public health and human services contracts with an insurance company or other entity to administer the program as provided in subsection (2)(b) or (2)(c), not more than 12% of the contract payment may be used for administrative expenses, including:

(a) direct and indirect expenses as specified in 33-22-1514;

(b) risk charges; and

(c) any applicable assessments, fees, and taxes.

(4) If the department operates the program by providing administrative services under subsection (2)(a), (2)(c), or (2)(d), the department's administrative expense may not exceed the lesser of 10% of total program expenses or the applicable federal limitation, excluding costs for federally required audits.

(5) (a) An insurance company or other entity that contracts with the department for a fully insured contract as provided in subsection (2)(b) shall

calculate the surplus account balance at the end of each contract year and may retain an amount equal to 50% of the risk charge allowed under the contract. The remainder of the surplus balance must be deposited in the state special revenue account provided for in 53-4-1012.

(b) For the purposes of this subsection (5):

(i) “risk charge” means the percentage of the administrative expense allowed in the contract for assuming the risk;

(ii) “surplus account balance” means funds that remain after all claims and all administrative expenses have been paid for a claim period. (Terminates on occurrence of contingency—sec. 15, Ch. 571, L. 1999; sec. 7, Ch. 565, L. 2005; sec. 5, Ch. 129, L. 2007.)”

**Section 20.** Section 53-4-1012, MCA, is amended to read:

**“53-4-1012. (Temporary) State special revenue account.** (1) There is an account in the state special revenue fund to the credit of the state children’s health insurance program administered by the department of public health and human services. Any interest or income derived from the account must be deposited in the account.

(2) Money deposited in this account must be used by the department to cover additional children, to expand eligibility within the limits provided in ~~53-4-1004~~, to reduce or maintain premiums, to pay health care claims, or to establish and maintain a reserve.

~~(3) The department shall transfer the unexpended balance of an appropriation into the account provided for in subsection (1) at the expiration of the appropriation to be used for the purposes stated in subsection (2). (Terminates on occurrence of contingency—sec. 7, Ch. 565, L. 2005; sec. 5, Ch. 129, L. 2007.)”~~

**Section 21.** 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 *administer the plan and* maximize enrollment of eligible children under the ~~children’s health insurance program~~ *healthy Montana kids plan*, provided for under Title 53, chapter 4, part ~~10 11~~, 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)(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 22.** Section 75-10-704, MCA, is amended to read:

**"75-10-704. Environmental quality protection fund.** (1) ~~There Subject to legislative fund transfers, there~~ is in the state special revenue fund an environmental quality protection fund to be administered as a revolving fund by the department. The department is authorized to expend amounts from the fund necessary to carry out the purposes of this part.

(2) The fund may be used by the department only to carry out the provisions of this part and for remedial actions taken by the department pursuant to this part in response to a release of hazardous or deleterious substances.

(3) The department shall:

(a) except as provided in subsection (7), establish and implement a system, including the preparation of a priority list, for prioritizing sites for remedial action based on potential effects on human health and the environment; and

(b) investigate, negotiate, and take legal action, as appropriate, to identify liable persons, to obtain the participation and financial contribution of liable persons for the remedial action, to achieve remedial action, and to recover costs and damages incurred by the state.

(4) There must be deposited in the fund:

(a) all penalties, forfeited financial assurance, natural resource damages, and remedial action costs recovered pursuant to 75-10-715;

(b) all administrative penalties assessed pursuant to 75-10-714 and all civil penalties assessed pursuant to 75-10-711(5);

(c) funds allocated to the fund by the legislature;

(d) proceeds from the resource indemnity and ground water assessment tax as authorized by 15-38-106;

(e) funds received from the interest income of the resource indemnity trust fund pursuant to 15-38-202;

(f) funds received from the interest income of the fund;

(g) funds received from settlements pursuant to 75-10-719(7); and

(h) funds received from the interest paid pursuant to 75-10-722.

(5) Whenever a legislative appropriation is insufficient to carry out the provisions of this part and additional money remains in the fund, the department shall seek additional authority to spend money from the fund through the budget amendment process provided for in Title 17, chapter 7, part 4.

(6) Whenever the amount of money in the fund is insufficient to carry out remedial action, the department may apply to the governor for a grant from the environmental contingency account established pursuant to 75-1-1101.

(7) (a) There is established a state special revenue account for all funds donated or granted from private parties to remediate a specific release at a specific facility. There must be deposited into the account the interest income earned on the account. A person is not liable under 75-10-715 solely as a result of contributing to this account.

(b) Funds donated or granted for a specific project pursuant to this subsection (7) must be accumulated in the fund until the balance of the donated or granted funds is sufficient, as determined by the department, to remediate the facility pursuant to the requirements of 75-10-721 for which the funds are donated.

(c) If the balance of the fund created in this subsection (7), as determined by the department pursuant to the requirements of 75-10-721, is not sufficient to remediate the facility within 1 year from the date of the initial contribution, all donated or granted funds, including any interest on those donated or granted funds, must be returned to the grantor.

(d) If the balance for a specific project is determined by the department to be sufficient to remediate the facility pursuant to the requirements of 75-10-721, the department shall give that site high priority for remedial action, using the funds donated under this subsection (7).

(e) This subsection (7) is not intended to delay, to interfere with, or to diminish the authority or actions of the department to investigate, negotiate,

and take legal action, as appropriate, to identify liable persons, to obtain the participation and financial contribution of liable persons for the remedial action, to achieve remedial action, and to recover costs and damages incurred by the state.

(f) The department shall expend the funds in a manner that maximizes the application of the funds to physically remediating the specific release.

(8) (a) A person may donate in-kind services to remediate a specific release at a specific facility pursuant to subsection (7). A person who donates in-kind services is not liable under 75-10-715 solely as a result of the contribution of in-kind services.

(b) A person who donates in-kind services with respect to remediating a specific release at a specific facility is not liable under this part to any person for injuries, costs, damages, expenses, or other liability that results from the release or threatened release, including but not limited to claims for indemnification or contribution and claims by third parties for death, personal injury, illness, loss of or damage to property, or economic loss.

(c) Immunity from liability, pursuant to subsection (8)(b), does not apply in the case of a release that is caused by conduct of the entity providing in-kind services that is negligent or grossly negligent or that constitutes intentional misconduct.

(d) When a person is liable under 75-10-715 for costs or damages incurred as a result of a release or threatened release of a hazardous or deleterious substance, the person may not avoid that liability or responsibility under 75-10-711 by subsequent donations of money or in-kind services under the provisions of subsection (7) and this subsection (8).

(e) Any donated in-kind services that are employed as part of a remedial action pursuant to this subsection (8) must be approved by the department as appropriate remedial action.”

**Section 23.** Section 80-6-1109, MCA, is amended to read:

**“80-6-1109. Fees to be set by rule — self-supporting program — enterprise fund account established.** (1) Fees authorized to be charged by this part must be set by committee rule. The fees must be designed to reimburse the committee for costs incurred in providing services and carrying out its duties under this part. It is the intent of the legislature that committee activities under this part be self-supporting.

(2) There is an ~~enterprise account in the state special revenue fund~~ known as the leaf-cutting bee ~~fund account~~ for use by the committee. Fees collected under this part must be paid into the leaf-cutting bee ~~fund account~~.

(3) The committee may direct the board of investments to invest money from the ~~fund account~~ pursuant to the provisions of the unified investment program. The income from ~~such~~ investments must be credited to the leaf-cutting bee ~~fund account~~.”

**Section 24.** Section 85-2-280, MCA, is amended to read:

**“85-2-280. (Temporary) Water adjudication account.** (1) There is a water adjudication account within the state special revenue fund created in 17-2-102.

(2) (a) ~~For~~ *Subject to legislative fund transfers, for the period beginning July 1, 2005, and ending June 30, 2015,* there is allocated to the department and the water court up to \$2.6 million, plus the approved inflation factor contained in the revenue estimating resolution, each fiscal year from the water adjudication

account for the sole purpose of funding the water adjudication program. These funds may not be used for the purpose of updating or maintaining a computer database.

(b) For the period beginning July 1, 2015, and ending June 30, 2020, there is allocated to the department and the water court up to \$1 million, plus the approved inflation factor contained in the revenue estimating resolution, each fiscal year from the account for the sole purpose of funding the water adjudication program.

(c) The allocations in subsections (2)(a) and (2)(b) are subject to appropriation by the legislature.

(3) Interest and income earnings on the water adjudication account must be deposited in the account.

(4) Money remaining in the water adjudication account on June 30, 2020, must be transferred to the water right appropriation account provided for in 85-2-318.

(5) If the accountability benchmarks contained in 85-2-271 are not met, expenditures from the account in the previous biennium may not be included in the department's base budget, as defined in 17-7-102, for the current biennium. (Terminates June 30, 2020—sec. 18, Ch. 288, L. 2005; sec. 11, Ch. 319, L. 2007.)”

**Section 25. Emergency medical services grants.** The department of transportation shall report to the governor and the legislative finance committee not later than November 1 of the year preceding a regular session of the legislature regarding emergency medical services grants that are awarded during each biennium. The report must include a listing of all grant requests and a listing of grants awarded, including a summary of the use of grant funds.

**Section 26. Legislative intent.** It is the intent of the legislature that the appropriation in House Bill No. 2 for an FTE in the veterans' affairs program be attached to the veterans service office in Missoula and that the FTE, on average, spend 2 days each week in Hamilton, 2 days each week in Polson, and 1 day each week in Missoula.

**Section 27. Emergency medical service grant program reports.** The department of transportation shall report to the children, families, health, and human services interim committee twice during each year of the interim on the results of the emergency medical service grant program funded in House Bill No. 2. The reports must include grants submitted, grants processed and awarded, and the remaining balance of the appropriation.

**Section 28. Fund transfers.** (1) By August 15, 2009, there must be transferred \$2,064,139 from the water adjudication state special revenue account provided for in 85-2-280 to the natural resources operations state special revenue account established in 15-38-301.

(2) By August 15, 2009, there must be transferred \$600,000 from the environmental quality protection fund established in 75-10-704 to the natural resources operations state special revenue account established in 15-38-301.

(3) There is transferred \$300,000 from the junk vehicle fund as authorized in 75-10-532 to the natural resources operations state special revenue account established in 15-38-301.

**Section 29. Vehicle insurance verification system — vendor requirement.** In order to reduce state risk, a vendor who successfully bids on the vehicle insurance verification system project must have installed in at least two other states a substantially similar system, which must be in production.

**Section 30. Repealer.** Sections 15-30-169, 50-44-101, 50-44-102, and 50-44-103, MCA, are repealed.

**Section 31. Codification instruction.** [Section 25] is intended to be codified as an integral part of Title 61, chapter 2, and the provisions of Title 61, chapter 2, apply to [section 25].

**Section 32. Coordination instruction.** If House Bill No. 152 and [this act] are both passed and approved, then [section 22] of House Bill No. 152 must be amended as follows:

~~“NEW SECTION. Section 22. Applicability.~~ [Section 18] applies to rental payments beginning January 1, ~~2011~~ 2012.”

**Section 33. Effective date.** [This act] is effective July 1, 2009.

**Section 34. Applicability.** (1) [Section 7] applies retroactively, within the meaning of 1-2-109, to the fiscal year ending June 30, 2009.

(2) [Section 14] applies to school budgets for school fiscal years beginning on or after July 1, 2009.

**Section 35. Termination.** (1) [Sections 9 through 11] terminate June 30, 2011.

(2) [Section 15] terminates June 30, 2013.

Approved May 10, 2009

## CHAPTER NO. 487

[SB 489]

AN ACT 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.

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

**Section 1.** 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;

(c) ~~all~~ for oil and gas production, *all*:

(i) machinery,;

(ii) fixtures,;

(iii) equipment, including *flow lines and gathering lines*, 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, *and* gas boosters, ~~and similar together with~~ equipment that is skidable, portable, or movable,;

(iv) tools that are not exempt under 15-6-219,; and

(v) 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 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; *and*

(b) "*flow lines and gathering lines*" means pipelines used to transport all or part of the oil or gas production from an oil or gas well to an interconnection with a common carrier pipeline as defined in 69-13-101, a pipeline carrier as defined in 49 U.S.C. 15102(2), or a rate-regulated natural gas transmission or oil transmission pipeline regulated by the public service commission or the federal energy regulatory commission.

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

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

(5) 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.

(6) *The gas gathering facilities of a stand-alone gas gathering company providing gas gathering services to third parties on a contractual basis, owning more than 500 miles of gas gathering lines in Montana, and centrally assessed in tax years prior to 2009 must be treated as a natural gas transmission pipeline subject to central assessment under 15-23-101. For purposes of this subsection, the gas gathering line ownership of all affiliated companies, as defined in section 1504(a) of the Internal Revenue Code, 26 U.S.C. 1504(a), must be aggregated for purposes of determining the 500-mile threshold.*

**Section 2.** Section 15-6-141, MCA, is amended to read:

**"15-6-141. Class nine property — description — taxable percentage.**

(1) Class nine property includes:

(a) centrally assessed allocations of an electric power company or centrally assessed allocations of an electric power company that owns or operates transmission or distribution facilities or both, including, if congress passes



legislation that allows the state to tax property owned by an agency created by congress to transmit or distribute electrical energy, allocations of properties constructed, owned, or operated by a public agency created by congress to transmit or distribute electrical energy produced at privately owned generating facilities, not including rural electric cooperatives. However, rural electric cooperatives' property, except wind generation facilities classified under 15-6-157, used for the sole purpose of serving customers representing less than 95% of the electric consumers located within the incorporated limits of a city or town of more than 3,500 persons in which a centrally assessed electric power company also owns property or serving an incorporated municipality with a population that is greater than 3,500 persons formerly served by a public utility that after January 1, 1998, received service from the facilities of an electric cooperative is included. For purposes of this subsection (1)(a), "property used for the sole purpose" does not include a headquarters, office, shop, or other similar facility.

(b) allocations for centrally assessed natural gas ~~companies having a major distribution system in this state~~ *distribution utilities, rate-regulated natural gas transmission or oil transmission pipelines regulated by either the public service commission or the federal energy regulatory commission, a common carrier pipeline as defined in 69-13-101, a pipeline carrier as defined in 49 U.S.C. 15102(2), or the gas gathering facilities specified in 15-6-138(6); and*

(c) centrally assessed companies' allocations except:

- (i) electrical generation facilities classified under 15-6-156;
  - (ii) all property classified under 15-6-157;
  - (iii) all property classified under 15-6-158 and 15-6-159;
  - (iv) property owned by cooperative rural electric and cooperative rural telephone associations and classified under 15-6-135;
  - (v) property owned by organizations providing telephone communications to rural areas and classified under 15-6-135;
  - (vi) railroad transportation property included in 15-6-145;
  - (vii) airline transportation property included in 15-6-145; and
  - (viii) telecommunications property included in 15-6-156.
- (2) Class nine property is taxed at 12% of market value."

**Section 3.** Section 15-23-101, MCA, is amended to read:

**"15-23-101. Properties centrally assessed.** The department shall centrally assess each year:

- (1) the railroad transportation property of railroads and railroad car companies operating in more than one county in the state or more than one state;
- (2) property owned by a corporation or other person operating a single and continuous property operated in more than one county or more than one state, ~~including but not limited to~~ *including but not limited to*:
  - (a) telegraph, telephone, microwave, and electric power or transmission lines;
  - (b) *rate-regulated natural gas transmission or oil transmission pipelines regulated by the public service commission or the federal energy regulatory commission;*
  - (c) *common carrier pipelines as defined in 69-13-101 or a pipeline carrier as defined in 49 U.S.C. 15102(2);*

- (d) *natural gas distribution utilities;*
- (e) *the gas gathering facilities specified in 15-6-138(6);*
- (f) *canals, ditches, flumes, or like properties; and including,*

(g) *if congress passes legislation that allows the state to tax property owned by an agency created by congress to transmit or distribute electrical energy, property constructed, owned, or operated by a public agency created by congress to transmit or distribute electrical energy produced at privately owned generating facilities, not including rural electric cooperatives;*

- (3) *all property of scheduled airlines;*
- (4) *the net proceeds of mines, except bentonite mines;*
- (5) *the gross proceeds of coal mines; and*
- (6) *property described in subsections (1) and (2) that is subject to the provisions of Title 15, chapter 24, part 12.”*

**Section 4.** Section 15-23-301, MCA, is amended to read:

**“15-23-301. Officers of certain public utility companies to furnish statement to department.** The president, secretary, or managing agent of a corporation or ~~such any~~ other officer as ~~that~~ the department of revenue may designate of any corporation and each person or association of persons owning or operating a telegraph, telephone, microwave, or electric power; or transmission line, a natural gas pipeline, distribution utility, a rate-regulated natural gas transmission or oil transmission pipeline regulated by the public service commission or the federal energy regulatory commission, a common carrier pipeline as defined in 69-13-101, a pipeline carrier as defined in 49 U.S.C. 15102(2), or any canal, ditch, flume, or other property, other than real estate not included in a right-of-way, ~~and which constitute that constitutes~~ a single and continuous property throughout more than one county or state, ~~must shall~~ each year furnish the department with a statement, signed and sworn to by one of ~~such the~~ officers or by the person or one of the persons forming ~~such the~~ association, showing in detail for the year ending on December 31 immediately preceding ~~as follows~~:

- (1) the whole number of miles of ~~said~~ property in the state and, ~~where if~~ the property is partly out of the state, the whole number of miles ~~without outside of~~ the state and the whole number of miles within the state owned or operated by ~~such the~~ corporation, person, or association;
- (2) the total value of the entire property and plant, both within and ~~without outside of~~ the state, and the total value of that portion of the ~~same property and plant~~ within the state;
- (3) a complete description of the property within the state, giving the points of entrance into and the points of exit from the state and the points of entrance into and the points of exit from each county, with a statement of the total number of miles in each county in the state;
- (4) ~~such~~ other information regarding ~~such the~~ property as may be required by the department.”

**Section 5. Effective date.** [This act] is effective on passage and approval.

**Section 6. Retroactive applicability.** [This act] applies retroactively, within the meaning of 1-2-109, to the property tax year beginning after December 31, 2008.

Approved May 10, 2009

**CHAPTER NO. 488**

[HB 2]

AN ACT APPROPRIATING MONEY TO VARIOUS STATE AGENCIES FOR THE BIENNIUM ENDING JUNE 30, 2011; AND PROVIDING AN EFFECTIVE DATE.

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

**Section 1. Short title.** [This act] may be cited as “The General Appropriations Act of 2009”.

**Section 2. First level expenditures.** The agency and program appropriation tables in the legislative fiscal analyst narrative accompanying this bill, showing first level expenditures and funding for the 2011 biennium, are adopted as legislative intent.

**Section 3. Severability.** If any section, subsection, sentence, clause, or phrase of [this act] is for any reason held unconstitutional, the decision does not affect the validity of the remaining portions of [this act].

**Section 4. Appropriation control.** An appropriation item designated “Biennial” may be spent in either year of the biennium. An appropriation item designated “Restricted” may be used during the biennium only for the purpose designated by its title and as presented to the legislature. An appropriation item designated “One Time Only” or “OTO” may not be included in the present law base for the 2013 biennium. The office of budget and program planning shall establish a separate appropriation on the statewide accounting, budgeting, and human resource system for any item designated “Biennial”, “Restricted”, “One Time Only”, or “OTO”. The office of budget and program planning shall establish at least one appropriation on the statewide accounting, budgeting, and human resource system for any appropriation that appears as a separate line item in [this act].

**Section 5. Program definition.** As used in [this act], “program” has the same meaning as defined in 17-7-102, is consistent with the management and accountability structure established on the statewide accounting, budgeting, and human resource system, and is identified as a major subdivision of an agency ordinally numbered with an Arabic numeral.

**Section 6. Personal services funding — 2013 biennium.** (1) Except as provided in subsection (2), present law and new proposal funding budget requests for the 2013 biennium submitted under Title 17, chapter 7, part 1, by each executive, judicial, and legislative branch agency must include funding of first level personal services separate from funding of other expenditures. The funding of first level personal services by accounting entity or equivalent for each fiscal year must be shown at the fourth reporting level or equivalent in the budget request for the 2013 biennium submitted by November 1 to the legislative fiscal analyst by the office of budget and program planning.

(2) The provisions of subsection (1) do not apply to the Montana university system.

**Section 7. Totals not appropriations.** The totals shown in [this act] are for informational purposes only and are not appropriations.

**Section 8. Effective date.** [This act] is effective July 1, 2009.

**Section 9. Appropriations.** The following money is appropriated for the respective fiscal years:

	Fiscal 2010			Fiscal 2011			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
<b>A. GENERAL GOVERNMENT</b>							
<b>LEGISLATIVE BRANCH (1104)</b>							
1. Legislative Services (20) (Biennial)	6,787,778	930,781	0	7,118,559	348,702	0	7,449,437
2. Legislative Committees and Activities (21) (Biennial)	784,458	0	0	784,458	0	0	292,657
3. Fiscal Analysis and Review (27) (Biennial)	1,941,643	0	0	1,941,643	0	0	1,917,626
4. Audit and Examination (28) (Biennial)	2,237,551	1,726,327	0	3,963,878	1,646,392	0	3,986,839
<b>Total</b>	<b>11,751,430</b>	<b>2,657,108</b>	<b>0</b>	<b>14,408,538</b>	<b>1,995,094</b>	<b>0</b>	<b>13,646,559</b>
Legislative Services includes unspecified reductions in general fund money of \$239,126 in fiscal year 2010 and \$239,125 in fiscal year 2011. The agency may allocate these reductions in funding among programs when developing 2011 biennium operating plans.							
Fiscal Analysis and Review includes one-time-only money of \$97,713 general fund money in fiscal year 2010 and \$53,592 general fund money in fiscal year 2011 for monitoring of the federal American Recovery and Reinvestment Act of 2009.							
<b>CONSUMER COUNSEL (1112)</b>							
1. Administration Program (01)	0	1,376,585	0	1,376,585	0	0	1,387,560
<b>Total</b>	<b>0</b>	<b>1,376,585</b>	<b>0</b>	<b>1,376,585</b>	<b>0</b>	<b>0</b>	<b>1,387,560</b>
<b>GOVERNOR'S OFFICE (3101)</b>							
1. Executive Office Program (01)	2,733,434	0	0	2,733,434	0	0	2,738,417

	Fiscal 2010			Fiscal 2011			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
2. Executive Residence Operations (02)	111,784	0	0	111,784	0	0	112,102
3. Air Transportation Program (03)	334,368	8,000	0	342,368	8,000	0	262,724
4. Office of Budget and Program Planning (04)	1,628,187	0	0	1,628,187	0	0	1,645,347
a. Legislative Audit (Restricted/Biennial)	17,445	0	0	17,445	0	0	0
5. Indian Affairs (05)	177,688	0	0	177,688	0	0	178,220
6. Centralized Services (06)	308,260	0	0	308,260	0	0	308,181
a. Legislative Audit (Restricted/Biennial)	38,377	0	0	38,377	0	0	0
b. Computer Replacement (OTO)	85,515	0	0	85,515	0	0	37,820
7. Lieutenant Governor (12)	346,889	0	0	346,889	0	0	347,169
8. Citizens' Advocate Office (16)	73,008	24,500	0	97,508	24,500	0	97,604
9. Mental Disabilities Board of Visitors (20)	387,531	0	0	387,531	0	0	387,885
<b>Total</b>	<b>6,242,486</b>	<b>32,500</b>	<b>0</b>	<b>6,274,986</b>	<b>32,500</b>	<b>0</b>	<b>6,115,469</b>

Executive Office Program includes unspecified increases in general fund money of \$88,742 in fiscal year 2010 and \$91,497 in fiscal year 2011. The agency may allocate these increases in funding among programs when developing 2011 biennium operating plans.

	Fiscal 2010				Fiscal 2011							
	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
<b>SECRETARY OF STATE (3201)</b>												
1. Business and Government Services (01)												
a. HAVA Interest (Biennial/OTO)												
	0	0	1,400,000	0	0	1,400,000	0	0	0	0	0	0
<b>Total</b>	0	0	1,400,000	0	0	1,400,000	0	0	0	0	0	0
<b>COMMISSIONER OF POLITICAL PRACTICES (3202)</b>												
1. Administration (01)												
437,570	0	0	0	0	0	437,570	435,075	0	0	0	0	435,075
a. Legislative Audit (Restricted/Biennial)												
7,675	0	0	0	0	0	7,675	0	0	0	0	0	0
b. IT Application Completion (Restricted/Biennial)												
20,000	0	0	0	0	0	20,000	20,000	0	0	0	0	20,000
c. Legal Costs (Biennial/OTO)												
40,000	0	0	0	0	0	40,000	0	0	0	0	0	0
<b>Total</b>	505,245	0	0	0	0	505,245	455,075	0	0	0	0	455,075
Administration includes unspecified reductions in general fund money of \$8,953 in fiscal year 2010 and \$8,952 in fiscal year 2011. The agency may allocate these reductions in funding among programs when developing 2011 biennium operating plans.												
<b>OFFICE OF THE STATE AUDITOR (3401)</b>												
1. Central Management (01)												
0	1,287,003	0	0	0	0	1,287,003	0	1,296,164	0	0	0	1,296,164
a. Legislative Audit (Restricted/Biennial)												

	Fiscal 2010				Fiscal 2011					
	General Fund	State Special Revenue	Federal Special Revenue	Other	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
0	10,471	0	0	0	0	0	0	0	0	0
b. New Office Space — Central Management (Restricted)	26,638	0	0	0	0	45,029	0	0	0	45,029
2. Insurance Program (03)	16,023,996	0	0	0	16,023,996	16,384,346	0	0	0	16,384,346
a. Legislative Audit (Restricted/Biennial)	27,831	0	0	0	27,831	0	0	0	0	0
b. New Office Space — Insurance (Restricted)	141,694	0	0	0	141,694	243,739	0	0	0	243,739
c. Forms Analyst (Restricted/OTO)	47,551	0	0	0	47,551	40,551	0	0	0	40,551
3. Securities (04)	860,805	0	0	0	860,805	874,328	0	0	0	874,328
a. Legislative Audit (Restricted/Biennial)	4,959	0	0	0	4,959	0	0	0	0	0
b. New Office Space — Securities (Restricted)	33,757	0	0	0	33,757	57,666	0	0	0	57,666
c. Securities Division — New Legal FTE (OTO)	87,871	0	0	0	87,871	84,313	0	0	0	84,313
Total	18,552,576	0	0	0	18,552,576	19,026,136	0	0	0	19,026,136

The item for Forms Analyst is restricted to funding for personal services to comply with provisions of 33-1-501, specifically to ensure that the commissioner makes a determination on submitted forms prior to triggering the automatic approval provision contained in 33-1-501(2)(b).

DEPARTMENT OF REVENUE (5801)

1. Director's Office (01)	4,314,823	107,056	0	88,873	0	4,510,752	4,382,131	107,128	89,023	0	4,575,282
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	Fiscal 2010			Fiscal 2011			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
a. Legislative Audit (Restricted/Biennial)	215,309	0	1,000	0	0	0	216,309
b. Restoration of Unspecified Reduction (OTO)	250,000	0	0	250,000	0	0	250,000
2. Information Technology and Processing (02)	13,011,140	131,017	0	13,037,029	131,014	0	13,243,871
3. Liquor Control Division (03)	0	0	0	2,215,545	0	0	2,215,545
a. Overtime or Temporary Staff for Demand (Restricted)	0	0	0	50,000	0	0	50,000
b. Termination Payouts (Restricted)	0	0	0	40,000	0	0	40,000
4. Citizen Services and Resource Management (05)	1,996,299	147,774	0	1,999,041	147,840	0	2,197,221
5. Business and Income Taxes Division (07)	9,907,343	357,169	203,232	9,932,846	357,301	203,388	10,493,535
a. Reduce Smoking Through Tax Compliance (OTO)	0	177,782	0	0	177,951	0	177,951
b. Abandoned Property Program Workload Impacts (OTO)	0	115,212	0	0	103,662	0	103,662
c. SB 503 — Montana Economic Stimulus Act	86,166	0	0	77,066	0	0	77,066
6. Property Assessment Division (08)	20,046,388	64,495	0	20,119,209	64,470	0	20,183,679
a. HB 658 — Mitigate Reappraisal (OTO)	808,646	0	0	778,407	0	0	778,407
Total							







	Fiscal 2010			Fiscal 2011			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
	36,400	0	0	21,000	0	0	21,000
<b>Total</b>							
6,235,580	7,789,593	575,003	7,376,349	6,232,763	7,832,633	48,739	7,278,178
If House Bill No. 213 is not passed and approved, HB 213 — Establish Southwestern Montana Veterans' Home is void.							
General Services Program includes unspecified reductions in general fund money of \$580,071 in fiscal year 2010 and \$580,071 in fiscal year 2011. The agency may allocate these reductions in funding among programs when developing 2011 biennium operating plans.							
<b>DEPARTMENT OF COMMERCE (6501)</b>							
<b>1. Business Resources Division (51)</b>							
2,125,074	2,340,732	4,087,915	0	2,125,975	2,341,000	4,093,757	0
<b>a. Legislative Audit (Restricted/Biennial)</b>							
4,088	1,362	3,635	0	0	0	0	0
<b>b. New Worker Training (OTO)</b>							
1,876,619	0	0	0	1,876,619	0	0	0
<b>c. 2010 Decennial Census (OTO)</b>							
51,085	0	0	0	39,397	0	0	0
<b>d. Montana Main Street Program (OTO)</b>							
125,000	0	0	0	125,000	0	0	0
<b>e. Indian Country Economic Development (Restricted/Biennial/OTO)</b>							
798,496	0	0	0	798,496	0	0	0
<b>f. Biomedical Research Grant (Restricted/OTO)</b>							
0	2,500,000	0	0	0	0	0	0
<b>g. High-Performance Computing (OTO)</b>							
1,000,000	0	0	0	1,000,000	0	0	0
<b>2. Montana Promotion Division (52)</b>							
0	750,000	0	0	0	750,000	0	0

	Fiscal 2010			Fiscal 2011			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
3. Energy Promotion and Development Division (55)							
a. Legislative Audit (Restricted/Biennial)	0	25,226	0	0	0	0	25,226
a. Energy Promotion Division (Restricted/OTO)	455,000	0	0	455,000	0	0	455,000
4. Community Development Division (60)	535,911	1,130,161	7,906,321	539,183	1,132,898	7,904,454	9,576,535
a. Legislative Audit (Restricted/Biennial)	3,002	2,401	2,563	0	0	0	7,966
b. Hard Rock Mining Reserve (Restricted)	0	100,000	0	0	100,000	0	100,000
c. Coal Board Local Impact Grants (Biennial)	0	4,336,784	0	0	1,399,859	0	4,336,784
5. Housing Division (74)	0	150,000	9,111,779	0	150,000	9,222,285	9,372,285
a. Legislative Audit (Restricted/Biennial)	0	0	5,040	0	0	0	5,040
6. Director's Office/Management Services Division (81)	0	0	725,648	0	0	725,648	725,648
<b>Total</b>	6,974,275	11,336,666	21,842,901	6,959,684	5,873,757	21,946,144	34,779,585

Business Resources Division includes unspecified reductions in general fund money of \$54,421 in fiscal year 2010 and \$54,421 in fiscal year 2011. The agency may allocate these reductions in funding among programs when developing 2011 biennium operating plans.

The line item for New Worker Training is to provide training funds for businesses to train and educate both new and existing employees, which will result in the retention and creation of high-wage and high-skilled jobs that will increase the earning potential and employment opportunities for Montana employees and enhance the state's economy. The line item for New Worker Training is intended to be implemented using a framework similar to that established under the Primary



	Fiscal 2010			Fiscal 2011			Total	Other	Total			
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue						
Total	2,581,573	38,736,263	31,335,625	90,370	0	72,743,831	2,583,522	37,814,265	31,029,179	90,226	0	71,517,192
<p>Workforce Services Division includes unspecified reductions in general fund money of \$46,633 in fiscal year 2010 and \$46,633 in fiscal year 2011. The agency may allocate these reductions in funding among programs when developing 2011 biennium operating plans.</p> <p>If House Bill No. 662 is not passed and approved, the appropriation to the Business Standards Division is reduced by \$32,648 of state special revenue in fiscal year 2010 and by \$18,558 of state special revenue in fiscal year 2011.</p> <p>If Senate Bill No. 271 is not passed and approved, the appropriation to the Business Standards Division is reduced by \$10,981 of state special revenue in fiscal year 2010.</p> <p>If House Bill No. 578 is not passed and approved, the appropriation to the Business Standards Division is reduced by \$12,661 of state special revenue in fiscal year 2010.</p> <p>If House Bill No. 171 is not passed and approved, the appropriation in Business Standards Division is increased by \$41,081 of state special revenue in fiscal year 2010 and by \$41,081 of state special revenue in fiscal year 2011.</p> <p>The Workers' Compensation Court is appropriated up to \$20,000 in state special revenue for the 2011 biennium to contract for replacement judges when the workers' compensation judge must be recused from a case.</p>												
<p>DEPARTMENT OF MILITARY AFFAIRS (6701)</p>												
1. Centralized Services (01)	529,240	0	226,767	0	0	756,007	529,818	0	227,111	0	0	756,929
a. Legislative Audit (Restricted/Biennial)	4,184	0	0	0	0	4,184	0	0	0	0	0	0
2. Challenge Program (02)	1,282,877	0	1,982,838	0	0	3,265,715	1,284,405	0	1,985,722	0	0	3,270,127
a. Legislative Audit (Restricted/Biennial)	2,791	0	4,187	0	0	6,978	0	0	0	0	0	0
3. National Guard Scholarship Program (03) (Biennial)	250,000	0	0	0	0	250,000	250,000	0	0	0	0	250,000







	Fiscal 2010			Fiscal 2011			Total						
	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total		General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
a. Rent Increases (Restricted)													
65,292	0	126,854	0	0	0	192,146	61,057	0	118,628	0	0	179,685	
5. Business and Financial Services Division (06)													
3,490,788	1,102,632	4,656,891	0	0	9,250,311	3,526,294	3,526,294	1,116,499	4,699,222	0	0	9,342,015	
a. Legislative Audit (Restricted/Biennial)													
157,557	10,628	194,656	0	0	362,841	0	0	0	0	0	0	0	
6. Public Health and Safety Division (07)													
2,611,399	17,324,600	43,595,374	0	0	63,531,373	2,645,967	2,645,967	17,322,014	45,171,025	0	0	65,139,006	
a. Tobacco Prevention Activities (Restricted)													
0	720,000	0	0	0	720,000	0	0	720,000	0	0	0	720,000	
b. Offset Contraceptive Costs (Restricted)													
500,000	0	0	0	0	500,000	500,000	500,000	0	0	0	0	500,000	
7. Quality Assurance Division (08)													
2,735,079	251,871	6,138,159	0	0	9,125,109	2,703,200	2,703,200	252,031	6,185,716	0	0	9,140,947	
8. Technology Services Division (09)													
4,265,432	1,081,607	11,451,382	0	0	16,798,421	4,271,133	4,271,133	1,082,787	11,458,140	0	0	16,812,060	
a. Universal Serial Bus (USB) Device Encryption (Biennial)													
14,558	2,354	17,254	0	0	34,166	0	0	0	0	0	0	0	
b. Rent Increases (Restricted)													
26,160	5,414	37,477	0	0	69,051	28,059	28,059	5,797	40,016	0	0	73,872	
9. Disability Services Division (10)													
55,180,831	4,566,174	89,798,560	0	0	149,545,565	56,044,487	56,044,487	4,566,702	90,655,003	0	0	151,266,192	
a. MTAP New Technologies (Biennial)													
0	800,000	0	0	0	800,000	0	0	800,000	0	0	0	800,000	
b. Structural Balance Adjustment (OTO)													
1,252,469	193,457	4,279,278	0	0	5,725,204	1,322,868	1,322,868	193,457	4,306,868	0	0	5,823,193	
c. Transitions Coordination (Restricted/OTO)													
50,004	0	0	0	0	50,004	50,019	50,019	0	0	0	0	50,019	

	Fiscal 2010				Fiscal 2011							
	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
d. Rent Increases (Restricted)	84,529	6,496	54,965	0	0	145,990	90,517	6,957	58,859	0	0	156,333
e. Autism Home — Bozeman (Restricted/Biennial/OTO)	400,000	0	0	0	0	400,000	0	0	0	0	0	0
10. Health Resources Division (11)	119,148,495	23,573,568	322,263,666	0	0	464,985,729	127,732,185	26,026,240	341,006,836	0	0	494,765,261
a. Hospital Utilization Fee (Restricted)	0	22,011,707	74,277,475	0	0	96,289,182	0	22,460,950	75,783,424	0	0	98,254,374
b. Medicaid for Workers With Disabilities	35,001	0	72,660	0	0	107,661	81,760	0	166,224	0	0	247,984
c. PharmAssist Program (Restricted)	0	234,980	0	0	0	234,980	0	234,980	0	0	0	234,980
d. Big Sky Rx (Biennial)	0	3,200,000	0	0	0	3,200,000	0	3,200,000	0	0	0	3,200,000
e. Healthy Montana Kids (Restricted/Biennial)	0	25,960,000	86,762,536	0	0	112,722,536	0	0	0	0	0	0
f. Structural Balance Adjustment (OTO)	6,602,567	2,194,059	21,764,232	0	0	30,560,858	7,169,677	2,337,318	22,906,474	0	0	32,413,469
g. Medicaid Funding for Certain Transplants for Adults (Restricted/OTO)	703,168	0	2,372,809	0	0	3,075,977	997,877	0	2,035,183	0	0	3,033,060
h. HIV Testing	43,335	0	89,961	0	0	133,296	46,542	0	96,752	0	0	143,294
11. Senior and Long-Term Care Division (22)	54,677,632	30,326,045	157,886,638	0	0	242,890,315	54,813,843	31,301,593	158,129,042	0	0	244,244,478
a. Eastern Montana Veterans' Home Maintenance (OTO)	0	40,000	0	0	0	40,000	0	40,000	0	0	0	40,000
b. Structural Balance Adjustment (OTO)	2,476,265	1,443,052	9,775,408	0	0	13,694,725	2,482,536	1,511,626	9,797,167	0	0	13,791,329

	Fiscal 2010				Fiscal 2011							
	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
c. Community Waiver Services (Restricted/OTO)												
1,170,996	150,004	2,652,568	0	0	3,973,568	1,539,981	150,019	3,456,203	0	0	0	5,146,203
d. Resource Facilitation Service — TBI (Restricted/OTO)												
100,000	0	0	0	0	100,000	100,000	0	0	0	0	0	100,000
e. Assisted Living Facility Rate Increase (Restricted/OTO)												
179,000	0	580,291	0	0	759,291	310,000	0	731,695	0	0	0	1,041,695
12. Addictive and Mental Disorders Division (33)												
64,355,585	8,422,010	40,241,117	0	0	113,018,712	65,585,660	8,957,218	42,349,845	0	0	0	116,892,723
a. Mental Health Services Plan Drugs (Biennial)												
	3,433,968	0	0	0	3,433,968	0	3,433,968	0	0	0	0	3,433,968
b. Structural Balance Adjustment (OTO)												
318,879	424,354	1,919,848	0	0	2,663,081	374,740	453,799	2,057,998	0	0	0	2,886,537
c. Mental Health Diversion (Restricted/Biennial)												
1,240,866	0	0	0	0	1,240,866	1,239,454	0	0	0	0	0	1,239,454
<b>Total</b>	<b>392,926,431</b>	<b>153,326,308</b>	<b>1,124,052,127</b>	<b>0</b>	<b>1,670,304,866</b>	<b>407,822,434</b>	<b>132,184,028</b>	<b>1,073,520,601</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1,613,527,063</b>

Funds in Healthy Montana Kids may be used only to fund program costs for the healthy Montana kids program.

Funding for Child Care for Working Caretaker Relatives is contingent upon passage of House Bill No. 676, requiring the human and community services division to implement means testing at 250% of the current federal poverty level by October 1, 2009. Funding for Child Care for Working Caretaker Relatives may be expended only by the human and community services division for child care assistance for working grandparents or caretaker relatives providing care for children in place of their parents.

Funding in Annualization of Tribal General Fund may be expended only by the Child and Family Services Division for Title IV-E contracts with tribal governments.

Public Health and Safety Division, Tobacco Prevention Activities includes \$90,000 each year of the biennium for each of the eight Montana tribes. The funding must be used for tribal tobacco use prevention programs that meet the same requirements as other community-based contractors providing tobacco use prevention programs.

	Fiscal 2010		Fiscal 2011		
	State Special Revenue	Federal Special Revenue	State Special Revenue	Federal Special Revenue	Total
	General Fund	Proprietary	General Fund	Proprietary	Other
Offset Contraceptive Costs may only be used by Title X clinics for contraceptive costs or as state match for a federal family planning waiver.					
Technology Services Division includes a reduction in general fund money of \$3,598,925 each year of the biennium. The agency may allocate this reduction in funding among divisions when developing 2011 biennium operating plans.					
Funding for the MTAP New Technologies includes \$800,000 in biennial state special revenue in fiscal year 2010 and fiscal year 2011 for the Montana telecommunications access program that is contingent upon passage of federal communication commission regulations requiring states to pay for new technologies related to video relay service (VRS) and internet protocol relay (IP).					
Hospital Utilization Fee is contingent upon passage and approval of House Bill No. 71. Funds in Hospital Utilization Fee may be used only for payments to hospitals for medicaid-eligible services.					
Health Resources Division includes a reduction of \$1,250,000 in general fund money in each year of the biennium. The agency may allocate this reduction in funding among programs when developing 2011 biennium operating plans.					
Health Resources Division, Medicaid for Workers With Disabilities is contingent upon passage and approval of Senate Bill No. 119.					
Healthy Montana Kids includes funding for 24.00 FTE, with 12.00 of the FTE funded for the 2011 biennium only. Healthy Montana Kids may be allocated among programs to support functions related to administration of the healthy Montana kids program.					
HIV Testing is contingent upon passage and approval of Senate Bill No. 350.					
Community Waiver Services funding may be used only to expand medicaid community waiver services, pay the state supplement payment increases due to the expansion, and provide additional informational resources for aged and disabled persons.					
If House Bill No. 224 is not passed and approved, the general fund appropriation for Addictive and Mental Disorders Division is increased by \$18,750 in general fund money each year of the biennium.					
Mental Health Diversion is contingent upon passage and approval of House Bill No. 130, House Bill No. 131, or House Bill No. 132 and may be used only to implement those bills.					
<b>TOTAL SECTION B</b>					
392,926,431	153,326,308	1,124,052,127	0	1,670,304,866	407,822,434
					132,184,028
					1,073,520,601
					0
					0
					1,613,527,063



	Fiscal 2010			Fiscal 2011		
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue
	0	91,000	0	0	91,000	0
c. Nongame Wildlife Funding (Restricted)	0	25,000	0	0	25,000	0
d. Migratory Bird Funding (Restricted/OTO)	0	40,000	0	0	40,000	0
e. Urban Wildlife (OTO)	0	44,445	44,446	0	44,525	44,526
6. Parks Division (06)	0	8,334,701	283,180	0	8,357,664	284,164
a. Snowmobile Equipment (Biennial)	0	150,000	0	0	150,000	0
b. State Parks and FAS Operations and Maintenance (Restricted/OTO)	0	199,243	0	0	199,410	0
7. Conservation Education Division (08)	0	2,866,431	721,825	0	2,874,170	722,339
a. Operating Adjustment (Restricted/OTO)	0	30,000	0	0	30,000	0
8. Management and Finance (09)	0	9,912,249	107,647	0	9,918,602	106,977
a. Legislative Audit (Restricted/Biennial)	0	94,897	16,746	0	0	0
<b>Total</b>	0	56,415,332	15,253,083	0	56,507,815	15,319,736

If House Bill No. 674 is not passed and approved, Field Services Division is increased by \$437,861 state special revenue and \$143,393 federal special revenue in fiscal year 2010 and \$481,083 state special revenue and \$154,477 federal special revenue in fiscal year 2011.

If House Bill No. 585 is not passed and approved, Come Home to Hunt Pilot Project is void.

	Fiscal 2010			Fiscal 2011			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
1. Central Management Program (10)	252,326	1,290,152	315,561	252,997	1,291,329	316,510	1,860,836
a. Nonproprietary Operating Adjustments (OTO)	17,047	199,475	183,265	18,566	203,433	186,183	408,182
2. Planning, Prevention, and Assistance Division (20)	2,946,271	2,273,984	7,956,358	2,951,476	2,097,913	7,975,361	13,024,750
3. Enforcement Division (30)	564,204	454,067	294,443	565,445	455,062	295,088	1,315,595
a. Enforcement Operating Adjustments (OTO)	41,425	33,341	21,619	45,469	36,596	23,730	105,795
4. Remediation Division (40)	0	6,009,143	7,496,947	0	6,029,028	7,530,496	13,559,524
a. Basin Creek Mine — Closure Plan (Biennial/OTO)	0	375,000	0	0	375,000	0	375,000
b. Beal Mountain Mine — Closure Plan (Biennial/OTO)	0	130,000	0	0	130,000	0	130,000
c. KRY Site Remediation Oversight (Restricted/Biennial/OTO)	0	1,200,000	0	0	1,200,000	0	1,200,000
d. Accelerated Remediation (Biennial/OTO)	0	364,000	0	0	364,000	0	364,000
5. Permitting and Compliance Division (50)	1,595,184	16,435,227	6,721,075	1,631,821	16,450,096	6,698,556	24,780,473
a. Hard Rock/Major Facility Siting (Restricted/Biennial)	0	1,700,000	50,000	0	1,700,000	50,000	1,750,000
b. Air Quality Support (Restricted)							

If Senate Bill No. 425 is not passed and approved, Fisheries Division is reduced by \$80,000 federal special revenue in fiscal year 2010 and fiscal year 2011.

DEPARTMENT OF ENVIRONMENTAL QUALITY (5301)

	Fiscal 2010			Fiscal 2011			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
0	125,000	0	0	0	125,000	0	125,000
c. Restoration of Unspecified Reduction (OTO)	0	0	0	250,000	0	0	250,000
6. Petroleum Tank Release Compensation Board (90)	729,722	0	0	0	733,945	0	733,945
<b>Total</b>	5,666,457	31,319,111	23,039,268	5,715,774	31,191,402	23,075,924	59,983,100

Central Management Program includes a reduction in general fund money of \$104,256 in fiscal year 2010 and \$104,257 in fiscal year 2011. The agency may allocate these reductions in funding among programs when developing 2011 biennium operating plans.

The department is authorized to decrease federal special revenue in the water pollution control and/or drinking water revolving loan programs and to increase state special revenue by a like amount within the special administration account when the amount of federal capitalization funds have been expended or when federal funds and bond proceeds will be used for other program purposes as authorized in law providing for the distribution of funds.

Permitting and Compliance Division includes a reduction in general fund money of \$535,866 in fiscal year 2010 and \$537,194 in fiscal year 2011. The agency may allocate these reductions in funding among programs when developing 2011 biennium operating plans.

If Senate Bill No. 360 is not passed and approved, then Permitting and Compliance Division is reduced by \$8,720 general fund in fiscal year 2010 and by \$33,888 in fiscal year 2011.

If House Bill No. 678 is not passed and approved, Permitting and Compliance Division is reduced by \$297,442 state special revenue in fiscal year 2010 and \$286,733 state special revenue in fiscal year 2011.

The agency may allocate Restoration of Unspecified Reduction among programs when developing 2011 biennium operating plans.

The department is appropriated up to \$500,000 of the funds recovered under the petroleum tank compensation board subrogation program in the 2011 biennium for the purpose of paying contract expenses related to the recovery of funds.

DEPARTMENT OF TRANSPORTATION (5401)

1. General Operations Program (01) (Biennial)	23,529,206	1,551,153	0	0	23,512,063	1,551,740	0	25,063,803
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	Fiscal 2010				Fiscal 2011							
	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
1.												
a.												
Legislative Audit (Restricted/Biennial)	0	160,488	0	0	0	160,488	0	0	0	0	0	0
b.												
Surface Transportation Litigation (Restricted/Biennial/OTO)	2,600,000	0	0	0	0	2,600,000	0	0	0	0	0	0
c.												
Merchant Credit Card Fees (Restricted/OTO)	0	52,590	0	0	0	52,590	0	84,383	0	0	0	84,383
2.												
Construction Program (02) (Biennial)	0	77,828,008	302,198,444	0	0	380,026,452	0	77,161,872	300,801,313	0	0	377,963,185
3.												
Maintenance Program (03) (Biennial)	0	113,741,078	7,934,447	0	0	121,675,525	0	113,291,549	7,175,189	0	0	120,466,738
4.												
Motor Carrier Services Division (22)	0	8,218,581	2,962,602	0	0	11,181,183	0	8,206,927	3,029,205	0	0	11,236,132
Performance Registration Information Systems (OTO)	0	0	173,562	0	0	173,562	0	0	0	0	0	0
5.												
Aeronautics Program (40)	0	900,117	0	0	0	900,117	0	899,877	0	0	0	899,877
a.												
Aeronautics Grants (Biennial)	0	800,000	0	0	0	800,000	0	0	0	0	0	0
b.												
Aeronautics Loans (Biennial)	0	800,000	0	0	0	800,000	0	0	0	0	0	0
c.												
Airport Pavement Preservation (Biennial)	0	250,000	0	0	0	250,000	0	0	0	0	0	0
d.												
State System Plan (Biennial)	0	15,000	285,000	0	0	300,000	0	0	0	0	0	0
6.												
Rail, Transit, and Planning Division (50) (Biennial)	0	3,993,503	18,710,401	0	0	22,703,904	0	3,996,121	18,571,091	0	0	22,567,212
a.												
Emergency Medical Services Grants (Restricted/Biennial)	0	1,000,000	0	0	0	1,000,000	0	1,000,000	0	0	0	1,000,000

	Fiscal 2010			Fiscal 2011			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
b. Senior Transportation (Restricted/Biennial/OTO)	0	300,000	0	0	0	0	0
<b>Total</b>	2,600,000	231,588,571	333,815,609	0	228,152,792	331,128,538	559,281,330

The department may adjust appropriations in the general operations, construction, maintenance, and transportation planning programs between state special revenue and federal special revenue funds if the total state special revenue authority for these programs is not increased by more than 10% of the total appropriations established by the legislature for each program.

All federal special revenue appropriations in the department are biennial.  
 All appropriations in the general operations, construction, maintenance, and transportation planning programs are biennial.  
 All remaining federal pass-through grant appropriations for highway traffic safety, including reversions for the 2009 biennium, are authorized to continue and are appropriated in fiscal year 2010 and fiscal year 2011.

State special revenue for Emergency Medical Services Grants may be decreased and federal special revenue increased by a like amount if federal funds are available for the purposes of House Bill No. 85.

Senior Transportation may be used only for the purposes identified in 7-14-112. If House Bill No. 645 does not include a transfer of \$300,000 from the general fund to the senior citizen and persons with disabilities transportation services account established by 7-14-112, Senior Transportation is void.

DEPARTMENT OF LIVESTOCK (5603)

1. Centralized Services Program (01)	49,554	2,188,427	300,000	0	0	2,537,981	49,317	2,184,822	300,000	0	0	2,534,139
a. Legislative Audit (Restricted/Biennial)	0	34,889	0	0	0	34,889	0	0	0	0	0	0
b. Livestock Loss Mitigation Funding (Restricted/Biennial/OTO)	150,000	0	0	0	0	150,000	0	0	0	0	0	0
2. Diagnostic Laboratory Program (03)	441,457	1,315,221	9,853	0	0	1,766,531	448,192	1,567,694	9,850	0	0	2,025,736

	Fiscal 2010				Fiscal 2011							
	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
a. Information Technology Staff Training (OTO)												
	172,350	0	0	0	0	172,350	11,100	0	0	0	0	11,100
d. Lab Server (Restricted/OTO)												
	0	13,250	0	0	0	13,250	0	0	0	0	0	0
e. Milk Lab Incubator (OTO)												
	0	1,442	0	0	0	1,442	0	0	0	0	0	0
f. Storage Container (OTO)												
	0	3,200	0	0	0	3,200	0	0	0	0	0	0
g. Air Conditioner — Lab Server Room (OTO)												
	0	7,500	0	0	0	7,500	0	0	0	0	0	0
h. Remodel PCR Area (OTO)												
	0	17,500	0	0	0	17,500	0	0	0	0	0	0
3. Animal Health Division (04)												
	0	662,580	846,045	0	0	1,508,625	0	661,086	849,060	0	0	1,510,146
a. Animal Health Vehicle Replacement (OTO)												
	0	26,000	0	0	0	26,000	0	26,000	0	0	0	26,000
b. Animal Health System (Biennial/OTO)												
	98,100	0	0	0	0	98,100	0	0	0	0	0	0
c. Brucellosis Herd Plan (OTO)												
	250,000	169,447	0	0	0	419,447	250,000	455,274	0	0	0	705,274
4. Milk and Egg Program (05)												
	0	288,367	34,455	0	0	322,822	0	292,939	34,453	0	0	327,392
a. Milk & Egg Bureau Vehicle Replacement (OTO)												
	0	26,000	0	0	0	26,000	0	26,000	0	0	0	26,000

	Fiscal 2010			Fiscal 2011			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
5. Brands Enforcement Division (06)							
2,943	3,041,467	0	0	2,940	3,048,576	0	3,051,516
a. Firearm Replacement (OTO)							
0	15,000	0	0	0	0	0	0
b. Brands — Rerecord (OTO)							
0	0	0	0	0	179,981	0	179,981
c. Brands System Upgrade (Biennial/OTO)							
0	172,350	0	0	0	11,100	0	11,100
d. Brands — Vehicle Replacement (OTO)							
0	87,726	0	0	0	87,726	0	87,726
6. Meat and Poultry Inspection Program (10)							
591,410	6,413	591,410	0	593,700	6,407	593,700	1,193,807
a. Meat Inspection Computers (OTO)							
8,750	0	8,750	0	8,750	0	8,750	17,500
<b>Total</b>	<b>1,764,564</b>	<b>8,098,279</b>	<b>1,790,513</b>	<b>1,363,999</b>	<b>8,557,605</b>	<b>1,795,813</b>	<b>11,717,417</b>

The Centralized Services Program includes a reduction in general fund money of \$22,240 in fiscal year 2010 and \$22,240 in fiscal year 2011. The agency may allocate these reductions in funding among programs when developing 2011 biennium operating plans.

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION (5706)

1. Centralized Services (21)							
1,989,142	593,856	184,508	0	2,034,058	596,616	166,827	2,797,501
a. Legislative Audit (Restricted/Biennial)							
122,110	0	0	0	0	0	0	0
b. Legal Imaging (OTO)							
5,000	0	5,000	0	5,000	0	5,000	10,000
2. Oil and Gas Conservation Division (22)							



	Fiscal 2010				Fiscal 2011			
	General Fund	State Special Revenue	Federal Special Revenue	Total	General Fund	State Special Revenue	Federal Special Revenue	Total
	0	122,000	0	122,000	0	122,000	0	122,000
b. Trust Land Management Database Upgrade (OTO)	0	65,000	0	65,000	0	65,000	0	65,000
c. Forest Management Software Integration (OTO)	0	83,000	0	83,000	0	0	0	0
d. Reliance Refinery Cleanup (Restricted/Biennial/OTO)	0	5,100,000	0	5,100,000	0	4,500,000	0	4,500,000
e. Navigable Rivers	0	10,000	0	10,000	0	10,000	0	10,000
<b>Total</b>	22,376,116	32,075,215	2,096,237	56,547,568	22,391,797	31,611,322	2,079,655	56,082,774

Centralized Services includes unspecified reductions in general fund money of \$750,000 in fiscal year 2010 and \$750,000 in fiscal year 2011. The agency may allocate these reductions in funding among programs when developing 2011 biennium operating plans.

If House Bill No. 575 is not passed and approved, CBM — Water Production Study is void.

The department is appropriated up to \$600,000 for the 2011 biennium from the state special revenue account established in 85-1-617 for the purchase of prior liens on property held as loan security as required by 85-1-618.

The department is authorized to decrease federal special revenue in the pollution control and/or drinking water revolving fund loan programs and increase state special revenue by a like amount within the special administration account when the amount of federal EPA CAP funds has been expended or federal funds and bond proceeds will be used for other program purposes as authorized in law providing for the distribution of funds.

There is appropriated up to \$1 million in state special revenue for the 2011 biennium from the coal bed methane account to fund potential landowner or water right holder claims for emergency loss of water related to coal bed methane development.

If Montana Rural Water Systems receives federal funding during the 2011 biennium, Montana Rural Water Systems is reduced by a like amount.

If House Bill No. 676 is not passed and approved with an amendment to the coal tax shared fund, Conservation District Grants is void.

	Fiscal 2010			Fiscal 2011			Total					
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue						
During the 2011 biennium, up to \$1 million in funds currently in or to be deposited in the Broadwater replacement and renewal account is appropriated to the department for repairing or replacing equipment at the Broadwater hydropower facility.												
During the 2011 biennium, up to \$100,000 in interest earned on the Broadwater water users account is appropriated to the department for the purpose of repair, improvement, or rehabilitation of the Broadwater-Missouri diversion project.												
During the 2011 biennium, up to \$500,000 in funds currently in or to be deposited in the state project hydropower earnings account is appropriated for the purpose of repairing, improving, or rehabilitating department state water projects, and up to \$70,000 may be used for the support of the Upper Clark Fork Steering Committee or the Clark Fork River Task Force.												
If Senate Bill No. 303 is not passed and approved, Update State Water Plan is void.												
If House Bill No. 674 is not passed and approved, Forestry and Trust Lands is reduced by \$25,000 state special revenue in fiscal year 2010 and in fiscal year 2011.												
The department may use up to \$600,000 of Reliance Refinery Cleanup funds for grants to community partners for the purpose of furthering or expediting remediation or redevelopment activities.												
If Senate Bill No. 507 is not passed and approved, Navigable Rivers is void.												
DEPARTMENT OF AGRICULTURE (6201)												
1. Central Management Division (15)	133,640	754,719	145,672	142,351	0	1,176,382	136,916	755,074	145,669	142,344	0	1,180,003
a. Legislative Audit (Restricted/Biennial)	43,262	0	0	0	0	43,262	0	0	0	0	0	0
b. Grant Application System (Biennial/OTO)	0	60,000	0	0	0	60,000	0	0	0	0	0	0
c. Content Management System (Biennial/OTO)	0	40,000	10,000	0	0	50,000	0	0	0	0	0	0
d. Web-Based Agriculture Product Registration System (Biennial/OTO)	0	120,000	0	0	0	120,000	0	0	0	0	0	0
2. Agricultural Sciences Division (30)	309,698	6,484,468	2,199,319	0	0	8,993,485	310,112	6,473,351	2,200,846	0	0	8,984,309

	Fiscal 2010				Fiscal 2011							
	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
a. Analytical Lab Equipment (Biennial/OTO)												
0	350,000	0	0	0	0	350,000	0	0	0	0	0	0
b. Invasive Species Council (Biennial/OTO)												
333,500	0	0	0	0	0	333,500	333,500	0	0	0	0	333,500
c. Fertilizer Check-Off Research												
0	200,152	0	0	0	0	200,152	0	200,152	0	0	0	200,152
3. Agricultural Development Division (50)												
564,182	5,172,084	40,260	466,902	0	0	6,243,428	564,401	5,183,594	40,259	468,301	0	6,256,555
a. Growth Through Agriculture Grants (Restricted/OTO)												
0	80,000	0	0	0	0	80,000	0	80,000	0	0	0	80,000
Total												
1,384,282	13,261,423	2,395,251	609,253	0	0	17,650,209	1,344,929	12,692,171	2,386,774	610,645	0	17,034,519
If Senate Bill No. 300 is not passed and approved, Fertilizer Check-Off Research is void.												
Agricultural Development Division includes a reduction in general fund money of \$21,043 in fiscal year 2010 and \$21,043 in fiscal year 2011. The agency may allocate these reductions in funding among programs when developing 2011 biennium operating plans.												
If House Bill No. 676 is not passed and approved with an amendment to the coal tax shared fund, Growth Through Agriculture Grants is void.												
TOTAL SECTION C	33,791,419	372,757,931	378,389,961	609,253	0	785,548,564	30,816,499	368,713,107	375,786,440	610,645	0	775,926,691



	Fiscal 2010			Fiscal 2011			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
<b>JUDICIARY (2110)</b>							
1. Supreme Court Operations (01)							
9,322,553	198,236	124,915	0	9,645,704	9,367,710	223,236	124,929
a. Legislative Audit (Restricted/Biennial)							
45,355	0	0	0	45,355	0	0	0
2. Boards and Commissions (02)							
273,112	71,238	0	0	344,350	274,132	71,249	0
a. Judicial Standards (Restricted/Biennial)							
22,762	0	0	0	22,762	0	0	0
3. Law Library (03)							
901,258	0	0	0	901,258	908,896	0	0
4. District Court Operations (04)							
23,415,402	382,180	0	0	23,797,582	24,005,185	406,683	0
5. Water Courts Supervision (05)							
0	1,576,678	0	0	1,576,678	0	1,585,315	0
6. Clerk of Court (06)							
471,815	0	0	0	471,815	472,001	0	0
<b>Total</b>							
34,452,257	2,228,332	124,915	0	36,805,504	35,027,924	2,286,483	124,929

If Senate Bill No. 158 is not passed and approved, the general fund appropriation for District Court Operations is reduced by \$560,327 in fiscal year 2011.

District Court Operations includes a reduction in general fund money of \$711,448 each year of the biennium. The branch may allocate these reductions in funding among programs when developing 2011 biennium operating plans.

#### CRIME CONTROL DIVISION (4107)

- Justice System Support Service (01)

	Fiscal 2010				Fiscal 2011			
	General Fund	State Special Revenue	Federal Special Revenue	Total	General Fund	State Special Revenue	Federal Special Revenue	Total
1,458,829	14,014	520,172	0	1,992,715	1,465,949	14,063	522,156	2,002,168
a. Federal Grant Administration — 0.5 FTE (OTO)								
0	0	18,117	0	18,117	0	0	18,121	18,121
b. NIBRS Web Enhancement (Restricted/Biennial/OTO)								
64,000	0	64,000	0	128,000	0	0	0	0
c. Juvenile Detention Center Reporting (OTO)								
8,000	0	0	0	8,000	8,000	0	0	8,000
d. Pass-Through Grants (Biennial)								
904,559	150,000	5,757,230	0	6,811,789	904,559	150,000	5,757,230	6,811,789
Total								
2,435,088	164,014	6,359,519	0	8,958,621	2,378,508	164,063	6,297,507	8,840,078

Justice System Support Service includes a reduction in general fund money of \$47,915 each year of the biennium. The agency may allocate these reductions in funding among programs when developing 2011 biennium operating plans.

All remaining pass-through grant appropriations, up to \$100,000 in general fund money, \$180,000 in state special revenue, and \$7 million in federal funds, including reversions, for the 2009 biennium are authorized to continue and are appropriated in fiscal year 2010 and fiscal year 2011.

DEPARTMENT OF JUSTICE (4110)

1. Legal Services Division (01)								
4,903,123	459,773	566,913	0	5,929,809	4,973,814	487,159	570,462	6,031,435
a. Forensic Rape Exam Program (Restricted)								
2,500	0	0	0	2,500	2,500	0	0	2,500
b. Major Litigation — Yellowstone Compact (Restricted/Biennial/OTO)								
300,000	0	0	0	300,000	300,000	0	0	300,000
2. Office of Consumer Protection (02)								
0	1,728,684	0	0	1,728,684	0	1,724,016	0	1,724,016
3. Gambling Control Division (07)								
0	2,857,350	0	1,059,108	3,916,458	0	2,860,056	0	3,920,142

	Fiscal 2010			Fiscal 2011			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
a. Gambling Database (Biennial/OTO)	50,000	0	0	0	50,000	0	50,000
4. Motor Vehicle Division (12)	7,551,016	7,545,295	0	7,573,289	9,256,924	0	17,458,491
a. Debt Payments (Biennial)	0	1,046,873	0	0	931,425	0	931,425
5. Highway Patrol Division (13)	198,213	27,960,020	0	199,439	28,053,335	0	28,252,774
6. Division of Criminal Investigation (18)	5,465,635	3,040,750	1,169,898	5,476,475	3,047,303	1,172,728	9,696,506
a. Law Enforcement Academy Base Adjustment (OTO)	0	40,000	0	0	50,000	0	50,000
b. Meth Watch (Restricted/Biennial/OTO)	250,000	0	0	250,000	0	0	250,000
7. Central Services Division (28)	473,198	647,522	0	474,742	649,629	0	1,196,513
a. Legislative Audit (Restricted/Biennial)	30,588	41,832	0	0	0	0	0
8. Information Technology Services Division (29)	3,471,764	121,229	2,268	3,480,584	121,258	2,268	3,617,518
9. Forensic Sciences Division (32)	3,444,695	302,710	0	3,460,733	302,618	0	3,763,351
a. Lab Equipment Replacement (Biennial/OTO)	55,750	0	0	55,750	0	0	55,750
<b>Total</b>	26,146,482	45,842,038	1,739,079	26,247,326	47,533,723	1,745,458	77,300,421

	<u>Fiscal 2010</u>			<u>Fiscal 2011</u>			<u>Total</u>
	<u>General Fund</u>	<u>State Special Revenue</u>	<u>Federal Special Revenue</u>	<u>General Fund</u>	<u>State Special Revenue</u>	<u>Federal Special Revenue</u>	
Legal Services Division includes a reduction in general fund money of \$522,269 each year of the biennium. The agency may allocate these reductions in funding among programs when developing 2011 biennium operating plans.							
If Senate Bill No. 117 is not passed and approved, state special revenue for Highway Patrol Division is decreased by \$4,468,221 in fiscal year 2010 and by \$4,481,164 in fiscal year 2011.							
Funding in Division of Criminal Investigation includes \$189,728 general fund money for fiscal year 2010 and \$177,028 general fund money for fiscal year 2011 that is contingent upon the nonavailability of federal grant funds to support computer crimes investigations and must be reduced dollar-for-dollar by the amount of any federal grant funds received to support computer crimes investigations.							
<b>PUBLIC SERVICE COMMISSION (4201)</b>							
1. Public Service Regulation Program (01)	0	3,437,837	25,405	0	3,450,598	25,405	0
a. Legislative Audit (Restricted/Biennial)	0	24,422	0	0	0	0	0
b. Retirement Payout (Biennial)	0	102,941	0	0	102,942	0	0
c. Computer Replacement (OTO)	0	31,955	0	0	0	0	0
<b>Total</b>	<b>0</b>	<b>3,597,155</b>	<b>25,405</b>	<b>0</b>	<b>3,553,540</b>	<b>25,405</b>	<b>0</b>
<b>OFFICE OF STATE PUBLIC DEFENDER (6108)</b>							
1. Office of State Public Defender (01)	18,938,030	43,456	0	0	18,981,486	18,886,797	43,456
a. Relocate Lewis and Clark County Office Due to SB 158 Impact (Restricted/OTO)	59,043	0	0	0	59,043	7,556	0
2. Office of Appellate Defender (02)	873,976	0	0	0	873,976	875,210	0
<b>Total</b>	<b>19,871,036</b>	<b>43,456</b>	<b>0</b>	<b>0</b>	<b>19,865,466</b>	<b>19,770,063</b>	<b>43,456</b>

	Fiscal 2010			Fiscal 2011			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
Total	19,871,049	43,456	0	19,914,505	43,456	0	19,813,019
Office of State Public Defender includes a reduction in general fund money of \$402,817 each year of the biennium. The agency may allocate these reductions in funding among programs when developing 2011 biennium operating plans.							
Funding in Relocate Lewis and Clark County Office Due to SB 158 Impact is contingent upon and passage and approval of Senate Bill No. 158. If Senate Bill No. 158 is not passed and approved, funding in Relocate Lewis and Clark County Office Due to SB 158 Impact is void.							
DEPARTMENT OF CORRECTIONS (6401)							
1. Administration and Support Services (01)							
16,127,887	368,433	0	86,987	16,106,512	368,215	0	16,558,430
a. Legislative Audit (Restricted/Biennial)							
108,155	0	0	0	108,155	0	0	0
b. PREA Supplies (Biennial/OTO)							
15,000	0	0	0	15,000	0	0	0
c. Collection Unit System (OTO)							
0	455,000	0	0	455,000	55,000	0	55,000
2. Community Corrections (02) (Biennial)							
54,957,327	712,796	0	0	55,670,123	716,030	0	60,575,231
a. MH Meds and Services (Restricted)							
183,399	0	0	0	183,399	0	0	183,399
3. Secure Facilities (03) (Biennial)							
73,072,401	257,543	38,808	0	73,368,752	257,543	38,808	74,966,444
a. MSP Equipment (OTO)							
50,000	0	0	0	50,000	0	0	0
b. MSP Video Equipment (Biennial/OTO)							
65,000	0	0	0	65,000	0	0	0
c. MWP Maintenance and Supplies (Biennial/OTO)							

	Fiscal 2010			Fiscal 2011			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
75,000	0	0	0	0	0	0	0
4. Montana Correctional Enterprises (04)	962,154	1,893,827	88,316	965,016	1,893,827	88,305	3,512,573
a. Canteen (OTO)	0	28,000	0	0	0	0	0
b. License Plate Budget (OTO)	1,099,499	0	0	0	0	0	0
5. Juvenile Corrections (05)	19,621,384	846,365	6,955	19,667,883	846,365	6,955	20,521,203
a. Riverside Repairs (Biennial/OTO)	150,000	0	0	0	0	0	0
<b>Total</b>	166,487,206	4,561,964	134,079	171,452,104	4,136,980	134,068	176,372,280

Community Corrections includes an increase of \$1,500,000 in general fund money in fiscal year 2011. The agency may allocate this increase in funding among programs when developing 2011 biennium operating plans.

Community Corrections includes an increase of \$392,625 in general fund money in fiscal year 2010 and \$785,249 in general fund money in fiscal year 2011 that may be used only for provider rate increases for contracted community corrections services such as pre-release centers and treatment programs.

Funding in MH Meds and Services may be used only for offenders leaving secure care or at risk of returning to secure care, who are under the supervision of the department of corrections, who meet the criteria for serious mental illness, and who are not eligible for or have not yet been enrolled in a public benefit program. Funding may be used to provide: a prescription benefit of up to a 60-day supply of psychotropic medications upon release from an institution; short-term medication purchases for offenders who become unstable and need medications; or mental health services, including services necessary to obtain a written prescription and medication management.

If House Bill No. 224 is not passed and approved, the general fund appropriation for Secure Facilities is increased by \$18,750 in fiscal year 2010 and \$18,750 in fiscal year 2011.

	Fiscal 2010			Fiscal 2011			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
Secure Facilities includes \$215,349 in general fund money in fiscal year 2010 and \$430,697 in general fund money in fiscal year 2011 that my be used only for provider rate increases for contracted beds operated by private for-profit providers.							
If Senate Bill No. 508 is not passed and approved, general fund money in Montana Correctional Enterprises is increased by \$1,099,499 in fiscal year 2010 and \$1,099,648 in fiscal year 2011 and the item License Plate Budget is void. If Senate Bill No. 508 is not passed and approved, \$2,886,308 in general fund money is appropriated as a restricted, biennial, one-time-only appropriation to support the reissue of license plates as required in 61-3-332.							
<b>TOTAL SECTION D</b>	249,392,082	56,436,959	8,382,997	254,875,425	57,718,245	8,327,367	325,344,079

	Fiscal 2010			Fiscal 2011			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
<b>E. EDUCATION</b>							
<b>OFFICE OF SUPERINTENDENT OF PUBLIC INSTRUCTION (3501)</b>							
1. OPI Administration (06)							
9,093,505	226,276	16,787,287	0	26,107,068	9,148,604	226,357	30,563,037
a. Teacher Stipends (OTO)							
15,000	6,000	0	0	21,000	15,000	6,000	21,000
2. Distribution to Public Schools (09)							
0	0	138,029,444	0	138,029,444	0	0	142,354,444
a. BASE Aid (Restricted/Biennial)							
528,670,835	0	0	0	528,670,835	541,158,569	0	541,158,569
b. At-Risk Payment (Restricted/Biennial)							
1	0	0	0	1	1	0	1
c. Special Education (Restricted/Biennial)							
40,413,567	0	0	0	40,413,567	40,413,567	0	40,413,567
d. Transportation (Restricted/Biennial)							
12,338,475	0	0	0	12,338,475	12,338,475	0	12,338,475
e. School Facility Reimbursement (Restricted/Biennial)							
9,744,392	0	0	0	9,744,392	9,744,392	0	9,744,392
f. In-State Treatment (Restricted/Biennial)							
787,800	0	0	0	787,800	787,800	0	787,800
g. Secondary Vocational Education (Restricted/Biennial)							
1,000,000	0	0	0	1,000,000	1,000,000	0	1,000,000
h. Adult Basic Education (Restricted/Biennial)							
524,998	0	0	0	524,998	524,998	0	524,998
i. Gifted and Talented (Restricted/Biennial)							
246,982	0	0	0	246,982	246,982	0	246,982
j. School Food (Restricted/Biennial)							



	Fiscal 2010			Fiscal 2011		
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue
648,655	0	0	0	648,655	0	0
k. HB 124 Block Grants (Restricted/Biennial)						
51,757,156	0	0	0	51,757,156	0	0
l. State Tuition Payments (Restricted/Biennial)						
477,230	0	0	0	477,230	0	0
m. Traffic Safety Distribution (Restricted/Biennial)						
0	750,000	0	0	750,000	0	0
n. HB 464 — Advancing Agricultural Education in Montana (Restricted/Biennial)						
110,750	0	0	0	110,750	0	0
Total	655,829,346	982,276	154,816,731	811,628,353	982,357	163,542,520

OPI Administration includes a reduction in general fund money of \$185,838 each year of the biennium. The agency may allocate these reductions in funding among programs when developing 2011 biennium operating plans.

BASE Aid reflects an increase in the basic entitlement and in the per-ANB entitlements of 1% in fiscal year 2010 and 1% in fiscal year 2011.

The office of public instruction may distribute funds from the appropriation for In-State Treatment to public school districts for the purpose of providing for educational costs of children with significant behavioral or physical needs.

All revenue up to \$1.1 million per year in the traffic education account for distribution to schools under the provisions of 20-7-506 and 61-5-121 is appropriated as provided in Title 20, chapter 7, part 5.

If House Bill No. 464 is not passed and approved, the item for HB 464 — Advancing Agricultural Education in Montana is void.

All appropriations for federal special revenue programs in state level activities and in local education activities and all general fund appropriations in local educational activities are biennial.

#### BOARD OF PUBLIC EDUCATION (5101)

1. Administration (01)	221,171	186,049	0	0	407,220	223,717	185,632	0	0	409,349
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	Fiscal 2010			Fiscal 2011			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
Total	221,171	186,049	0	223,717	185,632	0	409,349
Administration includes a reduction in general fund money of \$4,540 each year of the biennium. The agency may allocate these reductions in funding among programs when developing 2011 biennium operating plans.							
SCHOOL FOR THE DEAF AND BLIND (5113)							
1. Administration Program (01)	450,627	3,751	0	446,985	3,939	0	450,924
a. Legislative Audit (Restricted/Biennial)	34,889	0	0	0	0	0	0
2. General Services Program (02)	539,726	0	0	539,544	0	0	539,544
3. Student Services (03)	1,307,141	0	19,160	1,311,561	0	19,160	1,330,721
4. Education (04)	3,558,182	330,539	63,813	3,546,753	344,990	63,813	3,955,556
Total	5,890,565	334,290	82,973	5,844,843	348,929	82,973	6,276,745
Education includes a reduction in general fund money of \$76,381 each year of the biennium. The agency may allocate these reductions in funding among programs when developing 2011 biennium operating plans.							
MONTANA ARTS COUNCIL (5114)							
1. Promotion of the Arts (01)	458,925	209,500	0	456,702	211,705	0	668,407
a. Legislative Audit (Restricted/Biennial)	8,190	3,580	9,163	0	0	0	0

	Fiscal 2010				Fiscal 2011							
	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
b. Federal Funds (Biennial)	0	0	591,675	0	0	591,675	0	0	596,485	0	0	596,485
Total	467,115	213,080	600,838	0	0	1,281,033	456,702	211,705	596,485	0	0	1,264,892
Promotion of the Arts includes a reduction in general fund money of \$9,427 each year of the biennium. The agency may allocate these reductions in funding among programs when developing 2011 biennium operating plans.												
MONTANA STATE LIBRARY COMMISSION (5115)												
1. Statewide Library Resources (01)	2,538,648	803,530	620,578	0	0	3,962,756	2,752,830	803,523	620,661	0	0	4,177,014
a. Legislative Audit (Restricted/Biennial)	20,933	0	0	0	0	20,933	0	0	0	0	0	0
b. LSTA and State Share (Biennial)	205,660	0	790,630	0	0	996,290	0	0	190,529	0	0	190,529
c. Library Courier Services Pilot Project (Restricted/OTO)	0	80,000	0	0	0	80,000	0	80,000	0	0	0	80,000
Total	2,765,241	883,530	1,411,208	0	0	5,059,979	2,752,830	883,523	811,190	0	0	4,447,543
Statewide Library Resources includes a reduction in general fund money of \$13,736 in fiscal year 2010 and \$13,737 in fiscal year 2011. The agency may allocate these reductions in funding among programs when developing 2011 biennium operating plans.												
If House Bill No. 676 is not passed and approved with an amendment to the coal tax shared fund, Library Courier Services Pilot Project is void.												
MONTANA HISTORICAL SOCIETY (5117)												
1. Administration Program (01)	1,130,370	113,171	107,865	433,318	0	1,784,724	1,145,958	113,396	107,865	424,602	0	1,791,821

	Fiscal 2010			Fiscal 2011			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
a. Legislative Audit (Restricted/Biennial)							
38,377	0	0	0	0	0	0	0
2. Research Center (02)							
857,883	0	0	99,983	862,506	0	98,986	961,492
3. Museum Program (03)							
306,351	25,000	0	71,951	310,557	25,000	0	400,807
4. Publications (04)							
98,830	0	0	339,268	99,107	0	340,295	439,402
5. Education Program (05)							
212,307	0	0	33,068	206,557	0	33,068	239,625
6. Historic Preservation Program (06)							
63,993	0	555,804	3,949	65,463	0	555,804	625,225
<b>Total</b>	<b>2,708,111</b>	<b>138,171</b>	<b>663,669</b>	<b>2,690,148</b>	<b>138,396</b>	<b>663,669</b>	<b>4,458,372</b>

Administration Program includes a reduction in general fund money of \$11,717 each year of the biennium. The agency may allocate these reductions in funding among programs when developing 2011 biennium operating plans.

MONTANA UNIVERSITY SYSTEM, INCLUDING OFFICE OF THE COMMISSIONER OF HIGHER EDUCATION AND EDUCATIONAL UNITS AND AGENCIES (5100)

1. OCHE — Administration (01)							
1,506,806	0	272,383	90,795	1,515,912	0	267,424	1,872,477
a. Legislative Audit (Restricted/Biennial)							
42,075	0	0	0	0	0	0	0
2. OCHE — Student Assistance Program (02)							
13,142,896	100,920	193,306	0	13,437,122	98,969	193,306	13,964,048
a. Loan Reimbursement Program for Montana State Hospital and Montana State Prison Registered Professional Nurses (Restricted/Biennial)							
37,500	0	0	0	37,500	0	0	37,500

	Fiscal 2010			Fiscal 2011			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
3. OCHE — Improving Teacher Quality (03)	0	0	223,789	0	0	223,795	223,795
4. OCHE — Community College Assistance (04) (Biennial)	8,535,484	0	0	8,535,483	0	0	8,535,483
5. Legislative Audit (Restricted/Biennial)	40,751	0	0	0	0	0	0
6. OCHE — Educational Outreach and Diversity (06)	71,377	0	6,892,152	71,318	0	5,776,167	5,847,485
7. OCHE — Workforce Development (08)	90,065	0	6,331,932	90,062	0	6,332,958	6,423,020
8. OCHE — Appropriation Distribution Transfers (09)	129,325,832	20,040,323	0	131,637,454	18,340,323	0	149,977,777
a. Legislative Audit (Restricted/Biennial)	614,220	0	0	0	0	0	0
b. Montana State University-Northern — Biodiesel Research (Biennial/OTO)	400,000	0	0	0	0	0	0
c. Agricultural Experiment Station	12,404,983	0	0	12,334,981	0	0	12,334,981
d. Extension Service	5,795,626	0	0	5,795,319	0	0	5,795,319
e. Forest and Conservation Experiment Station	1,165,732	0	0	1,165,732	0	0	1,165,732
f. Bureau of Mines and Geology	1,932,049	841,886	0	1,931,930	841,886	0	2,773,816
g. Fire Services Training School	751,611	0	0	750,424	0	0	750,424
9. Tribal College Assistance Program (11) (Biennial)	450,002	0	0	450,002	0	0	450,002

	Fiscal 2010			Fiscal 2011			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
10. OCHE — Guaranteed Student Loan (12)	0	0	39,310,533	0	0	43,248,516	43,248,516
a. Legislative Audit (Restricted/Biennial)	0	0	20,724	0	0	0	0
11. OCHE — Board of Regents (13)	48,894	0	0	51,367	0	0	51,367
<b>Total</b>	176,355,803	20,983,129	53,244,819	90,795	178,039,257	19,281,178	253,451,742

Items designated as OCHE — Administration (01), Student Assistance Program (02), Improving Teacher Quality (03), Educational Outreach and Diversity (06), Workforce Development (08), Appropriation Distribution Transfers (09) [excluding Agriculture Experiment Station, Extension Service, Forest and Conservation Experiment Station, Bureau of Mines and Geology, Bureau Ground Water Program, and Fire Services Training School], Guaranteed Student Loan (12), and Board of Regents (13) are a single biennial lump-sum appropriation.

General fund money, state and federal special revenue, and proprietary fund revenue appropriated to the board of regents are included in all Montana university system programs (5100). All other public funds received by units of the Montana university system (other than plant funds appropriated in House Bill No. 5, relating to long-range building) are appropriated to the board of regents and may be expended under the provisions of 17-7-138(2). The board of regents shall allocate the appropriations to individual university system units, as defined in 17-7-102(13), according to board policy.

The Montana university system, except the office of the commissioner of higher education and the community colleges, shall provide the office of budget and program planning and the legislative fiscal division banner access to the entire university system's banner information system, except for information pertaining to individual students or individual employees that is protected by Article II, sections 9 and 10, of the Montana constitution, 20-25-515, or the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g.

The Montana university system shall provide the electronic data required for human resource data for the current unrestricted operating funds into the MBARS system. The salary and benefit data provided must reflect approved board of regents operating budgets.

If House Bill No. 645 does not include \$58,014 of general fund money in fiscal year 2010 and \$57,893 of general fund money in fiscal 2011 to fund the present law increase for the distance learning program in the office of the commissioner of higher education, then OCHE — Administration is increased by \$58,014 of general fund money in fiscal year 2010 and by \$57,893 of general fund money in fiscal year 2011.

OCHE — Administration includes a reduction in general fund money of \$768,428 in fiscal year 2010 and \$768,426 in fiscal year 2011. The agency may allocate these reductions in funding among programs when developing 2011 biennium operating plans.

General Fund	Fiscal 2010		Other	Total	General Fund	Fiscal 2011		Other	Total
	State Special Revenue	Federal Special Revenue				State Special Revenue	Federal Special Revenue		

The appropriation in OCHE — Student Assistance Program, Loan Reimbursement Program for Montana State Hospital and Montana State Prison Registered Professional Nurses is contingent upon passage and approval of House Bill No. 224.

Total audit costs are estimated to be \$81,700 for the community colleges for the biennium. The general fund appropriation for each community college provides 49.9% of the total audit costs in the 2009 biennium. The remaining 50.1% of these costs must be paid from funds other than those appropriated for OCHE — Community College Assistance. Audit costs for the biennium may not exceed \$28,900 for Dawson, \$28,900 for Miles, and \$23,900 for Flathead Valley community college.

OCHE — Community College Assistance includes a reduction in general fund money of \$174,609 in fiscal year 2010 and \$174,610 in fiscal year 2011. The agency may allocate these reductions in funding among programs when developing 2011 biennium operating plans.

The variable cost of education for each full-time equivalent student at the community colleges, including Summitnet, is \$2,194 for each year of the 2009 biennium. The general fund appropriation for OCHE — Community College Assistance in [this act], the general fund appropriation for Community College Assistance — Restore to Governor's December 15 Budget in House Bill No. 645, and the federal special revenue appropriation for Community Colleges Tuition Mitigation in House Bill No. 645 provide 50.8% of the fixed cost of education plus 50.8% of the variable cost of education for each full-time equivalent student in fiscal year 2010 and fiscal year 2011. The remaining percentage of the budget must be paid from funds other than those appropriated in House Bill No. 2 or House Bill No. 645.

The sum of the general fund appropriation for OCHE — Community College Assistance in [this act], the general fund appropriation for Community College Assistance — Restore to Governor's December 15 Budget in House Bill No. 645, and the federal special revenue appropriation for Community Colleges Tuition Mitigation in House Bill No. 645 is calculated to fund education in the community colleges for an estimated 2,434 resident FTE students in fiscal year 2010 and 2,535 resident FTE students in fiscal year 2011. If total resident FTE student enrollment in the community colleges is greater than the estimated number for the biennium, the community colleges shall serve the additional students without a state general fund contribution. If actual resident FTE student enrollment is less than the estimated number for the biennium, the community colleges shall revert general fund money to the state in accordance with 17-7-142.

Revenue anticipated to be received by the Montana university system units and colleges of technology include interest earnings and other revenue of \$1,042,488 each year of the 2011 biennium. These amounts are appropriated for current unrestricted operating expenses as a biennial lump-sum appropriation and are in addition to the funds shown in OCHE.

Revenue anticipated to be received by the agricultural experiment station includes:

- (1) interest earnings and other revenue of \$60,308 each year of the 2011 biennium; and
- (2) federal revenue of \$2,195,157 each year of the 2011 biennium.

Revenue anticipated to be received by the extension services includes:

General Fund	Fiscal 2010			Total	Fiscal 2011			Total
	State Special Revenue	Federal Special Revenue	Proprietary		Other	General Fund	State Special Revenue	

- (1) interest earnings of \$14,000 each year of the 2011 biennium; and
- (2) federal revenue of \$2,201,529 each year of the 2011 biennium.

Anticipated interest revenue of \$425 in each year of the 2011 biennium is appropriated to the forest and conservation experiment station for current unrestricted operating expenses. This amount is in addition to that shown in OCHE — Appropriation Distribution Transfers.

Anticipated sales revenue of \$45,000 in fiscal year 2010 and \$48,000 in fiscal year 2011 is appropriated to the Bureau of Mines and Geology for current unrestricted operating expenses. This amount is in addition to that shown in OCHE — Appropriation Distribution Transfers.

Anticipated interest revenue of \$1,500 each year of the 2011 biennium is appropriated to Fire Services Training School for current unrestricted operating expenses. This amount is in addition to that shown in OCHE — Appropriation Distribution Transfers.

OCHE — Appropriation Distribution Transfers includes \$1,195,300 for the 2011 biennium that must be transferred to the energy conservation program account and used to retire the general obligation bonds sold to fund energy improvements through the state energy conservation program. The costs of this transfer in each year of the biennium are: university of Montana-Missoula, \$112,500 in fiscal year 2010 and \$101,500 in fiscal year 2011; Montana tech of the university of Montana, \$37,000 in fiscal year 2010 and \$37,000 in fiscal year 2011; western Montana college of the university of Montana, \$103,650 in fiscal year 2010 and \$102,650 in fiscal year 2011; Helena college of technology of the university of Montana, \$6,000 in fiscal year 2010 and \$6,000 in fiscal year 2011; Montana state university-Bozeman, \$58,000 in fiscal year 2010 and \$58,000 in fiscal year 2011; Montana state university-Billings, \$144,500 in fiscal year 2010 and \$133,700 in fiscal year 2011; Montana state university-northern, \$63,400 in fiscal year 2010 and \$58,400 in fiscal year 2011; and Montana state university-Great Falls college of technology, \$86,500 in fiscal year 2010 and \$86,500 in fiscal year 2011.

The Montana university system shall pay \$88,506 for the 2011 biennium in current funds in support of the Montana natural resource information system (NRIS) located at the Montana state library. Quarterly payments must be made upon receipt of the bills from the state library, up to the total amount appropriated.

OCHE — Appropriation Distribution Transfers includes a reduction in general fund money of \$2,669,158 in fiscal year 2010 and \$2,669,158 in fiscal year 2011. The agency may allocate these reductions in funding among programs when developing 2011 biennium operating plans.

844,237,352	23,720,525	210,820,238	1,072,332	0	1,079,850,447	858,775,531	22,031,720	221,739,003	1,055,300	0	1,103,601,554
<b>TOTAL SECTION E</b>											
1,610,930,861	689,231,473	1,810,309,399	14,093,850	0	4,124,565,583	1,642,598,558	657,075,601	1,766,040,775	13,985,549	0	4,079,700,483
<b>TOTAL STATE FUNDING</b>											



**Section 10. Rates.** Internal service fund type fees and charges established by the legislature for the 2011 biennium in compliance with 17-7-123(1)(f)(ii) are as follows:

	<u>Fiscal 2010</u>	<u>Fiscal 2011</u>
<b>DEPARTMENT OF REVENUE – 5801</b>		
1. Business and Income Taxes Division		
Delinquent Account Collection Fee (percent of amount collected)	5%	5%
<b>DEPARTMENT OF ADMINISTRATION — 6101</b>		
1. Director's Office		
a. Management Services Unit		
Total Allocation of Costs, excluding portion of unit for HR	\$1,002,940	\$1,016,821
Portion of Unit for Human Resources Charges Per FTE of User Programs	\$553	\$567
2. State Accounting Division		
a. SABHRS Finance and Budget Bureau		
SABHRS Services Fee (total allocation of costs)	\$4,507,446	\$4,344,459
b. Warrant Writer		
Mailer	\$0.72121	\$0.72446
Nonmailer	\$0.30121	\$0.29446
Emergency	\$13.64547	\$13.64872
Duplicates	\$3.26014	\$3.26339
Externals		
Externals - Payroll	\$0.20503	\$0.19882
Externals - Universities	\$0.12229	\$0.11531
Direct Deposit		
Direct Deposit - Mailer	\$0.76229	\$0.77531
Direct Deposit - No Advice Printed	\$0.12229	\$0.11531
Unemployment Insurance		
Mailer - Print Only	\$0.17892	\$0.17915
Direct Deposit - No Advice Printed	\$0.45380	\$0.42970
3. General Services Division		
a. Facilities Management Bureau		
Office Rent (per sq. ft.)	\$8.869	\$9.002
Warehouse Rent (per sq. ft.)	\$4.804	\$5.010
Grounds Maintenance (per sq. ft.)	\$0.541	\$0.543
Project Management - in-house	15%	15%
Project Management - contracted	5%	5%
b. Print and Mail Services		
Internal Printing		

Impression Cost		
1-20	\$0.0762	\$0.0762
21-100	\$0.0336	\$0.0336
101-1000	\$0.0193	\$0.0193
1001-5000	\$0.0078	\$0.0078
5000 +	\$0.0039	\$0.0039
Color Copy		
8 1/2 x 11	\$0.25	\$0.25
11 x 17	\$0.50	\$0.50
Ink		
Black per Sheet	\$0.0002	\$0.0002
Color	\$15.00	\$15.00
Special Mix	\$25.00	\$25.00
Large Format Color per ft.	\$12.70	\$12.70
Collating Machine	\$0.0072	\$0.0072
Collating Hand	\$0.60	\$0.60
Stapling Hand	\$0.018	\$0.018
Stapling In-line	\$0.012	\$0.012
Saddle Stitch	\$0.036	\$0.036
Folding (base + per sheet)	\$12.00 + \$0.006	\$12.00 + \$0.006
Folding Rt Angle (base + per sheet)	\$12.00 + \$0.006	\$12.00 + \$0.006
Folding In-line	\$0.036	\$0.036
Punching Standard 3-hole	\$0.0012	\$0.0012
Punching Nonstandard (base + per sheet)	\$3.60 + \$0.0012	\$3.60 + \$0.0012
Cutting	\$0.66	\$0.66
Padding	\$0.0024	\$0.0024
Scoring, perf, num (setup + duplicating rate)	\$6.00 + Dup Rate	\$6.00 + Dup Rate
Perfect Binding (setup + per sheet)	\$18.00 + \$0.66	\$18.00 + \$0.66
Spiral Binding	\$0.69	0.69
Laminating		
8 1/2 x 11	\$0.57	\$0.57
11 x 17	\$0.85	\$0.85
Tape Binding	\$0.60	\$0.60
Tabs	\$0.60	\$0.60
Transparencies	\$0.60	\$0.60

Shrink Wrapping	\$0.30	\$0.30
Hand Work Production	\$0.60	\$0.60
Overtime	\$22.15	\$22.15
Desktop	\$46.36	\$46.36
Scan	\$9.52	\$9.52
Proof	\$0.25	\$0.25
Programming	\$45.46	\$45.46
File Transfer	\$22.73	\$22.73
Variable Data	\$0.009	\$0.009
CD Duplicating	\$1.75	\$1.75
DVD Duplicating	\$3.50	\$3.50
Silver Plates		
8.5 x 11	\$9.20	\$9.20
11 x 17	\$10.35	\$10.35
CTP Plates		
8.5 x 11	\$9.20	\$9.20
11 x 17	\$10.35	\$10.35
External Printing		
Percent of invoice markup	6.73%	6.73%
Photocopy Pool		
Percent of invoice markup	15.9%	15.9%
Mail Preparation		
Tabbing	\$0.021	\$0.021
Labeling	\$0.021	\$0.021
Ink Jet	\$0.034	\$0.034
Inserting	\$0.03	\$0.03
Winsort	\$0.062	\$0.062
Permit Mailings	\$0.062	\$0.062
Mail Operations		
Machinable	\$0.043	\$0.043
Nonmachinable	\$0.080	\$0.080
Seal Only	\$0.020	\$0.020
Postcards	\$0.049	\$0.049
Certified Mail	\$0.614	\$0.614
Registered Mail	\$0.614	\$0.614
International Mail	\$0.400	\$0.400
Flats	\$0.110	\$0.110
Priority	\$0.614	\$0.614
Express Mail	\$0.614	\$0.614
USPS Parcels	\$0.400	\$0.400
Insured mail	\$0.614	\$0.614

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	Media Mail	\$0.307	\$0.307
	Standard Mail	\$0.200	\$0.200
	Postage Due	\$0.061	\$0.061
	Fee Due	\$0.061	\$0.061
	Tapes	\$0.245	\$0.245
	Express Services	\$0.500	\$0.500
	Interagency Mail	\$281,917	\$281,917
		yearly	yearly
	Postal Contract (Capitol)	\$38,976	\$38,976
		yearly	yearly
	c. Central Stores Program		
	Markup as a Percentage of Retail		
	Cost of Goods Sold	25%	25%
4.	Information Technology Services Division		
	Rates Maintained/Based Upon FMM Model		
	Operations of the Division	30-Day Working Capital Reserve	
5.	Health Care and Benefits Division		
	a. Workers' Compensation Management Program		
	Administrative Fee (per payroll		
	warrant per pay period)	\$1.29	\$1.12
6.	State Human Resources Division		
	a. Intergovernmental Training		
	Open Enrollment Courses		
	Two-Day Course (per participant)	\$185	\$187
	One-Day Course (per participant)	\$118	\$120
	Half-Day Course (per participant)	\$90	\$93
	Eight-Day Management Series (per		
	participant)	\$560	\$565
	Six-Day Management Series (per participant)	\$430	\$435
	Four-Day Administrative Assistant Series		
	(per participant)	\$325	\$330
	Contracted Courses		
	Full Day of Training (flat fee)	\$820	\$825
	Half Day of Training (flat fee)	\$560	\$565
	b. Human Resources Information System Fee		
	Per payroll warrant advice per pay period	\$9.37	\$8.04
7.	Risk Management & Tort Defense		
	Auto Liability, Comprehensive, and Collision		
	(total allocation to agencies)	\$1,135,000	\$1,135,000
	Aviation (total allocation to agencies)	\$212,451	\$212,451
	General Liability (total allocation to agencies)	\$6,750,000	\$6,750,000
	Property/Miscellaneous (total allocations		
	to agencies)	\$4,200,000	\$4,200,000

**DEPARTMENT OF COMMERCE – 6501**

## 1. Board of Investments

For the purposes of [this act], the legislature defines “rates” as the total collections necessary to operate the board of investments as follows:

a. Administration Charge (total)	\$4,819,844	\$4,768,607
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## 2. Director’s Office/Management Services

a. Management Services Indirect Charge Rate	12.95%	12.95%
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**DEPARTMENT OF LABOR AND INDUSTRY – 6602**

## 1. Centralized Services Division

a. Office of Information Technology	\$121	\$121
b. Cost Allocation Plan	9.73%	9.25%
c. Hearing Bureau		
Administrative Law Judge	\$90	\$90
Paralegal	\$50	\$50
d. Office of Legal Services	\$95	\$95

**DEPARTMENT OF FISH, WILDLIFE, & PARKS — 5201**

## 1. Vehicle and Aircraft Rates

## Per Mile Rates

a. Sedans	\$0.45	\$0.46
b. Vans	\$0.52	\$0.53
c. Utilities	\$0.57	\$0.58
d. Pickup 1/2 ton	\$0.52	\$0.53
e. Pickup 3/4 ton	\$0.60	\$0.61

## Per Hour Rates

f. Two-Place Single Engine	\$108.07	\$129.69
g. Partnavia	\$514.56	\$617.47
h. Turbine Helicopters	\$576.10	\$691.32

## 2. Duplicating Center

## Per Copy

a. 1-20	\$0.060	\$0.065
b. 21-100	\$0.045	\$0.050
c. 101 - 1,000	\$0.040	\$0.045
d. 1,001- 5,000	\$0.030	\$0.035
e. color copies	\$0.250	\$0.250

## Bindery

a. Collating (per sheet)	\$0.010	\$0.010
b. Hand Stapling (per set)	\$0.020	\$0.020
c. Saddle Stitch (per set)	\$0.035	\$0.035
d. Folding (per set)	\$0.010	\$0.010
e. Punching (per set)	\$0.005	\$0.005
f. Cutting (per minute)	\$0.600	\$0.600

3. Warehouse Overhead Rate 18% 18%

**DEPARTMENT OF ENVIRONMENTAL QUALITY — 5301**

Indirect Rate

a. Personal Services 24% 24%  
 b. Operating Expenditures 4% 4%

**DEPARTMENT OF TRANSPORTATION — 5401**

1. State Motor Pool

In the motor pool program, if the price of gasoline goes above \$3.71, Tier 2 rates may be charged if approved by the Office of Budget and Program Planning. If the price of gasoline goes above \$4.21, Tier 3 rates may be charged if approved by the Office of Budget and Program Planning.

Tier one

a. Class 02 (small utilities)		
Per Hour Assigned	\$2.543	\$2.428
Per Mile Operated	\$0.176	\$0.176
b. Class 03 (hybrid SUV)		
Per Hour Assigned	\$1.690	\$2.323
Per Mile Operated	\$0.129	\$0.128
c. Class 04 (large utilities)		
Per Hour Assigned	\$2.347	\$2.359
Per Mile Operated	\$0.208	\$0.210
d. Class 05 (hybrid sedans)		
Per Hour Assigned	\$2.355	\$2.610
Per Mile Operated	\$0.093	\$0.094
e. Class 06 (midsize compacts)		
Per Hour Assigned	\$1.733	\$1.749
Per Mile Operated	\$0.134	\$0.135
d. Class 07 (small pickups)		
Per Hour Assigned	\$1.667	\$1.678
Per Mile Operated	\$0.199	\$0.201
e. Class 11 (large pickups)		
Per Hour Assigned	\$1.797	\$1.831
Per Mile Operated	\$0.207	\$0.209
f. Class 12 (vans – all types)		
Per Hour Assigned	\$1.825	\$1.858
Per Mile Operated	\$0.198	\$0.200

Tier two (contingent \$3.71/gallon)

a. Class 02 (small utilities)		
Per Hour Assigned	\$2.543	\$2.428
Per Mile Operated	\$0.200	\$0.200
b. Class 03 (hybrid SUV)		
Per Hour Assigned	\$1.690	\$2.323

	Per Mile Operated	\$0.146	\$0.144
c. Class 04 (large utilities)			
	Per Hour Assigned	\$2.347	\$2.359
	Per Mile Operated	\$0.239	\$0.241
d. Class 05 (hybrid sedans)			
	Per Hour Assigned	\$2.355	\$2.610
	Per Mile Operated	\$0.105	\$0.107
e. Class 06 (midsize compacts)			
	Per Hour Assigned	\$1.733	\$1.749
	Per Mile Operated	\$0.151	\$0.153
d. Class 07 (small pickups)			
	Per Hour Assigned	\$1.667	\$1.678
	Per Mile Operated	\$0.225	\$0.228
e. Class 11 (large pickups)			
	Per Hour Assigned	\$1.797	\$1.831
	Per Mile Operated	\$0.236	\$0.238
f. Class 12 (vans – all types)			
	Per Hour Assigned	\$1.825	\$1.858
	Per Mile Operated	\$0.224	\$0.227
Tier three (contingent \$4.21/gallon)			
a. Class 02 (small utilities)			
	Per Hour Assigned	\$2.543	\$2.428
	Per Mile Operated	\$0.225	\$0.224
b. Class 03 (hybrid SUV)			
	Per Hour Assigned	\$1.690	\$2.323
	Per Mile Operated	\$0.164	\$0.161
c. Class 04 (large utilities)			
	Per Hour Assigned	\$2.347	\$2.359
	Per Mile Operated	\$0.271	\$0.272
d. Class 05 (hybrid sedans)			
	Per Hour Assigned	\$2.355	\$2.610
	Per Mile Operated	\$0.118	\$0.119
e. Class 06 (midsize compacts)			
	Per Hour Assigned	\$1.733	\$1.749
	Per Mile Operated	\$0.169	\$0.171
d. Class 07 (small pickups)			
	Per Hour Assigned	\$1.667	\$1.678
	Per Mile Operated	\$0.252	\$0.254
e. Class 11 (large pickups)			
	Per Hour Assigned	\$1.797	\$1.831
	Per Mile Operated	\$0.266	\$0.268

f. Class 12 (vans – all types)

Per Hour Assigned	\$1.825	\$1.858
Per Mile Operated	\$0.251	\$0.253

2. Equipment Program

All of Program Operations 60-day working capital reserve

**DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION  
— 5706**

1. Air Operations Program

a. Bell UH-1H	\$1,210	\$1,210
b. Bell Jet Ranger	\$515	\$515
c. Cessna 180 Series	\$170	\$170

**DEPARTMENT OF JUSTICE – 4110**

1. Agency Legal Services

a. Attorney (per hour)	\$93.00	\$93.00
b. Investigator (per hour)	\$53.00	\$53.00

**DEPARTMENT OF CORRECTIONS - 6401**

1. Labor Charge for Motor Vehicle Maintenance (per hour)

\$26.50	\$26.50
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2. Supply Fee as a Percentage of Actual Costs of Parts

3%	3%
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3. Parts

Actual Cost Actual Cost

4. Cook/Chill Rate — Base Tray Price (no delivery)

\$1.69	\$1.69
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5. Delivery Charge Per Mile

\$0.50	\$0.50
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6. Delivery Charge Per Hour

\$35.00	\$35.00
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7. Spoilage Percentage All Customers

4%	4%
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8. Overhead Charge

a. Montana State Hospital — Supplies Only	12%	12%
b. Montana State Hospital — Except Supplies	6%	6%
c. Montana State Prison — Supplies Only	77%	77%
d. Montana State Prison — Except Supplies	41%	41%
e. Treasure State Correctional Training Center — Supplies Only	11%	11%
f. Treasure State Correctional Training Center — Except Supplies	6%	6%

**OFFICE OF PUBLIC INSTRUCTION - 3501**

1. OPI Indirect Cost Pool

a. Unrestricted Rate	24%	24%
b. Restricted Rate	16.3%	16.3%

Approved May 14, 2009



**CHAPTER NO. 489**

[HB 645]

AN ACT 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.

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

**Section 1.** Section 2-4-306, MCA, is amended to read:

**“2-4-306. Filing, format, and adoption and effective dates — dissemination of emergency rules.** (1) Each agency shall file with the secretary of state a copy of each rule adopted by it or a reference to the rule as contained in the proposal notice. A rule is adopted on the date that the adoption notice is filed with the secretary of state and is effective on the date referred to in subsection (4), except that if the secretary of state requests corrections to the adoption notice, the rule is adopted on the date that the revised notice is filed with the secretary of state.

(2) Pursuant to 2-15-401, the secretary of state may prescribe rules to effectively administer this chapter, including rules regarding the format, style, and arrangement for notices and rules that are filed pursuant to this chapter, and may refuse to accept the filing of any notice or rule that is not in compliance with this chapter. The secretary of state shall keep and maintain a permanent register of all notices and rules filed, including superseded and repealed rules, that must be open to public inspection and shall provide copies of any notice or rule upon request of any person. Unless otherwise provided by statute, the secretary of state may require the payment of the cost of providing copies.

(3) If the appropriate administrative rule review committee has conducted a poll of the legislature in accordance with 2-4-403, the results of the poll must be published with the rule if the rule is adopted by the agency.

(4) ~~Each~~ *Subject to subsection (6), each* rule is effective after publication in the register, as provided in 2-4-312, except that:

(a) if a later date is required by statute or specified in the rule, the later date is the effective date;

(b) subject to applicable constitutional or statutory provisions:

(i) a temporary rule is effective immediately upon filing with the secretary of state or at a stated date following publication in the register; and

(ii) an emergency rule is effective at a stated date following publication in the register or immediately upon filing with the secretary of state if the agency finds that this effective date is necessary because of imminent peril to the public health, safety, or welfare. The agency's finding and a brief statement of reasons for the finding must be filed with the rule. The agency shall, in addition to the required publication in the register, take appropriate and extraordinary measures to make emergency rules known to each person who may be affected by them.

(c) if, following written administrative rule review committee notification to an agency under 2-4-305(9), the committee meets and under 2-4-406(1) objects to all or some portion of a proposed rule before the proposed rule is adopted, the proposed rule or portion of the proposed rule objected to is not effective until the day after final adjournment of the regular session of the legislature that begins after the notice proposing the rule was published by the secretary of state, unless, following the committee's objection under 2-4-406(1):

(i) the committee withdraws its objection under 2-4-406 before the proposed rule is adopted; or

(ii) the rule or portion of a rule objected to is adopted with changes that in the opinion of a majority of the committee members, as communicated in writing to

the committee presiding officer and staff, make it comply with the committee's objection and concerns.

(5) ~~An~~ *Subject to subsection (6), an agency may not enforce, implement, or otherwise treat as effective a rule proposed or adopted by the agency until the effective date of the rule as provided in this section. Nothing in this subsection prohibits an agency from enforcing an established policy or practice of the agency that existed prior to the proposal or adoption of the rule as long as the policy or practice is within the scope of the agency's lawful authority.*

(6) *For purposes of implementing and complying with the American Recovery and Reinvestment Act of 2009, Public Law 111-5, an agency may adopt and implement a rule retroactive to February 17, 2009, provided that the retroactive applicability date is clearly stated in the agency's proposed and adopted rule."*

**Section 2.** Section 7-7-2255, MCA, is amended to read:

**"7-7-2255. Form and execution of bonds.** (1) At the time of the sale of the bonds or at a meeting held after the sale, the board of county commissioners shall adopt a resolution providing for the issuance of the bonds, prescribing the form of the bonds, whether amortization bonds or serial bonds, ~~and~~ providing the manner of execution of the bonds, *and if applicable, specifying whether the bonds are tax credit bonds as provided in [section 44], recovery zone economic development bonds or recovery zone facility bonds as provided in [section 45], or qualified energy conservation bonds as provided in [section 46].*

(2) Each county bond and each coupon attached to the bond must be signed by or bear the facsimile signatures of the presiding officer of the board of county commissioners and the county treasurer and must be attested by the county clerk, provided that one signature of a county official or the bond registrar must be a manual signature. Each bond may have the county seal or its facsimile imprinted on the bond."

**Section 3.** Section 7-7-2501, MCA, is amended to read:

**"7-7-2501. Authority to issue revenue bonds — refunding revenue bonds.** (1) A county may issue county revenue bonds in the same manner and with the same effect as provided in chapter 7, part 44, of this title for issuance of municipal revenue bonds. County revenue bonds may be issued to finance any project or activity enumerated in chapter 16, part 21, of this title or in Title 75, chapter 10, part 1. Revenue from the project for which the bonds are issued is the only revenue upon which a lien under the provisions of 7-7-4431 may apply. A lien may not attach to other revenue or other property within the county.

(2) A county may refund revenue bonds issued under the authority provided in subsection (1) by the method provided in either part 45 or part 46 of chapter 7.

(3) In construing, for purposes of this section, the provisions of parts 44, 45, or 46 of chapter 7, "municipal" is considered to refer to the county and "governing body" is considered to refer to the board of county commissioners whenever the board of county commissioners is acting pursuant to subsection (1).

(4) *If applicable, the county shall specify whether the bonds are tax credit bonds as provided in [section 44], recovery zone economic development bonds or recovery zone facility bonds as provided in [section 45], or qualified energy conservation bonds as provided in [section 46]."*

**Section 4.** Section 7-7-4255, MCA, is amended to read:

**“7-7-4255. Form and execution of bonds.** (1) At the time of the sale of the bonds or at a meeting held after the sale, the city or town council shall adopt a resolution providing for the issuance of the bonds, prescribing the form of the bonds, whether amortization or serial bonds, ~~and~~ providing the manner of execution of the bonds, *and if applicable, specifying whether the bonds are tax credit bonds as provided in [section 44], recovery zone economic development bonds or recovery zone facility bonds as provided in [section 45], or qualified energy conservation bonds as provided in [section 46].*

(2) Each bond and each coupon attached to a bond must be signed by or bear the facsimile signatures of the mayor and the treasurer of the city or town and must be attested by the city or town clerk, provided that one signature of a city or town official or the bond registrar must be a manual signature. Each bond may have the city or town seal or its facsimile imprinted on the bond.”

**Section 5.** Section 7-7-4421, MCA, is amended to read:

**“7-7-4421. Authority to issue revenue bonds.** (1) In addition to the powers ~~which that~~ it may now have, any municipality ~~shall have~~ *has* power under this part to:

(1)(a) issue its bonds to finance in whole or in part the cost of the acquisition, purchase, construction, reconstruction, improvement, betterment, or extension of any undertaking;

(2)(b) pledge to the punctual payment of ~~said the~~ bonds issued under ~~this part or part 45 or this part~~ and interest ~~thereon on the bonds~~ an amount of the ~~revenues revenue~~ of ~~such the~~ undertaking, (including improvements, betterments, or extensions ~~thereto~~ thereafter constructed or acquired), or of any part of ~~such the~~ undertaking sufficient to pay ~~said the~~ bonds and interest as ~~the same shall become they become~~ due, with ~~such an~~ amount consisting of all or any part or portion of ~~such the~~ revenue, and create and maintain reasonable reserves ~~therefor for the bonds~~.

(2) *If applicable, the municipality shall specify whether the bonds are tax credit bonds as provided in [section 44], recovery zone economic development bonds or recovery zone facility bonds as provided in [section 45], or qualified energy conservation bonds as provided in [section 46].”*

**Section 6.** Section 7-7-4501, MCA, is amended to read:

**“7-7-4501. Authority to issue refunding revenue bonds.** (1) In addition to the powers ~~which that~~ it ~~now~~ may have, any municipality ~~shall have~~ *has* the power under this part to refund bonds issued for any of the purposes listed in 7-7-4421(1)(a), whether issued under authority of part 45 or of any other applicable law.

(2) Refunding revenue bonds issued as authorized in this section ~~shall be~~ *are* governed by all of the provisions of part 44, except 7-7-4433 and 7-7-4434, as fully as bonds issued for the initial financing of any undertaking and by the further provisions of this part.

(3) Bonds may be issued to refund interest as well as principal actually due and payable if the ~~revenues revenue~~ pledged ~~therefor are~~ *is* not sufficient, but not to refund any bonds or interest due ~~which can that may~~ be paid from ~~revenues revenue~~ then on hand.”

**Section 7.** Section 7-12-2171, MCA, is amended to read:

**“7-12-2171. Details relating to rural improvement district bonds and warrants.** (1) (a) The bonds and warrants must be drawn against either the construction or maintenance fund created for the special improvement

district and must bear interest from the date of registration until called for redemption or paid in full. Bonds or warrants sold at a private, negotiated sale may bear interest at a rate varying periodically at the time or times and on the terms determined by the board of county commissioners. The terms determined by the board of county commissioners may include the establishment of a maximum rate of interest or the convertibility to a fixed rate of interest.

(b) Variable rate bonds may be sold at a private negotiated sale if the principal amount of the bonds is \$500,000 or less and the board of county commissioners obtains separate written opinions from underwriters of Montana rural improvement district bonds stating the bonds are not marketable through a competitive bond sale. Bonds sold in principal amounts below \$250,000 do not require a marketability opinion.

(c) The interest must be payable annually or semiannually, at the discretion of the board of county commissioners, on the dates that the board prescribes. The warrants or bonds must bear the signatures of the presiding officer of the board and the county clerk and may bear the corporate seal of the county. The warrants or bonds must be registered in the office of the county clerk and the county treasurer, and if interest coupons are attached to the warrants or bonds, the interest coupons must also be registered and must bear the signatures of the presiding officer of the board and the county clerk. The coupons may bear the facsimile signatures of the officers in the discretion of the board.

(2) The bonds must be in denominations of \$100 or fractions or multiples of \$100, may be issued in installments, and may extend over a period not to exceed 30 years. However, if federal loans are available for improvements, repayment may extend over a period not to exceed 40 years. For the purposes of this subsection, the term of a bond issue commences on July 1 of the fiscal year in which the county first levies to pay principal and interest on the bonds.

*(3) If applicable, the board of county commissioners shall specify whether the bonds are tax credit bonds as provided in [section 44], recovery zone economic development bonds or recovery zone facility bonds as provided in [section 45], or qualified energy conservation bonds as provided in [section 46]."*

**Section 8.** Section 7-15-4290, MCA, is amended to read:

**"7-15-4290. Use of property taxes and other revenue for payment of bonds.** (1) (a) The tax increment derived from an urban renewal area may be pledged for the payment of revenue bonds issued for urban renewal projects or of general obligation bonds, revenue bonds, or special assessment bonds issued to pay urban renewal costs described in 7-15-4288 and 7-15-4289.

(b) The tax increment derived from an industrial district may be pledged for the payment of revenue bonds issued for industrial infrastructure development projects or of general obligation bonds, revenue bonds, or special assessment bonds issued to pay industrial district costs described in 7-15-4288 and 7-15-4289.

(c) The tax increment derived from a technology district may be pledged for the payment of revenue bonds issued for technology infrastructure development projects or of general obligation bonds, revenue bonds, or special assessment bonds issued to pay technology district costs described in 7-15-4288 and 7-15-4289.

(2) A municipality issuing bonds pursuant to subsection (1) may, by resolution of its governing body, enter into a covenant for the security of the bondholders, detailing the calculation and adjustment of the tax increment and the taxable value on which it is based and, after a public hearing, pledging or

appropriating other revenue of the municipality, except property taxes prohibited by subsection (3), to the payment of the bonds if collections of the tax increment are insufficient.

(3) Property taxes, except the tax increment derived from property within the area or district and tax collections used to pay for services provided to the municipality by a project, may not be applied to the payment of bonds issued pursuant to 7-15-4301 for which a tax increment has been pledged.

(4) *If applicable, the municipality shall specify whether the bonds are tax credit bonds as provided in [section 44], recovery zone economic development bonds or recovery zone facility bonds as provided in [section 45], or qualified energy conservation bonds as provided in [section 46].*

**Section 9.** Section 7-15-4301, MCA, is amended to read:

**“7-15-4301. Authorization to issue urban renewal bonds, industrial infrastructure development bonds, aerospace transportation and technology infrastructure development bonds, technology infrastructure development bonds, and refunding bonds.** (1) A municipality may:

(a) issue bonds from time to time, in its discretion, to finance the undertaking of any urban renewal project, industrial infrastructure development project, aerospace transportation and technology infrastructure development project, or technology infrastructure development project under part 42 and this part, including, without limiting the generality of projects, the payment of principal and interest upon any advances for surveys and plans for the projects; and

(b) issue refunding bonds for the payment or retirement of bonds previously issued by it.

(2) The bonds may not pledge the general credit of the municipality and must be made payable, as to both principal and interest, solely from the income, proceeds, revenue, and funds of the municipality derived from or held in connection with its undertaking and carrying out of urban renewal projects, industrial infrastructure development projects, aerospace transportation and technology infrastructure development projects, or technology infrastructure development projects under part 42 and this part, including the tax increment received and pledged by the municipality pursuant to 7-15-4282 through 7-15-4292, and, if the income, proceeds, revenue, and funds of the municipality are insufficient for the payment, from other revenue of the municipality pledged to the payment. Payment of the bonds, both as to principal and interest, may be further secured by a pledge of any loan, grant, or contribution from the federal government or other source in aid of any urban renewal projects, industrial infrastructure development projects, aerospace transportation and technology infrastructure development projects, or technology infrastructure development projects of the municipality under part 42 and this part or by a mortgage on all or part of any projects.

(3) Bonds issued under this section must be authorized by resolution or ordinance of the local governing body.

(4) *If applicable, the governing body of the municipality shall specify whether the bonds are tax credit bonds as provided in [section 44], recovery zone economic development bonds or recovery zone facility bonds as provided in [section 45], or qualified energy conservation bonds as provided in [section 46].*

**Section 10.** Section 7-15-4302, MCA, is amended to read:

**“7-15-4302. Authorization to issue general obligation bonds.** (1) For the purpose of 7-15-4267 or for the purpose of aiding in the planning, undertaking, or carrying out of an urban renewal project or an industrial infrastructure development project of a municipality, the municipality, in addition to any authority to issue bonds pursuant to 7-15-4301, may issue and sell its general obligation bonds.

(2) Any bonds issued pursuant to this section ~~shall~~ *must* be issued in the manner and within the limitations prescribed by the laws of this state for the issuance and authorization of bonds by ~~such~~ *the* municipality for public purposes generally.

(3) Aiding in the planning, undertaking, or carrying out of an approved urban renewal project or an industrial infrastructure development project is considered a single purpose for the issuance of general obligation bonds, and the proceeds of the bonds authorized for any ~~such~~ project may be used to finance the exercise of any and all powers conferred upon the municipality by ~~this part and part 42 which and this part~~ that are necessary or proper to complete the project in accordance with the approved plan or industrial district ordinance and any modification ~~thereof of the plan~~ duly adopted by the local governing body.

(4) *If applicable, the municipality shall specify whether the bonds are tax credit bonds as provided in [section 44], recovery zone economic development bonds or recovery zone facility bonds as provided in [section 45], or qualified energy conservation bonds as provided in [section 46].”*

**Section 11.** Section 15-66-102, MCA, is amended to read:

**“15-66-102. (Temporary) Utilization fee for inpatient bed days.** (1) Each hospital in the state shall pay to the department a utilization fee:

(a) ~~in the amount of \$27.70 for each inpatient bed day between January 1, 2006, and June 30, 2007;~~

(b) ~~in the amount of \$47 for each inpatient bed day between July 1, 2007, and December 31, 2007;~~

(c) ~~in the amount of \$43 for each inpatient bed day between January 1, 2008, and December 31, 2008;~~

(~~d~~)*(a)* in the amount of \$48 for each inpatient bed day between January 1, 2009, and December 31, 2009; and

(~~e~~)*(b)* beginning January 1, 2010, in the amount of \$50 for each inpatient bed day.

(2) ~~All~~ *Subject to subsection (3), all* proceeds from the collection of utilization fees, including penalties and interest, must, in accordance with the provisions of 17-2-124, be deposited to the credit of the department of public health and human services in a state special revenue account as provided in 53-6-149.

(3) *The following amounts must be deposited in the state general fund:*

(a) *for state fiscal year 2009, proceeds in excess of \$16,232,795;*

(b) *for state fiscal year 2010, proceeds in excess of \$18,505,269; and*

(c) *for state fiscal year 2011, proceeds in excess of \$19,818,193.* (Void on occurrence of contingency—sec. 18, Ch. 390, L. 2003. Terminates June 30, 2009—secs. 5, 6, 8, Ch. 517, L. 2007.)”

**Section 12.** Section 17-1-106, MCA, is amended to read:

**“17-1-106. Agency recovery of indirect costs.** (1) An agency receiving nongeneral funds shall, in accordance with all applicable regulations,

guidelines, or grant rules governing those funds, negotiate indirect cost reimbursement amounts and methodologies so that the agency may recover indirect costs.

(2) ~~As~~ *Except for funds received pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-5, an agency, except for a unit of the university system, that applies for or otherwise receives funds through federal or private grants or contracts that do not allow the agency to fully recover indirect costs shall notify and must receive written approval from its approving authority prior to accepting the funds.*

(3) An agency, except for a unit of the university system, may not, as part of the grant or contract proposal or negotiation process, waive or otherwise forfeit the agency's ability to recover indirect costs that are otherwise allowable costs under the program, except for intra-agency or interagency grants or contracts. For grants or contracts for which the entity providing the funds limits administrative cost reimbursements or indirect cost recoveries by regulation, policy, or guideline, statewide and agency indirect costs paid originally from the general fund must be claimed first, other indirect costs must be claimed second, agency direct costs of administration must be claimed third, and program direct costs must be claimed last. For grants or contracts for which there is no limit on indirect costs or administrative costs, indirect and administrative costs must be claimed first and direct program costs must be claimed last.

(4) Each agency receiving federal funds and not directly charging a grant or program for the recovery of indirect costs shall submit an indirect cost proposal to the appropriate federal agency. The department shall provide technical assistance to an agency on how to build an indirect cost proposal.

(5) Except as provided for a unit of the university system under 20-25-427, indirect costs recovered by an agency to pay the agency's indirect costs under 17-1-105 must be deposited as provided in 17-1-105. All other indirect costs must be deposited in the fund from which the indirect costs were originally paid."

**Section 13.** Section 17-2-124, MCA, is amended to read:

**"17-2-124. Disposition of money from certain designated license and other taxes.** (1) The state treasurer shall deposit to the credit of the appropriate fund in accordance with the provisions of subsection (3) all money received from the collection of taxes and fees.

(2) The department of revenue shall deposit to the credit of the state general fund all money received from the collection of license taxes and all net revenue and receipts from all sources, other than certain fees, under Title 16, chapters 1 through 4 and 6.

(3) ~~The~~ *Except for the utilization fee collected under 15-66-102 during fiscal year 2009, the distribution of tax and fee revenue must be made according to the provisions of the law governing allocation of the tax or fee that were in effect for the period in which the tax or fee revenue was recorded for accounting purposes. Tax revenue must be recorded as prescribed by the department of administration, pursuant to 17-1-102(2) and (4), in accordance with generally accepted accounting principles.*

(4) All refunds of taxes or fees must be attributed to the funds in which the taxes or fees are currently being recorded. All refunds of interest and penalties must be attributed to the funds in which the interest and penalties are currently being recorded."

**Section 14.** Section 17-5-504, MCA, is amended to read:



**“17-5-504. Forms, interest, and maturity.** ~~Such~~ *General obligation highway bonds shall must* be issued by the board, upon request of the department of administration, in ~~such~~ *the* denominations and form, whether payable to bearer or registered as to principal or both principal and interest, with ~~such~~ provisions for conversion or exchange and for the issuance of notes in anticipation of the execution and delivery of definitive bonds, bearing interest, maturing at ~~such~~ times not exceeding 20 years from *the* date of issue, subject to redemption at ~~such~~ earlier times and prices and upon ~~such~~ notice, and payable at the office of ~~such~~ *the* fiscal agent of the state, ~~as that~~ the board shall determine, subject to the limitations contained ~~herein~~ *in this part*. *If applicable, the board shall specify whether the bonds are tax credit bonds as provided in [section 44].*”

**Section 15.** Section 17-5-803, MCA, is amended to read:

**“17-5-803. Form — principal and interest — fiscal agent — bond registrar and transfer agent — deposit of proceeds.** (1) Subject to the limitations contained in this part and in the bond act and in the furtherance of each bond act, bonds may be issued by the board upon request of the department. The bonds may be issued in the denominations and form, whether payable to bearer or registered as to principal or both principal and interest, with provisions for conversion or exchange, and for the issuance of temporary bonds bearing interest at a rate or rates, maturing at times not exceeding 30 years from date of issue, subject to redemption at earlier times and prices and on notice, and payable at the office of the fiscal agency of the state as the board determines.

(2) In all other respects, the board is authorized to prescribe the form and terms of the bonds and do whatever is lawful and necessary for their issuance and payment. Action taken by the board under this part must be by a majority vote of its members. The state treasurer shall keep a record of all bonds issued and sold.

(3) The board is authorized to employ a fiscal agent and a bond registrar and transfer agent to assist in the performance of its duties under this part.

(4) The board, in its discretion, is authorized to pay all costs of issuance of bonds, including without limitation rating agency fees, printing costs, legal fees, bank or trust company fees, costs to employ persons or firms to assist in the sale of the bonds, line of credit fees and charges, and all other amounts related to the costs of issuing the bonds from amounts available for these purposes in the general fund or from the proceeds of the bonds.

(5) All proceeds of bonds and notes issued under this part must be deposited in the capital projects account, except that any premiums and accrued interest received and the proceeds of refunding bonds or notes must be deposited in the debt service account.

(6) *If applicable, the board shall specify whether the bonds are tax credit bonds as provided in [section 44].*”

**Section 16.** Section 17-5-922, MCA, is amended to read:

**“17-5-922. Form — principal and interest — fiscal agent — bonds authorized.** (1) Each series of bonds may be issued by the board at public or private sale, in ~~such~~ *the* denominations and form, whether payable to bearer or registered as to principal or both principal and interest, with ~~such~~ provisions for the conversion or exchange, bearing interest at ~~such~~ *the* rate or rates or the method of determining ~~such~~ *the* rate or rates, maturing at ~~such~~ times, not more than 40 years from date of issue, subject to redemption at ~~such~~ earlier times and

prices and upon ~~such~~ notice, and payable at the office of a fiscal agency of the state ~~as that~~ the board shall determine, subject to the limitations contained in this part. Any action taken by the board under this part must be approved by at least a majority vote of its members.

(2) In all other respects the board is authorized to prescribe the form and terms of the bonds and shall do whatever is lawful and necessary for their issuance and payment.

(3) Bonds and any interest coupons appurtenant ~~thereto~~ *to the bonds* must be signed by the members of the board, and the bonds must be issued under the great seal of the state of Montana. The bonds and coupons may be executed with facsimile signatures and seal in the manner and subject to the limitations prescribed by law. The state treasurer shall keep a record of all ~~such~~ bonds issued and sold.

(4) The board may employ a fiscal agent and a bond registrar and transfer agent to assist in the performance of its duties under this part.

(5) In connection with the issuance and sale of bonds, the board may arrange for lines of credit or letters of credit with any bank, firm, or person for the purpose of providing an additional source of repayment for bonds issued pursuant to this part. Amounts drawn on ~~such~~ lines of credit may be evidenced by negotiable or nonnegotiable notes or other evidences of indebtedness, containing ~~such~~ terms and conditions ~~as that~~ the board may authorize in the resolution approving the ~~same notes or evidences of indebtedness~~.

(6) ~~No~~ *Not* more than \$150 million of bonds issued under this part may be outstanding at any time. ~~No additional~~ *Additional* bonds, other than refunding bonds, may *not* be issued until the pledge in favor of the highway revenue bonds is satisfied and discharged.

(7) *If applicable, the board shall specify whether the bonds are tax credit bonds as provided in [section 44].*

**Section 17.** Section 17-5-1506, MCA, is amended to read:

**“17-5-1506. Bonds and notes for projects and major projects.** (1) The board may by resolution issue negotiable notes and bonds in a principal amount ~~as that~~ the board determines necessary to provide sufficient funds for achieving any of its purposes, including the payment of interest on notes and bonds of the board, establishment of reserves to secure the notes and bonds, including the reserve funds created under 17-5-1515, and all other expenditures of the board incident to and necessary or convenient to carry out this part.

(2) The board may by resolution, from time to time, issue notes to renew notes and bonds or to pay notes, including interest, and whenever it considers refunding expedient, refund any bonds by the issuance of new bonds, whether or not the bonds to be refunded have matured, or issue bonds partly to refund bonds outstanding and partly for any of its other purposes.

(3) Except as otherwise expressly provided by resolution of the board, every issue of its bonds is an obligation of the board payable out of any revenue, assets, or money of the board, subject only to agreements with the holders of particular notes or bonds pledging particular ~~revenues~~ *revenue*, assets, or money.

(4) The notes and bonds must be authorized by resolutions of the board, bear a date, and mature at the times the resolutions provide. A note may not mature more than 5 years from the date of its issue. A bond may not mature more than 40 years from the date of its issue. The bonds may be issued as serial bonds payable in annual installments, as term bonds, or as a combination ~~thereof~~ *of*

*serial and term bonds.* The notes and bonds must bear interest at a stated rate or rates or at a rate or rate determination as stated, be in denominations, be in a form, either coupon or registered, carry registration privileges, be executed in a manner, be payable in a medium of payment, at places inside or outside the state, and be subject to terms of redemption as provided in resolutions. The notes and bonds of the board may be sold at public or private sale, at prices above or below par, as determined by the board, and in a manner such that interest on the bonds is either exempt from or subject to federal income tax. *If applicable, the board shall specify whether the bonds are tax credit bonds as provided in [section 44].*

(5) The bonds issued under this part are exempt from the Montana Securities Act, but copies of all prospectus and disclosure documents must be deposited with the state securities commissioner for public inspection.

(6) The total amount of bonds secured under 17-5-1515 outstanding at any one time, except bonds as to which the board's obligations have been satisfied and discharged by refunding or bonds for which reserves for payment or other means of payment have been provided, may not exceed \$100 million."

**Section 18.** Section 17-7-102, MCA, is amended to read:

**"17-7-102. (Temporary) Definitions.** As used in this chapter, the following definitions apply:

(1) "Additional services" means different services or more of the same services.

(2) "Agency" means all offices, departments, boards, commissions, institutions, universities, colleges, and any other person or any other administrative unit of state government that spends or encumbers public money by virtue of an appropriation from the legislature under 17-8-101.

(3) "Approving authority" means:

(a) the governor or the governor's designated representative for executive branch agencies;

(b) the chief justice of the supreme court or the chief justice's designated representative for judicial branch agencies;

(c) the speaker for the house of representatives;

(d) the president for the senate;

(e) appropriate legislative committees or a designated representative for legislative branch agencies; or

(f) the board of regents of higher education or its designated representative for the university system.

(4) (a) "Base budget" means the resources for the operation of state government that are of an ongoing and nonextraordinary nature in the current biennium. The base budget for the state general fund and state special revenue funds may not exceed that level of funding authorized by the previous legislature. *For the biennium beginning July 1, 2011, the term includes items specified in [section 85].*

(b) The term does not include funding for water adjudication if the accountability benchmarks contained in 85-2-271 are not met.

(5) "Budget amendment" means a temporary appropriation as provided in Title 17, chapter 7, part 4.

(6) “Emergency” means a catastrophe, disaster, calamity, or other serious unforeseen and unanticipated circumstance that has occurred subsequent to the time that an agency’s appropriation was made, that was clearly not within the contemplation of the legislature and the governor, and that affects one or more functions of a state agency and the agency’s expenditure requirements for the performance of the function or functions.

(7) “Funds subject to appropriation” means those funds required to be paid out of the treasury as set forth in 17-8-101.

(8) “Necessary” means essential to the public welfare and of a nature that cannot wait until the next legislative session for legislative consideration.

(9) “New proposals” means requests to provide new nonmandated services, to change program services, to eliminate existing services, or to change sources of funding. For purposes of establishing the present law base, the distinction between new proposals and the adjustments to the base budget to develop the present law base is to be determined by the existence of constitutional or statutory requirements for the proposed expenditure. Any proposed increase or decrease that is not based on those requirements is considered a new proposal.

(10) “Present law base” means that level of funding needed under present law to maintain operations and services at the level authorized by the previous legislature, including but not limited to:

(a) changes resulting from legally mandated workload, caseload, or enrollment increases or decreases;

(b) changes in funding requirements resulting from constitutional or statutory schedules or formulas;

(c) inflationary or deflationary adjustments; ~~and~~

(d) elimination of nonrecurring appropriations; *and*

(e) *items specified in [section 85].*

(11) “Program” means a principal organizational or budgetary unit within an agency.

(12) “Requesting agency” means the agency of state government that has requested a specific budget amendment.

(13) “University system unit” means the board of regents of higher education; office of the commissioner of higher education; university of Montana, with campuses at Missoula, Butte, Dillon, and Helena; Montana state university, with campuses at Bozeman, Billings, Havre, and Great Falls; the agricultural experiment station, with central offices at Bozeman; the forest and conservation experiment station, with central offices at Missoula; the cooperative extension service, with central offices at Bozeman; the bureau of mines and geology, with central offices at Butte; the fire services training school at Great Falls; and the community colleges at Miles City, Glendive, and Kalispell. (Terminates June 30, 2020—sec. 11, Ch. 319, L. 2007.)

**17-7-102.** (Effective July 1, 2020) **Definitions.** As used in this chapter, the following definitions apply:

(1) “Additional services” means different services or more of the same services.

(2) “Agency” means all offices, departments, boards, commissions, institutions, universities, colleges, and any other person or any other administrative unit of state government that spends or encumbers public money by virtue of an appropriation from the legislature under 17-8-101.

(3) "Approving authority" means:

(a) the governor or the governor's designated representative for executive branch agencies;

(b) the chief justice of the supreme court or the chief justice's designated representative for judicial branch agencies;

(c) the speaker for the house of representatives;

(d) the president for the senate;

(e) appropriate legislative committees or a designated representative for legislative branch agencies; or

(f) the board of regents of higher education or its designated representative for the university system.

(4) "Base budget" means the resources for the operation of state government that are of an ongoing and nonextraordinary nature in the current biennium. The base budget for the state general fund and state special revenue funds may not exceed that level of funding authorized by the previous legislature.

(5) "Budget amendment" means a temporary appropriation as provided in Title 17, chapter 7, part 4.

(6) "Emergency" means a catastrophe, disaster, calamity, or other serious unforeseen and unanticipated circumstance that has occurred subsequent to the time that an agency's appropriation was made, that was clearly not within the contemplation of the legislature and the governor, and that affects one or more functions of a state agency and the agency's expenditure requirements for the performance of the function or functions.

(7) "Funds subject to appropriation" means those funds required to be paid out of the treasury as set forth in 17-8-101.

(8) "Necessary" means essential to the public welfare and of a nature that cannot wait until the next legislative session for legislative consideration.

(9) "New proposals" means requests to provide new nonmandated services, to change program services, to eliminate existing services, or to change sources of funding. For purposes of establishing the present law base, the distinction between new proposals and the adjustments to the base budget to develop the present law base is to be determined by the existence of constitutional or statutory requirements for the proposed expenditure. Any proposed increase or decrease that is not based on those requirements is considered a new proposal.

(10) "Present law base" means that level of funding needed under present law to maintain operations and services at the level authorized by the previous legislature, including but not limited to:

(a) changes resulting from legally mandated workload, caseload, or enrollment increases or decreases;

(b) changes in funding requirements resulting from constitutional or statutory schedules or formulas;

(c) inflationary or deflationary adjustments; and

(d) elimination of nonrecurring appropriations.

(11) "Program" means a principal organizational or budgetary unit within an agency.

(12) "Requesting agency" means the agency of state government that has requested a specific budget amendment.

(13) "University system unit" means the board of regents of higher education; office of the commissioner of higher education; university of Montana, with campuses at Missoula, Butte, Dillon, and Helena; Montana state university, with campuses at Bozeman, Billings, Havre, and Great Falls; the agricultural experiment station, with central offices at Bozeman; the forest and conservation experiment station, with central offices at Missoula; the cooperative extension service, with central offices at Bozeman; the bureau of mines and geology, with central offices at Butte; the fire services training school at Great Falls; and the community colleges at Miles City, Glendive, and Kalispell."

**Section 19.** Section 17-7-402, MCA, is amended to read:

**"17-7-402. Budget amendment requirements.** (1) Except as provided in subsection (7), a budget amendment may not be approved:

(a) by the approving authority, except a budget amendment to spend:

(i) additional federal revenue, *including grant funds or other funds received pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-5;*

(ii) additional tuition collected by the Montana university system;

(iii) additional revenue deposited in the internal service funds within the department or the office of the commissioner of higher education as a result of increased service demands by state agencies;

(iv) Montana historical society enterprise revenue resulting from sales to the public;

(v) additional revenue that is deposited in funds other than the general fund and that is from the sale of fuel for those agencies participating in the Montana public vehicle fueling program established by Executive Order 22-91;

(vi) revenue resulting from the sale of goods produced or manufactured by the industries program of an institution within the department of corrections;

(vii) revenue collected for the administration of the state grain laboratory under the provisions of Title 80, chapter 4, part 7;

(viii) revenue collected for the Water Pollution Control State Revolving Fund Act under the provisions of Title 75, chapter 5, part 11;

(ix) revenue collected for the Drinking Water State Revolving Fund Act under the provisions of Title 75, chapter 6, part 2;

(x) state special revenue adjustments required to allocate costs for leave or terminal leave within an agency in accordance with federal circular A-87; or

(xi) revenue generated from fees collected by the department of justice for dissemination of criminal history record information pursuant to Title 44, chapter 5, part 3;

(b) by the approving authority if the budget amendment contains any significant ascertainable commitment for any present or future increased general fund support;

(c) by the approving authority for the expenditure of money in the state special revenue fund unless:

(i) an emergency justifies the expenditure;

(ii) the expenditure is authorized under subsection (1)(a); or

(iii) the expenditure is exempt under subsection (5);

(d) by the approving authority unless it will provide additional services;

(e) by the approving authority for any matter, *other than the receipt of federal funds pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-5, that are not allocated or appropriated in House Bill No. 645*, of which the requesting agency had knowledge at a time when the proposal could have been presented to an appropriation subcommittee, the house appropriations committee, or the senate finance and claims committee of the most recent legislative session open to that matter, except when the legislative finance committee is given specific notice by the approving authority that significant identifiable events, specific to Montana and pursuant to provisions or requirements of Montana state law, have occurred since the matter was raised with or presented for consideration by the legislature; or

(f) to extend beyond June 30 of the last year of any biennium, except that budget amendments for federal funds may extend to the end of the federal fiscal year.

(2) A general fund loan made pursuant to 17-2-107 does not constitute a significant ascertainable commitment of present general fund support.

(3) Subject to subsection (1)(f), all budget amendments must itemize planned expenditures by fiscal year.

(4) Each budget amendment must be submitted by the approving authority to the budget director and the legislative fiscal analyst.

(5) Money from nonstate or nonfederal sources that would be deposited in the state special revenue fund and that is restricted by law or by the terms of a written agreement, such as a contract, trust agreement, or donation, is exempt from the requirements of this part.

(6) An appropriation for a nonrecurring item that would usually be the subject of a budget amendment must be submitted to the legislature for approval during a legislative session between January 1 and the senate hearing on the budget amendment bill. The bill may include authority to spend money in the current fiscal year and in both fiscal years of the next biennium.

(7) A budget amendment to spend state funds, other than from the general fund, required for matching funds in order to receive a grant is exempt from the provisions of subsection (1).”

**Section 20.** Section 17-7-502, MCA, is amended to read:

**“17-7-502. Statutory appropriations — definition — requisites for validity.** (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-407; 5-13-403; 7-4-2502; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-23-706; 15-31-906; 15-35-108; 15-36-332; 15-37-117; 15-39-110;

15-65-121; 15-70-101; 15-70-369; 15-70-601; 16-11-509; 17-3-106; [section 53]; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-4-105; 23-4-202; 23-4-204; 23-4-302; 23-4-304; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 41-5-2011; 42-2-105; 44-1-504; 44-12-206; 44-13-102; 50-4-623; 53-1-109; 53-6-703; 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-150; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161; 87-1-513; 90-1-115; 90-1-205; 90-3-1003; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to 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 have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 3 and 6, Ch. 481, L. 2003, the inclusion of 15-35-108 terminates June 30, 2010; pursuant to sec. 17, Ch. 593, L. 2005, the inclusion of 15-31-906 terminates January 1, 2010; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; and pursuant to sec. 6, Ch. 2, Sp. L. September 2007, the inclusion of 76-13-150 terminates June 30, 2009.)"

**Section 21.** Section 20-9-403, MCA, is amended to read:

**"20-9-403. Bond issues for certain purposes.** (1) The trustees of a school district may issue and negotiate general obligation bonds or impact aid bonds of the school district for the purpose of:

(a) building, altering, repairing, buying, furnishing, equipping, purchasing lands for, or obtaining a water supply for a school, teacherage, dormitory, gymnasium, other building, or combination of buildings for school purposes;

(b) buying a school bus or buses;

(c) providing the necessary money to redeem matured bonds, maturing bonds, or coupons appurtenant to bonds when there is not sufficient money to redeem them;

(d) providing the necessary money to redeem optional or redeemable bonds when it is for the best interest of the school district to issue refunding bonds;

(e) funding a judgment against the district, including the repayment of tax protests lost by the district; or

(f) funding a debt service reserve account that may be required for impact aid revenue bonds.

(2) Money realized from the sale of bonds issued on the credit of a high school district may not be used for any of the purposes listed in subsection (1) in an elementary school district, and the money may be used for any of the purposes listed in subsection (1) for a junior high school but only to the extent that the 9th grade of the high school is served.



(3) *If applicable, the trustees shall specify whether the bonds are qualified school construction bonds as described in [section 43(1)] or tax credit bonds as provided in [section 44].*”

**Section 22.** Section 20-9-433, MCA, is amended to read:

**“20-9-433. Form and execution of school district bonds.** (1) At the time of the sale of the bonds or at a meeting held after the sale, the trustees shall adopt a resolution or indenture of trust providing for the issuance of the bonds, prescribing the form of the bonds, whether amortization or serial bonds, and prescribing the manner of execution of the bonds. *If applicable, the trustees shall specify whether the bonds are qualified school construction bonds as described in [section 43(1)] or tax credit bonds as provided in [section 44].*

(2) Each bond and coupon attached to a bond must be signed by or bear the facsimile signatures of the presiding officer of the trustees and the school district clerk, provided that one signature of a school official or the bond registrar must be a manual signature.”

**Section 23.** 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; *and*

*(v) for the 2011 biennium only, a district employee whose salary and health-related benefits, if any health-related benefits are provided to the employee, are budgeted in the district general fund but are paid from state fiscal stabilization funds received pursuant the American Recovery and Reinvestment Act of 2009, Public Law 111-5.*

(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;

(v) 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) 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 24. Permissive levy.** If an appropriation for a 3% increase in the basic entitlement and per-ANB entitlement in each fiscal year is contained in [section 85], then a school district may impose a permissive levy, calculated in accordance with 20-9-141, to fund the local share of the BASE budget.

**Section 25. Over-BASE budget levy.** If an appropriation for a 3% increase in the basic entitlement and per-ANB entitlement in each fiscal year is contained in [section 85], then a district may impose an over-BASE budget levy, calculated in accordance with 20-9-141, to fund the over-BASE budget. Districts shall comply with voting requirements as provided in 20-9-353.

**Section 26.** Section 20-25-402, MCA, is amended to read:

**"20-25-402. Borrowing by regents.** (1) In carrying out the powers provided in 20-25-107, 20-25-301, and 20-25-302, the regents may:

(1)(a) borrow money for any purpose or purposes stated in parts 3 and 4 of this chapter, including, if considered desirable by the regents, the payment of interest on the money borrowed for a facility during the construction thereof of the facility and for 1 year thereafter after construction and the creation of a reserve for the payment of bond principal and interest;

(2)(b) make purchases on a time or installment basis;

~~(3)~~(c) issue bonds, notes, and other securities, negotiable or otherwise, secured as provided in this section, including bearer bonds with appurtenant interest coupons, which ~~shall~~ *must* be fully negotiable notwithstanding any limitation on the source of payment ~~thereof of the bonds, notes, or securities~~, or fully registered bonds or bonds registered as to ownership of principal only;

~~(4)~~(d) pledge for the payment of the purchase price of any facility or of the principal and interest on bonds, notes, or other securities authorized in this chapter or otherwise obligate:

~~(a)~~(i) the net income received from rents, board, or both in housing, food service, and other facilities;

~~(b)~~(ii) receipts from student building, activity, union, and other special fees prescribed by the regents for all students; and

~~(e)~~(iii) (A) other income in the form of gifts, bequests, contributions, or federal grants of funds, including the proceeds or income from grants of lands or other real or personal property;

(B) receipts from athletic and other contests, exhibitions, and performances; and

(C) collections of admissions and other charges for the use of facilities, including all use by other persons, firms, and corporations for athletic and other contests, exhibitions, and performances and for the conduct of their business, educational, or governmental functions;

~~(5)~~(e) make payments on loans or purchases from any other available income not obligated for those purposes, including receipts from sale of materials, equipment, and fixtures of the facilities or from sales of the facilities themselves, other than land;

~~(6)~~(f) secure any bonds authorized ~~hereunder~~ *under this section* by a trust indenture between the regents and any bank or trust company within or ~~without~~ *outside of* the state of Montana or by a resolution establishing covenants of the regents with the holders of ~~such~~ *the* bonds relating to:

~~(a)~~(i) the construction, operation, use, and insurance of the facilities;

~~(b)~~(ii) the segregation, expenditure, and audit of accounts of the bond proceeds and of the income pledged;

~~(e)~~(iii) the establishment and collection of rents, charges, admissions, and fees sufficient to provide net income adequate for prompt payment of principal and interest on bonds and creation and maintenance of reserves for that purpose; and

~~(d)~~(iv) ~~such~~ other matters ~~as~~ *that* the regents may determine to be necessary or desirable for the security and marketability of the bonds;

~~(7)~~(g) *subject to the following provisions*, issue and sell or exchange bonds, secured as provided in this section, for the refunding of any outstanding bonds or other obligations issued by the regents ~~before or after January 29, 1971~~, ~~subject to the following provisions~~:

~~(a)~~(i) refunding bonds may, with the consent of the holders of the bonds to be refunded ~~thereby~~, be exchanged at par plus accrued interest for all or part of ~~such~~ *the* bonds or may be sold at a price not less than par plus accrued interest. They may be secured by a pledge of the same revenue as the bonds refunded or by a pledge of different or additional revenues received at the same unit of the university. ~~Nothing herein shall~~ *This subsection (1)(g) may not* require the holder of any outstanding bond to accept payment ~~thereof of the bond~~ or the

delivery of a refunding bond in exchange ~~therefor~~ *for the bond*, except in accordance with the terms of the outstanding bond. Bonds may be issued to refund interest as well as principal actually due and payable if the ~~revenues~~ *revenue* pledged ~~therefor~~ *for the bonds* are not sufficient, but not to refund any bonds or interest due ~~which~~ *that* can be paid from ~~revenues~~ *revenue* then on hand.

(b)(ii) refunding bonds may bear interest at a rate lower or higher than the bonds refunded ~~thereby~~ *by the refunding bonds* if they are issued to refund matured principal or interest for the payment of which ~~revenues~~ *revenue* on hand ~~are~~ *is* not sufficient ~~or if they are issued to refund before maturity bonds issued before January 1, 1965,~~ for the purpose of releasing ~~revenues~~ *revenue* required for payment of the outstanding bonds permitting the pledge ~~thereof~~ *of the revenue* for the security of other bonds as well as the refunding bonds, subject to the rights of the holders of the outstanding bonds until those bonds are fully paid and redeemed. Except as authorized in the preceding sentence, refunding bonds ~~shall~~ *may* not be issued unless their average annual interest rate, computed to their stated maturity dates and excluding any premium from ~~such~~ *the* computation, is at least  $\frac{3}{8}$  of 1% less than the average annual interest rate on the bonds refunded ~~thereby~~, computed to their respective stated maturity dates.

(e)(iii) in any case ~~where in which~~ refunding bonds are issued and sold 6 months or more before the earliest date on which all bonds refunded ~~thereby~~ *by the refunding bonds* mature or are prepayable in accordance with their terms, the proceeds of the refunding bonds, including any premium and accrued interest, ~~shall~~ *must* be deposited in escrow with a suitable bank or trust company having its principal place of business within or ~~without~~ *outside of* the state, which is a member of the federal reserve system and has a combined capital and surplus *of* not less than \$1 million, and ~~shall~~ *must* be invested in the amount and in securities maturing on the dates and bearing interest at the rates ~~which~~ *that* will be required to provide funds sufficient to pay when due the interest to accrue on each bond refunded to its maturity or, if it is prepayable, to the earliest prior date upon which the bond may be called for redemption from the proceeds of the refunding bonds and to pay and redeem the principal amount of each bond at maturity or, if prepayable, on that redemption date and any premium required for redemption on that date. The resolution or indenture authorizing the refunding bonds ~~shall~~ *must* irrevocably appropriate for these purposes the escrow fund and all income ~~therefrom~~ *from the escrow fund* and ~~shall~~ *must* provide for the call of all prepayable bonds in accordance with their terms. The securities to be purchased with ~~such~~ *the* escrow funds ~~shall~~ *must* be limited to general obligations of the United States, securities ~~whose~~ *for which* principal and interest payments are guaranteed by the United States, and securities issued by the following United States government agencies: *including only* banks for cooperatives, federal home loan banks, federal intermediate credit banks, federal land banks, and the federal national mortgage association. The securities ~~shall~~ *must* be purchased simultaneously with the delivery of the refunding bonds.

(d)(iv) ~~revenues~~ *revenue* or other funds on hand; in excess of the amount pledged by resolutions or indentures authorizing outstanding bonds for the payment of principal and interest currently due ~~thereon~~ *on the outstanding bonds* and reserves securing ~~such~~ *the* payment; may be used to pay the expenses incurred by the regents for the purpose of refunding, including but without limitation the cost of advertising and printing refunding bonds, legal and

financial advice and assistance in connection ~~therewith~~ *with refunding the bonds*, and the reasonable and customary charges of escrow agents and paying agents. ~~Revenues~~ *Revenue* and other funds on hand, including reserves pledged for the payment and security of outstanding revenue bonds, may be deposited in an escrow fund created for the retirement of those bonds and may be invested and disbursed as provided in subsection ~~(7)(e)~~ *(1)(g)(iii)* to the extent consistent with the resolutions or indentures authorizing ~~such~~ *the* outstanding bonds.

~~(8)(h)~~ *(h)* sell bonds and sell or exchange refunding bonds issued ~~hereunder~~ *under this section* in the manner and upon the terms as to maturities, interest rates, and redemption privileges and for the price that the regents determine with the approval of the department of administration.

*(2) If applicable, the regents shall specify whether the bonds issued under this section are tax credit bonds as provided in [section 44]."*

**Section 27.** Section 20-25-427, MCA, is amended to read:

**"20-25-427. Allocation of indirect cost reimbursements.** *Any Subject to the conditions contained in the American Recovery and Reinvestment Act of 2009, Public Law 111-5, any reimbursement for indirect costs associated with a grant to or contract with the Montana university system or any of its units is allocated to the designated subfund of the current fund, as provided in 17-2-102, for distribution to the unit receiving the grant or under the contract."*

**Section 28.** 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:

(a) the first 4 of the last 5 completed calendar quarters immediately preceding the first day of an individual's benefit year;

(b) *if the individual does not have sufficient wages to qualify for benefits under subsection (2)(a), the 4 most recently completed calendar quarters immediately preceding the first day of the individual's benefit year;*

(c) ~~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;~~ *or*

(d) ~~For~~ *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 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 of a previously filed new claim. A subsequent benefit year may not be established 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 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 and 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 29. Part-time work search — eligibility for benefits.** (1) Except as provided in subsection (2), an individual may not be denied regular unemployment compensation benefits solely because the individual is seeking only part-time work, as that term is defined in rules adopted by the department.

(2) In order to be qualified for benefits under subsection (1), the majority of the individual’s workweeks in the base period must have been part-time.

**Section 30. Participation in worker training program — eligibility for training benefits.** (1) Subject to the requirements of this section, training benefits are available to an individual who has exhausted all rights to regular unemployment compensation benefits and who is attending an approved worker training program.

(2) An unemployed individual who is participating and making satisfactory progress in a state-approved training program or a job training program authorized by the Workforce Investment Act of 1998 that is necessary for the individual's reemployment is eligible to receive training benefits if, as determined by the department:

(a) the individual was:

(i) separated from a declining occupation; or

(ii) involuntarily and indefinitely separated from employment as a result of a permanent reduction of operations at the individual's place of employment;

(b) the training enhances the individual's marketable skills and earning power; and

(c) the training is targeted to those industries or skills that are in demand within the labor market.

(3) Benefits must be paid under this section at the individual's average weekly benefit amount during the applicable benefit year and under the same terms and conditions as regular benefits.

(4) Benefits are payable under this section only for weeks during which the individual is attending an approved training program.

(5) An employer's account may not be charged for payment of benefits to an individual under this section.

**Section 31.** Section 52-3-115, MCA, is amended to read:

**"52-3-115. Older Montanans trust fund.** (1) There is an older Montanans trust fund within the permanent fund type. The trust fund is subject to legislative appropriation as provided in this section.

(2) (a) The money in the fund may be used to create new, innovative services or to expand existing services for the benefit of Montana residents 60 years of age or older that will enable those Montanans to live an independent lifestyle in the least restrictive setting and will promote the dignity of and respect for those Montanans. The interest and income produced by the trust fund and appropriated to the department by the legislature is intended to increase services referred to in this subsection and not to supplant other sources of revenue for those programs in the trended traditional level, ~~as used in 53-6-1201,~~ of appropriations for those services.

(b) *As used in subsection (2)(a), the phrase "trended traditional level of appropriations" 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.*

(3) The department may accept contributions and gifts for the trust fund in money or other forms, and when accepted, the contributions and gifts must be deposited in the trust fund.

(4) Interest and income earned on money in the trust fund must be retained within the fund except as provided in this section. Until the year 2015, if assets in the fund reach the following amounts, money may be appropriated by the legislature and used in the following amounts for the programs specified in subsection (2):

(a) When the fund balance reaches \$20 million, 50% of the interest earned may be appropriated.

(b) When the fund balance reaches \$50 million, 60% of the interest earned may be appropriated.

(c) When the fund balance reaches \$100 million, 80% of the interest earned may be appropriated.

(5) On and after January 1, 2015, 90% of the interest earned on the trust fund may be appropriated for the programs specified in subsection (2).

(6) The department shall provide to the legislature a biennial report of the expenditures of the money appropriated from the older Montanans trust fund as provided in 5-11-210.”

**Section 32.** Section 53-4-212, MCA, is amended to read:

**“53-4-212. Department to make rules.** (1) The department shall make rules and take action as necessary or desirable for the administration of public assistance programs.

(2) ~~The~~ *Subject to subsection (3),* the department shall adopt rules that may include but are not limited to rules concerning:

(a) eligibility requirements, including gross and net income limitations, resource limitations, and income and resource exclusions;

(b) amounts of assistance, methods for computing benefit amounts, and the length of time for which benefits may be granted;

(c) the degree of kinship required for a person to qualify as a specified caretaker relative in order to be eligible for assistance;

(d) procedures and policies for employment and training programs, requirements for participation in employment and training programs, and exemptions, if any, from participation requirements;

(e) requirements for specified caretaker relatives, including cooperation with assessments, the number of hours of participation required for each month, specific activities required to address employment barriers, and other terms of performance;

(f) eligibility for and terms and conditions of child-care assistance for financial assistance recipients, including maximum amounts of assistance payable and amounts of copayments required by specified caretaker relatives;

(g) eligibility criteria and participation requirements for nonfinancial assistance recipients;

(h) terms of ineligibility or sanctions against a specified caretaker relative or other family member who fails to enter into a family investment agreement, as provided for in 53-4-606, or to comply with the individual’s obligations under the agreement, including the length of the period of ineligibility, if any;

(i) requirements, if any, for participation in the employment and training demonstration project;

(j) eligibility for and terms and conditions of extended medical assistance benefits;

(k) reporting requirements;

(l) sanctions, disqualification, or other penalties for failure or refusal to comply with the rules or requirements of a public assistance program;

(m) exemptions from the 60-month limitation on assistance provided in 53-4-231 based on hardship or for families that include an individual who has been battered or subjected to extreme cruelty, as defined in section 103 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 42 U.S.C. 608, including but not limited to the duration of the exemption;

- (n) individuals who must be included as members of an assistance unit;
- (o) categories of aliens who may receive assistance, if any;
- (p) requirements relating to the assignment of child and medical support rights and cooperation in establishing paternity and obtaining child and medical support;
- (q) requirements for eligibility and other terms and conditions of other programs to strengthen and preserve families;
- (r) special eligibility or participation requirements applicable to teenage parents, if any;
- (s) conditions under which assistance may be continued when an adult or a dependent child is temporarily absent from the home and the length of time for which assistance may be continued;
- (t) any random drug testing or reporting requirements for persons who are required to comply with the conditions provided under 53-4-231(3) and graduated sanctions that may include terms of ineligibility for violations of conditions of supervision or treatment requirements. The department may enter into agreements with the department of corrections regarding testing and reporting on offenders under the supervision of the department of corrections.
- (u) approved educational programs, appropriate educational courses of study, employee assessment instruments, and administration of the Montana parents as scholars program provided for in 53-4-209.

(3) *The department shall raise the eligibility standard for individuals receiving cash assistance benefits from the federal TANF block grant from at or below 30% of the 2002 federal poverty level to at or below 30% of the 2009 federal poverty level for the period from July 1, 2009, through September 30, 2010. Beginning October 1, 2010, the department shall reduce the eligibility standard to 30% of the 2006 federal poverty level. If the TANF caseload increases to a point that expenditures jeopardize the TANF block grant, the department, after consultation with the legislative finance committee, may lower the eligibility standard as provided in subsection (2).*

**Section 33.** Section 53-6-149, MCA, is amended to read:

**“53-6-149. (Temporary) State special revenue fund account — administration.** (1) There is a hospital medicaid reimbursement account in the state special revenue fund provided for in 17-2-102.

(2) ~~All~~ *Except as provided in 15-66-102(3), all* money collected under 15-66-102 must be deposited in the account.

(3) Money in the account must be used by the department of public health and human services to provide funding for increases in medicaid payments to hospitals and for the costs of collection of the fee and other administrative activities associated with the implementation of increases in the medicaid payments to hospitals. (Terminates June 30, 2009—sec. 5, Ch. 517, L. 2007.)”

**Section 34. Medicaid reserve account.** There is a medicaid reserve account in the state special revenue fund provided for in 17-2-102. Money in the account must be used by the department for medicaid benefits after June 30, 2011. Any interest or income earned on the account must be deposited in the account. Each calendar quarter through December 31, 2010, the amount recovered under the federal medical assistance percentage hold harmless provision of the American Recovery and Reinvestment Act of 2009, Public Law 111-5, must be transferred to the medicaid reserve account.

**Section 35.** 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 *persons*, 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) 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)(5) The department of public health and human services may adopt rules to implement this section.”~~

**Section 36.** Section 75-5-1102, MCA, is amended to read:

**“75-5-1102. Definitions.** Unless the context requires otherwise, in this part, the following definitions apply:

(1) “Administrative costs” means costs incurred by the department and the department of natural resources and conservation in the administration of the program, including but not limited to costs of servicing loans and issuing debt; program startup costs; financial, management, and legal consulting fees; and reimbursement costs for support services from other state agencies.

(2) “Cost” means, with reference to a project, all capital costs incurred or to be incurred by a municipality or a private person, including but not limited to engineering, construction, financing, and other fees, interest during construction, and a reasonable allowance for contingencies to the extent permitted by the federal act and regulations promulgated under the federal act.

(3) “Federal act” means the Federal Water Pollution Control Act, also known as the Clean Water Act, 33 U.S.C. 1251 through 1387, as amended, *including conditions and exclusions contained in the American Recovery and Reinvestment Act of 2009, Public Law 111-5.*

(4) “Intended use plan” means the annual plan adopted by the department and submitted to the environmental protection agency that describes how the state intends to use the money in the revolving fund.

(5) “Loan” means a loan of money from the revolving fund to a municipality or a private person.

(6) “Municipality” means any state agency, city, town, or other public body created pursuant to state law, including an authority as defined in 75-6-304.

(7) “Private person” means an individual, corporation, partnership, or other nongovernmental legal entity.

(8) “Program” means the water pollution control state revolving fund program established by this part.

(9) “Project” means an activity that is eligible for financing by the program under the federal act, including treatment works, as defined under section 1292 of the federal act (33 U.S.C. 1292), and nonpoint source pollution control under section 1329 of the federal act (33 U.S.C. 1329), and for which a municipality or private person makes an application for a loan or other financial assistance.

(10) “Revolving fund” means the fund established by 75-5-1106.”

**Section 37.** Section 75-5-1107, MCA, is amended to read:

**“75-5-1107. Uses of revolving fund.** (1) Money in the revolving fund must be used to:

~~(1)(a)~~ make loans to municipalities to finance all or a portion of the cost of a project and to make loans to private persons to finance all or a portion of the cost of nonpoint source pollution control projects;

(2)(b) buy or refinance debt obligations of municipalities that were issued to finance projects within the state at or below market rates, provided that the obligations were incurred after March 7, 1985;

(3)(c) guarantee or purchase insurance for obligations of municipalities that were issued to finance projects in order to enhance credit or reduce interest rates;

(4)(d) provide a source of revenue or security for general obligation bonds the proceeds of which are deposited in the revolving fund;

(5)(e) provide loan guarantees for similar revolving funds established by municipalities;

(6)(f) earn interest on fund accounts; and

(7)(g) pay reasonable administrative costs of the program not to exceed 4% of all federal grant awards to the fund or the maximum amount allowed under the federal act.

*(2) Money received by the state under the American Recovery and Reinvestment Act of 2009, Public Law 111-5, as capitalization grants for a state revolving fund may be used by the department or the department of natural resources and conservation to provide additional subsidization to eligible recipients in the form of forgiveness of the principal of a loan to the extent permitted or required by federal law and subject to satisfaction of conditions on loans described in 75-5-1113.*

**Section 38.** Section 75-6-202, MCA, is amended to read:

**“75-6-202. Definitions.** Unless the context requires otherwise, in this part, the following definitions apply:

(1) “Administrative costs” means costs incurred by the department and the department of natural resources and conservation in the administration of the program, including but not limited to:

- (a) costs of servicing loans and issuing debt;
- (b) program startup costs;
- (c) financial, management, and legal consulting fees; and
- (d) reimbursement costs for support services from other state agencies.

(2) “Community water system” means a public water system that is owned by a private person or a municipality and that serves at least 15 service connections used by year-round residents of the area served by the system or regularly serves at least 25 year-round residents. The term does not include a public water system that is owned by the federal government.

(3) “Cost” means, with reference to a project, all capital costs incurred or to be incurred for a public water system, including but not limited to:

- (a) engineering, financing, and other fees;
- (b) interest during construction;
- (c) construction; and
- (d) a reasonable allowance for contingencies to the extent permitted by the federal act and rules promulgated under the federal act.

(4) “Department” means the department of environmental quality provided for in 2-15-3501.

(5) “Disadvantaged community” means one in which the service area of a public water system meets the affordability criteria established by rule adopted pursuant to this part.

(6) "Federal act" means the federal Safe Drinking Water Act, 42 U.S.C. 300f, et seq., as that act read on May 5, 1997, *and including conditions and exclusions contained in the American Recovery and Reinvestment Act of 2009, Public Law 111-5.*

(7) "Indian tribe" means an Indian tribe that has a federally recognized governing body carrying out substantial governmental duties and powers over any area.

(8) "Intended use plan" means the annual plan adopted by the department and submitted to the environmental protection agency that describes how the state intends to use the money in the revolving fund.

(9) "Loan" means a loan of money from the revolving fund for project costs.

(10) "Municipality" means a state agency, city, town, or other public body, including an authority as defined in 75-6-304, created pursuant to state law or an Indian tribe.

(11) "Noncommunity water system" means a public water system that is not a community water system.

(12) "Nonprofit noncommunity water system" means a noncommunity water system owned by an organization that is organized under Montana law and that qualifies as a tax-exempt organization under the provisions of section 501(c)(3) of the Internal Revenue Code.

(13) "Private person" means an individual, corporation, partnership, or other nongovernmental legal entity.

(14) "Program" means the drinking water state revolving fund program established by this part.

(15) "Project" means improvements or activities that are:

(a) to be undertaken for a public water system and that are of a type that will facilitate compliance with the national primary drinking water regulations applicable to the system; or

(b) to further the health protection objectives of the federal act.

(16) "Public water system" means a system for the provision to the public of water for human consumption, through pipes or other constructed conveyances, if that system has at least 15 service connections or regularly serves at least 25 individuals. The term includes any collection, treatment, storage, and distribution facilities under control of an operator of a system that are used primarily in connection with a system and any collection or pretreatment storage facilities not under control of an operator and that are used primarily in connection with a system.

(17) "Revolving fund" means the drinking water state revolving fund established by 75-6-211."

**Section 39.** Section 75-6-226, MCA, is amended to read:

**"75-6-226. Loan subsidy for disadvantaged communities.** (1) Notwithstanding any other provision in this part, if the program makes a loan pursuant to 75-6-221(1) to a disadvantaged community or to a community that the department expects to become a disadvantaged community as a result of a proposed project, the department may provide additional subsidization in the form of a reduced interest rate, the forgiveness of principal, or a combination of both.



(2) The total annual amount of loan subsidies made by the department pursuant to subsection (1) may not exceed 30% of the capitalization grant received by the department for each fiscal year.

(3) *Notwithstanding any other provision in this part, money received by the state under the American Recovery and Reinvestment Act of 2009, Public Law 111-5, as capitalization grants for a state revolving fund may be used by the department or the department of natural resources and conservation to provide additional subsidization to eligible recipients in the form of forgiveness of the principal of a loan to the extent permitted or required by federal law and subject to satisfaction of conditions on loans described in 75-6-224.*

**Section 40.** Section 75-25-101, MCA, is amended to read:

**“75-25-101. Alternative energy revolving loan account.** (1) There is a special revenue account called the alternative energy revolving loan account to the credit of the department of environmental quality.

(2) The alternative energy revolving loan account consists of money deposited into the account from air quality penalties from 75-2-401 and 75-2-413 and money from any other source. Any interest earned by the account and any interest that is generated from a loan repayment must be deposited into the account and used to sustain the program.

(3) Funds from the alternative energy revolving loan account may be used to provide loans to individuals, small businesses, units of local government, units of the university system, and nonprofit organizations for the purpose of building alternative energy systems, as defined in 15-32-102:

(a) to generate energy for their own use;

(b) for net metering as defined in 69-8-103; and

(c) for capital investments by those entities for energy conservation purposes, as defined in 15-32-102, when done in conjunction with an alternative energy system.

(4) (a) ~~The~~ *Except as provided in subsection (4)(b), the amount of a loan may not exceed \$40,000, and the loan must be repaid within 10 years.*

(b) *For loans made using money obtained by the department of environmental quality from the federal government under the American Recovery and Reinvestment Act of 2009, Public Law 111-5, the amount of a loan may not exceed \$100,000 and the loan must be repaid within 15 years. The department may establish a loan limit of less than \$100,000 based on the amount of money received from the federal government and the department’s projected number of applications and application amounts.*

**Section 41.** Section 75-25-102, MCA, is amended to read:

**“75-25-102. Administration of revolving loan account — rulemaking authority.** (1) The department of environmental quality shall adopt rules establishing:

(a) eligibility criteria, including criteria for defining residences, small businesses, and nonprofit organizations, criteria for defining capital investments for energy conservation purposes, ownership of the alternative energy facility, financial capacity to repay the loans, estimated return on investment in the alternative energy and energy conservation, and other matters that the department considers necessary to ensure repayment of loans and to encourage maximum use of the fund for alternative energy and net metering uses;

(b) processes and procedures for disbursing loans, including the agencies or organizations that are allowed to process the loan application for the department; and

(c) terms and conditions for the loans, including repayment schedules and interest.

(2) The department shall solicit assistance in the development and operation of the program from individuals familiar with financial services and persons knowledgeable in alternative energy systems.

(3) Administrative costs charged to the account may not exceed 10% of the total loans or \$23,000 a year, whichever is greater. Legal fees and costs associated with collection of debt on principal are not considered administrative costs.

(4) ~~The loan repayment period may not exceed 10 years.~~ The loans must be made at a low interest rate. The department may set the interest rate at an amount that will cover its administrative costs, but the rate may not be less than 1% a year. The department may seek recovery of the amount of principal loaned in the event of default.”

**Section 42.** Section 90-1-204, MCA, is amended to read:

**“90-1-204. Priorities for funding — rulemaking.** (1) The department must receive proposals for grants and loans from local governments. A local government shall work with an economic development organization on a proposal. The department shall work with the local government and the economic development organization in preparing cost estimates for a proposed project. In reviewing proposals, the department may consult with other state agencies with expertise pertinent to the proposal.

(2) (a) The department shall adopt rules necessary to implement the big sky economic development program. In adopting rules, the department shall look to the rules adopted for the treasure state endowment program and other similar state programs. To the extent feasible, the department shall make the rules compatible with those other programs. To the extent feasible, the department shall employ an approach pertaining to the use of funds so that, except as provided in subsection (2)(b), the needs of rural areas are balanced with the needs of the state’s urban centers.

(b) For high-poverty counties, the department shall employ an approach pertaining to the use of funds that is intended to lower poverty levels in the county to a percentage at which the county no longer is defined as a high-poverty county.

(c) The rules must provide for the types of uses of funds available under the big sky economic development program. The types of uses of funds by:

(i) local governments include but are not limited to:

(A) a reduction in the interest rate of a commercial loan for the expansion of a basic sector company;

(B) a grant or low-interest loan for relocation expenses for a basic sector company; and

(C) rental assistance or lease buy-downs for a relocation or expansion project for a basic sector company;

(ii) a certified regional development corporation include:

(A) support for business improvement districts and central business district redevelopment;

- (B) industrial development;
- (C) feasibility studies;
- (D) creation and maintenance of baseline community profiles; and
- (E) matching funds for federal funds, including but not limited to brownfields funds and natural resource damage funds.

(d) (i) The rules must provide for distribution methods for financial assistance available to local governments. ~~The~~ *Except for local government projects funded in [House Bill No. 645], the rules must provide for distribution based upon the number of jobs expected to be created because of the funding.*

(ii) ~~Funding~~ *Except for local government projects funded in [House Bill No. 645], funding may not exceed \$5,000 for each expected job, except that funding for a project in a high-poverty county may not exceed \$7,500 for each expected job.*

(iii) ~~The~~ *Except for local government projects funded in [House Bill No. 645], the rules must require equal matching funds for a grant or loan, except that the rules for a grant or a loan in a high-poverty county may allow a 50% to 100% match requirement for the high-poverty county.*

(e) ~~The~~ *Except for local government projects funded in [House Bill No. 645], the rules may provide for greater incentives for a high-poverty county.*

(f) ~~The~~ *Except for local government projects funded in [House Bill No. 645], the rules must provide for the full or partial repayment of a grant if the new jobs or some of the new jobs for which a grant is given are not created.*

(g) *A Except for local government projects funded in [House Bill No. 645], a grant or loan may be made only for a new job that has an average weekly wage that meets or exceeds the current average weekly wage of the county in which the employees are to be principally employed.*

**Section 43. Allocation of bonding limits — American Recovery and Reinvestment Act of 2009.** Unless the regulations adopted by the United States secretary of the treasury specify otherwise:

(1) the office of public instruction is responsible for allocating the state's share of qualified school construction bonds as authorized in section 1521 of the American Recovery and Reinvestment Act of 2009, Public Law 111-5, and the state's allocated share of qualified zone academy bonds as authorized in section 54E of the Internal Revenue Code, 26 U.S.C. 54E;

(2) the department of administration is responsible for allocating the state's share of qualified energy conservation bonds as authorized in section 54D of the Internal Revenue Code 26 U.S.C. 54D, as amended by section 1112 of the American Recovery and Reinvestment Act of 2009, Public Law 111-5; and

(3) the department of administration, in consultation with the department of commerce, is responsible for allocating the state's share of recovery zone economic development bonds and recovery zone facility bonds, as authorized in section 1401 of the American Recovery and Reinvestment Act of 2009, Public Law 111-5.

**Section 44. Tax credit bonds.** (1) As used in this section, "tax credit bond" means any general obligation bond, impact aid revenue bond, special improvement district bond, revenue bond, industrial development bond, tax increment bond, or any other bond of the state or a political subdivision that has been duly authorized and is eligible for designation as and has been designated as a qualified tax credit bond under section 54A, section 54D, section 54E,

section 54F, or section 54AA of the Internal Revenue Code, 26 U.S.C. 54A, 54D, 54E, 54F, or 54AA.

(2) Any bond issued as a tax credit bond may be issued and sold at public or private sale, may be payable and mature as to principal and interest, if any, on any date or dates, may be subject to redemption in whole or in part as determined by the governing body of the issuer, and may have other terms and conditions that the issuer considers to be necessary and appropriate.

(3) The governing body of the issuer of any tax credit bond is authorized to enter into agreements and make covenants that may be necessary to provide for the sale and security of the bond, including investment of funds and accounts to repay the bond.

**Section 45. Recovery zone economic development bonds and recovery zone facility bonds.** (1) Subject to the conditions and provisions contained in the American Recovery and Reinvestment Act of 2009, Public Law 111-5, and the availability of allocation as determined in [section 43], cities and counties are authorized to designate economic recovery zones and issue recovery zone economic development bonds and recovery zone facility bonds to finance the costs of recovery zone projects and facilities eligible under the American Recovery and Reinvestment Act of 2009, Public Law 111-5.

(2) The bonds must be authorized by the governing body of the city or county in accordance with the applicable provisions of Montana law, unless otherwise provided in [section 44]. The governing body is authorized to enter into agreements and make covenants that may be necessary to provide for the sale and security of the bonds, subject to the following limitations:

(a) if the bonds that are issued under this section pledge the city's or county's credit or taxing power, they must be authorized in accordance with the provisions of Title 7, chapter 7, part 22 or 42, as appropriate;

(b) if the bonds are payable from and secured solely by the revenue from a governmentally owned and operated facility or undertaking, they must be authorized in accordance with the provisions of Title 7, chapter 7, part 44;

(c) if the bonds are payable from special assessments levied against benefited property, the project must be eligible for special assessment financing and must be authorized in accordance with the provisions of Title 7, chapter 12, part 21 or parts 41 and 42, as appropriate;

(d) if the bonds are payable from tax increment revenue, the project to be financed must be eligible for tax increment financing and the project must be approved and the bonds must be authorized in accordance with the provisions of Title 7, chapter 15, parts 42 and 43;

(e) if the bonds are industrial development revenue bonds of the issuer, the bonds must be authorized in accordance with the provisions of Title 90, chapter 5, part 1.

**Section 46. Qualified energy conservation bonds.** (1) Subject to the conditions and provisions contained in section 54D of the Internal Revenue Code, 26 U.S.C. 54D, as amended by the American Recovery and Reinvestment Act of 2009, Public Law 111-5, and the availability of an allocation, cities and counties are authorized to issue qualified energy conservation bonds to finance projects for qualified energy conservation purposes and are authorized to undertake the qualified energy conservation purposes and programs within the meaning of the section 54D of the Internal Revenue Code, 26 U.S.C. 54D, as

amended by the American Recovery and Reinvestment Act of 2009, Public Law 111-5.

(2) The bonds must be authorized by the governing body of the city or county in accordance with the provisions of applicable Montana law, except as otherwise provided in [section 44]. The governing body is authorized to enter into agreements and make covenants that may be necessary to provide for the sale and security of the bonds, subject to the following limitations:

(a) if the bonds that are to be issued under this section pledge the city's or county's credit or taxing power, they must be authorized in accordance with the provisions of Title 7, chapter 7, part 22 or 42, as appropriate;

(b) if the bonds to be issued under this section are payable from and secured solely by the revenue derived or generated from a qualified energy conservation program or project, they must be authorized in accordance with the provisions of Title 7, chapter 7, part 44;

(c) if the bonds are payable from special assessments levied against benefited property, the project must be eligible for special assessment financing and must be authorized in accordance with the provisions of Title 7, chapter 12, part 21 or parts 41 and 42, as appropriate;

(d) if the bonds are payable from tax increment revenue, the project to be financed must be eligible for tax increment financing and the project must be approved and the bonds must be authorized in accordance with the provisions of Title 7, chapter 15, parts 42 and 43;

(e) if the bonds are industrial development revenue bonds of the issuer, the bonds must be authorized in accordance with the provisions of Title 90, chapter 5, part 1.

**Section 47.** Section 90-5-101, MCA, is amended to read:

**"90-5-101. Definitions.** As used in this part, unless the context otherwise requires, the following definitions apply:

(1) "Agricultural enterprises" includes but is not limited to producing, warehousing, storing, fattening, treating, handling, distributing, or selling farm products or livestock.

(2) "Bonds" means bonds, refunding bonds, notes, or other obligations issued by a municipality or county under the authority of this part, including without limitation short-term bonds or notes issued in anticipation of the issuance of long-term bonds or notes.

(3) "Electric energy generation facility" means any combination of a physically connected generator or generators, associated prime movers, and other associated property and transmission facilities and upgrades and improvements of transmission facilities, including appurtenant land and improvements and personal property, that are normally operated together to produce and transfer electric power. The term includes but is not limited to generating facilities that produce and transfer electricity from coal-fired steam turbines, oil or gas turbines, wind turbines, solar power sources, fuel cells, or turbine generators that are driven by falling water.

(4) "Family services provider" means organizations, including nonprofit corporations, that provide human services for children and adults, including but not limited to early care services for children, youth services, health services, social services, habilitative services, rehabilitative services, preventive care, and supportive services, and training, educational, and referral activities in support of human services.

(5) "Governing body" means the board or body in which the general legislative powers of the municipality or county are vested.

(6) "Higher education facilities" means any real or personal properties required or useful for the operation of an institution of higher education.

(7) "Institution of higher education" means any private, nonprofit corporation or institution within the state of Montana:

(a) authorized to provide or operate educational facilities; and

(b) providing a program of education beyond the high school level.

(8) "Mortgage" means a mortgage or deed of trust or other security device.

(9) "Municipality" means any incorporated city or town in the state.

(10) "Project" means:

(a) any land, any building or other improvement, and any other real or personal ~~properties~~ *property* considered necessary in connection with the improvement, whether or not now in existence, that must be suitable for use for commercial, manufacturing, agricultural, or industrial enterprises;

(b) recreation or tourist facilities;

(c) local, state, and federal governmental facilities;

(d) multifamily housing, hospitals, long-term care facilities, community-based facilities for individuals who are persons with developmental disabilities as defined in 53-20-102, or medical facilities;

(e) higher education facilities;

(f) electric energy generation facilities;

(g) family services provider facilities;

(h) *any facilities that are used or considered necessary to create or produce any intangible item, as defined in section 197(d)(1)(C)(iii) of the Internal Revenue Code, 26 U.S.C. 197(d)(1)(C)(iii), including any patent, copyright, formula, process, design, pattern, knowledge, format, or other similar intangible item;*

(i) the production of energy using an alternative renewable energy source as defined in 15-6-225; and

(j) any combination of these projects *in subsections (10)(a) through (10)(i).*"

**Section 48.** Section 90-5-103, MCA, is amended to read:

**"90-5-103. Limited obligation bonds — form and contents — sale — negotiability — filing.** (1) All bonds issued by a municipality or county under the authority of this part must be limited obligations of the municipality or county. Bonds and interest coupons issued under the authority of this part may not constitute or give rise to a pecuniary liability of the municipality or county or a charge against its general credit or taxing powers. This limitation must be plainly stated upon the face of each of the bonds.

(2) The bonds referred to in subsection (1) may be executed and delivered at any time and from time to time, be in form and denominations, be of tenor, be in registered or bearer form either as to principal or interest, or both, be payable in installments and at a time or times not exceeding 40 years from the bonds date, be payable at a place or places, bear interest at a rate or rates, be evidenced in a manner, be redeemable prior to maturity, with or without premium, and contain provisions not inconsistent with this part as considered in the best interest of the municipality or county and provided for in the proceedings of the governing body under whose authority the bonds must be authorized to be issued.

(3) Any bonds issued under the authority of this part may be sold at public or private sale in a manner, at a time or times, and at a price above or below par as may be agreed upon by the lessee of the project or the borrower of the funds. The municipality or county may pay all expenses, premiums, and commissions that the governing body may consider necessary or advantageous in connection with the authorization, sale, and issuance of the bonds from the proceeds of the sale of the bonds or from the revenue of the projects.

(4) All bonds issued under the authority of this part and all interest coupons applicable to the bonds must be construed to be negotiable instruments despite the fact that they are payable solely from a specified source.

(5) All bonds issued under the authority of this part must be filed with the securities commissioner within 10 days of the date of their issue. The filing must include the name of the issuing authority, the name and address of the person or entity on whose behalf the bonds are issued, the amount of the bond issue, the date of the bond issue, and any other information that the securities commissioner may request. Failure to comply with this section does not affect the validity of the bond issue.

(6) *If applicable, the governing body of the municipality or county shall specify whether the bonds are tax credit bonds as provided in [section 44], recovery zone economic development bonds or recovery zone facility bonds as provided in [section 45], or qualified energy conservation bonds as provided in [section 46].*

**Section 49.** Section 90-7-102, MCA, is amended to read:

**“90-7-102. Definitions.** As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) “Authority” means the Montana facility finance authority created in 2-15-1815.

(2) “Capital reserve account” means the account established in 90-7-317.

(3) “Costs” means costs allowed under 90-7-103.

(4) “Eligible facility” means any eligible facility as defined in 90-7-104.

(5) (a) “Institution” means any public or private:

(i) nonprofit hospital, corporation, or other organization authorized to provide or operate an eligible facility in this state; or

(ii) nonprofit prerelease center, corporation, or other organization authorized to operate a prerelease center in this state; or

(iii) *for-profit or nonprofit corporation or other organization authorized to provide for or to operate a project or a facility with qualified small issue bond financing pursuant to section 144(a) of the Internal Revenue Code, 26 U.S.C. 144(a).*

(b) The term also includes the following, provided that the entity is a nonprofit entity or is controlled by one or more nonprofit entities:

(i) a network of health care providers, regardless of how it is organized;

(ii) an integrated health care delivery system;

(iii) a joint venture or partnership between or among health care providers;

(iv) a purchasing alliance composed of health care providers;

(v) any health insurers and third-party administrators that are participants in a system, network, joint venture, or partnership that provides health services through one or more health facilities.

(6) "Participating institution" means an institution that undertakes the financing, refunding, or refinancing of obligations on the construction or acquisition of an eligible facility pursuant to the provisions of this chapter.

(7) "Revenue" means, with respect to eligible facilities, the rents, fees, charges, interest, principal repayments, and other income received or to be received by the authority from any source on account of the eligible facilities."

**Section 50.** Section 90-7-104, MCA, is amended to read:

**"90-7-104. Eligible facility.** (1) The term "eligible facility" means any structure or building suitable for use as:

(a) a hospital, clinic, nursing home, or other health care facility as defined in 50-5-101;

(b) a public health center, as defined in 7-34-2102;

(c) a facility for persons with disabilities;

(d) a chemical dependency treatment facility;

(e) a nursing school;

(f) a medical teaching facility;

(g) a laboratory;

(h) a dental care facility;

(i) a prerelease center;

(j) a diagnostic, treatment, or surgical center;

(k) a facility providing services for the elderly; or

(l) *applicable to a project or a facility with qualified small issue bond financing pursuant to section 144(a) of the Internal Revenue Code, 26 U.S.C. 144(a); or*

~~(m)~~ (m) a structure or facility related to any of the uses enumerated in subsections (1)(a) through ~~(1)(k)~~ (1)(l) or required or useful for the operation of an eligible facility. These related facilities include supporting service structures and all necessary, useful, and related equipment, furnishings, and appurtenances and include without limitation the acquisition, preparation, and development of all lands and real and personal property necessary or convenient as a site for any of the uses enumerated in subsections (1)(a) through ~~(1)(k)~~ (1)(l).

(2) An eligible facility does not include:

(a) items such as food, fuel, supplies, or other items that are customarily considered as current operating expenses; and

(b) a structure used or to be used primarily for sectarian instruction or study or as a place for devotional activities or religious worship."

**Section 51. Taxation of projects.** (1) Regardless of whether the title to a project is held by the authority or a trustee acting for the authority, if the project is being financed by the authority on behalf of a for-profit corporation or other organization, the project is subject to taxation to the same extent, in the same manner, and under the same procedures as privately owned property in similar circumstances if the project is leased to or held by private interests on both the assessment date and the date the county commissioners set the mill levies in any year. The project is not subject to taxation in any year during which it is not leased to or held by private interests on both the assessment date and the date the county commissioners set the mill levy.



(2) When personal property owned by the authority or a trustee acting for the authority is taxed under this section and the personal property taxes on the personal property are delinquent, levy by warrant for distraint for collection of the delinquent taxes may be made only on the personal property against which the taxes were levied.

**Section 52. Procedure prior to financing certain projects.** (1) In addition to meeting the other requirements contained in this chapter or in state or federal law, the requirements of subsections (2) through (4) must be met before financing is provided for a project described in 90-7-104(1)(l).

(2) The authority shall find that the financing is in the public interest. In order to determine whether or not the financing is in the public interest, a public hearing must be conducted in the following manner:

(a) the city or county in which the project will be located must be notified, and the city and county shall, within 14 days after receipt of the notice, notify the board if it elects to conduct the hearing; or

(b) if a request for a local hearing is not received by the authority within 14 days after the notification in subsection (2)(a), the authority may hold the hearing at a time and place it determines.

(3) Notice of the hearing must be published at least once a week for 2 weeks prior to the date set for the hearing by publication in a newspaper of general circulation in the city or county where the hearing will be held and the project will be located. The notice must include the time and place of the hearing, a general description of the nature and location of the project, the name of the lessee, borrower, or user of the project and the maximum principal amount of the financing to be provided by the authority.

(4) If the hearing required by subsection (2) is conducted by a local government, the governing body of the local government shall notify the authority of its determination of whether the financing is in the public interest within 14 days after the completion of the public hearing.

**Section 53. Earnings — statutory appropriation.** If the federal government directs that funds received under the American Recovery and Reinvestment Act of 2009, Public Law 111-5, must be invested and that the earnings must be expended for the same purpose as the funds generating the earnings, then the earnings are statutorily appropriated, as provided in 17-7-502, for the same purpose as the funds generating the earnings.

**Section 54. Dissemination of information — reporting and accountability.** The office of the governor shall develop and maintain a website to serve as the official website for the state of Montana for implementing the reporting and accountability requirements of the American Recovery and Reinvestment Act of 2009, Public Law 111-5. The office shall develop requirements for reporting and posting information to the website, and these requirements are applicable to any recipient of funds from an appropriation in House Bill No. 645.

**Section 55. Distressed wood products industry recovery program — findings — loans and grants — rulemaking.** (1) Due to the current, well-documented decline in the wood products industry in Montana, the legislature finds that there is a need to assist the Montana wood products industry as a whole through a multifaceted and integrally related grant and loan program.

(2) Businesses that may be eligible under the program for loans, grants, or loans and grants include but are not limited to sawmills, plywood plants, paper

and linerboard manufacturers, bark and byproducts-related businesses, round wood producers, wood chip processors, loggers, log haulers, biochar and biomass producers, and other innovative manufacturers and processors of wood products.

(3) (a) The department of commerce shall use money appropriated for the distressed wood products industry to implement the program.

(b) Money appropriated to the department of commerce may be used by the department to, among other things:

(i) provide state matching funds to federal agencies to create loan or grant programs that will benefit the types of businesses listed in subsection (2), including the commingling of appropriated funds with federal funds as needed to meet federal regulations and grant requirements; and

(ii) provide loans, grants, or both loans and grants to the types of businesses listed in subsection (2).

(c) Repayments of loans to the department of commerce may be used by the department as revolving loan funds for primary sector business throughout the state.

(4) The department of commerce may adopt rules necessary to implement the program. Rules adopted by the department must be based upon similar finance programs administered by the department and must include:

(a) sufficient business plan and financial information to allow a reasonable determination regarding the potential feasibility of the business to create and retain jobs and, in the case of loans, to make repayments to the department;

(b) annual information from each assisted business for the term of the grant or loan agreement regarding jobs created and retained, pay levels, financial status, and reports on overall project activities; and

(c) loan and grant amounts for each job, funding limits, and matching fund requirements.

**Section 56. Rulemaking.** The department of commerce may adopt rules to implement the broadband mapping program funded in [House Bill No. 645].

**Section 57. Distribution of local government, tribal government, and school funds.** (1) Of the \$45 million appropriated to the department of commerce for distribution to local governments, tribal governments, and school districts in [section 85], \$10 million must be allocated to Montana counties, \$10 million must be allocated to Montana cities and towns, and \$5 million must be allocated to tribal governments. The department may retain 1.13% of the amount of the grants to counties, cities, towns, tribal governments, and school districts for administrative purposes. The distributions to tribal governments must be made available through the state-tribal economic development commission as provided in 90-1-130 through 90-1-135. The commission shall provide funding for projects that are available for immediate commencement to improve infrastructure or improve energy efficiency. The funds are intended to be allocated to complete priority projects as determined by the appropriate tribal government, but each tribe must be allocated at least \$200,000. The funds appropriated to the department of commerce for local governments must be distributed pursuant to Title 90, chapter 1, part 2. The funds allocated to local governments must be distributed as follows:

(a) each county must receive \$100,000 plus the proportional share of the funds remaining from the \$10 million based upon a blending of the distribution formulas contained in 15-70-101(2)(b) and (3); and

(b) each city and town must receive \$5,000 plus a proportional share of the funds remaining from the \$10 million. The proportional share is calculated by allocating 50% of the remaining funds to each city and town based upon the distribution formula in 15-70-101(2)(c) and 50% of the remaining funds to each city and town based upon the percentage that the population of each city or town bears to the total population of all cities and towns.

(2) Funds received by a county, city, or town pursuant to subsection (1) may be used for:

(a) the following county projects: Beaverhead, county courthouse repair; Big Horn, Little Horn road reconstruction; Blaine, county building improvements; Broadwater, county road chip seal; Carbon, West Fork road expansion; Carter, gravel crushing; Cascade, county building energy performance contract; Chouteau, county road repair and reconstruction; Custer, county road and buildings, including Silo Loop road, Pine Hills improvement, and county building repair and remodel; Daniels, county road gravel screening/crushing; Dawson, county building repair/remodel/construction; Deer Lodge, street light renovation; Fallon, county road and parks shop building; Fergus, Scott Crossing bridge replacement; Flathead, Mennonite Church and Creston roads construction; Gallatin, fairgrounds restroom construction and replacement; Garfield, county building heating/cooling system replacement; Glacier, Glacier County jail/detention center; Golden Valley, fire hall and roads; Granite, Metesch Lane bridge replacement; Hill, Sheppard and Bulhook roads pavement overlay; Jefferson, Boulder south campus sewer replacement; Judith Basin, replace Arrow Creek and Judith River bridge; Lake, South Valley Creek bridge replacement, Skyline bridge repair, and courthouse weatherization; Lewis and Clark, Lewis and Clark County fairgrounds plaza; Liberty, Liberty senior center; Lincoln, Tobacco Valley industrial park infrastructure improvements and Kootenai business park improvements; Madison, Madison County office renovation and bridge improvement projects; McCone, geothermal heat loop courthouse retrofit; Meagher, county building energy efficiency and handicap accessibility updates; Mineral, Mineral County jail and courthouse restoration and repair; Missoula, Big Flat road reconstruction; Musselshell, Goffena bridge replacement; Park, 9th Street bridge replacement; Petroleum, courthouse windows, Dovetail Creek crossing, and Petroleum County road upgrade; Phillips, courthouse parking lot and sidewalk projects; Pondera, Pondera County community and senior center remodel; Powder River, Powder River County fire hall; Powell, energy efficient windows and boiler for county courthouse; Prairie, county fairgrounds grandstand replacement and Terry park facilities renovation; Ravalli, Ambrose Creek road pavement preservation; Richland, Spring Lake road reconstruction; Roosevelt, energy efficient courthouse windows project; Rosebud, Ingomar water and sewer project and Forsyth library elevator project; Sanders, high bridge reconstruction; Sheridan, county road gravel and engineering, county road gravel crushing, Plentywood bypass route; Silver Bow, county road repair and maintenance; Stillwater, county courthouse and bridge; Sweet Grass, Pioneer medical center renovation; Teton, county nursing home and county road gravel; Toole, energy efficient lighting for Toole County hospital; Treasure, county building renovations; Valley, Valley County detention center addition; Wheatland, county road shop and Harlowtown fire hall; Wibaux, county fairgrounds exhibit building; Yellowstone, Clapper Flat and Vandaveer roads and courthouse remodel; and

(b) the following city and town projects: Alberton, street repairs and paving; Anaconda-Deer Lodge, street light renovation; Bainville, Simard Park improvements — sprinkler systems and sidewalks; Baker, storm drain

installation on South Montana 7 and Secondary 322; Bearcreek, town hall renovation and repairs; Belgrade, street intersection reconstruction and sidewalk extension; Belt, replace concrete water storage tank; Big Sandy, sewer main replacement and resurface Johannes Avenue; Big Timber, Anderson Street asphalt overlay project; Billings, reconstruction of Alkali Creek Road; Boulder, water system treatment project; Bozeman, water system treatment project, water reclamation facility — water treatment plant design, recreation facility improvements, sidewalks and restroom upgrades in parks, and debris removal; Bridger, street and sidewalk repairs; Broadus, addition to city hall for police department and sewer lagoon repairs; Broadview, general repairs and maintenance; Brockton, wastewater system repairs and street and alley repairs; Browning, new fire hall; Butte-Silver Bow, road repairs and maintenance; Cascade, one block sewer main replacement; Chester, chip seal town streets; Chinook, city hall repair and improvements and paint armory building; Choteau, city hall-fire station remodel and replace unit heaters in Pavilion building; Circle, purchase street patcher equipment and sewer treatment plant; Clyde Park, construction of Lathrop Street; Colstrip, Orchard lift station replacement; Columbia Falls, street construction and improvements; Columbus, replace curb, gutter, and sidewalk on Pike Avenue; Conrad, replace hydrants and valves and overlay Dakota Street; Culbertson, architecture design of new fire hall; Cut Bank, final engineering and design work for Railroad Street; Darby, water system improvement project; Deer Lodge, phase 1 sewer rehabilitation collection system; Denton, water-sewer upgrades, building repairs, and street repairs; Dillon, Glendale street project; Dodson, street repairs; Drummond, street repairs and park maintenance; Dutton, city park improvements; East Helena, renovate city hall; Ekalaka, bridge and street repair; Ennis, town hall expansion and remodel project; Eureka, repair main arterial road; Fairfield, design and erect new fire hall, televise sewer lines, and replace hydrants; Fairview, park bathrooms renovation; Flaxville, water storage tank repairs; Forsyth, water storage tank and water works repairs; Fort Benton, chip seal city streets, U.S. highway 87 repairs, and airport runway improvements; Fort Peck, replace aging fire hydrants; Froid, water storage reservoir replacement; Fromberg, street and sidewalk repairs; Geraldine, main sewer line extension; Glasgow, rehabilitate southside lift station; Glendive, street reconstruction; Grass Range, water, sewer, and street repairs; Great Falls, West Bank street and right-of-way improvement and civic center roof repair; Hamilton, Tenth street reconstruction; Hardin, new fire hall; Harlem, city hall renovation and weatherization and street maintenance; Harlowton, replace sidewalks and install handicapped curbs; Havre, new lift station and recoat concrete water tank; Helena, Centennial Park trail system construction; Hingham, sewer project, street and sidewalk repairs, and fire hydrants; Hobson, extend water to boulevard on Main Street; Hot Springs, remodel fire hall and repair streets; Hysham, overlay town streets; Ismay, general repairs and maintenance; Joliet, sewer and water improvements; Jordan, improve existing streets; Judith Gap, Fourth Avenue street improvements; Kalispell, street projects; Kevin, drainage, culvert, and road repairs; Laurel, open ditch mitigation near middle school; Lavina, install new water system; Lewistown, chip seal streets; Libby, sewer main extension to Cabinet Heights; Lima, regravell streets and park shelter; Livingston, safety and building repairs to Sacajawea Park and repairs to sidewalks and streets; Lodge Grass, sewer lagoon; Malta, water and sewer line repairs and maintenance and street paving and repairs; Manhattan, sidewalk extensions, repairs, and maintenance; Medicine Lake, sewer lagoon maintenance, water tower, and waterworks repairs; Melstone, install fire hydrants, water and sewer installation to

community center, and sidewalks, curbs, and gutters; Miles City, stormwater system sediment removal and debris removal; Missoula, ADA sidewalk ramps and North Higgins streetscape; Moore, street repairs and capital improvements; Nashua, sewer and water main replacements; Neihart, streets and capital improvements; Opheim, water system and general repairs; Outlook, connect water system to new well; Philipsburg, replace water and sewer lines; Pinesdale, capital improvements and repairs; Plains, city hall renovations including ADA bathrooms and furnace and air conditioning; Plentywood, engineering study of wastewater treatment system, replace sidewalk at city hall and add gutter system, and chip seal streets; Plevna, culvert and drainage improvements and chip seal streets; Polson, Riverside water main replacement; Poplar, street repairs after water line installation; Red Lodge, roof repairs on city hall and police station; Rexford, community center siding and repairs; Richey, road repairs and maintenance; Ronan, repair and overlay Third Avenue Northwest; Roundup, curbs, gutters, and sidewalks on Second Avenue East; Ryegate, city park improvements; Saco, street repairs and maintenance; Saint Ignatius, street paving and pedestrian path and other park repairs; Scobey, weatherize city hall; Shelby, street repairs; Sheridan, street repairs and maintenance; Sidney, Twenty-Second Avenue Northwest reconstruction; Stanford, street intersection improvements and replacements; Stevensville, repair and replace roof on town hall complex building; Sunburst, resurface streets, ADA curbs and gutters, and other street repair; Superior, water construction phase II, street repairs, and renovate park buildings; Terry, park improvements; Thompson Falls, street repairs and replace water meters with radio read meters; Three Forks, pave streets and equip parks and recreation facilities; Townsend, Broadway sidewalk replacement; Troy, city hall restoration; Twin Bridges, public walking path connecting parks; Valier, install water tank, new water meters, and water lines and trunks; Virginia City, remodel and relocate city hall; Walkerville, street improvements; West Yellowstone, wastewater improvements; Westby, resurface streets; White Sulphur Springs, patch and repair city streets; Whitefish, new emergency services building; Whitehall, new ambulance building, wastewater improvements, and debris removal; Wibaux, remodel park bathroom as handicapped accessible; Winifred, drainage projects; Winnett, street drainage improvements; Wolf Point, gate valve and hydrant replacement; or

(c) projects approved by the department of commerce for the following purposes:

(i) designing, erecting, repairing, and remodeling public buildings or making energy efficiency improvements to public buildings;

(ii) designing, constructing, and repairing sewers, storm sewers, sewage treatment and disposal plants, waterworks, and reservoirs;

(iii) designing, constructing, and repairing bridges, docks, wharves, breakwaters, and piers;

(iv) designing, constructing, reconstructing, improving, maintaining, and repairing roads;

(v) acquiring, opening, or widening any street and improving the street by designing, constructing, reconstructing, and repairing pavement, gutters, sidewalks, curbs, and vehicle parking strips;

(vi) designing, building, renovating, and equipping parks and other recreation facilities; and

(vii) installing street lighting.

(3) The governing body of a county, city, or town may choose to propose to the department of commerce an alternate project to those listed in subsections (2)(a) and (2)(b) based on the criteria in subsection (2)(c). If the alternate project meets the criteria in subsection (2)(c), the department shall approve the project.

(4) The department of commerce shall distribute \$20 million of the appropriation for Distribution to School Districts and Local and Tribal Governments to school districts based upon the formula for distributing the quality educator payment provided for in 20-9-327. A school district shall use the funds received pursuant to this section for deferred maintenance on school facilities and for making energy efficiency improvements.

(5) A recipient of funds under this section must expend the funds by September 30, 2010. Unexpended funds must revert to the state and be deposited in the state general fund. The department of commerce shall disburse the funds to recipients as quickly as possible.

**Section 58. Quick start energy grants.** (1) There is a quick start energy program within the department of commerce for quick start energy efficiency improvement grants to public school districts for projects that provide long-term, cost-effective benefits to school facilities.

(2) A public school district may submit an application to the department of commerce for quick start energy efficiency improvement grant funding for:

(a) an energy audit or evaluation of the potential for energy savings in a school facility by a prequalified energy auditor; or

(b) energy efficiency improvements that are based on an energy audit or evaluation and that are expected to achieve measurable energy efficiency to a school facility and cost savings to the public school district.

(3) In awarding grants under this section, the department of commerce shall consider the potential for energy savings in a public school facility based on the age, energy use, function, and condition of the building. The department shall give priority to schools operating out of temporary facilities.

(4) The department of commerce may consult with the department of environmental quality and the architecture and engineering division of the department of administration in the review and evaluation of quick start grant applications.

(5) The department of commerce shall distribute quick start energy program funds on a reimbursement basis from May 15, 2009, until September 30, 2009. Any quick start funds not obligated under this section for reimbursement to a public school district by September 30, 2009, must be used as provided in [section 85] for the School Facilities Program Administration and Grants line item appropriation.

(6) The department of commerce shall collect information regarding the cost savings to public school districts that make energy efficiency improvements based on grant funding received under subsection (2)(b).

(7) The department of commerce shall consult with the office of public instruction on the disbursement of quick start grants and shall make every attempt to accommodate large schools, small schools, urban schools, and rural schools.

(8) Quick start grants made under this program are subject to review by the legislative finance committee.

**Section 59. Energy development and demonstration grant program.** (1) There is an energy development and demonstration grant program within the department of environmental quality to fund technology development and demonstration:

(a) advancing the development and utilization of energy storage systems, including but not limited to mediums, such as accumulators, fuel cells, and batteries, that store energy that may be drawn upon at a later date for use;

(b) developing storage systems specifically designed to store energy generated from eligible renewable resources as defined in 69-3-2003, including but not limited to compressed air energy storage systems;

(c) promoting the efficiency, environmental performance, and cost-competitiveness of energy storage systems beyond the current level of technology; and

(d) advancing the development of alternative energy systems as defined in 15-32-102.

(2) Entities that may be eligible for grants include but are not limited to units of the Montana university system, agricultural research centers, or private entities or research centers.

(3) Money appropriated to the department of environmental quality for the purpose of the energy development and demonstration grant program may be used by the department for providing individual grants in amounts up to \$500,000 and for administrative costs of 1% of the grant award.

(4) The grant application may include:

(a) a project plan sufficient to allow a reasonable determination regarding the potential feasibility of advancing energy storage or alternative energy systems;

(b) a business plan to allow a reasonable determination regarding the financial feasibility of the project; and

(c) a reporting process to ensure progress toward project goals.

~~**Section 60. Welcome home loan program.** The department of commerce shall develop a mortgage loan program to assist first-time home buyers with down payment and closing costs. The program must provide for lending institutions to make short-term loans of \$5,000 to qualified first-time home buyers. The loans must be paid by June 30, 2010. The department may require the home buyer to pledge federal tax credits to the loan repayment.~~

~~**Section 61. Contingent loan acquisition account — fund transfer.** (1) There is a contingent loan acquisition account in the state special revenue fund. The amount of \$2 million is transferred from the state general fund to the account.~~

~~(2) The board of housing may use money in the account to purchase loans made under [section 60] that are not paid by June 30, 2010. Money remaining in the account on August 1, 2010, must revert to the general fund.~~

**Section 62. Fund transfer.** There is transferred \$300,000 from the state general fund to the senior citizen and persons with disabilities transportation services account.

**Section 63. Allocation and distribution of increased state support for schools.** The superintendent of public instruction shall allocate and distribute the funds appropriated in [section 85] for Increase State Support for Schools With Education Stabilization Funds as follows:

(1) for fiscal year 2010:

(a) recalculate the basic entitlement and per-ANB entitlement by multiplying the basic entitlement and per-ANB entitlement for fiscal year 2010 in 20-9-306 by 1.02;

(b) calculate the BASE budget, maximum general fund budget, direct state aid, and guaranteed tax base aid for each school district using the recalculated basic and per-ANB entitlements; and

(c) distribute K-12 BASE aid to school districts in accordance with the payment schedule in 20-9-344 from the appropriations in House Bill No. 2 and [this act]; and

(2) for fiscal year 2011:

(a) recalculate the basic entitlement and per-ANB entitlement by multiplying the basic entitlement and per-ANB entitlement for fiscal year 2011 in 20-9-306 by 1.02;

(b) calculate the BASE budget, maximum general fund budget, direct state aid, and guaranteed tax base aid for each school district using the recalculated basic and per-ANB entitlements; and

(c) distribute K-12 BASE aid to school districts in accordance with the payment schedule in 20-9-344 from the appropriations in House Bill No. 2 and [this act].

**Section 64.** Section 20, Chapter 390, Laws of 2003, is amended to read:

**“Section 20. Termination.** [This act] terminates June 30, ~~2005~~ 2011.”

**Section 65.** Section 4, Chapter 606, Laws of 2005, is amended to read:

**“Section 4.** Section 20, Chapter 390, Laws of 2003, is amended to read:

**“Section 20. Termination.** [This act] terminates June 30, ~~2005~~ 2007 2011.”

**Section 66.** Section 7, Chapter 606, Laws of 2005, is amended to read:

**“Section 7. Termination.** [This act] terminates June 30, ~~2007~~ 2011.”

**Section 67.** Section 4, Chapter 517, Laws of 2007, is amended to read:

**“Section 4.** Section 20, Chapter 390, Laws of 2003, is amended to read:

**“Section 20. Termination.** [This act] terminates June 30, ~~2005~~ 2009 2011.”

**Section 68.** Section 5, Chapter 517, Laws of 2007, is amended to read:

**“Section 5.** Section 4, Chapter 606, Laws of 2005, is amended to read:

**“Section 4.** Section 20, Chapter 390, Laws of 2003, is amended to read:

**“Section 20. Termination.** [This act] terminates June 30, ~~2005~~ 2007 2009 2011.”

**Section 69.** Section 6, Chapter 517, Laws of 2007, is amended to read:

**“Section 6.** Section 7, Chapter 606, Laws of 2005, is amended to read:

**“Section 7. Termination.** [This act] terminates June 30, ~~2007~~ 2009 2011.”

**Section 70.** Section 8, Chapter 517, Laws of 2007, is amended to read:

**“Section 8. Termination.** [Sections 1 through 3] terminate June 30, ~~2009~~ 2011.”

**Section 71.** Section 9-B, items 4b and 10, Chapter 5, Special Laws of May 2007, is amended to read:



	Fiscal 2008			Fiscal 2009			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
"4. Child Support Enforcement Division (05)							
b. Child Support Deficit Reduction Act (Restricted/OTO)	1,620,765	0	0	2,154,589	0	0	2,154,589
				507,675			507,675
10. Health Resources Division (11)							
123,698,117	19,947,092	341,190,786	0	134,749,465	19,749,092	367,644,813	522,113,379
				85,719,465			473,113,370
a. Health Resources Division Administration/Reporting							
232,550	12,726	281,657	0	234,655	12,841	284,208	531,704
b. Direct Care Worker Wage Increase (Restricted)							
18,036	300,000	695,142	0	19,050	300,000	694,128	1,013,178
c. Provider Rate Increase (Restricted)							
0	1,620,277	2,100,682	0	1,222,681	1,646,566	4,247,683	7,116,930
d. Hospital Utilization Fee (Restricted)							
0	17,503,843	38,222,192	0	0	20,324,595	44,183,150	64,507,745
e. Family Planning Waiver (OTO)							
348,297	0	2,743,296	0	347,669	0	2,742,669	3,090,338
f. Prescription Drug Discount Program (Restricted)							
0	1,389,441	0	0	0	2,037,846	0	2,037,846
g. Equalize Campus-Based Rates (Restricted)							
23,785	0	69,943	0	54,261	0	159,558	213,819
h. Raise Physician Reimbursement (Restricted)							
0	0	0	0	520,306	0	1,522,928	2,043,234
i. Medicaid Eligibility for Pregnant Women to 150% (Restricted)							
0	943,117	2,061,397	0	0	1,216,532	2,646,701	3,863,233
j. Revise Medically Needy Income Level (Restricted)							
371,647	0	1,092,864	0	743,295	0	2,175,611	2,918,906
k. Big Sky Rx Premium Assistance (Restricted/Biennial)							
0	9,674,920	0	0	0	0	0	0

The department may allocate the reduction of funds in the Health Resources Division among programs and line items that contain Medicaid or Title IV-E funding."

**Section 72. Coordination instruction.** (1) Subject to subsection (2), if House Bill No. 2 is passed and approved and if [this act] appropriates funds:

(a) to the department of commerce for:

(i) Indian country economic development in the amount of \$1,596,992, then the general fund appropriation for that purpose in House Bill No. 2 is void;

(ii) high-performance computing in the amount of \$2,000,000, then the general fund appropriation for that purpose in House Bill No. 2 is void;

(iii) the energy promotion and development division in the amount of \$910,000, then the general fund appropriation for that purpose in House Bill No. 2 is void; and

(iv) the Montana main street program in the amount of \$250,000, then the general fund appropriation for that purpose in House Bill No. 2 is void;

(b) to the office of public instruction for Stabilization Funding for K-12 Education, then the general fund appropriation for BASE aid in House Bill No. 2 is reduced by \$14,613,477 in FY 2010 and \$25,779,699 in FY 2011;

(c) to office of the commissioner of higher education for appropriation distribution transfers, then the general fund appropriation for that purpose in House Bill No. 2 is reduced by \$29,762,223 in FY 2010 and \$29,762,224 in FY 2011; and

(d) to the office of the commissioner of higher education for Replace 6-Mill Levy Revenue Shortfall With Federal General Stabilization Funds, then the state special revenue fund appropriation in House Bill No. 2 is reduced by \$1,447,296 in fiscal year 2010 and \$1,046,625 in fiscal year 2011.

(2) If the amount of an appropriation described in subsection (1) is for an amount less than the amount specified in subsection (1), then the corresponding appropriation for that purpose contained in House Bill No. 2 is not void, but is reduced by the amount appropriated in [section 85].

**Section 73. Coordination instruction.** (1) Subject to subsection (4), if House Bill No. 5 is passed and approved and if [this act] provides fund transfers from the general fund to:

(a) the state energy conservation repayment account in the department of environmental quality in the amount of \$750,000 per year, then the transfers of \$1 million in FY 2010 and \$500,000 in FY 2011 in section 3 of House Bill No. 5 for the state building energy conservation program are void;

(b) the state energy conservation capital projects account in the department of environmental quality in the amount of \$750,000 per fiscal year and if the total appropriations of the federal funds received pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-5, to the department of environmental quality in [House Bill No. 5] is in the amount of \$17 million or greater, then the transfers of \$10,400,000 in FY 2010 and \$2,957,000 in FY 2011 in section 3 of House Bill No. 5 for the energy conservation projects are void.

(2) Subject to subsection (3), if House Bill No. 5 is passed and approved and if the total of the line item general fund transfers in House Bill No. 645 for long range building is \$5.2 million or more, then the transfers of \$2.6 million in FY 2010 and \$2.6 million in FY 2011 in section 3 of House Bill No. 5 for long-range building are void.

(3) If the amount of a fund transfer described in subsection (1) or an allocation described in subsection (2) is for an amount less than the amount specified in subsections (1) and (2), then the corresponding transfer or allocation

for that purpose contained in House Bill No. 5 is not void, but is reduced by the amount transferred or allocated in [section 85].

**Section 74. Coordination instruction.** (1) Subject to subsection (3), if House Bill No. 10 is passed and approved and if [this act] contains:

(a) an appropriation of \$1 million in general fund to the department of administration for interoperability Montana, then the general fund appropriation for that purpose in House Bill No. 10 is void;

(b) an appropriation of \$3.5 million in general fund to the department of administration for the enterprise system services center equipment, then the general fund appropriation for that purpose in House Bill No. 10 is void.

(2) Subject to subsection (3), if House Bill No. 10 is passed and approved and if [this act] does not contain a transfer of general fund of \$1.5 million for the secretary of state for the SOS information management system, then the appropriation for that purpose in House Bill No. 10 is void.

(3) If the amount of an appropriation described in subsections (1) and (2) is for an amount less than the amount specified in subsections (1) and (2), then the corresponding appropriation for that purpose contained in House Bill No. 10 is not void, but is reduced by the amount appropriated in [section 85].

~~**Section 75. Coordination instruction.** (1) Subject to subsection (2), if House Bill No. 13 is passed and approved and if [this act] contains an appropriation for:~~

~~(a) personal services contingency in the amount of \$4 million, then the general fund appropriation for that purpose in House Bill No. 13 is void;~~

~~(b) labor/management training initiative in the amount of \$75,000, then the general fund appropriation for that purpose in House Bill No. 13 is void; and~~

~~(c) the \$450 individual pay adjustments in the amount of \$3,065,451, then the general fund appropriation for that purpose in House Bill No. 13 is void.~~

~~(2) If the amount of an appropriation described in subsection (1) is for an amount less than the amount specified in subsection (1), then the corresponding appropriation for that purpose contained in House Bill No. 13 is not void, but is reduced by the amount of the difference between the amount specified in subsection (1) and the amount appropriated in [section 85].~~

**Section 76. Coordination instruction.** (1) Subject to subsection (2), if House Bill No. 135 is passed and approved and if [this act] contains a fund transfer for the Fort Belknap-Montana water rights compact in the amount of \$1 million, then the general fund transfer to the Peoples Creek minimum flow account in House Bill No. 135 is void.

(2) If the amount of the fund transfer described in subsection (1) is for an amount less than the amount specified in subsection (1), then the corresponding fund transfer for that purpose contained in House Bill No. 135 is not void, but is reduced by the amount of the difference between the amount specified in subsection (1) and the amount transferred in [section 85].

**Section 77. Coordination instruction.** (1) Subject to subsection (2), if House Bill No. 161 is passed and approved and if [this act] contains a fund transfer for the Blackfeet Tribe water rights compact in the amount of \$4 million, then the general fund transfer to the Blackfeet Tribe water rights compact infrastructure account in House Bill No. 161 is void.

(2) If the amount of the fund transfer described in subsection (1) is for an amount less than the amount specified in subsection (1), then the corresponding

fund transfer for that purpose contained in House Bill No. 161 is not void, but is reduced by the amount of the difference between the amount specified in subsection (1) and the amount transferred in [section 85].

**Section 78. Codification instruction.** (1) [Sections 29 and 30] are intended to be codified as an integral part of Title 39, chapter 51, part 21, and the provisions of Title 39, chapter 51, part 21, apply to [sections 29 and 30].

(2) [Section 34] is intended to be codified as an integral part of Title 53, chapter 6, part 1, and the provisions of Title 53, chapter 6, part 1, apply to [section 34].

(3) [Section 53] is intended to be codified as an integral part of Title 17, chapter 3, part 1, and the provisions of Title 17, chapter 3, part 1, apply to [section 53].

(4) [Sections 55 and 56] are intended to be codified as an integral part of Title 90, chapter 1, part 1, and the provisions of Title 90, chapter 1, part 1, apply to [sections 55 and 56].

(5) [Sections 43 and 44] are intended to be codified as an integral part of Title 17, chapter 5, part 1, and the provisions of Title 17, chapter 5, part 1, apply to [sections 43 and 44].

(6) [Sections 45 and 46] are intended to be codified as an integral part of Title 7, chapter 7, part 1, and the provisions of Title 7, chapter 7, part 1, apply to [sections 45 and 46].

(7) [Sections 51 and 52] are intended to be codified as an integral part of Title 90, chapter 7, and the provisions of Title 90, chapter 7, apply to [sections 51 and 52].

**Section 79. Contingent voidness.** (1) If the federal government refuses to participate in or denies approval of any state plan amendment related to [section 11] for medicaid payments to hospitals, then [section 11] is void.

(2) The department of public health and human services shall notify the code commissioner of the occurrence of any determination made pursuant to subsection (1) and the date of the occurrence.

**Section 80. Effective date.** [This act] is effective on passage and approval.

**Section 81. Retroactive applicability.** [Sections 36 and 38] apply retroactively, within the meaning of 1-2-109, to February 17, 2009.

**Section 82. Termination.** [Sections 1, 11 through 13, 18, 19, 27, 31 through 33, 35 through 42, 57, 58, 60, and 61] terminate June 30, 2011.

~~**Section 83. Voided appropriation — use — appropriation.** If a general fund appropriation contained in [section 85] is voided or vetoed, then the amount of the voided or vetoed general fund appropriation is appropriated to the department of commerce. The department shall use 25% of the appropriation for distribution to counties pursuant to [section 57(1)(a)], 25% of the appropriation for distribution to cities and towns pursuant to [section 57(1)(b)], 25% of the appropriation for distribution to tribal governments pursuant to [section 57(1)], and 25% for distribution to school districts pursuant to [section 57(4)].~~

**Section 84. Appropriation control.** An appropriation item in [section 85] that is designated "Restricted" may be used during the biennium only for the purpose designated by its title and as presented to the legislature.

**Section 85. Appropriations — fund transfers — allocations.** The following money is appropriated for the respective fiscal years. Appropriations

may be transferred among FY 2009, FY 2010, and FY 2011. The office of budget and program planning is authorized to transfer up to \$2 million of the appropriations, authority, or both in this section between the general fund and the federal special revenue fund for the purpose of making adjustments to maintain necessary maintenance of effort and other requirements of the American Recovery and Reinvestment Act of 2009, Public Law 111-5, for the use of both the state general fund and the federal state fiscal stabilization funds.

	Fiscal 2010			Fiscal 2011			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
A. GENERAL GOVERNMENT							
LEGISLATIVE BRANCH (1104)							
1. Legislative Committees and Activities (21)							
117,084	0	0	0	117,084	0	0	121,520
Total							
117,084	0	0	0	117,084	0	0	121,520
If Senate Bill No. 100 is not passed and approved, the general fund appropriation in the amount of \$17,084 in fiscal year 2010 and in the amount of \$121,520 in fiscal year 2011 for Legislative Committees and Activities is void.							
GOVERNOR'S OFFICE (8101)							
1. Office of Budget and Program Planning (04)							
a. HB13 Personal Services Contingency							
4,000,000	0	0	0	4,000,000	0	0	0
b. HB 13 Labor/Management Training Initiative							
75,000	0	0	0	75,000	0	0	0
c. HB 13 \$450 One-Time Payment							
3,065,451	0	0	0	3,065,451	0	0	0
Total							
7,140,451	0	0	0	7,140,451	0	0	0
DEPARTMENT OF COMMERCE (6501)							
1. Business Resources Division (51)							
a. Montana Main Street Program							
125,000	0	0	0	125,000	0	0	125,000
b. Indian Country Economic Development							

	Fiscal 2010			Fiscal 2011			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
798,496	0	0	0	798,496	0	0	798,496
c. Distressed Wood Products Industry							
3,752,548	0	0	0	3,747,452	0	0	3,747,452
d. Community Development Block Grant							
0	0	914,939	0	0	0	914,939	914,939
e. Community Service Planning Grant							
25,000	0	0	0	0	0	0	0
f. Biomass Energy Study							
475,000	0	0	0	0	0	0	0
g. Montana Agro-Energy Industrial Park (Restricted)							
150,000	0	0	0	150,000	0	0	150,000
h. High-Performance Computing							
1,000,000	0	0	0	1,000,000	0	0	1,000,000
i. New Worker Training Program							
655,698	0	0	0	655,698	0	0	655,698
2. Energy Promotion and Development Division (55)							
a. Energy Promotion Division							
255,000	0	0	0	255,000	0	0	255,000
3. Community Development Division (60)							
a. TSEP Operations							
0	81,158	0	0	0	79,415	0	79,415
b. Distribution to School Districts and Local and Tribal Governments							
25,000,000	20,000,000	0	0	0	0	0	0
c. Historic Preservation Competitive Grants							
2,000,000	0	0	0	2,000,000	0	0	2,000,000
4. Housing Division (74)							

	Fiscal 2010			Fiscal 2011			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
a. Tax Credit Assistance Program							
0	0	3,909,180	0	0	3,909,180	0	3,909,180
b. Housing Credit Exchange							
0	0	15,389,250	0	0	15,389,250	0	15,389,250
<del>e. Welcome Home Loan Program</del>							
<del>0</del>	<del>2,000,000</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>2,000,000</del>
5. Director's Office/Management Services Division (81)							
a. Broadband Mapping							
300,000	0	0	0	0	0	0	0
b. School Facilities Program Administration and Grants							
0	0	0	0	0	34,000	0	34,000
c. Quick Start Energy Grants							
0	14,950,000	0	0	0	0	0	0
Total	34,536,742	37,031,158	20,213,369	8,731,646	113,415	20,213,369	29,058,430

Montana Agro-Energy Industrial Park is restricted to grant funding for the development of the Montana Agro-Energy Industrial Park.

The line item for Biomass Energy Study may be used to fund biomass project feasibility studies, installation of biomass energy boilers, or biomass program staff within the department of natural resources and conservation in order to increase biomass utilization accomplishments.

The line item for New Worker Training is to provide training funds for businesses to train and educate both new and existing employees, the purpose of which is the retention and creation of high-wage and high-skilled jobs that will increase the earning potential and employment opportunities for Montana employees and enhance the state's economy. The line item for New Worker Training is intended to be implemented using a framework similar to that established under the Primary Sector Business Workforce Training Act provided for in Title 39, chapter 11, except that the New Worker Training appropriation line item is to be used to train and educate both new and existing employees.

The line item and general fund appropriation in the amount of \$1,911,396 for New Worker Training is contingent upon passage and approval of Senate Bill No. 100. If Senate Bill No. 100 is not passed and approved, the appropriation for New Worker Training is void.



Fiscal 2010		Fiscal 2011		Total	
General Fund	State Special Revenue	General Fund	State Special Revenue	Proprietary	Other

If Senate Bill No. 100 is not passed and approved, there is an appropriation to the Community Development Division in the amount of \$4.5 million general fund for fiscal year 2010 for the provision of grants by the coal board established in 2-15-1821.

The line item appropriation for Broadband Mapping may be used to develop a statewide broadband inventory map pursuant to the provisions of Title VI of the American Recovery and Reinvestment Act of 2009, Public Law 111-5.

Except as provided in [sections 57 and 58], the line item appropriation for the School Facilities Program Administration and Grants is to be used in the same manner as provided in section 10 of HB 152.

The item for Historic Preservation Competitive Grants is for the awarding of grants to public or private entities for the preservation of historic sites within the state of Montana based on a competitive criteria created by the department, as guided by the legislature, that may include:

- (1) the degree of economic stimulus or economic activity, including job creation and work creation for Montana contractors and service workers;
- (2) the timing of the project, including the access to matching funds if needed and approval of permits so the work can be completed without delay;
- (3) the historic or heritage value related to the state of Montana;
- (4) the successful track record or experience of the organization directing the project; and
- (5) the expected ongoing economic benefit to the state as a result of the project completion.

The amount of \$50,000 of the line item for Historic Preservation Competitive Grants must be used for the restoration and preservation of the historic Daly mansion.

The amount of \$40,000 of the line item for Historic Preservation Competitive Grants must be allocated to the historic St. Mary's mission maintenance and restoration project.

The amount of \$180,000 of the line item for Historic Preservation Competitive Grants must be used for the restoration and preservation of the travelers' rest historic site.

The amount of 2.71% of the appropriation for the line item for Historic Preservation Competitive Grants may be used for administrative expenses to implement the program.

~~The amount of \$1 million of the general fund appropriation for Historic Preservation Competitive Grants is contingent upon passage and approval of Senate Bill No. 100.~~

	Fiscal 2010			Fiscal 2011			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
<b>DEPARTMENT OF LABOR AND INDUSTRY (6602)</b>							
<b>1. Workforce Services Division (01)</b>							
a. Workforce Investment Act — Adult	0	1,246,876	0	0	0	0	0
b. Workforce Investment Act — Youth	0	2,947,501	0	0	0	0	0
c. Workforce Investment Act — Dislocated Workers	0	1,728,008	0	0	0	0	0
d. Employment Services	0	1,104,669	0	0	0	0	0
e. Community Service Employment for Older Americans	0	147,000	0	0	0	0	0
f. Temporary Extension of TAA	0	1,202,742	0	0	400,914	0	400,914
g. Reemployment Services to Benefit UI Claimants	0	1,380,835	0	0	460,279	0	460,279
<b>2. Unemployment Insurance Division (02)</b>							
a. Extend Emergency Unemployment Compensation Program	0	1,968,103	0	0	0	0	0
b. Temporary Extension of TAA	0	113,242	0	0	73,585	0	73,585
c. Increase in Unemployment Compensation Program	0	190,628	0	0	0	0	0
d. Special Transfer for Unemployment Compensation Modernization	0	340,271	0	0	154,748	0	154,748
e. Special Transfer in Federal FY 2009 for Administration	0	340,271	0	0	0	0	0

	Fiscal 2010			Fiscal 2011			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
3. Office of Community Service (07)	0	0	834,416	0	0	560,280	560,280
a. AmeriCorps Grant	0	0	500,000	0	0	0	0
Total	0	0	13,704,291	0	0	1,649,806	1,649,806
DEPARTMENT OF MILITARY AFFAIRS (6701)							
1. Army National Guard Program (12)							
a. Culbertson Armory — Female Latrines Allocation	0	0	225,900	0	0	0	0
b. Malta Armory — Female Latrines Allocation	0	0	225,900	0	0	0	0
c. Fort Harrison — Helicopter Dip Site Allocation	0	0	279,268	0	0	0	0
d. Statewide Armories — Vault Modifications Allocation	0	0	500,000	0	0	0	0
e. Billings — Water Recycler	0	0	18,500	0	0	0	0
f. Fort Harrison Building 412 Mechanical System	0	0	30,000	0	0	0	0
g. Military Museum and IED — Fort Harrison	0	0	0	0	0	0	0
Total	0	0	1,279,568	0	0	0	0

	<u>Fiscal 2010</u>		<u>Fiscal 2011</u>								
	<u>State Special Revenue</u>	<u>Federal Special Revenue</u>	<u>Proprietary</u>	<u>Other</u>	<u>Total</u>	<u>General Fund</u>	<u>State Special Revenue</u>	<u>Federal Special Revenue</u>	<u>Proprietary</u>	<u>Other</u>	<u>Total</u>
There is allocated \$225,900 federal stimulus to the Army National Guard Program for the Culbertson Armory — Female Latrines project, which has been approved by the national guard bureau.											
There is allocated \$225,900 federal stimulus funds to the Army National Guard Program for the Malta Armory — Female Latrines project, which has been approved by the national guard bureau.											
There is allocated \$500,000 federal stimulus to the Army National Guard Program for the Statewide Armories — Vault Modifications project, which has been approved by the national guard bureau.											
There is allocated \$279,268 federal stimulus funds to the Army National Guard Program for the Fort Harrison — Helicopter Dip Site project, which has been approved by the national guard bureau.											
Military Museum and IED — Fort Harrison consists of \$250,000 for a military museum and \$750,000 for IED training.											
<b>TOTAL SECTION A</b>	42,794,277	37,031,158	35,197,228	0	115,022,663	8,853,166	113,415	21,863,175	0	0	30,829,756

	Fiscal 2010			Fiscal 2011			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
1. Human and Community Services Division (02)							
a. Child Care Development Block Grant — FY 2009	0	0	718,736	0	0	0	0
b. Child Care Development Block Grant — FY 2010-11	0	0	2,873,503	0	0	2,155,127	2,155,127
c. Community Services Block Grant — FY 2009	0	0	1,692,000	0	0	0	0
d. Community Services Block Grant — FY 2010-11	0	0	2,256,000	0	0	564,000	564,000
e. TANF Emergency Funds — FY 2009	0	0	1,765,870	0	0	0	0
f. TANF Emergency Funds — FY 2010-11	0	0	2,185,332	0	0	1,638,999	1,638,999
g. SNAP — Food Stamps — FY 2009	0	0	5,983,625	0	0	0	0
h. SNAP — Food Stamps — FY 2010-11	0	0	21,503,078	0	0	21,415,578	21,415,578
i. Food Distribution on Reservations — FY 2009	0	0	69,300	0	0	0	0
j. Food Distribution on Reservations — FY 2010-11	0	0	77,000	0	0	7,700	7,700
k. Emergency Food Assistance — FY 2009	0	0	32,750	0	0	0	0
l. Emergency Food Assistance — FY 2010-11	0	0	43,667	0	0	10,916	10,916

## B. HEALTH AND HUMAN SERVICES

## DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES (6901)

	Fiscal 2010			Fiscal 2011			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
m. Weatherization — FY 2009	0	3,382,460	0	0	0	0	0
n. Weatherization — FY 2010-11	0	13,529,841	0	0	10,147,380	0	10,147,380
o. Homeless Prevention/Emergency Food & Shelter — FY 2009	0	187,500	0	0	0	0	0
p. Homeless Prevention/Emergency Food & Shelter — FY 2010-11	0	1,875,000	0	0	1,687,500	0	1,687,500
q. Food for Food Banks (Restricted)	250,000	0	0	250,000	0	0	250,000
r. Homeless Prevention/Emergency Food & Shelter — General Fund (Restricted)	750,000	0	0	750,000	0	0	750,000
2. Director's Office (04)							
a. VISTA — FY 2010-11	0	50,000	0	0	50,000	0	50,000
b. Provider Rate Increase (Restricted)	4,650,830	19,829	8,343,733	0	41,231	16,111,921	26,486,317
3. Child Support Enforcement Division (05)							
a. CSED — Temporarily Restore Federal Matching Funds — FY 2009	0	1,646,914	0	0	0	0	0
b. CSED — Temporarily Restore Federal Matching Funds — FY 2010-11	0	2,040,176	0	0	619,235	0	619,235
4. Public Health and Safety Division (07)							
a. WIC — FY 2010-11	0	783,000	0	0	700,000	0	700,000
b. County Health Grants — Asbestos — FY 2010-11	0	0	0	0	0	0	0

	Fiscal 2010				Fiscal 2011							
	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
c. Prevention and Wellness Fund — FY 2010-11	0	0	1,000,000	0	0	1,000,000	0	0	1,000,000	0	0	1,000,000
d. HB 173 — Implementing National Public Health Standards (Restricted)	0	0	2,100,000	0	0	2,100,000	0	0	2,100,000	0	0	2,100,000
200,000	0	0	0	0	0	200,000	200,000	0	0	0	0	200,000
5. Operations and Technology Division (09)												
a. Health Information Technology — FY 2010-11	357,000	0	0	0	0	357,000	357,000	0	0	0	0	357,000
6. Disability Services Division (10)												
a. IDEA — Infants and Families — FY 2010-11	0	0	1,069,921	0	0	1,069,921	0	0	1,069,922	0	0	1,069,922
b. Vocational Rehabilitation State Grants — FY 2010-11	0	0	1,315,737	0	0	1,315,737	0	0	1,000,000	0	0	1,000,000
7. Health Resources Division (11)												
a. FMAP — FY 2009	0	0	54,000,000	0	0	54,000,000	0	0	0	0	0	0
b. FMAP — FY 2010-11	0	0	78,000,000	0	0	78,000,000	0	0	31,000,000	0	0	31,000,000
c. Medicaid Caseload — FY 2010-11	18,433,433	0	52,973,315	0	0	71,406,748	22,219,989	0	77,461,776	0	0	99,681,765
d. Sustain System of Care and Kids Management Authorities (Restricted)	333,500	0	0	0	0	333,500	333,500	0	0	0	0	333,500
e. Indian Property Exclusion in Medicaid Determination	231,764	0	751,536	0	0	983,300	310,188	0	732,110	0	0	1,042,298
f. Transitional Medicaid	196,432	0	636,968	0	0	833,400	248,020	0	585,380	0	0	833,400

	Fiscal 2010			Fiscal 2011			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
8. Senior and Long-Term Care Division (22)							
a. Aging Services Programs — FY 2010-11	0	0	250,000	0	0	250,000	250,000
b. Nonmedicaid Community Aging Services (Restricted)	58,919	0	1,441,081	58,918	0	1,441,082	1,500,000
c. Direct Care Worker Wage Increase — SLTC Services (Restricted)	1,915,738	0	6,210,533	2,446,846	0	5,775,303	8,222,149
9. Addictive and Mental Disorders Division (33)							
a. Community Mental Health Crisis Services Demonstration Project (Restricted/Biennial)	25,000	0	0	0	0	0	0
b. Implement HB 130 (Biennial/Restricted)	475,000	0	0	0	0	0	0
<b>Total</b>	<b>27,877,616</b>	<b>19,829</b>	<b>270,788,576</b>	<b>37,507,626</b>	<b>41,231</b>	<b>177,523,929</b>	<b>215,072,786</b>

The House Bill No. 2 base general fund appropriations for the Human and Community Services Division for benefits are reduced by \$668,397 in FY 2010 and \$1,375,485 in FY 2011.

The lesser of \$668,397 or actual total fiscal year 2010 expenditures from Human and Community Services Division, Child Care Development Block Grant — FY 2010-11 may be included in the base budget for the purposes of 17-7-111 for the 2013 biennium budget in accordance with [section 18]. These expenditures may be funded with general fund in the present law base for the 2013 biennium executive budget in accordance with [section 18].

Homeless Prevention/Emergency Food & Shelter — General Fund may be used by the Human and Community Services Division only to allow human resource development councils to assist shelters throughout the state in the four components identified for shelters in the federal grant:

- (1) essential services to homeless families;
- (2) one-time payments for homeless prevention services;
- (3) maintenance funding in support of existing emergency shelters and domestic violence facilities that provide shelter, food, and individual support services; and



		Fiscal 2010			Fiscal 2011			Total		
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total

(4) rehabilitation or conversion of buildings for homeless shelters.

Provider Rate Increase may be used only to fund a provider rate increase. Funds may be allocated among programs. Provider Rate Increase may not be used to raise rates paid to providers pursuant to 53-6-125.

HB 173 — Implementing National Public Health Standards may be used only to make grants to local public health agencies. ~~The line item and general fund appropriation in the amount of \$400,000 over the biennium for HB 173 — Implementing National Public Health Standards is contingent upon passage and approval of Senate Bill No. 100. If Senate Bill No. 100 is not passed and approved, the appropriation for HB 173 — Implementing National Public Health Standards is void.~~

In granting the funds for Health Information Technology — 2010-11, the department shall seek a nonprofit entity that is governed by a board of directors made up of members who provide a good geographic and demographic representation of the state and who represent the constituents interested in health care information technology, including but not limited to physicians, health care facilities, insurers, telemedicine providers, and government agencies.

Total fiscal year 2010 expenditures from CSED — Temporarily Restore Federal Matching Funds — FY 2010-11 may be included in the base budget for the purposes of 17-7-111 for the 2013 biennium budget in accordance with [section 18]. These expenditures may be funded with general fund in the present law base for the 2013 biennium executive budget in accordance with [section 18].

The House Bill No. 2 base general fund appropriations for the Health Resources Division for benefits are reduced by \$71 million in FY 2010 and \$26 million in FY 2011. The agency may redistribute funding between programs to realign funding sources for medicaid and Title IV-E funding.

Total fiscal year 2010 expenditures from FMAP — FY 2010-11 may be included in the base budget for the purposes of 17-7-111 for the 2013 biennium budget in accordance with [section 18]. These expenditures may be funded with general fund in the present law base for the 2013 biennium executive budget in accordance with [section 18].

The total collections of enhanced FMAP include \$146 million that reduces state general fund expenditures, \$14 million of additional general fund revenue from institutional reimbursements and the hospital utilization fee, and \$3 million of additional federal expenditures for schools which does not impact general fund.

Medicaid Caseload — FY2010-11:

- (1) may be used only to transfer funds eligible for reserve under the American Recovery and Reinvestment Act of 2009, Public Law 111-5, Title V, section 5001, to a state special revenue account;
- (2) may be used only to pay medicaid benefits above the level appropriated in House Bill No. 2 excluding the healthy Montana kids program; and
- (3) includes an appropriation of up to \$1 million of general fund and \$1 million of federal funds for administration directly attributable to the American Recovery and Reinvestment Act of 2009, Public Law 111-5, or to medicaid benefits.

	<u>Fiscal 2010</u>			<u>Fiscal 2011</u>			<u>Total</u>
	<u>General Fund</u>	<u>State Special Revenue</u>	<u>Federal Special Revenue</u>	<u>General Fund</u>	<u>State Special Revenue</u>	<u>Federal Special Revenue</u>	
Direct Care Worker Wage Increase — SLTC Services must be used to raise provider rates for medicare services to allow for wage increases or lump-sum payments to workers who provide direct care and ancillary services.							
Community Mental Health Crisis Services Demonstration Project is contingent upon passage and approval of House Bill No. 130, House Bill No. 131, or House Bill No. 132 and may be used only to implement those bills.							
Implement HB 130 is contingent upon passage and approval of House Bill No. 130. If House Bill No. 130 is not passed and approved, Implement HB 130 must be used for matching grants for mental health crisis centers.							
<b>TOTAL SECTION B</b>	27,877,616	19,829	270,788,576	0	0	298,686,021	37,507,626
				41,231	177,523,929	0	215,072,786

	Fiscal 2010			Fiscal 2011			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
<b>C. NATURAL RESOURCES AND TRANSPORTATION</b>							
<b>DEPARTMENT OF ENVIRONMENTAL QUALITY (5301)</b>							
<b>1. Planning, Prevention, and Assistance Division (20)</b>							
a. State Energy Programs	0	0	5,509,281	0	0	3,202,719	0
b. Energy Efficiency Block Grant	0	0	7,253,289	0	0	323,711	0
c. Drinking Water SRF — Administration	0	0	388,673	0	0	313,400	0
d. Clean Water SRF — Administration	0	0	382,034	0	0	307,828	0
e. Water Quality Grant	0	0	193,886	0	0	0	0
f. Diesel Emissions Reduction Act (DERA) Grant	0	0	1,033,287	0	0	666,713	0
g. Energy Storage Grant Program	0	0	1,000,000	0	0	0	0
h. Energy Storage Grant Program Additional Funding (Restricted)	0	0	0	0	0	1,000,000	0
<b>2. Remediation Division (40)</b>							
a. Leaking Underground Storage Tanks	0	0	1,075,491	0	0	924,509	0
<b>3. Permitting and Compliance Division (50)</b>							
a. Drinking Water SRF — Administration	0	0	607,297	0	0	535,057	0

	Fiscal 2010			Fiscal 2011			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
b. Permitting and Compliance Division Administration — Federal Stimulus							
359,794	0	0	0	367,918	0	0	367,918
c. Permitting and Compliance Division Administration — FY 2009							
101,500	0	0	0	0	0	0	0
Total							
461,294	0	17,443,238	0	367,918	0	7,273,937	7,641,855

Energy Storage Grant Program Additional Funding is appropriated only if the federal allocation for the state energy program exceeds \$25.8 million and the excess funding is not restricted to another purpose.

DEPARTMENT OF TRANSPORTATION (5401)

1. Construction Program (02)							
a. Highway Funding							
0	0	132,000,000	0	0	88,000,000	0	88,000,000
2. Transportation Planning Division (50)							
a. Transit Formula Funding							
0	0	9,367,026	0	0	6,244,684	0	6,244,684
b. Rail Transit Authority							
49,354	0	0	0	56,000	0	0	56,000
Total							
49,354	0	141,367,026	0	50,000	94,244,684	0	94,294,684

If Senate Bill No. 291 is not passed and approved, Rail Transit Authority is void.

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION (5706)

- 1. Centralized Services Division (21)

	Fiscal 2010				Fiscal 2011							
	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
2. Conservation and Resource Development Division (23)												
a. Drinking Water — SRF	0	0	75,140	0	0	75,140	0	0	75,712	0	0	75,712
a. Drinking Water — SRF	0	0	10,530,000	0	0	10,530,000	0	0	0	0	0	0
b. Clean Water — SRF	0	0	10,385,146	0	0	10,385,146	0	0	20,000	0	0	20,000
c. Water Project Administration	230,000	0	0	0	0	230,000	230,000	0	0	0	0	230,000
3. Reserved Water Rights Compact Commission (25)												
a. Blackfeet Water Compact (transfer)	4,000,000	0	0	0	0	4,000,000	0	0	0	0	0	0
b. Fort Belknap Water Compact (transfer)	1,000,000	0	0	0	0	1,000,000	0	0	0	0	0	0
4. Forestry and Trust Lands (35)												
a. USFS State and Private Forestry Assistance	0	0	4,250,000	0	0	4,250,000	0	0	4,250,000	0	0	4,250,000
Total	5,230,000	0	25,240,286	0	0	30,470,286	230,000	0	4,345,712	0	0	4,575,712
TOTAL SECTION C	5,740,648	0	184,050,550	0	0	189,791,198	647,918	0	105,864,333	0	0	106,512,251

	Fiscal 2010			Fiscal 2011			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
D. JUDICIAL BRANCH, LAW ENFORCEMENT, JUSTICE							
JUDICIARY (2110)							
1. Supreme Court Operations (01)							
a. Self-Help Law Program	250,000	0	0	250,000	0	0	250,000
Total	250,000	0	0	250,000	0	0	250,000
The amount of \$250,000 of the general fund appropriation for Self-Help Law Program is contingent upon passage and approval of Senate Bill No. 100.							
CRIME CONTROL DIVISION (4107)							
1. Justice System Support Service (01)							
a. Byrne/JAG Grant	0	0	3,165,819	0	0	0	0
b. Crime Victims Assistance Grant	0	564,000	0	0	0	0	0
c. Violence Against Women Grant	0	0	916,955	0	0	0	0
Total	0	564,000	3,165,819	0	0	0	3,730,819
DEPARTMENT OF JUSTICE (4110)							
1. Legal Services Division (01)							
a. Crime Victims Compensation Grant	0	0	90,582	0	0	90,582	90,582

	Fiscal 2010			Fiscal 2011			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
2. Division of Criminal Investigation (18)							
a. Meth Watch	500,000	0	0	0	0	0	500,000
b. Internet Crimes Against Children Grants	0	0	403,670	0	0	0	403,670
Total	500,000	0	494,252	0	0	90,582	994,252
DEPARTMENT OF CORRECTIONS (6401)							
1. Community Corrections (02)							
a. Remove Vacancy Savings for 24-7 Staff/Reduce Overtime	0	0	73,225	0	0	73,620	73,620
2. Secure Care (03)	0	0	997,547	0	0	1,002,781	1,002,781
3. Juvenile Corrections (05)							
a. Remove Vacancy Savings for 24-7 Staff/Reduce Overtime	0	0	282,040	0	0	283,346	283,346
Total	0	0	1,352,812	0	0	1,359,747	1,359,747
TOTAL SECTION D	750,000	0	6,493,838	0	0	1,450,329	7,243,838

	Fiscal 2010			Fiscal 2011			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
1. OPI Administration (06)							
a. Title I-A Improvement — FY 2009	0	0	468,150	0	0	0	468,150
b. Title II-D Education Technology — FY 2009	0	0	160,469	0	0	0	160,469
c. Title I-A — FY 2009	0	0	415,800	0	0	0	415,800
d. McKinney-Vento (Homeless Assistance) — FY 2010-11	0	0	22,400	0	0	0	22,400
e. Montana Learning Center (Restricted)	50,000	0	0	0	0	0	50,000
2. Distribution to Public Schools (09)							
a. School Lunch Equipment	0	0	247,461	0	0	0	247,461
b. Title I — FY 2009	0	0	34,234,200	0	0	0	34,234,200
c. IDEA — Special Education	0	0	36,708,056	0	0	0	36,708,056
d. Education Technology — FY 2009	0	0	3,048,906	0	0	0	3,048,906
e. Title I-A Improvement — FY 2009	0	0	8,894,850	0	0	0	8,894,850
f. IDEA Part B (Section 619 Preschool) — FY 2010-11	0	0	1,260,947	0	0	0	1,260,947

E. EDUCATION

OFFICE OF SUPERINTENDENT OF PUBLIC INSTRUCTION (3501)



	Fiscal 2010			Fiscal 2011			Total
	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Other	
g. McKinney-Vento (Homeless Assistance) — FY 2010-11	0	0	201,600	0	0	0	0
h. Special Education — Maintenance of Effort — FY 2009	1,233,764	0	0	1,233,764	0	0	1,233,764
i. Stabilization Funding for K-12 Education	0	14,613,477	0	0	25,779,699	0	25,779,699
j. Increase State Support for Schools With Education Stabilization Funds	0	0	10,717,552	0	10,993,075	0	10,993,075
<b>Total</b>	1,233,764	0	110,993,868	0	112,277,632	1,233,764	38,006,538

Montana Learning Center funding may be used only for deferred maintenance on facilities or for making energy efficiency improvements at the Montana learning center.

For the 2011 biennium, the first source of funding of the school district guaranteed tax base aid and direct state aid is the federal appropriation for Stabilization Funding for K-12 Education.

Total fiscal year 2010 expenditures from the line item Stabilization Funding for K-12 Education may be included in the base budget for the purposes of 17-111 for the 2013 biennium budget in accordance with [section 18]. These expenditures may be funded with general fund in the present law base for the 2013 biennium executive budget in accordance with [section 18].

MONTANA SCHOOL FOR THE DEAF AND BLIND (5113)

1. Education Program (04)

a. Special Needs Equipment	34,507	0	0	0	0	0	0	18,000
<b>Total</b>	34,507	0	0	0	0	0	0	18,000

MONTANA ARTS COUNCIL (5114)

	Fiscal 2010			Fiscal 2011			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
1. National Endowment for the Arts	0	0	145,500	0	0	145,500	145,500
<b>Total</b>	0	0	145,500	0	0	145,500	145,500
<b>MONTANA LIBRARY COMMISSION (5115)</b>							
1. Statewide Library Resources (01)							
a. Expansion of Reading Services for the Blind	323,000	0	0	0	0	0	323,000
<b>Total</b>	323,000	0	0	0	0	0	323,000
<b>MONTANA UNIVERSITY SYSTEM, INCLUDING OFFICE OF THE COMMISSIONER OF HIGHER EDUCATION AND EDUCATIONAL UNITS AND AGENCIES (5100)</b>							
1. OCHE – Administration (01)							
a. Distance Learning	1,000,000	0	0	0	0	0	1,000,000
b. Virtual Academy	1,000,000	0	0	0	0	0	1,000,000
2. OCHE – Community College Assistance (04)							
a. Community College Assistance – Restore to Governor's December 15 Budget (Restricted/OTO)	606,189	0	0	606,189	0	0	671,586
b. Community College Assistance	137,944	0	762,056	113,299	0	786,701	900,000
c. Community Colleges Tuition Mitigation							

	Fiscal 2010			Fiscal 2011			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
3. OCHE – Appropriation Distribution Transfers (09)							
a. Tuition Mitigation for Resident Students Funded With Education General Funds	3,154,033	0	0	3,154,033	0	0	2,506,230
b. Stabilization Funding for Higher Education	0	29,762,223	0	29,762,223	0	0	29,762,224
c. Montana University System Tuition Mitigation and Increased Access to Distance Learning for Resident Students Funded With General Government State Fiscal Stabilization Funds	0	5,966,490	0	5,966,490	0	6,580,345	6,580,345
d. PBS Satellite Delivery	200,000	0	0	200,000	0	0	200,000
e. Agricultural Experiment Station — Sawfly Research (Restricted)	250,000	0	0	250,000	0	0	250,000
f. Agricultural Experiment Station — Equipment and Infrastructure	1,000,000	0	0	1,000,000	0	0	1,000,000
g. Montana Extension Service — Local Government Centers (Restricted)	150,000	0	0	150,000	0	0	150,000
h. Replace 6-Mill Levy Revenue Shortfall With Federal General Stabilization Funds	0	1,447,296	0	1,447,296	0	1,046,625	1,046,625
4. OCHE – Tribal College Assistance (11)							
a. Tribal College Assistance	450,000	0	0	450,000	0	0	450,000
Total	7,948,166	38,714,916	0	46,663,082	7,341,115	88,999,919	46,341,034

The line item appropriation for Distance Learning is to be used to facilitate access and affordability of 2-year colleges by:

		<u>Fiscal 2010</u>			<u>Fiscal 2011</u>						
<u>General Fund</u>	<u>State Special Revenue</u>	<u>Federal Special Revenue</u>	<u>Proprietary</u>	<u>Other</u>	<u>Total</u>	<u>General Fund</u>	<u>State Special Revenue</u>	<u>Federal Special Revenue</u>	<u>Proprietary</u>	<u>Other</u>	<u>Total</u>

(1) centralizing distance learning courses into a single unified web-based student enrollment system for admissions and financial assistance to enhance access and degree completion; and

(2) coordinating with the superintendent of public instruction on at least five early college degree programs in a Montana Big Sky Career Pathway for high school students to have access to college courses in the classroom or virtually in order to obtain a high school diploma and associate degree in 5 years.

The amount of \$1,800,000 total funds over the biennium for Community College Assistance must be allocated as follows: \$400,000 to Flathead Valley community college, \$700,000 to Miles community college, and \$700,000 to Dawson community college.

Total fiscal year 2010 expenditures from the line item Stabilization Funding for Higher Education may be included in the base budget for the purposes of 17-7-111 for the 2013 biennium budget in accordance with [section 18]. These expenditures may be funded with general fund in the present law base for the 2013 biennium executive budget in accordance with [section 18].

The line item appropriation for Agricultural Experiment Station — Sawfly Research is restricted to sawfly research.

~~The line item appropriation for Agricultural Experiment Station — Equipment and Infrastructure is restricted to purchases for infrastructure and equipment for agricultural experiment stations.~~

The line item appropriation for Montana Extension Service — Local Government Centers is restricted to expenditures for the local government center program in the Montana extension service.

Any local education agency or institution of higher education that receives funding under this program shall ensure that the agency or institution will meet the intentions and legal requirements of the American Recovery and Reinvestment Act of 2009, Public Law 111-5.

<u>TOTAL SECTION E</u>	0	149,854,284	0	0	159,443,721	8,592,879	0	75,918,193	0	0	84,511,072
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	Fiscal 2010			Fiscal 2011			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
STATEWIDE AGENCY (9999)							
1. Long-Range Building Program — HB 5 (01)							
a. Long-Range Building Program Additional Transfer	7,248,486	0	0	7,248,486	6,544,914	0	6,544,914
b. Long-Range Building Program Allocation	0	638,216	0	638,216	0	638,216	638,216
c. Long-Range Building Program Transfer	1,792,586	0	0	1,792,586	1,792,586	0	1,792,586
d. State Energy Conservation Capital Projects Account Allocation	0	6,519,000	0	6,519,000	0	6,519,000	6,519,000
e. State Energy Conservation Repayment Account Transfer	750,000	0	0	750,000	750,000	0	750,000
f. MUS Energy Conservation Improvements Transfer and Allocation	6,150,000	0	3,850,000	10,000,000	6,150,000	0	11,000,000
g. MUS Energy Conservation Additional Funds (Restricted)	0	0	0	0	0	1,000,000	1,000,000
h. University of Montana-Western — Main Hall Transfer	3,000,000	0	0	3,000,000	3,000,000	0	3,000,000
i. State Energy Conservation Capital Projects Account Transfer	750,000	0	0	750,000	750,000	0	750,000
2. Information Technology Projects — HB 10 (02)							
a. Enterprise System Services Center Equipment (Department of Administration)	1,750,000	0	0	1,750,000	1,750,000	0	1,750,000
b. Interoperability Montana (Department of Administration)	500,000	0	0	500,000	500,000	0	500,000

## F. LONG-RANGE PLANNING

	Fiscal 2010			Fiscal 2011			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
c. SOS Information Management System Transfer	750,000	0	0	750,000	0	0	750,000
3. Treasure State Endowment Program — HB 11 (03)							
a. Regional Water System Transfer	4,000,000	0	0	4,000,000	0	0	4,000,000
b. TSEP Infrastructure Transfer	11,500,000	0	0	11,500,000	0	0	11,500,000
4. Other Transfers (05)							
a. School Facilities Account (HB 152) Transfer	35,034,000	0	0	35,034,000	0	0	0
5. Renewable Resource Grants and Loans — HB 6 (07)							
a. Water Projects Transfer	2,074,398	0	0	2,074,398	0	0	2,074,398
6. Reclamation and Development Grants and Loans — HB 7 (08)							
a. Reclamation Projects Transfer	897,133	0	0	897,133	0	0	897,133
Total	76,196,603	0	11,007,216	40,459,031	0	13,007,216	53,466,247
TOTAL SECTION F							
76,196,603	0	11,007,216	0	87,203,819	0	13,007,216	0

MUS Energy Conservation Additional Funds is appropriated only if the federal allocation for the state energy program in the department of environmental quality exceeds \$25.8 million and the excess funding is not restricted to another purpose.

General Fund	Fiscal 2010			Fiscal 2011			Total
	State Special Revenue	Federal Special Revenue	Proprietary	State Special Revenue	Federal Special Revenue	Proprietary	
162,948,581	37,050,987	657,391,692	0	154,646	395,627,175	0	492,092,441

The amount of \$1 million of the general fund appropriation for Enterprise System Services Center Equipment is contingent upon passage and approval of Senate Bill No. 100.

TOTAL STATE FUNDING 857,391,260

Approved May 14, 2009





**RESOLUTIONS**  
**Adopted by the**  
**SIXTY-FIRST LEGISLATURE**  
**IN REGULAR SESSION**

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

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**COMPILED BY MONTANA**  
**LEGISLATIVE SERVICES DIVISION**

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## House Joint Resolutions

### HOUSE JOINT RESOLUTION NO. 4

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA ENCOURAGING CONGRESS TO INCREASE GUBERNATORIAL AUTHORITY WITH RESPECT TO HAZARDOUS FUELS EMERGENCIES AND REDUCTION.

WHEREAS, according to the Montana Legislature's Fire Suppression Interim Committee, with limited state resources and current fuel and climatic conditions, it is likely that communities in Montana will burn and that firefighters and members of the public will be seriously injured or killed; and

WHEREAS, the contributing factors of drought, extensive tree mortality due to insect infestation, and current federal land management policies that allow for extensive accumulations of biomass make Montana's forest lands highly susceptible to catastrophic and environmentally destructive wildfires that threaten public health, safety, and welfare; and

WHEREAS, U.S. Department of the Interior research has confirmed that reducing hazardous biomass fuels away from communities limits the risk of catastrophic wildfires; and

WHEREAS, reducing and using biomass has multiple benefits outside of wildfire mitigation, including alternative energy generation; and

WHEREAS, legislation is needed granting a governor authority to declare a crisis when the severity of fire danger from fuels on identified federal lands within that state poses a significant threat to public health and safety or there would be a probable loss of homes and property if wildfires occur; and

WHEREAS, upon the declaration of a crisis, responsible federal agencies should expedite a mitigation plan to reduce forest fuels, mitigation planning should be excluded under the National Environmental Policy Act appeal process, and any claimant filing a court action against the plan should be required to post a damage bond of 10% of the value of the property that would be protected under a mitigation plan; and

WHEREAS, adoption of these proactive hazardous fuels emergency measures will enhance Montana's ability to manage hazardous fuels in order to reduce the risk of catastrophic and environmentally destructive wildfires.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

(1) That the United States Congress enact legislation increasing gubernatorial authority with respect to hazardous fuels emergencies and reduction.

(2) That the Secretary of State send copies of this resolution to the President of the United States; the Western Governors' Association; the Montana Congressional Delegation; and the National Association of Counties.

Adopted April 3, 2009

### HOUSE JOINT RESOLUTION NO. 6

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA 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.

WHEREAS, Article VIII, section 12, of the Montana Constitution vests the Legislature with the responsibility to ensure strict accountability of all revenue received and money spent by the state, counties, cities, and all other local governmental entities; and

WHEREAS, Article X, section 9, of the Montana Constitution states that the Board of Public Education shall exercise general supervision over the public school system; and

WHEREAS, section 20-3-106, MCA, grants supervision of certain aspects of the public schools and districts of the state to the Superintendent of Public Instruction; and

WHEREAS, entities of the education system have increasingly, and to positive effect, shared leadership between themselves and with the Education and Local Government Interim Committee; and

WHEREAS, agreement upon shared policy goals and accountability measures for the K-12 public education system, agreed upon by the Superintendent of Public Instruction, Board of Public Education, and Education and Local Government Interim Committee, would represent an important advance in interagency cooperation and the quality of education policymaking; and

WHEREAS, shared policy goals must be systematically tied to accountability measures in order to ensure timely and effective implementation of policies.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That shared policy goals and corresponding accountability measures be identified and developed by the Superintendent of Public Instruction and Board of Public Education in consultation with the Education and Local Government Interim Committee.

Adopted March 12, 2009

### HOUSE JOINT RESOLUTION NO. 7

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA 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.

WHEREAS, according to the Montana Legislature's Fire Suppression Interim Committee, with limited state and federal resources and current fuel

and climatic conditions, it is likely that communities in Montana will burn and that firefighters and members of the public will be seriously injured or killed; and

WHEREAS, the contributing factors of drought, extensive tree mortality due to insect infestation, and ineffective federal land management policies that allow for extensive accumulations of biomass make Montana's forest lands highly susceptible to catastrophic and environmentally destructive wildfires that put Montana communities in imminent danger; and

WHEREAS, without safe and aggressive initial attack on wildfires on all federal lands that have the potential to move to state or private land, the public health, safety, and welfare is threatened, the state's fire suppression costs will substantially increase, and damage to property and natural resources will continue to grow.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

(1) That the United States Congress and the President of the United States immediately modify federal land management and wildfire policies to ensure that:

(a) there is safe and aggressive initial attack on wildfires on all federal lands if there is a potential for the fire to move to state or private land;

(b) state and local governments may actively engage in land and wildfire management operations on federal land in order to protect the public health, safety, and welfare; and

(c) federal forest road closures that may restrict access to areas for wildland fire suppression be minimized.

(2) That the Secretary of State send copies of this resolution to the President of the United States, the Montana Congressional Delegation, the Secretary of Agriculture, the Secretary of the Interior, the Chief of the United States Forest Service, the Regional Forester of the United States Forest Service Region 1, and the Director of the Bureau of Land Management.

Adopted March 21, 2009

## HOUSE JOINT RESOLUTION NO. 8

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA 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.

WHEREAS, the Richland County Commissioners have concluded that the local community and the region would be best served by joining the functions and facilities of the Richland County Extension Office with the MAES Eastern Agricultural Research Center; and

WHEREAS, the State of Montana can provide a land lease to Richland County through existing authorities and procedures with the Montana Board of Regents or the State Land Board, or both; and

WHEREAS, the Richland County Commissioners have agreed to provide all financial resources necessary to fund the construction of the \$700,000 building for the Richland County Extension Service, including offices, support rooms, a large meeting room, and shared lobby space, connected to the research facility.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

(1) That the combined MAES Eastern Agricultural Research Center and Richland County Extension Office would serve to provide enhanced efficiencies and improved research and education opportunities for eastern Montana and the citizens of Montana; and

(2) That the Legislature authorizes construction of a \$700,000 building for the Richland County Extension Office if, in addition to the \$700,000 for construction, an agreement is signed between the Board of Regents and Richland County that ensures payment of all associated operating and maintenance costs by Richland County for the life of the building or until the building is sold; and

(3) That this resolution constitutes consent as provided in 18-2-102.

Adopted March 4, 2009

## HOUSE JOINT RESOLUTION NO. 9

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA RECOGNIZING THE SERVICE OF MONTANANS IN THE ARMED FORCES OF THE UNITED STATES.

WHEREAS, all Americans have the right, by virtue of wearing the noble title of citizen, to great personal freedoms in the pursuit of life, liberty, and happiness; and

WHEREAS, the history of our young country demonstrates countless examples of bravery and personal sacrifice in order to preserve the freedoms and liberties of the collective citizenry; and

WHEREAS, since September 11, 2001, the nation has once again called upon those who have dedicated their lives to the defense of the nation to stand up against forces that wish ill upon the United States; and

WHEREAS, Montanans have always answered the call to defend the nation, and Montanans will continue to serve and lead in the global war on terror; and

WHEREAS, Montanans serving in every branch of service, both active duty and guard and reserves, have been deployed in the global war on terror at great personal sacrifice to themselves and their families; and

WHEREAS, a number of Montanans have made the ultimate sacrifice in Operation Enduring Freedom and Operation Iraqi Freedom; and

WHEREAS, we as Montanans will continue to support these heroes as they return home to face the challenge of rejoining family, friends, and community.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Montana Legislature recognize the dedication, professionalism, and bravery of all Montanans who have served and will serve in the armed forces of the United States as a part of the global war on terror.

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to the Montana Congressional Delegation, the respective Secretaries of the United States Army, Navy, and Air Force, the Commandant of the United States Coast Guard, and the Adjutant General of the Montana National Guard.

BE IT FURTHER RESOLVED, that the Secretary of State include with the copies sent to the respective Secretaries of the Army, Navy, and Air Force, the Commandant of the United States Coast Guard, and the Adjutant General of the Montana National Guard a request that the respective Secretaries, the Commandant, and the Adjutant General use every means available to provide a copy of this resolution to each member of the Armed Forces who hails from Montana.

BE IT FURTHER RESOLVED, that the purpose and intent of this resolution is to convey to Montana service personnel that the heartfelt thanks of all Montanans are extended to them, that we are proud of them, that they are in our prayers, and that we send them best wishes for a safe return.

Adopted April 7, 2009

## HOUSE JOINT RESOLUTION NO. 14

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA 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.

WHEREAS, on December 5, 2008, the Assistant Secretary of the Interior for Fish and Wildlife and Parks announced that the Department of the Interior had finalized updated regulations governing the possession and transportation of firearms in national parks and wildlife refuges; and

WHEREAS, a notice proposing adoption of this regulatory change and requesting public comment was first posted in the Federal Register on April 30, 2008, in Volume 73, Number 84; and

WHEREAS, following the public comment period, final regulations were posted in the Federal Register formally adopting these regulations on December 10, 2008, in Volume 73, Number 238; and

WHEREAS, the new regulations allow possession of concealed weapons consistent with the state laws of the state in which the public land is located; and

WHEREAS, Article II, section 12, of the Montana Constitution preserves the right of any person to bear arms in self-defense and provides that the right may not be called in question; and

WHEREAS, Montana law specifically permits qualified persons to carry concealed weapons and regulates the activity in sections 45-8-321 through 45-8-330, MCA; and

WHEREAS, the regulation change by the Department of the Interior has updated federal policy regarding self-defense on public lands to more accurately reflect Montana culture and Montana law authorizing the possession of concealed firearms; and

WHEREAS, following finalization of the regulations by the Department of the Interior, several groups filed suit in federal court in Washington, D.C., in an attempt to block the updated regulations, including the Brady Campaign to Prevent Gun Violence, the National Parks Conservation Association, and the Coalition of National Park Service Retirees.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

(1) That the Senate and the House of Representatives strongly support the updated regulation by the U.S. Department of the Interior regarding the possession and transportation of firearms in national park areas and national wildlife refuges and ardently oppose the attempts to block the updated federal regulation in federal court.

(2) That the updated federal regulation be affirmed as more consistent with Montana culture and Montana law than the prior regulation.

(3) That the Montana Attorney General, if the Attorney General determines that the Attorney General has standing, be strongly urged to intervene on behalf of the state and Montana citizens in the lawsuits filed to block the updated federal regulation in order to assert and protect the rights and prerogatives of the people of Montana.

(4) That the Montana Governor be urged to support this resolution.

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to the Montana Congressional Delegation, the Governor of Montana, and the Montana Attorney General within 10 days of adoption of this resolution.

Adopted April 3, 2009

## HOUSE JOINT RESOLUTION NO. 15

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA 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.

WHEREAS, recreational and tourism-related activities, including access to public and private lands for camping, picnicking, canoeing, viewing wildlife and scenery, boating, hiking, bicycling, and four-wheeling, are of great benefit to all Montanans and the state economy; and

WHEREAS, a respectful balance should be struck between the goals of providing public access and preserving private property rights; and



WHEREAS, there is concern that public access to an increasing number of private acres is in jeopardy, as private landowners utilize other income generators on their property that preclude allowing public access for recreational and tourism-related activities; and

WHEREAS, providing monetary incentives to private landowners has proven an effective tool through the block management and hunting and fishing access enhancement programs of the Department of Fish, Wildlife, and Parks to secure public access for hunters and anglers; and

WHEREAS, providing monetary incentives to private landowners who grant public access for recreational and tourism-related activities could be an effective tool for enhancing these opportunities in the state, as well as a less expensive alternative to current state efforts to obtain public access by purchasing property or easements that allow public access to private property.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to evaluate the feasibility of and possible funding sources for creating a program, similar in mission to the block management and hunting and fishing access enhancement programs of the Department of Fish, Wildlife, and Parks, that would provide monetary incentives on a per-user-day basis to private landowners who grant public access to their property for recreational and tourism-related activities.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2010.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 62nd Legislature.

Adopted April 3, 2009

## HOUSE JOINT RESOLUTION NO. 17

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA 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.

WHEREAS, nursing homes in Montana are experiencing a shortage of licensed nursing staff, particularly in the state's most rural communities; and

WHEREAS, the shortage is likely to only worsen as the baby boom generation continues to age and to seek health care services; and

WHEREAS, facilities are turning to agencies that supply traveling nurses to staff uncovered shifts in a practice that is not only expensive but also affects the delivery of care because the nurses are not familiar with the residents for whom they are caring; and

WHEREAS, to ensure availability of staff to provide care, there is a need to revise the service delivery in nursing homes to use resources that are available in Montana; and

WHEREAS, many states have developed a program of education, training, and certification to allow unlicensed assistive personnel, including certified nursing assistants, to become medication aides who are able to administer medications in nursing homes; and

WHEREAS, the establishment of this level of health care worker may help relieve the nursing shortage and improve the quality of care for nursing home residents by taking pressure off licensed nurses and providing them with more time for assessment and other complex nursing functions, by having medication aides who know the residents administer medications instead of traveling nurses who are not familiar with the residents, and by improving retention and recruitment of certified nursing assistants through a career ladder approach; and

WHEREAS, establishing a nursing home medication aide program in Montana is a complex situation that requires study to obtain information from and cooperation among multiple agencies and organizations; and

WHEREAS, a study of this nature is best accomplished with the assistance of parties that will be involved in regulating nursing homes, nursing services, and medication aides and with the assistance of service providers, professionals, consumers, and advocacy groups who hold vital information.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Department of Public Health and Human Services work in cooperation with the Department of Labor and Industry, the Board of Nursing, and other stakeholders to examine the use of medication aides in nursing homes and to develop a report for the 2011 Legislature that would discuss all provisions necessary for the safe and effective use of medication aides in nursing homes.

BE IT FURTHER RESOLVED, that the study should include but is not limited to:

(1) identifying other states where the use of medication aides is allowed in nursing homes in order to obtain and review information from those states about:

(a) the qualifications of medication aides, including the level and type of education and training required;

(b) the level of supervision by licensed nurses that may be required for medication aides;

(c) the restrictions on the types of medications or routes of medication administration for medication aides;

(d) the liability and licensure issues related to supervision by licensed nurses;

(e) any study, evaluation, or analysis completed by other states related to the use of medication aides;

(f) the problems encountered and successes achieved in the use of medication aides;

(g) the structure for the regulation and licensure or certification of medication aides; and

(h) other information considered pertinent to the study; and

(2) obtaining and reviewing information from appropriate state or national organizations related to the use of medication aides, including but not limited to the National Council of State Boards of Nursing and the American Society of Consultant Pharmacists.

BE IT FURTHER RESOLVED, that the Department of Public Health and Human Services in cooperation with the Department of Labor and Industry and the Board of Nursing identify and include in the study and in the development of any report the affected parties and stakeholders, including individuals or associations representing nursing homes, nurses, and medication aides, as well as other service providers and professionals, consumers, and advocacy groups.

BE IT FURTHER RESOLVED, that the Department of Public Health and Human Services report at least quarterly to the Children, Families, Health, and Human Services Interim Committee on the status of the study and that the Department prepare a final report, including any findings, conclusions, comments, or recommendations for the 62nd Legislature.

Adopted March 11, 2009

## HOUSE JOINT RESOLUTION NO. 22

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA 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.

WHEREAS, in the same year that Montana became a territory of the United States in 1864, President Abraham Lincoln signed legislation creating the national Statuary Hall, which stated in part: "...the President is hereby authorized to invite each and all the States to provide and furnish statues, in marble or bronze, not exceeding two in number for each State, of deceased persons who have been citizens thereof, and illustrious for their historic renown or for distinguished civic or military services such as each State may deem to be worthy of this national commemoration; and when so furnished the same shall be placed in the Old Hall of the House of Representatives, in the Capitol of the United States, which is set apart, or so much thereof as may be necessary, as a national statuary hall for the purpose herein indicated"; and

WHEREAS, in the year 1889 Montana was admitted into the Union as a state, thus conferring the right to provide and furnish two statues to be placed in Statuary Hall at the nation's Capitol; and

WHEREAS, in 1929 Montana Governor Erickson signed legislation approving Charles M. Russell as the first Montana citizen to be chosen for national commemoration in Statuary Hall; and

WHEREAS, on March 19, 1959, the State of Montana, after a large Montana parade accompanied by a large celebratory gathering in the nation's Capitol, formally gave to the United States for placement in Statuary Hall a bronze statue of Charles M. Russell sculpted by artist John B. Weaver; and

WHEREAS, the statue of Charles M. Russell has been on continuous display for 50 years as of March 19, 2009, and the State of Montana should officially

recognize through this resolution the 50th Anniversary of Montana's gift of the Charles M. Russell statue to the United States; and

WHEREAS, in 1983, Montana Governor Schwinden signed legislation approving Jeannette Rankin as the second Montana citizen to be chosen for national commemoration in Statuary Hall; and

WHEREAS, on May 1, 1985, emissaries of the State of Montana, accompanied by a large celebratory gathering in the nation's Capitol, formally gave to the United States for placement in Statuary Hall a bronze statue of Jeannette Rankin sculpted by artist Mary Theresa Mimnaugh; and

WHEREAS, the statue of Jeannette Rankin will have been on continuous display for 25 years as of May 1, 2010, and the State of Montana should officially recognize through this resolution the pending 25th Anniversary of Montana's gift of the Jeannette Rankin statue to the United States.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Senate and House of Representatives are of the opinion that the 50th Anniversary on March 19, 2009, of Montana's gift to the United States of the statue of Charles M. Russell and the pending 25th Anniversary on May 1, 2010, of Montana's gift to the United States of the statue of Jeannette Rankin deserve recognition and celebration.

Adopted March 18, 2009

## HOUSE JOINT RESOLUTION NO. 25

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA 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.

WHEREAS, frail elderly Montanans who need nursing home care and their families who assist them are experiencing difficulties with the application process by which Medicaid eligibility is determined; and

WHEREAS, it is often difficult for family members to obtain all of the documentation required because some of the original transactions occurred 30 or more years ago; and

WHEREAS, Montana nursing homes often wait months for eligibility to be determined and receive no payment during this period of time; and

WHEREAS, the federal and state laws and regulations related to Medicaid eligibility are very complex and subject to changing interpretation, making it difficult for those applying for Medicaid to understand and comply; and

WHEREAS, it is important that procedures and interpretations used in determining eligibility be understandable and reasonable, while at the same time ensuring that only those who meet eligibility criteria are deemed eligible to receive Medicaid benefits.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Department of Public Health and Human Services work in cooperation with all appropriate stakeholders, including nursing home care

providers, consumers, and other interested parties, to examine the issues related to difficulties being encountered by nursing homes and those seeking medical assistance for a nursing home stay.

BE IT FURTHER RESOLVED, that the study should include but is not limited to:

(1) identifying and examining difficulties experienced by those applying for Medicaid nursing home services;

(2) identifying and examining difficulties experienced by nursing homes related to the admission and care of those applying for Medicaid assistance;

(3) identifying and examining which parts of the eligibility determination process are dictated by state or federal laws and regulations;

(4) identifying and examining which parts of the eligibility determination process are based on state interpretations, policies, and procedures;

(5) identifying and examining any possible solutions to the issues and concerns presented by consumers and providers, including but not limited to discussion of expanded use of hardship provisions, more clarity with respect to expectations, establishment of parameters for what constitutes a good faith effort to obtain information sought by the state, provision of more specific information about the legal basis for denial of eligibility, financial relief to facilities that admit residents in crisis pending eligibility determination, and ability of applicants to transfer or assign annuities, life insurance policies, and property to the state when there is a dispute about the liquidity or value of the property;

(6) identifying and examining any costs related to identified solutions; and

(7) identifying and examining any other issues and concerns considered pertinent to the study.

BE IT FURTHER RESOLVED, that the Department of Public Health and Human Services report at least quarterly to the Children, Families, Health, and Human Services Interim Committee on the status of the study and that the Department prepare a final report, including any findings, conclusions, comments, or recommendations for the 62nd Legislature.

Adopted March 21, 2009

## HOUSE JOINT RESOLUTION NO. 27

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA 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.

WHEREAS, the U.S. Senate on December 9, 2008, passed Senate Resolution No. 719 celebrating American Indian and Alaska Native contributions to the United States and acknowledging the influence that the Iroquois, who call themselves the Haudenosaunne, and their concepts of freedom of speech, the separation of governmental powers, and checks and balances had on the drafting of the U.S. Constitution; and

WHEREAS, Article X, section 1, of the Montana Constitution declares that the State of Montana recognizes the distinct and unique cultural heritage of the

American Indians and is committed in its educational goals to the preservation of their cultural integrity; and

WHEREAS, it is fitting for the State of Montana to also recognize the contributions and heritage of the people who formed the first communities and nations in Montana; and

WHEREAS, the names commonly used to refer to the 12 American Indian tribes in Montana are not the names the people of these tribes use when referring to themselves in their own language; and

WHEREAS, to honor American Indian heritage in Montana, we should endeavor to learn to write and speak the name of each tribe in the tribe's own language; and

WHEREAS, if our educators, journalists, and public speakers learned and used these names when writing and speaking, the use of each tribe's name as used in the tribe's own language would become more common and the cultural and linguistic heritage of Montana's first peoples would be honored and preserved.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That all educators, journalists, and public speakers in Montana be urged to learn and use, when writing and speaking, the names of each tribe in Montana as used in the tribe's own language, as follows:

- (1) Amskapi Pikuni (Blackfeet, Blackfeet Reservation);
- (2) A'aniinen (Gros Ventres, Fort Belknap Reservation);
- (3) Apsaalooke (Crow, Crow Reservation);
- (4) Dakota (Sioux, Fort Peck Reservation);
- (5) K'tanaxa (Kootenai, Flathead Reservation);
- (6) Nakoda (Assiniboine, Fort Belknap Reservation);
- (7) Nakona (Assiniboine, Fort Peck Reservation);
- (8) Anishinabe (Chippewa, Rocky Boy's Reservation and Little Shell Tribe);
- (9) Qlispe (Pend d'Oreille, Flathead Reservation);
- (10) Sqeilo (Salish, Flathead Reservation);
- (11) Tse' tsehestahese (Cheyenne, Northern Cheyenne Reservation); and
- (12) Ne-iyah-wahk (Cree, Rocky Boy's Reservation).

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to every tribe, school district, newspaper, and elected statewide, district, and county official in this state.

Adopted March 18, 2009

## HOUSE JOINT RESOLUTION NO. 29

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA DESIGNATING MAY 12 AS RHEUMATOID ARTHRITIS AWARENESS DAY IN MONTANA.

WHEREAS, rheumatoid arthritis is an autoimmune disease that affects approximately 1.3 million Americans in all population groups; and

WHEREAS, nearly 70% of rheumatoid arthritis cases involve women; and

WHEREAS, a person suffering from rheumatoid arthritis has antibodies that target joint tissues and organs, often resulting in inflamed or thickened tissue linings and excess joint fluid; and

WHEREAS, rheumatoid arthritis may cause symptoms such as joint pain, swelling, inflammation and redness, fatigue, stiffness, weakness, muscle pain, loss of appetite, depression, and anemia; and

WHEREAS, if rheumatoid arthritis is left untreated, serious consequences can occur, including damage to the body's cartilage, bones, tendons, and ligaments, and these may, in turn, lead to joint deformity or destruction as well as a loss of joint function; and

WHEREAS, rheumatoid arthritis negatively affects Montana's economy by making it difficult for those afflicted with rheumatoid arthritis to work; and

WHEREAS, rheumatoid arthritis is not a curable disease but is treatable in consultation with a physician; and

WHEREAS, there is a severe shortage of rheumatologists in Montana; and

WHEREAS, there is a need to raise awareness in Montana regarding rheumatoid arthritis.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Montana Legislature designate May 12 as Rheumatoid Arthritis Awareness Day in Montana to help raise awareness of rheumatoid arthritis and increase treatment options for sufferers of rheumatoid arthritis.

BE IT FURTHER RESOLVED, that the Legislative Services Division post the designation of this day on the Montana Legislature's website.

Adopted March 14, 2009

### **HOUSE JOINT RESOLUTION NO. 30**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING THAT AN APPROPRIATE INTERIM OR STATUTORY COMMITTEE BE DESIGNATED TO STUDY WILDLAND FIRE SUPPRESSION.

WHEREAS, the Legislature created the Fire Suppression Committee during the September 2007 special legislative session, which was convened to appropriate the state's share of costs of the extreme 2007 wildland fire season; and

WHEREAS, the Fire Suppression Committee was charged with studying fire and land management policies and strategies with an eye toward examining ways to mitigate costs to state taxpayers; and

WHEREAS, the Fire Suppression Committee met at least monthly for a year to learn about the various aspects of wildland fire suppression, forest and grassland management, the wildland-urban interface, how fire costs are calculated, and how local, state, and federal agencies handle jurisdictional issues and policy differences; and

WHEREAS, after soliciting and receiving extensive public comment and traveling to seven communities around the state, the Fire Suppression Committee developed detailed predictions, conclusions, and recommendations for action aimed at private citizens and local, state, and federal wildland fire

agencies, all of which are provided in the committee's final report to the Legislature; and

WHEREAS, the Fire Suppression Committee agrees with those who have predicted that wildland fire seasons will only increase in duration, severity, and costs and its members believe that unless certain measures are taken, firefighters will be injured, communities will be destroyed, and lives may be lost; and

WHEREAS, an appropriate interim or statutory committee should be requested to continue the work of the Fire Suppression Committee, track each of the recommendations made by the Fire Suppression Committee, and monitor any legislation and appropriations made by the 61st Legislature to implement any Fire Suppression Committee recommendations.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim or statutory committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to:

(1) analyze whether and how each of the recommendations made by the Fire Suppression Committee established by Chapter 1, Special Laws of September 2007, in its 2008 report to the 61st Legislature has been implemented and which of those recommendations should be amended or reinforced;

(2) examine additional needs of local and state fire suppression entities;

(3) further investigate state and federal forest management policies, including how those policies may contribute to an increased number of wildfires, greater safety risk to firefighters and the public, and compromised effectiveness of fire suppression efforts, and avenues the Legislature may pursue to effect changes in those policies;

(4) examine the impact of climate change on forest lands; and

(5) examine any other aspect of wildland fire suppression and land management that the interim committee determines to be appropriate.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2010.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 62nd Legislature.

Adopted April 7, 2009

## HOUSE JOINT RESOLUTION NO. 32

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY TO EVALUATE THE ECONOMIC IMPACT OF HISTORIC PRESERVATION AND STRATEGIES FOR HISTORIC PRESERVATION.

WHEREAS, the State of Montana has a broad and diverse history that is reflected by its rich cultural legacy and outstanding heritage assets; and



WHEREAS, the State and the people of Montana value their history and heritage assets; and

WHEREAS, historic preservation, state stewardship, and heritage activities are embraced by many Montanans as ideals that reflect the best interests of communities and Montana; and

WHEREAS, preservation of historic and archeological resources, including buffalo jumps, tepee rings, battlefields, historic communities, heritage barns, centennial farms and ranches, historic mine yards, rail yards, schools, libraries, courthouses, neighborhoods, and commercial districts, is directly linked to maintaining our quality of life and identity of communities; and

WHEREAS, the State of Montana owns more than 1,000 historic properties and buildings and is responsible for their stewardship on behalf of the people of Montana. Many more are owned by federal, local, and tribal governments and by nonprofit and private entities interested in maintaining and protecting them.

WHEREAS, preservation of historic places and cultural resources is a proven method of economic stimulus that may provide substantial economic and cultural benefits to Montanans; and

WHEREAS, preservation of heritage resources is encouraged and facilitated through public support, investment, and incentives; and

WHEREAS, heritage programs in Montana adopted by various communities, including Montana Main Street, Preserve America, and Certified Local Government Preservation Programs, would be greatly enhanced through an ongoing, adequate state partnership and support; and

WHEREAS, many communities have expressed interest in participating in such programs if additional financial assistance were available; and

WHEREAS, policies such as fully funding the State Historic Preservation Office, the Montana Heritage Preservation and Development Commission, and state parks, maintaining an up-to-date inventory and assessment of state-owned heritage properties, and encouraging preservation statewide through the Montana Main Street Program, local and cultural districts, local preservation programs, state heritage tourism programs, a statewide revolving fund, enhanced state tax credits, local government bonding, the Cultural and Aesthetic Trust, and other potential funding mechanisms are in the interest of all Montanans and are all programs that deserve further evaluation.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF Montana:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to:

(1) conduct research on the impacts of historic preservation investment in Montana, including the stimulation of state and local commerce, the potential for collaborative heritage tourism programs and state heritage areas, and the development of incentive programs, such as revolving funds;

(2) evaluate the potential for state funding incentives with respect to offsetting the capital costs of sensitive historic renovation, including facade improvement and conversion of underutilized buildings to mixed residential and commercial functions;

(3) analyze the potential for implementing state programs to encourage preservation as a centerpiece for local economic development and tourism,

including the feasibility of expanding the Montana Main Street Program to support local efforts among participating communities in economic development and downtown revitalization;

(4) evaluate for effectiveness existing mechanisms for funding state historic preservation;

(5) explore a variety of currently unused historic preservation funding mechanisms that could be implemented on the state level to provide an ongoing revenue stream for support and encouragement of state agencies engaged in preservation heritage tourism;

(6) investigate the potential to leverage additional federal, local, and other private funding sources; and

(7) review existing statutory tools and their effectiveness in providing adequate oversight and encouraging stewardship of Montana's historic and cultural properties.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2010.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 62nd Legislature.

Adopted April 28, 2009

### HOUSE JOINT RESOLUTION NO. 33

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AND ACCEPTING THE FUNDS AVAILABLE TO THE STATE OF MONTANA UNDER THE AMERICAN RECOVERY AND REINVESTMENT ACT AND CERTIFYING THAT THE STATE OF MONTANA WILL USE THE FUNDS TO CREATE JOBS AND PROMOTE ECONOMIC GROWTH.

WHEREAS, the federal American Recovery and Reinvestment Act requires that states certify that they will request the funds by April 3, 2009; and

WHEREAS, the Act provides that either the Governor or the Legislature through joint resolution may apply on behalf of the state, and both the Executive and Legislative Branches of state government believe that these funds are essential for Montana's economy; and

WHEREAS, the funds made available to the state of Montana are essential to create jobs and aid in Montana's economic recovery; and

WHEREAS, the funds provide significant funding for Montana highways, bridges, water projects, and other infrastructure projects that directly put Montana workers back to work; and

WHEREAS, funding is provided for Montana schools to make school buildings energy efficient, and those energy savings result in property tax savings by reducing costs for education; and

WHEREAS, funding is provided that allows the state of Montana discretion to set its own priorities to ensure that programs important to this state remain in place; and

WHEREAS, the federal funds made available to the state of Montana are in fact federal taxes paid by Montana citizens; and

WHEREAS, House Bill No. 645 gives the Legislature the ability to appropriate the American Recovery and Reinvestment Act funds in a fiscally responsible manner.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the state of Montana requests the funds available to the state of Montana under the American Recovery and Reinvestment Act and accepts those funds and certifies that the state of Montana will use the funds to create jobs and promote economic growth.

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to the Director of the Office of Management and Budget and to the Montana Congressional Delegation.

Adopted April 1, 2009

### **HOUSE JOINT RESOLUTION NO. 35**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA 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.

WHEREAS, controversy over bonuses called attention to the topic of bonus payments for state employees and resulted in the introduction of three bills to restrict bonuses for certain types of employees and at certain times; and

WHEREAS, the three bills were House Bill No. 358 by Representative Bergren, House Bill No. 576 by Representative Warburton, and House Bill No. 594 by Representative Hunter; and

WHEREAS, each bill took a different approach to restricting bonuses and was aimed at a different issue related to bonus payments; and

WHEREAS, the House State Administration Committee heard each bill, tabled each bill because of unresolved questions on the bill, conducted informational and discussion sessions about pay and bonuses in state government, and decided that an interim legislative study on bonuses should be requested to encompass the issues raised by the tabled bills; and

WHEREAS, an interim legislative study will enable a thorough examination of pay policies and practices concerning bonuses paid to state employees and facilitate a systematic approach to drafting legislation for the next legislative session; and

WHEREAS, if interim committee workload precludes a full-fledged committee study, the study objectives outlined in this resolution can be accomplished through a staff white paper.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

(1) That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to:

(a) review each state agency's policies and practices on providing bonuses and compare and contrast how bonuses are paid to classified versus nonclassified employees within and among the agencies;

(b) examine how money appropriated for the 2008-2009 biennium under section 2-18-303(2), MCA, for purposes including but not limited to market progression, job performance, or employee competencies was used;

(c) examine whether any bonuses paid since July 1, 2007, were paid according to established guidelines and procedures and whether bonuses are considered an effective or necessary pay administration tool;

(d) identify and analyze issues and options related to how bonuses are or should be paid; and

(e) develop conclusions and offer recommendations, including any necessary implementing legislation, on how best to meet the policy goals listed in subsection (2) with respect to bonuses.

(2) That the legislative study of bonuses described in subsection (1) be conducted in the context of the following policy goals:

(a) transparency to avoid possible impropriety or the appearance of impropriety;

(b) accountability and oversight to ensure established procedures are followed and that there is ongoing monitoring and periodic review of policies and practices;

(c) equity within and among agencies to ensure that there is a sound rationale for flexible policies, variable practices, and exceptions; and

(d) definition and clarity in statewide as well as agency standards and guidelines governing how and why bonuses are to be given to employees in classified as well as nonclassified positions.

BE IT FURTHER RESOLVED, that the study include an examination of the pay and bonuses of only those employees whose compensation is within the scope of House Bill No. 13, the pay plan bill covering both classified and nonclassified positions in state government.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, the study's findings and conclusions, including any suggested legislation, be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2010.

BE IT FURTHER RESOLVED, that the final results of the study, including the study's findings, conclusions, recommendations, and suggested legislation, be reported to the 62nd Legislature.

Adopted April 20, 2009

## HOUSE JOINT RESOLUTION NO. 36

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA 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.

WHEREAS, the current economic conditions in the country and this state have increased unemployment to a seasonally adjusted 5.6% in January 2009 from a low of 3.3% in 2006, a situation aggravated, in part, by national conditions related to home mortgage problems, misuse of credit, and lack of personal savings; and

WHEREAS, a study by the University of Montana Bureau of Business and Economic Research for Montana Kids Count indicated that in 2006, through no fault of their own, 8% of Montana's children were in extreme poverty in families at 50% of the federal poverty level; and

WHEREAS, the Legislature recognizes that wealth in families goes beyond financial wealth but that lack of income in and of itself is associated with societal ills such as crime, a higher dropout rate, an inability to pursue an education that maximizes potential earnings, food insecurity, and an inability to access child care that allows single parents in particular to work at a full-time job with benefits; and

WHEREAS, the Legislature supports policies that empower not just the families shaken by current economic conditions but all those in long-term poverty and all Montana families and children who need tools that can build economic self-sufficiency and full participation in the Montana economy; and

WHEREAS, the current economic conditions and concerns about the future stability of Social Security benefits underscore the need for personal retirement savings so that all families have access to the so-called three-legged stool of retirement support: pensions, Social Security, and personal retirement or savings accounts; and

WHEREAS, better coordination of services among public, private, and nonprofit entities has the potential to expand resources used to boost family security in Montana and reduce poverty.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to examine the tools that public and private partnerships can provide to improve economic self-sufficiency, reviewing particularly policies related to:

- (1) building family assets, including the use of individual development accounts to promote home ownership, decrease debt, increase personal savings, and appropriately use and access credit;
- (2) workforce development, including increased education, training, and retraining in combination with economic development opportunities;
- (3) state regulation of credit, lending, and credit counseling; and
- (4) private, local, and state services or social support systems that provide a safety net for families not yet able to build assets, retrain, or access credit of any kind.

BE IT FURTHER RESOLVED, that the study:

(1) examine ways to increase effective delivery of services to those in poverty;

(2) include input from representatives of: families receiving temporary assistance for needy families, food banks, homeless shelters, veterans, senior citizens, tribal governments, day-care centers, banks, insurers, credit unions, pay-day lenders, pawnshop owners, and credit counseling services; and

(3) include policy recommendations for the 62nd Legislature.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2010.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 62nd Legislature.

Adopted April 21, 2009

### **HOUSE JOINT RESOLUTION NO. 39**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA 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.

WHEREAS, the Montana Legislature has passed statutes with the purpose, as stated in section 53-20-101, MCA, of providing developmentally disabled individuals with services that whenever possible will help them live in their communities in the least restrictive environment possible; and

WHEREAS, individuals with developmental disabilities who have mental illnesses also need to be served with care and compassion in the least restrictive environment that serves the individuals and the community; and

WHEREAS, studies in previous legislative interims have addressed issues regarding services for mentally ill Montanans, but have not addressed the specific issue of serving persons with developmental disabilities who also have mental illness; and

WHEREAS, developmentally disabled people who also are mentally ill may exhibit challenging or aggressive behaviors that put them at risk of involvement in the criminal justice system, where they are unlikely to receive the treatment and habilitation services they need and where they are at risk of victimization by other suspected and convicted offenders; and

WHEREAS, the Montana Legislature has an interest in reviewing community services for people with developmental disabilities who have mental illness or challenging or aggressive behaviors and in providing a forum for stakeholders to discuss options that may provide both urban and rural communities with flexibility in providing services, based on their varying levels of resources.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to study and monitor the development of community services for developmentally disabled children and adults with mental illness across the state and to respond to any underlying issues that have limited the development of community services.

BE IT FURTHER RESOLVED, that the committee include in its study of community services the following topics:

- (1) the ways in which community services should be planned for, prioritized, developed, and provided at the community level;
- (2) the types of community services that should be provided and the populations they could appropriately serve;
- (3) ways to encourage cooperation between and within communities in the planning, development, and provision of community services;
- (4) funding and cost considerations in the provision of community services;
- (5) the ways in which individuals may be identified and served in the community at the youngest possible age; and
- (6) any other topics identified by the committee.

BE IT FURTHER RESOLVED, that the study engage the public and relevant stakeholders, including the Department of Public Health and Human Services and Department of Corrections, to identify any barriers to providing services and to develop findings and recommendations for the next legislative session.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2010.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 62nd Legislature.

Adopted April 24, 2009

## House Resolutions

### HOUSE RESOLUTION NO. 1

A RESOLUTION OF THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA ADOPTING THE HOUSE RULES.

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the following rules be adopted:

RULES OF THE MONTANA  
HOUSE OF REPRESENTATIVES

**CHAPTER 1**

**Administration**

**H10-10. House officers — definitions.** (1) House officers include a Speaker, a Speaker pro tempore, majority and minority leaders, and majority and minority whips (section 5-2-221, MCA).

(2) A majority of representatives voting elects the Speaker and Speaker pro tempore from the House membership. A majority of each caucus voting nominates House members to the remaining offices, and those nominees are considered to have been elected by a majority vote of the House.

(3) (a) “Majority leader” means the leader of the majority party, elected by the caucus as provided in 5-2-221.

(b) “Majority party” means the party with the most members, subject to subsection (4).

(c) “Minority leader” means the leader of the minority party, elected by the caucus as provided in 5-2-221.

(d) “Minority party” means the party with the second most members, subject to subsection (4).

(4) If there are an equal number of members of the two parties with the most members, then the majority party is the party of the Speaker and the minority party is the other party with an equal number of members.

**H10-20. Speaker’s duties.** (1) The Speaker is the presiding officer of the House, with authority for administration, order, decorum, and the interpretation and enforcement of rules in all House deliberations.

(2) The Speaker shall see that all members conduct themselves in a civil manner in accordance with accepted standards of parliamentary conduct. The Speaker may, when necessary, order the Sergeant-at-Arms to clear the aisles and seat the members of the House so that business may be conducted in an orderly manner.

(3) Signs, placards, or other objects of a similar nature are not permitted in the rooms, lobby, gallery, or on the floor of the House. The Speaker may order the galleries, lobbies, or hallway cleared in case of disturbance or disorderly conduct.

(4) The Speaker shall sign all necessary certifications by the House, including enrolled bills and resolutions, journals (section 5-11-201, MCA), subpoenas, and payrolls.

(5) The Speaker shall arrange the agendas for second and third readings each legislative day. Representatives may amend the agendas as provided in H40-130.

(6) The Speaker is the chief officer of the House, with authority for all House employees.

(7) The Speaker may name any member to perform the duties of the chair. If the House is not in session and the Speaker pro tempore is not available, the Speaker shall name a member who shall call the House to order and preside during the Speaker’s absence.

(8) Upon request of the Minority Leader, the Speaker will submit a request for a fiscal note on any bill.



**H10-30. Speaker-elect.** During the transition period between the party organization caucuses and the election of House officers, the Speaker-elect has the responsibilities and authority appropriate to organize the House (section 5-2-202, MCA). Authority includes approving pre-session expenditures.

**H10-40. Speaker pro tempore duties.** The Speaker pro tempore shall, in the absence or inability of the Speaker, call the House to order and perform all other duties of the chair in presiding over the deliberations of the House and shall perform other duties and exercise other responsibilities as may be assigned by the Speaker.

**H10-50. Majority Leader.** The primary functions of the majority leader usually relate to floor duties. The duties of the majority leader may include but are not limited to:

- (1) being the lead speaker for the majority party during floor debates;
- (2) helping the Speaker develop the calendar;
- (3) assisting the Speaker with program development, policy formation, and policy decisions; and
- (4) presiding over the majority caucus meetings; and
- (5) other duties as assigned by the caucus.

**H10-60. Majority Whip.** The duties of the majority whip may include but are not limited to:

- (1) assisting the majority leader;
- (2) ensuring member attendance;
- (3) counting votes;
- (4) generally communicating the majority position; and
- (5) other duties as assigned by the caucus.

**H10-70. Minority Leader.** The minority leader is the principal leader of the minority caucus. The duties of the minority leader may include but are not limited to:

- (1) developing the minority position;
- (2) negotiating with the majority party;
- (3) directing minority caucus activities on the chamber floor;
- (4) leading debate for the minority; and
- (5) other duties as assigned by the caucus.

**H10-80. Minority Whip.** The major responsibilities for the minority whip may include but are not limited to:

- (1) assisting the minority leader on the floor;
- (2) counting votes;
- (3) ensuring attendance of minority party members; and
- (4) other duties as assigned by the caucus.

**H10-90. Employees.** (1) The Speaker shall appoint a Chief Clerk and Sergeant-at-Arms and may appoint a Chaplain, subject to confirmation of the House (section 5-2-221, MCA).

(2) The Speaker shall employ necessary staff or delegate that function to the employees designated in subsection (1). All House staff hired to date will be retained.

(3) The secretary for a standing or select committee is generally responsible to the committee chair but shall work under the direction of the Chief Clerk.

(4) The Speaker and majority and minority leaders may each appoint a private secretary.

**H10-100. Chief Clerk's duties.** The Chief Clerk, under the supervision of the Speaker, is the chief administrative officer of the House and is responsible to:

- (1) supervise all House employees;
- (2) have custody of all records and documents of the House;

(3) supervise the handling of legislation in the House, the House journal, and other House publications; deliver to the Secretary of State at the close of each session the House journal, bill and resolution records, and all original House bills and joint resolutions; collect minutes and exhibits from all House committees and subcommittees and arrange to have them printed on archival paper and copied in an electronic format within a reasonable time after each meeting. An electronic copy will be provided to the Legislative Services Division and the State Law Library of Montana. The archival paper copy will be delivered to the Montana Historical Society.

**H10-110. Duties of Sergeant-at-Arms.** The Sergeant-at-Arms shall:

(1) under the direction of the Speaker and the Chief Clerk, have charge of and maintain order in the House, its lobbies, galleries, and hallways and all other rooms in the Capitol assigned for the use of the House;

(2) be present whenever the House is in session and at any other time as directed by the presiding officer;

(3) execute the commands of the House and serve the writs and processes issued by the authority of the House and directed by the Speaker;

(4) supervise assistants to the Sergeant-at-Arms, who shall aid in the performance of prescribed duties and who have the same authority, subject to the control of the Speaker;

(5) clear the floor and anteroom of the House of all persons not entitled to the privileges of the floor prior to the convening of each session of the House;

(6) bring in absent members when so directed under a call of the House;

(7) enforce the distribution of any printed matter in the House chambers and anteroom in accordance with H20-70;

(8) enforce parking regulations applicable to areas of the Capitol complex under the control of the House;

(9) supervise the doorkeeper; and

(10) supervise the pages.

**H10-120. Legislative aides.** (1) A legislative aide is a person specifically designated by a representative to assist that representative in performing legislative duties. A representative may sponsor one legislative aide a session by written notification to the Sergeant-at-Arms.

(2) No representative may designate a second legislative aide in the same session without the approval of the House Rules Committee.

(3) A legislative aide must be of legal age unless otherwise approved by the House Rules Committee.

(4) The Sergeant-at-Arms shall issue distinctive identification tags to legislative aides. The cost must be paid by the sponsoring representative.

**H10-130. Legislative interns.** A legislative intern is a person designated under Title 5, chapter 6, MCA.

**H10-140. House journal.** (1) The House shall keep a journal, which is the official record of House actions (Montana Constitution, Art. V, Sec. 10). The journal must be prepared under the direction of the Speaker.

(2) Records of the following proceedings must be entered on the journal:

(a) the taking and subscription of the constitutional oath by representatives (Montana Constitution, Art. III, Sec. 3; 5-2-214);

(b) committee reports;

(c) messages from the Governor;

(d) messages from the Senate;

(e) every motion, the name of the representative presenting it, and its disposition;

(f) the introduction of legislation in the House;

(g) consideration of legislation subsequent to introduction;

(h) on final passage of legislation, the names of the representatives and their vote on the question (Montana Constitution, Art. V, Sec. 11);

(i) roll call votes; and

(j) upon a request by two representatives before a vote is taken, the names of the representatives and their votes on the question.

(3) The Chief Clerk shall provide to the Legislative Services Division such information as may be required for the publication of the daily journal.

(4) Any representative may examine the daily journal and propose corrections. The Speaker may direct a correction to be made when suggested subject to objection by the House.

(5) The Speaker shall authenticate the House journal after the close of the session (section 5-11-201, MCA).

(6) The Legislative Services Division shall publish and distribute the House journal (sections 5-11-202 and 5-11-203, MCA). The title of each bill must be listed in the index of the published session journal.

**H10-150. Votes recorded and public.** Every vote of each representative on each substantive question in the House, in any committee, or in Committee of the Whole must be recorded and made public (Montana Constitution, Art. V, Sec. 11).

**H10-160. Duration of legislative day.** A legislative day ends either 24 hours after the House convenes for that day or at the time the House convenes for the following legislative day, whichever is earlier. (See Joint Rule 10-20.)

## CHAPTER 2

### Decorum

**H20-10. Addressing the House — recognition.** (1) When a member desires to speak to or address any matter to the House, the member should rise and respectfully address the Speaker or the presiding officer.

(2) The Speaker or presiding officer may ask, "For what purpose does the member rise?" or "For what purpose does the member seek recognition?" and

may then decide if recognition is to be granted. There is no appeal from the Speaker's or presiding officer's decision.

**H20-20. Questions of order and privilege.** (1) The Speaker shall decide all questions of order and privilege, subject to an appeal by any representative seconded by two representatives. The question on appeal is, "Shall the decision of the chairman be sustained?"

(2) Responses to parliamentary inquiries and decisions of recognition may not be appealed.

(3) Questions of order and privilege, in order of precedence, are:

(a) those affecting the collective rights, safety, dignity, and integrity of the House; and

(b) those affecting the rights, reputation, and conduct of individual representatives.

(4) A member may not address the House on a question of privilege between the time:

(a) an undebatable motion is offered and the vote is taken on the motion;

(b) the previous question is ordered and the vote is taken on the proposition included under the previous question; or

(c) a motion to lay on the table is offered and the vote is taken on the motion.

**H20-30. Limits on lobbying.** Lobbying on the House floor and in the anteroom is prohibited during a daily session, 2 hours before the session, and 2 hours after the session.

**H20-40. Admittance to the House floor.** (1) The following persons may be admitted to the House floor during a daily session: present and former legislators; legislative employees necessary for the conduct of the session; accredited news staff; and members' spouses and children. The Speaker may allow exceptions to this rule.

(2) Only a member may sit in a member's chair when the House is in session.

**H20-50. Dilatory motions or questions.** The House has a right to protect itself from dilatory motions or questions used for the purpose of delaying or obstructing business. The presiding officer shall decide if motions (except a call of the House) or questions are dilatory. This decision may be appealed to the House.

**H20-60. Lobbying by employees.** (1) A legislative employee, intern, or aide of either house is prohibited from lobbying, although a legislative committee may request testimony from a person so restricted.

(2) The Speaker may discipline or discharge any House employee violating this prohibition. The Speaker may withdraw the privileges of any House aide or intern violating this prohibition.

**H20-70. Papers distributed on desks.** A paper concerning proposed legislation may not be placed on representatives' desks unless it is authorized by a member and permission has been granted by the Speaker. The Sergeant-at-Arms shall direct its distribution. This restriction does not apply to material prepared by staff and placed on a representative's desk at the request of the representative.

**H20-80. Violation of rules.** (1) If a member, in speaking or otherwise, violates the rules of the House, the Speaker shall, or the majority or minority

leader may, call the member to order, in which case the member called to order must be seated immediately.

(2) The member called to order may move for an appeal to the House and if the motion is seconded by two members, the matter must be submitted to the House for determination by majority vote. The motion is nondebatable.

(3) If the decision of the House is in favor of the member called to order, the member may proceed. If the decision is against the member, the member may not proceed.

(4) If a member is called to order, the matter may be referred to the Rules Committee by the majority or minority leader. The Committee may recommend to the House that the member be censured or be subject to other action. The House shall act upon the recommendation of the Committee.

### CHAPTER 3

#### Committees

**H30-10. House standing committees — appointments — classification.** (1) Each standing committee must be composed of an equal number of members of each political party. The Speaker shall determine the total number of members and after good faith consultation with the minority leader shall appoint the members to the standing committees.

(2) The standing committees of the House are as follows:

(a) class one committees:

- (i) Appropriations;
- (ii) Business and Labor;
- (iii) Judiciary;
- (iv) State Administration; and
- (v) Taxation;

(b) class two committees:

- (i) Education;
- (ii) Federal Relations, Energy, and Telecommunications;
- (iii) Human Services;
- (iv) Natural Resources; and
- (v) Transportation;

(c) class three committees:

- (i) Agriculture;
- (ii) Fish, Wildlife, and Parks; and
- (iii) Local Government; and

(d) on call committees:

- (i) Ethics;
- (ii) Rules; and
- (iii) Legislative Administration.

(3) A class 1 committee is scheduled to meet Monday through Friday. A class 2 committee is scheduled to meet Monday, Wednesday, and Friday. A class 3 committee is scheduled to meet Tuesday and Thursday. Unless a class is prescribed for a committee, it meets upon the call of the chair.

(4) The Legislative Council shall review the workload of the standing committees to determine if any change is indicated in the class of a standing committee for the next legislative session. The Legislative Council's recommendations must be submitted to the leadership nominated or elected at the pre-session caucus provided for in 5-2-201.

(5) (a) The Democrats will chair the following standing committees: Agriculture; Appropriations; Business and Labor; Education; Fish, Wildlife, and Parks; Federal Relations, Energy, and Telecommunications; Human Services; and Rules.

(b) The Republicans will chair the following standing committees: Ethics; Judiciary; Legislative Administration; Local Government; Natural Resources; State Administration; Taxation; and Transportation.

(c) The Speaker shall appoint the Democratic committee chairmen and vice chairmen and the minority leader, in consultation with the Speaker, shall appoint the Republican committee chairmen and vice chairmen. The power to remove a chairman, vice chairman, or member from a committee resides in the Speaker for Democratic members and with the minority leader for Republican members.

(6) There will be six subcommittees of the Committee on Appropriations. The Democrats will chair the subcommittees on Education, General Government and Transportation, Health and Human Services, and Natural Resources. The Republicans will chair the subcommittees on Corrections and Long-Range Planning.

(7) The Speaker shall give notice of each appointment to the Chief Clerk for publication.

(8) The Speaker may, in the Speaker's discretion or as authorized by the House, create and appoint select committees, designating the chairman and vice chairman of the select committee. Select committees may request or receive legislation in the same manner as a standing committee and are subject to the rules of standing committees.

**H30-20. Chairman's duties.** (1) The principal duties of the chairman of standing or select committees are to:

- (a) preside over meetings of the committee and to put all questions;
- (b) maintain order and decide all questions of order subject to appeal to the committee;
- (c) supervise and direct staff of the committee;
- (d) have the committee secretary keep the official record of the minutes;
- (e) sign reports of the committee and submit them promptly to the Chief Clerk;
- (f) appoint subcommittees to perform on a formal or an informal basis as provided in subsection (2); and
- (g) inform the Speaker of committee activity.

(2) With the exception of the House Appropriations subcommittees, a subcommittee of a standing committee may be appointed by the chairman of the committee. A subcommittee must be composed of an equal number of members from each political party. The chairman of the standing committee shall appoint the chairman of the subcommittee.

**H30-30. Quorum — officers as members.** (1) A quorum of a committee is a majority of the members of the committee. A quorum of a committee must be present at a meeting to act officially. A quorum of a committee may transact business, and a majority of the quorum, even though it is a minority of the committee, is sufficient for committee action.

(2) The Speaker, the majority leader, and the minority leader are ex officio, nonvoting members of all House committees. They may count toward establishing a quorum.

**H30-40. Meetings.** (1) All meetings of committees must be open to the public at all times, subject always to the power and authority of the chairman to maintain safety, order, and decorum. The date, time, and place of committee meetings must be posted.

(2) A committee or subcommittee may be assembled for:

(a) a public hearing at which testimony is to be heard and at which official action may be taken on bills, resolutions, or other matters;

(b) a formal meeting at which the committees may discuss and take official action on bills, resolutions, or other matters without testimony; or

(c) a work session at which the committee may discuss bills, resolutions, or other matters but take no formal action.

(3) All committees meet at the call of the chairman or upon the request of a majority of the members of the committee directed to and with the approval of the Speaker.

(4) All committees shall provide for and give public notice, reasonably calculated to give actual notice to interested persons, of the time, place, and subject matter of regular and special meetings. All committees are encouraged to provide at least 3 legislative days notice to members of committees and the general public. However, a meeting may be held upon notice appropriate to the circumstances.

(5) A committee may not meet during the time the House is in session without leave of the Speaker. Any member attending such a meeting must be considered excused to attend business of the House subject to a call of the House.

(6) All meetings of committees must be recorded and the minutes must be available to the public within a reasonable time after the meeting. The official record must contain at least the following information:

(a) the time and place of each meeting of the committee;

(b) committee members present, excused, or absent;

(c) the names and addresses of persons appearing before the committee, whom each represents, and whether the person is a proponent, opponent, or other witness;

(d) all motions and their disposition;

(e) the results of all votes;

(f) references to the recording log, sufficient to serve as an index to the original recording; and

(g) testimony and exhibits submitted in writing.

**H30-50. Procedures.** (1) The chairman shall notify the sponsor of any bill pending before the committee of the time and place it will be considered.

(2) A standing or select committee may not take up referred legislation unless the sponsor or one of the cosponsors is present or unless the sponsor has given written consent. The chairman shall attempt to not schedule Senate bills while the Senate is in session.

(3) The committee shall act on each bill in its possession:

(a) by reporting the bill out of the committee:

(i) with the recommendation that it be referred to another committee;

(ii) favorably as to passage; or

(iii) unfavorably; or

(b) by tabling the measure in committee.

(4) The committee may not report a bill to the House without recommendation.

(5) The committee may recommend that a bill on which it has made a favorable recommendation by unanimous vote be placed on the consent calendar. A tie vote in a standing committee on the question of a recommendation to the whole House on a matter before the committee, for example on a question of whether a bill is recommended as "do pass" or "do not pass", does not result in the matter passing out to the whole House for consideration without recommendation.

(6) In reporting a measure out of committee, a committee shall include in its report:

(a) the measure in the form reported out;

(b) the recommendation of the committee;

(c) an identification of all substantive changes; and

(d) a fiscal note, if required.

(7) If a measure is withdrawn from a committee and brought to the House floor for debate on second reading on that day without a committee recommendation, the bill does not include amendments formally adopted by the committee because committee amendments are merely recommendations to the House that are formally adopted when the committee report is accepted by the House.

(8) A second to any motion offered in a committee is not required in order for the motion to be considered by the committee.

(9) The vote of each member on all committee actions must be recorded. All motions may be adopted only on the affirmative vote of a majority of the members voting.

(10) A motion to take a bill from the table may be adopted by the affirmative vote of a majority of the members present at any meeting of the committee.

(11) An action formally taken by a committee may not be altered in the committee except by reconsideration and further formal action of the committee.

(12) A committee may reconsider any action as long as the matter remains in the possession of the committee. A committee member need not have voted with the prevailing side in order to move reconsideration.

(13) Any legislation requested by a committee requires three-fourths of all members of the committee to vote in favor of the question to allow the committee



to request the drafting or introduction of legislation. Votes requesting drafting and introduction of committee legislation may be taken jointly or separately.

(14) The chairman shall decide points of order.

(15) The privileges of committee members include the following:

(a) to participate freely in committee discussions and debate;

(b) to offer motions;

(c) to assert points of order and privilege;

(d) to question witnesses upon recognition by the chairman;

(e) to offer any amendment to any bill; and

(f) to vote, either by being present or by proxy, using a standard form or through the vice chairman or minority vice chairman.

(16) Any meeting of a committee held through the use of telephone or other electronic communication must be conducted in accordance with Chapter 3 of the House Rules.

(17) A committee may consolidate into one bill any two or more related bills referred to it whenever legislation may be simplified by the consolidation.

(18) Committee procedure must be informal, but when any questions arise on committee procedure, the rules or practices of the House are applicable except as stated in the House Rules.

**H30-60. Public testimony.** (1) Testimony from proponents, opponents, and informational witnesses must be allowed on every bill or resolution before a standing or select committee. All persons, other than the sponsor, offering testimony shall register on the committee witness list.

(2) Any person wishing to offer testimony to a committee hearing a bill or resolution must be given a reasonable opportunity to do so, orally or in writing. Written testimony may not be required of any witness, but all witnesses must be encouraged to submit a statement in writing for the committee's official record.

(3) The chairman may order the committee room cleared of visitors if there is disorderly conduct. During committee meetings, visitors may not speak unless called upon by the chairman. Restrictions on time available for testimony may be announced.

(4) The number of people in a committee room may not exceed the maximum posted by the State Fire Marshal. The chairman shall maintain that limit.

(5) In any committee meeting, the use of cameras, television, radio, or any form of telecommunication equipment is allowed, but the chairman may designate the areas of the hearing room from which the equipment must be operated. Cell phone use is allowed only at the discretion of the chairman.

## CHAPTER 4

### Legislation

**H40-10. Introduction deadlines.** If a representative accepts drafted legislation from the Legislative Services Division after the deadline for preintroduction, the representative may not introduce that legislation after 2 legislative days from the time the bill was accepted from the Legislative Services Division.

**H40-20. House resolutions.** (1) A House resolution is used to adopt or amend House rules, make recommendations on the districting and

apportionment plan (Montana Constitution, Art. V, Sec. 14), express the sentiment of the House, or assist House operations.

(2) As to drafting, introduction, and referral, a House resolution is treated as a bill. A House resolution may be requested and introduced at any time. Final passage of a House resolution is determined by the Committee of the Whole report. A House resolution does not progress to third reading.

(3) The Chief Clerk shall transmit a copy of each passed House resolution to the Senate and the Secretary of State.

**H40-30. Cosponsors.** (1) Prior to submitting legislation to the Chief Clerk for introduction, the chief sponsor may add representatives and senators as cosponsors by having them sign the legislation.

(2) After legislation is submitted for introduction but before the legislation returns from the first House committee, the chief sponsor may add or remove cosponsors by filing a cosponsor form with the Chief Clerk. This filing must be noted by the Chief Clerk for the record on Order of Business No. 11.

**H40-40. Introduction — receipt.** (1) During a session, proposed House legislation may be introduced in the House by submitting it, endorsed with the signature of a representative as chief sponsor, to the Chief Clerk for introduction. Except for the first 15 bill numbers that may be reserved for preintroduced legislation, in each session of the Legislature, the proposed legislation must be numbered consecutively by type in the order of receipt. Submission and numbering of properly endorsed legislation constitutes introduction.

(2) Preintroduction of legislation prior to a session under provisions of the joint rules constitutes introduction in the House.

(3) Acknowledgment by the Chief Clerk of receipt of legislation or other matters transmitted from the Senate for consideration by the House constitutes introduction of the Senate legislation in the House or receipt by the House for purposes of applying time limits contained in the House rules. All legislation may be referred to a committee prior to being read across the rostrum as provided in H40-50.

(4) Acknowledgment by the Chief Clerk of receipt of messages from the Senate or other elected officials constitutes receipt by the House for purposes of any applicable time limit. Senate legislation or messages received from the Senate or elected officials are subject to all other rules.

**H40-50. First reading.** Legislation properly introduced or received in the House must be announced across the rostrum and public notice provided. This announcement constitutes first reading, and no debate or motion is in order except that a representative may question adherence to rules. Acknowledgment by the Chief Clerk of receipt of legislation transmitted from the Senate commences the time limit for consideration of the legislation. All legislation received by the House may be referred to a committee prior to being read across the rostrum.

**H40-60. One reading per day.** Except on the final legislative day, legislation may receive no more than one reading per legislative day. On the final legislative day, legislation may receive more than one reading.

**H40-70. Referral.** (1) The Speaker shall refer to a House committee, joint select committee, or joint special committee all properly introduced House legislation and transmitted Senate legislation in conformity to the committee jurisdiction.

(2) Legislation may not receive final passage and approval unless it has been referred to a House committee, joint select committee, or joint special committee.

**H40-80. Rereferral — normal progression.** (1) Except as provided in subsection (2), legislation that is in the possession of the House and that has not been finally disposed of may be rereferred to a House committee by House motion approved by not less than three-fifths of the members present and voting.

(2) Legislation that is in the possession of the House and that has been reported from a committee with a do pass or be concurred in recommendation may be rereferred to a House committee by a majority vote.

(3) The normal progress of legislation through the House consists of the following steps in the order listed: introduction; referral to a standing or select committee; a report from the committee; second reading; and third reading.

**H40-90. Legislation withdrawn from committee.** Legislation may be withdrawn from a House committee by House motion approved by not less than three-fifths of the members present and voting.

**H40-100. Standing committee reports.** (1) A House standing committee recommendation of “do pass” or “be concurred in” must be announced across the rostrum and, if there is no objection to form, is considered adopted.

(2) A recommendation of “do not pass” or “be not concurred in” must be announced across the rostrum and, on the following legislative day, may be debated and adopted or rejected on Order of Business No. 2. A motion to reject an adverse committee report must be approved by not less than three-fifths of the members voting. Failure to adopt a motion to reject an adverse committee report constitutes adoption of the report.

(3) If the House rejects an adverse committee report, the bill progresses to second reading, as scheduled by the Speaker, with any amendments recommended by the committee.

**H40-110. Consent calendar procedure.** (1) Noncontroversial bills and simple and joint resolutions may be recommended for the consent calendar by a standing committee and processed according to the following provisions:

(a) To be eligible for the consent calendar, the legislation must receive a unanimous vote by the members of the standing committee in attendance (do pass, do pass as amended). In addition, a motion must be made and passed unanimously to place the legislation on the consent calendar and this action reflected in the committee report. Appropriation or revenue bills may not be recommended for the consent calendar.

(b) The legislation must then be sent to be processed and reproduced as a third reading version and specifically marked as a “consent calendar” item.

(2) Other legislation may be placed on the consent calendar by agreement between the Speaker and the minority leader following a positive recommendation by a standing committee. The legislation must be sent to be processed as a second reading version but must be specifically announced and posted as a “consent calendar” item.

(3) Legislation must be posted immediately (as soon as it is received appropriately printed) on the consent calendar and must remain there for 1 legislative day before consideration under Order of Business No. 11, special orders of the day. At that time, the presiding officer shall announce

consideration of the consent calendar and allow "reasonable time" for questions and answers upon request. No debate is allowed.

(4) If any one representative submits a written objection to the placement of legislation on the consent calendar, the legislation must be removed from the consent calendar and added to the regular second reading board.

(5) Consent calendar legislation will be considered on Order of Business No. 8, third reading of bills, following the regular third reading agenda, as separately noted on the agenda.

(6) Legislation on the consent calendar must be considered individually with the roll call vote spread on the journal as the final vote in the House.

(7) Legislation passed on the consent calendar must then be transmitted to the Senate. Legislation must be appropriately printed prior to transmittal.

**H40-120. Legislation requiring other than a majority vote.** Legislation that requires other than a majority vote for final passage needs only a majority vote for any action that is taken prior to third reading and that normally requires a majority vote.

**H40-130. Amending House second and third reading agendas.** (1) A majority of representatives present may rearrange or remove legislation from either the second or third reading agenda on that legislative day.

(2) Legislation may be added to the second or third reading agenda on that legislative day on a motion approved by not less than three-fifths of the members present and voting.

**H40-140. Second reading.** (1) Legislation returned from committee may be placed on second reading unless otherwise ordered by the House.

(2) The House shall form itself into a Committee of the Whole to consider business on second reading. The Committee of the Whole may debate legislation, attach amendments, and recommend approval or disapproval of legislation.

(3) Except on the final legislative day, at least 1 legislative day must elapse between the time legislation is reported from committee and the time it is considered on second reading.

(4) If a motion to recommend that a bill "do pass" or "be concurred in" fails in the Committee of the Whole, the obverse, i.e., a recommendation that the bill "do not pass" or "be not concurred in", is considered to have passed. If a motion to recommend that a bill "do not pass" or "be not concurred in" fails in the Committee of the Whole, the obverse, i.e., a recommendation that the bill "do pass" or "be concurred in", is considered to have passed.

(5) An amendment attached to legislation by the Committee of the Whole remains unless removed by further legislative action.

(6) When the Committee of the Whole reports to the House, the House shall adopt or reject the Committee of the Whole report. If the House rejects the Committee of the Whole report, the legislation remains on second reading, as amended by the Committee of the Whole, unless the House orders otherwise.

(7) A representative may move to segregate legislation from the Committee of the Whole report before the report is adopted. Segregated legislation, as amended by the Committee of the Whole, must be placed on second reading unless the House orders otherwise. Amendments adopted by the Committee of the Whole on segregated legislation remain adopted unless reconsidered or unless the legislation is rereferred to a committee.

**H40-150. Amendments in the Committee of the Whole.** (1) All Committee of the Whole amendments must be checked by the House amendments coordinator for format, style, clarity, consistency, and other factors, in accordance with the most recent Bill Drafting Manual published by the Legislative Services Division, before the amendment may be accepted at the rostrum. The amendment form must include the date and time the amendment is submitted for that check.

(2) An amendment submitted to the rostrum for consideration by the Committee of the Whole must be marked as checked by the amendments coordinator and signed by a representative. Unless the majority leader, the minority leader, and sponsor agree, amendments must be printed and placed on the members' desks prior to consideration.

(3) An amendment may not be proposed until the sponsor has opened on a bill.

(4) A copy of every amendment rejected by the Committee of the Whole must be kept as part of the official records.

(5) An amendment may not change the original purpose of the bill.

**H40-160. Motions in the Committee of the Whole.** (1) When the House resolves itself into a Committee of the Whole, the only motions in order are to:

(a) amend;

(b) recommend passage or nonpassage;

(c) recommend concurrence or nonconcurrence;

(d) reconsider;

(e) pass consideration;

(f) call for cloture;

(g) rise, rise and report, or rise and report progress and beg leave to sit again; and

(h) to change the order in which legislation is placed on the agenda.

(2) Subsections (1)(d) through (1)(g) are nondebatable but may be amended. Once a motion under subsection (1)(b) or (1)(c) is made, a contrary motion is not in order.

(3) If a quorum of representatives is not present during second reading, the Committee of the Whole may not conduct business on legislation and a motion for a call of the House without a quorum is in order.

**H40-170. Limits on debate in the Committee of the Whole.** (1) Except as provided in H40-180, a representative may not speak more than once on the motion and may speak for no more than 5 minutes. The representative who makes the motion may speak a second time for 5 minutes in order to close.

(2) After at least two proponents and two opponents have spoken on a question and 30 minutes have elapsed, a motion to call for cloture is in order. Approval by not less than two-thirds of the members present and voting is required to sustain a motion for cloture. Notwithstanding the passage of a motion to end debate, the sponsor of the motion on which debate was ended may close.

(3) By previous agreement of the majority leader and the minority leader:

(a) a lead proponent and a lead opponent may be granted additional time to speak on a bill;

(b) a bill or resolution may be allocated a predetermined amount of time for debate and number of speakers.

**H40-180. Special provisions for debate on the general appropriations bill.** (1) The Appropriations Committee chairman, in presenting the bill, is not subject to the 5-minute speaking limitation.

(2) Each appropriations subcommittee chairman shall fully present the chairman's portion of the bill. A subcommittee chairman is not subject to the 5-minute speaking limitation.

(3) After the presentation by the subcommittee chairman, the respective section of the bill is open for debate, questions, and amendments. A proposed amendment to the general appropriations act may not be divided.

(4) An amendment that affects more than one section of the bill must be offered when the first section affected is considered.

(5) Following completion of the debate on each section, that section is closed and may not be reopened except by majority vote.

(6) If a member moves to reopen a section for amendment, only the amendment of that member may be entertained. Another member wishing to amend the same section shall make a separate motion to reopen the section.

(7) Debate on the motion to reopen a section is limited to the question of reopening the section. The amendment itself may not be debated at that time. This limitation does not prohibit the member from explaining the amendment to be considered.

**H40-190. Engrossing.** (1) After legislation is passed on second reading, it must be engrossed within 48 hours under the direction of the Speaker. The Speaker may grant additional time for engrossing.

(2) When the legislation that has passed second reading, as amended, has been correctly engrossed, it must be placed on third reading on the following legislative day. If the bill is not amended, the bill must be sent to printing and must be placed on third reading on the legislative day after receipt. On the final legislative day, the correctly engrossed legislation may be placed on third reading on the same legislative day. For the purposes of this rule, "engrossing" means placing amendments in a bill. (See Joint Rule 40-150.)

**H40-200. Third reading.** (1) All bills, joint resolutions, and Senate amendments to House bills and joint resolutions passing second reading must be placed on third reading the day following the receipt of the engrossing or other appropriate printing report.

(2) Legislation on third reading may not be amended or debated.

(3) The Speaker shall state the question on legislation on third reading. If a majority of the representatives voting does not approve the legislation, it fails to pass third reading.

**H40-210. Senate legislation in the House.** Senate legislation properly transmitted to the House must be treated as House legislation.

**H40-220. Senate amendments to House legislation.** (1) When the Senate has properly returned House legislation with Senate amendments, the House shall announce the amendments on Order of Business No. 4, and the Speaker shall place them on second reading for debate. The Speaker may rerefer House legislation with Senate amendments to a committee for a hearing if the Senate amendments constitute a significant change in the House

legislation. The second reading vote is limited to consideration of the Senate amendments.

(2) If the House accepts Senate amendments, the House shall place the final form of the legislation on third reading to determine if the legislation, as amended, is passed or if the required vote is obtained.

(3) If the House rejects the Senate amendments, the House may request the Senate to recede from its amendments or may direct appointment of a conference committee and request the Senate to appoint a like committee.

(4) Conference committees must be composed of an equal number of members from each political party. The members of conference committees must be appointed by the Speaker and the minority leader after good faith consultation. The Speaker and the minority leader shall appoint the members of their respective parties.

**H40-230. Conference committee reports.** (1) When a House conference committee files a report, the report must be announced under Order of Business No. 3. A tie vote in a conference committee on the question of a recommendation to the whole House on a matter referred for a conference results in the matter passing out to the whole House for consideration without recommendation.

(2) The House may debate and adopt or reject the conference committee report on second reading on any legislative day. The House may reconsider its action in rejecting a conference committee report under rules for reconsideration, H50-160.

(3) If both the House and the Senate adopt the same conference committee report on legislation requiring more than a majority vote for final passage, the House, following approval of the conference committee report on third reading, shall place the final form of the legislation on third reading to determine if the required vote is obtained.

(4) If the House rejects a conference committee report, the committee continues to exist unless dissolved by the Speaker or by motion. The committee may file a subsequent report.

(5) A House conference committee may confer regarding matters assigned to it with any Senate conference committee with like jurisdiction and submit recommendations for consideration of the House.

**H40-240. Enrolling.** (1) When House legislation has passed both houses, it must be enrolled within 48 hours under the direction of the Speaker. The Speaker may grant additional time for enrolling.

(2) The chief sponsor of the legislation shall examine the enrolled legislation and, if it has no enrolling errors, shall, within 1 legislative day, certify the legislation as correctly enrolled.

(3) The correctly enrolled legislation must be delivered to the Speaker, who shall sign the legislation.

(4) After the legislation has been reported correctly enrolled but before it is signed, any representative may examine the legislation. (See Joint Rule 40-160.)

**H40-250. Governor's amendments.** (1) When the Governor returns a bill with recommended amendments, the House shall announce the amendments under Order of Business No. 5.

(2) The House may debate and adopt or reject the Governor's recommended amendments on second reading on any legislative day.

(3) If both the House and the Senate accept the Governor's recommended amendments on a bill that requires more than a majority vote for final passage, the House shall place the final form of the legislation on third reading to determine if the required vote is obtained.

**H40-260. Governor's veto.** (1) When the Governor returns a bill with a veto, the House shall announce the veto under Order of Business No. 5.

(2) On any legislative day, a representative may move to override the Governor's veto by a two-thirds vote under Order of Business No. 9.

## CHAPTER 5

### Floor Actions

**H50-10. Attendance.** (1) A representative, unless excused, is required to be present at every sitting of the House.

(2) A representative may request in writing to be excused for a specified cause by the representative's party leader. This excused absence is not a leave with cause from a call of the House.

**H50-20. Quorum.** (1) A quorum of the House is fifty-one representatives (Montana Constitution, Art. V, Sec. 10).

(2) Any representative may question the lack of a quorum at any time a vote is not being taken. The question is nondebatable, may not be amended, and is resolved by a roll call.

(3) The House may not conduct business without a quorum, except that representatives present may convene, compel the attendance of absent representatives, or adjourn.

**H50-30. Call of the House without a quorum.** (1) In the absence of a quorum, a majority of the representatives present may compel the attendance of absent representatives through a call of the House without a quorum. The motion for the call is nondebatable, may not be amended, and is in order at any time it has been established that a quorum is not present.

(2) During a call of the House, all business is suspended. No motion is in order except a motion to adjourn or to remove the call.

(3) When a quorum has been achieved under the call, the call is automatically lifted. The call may also be lifted by adjournment or by two-thirds of the representatives present and voting.

**H50-40. Call of the House with a quorum.** (1) If a quorum is present but at least one representative is excused or absent, one-third of the representatives present and voting may order a call of the House with a quorum.

(2) The motion for a call is nondebatable, may not be amended, and is in order at any time a vote is not being taken, except that a call of the House with a quorum is not allowed in the Committee of the Whole.

(3) During a call of the House, all business is suspended. No motion is in order except a motion to adjourn or to remove the call.

(4) When all representatives are present, except those on leave with cause, the call is automatically lifted. The call may also be lifted by adjournment or by two-thirds of the representatives present and voting.

**H50-50. Leave with cause.** (1) During a call of the House, a representative with an overriding medical or personal reason may request a leave with cause.

(2) If the representative is present at the time of the call, the Speaker may approve a request for a leave with cause.



(3) If the representative is not present at the time of the call, two-thirds of the representatives present and voting may approve a request for leave with cause.

(4) During a call of the House, a representative on leave with cause may not cast an absentee vote.

**H50-60. Opening and order of business.** The opening of each legislative day must include an invocation, the pledge of allegiance, and roll call. Following the opening, the order of business of the House is as follows:

- (1) communications and petitions;
- (2) reports of standing committees;
- (3) reports of select committees;
- (4) messages from the Senate;
- (5) messages from the Governor;
- (6) first reading and commitment of bills;
- (7) second reading of bills;
- (8) third reading of bills;
- (9) motions;
- (10) unfinished business;
- (11) special orders of the day; and
- (12) announcement of committee meetings.

**H50-70. Motions.** (1) Any representative may propose a motion allowed by the rules for the order of business under which the motion is offered for the consideration of the House. Unless otherwise specified in rule or law, a majority of representatives voting is necessary and sufficient to decide a motion.

(2) Seconds to motions on the House floor are not required.

(3) Absentee votes are not allowed on votes that are specified as “representatives present and voting”.

(4) The majority leader shall make routine procedural motions required to conduct the business of the House.

**H50-80. Limits on debate of debatable motions.** (1) Except for the representative who places a debatable motion before the body, no representative may speak more than once on the question unless a unanimous House consents. The representative who places the motion may close.

(2) No representative may speak for more than 10 minutes on the same question, except that a representative may have 5 minutes to close.

**H50-90. Nondebatable motions.** (1) A representative has the right to understand any question before the House and, usually under the administration of the presiding officer, may ask questions to exercise this right.

(2) The following motions are nondebatable:

- (a) to adjourn;
- (b) for a call of the House;
- (c) to recess or rise;
- (d) for parliamentary inquiry;
- (e) to table or take from the table;
- (f) to call for the previous question or cloture;

- (g) to amend a nondebatable motion;
- (h) to divide a question;
- (i) to suspend the rules;
- (j) all incidental motions, such as motions relating to voting or of a general procedural nature; and
- (k) to appeal a call to order.

**H50-100. Questions.** A representative may, through the presiding officer, ask questions of another representative during a floor session. There is no limit on questions and answers, except as provided in H20-50.

**H50-110. Amending motions — limitations.** (1) A representative may move to amend the specific provisions of a motion without changing its substance.

(2) No more than one motion to amend a motion is in order at any one time.

(3) A motion for a call of the House, for the previous question, to table, or to take from the table may not be amended.

**H50-120. Substitute motions.** (1) When a question is before the House, no substitute motion may be made except the following, which have precedence in the order listed:

- (a) to adjourn;
- (b) for a call of the House;
- (c) to recess or rise;
- (d) for a question of privilege;
- (e) to table;
- (f) to call for the previous question or cloture;
- (g) to postpone consideration to a day certain;
- (h) to refer to a committee; and
- (i) to propose amendments.

(2) Nothing in this section allows a motion that would not otherwise be allowed under a particular order of business.

(3) (a) Except as provided in subsection (3)(b), no more than one substitute motion is in order at any one time.

(b) A motion for cloture is in order on a substitute motion to amend.

**H50-130. Withdrawing motions.** A representative who proposes a motion may withdraw it before it is voted on or amended.

**H50-140. Dividing a question.** Except as provided in H40-180(3), a representative may request to divide a question as a matter of right if it includes two or more propositions so distinct that they can be separated and if at least one substantive question remains after one substantive question is removed.

**H50-150. Previous question.** (1) If a majority of representatives present and voting adopts a motion for the previous question, debate is closed on the question and it must be brought to a vote. The Speaker may not entertain a motion to end debate unless at least one proponent and one opponent have spoken on the question.

(2) Notwithstanding the passage of a motion to end debate, the sponsor of the motion on which debate was ended may close.

**H50-160. Questions requiring other than a majority vote.** The following questions require the vote specified for each condition:

**100 House Members**

(1) a motion to approve a bill to appropriate the principal of the tobacco settlement trust fund pursuant to Article XII, section 4, of the Montana Constitution (two-thirds);

(2) a motion to approve a bill to appropriate the principal of the coal severance tax trust fund pursuant to Article IX, section 5, of the Montana Constitution (three-fourths);

(3) a motion to approve a bill to appropriate highway revenue, as described in Article VIII, section 6, of the Montana Constitution, for purposes other than therein described (three-fifths);

(4) a motion to approve a bill to authorize creation of state debt pursuant to Article VIII, section 8, of the Montana Constitution (two-thirds);

(5) a motion to appropriate the principal of the noxious weed management trust fund pursuant to Article IX, section 6, of the Montana Constitution (three-fourths);

(6) a motion to temporarily suspend a joint rule governing the procedure for handling bills pursuant to Joint Rule 60-10(2) (two-thirds).

**Members Present and Voting**

(1) a motion to override the Governor's veto pursuant to H40-260 and Article VI, section 10(3), of the Montana Constitution (two-thirds);

(2) a call of the House with a quorum pursuant to H50-40(1) (one-third);

(3) a motion to lift a call of the House pursuant to H50-30(3) or H50-40(4) (two-thirds);

(4) a motion to rerefer a bill from one committee to another pursuant to H40-80(1) (three-fifths);

(5) a motion to withdraw a bill from a committee pursuant to H40-90 (three-fifths);

(6) a motion to add legislation to the second or third reading agenda on that day pursuant to H40-130(2) (three-fifths);

(7) a motion to remove legislation from its normal progress through the House as provided under H40-80(3) and reassign it unless otherwise specifically provided by these rules, such as H40-80(2) (three-fifths);

(8) a motion to change a vote pursuant to H50-210 (unanimous);

(9) a motion to call for cloture pursuant to H40-170(2) (two-thirds);

(10) a motion to take from the table in Committee of the Whole (three-fifths);

(11) a motion to approve a bill conferring immunity from suit as described in Article II, section 18, of the Montana Constitution (two-thirds).

**Members Voting**

(1) a motion to amend rules pursuant to H70-10(2) or suspend rules pursuant to H70-30 (two-thirds);

(2) a motion to overturn an adverse committee report pursuant to H40-100(2) (three-fifths);

(3) a motion to record a vote pursuant to H50-200(2) (one representative);

(4) a motion to record a vote in the journal (two representatives);

(5) an appeal of the ruling of the presiding officer pursuant to H20-20(1) or H20-80(2) (three representatives);

(6) a motion to speak more than once on a debatable motion pursuant to H50-80(1) (unanimous vote);

(7) a motion to appeal the presiding officer's interpretation of the rules to the House Rules Committee pursuant to H70-50 (15 representatives).

#### **Entire Legislature**

(1) a motion to approve a bill proposing to amend the Montana Constitution pursuant to Article XIV, section 8, of the Montana Constitution (two-thirds of the entire Legislature).

**H50-170. Reconsideration.** (1) Any representative may, within 1 legislative day of a vote, move to reconsider the House vote on any matter still within the control of the House.

(2) A motion for reconsideration, unless tabled or replaced by a substitute motion, must be disposed of when made.

(3) When a motion for reconsideration fails, the question is finally settled. A motion for reconsideration may not be renewed or reconsidered.

(4) A motion to recall legislation from the Senate constitutes a motion to reconsider and is subject to the same rules.

(5) A motion for reconsideration is not in order on a vote to postpone to a day certain or to table legislation.

(6) There may be only one reconsideration vote on a specific issue on a legislative day.

**H50-180. Renewing procedural motions.** The House may renew a procedural motion if further House business has intervened.

**H50-190. Tabling.** (1) Under Order of Business No. 9, a representative may move to table any question, motion, or legislation before the House except the question of a quorum or a call of the House. The motion is nondebatable and may not be amended.

(2) When a matter has been tabled, a representative may move to take it from the table under Order of Business No. 9 on any legislative day.

**H50-200. Voting.** (1) The representatives shall vote to decide any motion or question properly before the House. Each representative has one vote.

(2) The House may, without objection, use a voice vote on procedural motions that are not required to be recorded in the journal. If a representative rises and objects, the House shall record the vote.

(3) The House shall record the vote on all substantive questions. If the voting system is inoperable, the Chief Clerk shall record the representatives' votes by other means.

(4) A member who is present shall vote unless the member has disclosed a conflict of interest to the House. A member may be present for a vote by electronic means.

**H50-210. Changing a vote.** (1) A representative may move to change the representative's vote within 1 legislative day of the vote. The motion is nondebatable. The motion must be made on Order of Business No. 9, motions. All of the members present and voting are required to consent to the change in order for it to be effective.

(2) The representative making the motion shall first specify the bill number, the question, and the original vote tally. A vote may not be changed if it would affect the outcome of legislation.

(3) A vote change must be entered into the journal as a notation that the member's vote was changed. The original printed vote will not be reprinted to reflect the change.

(4) An error caused by a malfunction of the voting system may be corrected without a vote.

**H50-220. Absentee votes.** (1) An excused representative may file an absentee vote authorization form to vote during the excused absence on any vote for which absentee voting is allowed.

(2) An excused representative shall sign an absentee vote authorization form that specifies the motion and the desired vote.

(3) The absentee vote authorization form must be handed in at the rostrum by the party whip or designated representative before voting on the motion has commenced.

(4) The absentee vote authorization may be revoked before the vote by the member who signed the authorization.

(5) Absentee voting is not allowed on third reading.

**H50-230. Recess.** The House may stand at ease or recess under any order of business by order of the Speaker or a majority vote. The recess may be ended at the call of the chair or at a time specified.

**H50-240. Adjournment for a legislative day.** (1) A representative may move that the House adjourn for that legislative day. The motion is nondebatable and may be made under any order of business except Order of Business No. 7.

(2) A motion to adjourn for a legislative day must specify a date and time for the House to convene on the subsequent legislative day.

**H50-250. Adjournment sine die.** A representative may move that the House adjourn for the session. The motion is nondebatable and may be made under any order of business except Order of Business No. 7.

## CHAPTER 6

### Motions

**H60-10. Proposal for consideration.** (1) Every question presented to the House or a committee must be submitted as a definite proposition.

(2) A representative has the right to understand any question before the House and, under the authority of the presiding officer, may ask questions to exercise this right.

**H60-20. Nondebatable motions.** The following motions, in addition to any other motion specifically designated, must be decided without debate:

- (1) to adjourn;
- (2) for a call of the House;
- (3) to recess or rise;
- (4) for parliamentary inquiry;
- (5) to table or to take from the table;
- (6) to call for the previous question or for cloture;

- (7) to amend a nondebatable motion;
- (8) to divide a question;
- (9) to suspend the rules; and
- (10) all incidental motions, such as motions relating to voting or of a general procedural nature.

**H60-30. Motions allowed during debate.** (1) When a question is under debate, only the following motions are in order. The motions have precedence in the following order:

- (a) to adjourn;
  - (b) for a call of the House;
  - (c) to recess or rise;
  - (d) for a question of privilege;
  - (e) to table or take from the table;
  - (f) to call for the previous question or cloture;
  - (g) to postpone consideration to a day certain;
  - (h) to refer or rerefer; and
  - (i) to propose amendments.
- (2) This section does not allow a motion that would not otherwise be allowed under a particular order of business.
- (3) Only one substitute motion is in order at any time.

**H60-40. Motions to adjourn or recess.** (1) A motion to adjourn or recess is always in order, except:

- (a) when the House is voting on another motion;
  - (b) when the previous question has been ordered and before the final vote;
  - (c) when a member entitled to the floor has not yielded for that purpose; or
  - (d) when business has not been transacted after the defeat of a motion to adjourn or recess.
- (2) The vote by which a motion to adjourn or recess is carried or fails is not subject to a motion to reconsider.

**H60-50. Motion to table.** (1) A motion to table, if carried, has the effect of postponing action on the proposition to which it was applied until superseded by a motion to take from the table.

(2) The vote by which a motion to table is carried or fails cannot be reconsidered.

(3) A motion to table is not in order after the previous question has been ordered.

**H60-60. Motion to postpone.** A motion to postpone to a day certain may be amended and is debatable within narrow limits. The merits of the proposition that is the subject of the motion to postpone may not be debated.

**H60-70. Motion to refer.** When a motion is made to refer a subject to a standing committee or select committee, the question on the referral to a standing committee must be put first.

**H60-80. Terms of debate on motion to refer or rerefer.** (1) A motion to refer or rerefer is debatable within narrow limits. The merits of the proposition that is the subject of the motion may not be debated.

(2) A motion to refer or rerefer with instructions is fully debatable.

**H60-100. Moving the previous question after a motion to table.** (1) If a motion to table is made directly to a main motion, a motion for the previous question is not in order.

(2) If an amendment to a main motion is pending and a motion to table is made, the previous question may be called on the main motion, the pending amendment, and the motion to table the amendment.

**H60-110. Standard motions.** The following are standard motions:

(1) moving House bills or resolutions on second reading, "Mister/Madam Chairman, I move that when this committee does rise and report after having under consideration House Bill \_\_\_, that it recommend the same (do pass)/(do pass as amended)/(do not pass)."

(2) moving Senate bills and Senate amendments to House bills, "Mister/Madam Chairman, I move that when this committee does rise and report after having under consideration Senate Bill \_\_\_/Senate amendments to House Bill \_\_\_, that it recommend the same (be concurred in)/(be not concurred in)."

(3) Committee of the Whole floor amendments, "Mister/Madam Chairman, I move that House Bill \_\_\_/Senate Bill \_\_\_ be amended and request that the amendment be posted and deemed read."

(4) introducing visitors, "Mister/Madam Speaker/Chairman, I request that we be off the record and out of the journal."

(5) changing a vote, "Mister Speaker, I would like my vote changed on House Bill \_\_\_/Senate Bill \_\_\_ from (yes/no) to (yes/no). The question on the bill was ( ) with a vote tally of \_\_\_ for and \_\_\_ against."

(6) question another representative, "Mister/Madam Speaker/Chairman, would Representative \_\_\_ yield to a question?"

## CHAPTER 7

### Rules

**H70-10. House rules.** (1) The House may adopt, through a House resolution passed by a majority of its members, rules to govern its proceedings.

(2) After adoption of the House rules, two-thirds of the representatives voting must vote in favor of the question to amend the rules.

(3) The Speaker shall refer to the House Rules Committee all resolutions for House rules.

(4) The House Rules Committee shall report all resolutions for House rules within 1 legislative day of referral.

**H70-20. Tenure of rules.** Rules adopted by the House remain in effect until removed by House resolution or until a new House is elected and takes office.

**H70-30. Suspension of rules.** The House may suspend a House rule on a motion approved by not less than two-thirds of the members voting.

**H70-40. Supplementary rules.** Mason's Manual of Legislative Procedure (2000) governs House proceedings in all cases not covered by House rules.

**H70-50. Interpreting rules.** The Speaker shall interpret all questions on House rules, subject to appeal by any 15 representatives to the House Rules Committee. Unless the delay would cause legislation to fail to meet a scheduled deadline, the House Rules Committee may consider and report on the appeal on

the next legislative day. The decision of the House Rules Committee may be appealed to the House by any representative.

**H70-60. Joint rules superseded.** A House rule, insofar as it relates to the internal proceedings of the House, supersedes a joint rule.

#### Appendix

(1) Except as provided in subsections (2) through (4), legislation dealing with an enumerated subject must be referred to a standing committee as follows:

**Agriculture:** Agriculture; country of origin labeling for products; crops; crop insurance; farm subsidies; fuel produced from grain; grazing (other than state land leases); irrigation; livestock; poultry; and weed control.

**Appropriations:** Appropriations for the Legislature, general government, and bonding, including supplemental appropriations and the coal severance tax.

**Business and Labor:** Alcohol regulation other than taxation; associations; corporations; credit transactions; employment; financial institutions; gambling; insurance; labor unions; partnerships; private sector pensions and pension plans; professions and occupations other than the practice of law; salaries and wages; sales; secured transactions; securities regulation other than criminal provisions; sports other than hunting, fishing, and competition water sports; trade regulation; unemployment insurance; the Uniform Commercial Code; and workers' compensation.

**Education:** Higher education; home schools; K-12 education; religion in schools; school buildings and other structures; school libraries and university system libraries; school safety; school sports; school staff other than teachers; school transportation; students; teachers; and vocational education and training.

**Ethics:** Ethical standards applicable to members, officers, and employees of the House and ethical standards for lobbyists.

**Federal Relations, Energy, and Telecommunications:** Energy generation and transmission; Indian reservations; international relations; interstate cooperation and compacts, except those relating to law enforcement and water compacts; relations with the federal government; relations with sovereign Indian tribes; telecommunications; and utilities other than municipal utilities.

**Fish, Wildlife, and Parks:** Fish; fishing; hunting; outdoor recreation; parks other than those owned by local governments; relations with federal and state governments concerning fish and wildlife; Virginia City and Nevada City; water sports; and wildlife.

**Human Services:** Developmentally disabled persons; disabled persons; health; health and disability insurance; housing; human services; mental illness or incapacity; retirement other than pensions and pension plans; senior citizens; tobacco regulation other than taxation; and welfare.

**Judiciary:** Abortion; arbitration and mediation; civil procedure; constitutional amendments; consumer protection; contracts; corrections; courts; criminal law; criminal procedure; discrimination; evidence; family law; fees imposed by or relating to the court system; guaranty; human rights; impeachment; indemnity; judicial system; landlord and tenant; law enforcement; liability and immunity from liability; minors; practice of law;



privacy; property law; religion other than in schools; state law library; surety; torts; and trusts and estates.

**Legislative Administration:** Interim committees and matters related to legislative administration, staffing patterns, budgets, equipment, operations, and expenditures.

**Local Government:** Cities; consolidated governments; counties; libraries and parks owned or operated by local governments; local development; local government finance and revenue; local government officers and employees, local planning; special districts and other political subdivisions, except school districts; towns; and zoning.

**Natural Resources:** Board of Land Commissioners; dams, except for electrical generation; emission standards; environmental protection; extractive activities; fires and fire protection, except for a local government fire department; forests and forestry; hazardous waste; mines and mining; natural gas; natural resources; oil; pollution; solid waste; state land, except state parks; water and water rights; water bodies and water courses; and water compacts.

**Rules:** House rules; joint rules; legislative procedure; jurisdictions of committees; and rules of decorum.

**State Administration:** Administrative rules; arts and antiquities; ballots; elections; initiative and referendum procedures; military affairs; public contracts and procurement; public employee retirement systems; state buildings; state employees; state employee benefits; state equipment and property, except state lands and state parks; state government generally; state-owned libraries other than the state law library; veterans; and voting.

**Taxation:** Taxes other than fuel taxes.

**Transportation:** Fuel taxes; highways; railroads; roads; traffic regulation; transportation generally; vehicles; and vehicle safety.

(2) If a select committee is created to address a specific subject, then bills relating to that subject must be assigned to the select committee.

(3) (a) If legislation deals with more than one subject and the subjects are assigned to more than one committee, the bill must be assigned to a class one committee before a class two committee and to a class two committee before a class three committee. If there is a conflict of subjects between the same class of committees, then the bill must be assigned by the Speaker.

(b) If a bill contains substantive provisions dealing with policy and an appropriation, the bill must be referred to the committee with jurisdiction over the subject addressed in the policy provisions. If the bill is reported from the committee to which it was assigned, the Speaker may rerefer the bill to the Appropriations Committee. The referral must be announced to the House. The rereferral does not require action or approval by the House, but may be overturned by a majority vote.

(4) If a committee chair upon consultation with the vice chair determines that the committee cannot effectively process all bills assigned to the committee because of time limitations, the chair shall, in writing, request the Speaker to reassign specific bills. The Speaker shall reassign the bills to an appropriate committee. The reassignments must be announced to the House. The reassignments do not require action or approval by the House, but may be overturned by a three-fifths vote.

Adopted January 13, 2009

## HOUSE RESOLUTION NO. 2

A RESOLUTION OF THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA ENCOURAGING AND COMMENDING EFFORTS BY MONTANA'S SCHOOL DISTRICTS TO DEVELOP AND IMPLEMENT BULLYING PREVENTION PROGRAMS.

WHEREAS, it has been well established that bullying is harmful to the mental health of both the victim and the bully; and

WHEREAS, the adverse effects on mental health can be extensive and long-lasting; and

WHEREAS, existing bullying prevention programs have resulted in a significant reduction in bullying.

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

(1) That the members of this House of Representatives encourage and commend efforts by Montana's school districts to develop and implement research-based bullying prevention programs.

(2) That the Chief Clerk of the House send copies of this resolution to every school district in the state.

Adopted March 3, 2009

## Senate Joint Resolutions

### SENATE JOINT RESOLUTION NO. 1

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA ADOPTING THE JOINT LEGISLATIVE RULES.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the following Joint Rules be adopted:

#### JOINT RULES OF THE MONTANA SENATE AND HOUSE OF REPRESENTATIVES

##### CHAPTER 10

##### Administration

**10-10. Time of meeting.** Each house may order its time of meeting.

**10-20. Legislative day — duration.** (1) If either house is in session on a given day, that day constitutes a legislative day.

(2) A legislative day for a house ends either 24 hours after that house convenes for the day or at the time the house convenes for the following legislative day, whichever is earlier.

**10-30. Schedules.** The presiding officer of each house shall coordinate its schedule to accommodate the workload of the other house.

**10-40. Adjournment — recess — meeting place.** A house may not, without the consent of the other, adjourn or recess for more than 3 days or to any

place other than that in which the two houses are sitting (Montana Constitution, Art. V, Sec. 10(5)).

**10-50. Access of press.** Subject to the presiding officer's discretion on issues of decorum and order, an accredited press representative may not be prohibited from photographing, televising, or recording a legislative meeting or hearing.

**10-60. Conflict of interest.** A member who has a personal or private interest in any measure or bill proposed or pending before the Legislature shall disclose the fact to the house to which the member belongs. (section 2-2-112, MCA)

**10-70. Telephone calls and internet access.** (1) Long-distance telephone calls made by a member while the Legislature is in session or while the member is in travel status are considered official legislative business. These include but are not limited to calls made to constituencies, places of business, and family members. A member's access to the internet through a permissible server is a proper use of the state communication system if the use is for legislative business or is within the scope of permissible use of long-distance telephone calls.

(2) Session staff, including aides and interns, may use telephones for long-distance calls only if specifically authorized to do so by their legislative sponsor or supervisor. Sponsoring members and supervisors are accountable for use of state telephones and internet access by their staff, including aides and interns, and may not authorize others to use state phones or state servers to access the internet.

(3) Permanent staff of the Legislature shall comply with executive branch rules applying to the use of state telephones.

**10-80. Joint employees.** The presiding officers of each house, acting together, shall:

(1) hire joint employees; and

(2) review a dispute or complaint involving the competency or decorum of a joint employee, and dismiss, suspend, or retain the employee.

**10-85. Harassment prohibited.** (1) Legislators and legislative employees have the right to work free of harassment on account of race, color, sex, culture, social origin or condition, or religious ideas when performing services in furtherance of legislative responsibilities, whether the offender is an employer, employee, legislator, lobbyist, or member of the public.

(2) A violation of this policy must be reported to the party leader in the appropriate house if the offended party is a legislator or to the presiding officer if the offended party is the party leader. The presiding officer may refer the matter to the rules committee of the applicable house, and the offender is subject to discipline or censure, as appropriate.

(3) If the offended party is an employee of the house of representatives or the senate, the violation must be reported to the employee's supervisor or, if the offender is the supervisor for the house of representatives or the senate, the report should be made to the chief clerk of the house of representatives or to the secretary of the senate, as appropriate. If the offended party is a permanent legislative employee, the report should be made to the employee's supervisor or, if the offender is the supervisor, to the appropriate division director. If the offender is a division director, the report should be made to the presiding officer of the appropriate statutory committee.

(4) If the offended party is a supervisor for the house of representatives or the senate, the violation must be reported to the chief clerk of the house of representatives or to the secretary of the senate, as appropriate. If the offended party is a supervisor of permanent legislative employees, the violation must be reported to the appropriate division director. If the offender is a division director, the report should be made to the presiding officer of the appropriate statutory committee.

(5) The chief clerk or the secretary shall report the violation to the presiding officer. The presiding officer may refer the matter to the rules committee. If the offender is an employee or supervisor, the employee or supervisor is subject to discipline or discharge.

**10-90. Legislative interns.** Qualifications for legislative interns are specified in Title 5, chapter 6, MCA.

**10-100. Legislative Services Division.** (1) The staff of the Legislative Services Division shall serve both houses as required.

(2) Staff members shall:

(a) maintain personnel files for legislative employees; and

(b) prepare payrolls for certification and signature by the presiding officer and prepare a monthly financial report.

(3) The Legislative Services Division shall train journal clerks for both houses.

**10-120. Engrossing and enrolling staff — duties.** (1) The Legislative Services Division shall provide all engrossing and enrolling staff.

(2) The duties of the engrossing and enrolling staff are:

(a) to engross or enroll any bill or resolution delivered to them within 48 hours after it has been received, unless further time is granted in writing by the presiding officer of the house in which the bill originated; and

(b) to correct clerical errors, absent the objection of the sponsor of a bill, resolution, or amendment and the Secretary of the Senate or the Chief Clerk of the House of Representatives in any bill or amendment originating in the house by which the Clerk or Secretary is employed. The following kinds of clerical errors may be corrected:

(i) errors in spelling;

(ii) errors in numbering sections;

(iii) additions or deletions of underlining or lines through matter to be stricken;

(iv) material copied incorrectly from the Montana Code Annotated;

(v) errors in outlining or in internal references;

(vi) an error in a title caused by an amendment;

(vii) an error in a catchline caused by an amendment;

(viii) errors in references to the Montana Code Annotated; and

(ix) other nonconformities of an amendment with Bill Drafting Manual form.

(3) The engrossing and enrolling staff shall give notice in writing of the clerical correction to the Secretary of the Senate or the Chief Clerk of the House, who shall give notice to the sponsor of the bill or amendment. The form must be filed in the office of the amendments coordinator. A party receiving notice may register an objection to the correction by filing the objection in writing with the

Secretary of the Senate or the Chief Clerk of the House by the end of the next legislative day following receipt of the notice. The Senate or House shall vote on whether or not to uphold the objection. If the objection is upheld, the Secretary of the Senate or the Chief Clerk of the House shall notify the Executive Director of the Legislative Services Division, and the engrossing staff shall change the bill to remove the correction or corrections to which the objection was made.

(4) For the purposes of this rule, "engrossing" means placing amendments in a bill.

**10-130. Bills.** (1) A bill must be sponsored by a member of the Legislature.

(2) A bill must be:

(a) printed on paper with numbered lines;

(b) numbered at the foot of each page (except page 1);

(c) backed with a page of substantial material that includes spaces for notations for tracking the progress of the bill; and

(d) introduced. Introduction constitutes the first reading of the bill.

(3) In a section amending an existing statute, matter to be stricken out must be indicated with a line through the words or part to be deleted, and new matter must be underlined.

(4) Sections of the Montana Code Annotated repealed or amended in a bill must be stated in the title.

(5) Introduced bills must be reproduced on white paper and distributed to members.

(6) An introduced bill may not be withdrawn.

**10-140. Voting.** (1) A bill may not become a law except by vote of the constitutionally required majority of all the members present and voting in each house (Montana Constitution, Art. V, Sec. 11(1)). On final passage, the vote must be taken by ayes and noes and the names of those voting entered on the journal (Montana Constitution, Art. V, Sec. 11(2)).

(2) Any vote in one house on a bill proposing an amendment to The Constitution of the State of Montana under circumstances in which there exists the mathematical possibility of obtaining the necessary two-thirds vote of the Legislature will cause the bill to progress as though it had received the majority vote.

(3) This rule does not prevent a committee from tabling a bill proposing an amendment to The Constitution of the State of Montana.

**10-150. Recording and publication of voting.** (1) Every vote of each member on each substantive question in the Legislature, in any committee, or in Committee of the Whole must be recorded and made available to the public. On final passage of any bill or joint resolution, the vote must be taken by ayes and noes and the names entered on the journal.

(2) (a) Roll call votes must be taken by ayes and noes and the names entered on the journal on adopting an adverse committee report and on those motions made in Committee of the Whole to:

(i) amend;

(ii) recommend passage or nonpassage;

(iii) recommend concurrence or nonconcurrence; or

(iv) indefinitely postpone.

(b) The text of all proposed amendments in Committee of the Whole must be recorded.

(3) A roll call vote must be taken on nonsubstantive questions on the request of two members who may, on any vote, request that the ayes and noes be spread upon the journal.

(4) Roll call votes and other votes that are to be made public but are not specifically required to be spread upon the journal must be entered in the minutes of the appropriate committee or of the appropriate house (Montana Constitution, Art. V, Sec. 11(2)). A copy of the minutes must be filed with the Montana Historical Society. If electronically recorded minutes are kept for a committee, a written log conforming to section 2-3-212(2), MCA, must also be kept.

**10-160. Journal.** Each house shall:

(1) supply the Legislative Services Division with the contents of the daily journal to be stored on an automated system;

(2) examine its journal and order correction of any errors; and

(3) make a daily journal available to all members.

**10-170. Journals — authentication — availability.** (1) The journal of the Senate must be authenticated by the signature of the President and the journal of the House of Representatives must be authenticated by the signature of the Speaker.

(2) The Legislative Services Division shall make the completed journals available to the public (sections 5-11-201 through 5-11-203, MCA).

## CHAPTER 30

### Committees

**30-10. Joint committee chair.** Except as provided in Joint Rule 30-50 concerning the joint meetings of the Senate Finance and Claims Committee and the House Appropriations Committee, the chair of the Senate committee is the chair of all joint committees.

**30-20. Voting in joint committees.** (1) Except for Rules Committees and conference committees, a member of a joint committee votes individually and not by the house to which the committee member belongs.

(2) Because the Rules Committees and conference committees are joint meetings of separate committees, in those committees the committees from each house vote separately. A majority of each committee shall agree before any action may be taken, unless otherwise specified by individual house rules.

**30-30. Conference committees.** (1) If either house requests a conference committee and appoints a committee for the purpose of discussing an amendment on which the two houses cannot agree, the other house shall appoint a committee for the same purpose. The time and place of all conference committee meetings must be agreed upon by their chairs and announced from the rostrum. This announcement is in order at any time. Failure to make this announcement does not affect the validity of the legislation being considered. A conference committee meeting must be conducted as an open meeting, and minutes of the meeting must be kept.

(2) A conference committee, having conferred, shall report to the respective houses the result of its conference. A conference committee shall confine itself to consideration of the disputed amendment. The committee may recommend:

- (a) acceptance or rejection of each disputed amendment in its entirety; or
- (b) further amendment of the disputed amendment.

(3) If either house requests a free conference committee and the other house concurs, appointments must be made in the same manner as provided in subsection (1). A free conference committee may discuss and propose amendments to a bill in its entirety and is not confined to a particular amendment. However, a free conference committee is limited to consideration of amendments that are within the scope of the title of the introduced bill.

**30-40. Conference committee — enrolling.** A conference committee report must give clerical instructions for a corrected reference bill and for enrolling by referring to the reference bill version.

**30-50. Committee consideration of appropriation bills.** (1) All general appropriation bills must first be considered by a joint subcommittee composed of designated members of the Senate Finance and Claims Committee and the House Appropriations Committee, and then by each committee separately.

(2) Joint meetings of the House Appropriations Committee and the Senate Finance and Claims Committee must be held upon call of the chair of the House Appropriations Committee, who is chair of the joint committee.

(3) The committee chair of the Senate Finance and Claims Committee or of the House Appropriations Committee may be a voting member in the joint subcommittees if:

- (a) either house has fewer members on the joint subcommittees;
- (b) the chair represents the house with fewer members on the subcommittees; and
- (c) the chair is present for the vote at the time that a question is called. A vote may not be held open to facilitate voting by a chair.

**30-60. Estimation of revenue.** The Revenue and Transportation Interim Committee shall introduce a House joint resolution for the purpose of estimating revenue that may be available for appropriation by the Legislature. (5-5-227, MCA)

**30-70. Appointment of interim committees.** As provided for in section 5-5-211(6), MCA, 50% of interim committees must be selected from the following legislative standing committees:

- (1) Economic Affairs Interim Committee:
  - (a) Senate Agriculture, Livestock, and Irrigation Committee;
  - (b) Senate Business, Labor, and Economic Affairs Committee;
  - (c) Senate Finance and Claims Committee;
  - (d) House Agriculture Committee;
  - (e) House Business and Labor Committee;
  - (f) House Federal Relations, Energy, and Telecommunications Committee;
- and
- (g) House Appropriations Committee;
- (2) Education and Local Government Interim Committee:
  - (a) Senate Education and Cultural Resources Committee;
  - (b) Senate Local Government Committee;
  - (c) Senate Finance and Claims Committee;

- (d) House Education Committee;
- (e) House Local Government Committee; and
- (f) House Appropriations Committee;
- (3) Children, Families, Health, and Human Services Interim Committee:
  - (a) Senate Public Health, Welfare, and Safety Committee;
  - (b) Senate Finance and Claims Committee;
  - (c) House Human Services Committee; and
  - (d) House Appropriations Committee;
- (4) Law and Justice Interim Committee:
  - (a) Senate Judiciary Committee;
  - (b) Senate Finance and Claims Committee;
  - (c) House Judiciary Committee; and
  - (d) House Appropriations Committee;
- (5) Revenue and Transportation Interim Committee:
  - (a) Senate Taxation Committee;
  - (b) Senate Highways and Transportation Committee;
  - (c) Senate Finance and Claims Committee;
  - (d) House Taxation Committee;
  - (e) House Transportation Committee; and
  - (f) House Appropriations Committee;
- (6) State Administration and Veterans' Affairs Interim Committee:
  - (a) Senate State Administration Committee;
  - (b) Senate Finance and Claims Committee;
  - (c) House State Administration Committee; and
  - (d) House Appropriations Committee;
- (7) Energy and Telecommunications Interim Committee:
  - (a) Senate Energy Committee;
  - (b) House Federal Relations, Energy, and Telecommunications Committee;
  - (c) House Appropriations Committee; and
  - (d) Senate Finance and Claims Committee.

## CHAPTER 40

### Legislation

**40-10. Amendment to state constitution.** A bill must be used to propose an amendment to The Constitution of the State of Montana. The bill is not subject to the veto of the Governor (Montana Constitution, Art. VI, Sec. 10(1)).

**40-20. Appropriation bills.** (1) All appropriation bills must originate in the House of Representatives.

(2) Appropriation bills for the operation of the Legislature must be introduced by the chair of the House Appropriations Committee.

**40-30. Effective dates.** (1) Except as provided in subsections (2) through (4), a statute takes effect on October 1 following its passage and approval unless a different time is prescribed in the enacting legislation.



(2) A law appropriating public funds for a public purpose takes effect on July 1 following its passage and approval unless a different time is prescribed in the enacting legislation.

(3) A statute providing for the taxation or imposition of a fee on motor vehicles takes effect on the first day of January following its passage and approval unless a different time is prescribed in the enacting legislation.

(4) A joint resolution takes effect on its passage unless a different time is prescribed in the joint resolution (sections 1-2-201 and 1-2-202, MCA).

**40-40. Bill requests and introduction — limits and procedures.**

(1) Prior to a regular session, a person entitled to serve in that session, referred to as a “member”, or a legislative committee is entitled to request bill drafting services from the Legislative Services Division, subject to the following limits:

(a) Prior to 5 p.m. on December 5 preceding a regular session of the Legislature, a member may request an unlimited number of bills and resolutions to be prepared by the Legislative Services Division for introduction in the regular session.

(b) After 5 p.m. on December 5, a member may request no more than seven bills or resolutions to be prepared by the Legislative Services Division. At least five of the seven bills or resolutions must be requested before the regular session convenes.

(c) After December 5, a member, in the member’s discretion, may grant to any other member any of the remaining bill or resolution requests the granting member has not used. A bill requested by an individual may not be transferred to another legislator but may be introduced by another legislator. The requestor must pick up the bill and sign a receipt indicating delivery of the bill and may either introduce the bill or give the bill to another legislator for introduction.

(d) These limitations on bill and resolution requests do not apply to:

(i) Code Commissioner bills;

(ii) a bill or resolution requested by a standing committee; and

(iii) a bill or resolution requested by a member at the request of a newly elected state official if so designated.

(2) (a) Except as provided in subsection (2)(b) or this subsection, the staff of the Legislative Services Division shall work on bill draft requests in the order received. After a member has requested the drafting of five bills, the sixth bill request and all subsequent bill requests of that member must receive a lower drafting priority than all other bills of members not in excess of five per member. The Speaker of the House, the minority leader of the House, the President of the Senate, and the minority leader of the Senate may each direct the staff of the Legislative Services Division to assign a higher priority to 10 draft requests. The staff of the Legislative Services Division shall assign a higher priority to any bill draft request when jointly directed by the President of the Senate, the minority leader of the Senate, the Speaker of the House, and the minority leader of the House.

(b) Except for bill draft requests described in subsection (1)(d)(iii), if a draft bill has not been received by the Legislative Services Division by November 15 for a bill by request of an agency or entity, the draft loses its priority under this rule.

(3) Bills and resolutions must be reviewed by the staff of the Legislative Services Division prior to introduction for proper format, style, and legal form.

The staff of the Legislative Services Division shall store bills on the automated bill drafting equipment and shall print and deliver them to the requesting members. The original bill back must be signed to indicate review by the Legislative Services Division. A bill may not be introduced unless it is so signed.

(4) (a) During a session, a bill may be introduced by endorsing it with the name of a member and presenting it to the Chief Clerk of the House of Representatives or the Secretary of the Senate. Bills or joint resolutions may be sponsored jointly by Senate and House members. A jointly sponsored bill must be introduced in the house in which the member whose name appears first on the bill is a member. The chief joint sponsor's name must appear immediately to the right of the first sponsor's name, and the chief sponsor may not be changed. Except as provided in subsection (4)(b), in each session of the Legislature, bills, joint resolutions, and simple resolutions must be numbered consecutively in separate series in the order of their receipt.

(b) The first 15 House bills may be reserved for preintroduced bills.

(5) (a) Any bill proposed by an interim or statutory legislative committee or introduced by request of an administrative or executive agency or department must be so indicated by placing after the names of the sponsors the phrase "By Request of the..... (Name of committee or agency)". The phrase may not be added to an introduced bill and may not be placed on a bill whose subject matter was requested by an agency or statutory or interim committee prior to the convening of the session. Unless requested by an individual member, a bill draft request submitted at the request of an agency must be submitted to, reviewed by, and requested by the appropriate interim or statutory committee. Except as provided in subsection (5)(b), an agency or committee bill request must be preintroduced or the request is canceled. Preintroduction must occur no later than 5 p.m. on December 15th prior to the convening of a regular legislative session. Preintroduction is accomplished when the Legislative Services Division receives a signed preintroduction form.

(b) The preintroduction requirement does not apply to an office held by an elected official during the official's first year in that office or to bills requested by a joint select or joint special committee appointed prior to the convening of the legislative session to address a specific issue.

(6) Bills may be preintroduced, numbered, and reproduced prior to a legislative session by the staff of the Legislative Services Division. Actual signatures of persons entitled to serve as members in the ensuing session may be obtained on a consent form from the Legislative Services Division and the sponsor's name printed on the bill. Additional sponsors may be added on motion of the chief sponsor at any time prior to a standing committee report on the bill. These names will be forwarded to the Legislative Services Division to be included on the face of the bill following standing committee approval.

**40-50. Schedules for drafting requests and bill introduction.** (1) The following schedule must be followed for submission of drafting requests.

	Request Deadline
	5:00 P.M.
	Legislative Day
	-----
• General Bills and Resolutions	10
• Revenue Bills	17

• Committee Bills and Resolutions	36
• Committee Revenue Bills	62
• Committee Bills implementing provisions of a general appropriation act	75
• Interim study resolutions	75
• Appropriation Bills	No Deadline
• Resolutions to express confirmation of appointments	No Deadline
• Bills repealing or directing the amendment or adoption of administrative rules and joint resolutions advising or requesting the repeal, amendment, or adoption of administrative rules	No Deadline

(2) Bills and resolutions must be introduced within 2 legislative days after delivery. Failure to comply with the introduction deadline results in the bill draft being canceled.

**40-60. Joint resolutions.** (1) A joint resolution must be adopted by both houses and is not approved by the Governor. It may be used to:

- (a) express desire, opinion, sympathy, or request of the Legislature;
- (b) recognize relations with other governments, sister states, political subdivisions, or similar governmental entities;
- (c) request, but not require, a legislative entity to conduct an interim study;
- (d) adopt, amend, or repeal the joint rules;
- (e) approve construction of a state building under section 18-2-102 or 20-25-302, MCA;
- (f) deal with disasters and emergencies under Title 10, specifically as provided in sections 10-3-302(3), 10-3-303(3), 10-3-303(4), and 10-3-505(5), MCA;
- (g) submit a negotiated settlement under section 39-31-305(3), MCA;
- (h) declare or terminate an energy emergency under section 90-4-310, MCA;
- (i) ratify or propose amendments to the United States Constitution;
- (j) advise or request the repeal, amendment, or adoption of a rule in the Administrative Rules of Montana; or
- (k) approve the organization of a new community college district under section 20-15-209, MCA.

(2) A joint resolution may not be used for purposes of congratulating or recognizing an individual or group achievement. Recognition of individual or group achievements is handled on special orders of the day.

(3) Except as otherwise provided in these rules or The Constitution of the State of Montana, a joint resolution is treated in all respects as a bill.

(4) A copy of every joint resolution must be transmitted after adoption to the Secretary of State by the Secretary of the Senate or the Chief Clerk of the House.

**40-65. Appropriation required for bills requesting interim studies.** A bill including a request for an interim study may not be transmitted to the Governor unless the bill contains an appropriation sufficient to conduct the

study. A fiscal note may be requested for a bill requesting an interim study if the appropriation does not appear to be sufficient.

**40-70. Bills with same purpose — vetoes.** (1) A bill may not be introduced or received in a house after that house, during that session, has finally rejected a bill designed to accomplish the same purpose, except with the approval of the Rules Committee of the house in which the bill is offered for introduction or reception.

(2) Failure to override a veto does not constitute final rejection.

**40-80. Reproduction of full statute required.** A statute may not be amended or its provisions extended by reference to its title only, but the statute section that is amended or extended must be reproduced or published at length.

**40-90. Bills — original purpose.** A law may not be passed except by bill. A bill may not be so altered or amended on its passage through either house as to change its original purpose (Montana Constitution, Art. V, Sec. 11(1)).

**40-100. Fiscal notes.** (1) As provided in Title 5, chapter 4, part 2, MCA, all bills reported out of a committee of the Legislature having a potential effect on the revenues, expenditures, or fiscal liability of the state, local governments, or public schools, except appropriation measures carrying specific dollar amounts, must include a fiscal note incorporating an estimate of the fiscal effect. The Legislative Services Division staff shall indicate at the top of each bill prepared for introduction that a fiscal note may be necessary under this rule. Fiscal notes must be requested by the presiding officer of either house, who, at the time of introduction or after adoption of substantive amendments to an introduced bill, shall determine the need for the note, based on the Legislative Services Division staff recommendation.

(2) The Legislative Services Division shall make available an electronic copy of any bill for which it has been determined a fiscal note may be necessary to the Budget Director immediately after the bill has been prepared for introduction and delivered to the requesting member. The Budget Director may proceed with the preparation of a fiscal note in anticipation of a subsequent formal request. A bill with financial implications for a local government or school district must comply with subsection (4).

(3) The Budget Director, in cooperation with the governmental entity or entities affected by the bill, is responsible for the preparation of the fiscal note. Except as provided in subsection (4), the Budget Director shall return the fiscal note within 6 days unless further time is granted by the presiding officer or committee making the request, based upon a written statement from the Budget Director that additional time is necessary to properly prepare the note.

(4) (a) A bill that may require a local government or school district to perform an activity or provide a service or facility that requires the direct expenditure of additional funds without a specific means to finance the activity, service, or facility in violation of section 1-2-112 or 1-2-113, MCA, must be accompanied, at the time that the bill is presented for introduction, by an estimate of all direct and indirect fiscal impacts on the local government or school district. The estimate of the fiscal impacts must be prepared by the Budget Director in cooperation with a local government or school district affected by the bill.

(b) The Budget Director has 10 days to prepare the estimate. Upon completion of the estimate, the Budget Director shall submit it to the presiding officer and the chief sponsor of the bill.

(5) A completed fiscal note must be submitted by the Budget Director to the presiding officer who requested it. The presiding officer shall notify the bill's

chief sponsor of the completed fiscal note and request the chief sponsor's signature. The chief sponsor has 1 legislative day after delivery to review the fiscal note and to discuss the findings with the Budget Director, if necessary. After the legislative day has elapsed, all fiscal notes must be reproduced and placed on the members' desks, either with or without the chief sponsor's signature.

(6) A fiscal note must, if possible, show in dollar amounts:

- (a) the estimated increase or decrease in revenues or expenditures;
- (b) costs that may be absorbed without additional funds; and
- (c) long-range financial implications.

(7) The fiscal note may not include any comment or opinion relative to merits of the bill. However, technical or mechanical defects in the bill may be noted.

(8) A fiscal note also may be requested, through the presiding officer, on a bill and on an amended bill by:

- (a) a committee considering the bill;
- (b) a majority of the members of the house in which the bill is to be considered, at the time of second reading; or
- (c) the chief sponsor.

(9) The Budget Director shall make available on request to any member of the Legislature all background information used in developing a fiscal note.

(10) If a bill requires a fiscal note, the bill may not be reported from a committee for second reading unless the bill is accompanied by the fiscal note or, if required, an updated fiscal note reflecting committee action.

**40-110. Sponsor's fiscal note.** (1) If a sponsor elects to request the preparation of a sponsor's fiscal note pursuant to section 5-4-204, MCA, the sponsor shall make the election as provided and return the completed sponsor's fiscal note to the presiding officer within 4 days of the election.

(2) The presiding officer may grant additional time to the sponsor for preparation of the sponsor's fiscal note.

(3) Upon receipt of the completed sponsor's fiscal note, the presiding officer shall refer it to the committee hearing the bill. If the bill is printed, the note must be identified as a sponsor's fiscal note, reproduced, and placed on the members' desks.

(4) The Legislative Services Division shall provide forms for preparation of sponsors' fiscal notes and shall print the completed sponsors' fiscal notes on a different color paper than the fiscal notes prepared by the Budget Director.

**40-120. Substitute bills.** (1) A committee may recommend that every clause in a bill be changed and that entirely new material be substituted so long as the new material is relevant to the title and subject of the original bill. The substitute bill is considered an amendment and not a new bill.

(2) The proper form of reporting a substitute bill by a committee is to propose amendments to strike out all of the material following the enacting clause, to substitute the new material, and to recommend any necessary changes in the title of the bill.

(3) If a committee report is adopted that recommends a substitute for a bill originating in the other house, the substitute bill must be printed and reproduced.

**40-130. Reading of bills.** Prior to passage, a bill, other than a bill requested by a joint select or joint special committee as provided in 40-40(5)(b), must be read three times in the house in which it is under consideration. It may be read either by title or by summary of title. Introduction constitutes the first reading of the bill.

**40-140. Second reading — bill reproduction.** (1) If the majority of a house adopts a recommendation for the passage of a bill originating in that house after the bill has been returned from a committee with amendments, the bill must be reproduced on yellow paper with all amendments incorporated into the copies.

(2) If a bill has been returned from a committee without amendments, only the first sheet must be reproduced on yellow paper, and the remainder of the text may be incorporated by reference to the preceding version of the entire bill.

(3) A bill requested by and heard by a joint select or joint special committee, as provided in 40-40(5)(b), may be referred directly to second reading. If the bill is passed by the house of origin, the bill must be transmitted to the other house, and if the bill was not amended, it may be placed on second reading without the need for referral to a committee.

**40-150. Engrossing.** (1) When a bill has been reported favorably by Committee of the Whole of the house in which it originated and the report has been adopted, the bill must be engrossed if the bill is amended. Committee of the Whole amendments must be included in the engrossed bill. If the bill is not amended, the bill must be sent to printing. The bill must be placed on the calendar for third reading on the legislative day after receipt.

(2) Copies of the engrossed bill to be distributed to members are reproduced on blue paper. If a bill is unamended by the Committee of the Whole and contains no clerical errors, it is not required to be reprinted. Only the first sheet must be reproduced on blue paper, with the remainder of the text incorporated by reference to the preceding version of the entire bill.

(3) If a bill is amended by a standing committee in the second house, the amendments must be included in a tan-colored bill and distributed in the second house for second reading consideration. If the bill is amended in Committee of the Whole, the amendments must be included in a salmon-colored reference bill and distributed in the second house for third reading. If the bill passes on third reading, copies of the reference bill must be distributed in the original house. The original house may request from the second house a specified number of copies of the amendments to be printed.

**40-160. Enrolling.** (1) When a bill has passed both houses, it must be enrolled. An original and two duplicate printed copies of the bill must be enrolled, free from all errors, with a margin of two inches at the top and one inch on each side. In sections amending existing statutes, new matter must be underlined and deleted matter must be shown as stricken.

(2) When the enrolling is completed, the bill must be examined by the sponsor.

(3) The correctly enrolled bill must be delivered to the presiding officer of the house in which the bill originated. The presiding officer shall sign the original and two copies of each bill not later than the next legislative day after it has been reported correctly enrolled, unless the bill is delivered on the last legislative day, in which case the presiding officer shall sign it that day. The fact of signing must be announced by the presiding officer and entered upon the journal no later than the next legislative day. At any time after the report of a bill correctly

enrolled and before the signing, if a member signifies a desire to examine the bill, the member must be permitted to do so. The bill then must be transmitted to the other house where the same procedure must be followed.

(4) A bill that has passed both houses of the Legislature by the 90th day may be:

- (a) enrolled;
- (b) clerically corrected by the presiding officers, if necessary;
- (c) signed by the presiding officers; and

(d) delivered to the Governor or, in the case of a bill proposing a referendum, to the Secretary of State, not later than 5 working days after the 90th legislative day.

(5) All journal entries authorized under this rule must be entered on the journal for the 90th day.

(6) The original and two copies signed by the presiding officer of each house must be presented to the Governor or the Secretary of State, as applicable, in return for a receipt. A report then must be made to the house of the day of the presentation, which must be entered on the journal.

(7) The original must be filed with the Secretary of State. Signed copies with chapter numbers assigned pursuant to section 5-11-204, MCA, must be filed with the Clerk of the Supreme Court and the Legislative Services Division.

**40-170. Amendment by second house.** (1) Amendments to a bill by the second house may not be further amended by the house in which the bill originated, but must be either accepted or rejected. A bill amended by the second house when the effect of the combined amendments is to return the bill to the form that the bill passed the house in which the bill originated is not considered to have been amended and need not be returned to the house of origin for acceptance or rejection of the amendments. If the amendments are rejected, a conference committee may be requested by the house in which the bill originated. If the amendments are accepted and the bill is of a type requiring more than a majority vote for passage, the bill again must be placed on third reading in the house of origin.

(2) The vote on third reading after concurrence in amendments is the vote of the house of origin that must be used to determine if the required number of votes has been cast.

**40-180. Final action on a bill.** (1) When a bill being heard by the second house has received its third reading or has been rejected, the second house shall transmit it as soon as possible to the original house with notice of the second house's action.

(2) A bill that reduces revenue and that contains a contingent voidness provision may not be transmitted to the Governor unless there is an identified corresponding reduction in an appropriation contained in the general appropriations act.

**40-190. Transmittal of bills between houses.** (1) Each house shall transmit to the other with any bill all relevant papers.

(2) When a House bill is transmitted to the Senate, the Secretary of the Senate shall give a dated receipt for the bill to the Chief Clerk of the House. When a Senate bill is transmitted to the House of Representatives, the Chief Clerk of the House shall give a dated receipt to the Secretary of the Senate.

(3) Transmitted bills must be referred to committee and scheduled for hearing.

**40-200. Transmittal deadlines.** (1) (a) A bill or amendment transmitted after the deadline established in this subsection (1) may be considered by the receiving house only upon approval of two-thirds of its members present and voting. If the receiving house does not so vote, the bill or amendment must be held pending in the house to which it was transmitted.

(b) (i) A bill, except for an appropriation bill, a revenue bill, an interim study resolution, or amendments considered by joint committee, must be transmitted from one house to the other on or before the 45th legislative day.

(ii) Amendments, except to appropriation bills, bills implementing the general appropriations bill, the revenue estimating resolution, interim study resolutions, and revenue bills, must be transmitted from one house to the other on or before the 73rd legislative day.

(c) (i) Revenue bills must be transmitted to the other house on or before the 71st legislative day.

(ii) Amendments to revenue bills, received from the other house, must be transmitted to the house of origin on or before the 82nd legislative day.

(iii) A revenue bill is one that either increases or decreases revenue.

(d) (i) Appropriation bills and any bill implementing provisions of a general appropriation bill must be transmitted to the Senate on or before the 67th legislative day.

(ii) Senate amendments to appropriation bills must be transmitted by the Senate to the House on or before the 80th legislative day.

(2) (a) A joint resolution introduced for the purpose of estimating revenue available for appropriation by the Legislature must be transmitted to the Senate no later than the 60th legislative day.

(b) Amendments to the revenue estimating resolution must be transmitted to the House no later than the 82nd legislative day.

(3) Bills repealing or directing the amendment or adoption of administrative rules and joint resolutions advising or requesting the repeal, amendment, or adoption of administrative rules may be transmitted at any time during a session.

(4) Interim study resolutions must be transmitted from one house to the other on or before the 85th legislative day.

**40-210. Governor's veto.** (1) Except as provided in 40-65 and 40-180, each bill passed by the Legislature must be submitted to the Governor for the Governor's signature. This does not apply to:

- (a) bills proposing amendments to The Constitution of the State of Montana;
- (b) bills ratifying proposed amendments to the United States Constitution;
- (c) resolutions; and
- (d) referendum measures of the Legislature.

(2) If the Governor does not sign or veto the bill within 10 days after its delivery, the bill becomes law.

(3) The Governor shall return a vetoed bill to the Legislature with a statement of reasons for the veto.



(4) If after receipt of a veto message, two-thirds of the members of each house present approve the bill, it becomes law.

(5) If the Legislature is not in session when the Governor vetoes a bill, the Governor shall return the bill with reasons for the veto to the Legislature as provided by law. The Legislature may be polled on a bill that it approved by two-thirds of the members present or it may be reconvened to reconsider any bill so vetoed (Montana Constitution, Art. VI, Sec. 10).

(6) The Governor may veto items in appropriation bills, and in these instances the procedure must be the same as upon veto of an entire bill (Montana Constitution, Art. VI, Sec. 10).

**40-220. Response to Governor's veto.** (1) When the presiding officer receives a veto message, the presiding officer shall read it to the members over the rostrum. After the reading, a member may move that the Governor's veto be overridden.

(2) A vote on the motion is determined by roll call. If two-thirds of the members present vote "aye", the veto is overridden. If two-thirds of the members present do not vote "aye", the veto is sustained.

**40-230. Governor's recommendations for amendment.** (1) The Governor may return any bill to the Legislature with recommendations for amendment. The Governor's recommendations for amendment must be considered first by the house in which the bill originated.

(2) If the Legislature passes the bill in accordance with the Governor's recommendations, it shall return the bill to the Governor for reconsideration. The Governor may not return a bill to the Legislature a second time for amendment.

(3) If the Governor returns a bill to the originating house with recommendations for amendment, the house shall reconsider the bill under its rules relating to amendments offered in Committee of the Whole.

(4) The bill then is subject to the following procedures:

(a) The originating house shall transmit to the second house, for consideration under its rules relating to amendments in Committee of the Whole, the bill and the originating house's approval or disapproval of the Governor's recommendations.

(b) If both houses approve the Governor's recommendations, the bill must be returned to the Governor for reconsideration.

(c) If both houses disapprove the Governor's recommendations, the bill must be returned to the Governor for reconsideration.

(d) If one house disapproves the Governor's recommendations and the other house approves, then either house may request a conference committee, which may be a free conference committee.

(i) If both houses adopt a conference committee report, the bill in accordance with the report must be returned to the Governor for reconsideration.

(ii) If a conference committee fails to reach agreement or if its report is not adopted by both houses, the Governor's recommendations must be considered not approved and the bill must be returned to the Governor for further consideration.

**CHAPTER 60****Rules**

**60-10. Suspension of joint rule — change in rules.** (1) A joint rule may be repealed or amended only with the concurrence of both houses, under the procedures adopted by each house for the repeal or amendment of its own rules.

(2) A joint rule governing the procedure for handling bills may be temporarily suspended by the consent of two-thirds of the members of either house, insofar as it applies to the house suspending it.

(3) Any Rules Committee report recommending a change in the joint rules must be referred to the other house. Any new rule or any change in the rules of either house must be transmitted to the other house for informational purposes.

(4) Upon adoption of any change, the Secretary of the Senate and the Chief Clerk of the House of Representatives shall provide the office of the Legislative Services Division:

(a) one copy of all motions or resolutions amending Senate, House, or joint rules; and

(b) copies of all minutes and reports of the Rules Committees.

**60-20. Reference to Mason's Manual.** Mason's Manual of Legislative Procedure (2000) governs the proceedings of the Senate and the House of Representatives in all cases not covered by these rules.

**60-30. Publication and distribution of joint rules.** (1) The Legislative Services Division shall codify and publish in one volume:

(a) the rules of the Senate;

(b) the rules of the House of Representatives; and

(c) the joint rules of the Senate and the House of Representatives.

(2) After the rules have been published, the Legislative Services Division shall distribute copies as directed by the Senate and the House of Representatives.

**60-40. Tenure of joint rules.** The joint rules remain in effect until removed by a joint resolution or until a new Legislature is elected and takes office.

Adopted January 26, 2009

**SENATE JOINT RESOLUTION NO. 2**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA 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.

WHEREAS, the community college establishment process is provided for in Title 20, chapter 15, part 2, MCA; and

WHEREAS, during the 2007-2008 interim this process was used for the first time; and

WHEREAS, this first test of the community college establishment process raised questions as to what entity is best suited to bear certain responsibilities and costs of the process.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to:

(1) conduct a comprehensive review of the community college establishment process;

(2) identify the entities best suited to take responsibility for receiving voter petitions, order the election of trustees, call for the nominations of trustee candidates, give election notices, conduct elections, certify election results, and take statutory steps to create a new community college district; and

(3) identify the costs incurred in fulfilling these responsibilities and how those costs might be funded.

BE IT FURTHER RESOLVED, that the Office of the Commissioner of Higher Education, the Montana Secretary of State, and the former participants in the Bitterroot Valley Community College establishment process be adequately consulted during every facet of this study.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2010.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 62nd Legislature.

Adopted March 10, 2009

### **SENATE JOINT RESOLUTION NO. 3**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA 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.

WHEREAS, scholarship programs should provide financial incentives as a reward for good academic performance, promote academic success by requiring completion of a rigorous high school core curriculum, and keep Montana's best and brightest in the state to pursue postsecondary education opportunities; and

WHEREAS, only one in two Montana high school graduates go on to college; and

WHEREAS, less than one in five higher education students get a 4-year degree from the Montana University System in 4 years; and

WHEREAS, according to the National Association of State Student Grant and Aid Programs, Montana ranks only 38th in terms of state funding per student; and

WHEREAS, Montana's current student financial aid portfolio is loan-driven, but student access to higher education comes more from grants than loans; and

WHEREAS, the affordability and accessibility of higher education is emphasized in the first "shared policy goal" agreed to by the Commissioner of Higher Education, the Montana Board of Regents, and the Postsecondary Education Policy and Budget Interim Subcommittee of the Montana Legislature.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to:

(1) prepare a comprehensive inventory and description of the financial assistance programs available to Montana students; and

(2) study the possibility of consolidating the state funds that are currently dedicated to Baker Grants, Montana Higher Education Grants, Supplemental Educational Opportunity Grants, Perkins Loans, Governor's Postsecondary Scholarships, and Montana University System Honors Scholarships into one centrally administered comprehensive Montana Scholarship Program.

BE IT FURTHER RESOLVED, that this study also consider if and how:

(1) student financial aid that is currently derived from waivers and university foundations might also support a Montana Scholarship Program; and

(2) nontraditional students, including displaced workers, trying to reenter the educational system might also use a Montana Scholarship Program; and

(3) the Board of Regents, Commissioner of Higher Education, Montana University System, Superintendent of Public Instruction, Board of Public Education, and members of the public can be fully engaged in this study.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2010.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 62nd Legislature.

Adopted April 21, 2009

## **SENATE JOINT RESOLUTION NO. 5**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING CONTINUED MONITORING OF EFFORTS TO MAKE HEALTH CARE COSTS MORE UNDERSTANDABLE.

WHEREAS, the process of establishing prices for health care procedures involves multiple and complex factors; and

WHEREAS, the costs to Montanans for the same procedure may vary widely depending on whether a person has insurance coverage and on where and by whom the procedure is performed; and

WHEREAS, even for Montanans with insurance, the out-of-pocket costs for the same procedures may vary depending on the parameters of an individual's insurance policy; and

WHEREAS, Montanans will be able to make better-informed decisions that best meet their personal needs if they are able to obtain information about health care procedures and costs by region, facility, and provider; and

WHEREAS, the Children, Families, Health, and Human Services Interim Committee discussed this issue of transparency in health care pricing with representatives of health care facilities, providers, and insurers during the 2007-08 interim; and

WHEREAS, MHA - An Association of Montana Health Care Providers is in the process of developing a website, independent of legislative activities, that is designed to make health care pricing information available by facility, region, and provider; and

WHEREAS, the 2007-08 Children, Families, Health, and Human Services Interim Committee believed the MHA's independent website held promise for providing much-needed information to Montanans and that monitoring of this and other pricing transparency efforts should continue in the 2009-10 interim.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That MHA and representatives of health care facilities, providers, and insurers provide updates as needed to the Children, Families, Health, and Human Services Interim Committee during the 2009-10 interim about the MHA website and other transparency-related efforts.

BE IT FURTHER RESOLVED, that the Committee determine whether the MHA website is meeting the needs of Montanans and whether additional steps should be taken to improve a consumer's ability to obtain understandable information about health care procedures and prices.

Adopted March 16, 2009

## **SENATE JOINT RESOLUTION NO. 6**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING 24-HOUR COMMERCIAL SERVICE AT THE PORT OF ENTRY-TURNER.

WHEREAS, there is only one 24-hour commercial entry on the border between the State of Montana and the Canadian Province of Saskatchewan; and

WHEREAS, there is an escalating amount of commercial traffic serving the oil sands region in Canada and newly developed oil fields in the Bakken formation in Montana, as well as traffic serving other commercial opportunities in Saskatchewan, Alberta, and Manitoba; and

WHEREAS, increases in commercial traffic also include manufacturers and suppliers located in the midwestern, southern, and western United States hauling freight to Saskatchewan, Alberta, and Manitoba; and

WHEREAS, an organization promoting rural development in Saskatchewan and Montana has asked the province's government to encourage the use of

Saskatchewan's Highway 37 from the Port of Entry-Turner/Port of Climax and Highway 4 north of Swift Current to Saskatoon as an alternate north-south transportation corridor from the United States; and

WHEREAS, Saskatchewan Highway 37 connects to Montana Secondary Highway 241 at the Port of Entry-Turner, which serves as an arterial connector to U.S. Highway 2 at Harlem, with U.S. Highway 2 connecting to Interstate 15 at Shelby, and Montana Secondary Highway 241 also leads to Montana Highway 66 at Fort Belknap, which connects to U.S. Highway 191 and eventually to Interstate 90 at Billings; and

WHEREAS, the practicality of developing this trade corridor is contingent on a 24-hour border crossing facility at the Port of Entry-Turner; and

WHEREAS, 24-hour service at the Port of Entry-Turner and the development of an alternate trade corridor between Montana and Saskatchewan would remove a trade and travel barrier for development of oil and gas, coal, bioenergy, wind, agriculture, tourism, and other industries that require efficient access to markets, thus encouraging new investment and thereby supporting the economic development vision for Montana by promoting investment in central and eastern Montana, including five of the state's Indian reservations; and

WHEREAS, Montana State University-Northern in Havre could see a significant influx of students from southwestern Saskatchewan; and

WHEREAS, a central and inexpensive upgraded commercial port at the Port of Entry-Turner would enhance security surveillance of the border both east and west of this location.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the House of Representatives and the Senate of the State of Montana urge Governor Schweitzer and Montana's Congressional Delegation, as well as the Governor's Office of Economic Development and the Montana Department of Transportation, to work with the U.S. Department of Homeland Security and the Federal Highway Administration to develop 24-hour commercial service at the Port of Entry-Turner and to fund the necessary expansion of infrastructure that would make that service possible.

BE IT FURTHER RESOLVED, that the Montana Secretary of State forward copies of this resolution to the President of the United States, the Prime Minister of Canada, the Governor of Montana, the Premier of Saskatchewan, Montana's Congressional Delegation, the Canadian Minister of Citizenship and Immigration, the Canadian Minister of Public Safety and Emergency Preparedness, the Director of the U.S. Department of Homeland Security, the Director of the U.S. Federal Highway Administration, the Saskatchewan Minister of International and Intergovernmental Relations, the Saskatchewan Minister of Enterprise and Innovation, the Director of the Montana Department of Transportation, the Director of the Montana Department of Commerce, the Chief Development Officer of the Governor's Office of Economic Development, the Speaker of the Legislative Assembly of Saskatchewan, the Saskatchewan Minister of Highways and Infrastructure, the Mayors of the Village of Climax, Town of Eastend, Town of Shaunavon, Village of Frontier, and Town of Gull Lake, and the Reeve of the Rural Municipality of Frontier.

Adopted March 16, 2009

**SENATE JOINT RESOLUTION NO. 8**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA 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.

WHEREAS, Article VIII, section 12, of the Montana Constitution vests the Legislature with the responsibility to ensure strict accountability of all revenue received and money spent by the state, counties, cities, and all other local governmental entities; and

WHEREAS, Article X, section 9, of the Montana Constitution vests the Board of Regents with full power, responsibility, and authority to supervise, manage, and control the Montana University System, and requires the appointment of a Commissioner of Higher Education who serves as the chief executive officer of the Montana University System; and

WHEREAS, Article X, section 9, of the Montana Constitution states that the Board of Public Education shall exercise general supervision over the public school system; and

WHEREAS, section 20-3-106, MCA, grants supervision of certain aspects of the public schools and districts of the state to the Superintendent of Public Instruction; and

WHEREAS, Article X, section 8, of the Montana Constitution states that the elected board of trustees in each school district shall exercise supervision and control of schools in the district; and

WHEREAS, agencies of the education community have increasingly, and to positive effect, shared leadership between themselves and with their counterpart Education and Local Government Interim Committee; and

WHEREAS, agreement upon shared policy goals and accountability measures for the entire K-20 public education system, signed by the Board of Regents, Commissioner of Higher Education, Superintendent of Public Instruction, Board of Public Education, and Education and Local Government Interim Committee, would represent an important advance in interagency cooperation and the quality of education policymaking; and

WHEREAS, shared policy goals must be systematically tied to accountability measures in order to ensure timely and effective implementation of policy.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

(1) That shared policy goals and corresponding accountability measures be identified and developed by the Board of Regents, Commissioner of Higher Education, Superintendent of Public Instruction, and Board of Public Education in consultation with the Education and Local Government Interim Committee.

(2) That the goals and measures may include but are not limited to K-20 efforts to:

- (a) improve the affordability and availability of distance learning;
- (b) reduce the remediation rate of students entering postsecondary education; and
- (c) improve the dual enrollment process.

Adopted March 12, 2009

## SENATE JOINT RESOLUTION NO. 9

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA 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.

WHEREAS, problems in the national guaranteed student loan secondary market relative to the auction-rate bond market have impacted the Montana Higher Education Student Assistance Corporation, a private, nonprofit corporation providing a secondary market for student loans in Montana, and its affiliate the Student Assistance Foundation and have raised concerns about the availability of loan funds for Montana students; and

WHEREAS, the Montana Guaranteed Student Loan Program is a state agency under the management of the Montana Board of Regents through the staff of the Commissioner of Higher Education; and

WHEREAS, institutions of the Montana University System have also taken part in the Federal Direct Student Loan Program; and

WHEREAS, recent federal legislation is expected to provide relief to guaranteed student loan lenders for the 2008-2009 academic year and additional changes in federal student loan programs are anticipated; and

WHEREAS, the availability of student loans in Montana has a major impact on the entire student assistance and financial aid program for Montana resident students, which is funded with \$23.8 million of general fund money in the 2009 biennium; and

WHEREAS, the Montana Higher Education Student Assistance Corporation, the Montana Family Education Savings Program Oversight Committee, the Student Loan Advisory Council, and the Governor's Postsecondary Scholarship Advisory Council each work with and advise the Board of Regents on different aspects of student financial assistance for Montana residents.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate the Legislative Finance Committee, pursuant to section 5-5-217, MCA, or to direct sufficient staff resources, to study and make recommendations upon:

- (1) the cumulative availability and amount of all sources of financial aid to Montana students;
- (2) the student loan system in Montana with a specific focus on an analysis of the Guaranteed Student Loan Program, particularly its costs and benefits and how the program is working in Montana, along with a comparative analysis of the Federal Direct Student Loan Program, particularly its costs and benefits and how that program could work in Montana;



(3) the student assistance financial aid programs in Montana with a specific focus on the availability and utilization of financial aid to Montana students and on the analysis of loan default rates and options for identifying manageable levels of student debt load for Montana resident students in order to identify appropriate funding benchmarks for student financial assistance and tuition; and

(4) the policy options related to state funding of need-based financial aid versus merit-based financial aid for Montana resident students; and

(5) the governance structure and efficiency of the boards, committees, and councils that make recommendations to and advise the Board of Regents on student financial assistance programs with a focus on improving efficiencies and effectiveness in the governance models to enhance access to financial resources by Montana resident students.

BE IT FURTHER RESOLVED, that this study and its recommendations be contained in a report to be presented to and reviewed by the Legislative Finance Committee prior to September 15, 2010, that includes:

(1) policy options for the Legislature to consider, including whether the state should continue with the Guaranteed Student Loan Program and, if so, whether any changes are recommended to that program including additional governmental oversight relative to the Montana Higher Education Student Assistance Corporation or whether the state should change to the Federal Direct Student Loan Program, together with an outline of the process required in order to effectuate the change;

(2) an assessment of the change to the Federal Direct Student Loan Program on primary and secondary student loan providers in Montana, particularly the Montana Higher Education Student Assistance Corporation; and

(3) recommendations on a streamlined governance structure of student financial assistance programs that enhance access to financial resources by Montana resident students.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the committee, be reported to the 62nd Legislature.

Adopted April 6, 2009

### **SENATE JOINT RESOLUTION NO. 13**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA COMMEMORATING THE CENTENNIAL OF GLACIER NATIONAL PARK.

WHEREAS, on May 11, 1910, President William Howard Taft signed into law Senate Bill S.5648 establishing Glacier National Park as the country's 10th national park for the benefit and enjoyment of the people of the United States; and

WHEREAS, Glacier National Park is widely recognized as a crown jewel of the National Park System, providing for the perpetual protection of more than 1 million acres of public lands in Montana, which are enjoyed by more than 2 million visitors annually; and

WHEREAS, members of the Blackfeet Tribe and the Confederated Salish and Kootenai Tribes maintain spiritual, traditional, and cultural relationships

with the landscape of Glacier National Park that date back thousands of years; and

WHEREAS, in 1932, acts of the United States Congress and the Canadian Parliament designated Glacier National Park and Waterton Lakes National Park the first International Peace Park to permanently commemorate the long-existing relationship of peace and goodwill between the people and governments of the United States and Canada; and

WHEREAS, Glacier National Park supports the unique Montana way of life, providing access to enjoy and use some of the most spectacular scenery, land, and water anywhere on earth; and

WHEREAS, Glacier National Park is a driver of Montana's economy, providing significant economic benefits through nonresident expenditures, providing good-paying jobs, attracting investment dollars, and providing an unmatched quality of life; and

WHEREAS, Glacier National Park is the headwaters of North America, setting the gold standard for clean water and providing downstream benefits for water users in Montana and beyond; and

WHEREAS, Glacier National Park and adjacent protected areas form the core of the greater crown of the continent ecosystem, the most intact ecosystem in the continental United States; and

WHEREAS, Glacier National Park provides essential habitat for native wildlife species cherished by generations of Montanans, including the Montana state animal, the grizzly bear, and the Montana state fish, the blackspotted cutthroat trout.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

(1) That the Senate and House of Representatives:

(a) applaud the extraordinary vision of individuals, including George Bird Grinnell, whose advocacy resulted in the creation of Glacier National Park;

(b) recognize the awe-inspiring beauty of Glacier National Park's majestic peaks, glaciers, waters, and vistas;

(c) honor the longstanding, special relationship of the Blackfeet, Salish, and Kootenai Tribes with the landscape of Glacier National Park;

(d) celebrate the 100th anniversary of the creation of Glacier National Park;

(e) support continued good relations of peace and friendship with our Canadian neighbors through measures by both countries' governments to ensure the Waterton-Glacier International Peace Park remains vibrant, healthy, and productive; and

(f) urge Montana's Congressional Delegation to support local communities and Glacier National Park for the next 100 years by providing adequate funds for park infrastructure and management and by introducing federal initiatives that protect Glacier's significant natural assets and economic benefits for future generations.

(2) That the Secretary of State send copies of this resolution to the Montana Congressional Delegation, the Majority Leader of the United States Senate, and the Speaker of the United States House of Representatives.

Adopted March 5, 2009

**SENATE JOINT RESOLUTION NO. 14**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA 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.

WHEREAS, several state agencies maintain separate laboratories for testing related to wildlife, livestock, agriculture, and public health; and

WHEREAS, some state laboratories face space and budget constraints; and

WHEREAS, potential efficiencies could exist to encourage development and maintenance of shared laboratory facilities; and

WHEREAS, the state could save money if existing laboratories could be consolidated.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct staff resources to:

(1) conduct a review of existing laboratory facilities operated by the state of Montana;

(2) identify areas of potential overlap or similarity of testing procedures among state laboratories conducting testing related to wildlife, livestock, agriculture, and public health;

(3) explore the possibility of consolidating laboratories, as well as the benefits and drawbacks of consolidation;

(4) identify potential savings to the state if two or more laboratories could be consolidated into a shared laboratory; and

(5) examine potential sharing arrangements that could be made between state agencies that wish to or should share laboratory space.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2010.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 62nd Legislature.

Adopted March 10, 2009

**SENATE JOINT RESOLUTION NO. 15**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA 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.**

WHEREAS, in 2002, the gray wolf population in Montana, Idaho, and Wyoming achieved the biological requirement of a minimum of 30 breeding pairs and at least 300 wolves in a metapopulation in the Northern Rocky Mountains, a threshold established by the United States Fish and Wildlife Service to conclude that the gray wolf is recovered and should be delisted; and

WHEREAS, the tri-state wolf population has remained on the rise with an estimated 107 breeding pairs and 1,513 wolves total at the end of 2007, including an estimated 39 breeding pairs and 422 wolves in Montana; and

WHEREAS, the Montana Department of Fish, Wildlife, and Parks has developed a wolf management plan that is broadly supported by people in the state and has been approved by the United States Fish and Wildlife Service as a plan that will maintain a secure, viable population of gray wolves in Montana after they are removed from the federal endangered species list; and

WHEREAS, the Montana Department of Fish, Wildlife, and Parks is committed to the recovery of the gray wolf and is prepared to assume full responsibility for the management of this native species; and

WHEREAS, state management of the gray wolf is the preferred alternative to federal management of resident wildlife; and

WHEREAS, the United States Fish and Wildlife Service first delisted the gray wolf, effective March 28, 2008, but its decision was prevented from taking effect when the United States District Court in Missoula enjoined the decision on July 18, 2008, and the United States Fish and Wildlife Service requested that the court vacate the final federal rule to delist the gray wolf and remand it back to the service, a request granted by the court on October 14, 2008, officially relisting the gray wolf as an endangered species; and

WHEREAS, the United States Fish and Wildlife Service has completed the reevaluation of its proposal to delist the gray wolf, has reevaluated the wolf management plans proposed by the states of Montana, Wyoming, and Idaho that would take effect upon delisting, has accepted public comment on those plans, has determined that, although Wyoming's plan is not sufficient to conserve Wyoming's portion of the recovered Northern Rockies wolf population, the plans of Montana and Idaho are sufficient to again delist the gray wolf in Montana and Idaho; and

WHEREAS, President Barack Obama put a hold on certain policy decisions made by the administration of former President George W. Bush, including the decision to delist the gray wolf, so that they could be reviewed; and

WHEREAS, on March 6, 2009, the administration of President Barack Obama affirmed the decision of the United States Fish and Wildlife Service to delist the gray wolf; and

WHEREAS, the decision by the United States Fish and Wildlife Service to again delist the gray wolf is expected to face legal challenges and be delayed in court.

**NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:**

That the 61st Legislature:

(1) energetically supports the transfer of management of the gray wolf to the state of Montana;

(2) defends the efforts of the Montana Department of Fish, Wildlife, and Parks and the United States Fish and Wildlife Service to remove the gray wolf from the federal and state endangered species lists;

(3) urges President Barack Obama and his administration to fully implement the decision of the United States Fish and Wildlife Service to delist the gray wolf because the population is recovered and Montana's plan and laws to manage wolves are federally approved and will maintain a recovered, delisted population;

(4) if the decision to delist the gray wolf is challenged in court, urges the Montana Department of Fish, Wildlife, and Parks to vigorously defend its actions and information used to support the delisting of the gray wolf; and

(5) should the decision to delist the gray wolf be overturned in court, urges the Montana Department of Fish, Wildlife, and Parks to find a viable proposal to delist the gray wolf as soon as possible.

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to the President of the United States, the Montana Congressional Delegation, the Majority Leader of the United States Senate, the Speaker of the United States House of Representatives, the Secretary of the United States Department of the Interior, and the Director of the United States Fish and Wildlife Service.

Adopted April 6, 2009

## SENATE JOINT RESOLUTION NO. 16

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA 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.

WHEREAS, section 61-6-301, MCA, mandates motor vehicle insurance; and

WHEREAS, it is unlawful to operate a motor vehicle upon a public highway in Montana without certification and proof of insurance; and

WHEREAS, while the exact number of uninsured motorists is difficult to ascertain by the very nature of the noncompliance with state law, the number of motorists without insurance in Montana is unacceptably high; and

WHEREAS, the high cost of mandatory vehicle insurance is making compliance by low-income households very difficult and the purchase of adequate coverage above the required limits financially difficult for those who do buy insurance; and

WHEREAS, fines, punishment, loss of driving privileges, and other penalties often result in loss of employment and produce a further stress on law enforcement and social services and yet increased compliance is not being achieved; and

WHEREAS, a public policy resolution to this situation is difficult to achieve within the confines of a legislative session; and

WHEREAS, it is the duty of the Legislature to take those actions necessary, legislative or otherwise, to promote increased adherence to current state law in the interest of public health, economic viability, and safety.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to:

(1) study the issues of underinsured and uninsured motorists in Montana to determine the extent of the problem and the impact to:

(a) public agencies dealing with law enforcement, transportation, and local government generally;

(b) the health care community;

(c) the insurance industry; and

(d) Montana citizens injured or otherwise aggrieved by underinsured and uninsured motorists;

(2) study and compile policy actions from other states, as available, that have improved compliance with regard to motor vehicle insurance; and

(3) study and develop potential legislative actions to increase adherence to current state laws, amend state law as considered applicable, and provide recommendations to state agencies as necessary.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2010.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 62nd Legislature.

Adopted March 16, 2009

## SENATE JOINT RESOLUTION NO. 19

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA 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.

WHEREAS, Executive Order No. 7509, dated December 11, 1936, established the Fort Peck Game Range, which was converted in 1976 to the Charles M. Russell National Wildlife Refuge (CMR), for the conservation and development of natural wildlife resources and for the protection and improvement of public grazing lands and natural forage resources; and

WHEREAS, Montana conservation districts are political subdivisions of the State of Montana, authorized by the Legislature in 1939, whose primary

function is to conduct local activities to promote the conservation of natural resources in the district; and

WHEREAS, land management approaches used on the CMR directly impact adjacent private lands; and

WHEREAS, wildlife managed on the CMR consistently travel outside the refuge onto private land, creating environmental and economic impacts such as the spread of disease and noxious weeds; and

WHEREAS, the availability of livestock grazing on the CMR greatly influences private land use, conservation practices, and local economies surrounding the CMR; and

WHEREAS, weed infestations originating on the CMR are spread to and have negative impacts on surrounding private land; and

WHEREAS, the U.S. Fish and Wildlife Service is drafting a comprehensive conservation plan for the CMR that will guide the agency's management actions through 2025; and

WHEREAS, final CMR management decisions are made by U.S. Fish and Wildlife Service staff in Denver, Colorado, but the staff is not directly impacted by those management decisions, while owners of private land surrounding the refuge who are represented by Montana conservation districts, are directly impacted by those management decisions.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the State of Montana formally requests that the U.S. Fish and Wildlife Service manage the Charles M. Russell National Wildlife Refuge in a manner that is consistent with the enabling legislation, taking into account local natural resource conservation needs.

BE IT FURTHER RESOLVED, that the U.S. Fish and Wildlife Service be urged to conduct more open and timely communication with Montana conservation districts surrounding the Charles M. Russell National Wildlife Refuge in developing the comprehensive conservation plan and in managing and conserving the natural resources of the refuge in a manner that is sensitive to the impacts of the refuge on owners of adjacent private land.

BE IT FURTHER RESOLVED, that the Secretary of State send a copy of this resolution to the Montana Congressional Delegation and to the Director of the U.S. Fish and Wildlife Service.

Adopted April 27, 2009

## **SENATE JOINT RESOLUTION NO. 22**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING THAT THE GOVERNOR'S OFFICE PROVIDE AN ASSESSMENT OF STATE-OWNED AIRCRAFT TO DETERMINE A PHASED REPLACEMENT OR RETIREMENT SCHEDULE.

WHEREAS, in reviewing the Governor's air transportation program, concerns arose on the age and condition of the state aircraft assigned to the Governor's Office and other state-owned aircraft; and

WHEREAS, current efforts for maintenance require inspections and regular service intervals but the age of the aircraft will require eventual replacement; and

WHEREAS, the House Joint Appropriations Subcommittee on General Government believes that it is reasonable and prudent to ensure that state-owned aircraft are in good condition and have up-to-date avionics for the safety of the Governor, the pilots, and other state employees; and

WHEREAS, an assessment and preparation of a long-term phased replacement schedule will assist the Governor and the Legislature in planning for the expenses related to maintenance and replacement of state aircraft; and

WHEREAS, some state-owned aircraft may not even be cost-effective and a cost/benefit analysis would be useful.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Governor's Office conduct an assessment and analysis of state aircraft to determine an appropriate and phased replacement or retirement schedule for the state's fleet of aircraft prior to the commencement of the 2011 Legislature.

BE IT FURTHER RESOLVED, that the assessment have a primary focus on the Governor's aircraft and a secondary focus on other current state aircraft assets.

BE IT FURTHER RESOLVED, that the Governor provide a report to the Legislative Finance Committee prior to the 2011 Legislative Session.

Adopted March 23, 2009

## **SENATE JOINT RESOLUTION NO. 28**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY TO EVALUATE METHODS FOR INCREASING RECYCLING AND SOLID WASTE RECOVERY WITHIN THE STATE OF MONTANA.

WHEREAS, increased recycling rates will provide substantial economic and environmental benefits to Montanans; and

WHEREAS, recycling is a value-added manufacturing process that provides jobs for Montanans; and

WHEREAS, recycling reduces energy consumption associated with the manufacturing of products from raw materials and reduces landfill usage by diverting solid waste; and

WHEREAS, rural areas have a need for infrastructure support to increase recycling; and

WHEREAS, electronic waste and household hazardous waste present unique recycling challenges that may require additional programs; and

WHEREAS, the Montana Integrated Waste Management Act proposes increasing Montana solid waste recycling rates to 19% by 2011 and 22% by 2015 using a variety of methods, including source reduction, reuse, recycling, and composting.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to:



- (1) evaluate and propose potential methods for increasing the recycling rates in the state of Montana;
- (2) analyze methods to promote market development of recycled materials;
- (3) analyze options to address rural recycling challenges;
- (4) propose programs to address electronic and household hazardous waste; and
- (5) evaluate funding alternatives.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2010.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 62nd Legislature.

Adopted April 21, 2009

## SENATE JOINT RESOLUTION NO. 29

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY TO EXAMINE THE RETENTION AND PRESERVATION OF BIOLOGICAL EVIDENCE BY STATE AND LOCAL LAW ENFORCEMENT AGENCIES.

WHEREAS, the value of properly preserved biological evidence has been enhanced by the discovery of modern DNA testing methods, which allow law enforcement to improve its crime-solving potential; and

WHEREAS, tapping the potential of preserved biological evidence requires the proper identification, collection, preservation, storage, cataloguing, and organization of the evidence; and

WHEREAS, updating preservation policies can save valuable law enforcement resources, personnel hours, and storage space; and

WHEREAS, "cold" case investigations are hindered by an inability to access biological evidence that was collected in connection with criminal investigations; and

WHEREAS, innocent people mistakenly convicted of the serious crimes for which biological evidence is probative cannot prove their innocence if the evidence is not accessible for testing in appropriate circumstances; and

WHEREAS, simple but crucial enhancements to protocols for properly preserving biological evidence can solve old crimes, enhance public safety, and settle claims of innocence.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to study the retention and preservation of biological evidence by state and local law enforcement agencies, including:

(1) identifying current practices and challenges of state and local law enforcement agencies and other entities charged with preserving biological evidence;

(2) considering practices and standards developed to improve preservation of biological practices in other states;

(3) recommending changes to existing definitions, practices, and statutes that will improve the accessibility of biological evidence in felony cases and improve the efficiency of agencies that dedicate valuable law enforcement resources to processing and preserving biological evidence;

(4) recommending statewide standards regarding proper identification, collection, preservation, storage, cataloguing, and organization of biological evidence; and

(5) recommending essential components of training programs for law enforcement officers and other relevant employees who are charged with preserving and retrieving biological evidence.

BE IT FURTHER RESOLVED, that the committee use methods such as working groups, public hearings, or panel discussions to solicit concerns and information from the public and stakeholders, including the Department of Justice, county and local law enforcement agencies, tribal governments, the Office of the Public Defender, Montana Association of Clerk and Recorders, an organization dedicated to investigating postconviction claims of innocence, a victims' rights organization, and other stakeholders identified by the committee.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2010.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 62nd Legislature.

Adopted April 21, 2009

### **SENATE JOINT RESOLUTION NO. 30**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA 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.

WHEREAS, Montana has the second highest workers' compensation premium rates in the nation, according to the 2008 Oregon Workers' Compensation Premium Rate Ranking Summary; and

WHEREAS, Montana recorded 6.3 injuries for every 100 full-time equivalent workers in 2007 or 1.5 times the comparable national data of 4.2 injuries for every 100 full-time equivalent workers; and

WHEREAS, Montana's medical costs account for 69% of benefit dollars, according to the National Council for Compensation Insurance State Advisory Forum Report, 2008, and in 2004 Montana's medical benefits were more than 77% greater than the national average, ranking Montana second of 46 jurisdictions surveyed nationwide for the share of medical benefits in workers' compensation costs; and

WHEREAS, the time spent off work after an injury is 26% higher in Montana than the national average, according to the National Council for Compensation Insurance State Advisory Forum Report, 2008; and

WHEREAS, the Labor-Management Advisory Council on Workers' Compensation consisting of equal representation of the two primary workers' compensation stakeholders groups, namely management and labor, was formed in December 2006 under agency order by the Commissioner of Labor and Industry and was commissioned to identify and research the primary cost drivers in workers' compensation; and

WHEREAS, a February 2009 Legislative Audit Division report concluded that legal compliance risks faced by the Montana State Fund may be higher because of an internal and external lack of regulatory oversight mechanisms, which is of potential significance because of Montana State Fund's current market dominance of 67% of a market that is shared with private carriers providing workers' compensation insurance, excluding self-insured employers; and

WHEREAS, statutory direction for the Montana State Fund to operate as a self-sustaining business in a manner similar to that of a privately operated mutual insurance business has resulted in the Montana State Fund developing compensation and incentive plans and premium and other performance measures similar to those of private companies.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to conduct a review of Montana's workers' compensation premium cost drivers as compared to premium cost drivers in other Western states with similar industries. The review is to include:

- (1) the frequency of claims by types of claims;
- (2) medical costs, in particular:
  - (a) duration and availability of and access to medical treatments;
  - (b) use of utilization and treatment guidelines and their effectiveness in other jurisdictions; and
  - (c) evaluation of the impact on cost containment and access to medical treatment resulting from changes to medical fee schedules implemented by the department of labor and industry in 2007 and 2008;
- (3) research and analysis on whether Montana should include presumptions regarding occupational diseases associated with specific occupations;
- (4) recommendations on the appropriate payment of attorney fees in cases involving medical benefits;
- (5) evaluation of and recommendations on exemptions in workers' compensation;

(6) structural issues in Montana, particularly as they relate to the three-tiered system involving self-insurers, private carriers, and the Montana State Fund.

BE IT FURTHER RESOLVED, that the study identify any additional areas that impact premium cost drivers and request the Labor-Management Advisory Council on Workers' Compensation to research these areas and the interaction between workers and employers that may affect the premium cost drivers.

BE IT FURTHER RESOLVED, that the study incorporate reports from the Labor-Management Advisory Council and stakeholders involved in workers' compensation insurance, including injured workers, attorneys or other representatives for injured workers, insurers, and employers, and that the material from the study be compiled into a report and draft legislation for consideration by the 62nd Legislature.

BE IT FURTHER RESOLVED, that the study examine the operation and structure of the Montana State Fund, the Montana State Fund's relationship with state government and other insurers, and state oversight of the Montana State Fund.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2010.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 62nd Legislature.

Adopted April 21, 2009

### **SENATE JOINT RESOLUTION NO. 35**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING THAT AN INTERIM COMMITTEE STUDY MATTERS RELATED TO HEALTH CARE.

WHEREAS, an estimated 19% of the Montana population lacks health insurance coverage; and

WHEREAS, health insurance and access to health care services continue to be of concern at both the federal and state levels; and

WHEREAS, both the Montana Legislature and the U.S. Congress are considering changes involving publicly funded health care programs and reforms to the health care system in general; and

WHEREAS, the Legislature has an interest in following federal health care reforms to determine whether opportunities exist to tailor those reforms to best meet the needs and circumstances of Montana; and

WHEREAS, the costs of medical care make it more difficult for American companies to compete in the world and the cost of health care makes it harder for small businesses to survive; and

WHEREAS, families are struggling to keep up with out-of-pocket costs for health care; and

WHEREAS, Montanans and the Montana Legislature may benefit from ongoing analysis of proposed health care reforms and how they may affect the state.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to study ongoing federal and state efforts related to health care reform and to make recommendations on state-level initiatives for consideration by the 62nd Legislature.

BE IT FURTHER RESOLVED, that the Legislative Council assign the study to the Children, Families, Health, and Human Services Interim Committee and that this be the primary study assigned to the committee so that committee members can focus on health care.

BE IT FURTHER RESOLVED, that the study efforts include the following items and activities:

(1) compiling information from existing sources on the extent to which Montanans lack health insurance coverage or are unable to afford health insurance, as well as the extent to which publicly funded programs provide health insurance coverage to Montanans;

(2) reviewing existing information and studies on the number and location of health care providers to determine ways to strengthen the primary care system, including an evaluation of medical education opportunities, and to improve education and training opportunities for allied health professionals;

(3) monitoring and evaluating health care changes at the federal level to determine:

(a) whether and how the changes will affect existing health care programs and services available to Montanans;

(b) how the changes may fit with any state-level programs initiated by the 61st Legislature or carried out by the Department of Public Health and Human Services; and

(c) recommend action to be taken through state agencies or through legislation to take advantage of or build on the federal changes;

(4) monitoring the use of federal funds and other sources of funding to develop a health information technology system;

(5) monitoring state and federal efforts related to preventing disease, managing chronic diseases, and promoting health-improvement efforts; and

(6) considering health care reforms proposed by Montana groups involved in health care issues to determine how they would, if enacted or adopted, affect Montanans and whether legislative action would be needed to enact the proposals.

BE IT FURTHER RESOLVED, that the study engage the public and relevant stakeholders in discussions related to health care policies and to any resulting strategies designed to provide residents with access to quality health care services at affordable costs.

BE IT FURTHER RESOLVED, that the study work with the public and relevant stakeholders to make serious recommendations on ways to reduce the costs of health care.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be completed prior to September 15, 2010.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 62nd Legislature.

Adopted April 22, 2009

### **SENATE JOINT RESOLUTION NO. 37**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF THE FILING OPTIONS FOR MARRIED TAXPAYERS UNDER MONTANA'S INDIVIDUAL INCOME TAX LAW.

WHEREAS, it is generally advantageous for married taxpayers to file a joint return for federal income tax purposes; and

WHEREAS, most states require married taxpayers to file state individual income tax returns using the same filing status that they use in filing federal income tax returns; and

WHEREAS, Montana is one of the few states that allow married taxpayers to file separately on the same tax form; and

WHEREAS, married taxpayers filing separately on the same tax form in Montana could not use certain federal tax deductions that were allowed married taxpayers filing jointly; and

WHEREAS, the Montana Legislature had to enact legislation to specifically allow these federal deductions on the state tax return; and

WHEREAS, the different individual income tax filing methods for married taxpayers contribute to the complexity of compliance with and administration of the state's individual income tax laws; and

WHEREAS, the Montana Legislature has not undertaken a systematic evaluation of the effects of allowing married taxpayers to file separately on the same form.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to:

(1) review the rationale for allowing married taxpayers in Montana to file separately on the same form and review the legislative history related to how married taxpayers may choose to file individual income tax returns;

(2) evaluate the benefits and drawbacks of revising the method for filing individual income tax returns by married taxpayers, including an analysis of changes to tax rate schedules if the existing method of filing were changed; and

(3) consider policy options related to the filing method used by married taxpayers.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2010.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 62nd Legislature.

Adopted April 21, 2009

### **SENATE JOINT RESOLUTION NO. 39**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM LEGISLATIVE STUDY OF DRIVING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS IN MONTANA.

WHEREAS, Montana law prohibits individuals from driving under the influence of alcohol or drugs; and

WHEREAS, Montana law in this area has become a complex patchwork of statutes arising from federal mandates, initiatives by legislators or task forces, and case-specific circumstances; and

WHEREAS, law enforcement officers, prosecutors, public defenders, courts, addiction counselors, treatment professionals, probation officers, and driver control analysts struggle to interpret these statutes and apply the results to the wide range of circumstances that these offenders present; and

WHEREAS, first-time convictions of driving under the influence rose 19% from 2004 to 2008; and

WHEREAS, there was a 16% increase in repeat offenses from 2004 to 2008, including second or subsequent DUI and felony DUI; and

WHEREAS, implied consent refusals increased 24% from 2004 to 2008; and

WHEREAS, the Montana Highway Patrol reports that in 2007 there were 324 drivers involved in 249 fatal crashes, and 123 of those involved drivers under the influence; and

WHEREAS, the Montana Highway Patrol reports that in 2007 there were 9,541 drivers involved in injury crashes, and 1,161 of those involved drivers under the influence; and

WHEREAS, Montana continues to see an increase of 3% to 5% each year since 2000 in driving under the influence convictions; and

WHEREAS, statistical analysis suggests that the conviction-to-arrest rates in Montana may be as low as 1 to 1.5 and as high as 1 to 6; and

WHEREAS, a Montana Highway Patrol survey shows 96% of Montanans think that driving under the influence is a problem; and

WHEREAS, it is the duty of the Legislature to protect the safety of the public on public highways.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee or statutory committee, pursuant to 5-5-217, MCA, or direct sufficient staff resources to study the issue of driving under the influence of

alcohol or drugs generally and determine any legislation that might augment current law to reduce the incidence of this crime. The study should:

(1) identify strengths and weaknesses in Montana's driving under the influence statutes, as well as possible alternative penalty and enforcement provisions or new technologies that might aid Montana's enforcement of driving under the influence laws and reduce the incidence of repeat offenses;

(2) examine laws and enforcement practices in other states, including license suspensions, technology, and available resources;

(3) examine Montana's current rates of incarceration due to driving under the influence convictions, current incarceration and treatment capacities, and possible alternatives; and

(4) analyze whether there is a culture of acceptance of driving under the influence in Montana that might account for the prevalence of driving under the influence problems in Montana and what, if anything, the Legislature might do to address the issue.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2010.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 62nd Legislature.

Adopted April 24, 2009

## Senate Resolutions

### SENATE RESOLUTION NO. 1

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA ADOPTING THE SENATE RULES.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the following rules be adopted:

#### RULES OF THE MONTANA SENATE

##### CHAPTER 1

##### Administration

**S10-10. Officers of the Senate.** The officers of the Senate are the officers listed and elected in accordance with Title 5, chapter 2, part 2, MCA.

**S10-20. Term of office.** The term of office for the officers and employees of the Senate established by law is until the succeeding Legislature is organized. This rule may not be construed to mean the staff will be full-time employees during an interim.



**S10-30. President, President pro tempore, and other officers.** (1) The Senate shall, at the beginning of each regular session, and at other times as may be necessary, elect a Senator as President and a Senator as President pro tempore.

(2) The Senate shall choose its other officers and is the judge of the elections, returns, and qualifications of the Senators.

**S10-40. Voting by presiding officer.** Any Senator, when acting as presiding officer of the Senate, shall vote as any other Senator.

**S10-50. Presiding officer and duties.** (1) The presiding officer of the Senate is the President of the Senate, who must be chosen in accordance with law.

(2) The President shall take the chair on every legislative day at the hour to which the Senate adjourned at the last sitting.

(3) The President may name a Senator to perform the duties of the President when the President pro tempore is not present in the Senate chamber. The Senator who is named is vested during that time with all the powers of the President.

(4) The President has general control over the assignment of rooms for the Senate and shall preserve order and decorum. The President may order the galleries and lobbies cleared in case of disturbance or disorderly conduct.

(5) The President shall issue cards to the media to allow floor access, and reporters holding the cards are subject to placement on the floor by the President. The President may administer this rule through the office of the Secretary of the Senate.

(6) The President shall sign all necessary certifications of the Senate, including enrolled bills and resolutions, journals, subpoenas, and payrolls. The President's signature must be attested by the Secretary of the Senate.

(7) The President shall approve the calendar for each legislative day.

(8) The President is the chief administrative officer of the Senate, with authority for the general supervision of all Senate employees. The President may seek the advice and counsel of the Legislative Administration Committee.

(9) The President of the Senate is the authorized approving authority of the Senate during the term of election to that office.

(10) The President shall refer bills to committee upon introduction or reception in the office of the Secretary of the Senate.

**S10-60. Succession.** (1) In case of the absence or disqualification of the President, the President pro tempore of the Senate shall perform the duties of the President until the vacancy is filled or the disability removed.

(2) Whenever the President pro tempore of the Senate is of the opposite political party from that of the President, the following procedure applies:

(a) If the President dies while in office, the members of the Senate have the right to immediately nominate and elect an acting President of the same party.

(b) If the President is absent for 2 or more legislative days or at any time after the 85th legislative day or at any time during special session of the Legislature and wants to appoint an acting President during the President's absence, the President may do so, or the members of the Senate have the right to immediately nominate and elect an acting President of the President's caucus.

(c) An acting President of the Senate has the powers of the President and supersedes the powers of the President pro tempore.

**S10-70. President-elect.** The President-elect nominated by the appropriate party caucus held in accordance with section 5-2-201, MCA, has the responsibility and authority to assume the duties of President of the Senate.

**S10-80. Legislative Administration Committee duties.** (1) The Legislative Administration Committee shall consider matters relating to legislative administration, staffing patterns, budgets, equipment, operations, and expenditures.

(2) The committee has authority to act in the interim to prepare for future legislative sessions.

(3) The committee shall approve contracts for purchase or lease of equipment and supplies for the Senate, subject to the approval of the President.

(4) The committee shall consider disputes or complaints involving the competency or decorum of legislative employees referred to it by the President and recommend dismissal, suspension, or retention of employees.

(5) The chair of the Legislative Administration Committee may, upon approval of the President, have purchase orders and requisitions prepared and forwarded to the accounting office in the Legislative Services Division.

**S10-90. Majority Leader.** The primary functions of the majority leader usually relate to floor duties. The duties of the majority leader may include but are not limited to:

(1) being the lead speaker for the majority party during floor debates;

(2) helping the President develop the calendar;

(3) assisting the President with program development, policy formation, and policy decisions;

(4) presiding over the majority caucus meetings; and

(5) other duties as assigned by the caucus.

**S10-100. Majority Whip.** The duties of the majority whip may include but are not limited to:

(1) assisting the majority leader;

(2) ensuring member attendance;

(3) counting votes;

(4) generally communicating the majority position; and

(5) other duties as assigned by the caucus.

**S10-110. Minority Leader.** The minority leader is the principal leader of the minority caucus. The duties of the minority leader may include but are not limited to:

(1) developing the minority position;

(2) negotiating with the majority party;

(3) directing minority caucus activities on the chamber floor;

(4) leading debate for the minority; and

(5) other duties as assigned by the caucus.

**S10-120. Minority Whip.** The major responsibilities for the minority whip may include but are not limited to:

(1) assisting the minority leader on the floor;

(2) counting votes;

- (3) ensuring attendance of minority party members; and
- (4) other duties as assigned by the caucus.

**S10-130. Senate employees.** (1) In addition to the employees appointed by the President in accordance with section 5-2-221, MCA, the Senate shall employ staff recommended by the leadership and the Legislative Administration Committee as necessary to perform the functions of the Senate.

(2) The Secretary of the Senate shall designate a secretary to take and transcribe minutes of committee meetings for each standing committee. A committee secretary is immediately responsible to the chair, but shall work under the overall direction of the Secretary of the Senate, subject to authority of the committee chair.

(3) The President, majority leader, and minority leader may each appoint a private secretary.

**S10-140. Secretary of the Senate and duties.** The Secretary of the Senate works under the direction of the President. The responsibilities of the Secretary of the Senate include:

- (1) performing the duties prescribed by law or other provisions of these rules;
- (2) serving as parliamentary advisor to the Senate;
- (3) compiling and maintaining the calendar for approval by the President;
- (4) keeping the leadership informed on the progress and workload of the Senate;
- (5) transmitting bills with appropriate messages to the House of Representatives as instructed by action of the Senate;
- (6) keeping and maintaining records of the Senate; and
- (7) supervision of the Senate employees, except as otherwise provided.

**S10-150. Sergeant-at-Arms duties.** Under the direction of the President, the Sergeant-at-Arms shall:

- (1) maintain order as directed by the President or chair of the Committee of the Whole;
- (2) enforce the lobbying rules of the Senate;
- (3) supervise the employees assigned to the Sergeant's office;
- (4) receive, distribute, and maintain supplies, equipment, and other inventory of the Senate, along with records of purchase and disposal in accordance with law;
- (5) perform duties as required by other rules and the Senate.

**S10-160. Legislative aides.** Each Senator may designate one person of legal age to serve as an aide during the session. Exceptions to this policy may be approved by the Rules Committee. The Senator shall register an aide with the Secretary of the Senate and arrange for the purchase of a name tag with the Sergeant-at-Arms.

**S10-170. Senate journal.** (1) The Senate shall keep and authenticate a journal of its proceedings as required by law and the rules.

(2) The Secretary of the Senate will supervise the preparation of the journal by the journal clerks trained by the Legislative Services Division under the direction of the President.

(3) In addition to the proceedings required by law to be recorded, the journal must include:

- (a) committee reports;
- (b) every motion, the name of the Senator presenting it, and its disposition;
- (c) the introduction of legislation in the Senate;
- (d) consideration of legislation subsequent to introduction;
- (e) roll call votes;
- (f) messages from the Governor and the House of Representatives;
- (g) every amendment, the name of the Senator presenting it, and its disposition;
- (h) the names of Senators and their votes on any question upon a request by two Senators before a vote is taken; and
- (i) any other records the Senate directs by rule or action.

(4) The Secretary of the Senate shall provide information that may be necessary for the preparation of the daily journal for printing by the Legislative Services Division. Upon approval by the President, the daily journal must be reproduced and made available.

(5) Any Senator may examine the daily journal and propose corrections. Without objection by the Senate, the President may direct the correction to be made.

(6) The President shall authenticate the original daily journal, from time to time, and the Secretary of the Senate shall, as appropriate, deliver it to the Legislative Services Division to be prepared for publication and distribution in accordance with law.

## CHAPTER 2

### Decorum

**S20-10. Questions of order.** The President of the Senate shall decide all questions of order, subject to an appeal by any Senator seconded by two other Senators. A Senator may not speak more than once on an appeal without the consent of a majority of the Senate.

**S20-20. Violation of rules — call to order.** (1) If a Senator, in speaking or otherwise, violates the rules of the Senate, the President shall, or the majority leader or minority floor leader may, call the Senator to order, in which case the Senator called to order must be seated immediately.

(2) The Senator called to order may move for an appeal to the Senate, and if the motion is seconded by two Senators, the matter must be submitted to the Senate for determination by majority vote. The motion is nondebatable.

(3) If the decision of the Senate is in favor of the Senator called to order, the Senator may proceed. If the decision is against the Senator, the Senator may not proceed.

(4) If a Senator is called to order, the matter may be referred to the Rules Committee by the minority or majority leader. The Committee may recommend to the Senate that the Senator be censured or be subject to other action. Censure consists of an official public reprimand of a Senator for inappropriate behavior. The Senate shall act upon the recommendation of the Committee.

**S20-30. Questions of privilege.** (1) Questions of privilege in order of precedence are those:

(a) affecting the collective rights, safety, dignity, or integrity of the proceedings of the Senate; and

(b) affecting the rights, reputation, or conduct of individual Senators in their capacity as Senators.

(2) A Senator may not address the Senate on a question of privilege between the time:

(a) an undebatable motion is offered and the vote is taken on the motion;

(b) the previous question is ordered and the vote is taken on the proposition included under the previous question; or

(c) a motion to lay on the table is offered and the vote is taken on the motion.

**S20-40. Recognition by chair.** A Senator desiring to speak shall rise and address the presiding officer and, once being recognized, shall speak standing in place. The presiding officer may grant permission for a speaker to speak from elsewhere in the chamber. When two or more Senators rise at the same time, the presiding officer shall name the order of the speakers.

**S20-50. Floor privileges.** (1) When the Senate is in session no person is permitted in the chambers except:

(a) legislators;

(b) legislative officers and employees whose presence is necessary for the conduct of business of the session;

(c) accredited members of the news media; and

(d) former legislators (not currently registered as lobbyists).

(2) The President may make exceptions for visiting dignitaries.

(3) Beginning 1 hour before and ending one-half hour after adjournment, no person is permitted in the chambers except those authorized as exceptions under subsection (1) or (2).

**S20-60. Communications to Senate.** A communication to the Senate must be addressed to the President and must bear the name of the person submitting it. The President shall decide if the communication bears including in the calendar.

**S20-70. Distribution of materials on floor.** (1) Subject to subsection (2), material may not be distributed on the Senators' desks in the chamber unless the material bears the signature of the bearer and a Senator and has been approved by the President.

(2) Subsection (1) does not apply to material written by staff at the request of a Senator and placed on the Senator's desk.

### CHAPTER 3

#### Committees

**S30-10. Committee appointments.** (1) There is a Committee on Committees consisting of six members. If the Senate is evenly divided between parties, the committee shall consist of six Senators, three from the majority party and three from the minority party.

(2) The Committee on Committees shall, with the approval of the Senate, appoint the members of Senate standing committees, select committees, and joint committees. Prior to making committee assignments, the Committee on Committees shall take into consideration the recommendations of the minority leader for minority committee assignments.

(3) The President of the Senate shall appoint all conference committees and special committees, with the advice of the majority leader and minority leader.

(4) The Senate may change the membership of any committee on 1 day's notice.

**S30-20. Standing committees — classification.** (1) The standing committees of the Senate are as follows:

- (a) class one committees:
  - (i) Business, Labor, and Economic Affairs;
  - (ii) Finance and Claims;
  - (iii) Judiciary; and
  - (iv) Taxation;
- (b) class two committees:
  - (i) Education and Cultural Resources;
  - (ii) Local Government;
  - (iii) Natural Resources;
  - (iv) Public Health, Welfare, and Safety; and
  - (v) State Administration;
- (c) class three committees:
  - (i) Agriculture, Livestock, and Irrigation;
  - (ii) Energy;
  - (iii) Fish and Game; and
  - (iv) Highways and Transportation; and
- (d) on call committees:
  - (i) Ethics;
  - (ii) Legislative Administration; and
  - (iii) Rules.

(2) A class 1 committee is scheduled to meet Monday through Friday. A class 2 committee is scheduled to meet Monday, Wednesday, and Friday. A class 3 committee is scheduled to meet Tuesday and Thursday. Unless a class is prescribed for a committee, it meets upon the call of the chair.

(3) The Legislative Council shall review the workload of the standing committees to determine if any change is indicated in the class of a standing committee for the next legislative session. The Legislative Council's recommendations must be submitted to the leadership nominated or elected at the pre-session caucus provided for in 5-2-201.

**S30-40. Ex officio members — quorum.** (1) A quorum of a committee is a majority of the members of the committee. A quorum of a committee must be present at a meeting to act officially. A quorum of a committee may transact business, and a majority of the quorum, even though it is a minority of the committee, is sufficient for committee action.

(2) The majority leader and the minority leader are ex officio members of all committees in order to establish a quorum.

**S30-50. Chair's duties.** (1) The chair of a committee is the presiding officer of that committee and is responsible for:

- (a) maintaining order within the committee room and its environs;

(b) scheduling hearings and executive action;

(c) supervising committee work, including the appointment of subcommittees to act on a formal or informal basis; and

(d) authenticating committee reports by signing them and submitting them promptly to the Secretary of the Senate. The chair shall sign business reports reflecting action taken in each committee meeting that enable the preparation of committee minutes. The minutes must be printed on archival paper.

(2) The Secretary of the Senate shall arrange to have the minutes copied in an electronic format. An electronic copy will be provided to the Legislative Services Division and the State Law Library of Montana. The archival paper copy must be delivered to the Montana Historical Society.

**S30-60. Meetings.** (1) All meetings of committees must be open to the public at all times, subject always to the power and authority of the chair to maintain safety, order, and decorum. The date, time, and place of committee meetings must be announced.

(2) Notice of a committee hearing must be made by posting the date, time, and subject of the hearing in a conspicuous public place not less than 3 legislative days in advance of the hearing. This 3-day notice requirement does not apply to hearings scheduled:

(a) prior to the third legislative day;

(b) less than 10 legislative days before the transmittal deadline applicable to the subject of the hearing;

(c) to consider confirmation of a gubernatorial appointment received less than 10 legislative days before the last scheduled day of a legislative session; or

(d) due to appropriate circumstances.

(3) When a committee hearing is scheduled with less than 3 days' notice, the committee chair shall use all practical means to disseminate notice of the hearing to the public.

(4) Notice of conference committee hearings must be given as provided in Joint Rule 30-30.

(5) A committee or subcommittee may be assembled for:

(a) a public hearing at which testimony is to be heard and at which official action may be taken on bills, resolutions, or other matters;

(b) a formal meeting at which the committees may discuss and take official action on bills, resolutions, or other matters without testimony; or

(c) a work session at which the committee may discuss bills, resolutions, or other matters but take no formal action.

(6) All committees meet at the call of the chair or upon the request of a majority of the members of the committee.

(7) A committee may not meet during the time the Senate is in session without leave of the President. Any Senator attending a meeting while the Senate is in session must be considered excused to attend business of the Senate subject to a call of the Senate.

(8) All meetings of committees must be recorded and the minutes must be available to the public within a reasonable time after the meeting. The official record must contain at least the following information:

(a) the time and place of each meeting of the committee;

(b) committee members present, excused, or absent;

(c) the names and addresses of persons appearing before the committee, whom each represents, and whether the person is a proponent, opponent, or other witness;

(d) all motions and their disposition;

(e) the results of all votes; and

(f) all testimony and exhibits.

(9) If a bill is heard in a joint committee, it must be referred to a standing committee. The standing committee is not required to hold an additional hearing but shall take executive action and may report the bill to the committee of the whole.

(10) A bill or resolution may not be considered or become a law unless referred to a committee and returned from a committee.

(11) A bill may be rereferred at any time before its passage.

**S30-70. Procedures.** (1) The chair shall notify the sponsor of any bill pending before the committee of the time and place it will be considered.

(2) A standing or select committee may not hear legislation unless the sponsor or one of the cosponsors is present or unless the sponsor has given written consent.

(3) (a) Subject to subsection (3)(b), the committee shall act on each bill in its possession:

(i) by reporting the bill out of the committee:

(A) with the recommendation that it be referred to another committee;

(B) favorably as to passage; or

(C) unfavorably; or

(ii) by tabling the measure in committee.

(b) At the written request of the sponsor, a committee may finally dispose of a bill without a hearing. Except as provided in S30-60(7), a bill may not be reported from a committee without a hearing.

(4) The committee may not report a bill to the Senate without recommendation.

(5) In reporting a measure out of committee, a committee shall include in its report:

(a) the measure in the form reported out;

(b) the recommendation of the committee;

(c) an identification of all proposed changes; and

(d) a fiscal note, if required.

(6) If a measure is taken from a committee and brought to the Senate floor for debate on second reading on that day without a committee recommendation, the bill does not include amendments formally adopted by the committee because committee amendments are merely recommendations to the Senate that are formally adopted when the committee report is accepted by the Senate.

(7) A second to any motion offered in a committee is not required in order for the motion to be considered by the committee.



(8) The vote of each member on all committee actions must be recorded and reported in the committee minutes. All motions may be adopted only on the affirmative vote of a majority of the members voting.

(9) A motion to take a bill from the table may be adopted by the affirmative vote of a majority of the members present at any meeting of the committee.

(10) An action formally taken by a committee may not be altered in the committee except by reconsideration and further formal action of the committee.

(11) A committee may reconsider any action as long as the matter remains in the possession of the committee. A bill is in the possession of the committee until a report on the bill is made to the committee of the whole. A committee member need not have voted with the prevailing side in order to move reconsideration.

(12) The chair shall decide points of order.

(13) The privileges of committee members include the following:

(a) to participate freely in committee discussions and debate;

(b) to offer motions;

(c) to assert points of order and privilege;

(d) to question witnesses upon recognition by the chair;

(e) to offer any amendment to any bill; and

(f) to vote, either by being present or by proxy, using a standard form.

(14) Any meeting of a committee held through the use of telephone or other electronic communication must be conducted in accordance with Chapter 3 of the Senate Rules.

(15) A committee may consolidate into one bill any two or more related bills referred to it whenever legislation may be simplified by the consolidation.

(16) Committee procedure must be informal, but when any questions arise on committee procedure, the rules or practices of the Senate are applicable except as stated in the Senate Rules.

**S30-80. Public testimony.** (1) Testimony from proponents, opponents, and informational witnesses must be allowed on every bill or resolution before a standing or select committee. All persons, other than the sponsor, offering testimony shall register on the committee witness list.

(2) Any person wishing to offer testimony to a committee hearing a bill or resolution must be given a reasonable opportunity to do so, orally or in writing, subject to time constraints. Written testimony may not be required of any witness, but all witnesses must be encouraged to submit a statement in writing for the committee's official record.

(3) The chair may order the committee room cleared of visitors if there is disorderly conduct. During committee meetings, visitors may not speak unless called upon by the chair. Restrictions on time available for testimony may be announced.

(4) The number of people in a committee room may not exceed the maximum posted by the State Fire Marshall. The chair shall maintain that limit.

(5) In any committee meeting, the use of cameras, television, radio, or any form of telecommunication equipment is allowed, but the chair may designate the areas of the hearing room from which the equipment must be operated. Cell phone use is at the discretion of the chair.

**S30-100. Pairs prohibited — absentee or proxy voting.** Pairs in standing committee are prohibited. Standing and select committees may by a majority vote of the committee authorize Senators to vote in absentia while engaged in other legislative business. Authorization for absentee or proxy voting must be reflected in the committee minutes.

**S30-140. Reconsideration in committee.** A committee may at any time prior to submitting a report to the Secretary of the Senate reconsider its previous action on legislation.

**S30-150. Committee requested legislation.** (1) (a) Except as provided in subsection (1)(b), at least three-fourths of all the members of a standing committee must have voted in favor of the question to allow the committee to request the drafting and introduction of legislation.

(b) The Finance and Claims Committee may request the drafting and introduction of legislation by a majority vote of all of the members of the committee.

(2) The chair of a committee shall introduce, or shall designate a member of the committee to introduce, legislation requested by the committee. The introduced bill must be referred to the requesting committee.

**S30-160. Ethics Committee.** (1) The Ethics Committee shall meet only upon the call of the chair after the referral of an issue from the Rules Committee or to consider a request for a determination pursuant to subsection (4). The Rules Committee may be convened to consider the referral of a matter to the Ethics Committee upon the request of a Senator. The Rules Committee shall prepare a written statement of the specific question or issue to be addressed by the Ethics Committee. The issues referred to the Ethics Committee must be related to the actions of a Senator during a legislative session.

(2) The matters that may be referred to the Ethics Committee are:

(a) a violation of:

(i) 2-2-103;

(ii) 2-2-104;

(iii) 2-2-111;

(iv) 2-2-112;

(b) the use or threatened use of a Senator's position for personal or personal business benefit or advantage; or

(c) any other violation of law by a Senator while acting in the capacity of Senator.

(3) If there is a recommendation from the Ethics Committee, the recommendation is made to the Senate.

(4) As provided in 2-2-112, a Senator may seek a determination from the Ethics Committee concerning the possibility of a personal conflict of interest.

## CHAPTER 4

### Legislation

**S40-10. Types of legislation.** The only types of legislation that may be introduced in the Senate are those that have been drafted and approved by the Legislative Services Division and signed by a Senator as chief sponsor. The types of legislation allowed include:

(1) bills of any subject, except appropriations;

(2) joint resolutions, which may be used for any purpose specified in Joint Rule 40-60; and

(3) simple resolutions, which may:

(a) adopt or amend Senate rules;

(b) provide for the internal affairs of the Senate;

(c) express confirmation of the Governor's appointments; or

(d) make recommendations concerning the districting and apportionment plan as provided by Article V, section 14(4), of the Montana Constitution.

**S40-20. Introduction — first reading.** (1) Upon receiving a bill or resolution from a Senator, the Secretary of the Senate shall assign an appropriate sequential number, which constitutes introduction of the legislation. Legislation properly introduced or received in the Senate must be announced across the rostrum and public notice provided. This announcement constitutes first reading, and no debate or motion is in order except that a Senator may question adherence to rules. Acknowledgment by the Secretary of the Senate of receipt of legislation transmitted from the House commences the time limit for consideration of the legislation. All legislation received by the Senate may be referred to a committee prior to being read across the rostrum.

(2) Bills and resolutions preintroduced as provided in Joint Rule 40-40 may be assigned to committee and printed prior to the legislative session. The Legislative Services Division is responsible for ensuring the preintroduction intent from each Senator and presenting the preintroduced legislation to the Secretary of the Senate.

(3) Upon referral to committee, the Secretary of the Senate shall publicly post a listing of the bill or resolution by a summary of its title, together with a notation of the committee to which it has been assigned.

(4) The sponsor may ask the Legislative Services Division to change or correct a short title used on the bill status system.

**S40-30. Additional sponsors.** (1) Additional sponsors may be added on motion of the chief sponsor at any time prior to a standing committee report on the bill or resolution. Forms for adding sponsors will be supplied on request by the Secretary of the Senate.

(2) Upon passage of the motion, the names of the additional sponsors will be printed in the journal and the form containing the signatures of the additional sponsors will be forwarded to the Legislative Services Division with the original bill for the inclusion of the names in subsequent printings of the bill or resolution.

**S40-40. Reading limitations.** (1) Every bill must be read three times prior to passage, either by title or by summary of title as provided in these rules.

(2) A bill or resolution may not have more than one reading on the same day except the last legislative day.

(3) An amendment may not be offered on third reading.

**S40-60. Scheduling for second reading.** (1) All bills and resolutions that have been reported by a committee or withdrawn from a committee by motion, accepted by the Senate, and reproduced must be scheduled for consideration by Committee of the Whole.

(2) Until the 50th legislative day, 1 day must elapse between receiving the legislation from printing and scheduling for second reading for consideration by

Committee of the Whole unless a printed version of an unamended bill is available.

(3) The majority leader shall arrange legislation on the agenda in the order in which the bills will be considered, unless otherwise ordered by the Senate or Committee of the Whole.

## CHAPTER 5

### Floor Action

**S50-10. Attendance — mandatory voting — quorum.** (1) Unless excused, Senators must be present at every sitting of the Senate and shall vote on questions put before the Senate.

(2) A majority of the Senate shall constitute a quorum to do business, but a smaller number may adjourn from day to day and compel the attendance of absent Senators, in the manner and under penalties as the Senate may prescribe (Montana Constitution, Art. V, sec. 10(2)).

**S50-20. Orders of business.** After prayer, roll call, and report on the journal, the order of business of the Senate is as follows:

- (1) communications and petitions;
- (2) reports of standing committees;
- (3) reports of select committees;
- (4) messages from the Governor;
- (5) messages from the House of Representatives;
- (6) motions;
- (7) first reading and commitment of bills;
- (8) second reading of bills (Committee of the Whole);
- (9) third reading of bills;
- (10) unfinished business;
- (11) special orders of the day; and
- (12) announcement of committee meetings.

To revert to or pass to a new order of business requires only a majority vote. Unless otherwise specified in the motion to recess, the Senate shall revert to Order of Business No. 1 when reconvening after a recess.

**S50-30. Limitations on debate.** A Senator may not speak more than twice on any one motion or question without unanimous consent of the Senate, unless the Senator has introduced or proposed the motion or question under debate, in which case the Senator may speak twice and also close the debate. However, a Senator who has spoken may not speak again on the same motion or question to the exclusion of a Senator who has not spoken.

**S50-40. Procedure upon offering a motion.** (1) When a motion is offered it must be restated by the presiding officer. If requested by the presiding officer or a Senator, it must be reduced to writing, presented at the rostrum, and read aloud by the Secretary.

(2) A motion may be withdrawn by the Senator offering it at any time before it is amended or voted upon.

**S50-50. Precedence of motions.** (1) When a question is under debate only the following privileged and subsidiary motions may be made:

- (a) to adjourn;

- (b) for a call of the Senate;
- (c) to recess;
- (d) question of privilege;
- (e) to lay on the table;
- (f) for the previous question;
- (g) to postpone to a certain day;
- (h) to refer or commit;
- (i) to amend; and
- (j) to postpone indefinitely.

(2) The motions listed in subsection (1) have precedence in the order listed.

(3) A question may be indefinitely postponed by a majority roll call of all Senators present and voting. When a bill or resolution is postponed indefinitely, it is finally rejected and may not be acted upon again except upon a motion of reconsideration.

(4) A motion or proposition on a subject different from that under consideration may not be accepted unless a substitute motion is in order.

**S50-60. Nondebatable motions.** The following motions are not debatable:

- (1) to adjourn;
- (2) for a call of the Senate;
- (3) to recess or rise;
- (4) for parliamentary inquiry;
- (5) for suspension of the rules;
- (6) to lay on the table;
- (7) for the previous question;
- (8) to limit, extend the limits of, or to close debate;
- (9) to amend an undebatable motion;
- (10) to divide a question;
- (11) to pass business in Committee of the Whole;
- (12) to take from the table;
- (13) a decision of the presiding officer, unless appealed or unless the presiding officer submits the question to the Senate for advice or decision; and
- (14) all incidental motions, such as motions relating to voting or other questions of a general procedural nature.

**S50-70. Amending motions.** (1) Subject to subsection (2), no more than one amendment and no more than one substitute motion may be made to a motion. This rule permits the main motion and two modifying motions.

(2) A motion for a call of the Senate, for the previous question, to table, or to take from the table may not be amended.

**S50-80. Previous question.** (1) Except as provided in subsection (2), the effect of calling for the previous question, if adopted, is to close debate immediately, to prevent the offering of amendments or other subsidiary motions, and to bring to vote promptly the immediately pending main question and the adhering subsidiary motions, whether on appeal or otherwise.

(2) When the previous question is ordered on any debatable question on which there has been no debate, the question may be debated for one-half hour, one-half of that time to be given to the proponents and one-half to the opponents. The sponsor of the main motion on which the previous question is adopted may close on the motion.

(3) A call of the Senate is not in order after the previous question is ordered unless it appears upon an actual count by the presiding officer that a quorum is not present.

**S50-90. Reconsideration.** (1) Any Senator may, on the day the vote was taken or on the next day the Senate is in session, move to reconsider the question. A motion to reconsider is a debatable motion, but the debate is limited to the motion. The debate on a motion to reconsider may not address the substance of the matter for which reconsideration is sought.

(2) A motion to reconsider may not be withdrawn after the next legislative day without the unanimous consent of the Senate, and thereafter any Senator may call it up for consideration. A motion to reconsider must be disposed of when made unless a proper substitute motion is made and adopted.

(3) A motion to recall a bill from the House of Representatives constitutes notice to reconsider and must be acted on as a motion to reconsider. A motion to reconsider or to recall a bill from the House of Representatives may be made only under Order of Business No. 6 and, under that order of business, takes precedence over all motions except motions to recess or adjourn.

(4) When a motion to reconsider is laid on the table, a two-thirds majority is required to take it from the table. When a motion to reconsider fails, the question is finally and conclusively settled.

(5) If a motion to reconsider third reading action is carried, there may not be further action until the succeeding legislative day.

**S50-100. Dividing a question.** A Senator may request to divide a question if it includes two or more propositions so distinct in substance that if one thing is taken away a substantive question will remain.

**S50-110. Rules for questions requiring other than a majority vote.** (1) When a question requires more than a majority vote for final passage, a majority vote is sufficient to decide any question relating to the question prior to third reading.

(2) Any vote in the Senate on a bill proposing an amendment to the Montana Constitution under circumstances in which there exists the mathematical possibility of obtaining the necessary two-thirds vote of the Legislature will cause the bill to progress as though it had received the majority vote. This rule does not prevent a committee from indefinitely postponing or tabling a bill proposing an amendment to the Montana Constitution.

(3) If a bill has been amended in the House of Representatives and the amendments are accepted by the Senate, the bill must again be placed on third reading in the Senate to determine if the required number of votes has been cast.

**S50-120. Committee reports to Senate.** (1) Reports of standing committees must be read on Order of Business No. 2, and, subject to subsection (4), debate may not be had on any report.

(2) On an adverse committee report, the sponsor may respond to the chair of the committee making the report.

(3) Any Senator seeking a reconsideration of the Senate's action on the adoption of a committee report shall do so on Order of Business No. 6 by motion to reconsider. Any Senator may make the reconsideration motion and need not have voted on the prevailing side. This rule applies notwithstanding any joint rule to the contrary. The reconsideration motion must be made within 1 legislative day of the adoption of the committee report and is not in order if the bill has been considered in Committee of the Whole.

(4) (a) Subject to subsection (4)(b), the Rules Committee and conference committees may report at any time, except during a call of the Senate, when a vote is being taken, or during Committee of the Whole.

(b) The Rules Committee may report during Committee of the Whole on matters referred to the Committee by the Committee of the Whole.

**S50-130. Conference committee reports.** (1) When a conference committee report is filed with the Secretary of the Senate, the report must be read under Order of Business No. 3, select committees, and placed on the calendar the succeeding legislative day for consideration on second reading. If recommended favorably by the Committee of the Whole, it may be considered on third reading the same legislative day.

(2) If both the Senate and the House of Representatives adopt the same conference committee report on legislation requiring more than a majority vote for final passage, the Senate, following approval of the conference committee report on third reading, shall place the final form of the legislation on third reading to determine if the required vote is obtained.

(3) If the Senate rejects a conference committee report, the committee continues to exist unless dissolved by the President or by motion. The committee may file a subsequent report.

(4) A Senate conference committee may confer regarding matters assigned to it with any House conference committee with like jurisdiction and submit recommendations for consideration of the Senate.

**S50-140. Second reading.** (1) The Senate may resolve itself into a Committee of the Whole for consideration of business on second reading, by approval of a motion for that purpose.

(2) After a Committee of the Whole has been formed, the President shall appoint a chair to preside.

(3) All legislation considered in the Committee of the Whole must be read by a summary of its title. The sponsor shall make an opening statement, proposed amendments must be considered, and then the bill must be considered in its entirety.

(4) Prior to adoption of the Committee of the Whole report, a Senator may move to segregate legislation. If the motion prevails, the legislation remains on second reading.

(5) When a Committee of the Whole report on legislation is rejected, the legislation remains on second reading.

**S50-150. Committee of the Whole amendments.** (1) All Committee of the Whole amendments must be prepared, stipulating the date and time of preparation and staff approval, and delivered to the Secretary of the Senate for reading before the amendment is voted on.

(2) Each amendment, rejected or adopted, must be printed in the journal, along with the name of the sponsor and the vote on each.

**S50-160. Motions in Committee of the Whole.** (1) All proper motions on second reading are debatable.

- (2) The only motions in order during Committee of the Whole are to:
- (a) amend;
  - (b) recommend passage or nonpassage;
  - (c) recommend concurrence or nonconcurrence;
  - (d) indefinitely postpone;
  - (e) pass consideration;
  - (f) rise;
  - (g) rise and report;
  - (h) rise and report progress and ask leave to sit again; or
  - (i) change the order in which legislation is placed on the agenda.

**S50-170. Committee of the Whole — generally.** (1) The Committee of the Whole may not appoint subcommittees.

(2) The Committee of the Whole may not punish its members for misconduct, but may report disorder to the Senate.

**S50-180. Voting on second reading.** (1) On Order of Business No. 8, in addition to other methods, a recorded vote may be made in the following manner: the chair may call for a voice vote to accept or reject a question. If the vote is other than unanimous, the chair may ask that the lesser number on the question indicate their vote by standing. The Secretary will then record the vote of those standing. The chair may then rule that unless excused those not standing and present have voted on the prevailing side of the question and that their vote be recorded as voting on the prevailing side. If there was a unanimous vote, all those present will be recorded as having voted for the question.

(2) A motion on second reading must be disposed of by a positive vote.

**S50-190. Third reading procedure.** (1) Unless rereferred to a committee by a majority vote after the adoption of the committee of the whole report but before moving to another order of business, all legislation passing second reading must be placed on third reading the day following the receipt of the engrossing or other appropriate printing report.

(2) On Order of Business No. 9 the Secretary shall read the title and the President shall state the question as follows: "Senate bill number (or other appropriate identification).... having been read three several times, the question is, shall the bill (or other appropriate identification) pass the Senate?"

(3) If an electronic voting system is used, the President shall state "Those in favor vote yes and those opposed vote no" and the Secretary will sound the signal and open the board for voting. After a reasonable pause the presiding officer asks "Has every member voted?" (reasonable pause), "Does any member wish to change his or her vote?" (reasonable pause), "The Secretary will record the vote."

**S50-200. Senate voting — changing a vote.** (1) A roll call vote must be taken on the request of two Senators, if the request occurs before the vote is taken.

(2) On a roll call vote the names of the Senators must be called alphabetically, unless an electronic voting system is used. A Senator may not vote after the decision is announced from the chair. A Senator may not explain a vote until after the decision is announced from the chair.



(3) A Senator may move to change the Senator's vote, on any recorded vote, within 1 legislative day of the vote. The Senator making the motion shall first specify the bill number, the date of the vote, and the original vote tally. A vote may not be changed if it would affect the outcome of legislation. The motion is nondebatable. If none of the Senators present object, the change must be entered into the journal.

(4) If any Senator objects to the request in subsection (3), the Senator making the request may move to suspend the rules to allow the Senator to change the Senator's vote.

(5) An error caused by a malfunction of the voting system may be corrected without a vote within 10 minutes of the malfunction.

**S50-210. Pairs.** (1) Two Senators may pair on a question that will be determined by a majority vote. On a question requiring a two-thirds vote for adoption, three Senators may pair, with two Senators for the question and one Senator against. Pairing is permitted only when one of the paired Senators is excused when the vote is taken.

(2) An agreement to pair must be in writing and dated and signed by the Senators agreeing to be bound and must specify the duration of the pair. When an agreement to pair is filed with the Secretary of the Senate, it binds the Senators signing until the expiration of time for which it was signed, unless the paired Senators sooner appear and ask that the agreement be canceled.

(3) Pairs in Committee of the Whole are prohibited.

**S50-220. Call of the Senate.** (1) In the absence of a quorum, a majority of Senators present may compel the attendance of absent Senators by ordering a call of the Senate.

(2) If a quorum is present, five Senators may order a call of the Senate.

(3) On a call of the Senate, a Senator who refuses to attend may be arrested by the Sergeant-at-Arms or any other person, as the majority of the Senators present direct. When the attendance of an absent Senator is secured and the Senate refuses to excuse the Senator's absence, the Senator may not be paid any expense payments while absent and is liable for the expenses incurred in procuring the Senator's attendance.

(4) During a call of the Senate, all business must be suspended. After a call has been ordered, no motion is in order except a motion to adjourn or remove the call. The call may be removed by a two-thirds vote of the members present.

**S50-230. House amendments to Senate legislation.** (1) When the House has properly returned Senate legislation with House amendments, the Senate shall announce the amendments on Order of Business No. 5 and the President shall place them on second reading for debate. The President may rerefer Senate legislation with House amendments to a committee for a hearing if the House amendments constitute a significant change in the Senate legislation. The second reading vote is limited to consideration of the House amendments.

(2) If the Senate accepts House amendments, the Senate shall place the final form of the legislation on third reading to determine if the legislation, as amended, is passed or if the required vote is obtained.

(3) If the Senate rejects the House amendments, the Senate may request the House to recede from its amendments or may direct appointment of a conference committee and request the House to appoint a like committee.

**S50-240. Governor's amendments.** (1) When the Governor returns a bill with recommended amendments, the Senate shall announce the amendments under Order of Business No. 4.

(2) The Senate may debate and adopt or reject the Governor's recommended amendments on second reading on any legislative day.

(3) If both the Senate and the House of Representatives accept the Governor's recommended amendments on a bill that requires more than a majority vote for final passage, the Senate shall place the final form of the legislation on third reading to determine if the required vote is obtained.

**S50-250. Governor's veto.** (1) When the Governor returns a bill with a veto, the Senate shall announce the veto under Order of Business No. 4.

(2) On any legislative day, a Senator may move to override the Governor's veto by a two-thirds vote under Order of Business No. 6.

## CHAPTER 6

### Rules

**S60-10. Senate rules.** (1) A motion to amend or adopt a rule of the Senate must be referred to the Rules Committee without debate. A rule of the Senate may be amended or adopted only with the concurrence of a majority of the Senate and after 1 day's notice.

(2) A rule may be suspended temporarily by a two-thirds vote.

**S60-20. Mason's Manual of Legislative Procedure.** Mason's Manual of Legislative Procedure (2000) governs the proceedings of the Senate in all cases not covered by these rules.

## CHAPTER 7

### Nominations from the Governor

**S70-10. Nominations.** (1) The Governor shall nominate and, by and with the consent of the Senate, appoint all officers whose offices are established by the Montana Constitution or which may be created by law and for whom appointment or election is not otherwise provided.

(2) If during a recess of the Senate a vacancy occurs in any office subject to Senate confirmation, the Governor shall appoint some fit person to discharge the duties of the office until the next meeting of the Senate, when the Governor shall nominate a person to fill the office.

**S70-20. Introduction and first reading of nominations.** (1) Nominations received from the Governor must be:

(a) received by the President;

(b) delivered to the Secretary of the Senate;

(c) read under Order of Business No. 4, messages from the Governor; and

(d) referred to committee. The President of the Senate may refer any individual nomination contained in a list received from the Governor to any standing committee.

(2) The procedure in subsection (1) constitutes introduction and first reading of the nominations.

(3) The Secretary shall distribute a copy of the list of nominations to each Senator.

**S70-30. Committee process.** (1) (a) The committee shall research each nominee and may request biographical information from the Governor for each nominee if none has been provided.

(b) The committee chair shall submit a bill draft request on behalf of the committee for a simple resolution to include the nominees specified by the committee chair. These bill draft requests will not count against any bill draft request limit imposed on members. When the resolution has been prepared and introduced, the committee shall hold a hearing on the resolution after appropriate public notice has been made.

(2) Following the hearings, the committee shall issue preliminary standing committee reports to be distributed to each Senator, stating the committee's recommendations concerning the nominees.

(3) (a) If a Senator wishes to have an individual nominee, or group of nominees, considered by the Senate separately from the group of nominees recommended by the committee, the Senator may request of the chair of the committee that the nominee or nominees be considered by a separate resolution.

(b) A Senator shall request separate consideration of a nominee within 3 days of receipt of the preliminary standing committee report. The committee chair shall honor this request.

(4) After waiting 3 days from the day of distribution of the preliminary standing committee report, the committee chair shall issue a final standing committee report and deliver the report to the Secretary of the Senate.

(a) If a nominee is to be separated from the resolution, the final standing committee report must include an amendment deleting that nominee.

(b) When a nominee has been separated at the request of a Senator, the committee chair shall submit a bill draft request on behalf of the committee for a simple resolution to include only the nominee so separated. When the resolution has been prepared and introduced, the committee shall take executive action on the resolution. When a hearing on the separated nomination was held prior to the committee's preliminary standing committee report, an additional hearing is not required to be held before the committee takes action on the separate resolution. After the committee's executive action, the committee chair shall issue a standing committee report.

(5) If a resolution contains only one nominee, the committee shall dispense with the preliminary standing committee report and shall issue a final standing committee report to be distributed to each Senator stating the committee's recommendation concerning the nominee.

(6) The Secretary will read the reports under Order of Business No. 2, reports of standing committees.

(7) After the report has been read, the resolution must be placed on Order of Business No. 11 the next legislative day for consideration by the Senate. Motions to approve or disapprove of the resolution are in order and may be debated.

### **Appendix A**

List of Questions Requiring Other Than a Majority Vote

The following questions require the vote specified:

- (1) a call of the Senate with a quorum pursuant to S50-220(2) (five Senators);
- (2) a motion to lift a call of the Senate pursuant to S50-220(4) (two-thirds of the members present);

- (3) a motion to amend or suspend rules pursuant to S60-10 (two-thirds);
- (4) a motion to override the Governor's veto pursuant to S50-250 and Article VI, section 10(3), of the Montana Constitution (two-thirds);
- (5) a motion to approve a bill to appropriate the principal of the coal trust fund pursuant to Article IX, section 5, of the Montana Constitution (three-fourths of each house);
- (6) a motion to approve a bill to appropriate highway revenue as described in Article VIII, section 6, of the Montana Constitution for purposes other than those described in that section (three-fifths of each house);
- (7) a motion to approve a bill proposing to amend the Montana Constitution pursuant to Article XIV, section 8, of the Montana Constitution (two-thirds of the entire Legislature);
- (8) an appeal of the ruling of the presiding officer pursuant to S20-10 (one Senator, seconded by two other Senators);
- (9) a motion to approve a bill conferring immunity from suit as described in Article II, section 18, of the Montana Constitution (two-thirds);
- (10) a motion to approve a bill to appropriate the principal of the tobacco settlement trust fund pursuant to Article XII, section 4, of the Montana Constitution (two-thirds); and
- (11) a motion to appropriate the principal of the noxious weed management trust fund pursuant to Article IX, section 6, of the Montana Constitution (three-fourths).

Adopted January 14, 2009

## SENATE RESOLUTION NO. 2

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 15, 2009, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to 5-5-302, MCA:

(1) As members of the Air Pollution Control Advisory Council, in accordance with 2-15-2106, MCA:

Don Potts, Missoula, Montana, appointed to serve at the pleasure of the Governor.

Bovard Tiberi, Bozeman, Montana, appointed to serve at the pleasure of the Governor.

(2) As members of the Alternative Health Care Board, in accordance with 2-15-1730, MCA:

Kathleen Stevens, Billings, Montana, appointed to a term ending September 1, 2011.

Nancy Aagenes, Helena, Montana, appointed to a term ending September 1, 2011.

Margaret Beeson, Billings, Montana, appointed to a term ending September 1, 2012.

(3) As members of the Board of Architects and Landscape Architects, in accordance with 2-15-1761, MCA:

Carl Thuesen, Billings, Montana, appointed to a term ending March 27, 2010.

Shelly Engler, Bozeman, Montana, appointed to a term ending March 27, 2010.

Teresa Wilson, Butte, Montana, appointed to a term ending March 27, 2010.

Bayliss Ward, Bozeman, Montana, appointed to a term ending March 27, 2011.

(4) As members of the Montana Arts Council, in accordance with 22-2-101, MCA:

Jackie Parsons, Browning, Montana, appointed to a term ending February 1, 2013.

Kathleen M. Schlepp, Miles City, Montana, appointed to a term ending February 1, 2013.

Arlene Parisot, Helena, Montana, appointed to a term ending February 1, 2013.

Tracy Linder, Molt, Montana, appointed to a term ending February 1, 2013.

Corwin "Corky" Clairmont, Ronan, Montana, appointed to a term ending February 1, 2013.

Jane Deschner, Billings, Montana, appointed to a term ending February 1, 2012.

(5) As members of the State Banking Board, in accordance with 2-15-1025, MCA:

Evelyn Casterline, Vida, Montana, appointed to a term ending July 1, 2010.

Mark Huber, Helena, Montana, appointed to a term ending July 1, 2010.

Carolyn Colman, Great Falls, Montana, appointed to a term ending July 1, 2011.

John King, Kalispell, Montana, appointed to a term ending July 1, 2011.

(6) (a) As members of the Board of Barbers and Cosmetologists, in accordance with 2-15-1747, MCA:

Maggie Burton-Blize, Missoula, Montana, appointed to a term ending October 1, 2012.

Angela Printz, Livingston, Montana, appointed to a term ending October 1, 2012.

Jamie Ausk Crisafulli, Glendive, Montana, appointed to a term ending October 1, 2013.

Wendell Petersen, Missoula, Montana, appointed to a term ending October 1, 2013.

William A. Graves, Great Falls, Montana, appointed to a term ending October 1, 2013.

(b) In addition, the term dates of two members of the Board of Barbers and Cosmetologists submitted to the 2007 Montana State Senate and confirmed

upon passage of Senate Resolution 4, L. 2007, are corrected and resubmitted as follows:

Maxine Collins, Helena, Montana, appointed to a term ending October 1, 2010. Ms. Collins' term was listed in SR 4 as ending in 2008.

Delores Lund, Plentywood, Montana, appointed to a term ending October 1, 2010. Ms. Lund's term was listed in SR 4 as ending in 2008.

(7) As members of the Montana Capital Investment Board, in accordance with 90-10-201, MCA:

Gary Buchanan, Billings, Montana, appointed to a term ending January 1, 2011.

Robert W. Minto, Missoula, Montana, appointed to a term ending January 1, 2011.

Robert Pancich, Great Falls, Montana, appointed to a term ending January 1, 2009.

Lawrence A. Anderson, Great Falls, Montana, appointed to a term ending January 1, 2009.

Ellen Feaver, Helena, Montana, appointed to a term ending January 1, 2009.

(8) As a member of the Board of Chiropractors, in accordance with 2-15-1737, MCA:

Scott Hansing, Helena, Montana, appointed to a term ending January 1, 2011.

(9) As members of the Board of Clinical Laboratory Science Practitioners, in accordance with 2-15-1753, MCA:

Rosemary Shively, Helena, Montana, appointed to a term ending April 16, 2011.

Charliene Staffanson, Deer Lodge, Montana, appointed to a term ending April 16, 2011.

Barbara Henderson, Miles City, Montana, appointed to a term ending April 16, 2011.

(10) As members of the Board of County Printing, in accordance with 2-15-1026, MCA:

Dan Killoy, Miles City, Montana, appointed to a term ending April 1, 2009.

Calvin J. Oraw, Sidney, Montana, appointed to a term ending April 1, 2009.

Marianne Roose, Eureka, Montana, appointed to a term ending April 1, 2009.

Milton Wester, Laurel, Montana, appointed to a term ending April 1, 2009.

(11) As a member of the Board of Dentistry, in accordance with 2-15-1732, MCA:

Aimee R. Ameline, Great Falls, Montana, appointed to a term ending March 29, 2013.

(12) As members of the State Electrical Board, in accordance with 2-15-1764, MCA:

Marlene Egan, Helena, Montana, appointed to a term ending July 1, 2012.

Jack Fisher, Butte, Montana, appointed to a term ending July 1, 2013.

(13) As a member of the Montana Facility Finance Authority, in accordance with 2-15-1815, MCA:

Matthew B. Thiel, Missoula, Montana, appointed to a term ending January 1, 2011.

(14) As members of the Board of Funeral Service, in accordance with 2-15-1743, MCA:

Ronald E. Brothers, Hamilton, Montana, appointed to a term ending July 1, 2012.

Bart Thompson, Helena, Montana, appointed to a term ending July 1, 2012.

John Tarr, Helena, Montana, appointed to a term ending July 1, 2012.

William Cronin, Havre, Montana, appointed to a term ending July 1, 2013.

(15) As a member of the Board of Hail Insurance, in accordance with 2-15-3003, MCA:

Gary Gollehon, Brady, Montana, appointed to a term ending April 18, 2011.

(16) As members of the Board of Hearing Aid Dispensers, in accordance with 2-15-1740, MCA:

Stephen Kramer, Billings, Montana, appointed to a term ending July 1, 2010.

Gene W. Bukowski, Au.D., Billings, Montana, appointed to a term ending July 1, 2010.

(17) As members of the Montana Historical Society Board of Trustees, in accordance with 22-3-104, MCA:

Sharon Lincoln, Billings, Montana, appointed to a term ending July 1, 2013.

Janene Caywood, Missoula, Montana, appointed to a term ending July 1, 2013.

Ed Smith, Helena, Montana, appointed to a term ending July 1, 2013.

(18) As members of the Board of Horseracing, in accordance with 2-15-3106, MCA:

Susan Austin, Kalispell, Montana, appointed to a term ending January 20, 2010.

Charles (Al) Carruthers, Butte, Montana, appointed to a term ending January 20, 2010.

John Ostlund, Billings, Montana, appointed to a term ending January 20, 2010.

Ray "Topper" Tracy, Stevensville, Montana, appointed to a term ending January 20, 2010.

Susan Egbert, Helena, Montana, appointed to a term ending January 20, 2011.

(19) As members of the Livestock Loss Reduction and Mitigation Board, in accordance with 2-15-3110, MCA:

Elaine Allestad, Big Timber, Montana, appointed to a term ending January 1, 2011.

Larry Trexler, Hamilton, Montana, appointed to a term ending January 1, 2011.

Hilliard McDonald, Judith Gap, Montana, appointed to a term ending January 1, 2011.

Janelle Holden, Livingston, Montana, appointed to a term ending January 1, 2009.

Brad Radtke, Drummond, Montana, appointed to a term ending January 1, 2009.

Whitney Wankel, Bozeman, Montana, appointed to a term ending January 1, 2009.

James Cross, Kalispell, Montana, appointed to a term ending January 1, 2009.

(20) As members of the Board of Medical Examiners, in accordance with 2-15-1731, MCA:

Patrick Boylan, Corvallis, Montana, appointed to a term ending September 1, 2009.

James Upchurch, Hardin, Montana, appointed to a term ending September 1, 2011.

Mary Anne Guggenheim, Helena, Montana, appointed to a term ending September 1, 2011.

Dean Center, Bozeman, Montana, appointed to a term ending September 1, 2012. Dr. Center's original appointment was made on June 20, 2007, to fill a vacancy through September 1, 2008.

(21) As members of the Board of Nursing, in accordance with 2-15-1734, MCA:

Sharon Dschaak, Wolf Point, Montana, appointed to a term ending July 1, 2011.

Laura Weiss, Great Falls, Montana, appointed to a term ending July 1, 2011.

Kathy Hayden, Missoula, Montana, appointed to a term ending July 1, 2012.

Heather Onstad, Helena, Montana, appointed to a term ending July 1, 2012.

(22) As members of the Board of Nursing Home Administrators, in accordance with 2-15-1735, MCA:

Carla Neiman, Plains, Montana, appointed to a term ending May 28, 2012.

Ken Chase, Billings, Montana, appointed to a term ending May 28, 2011.

Joshua Brown, Columbia Falls, Montana, appointed to a term ending May 28, 2012.

Thomas Klotz, Glasgow, Montana, appointed to a term ending May 28, 2013.

(23) As a member of the Board of Occupational Therapy Practice, in accordance with 2-15-1749, MCA:

Amy J. Gilbertson, Great Falls, Montana, appointed to a term ending December 31, 2011.

(24) As members of the Board of Optometry, in accordance with 2-15-1736, MCA:

Delores Hill, Mosby, Montana, appointed to a term ending April 3, 2011.

Douglas Kimball, Bozeman, Montana, appointed to a term ending April 3, 2011.

Randall Hoch, Lewistown, Montana, appointed to a term ending April 3, 2012.

(25) As members of the Board of Personnel Appeals, in accordance with 2-15-1705, MCA:



Jack A. Holstrom, Helena, Montana, appointed to a term ending January 1, 2012.

Quinton Nyman, Helena, Montana, appointed to a term ending January 1, 2009.

(26) As members of the Board of Pharmacy, in accordance with 2-15-1733, MCA:

Susan Hagen, Glasgow, Montana, appointed to a term ending July 1, 2012.

Frances Carlson, Great Falls, Montana, appointed to a term ending July 1, 2013.

Rebekah Matovich, Billings, Montana, appointed to a term ending July 1, 2013.

Lee Ann Bradley, Missoula, Montana, appointed to a term ending July 1, 2010.

(27) As members of the Board of Physical Therapy Examiners, in accordance with 2-15-1748, MCA:

Robin Peterson Smith, Billings, Montana, appointed to a term ending July 1, 2010.

Ron Peterson, Cascade, Montana, appointed to a term ending July 1, 2009.

Richard Smith, Missoula, Montana, appointed to a term ending July 1, 2011.

(28) As members of the Board of Plumbers, in accordance with 2-15-1765, MCA:

David Lindeen, Huntley, Montana, appointed to a term ending May 4, 2011.

Debi Friede, Havre, Montana, appointed to a term ending May 4, 2011.

Steve Carey, Frenchtown, Montana, appointed to a term ending May 4, 2011.

Marc Golz, Helena, Montana, appointed to a term ending May 4, 2011.

Scott Lemert, Livingston, Montana, appointed to a term ending May 4, 2011.

Jeffrey Gruizenga, Billings, Montana, appointed to a term ending May 4, 2012.

(29) As members of the Board of Private Alternative Adolescent Residential or Outdoor Programs, in accordance with 2-15-1745, MCA:

John Santa, Kalispell, Montana, appointed to a term ending April 19, 2011.

Mary Alexine, Eureka, Montana, appointed to a term ending April 19, 2011.

Darcie Kelly, Helena, Montana, appointed to a term ending April 19, 2011.

Penny James, Trout Creek, Montana, appointed to a term ending April 19, 2011.

Tim Callahan, Great Falls, Montana, appointed to a term ending April 19, 2011.

(30) As members of the Board of Private Security, in accordance with 2-15-1781, MCA:

Mark Chaput, Billings, Montana, appointed to a term ending August 1, 2010.

Raymond Murray, Missoula, Montana, appointed to a term ending August 1, 2011.

Holly Dershem-Bruce, Glendive, Montana, appointed to a term ending August 1, 2011.

(31) As members of the Professional Engineers and Land Surveyors, in accordance with 2-15-1763, MCA:

Casey E. Johnston, Butte, Montana, appointed to a term ending July 1, 2011.

Vic Cundy, Bozeman, Montana, appointed to a term ending July 1, 2011.

James Hahn, Billings, Montana, appointed to a term ending July 1, 2011.

Tom Tanner, Arlee, Montana, appointed to a term ending July 1, 2011.

(32) As members of the Board of Psychologists, in accordance with 2-15-1741, MCA:

Marla Lemons, Butte, Montana, appointed to a term ending September 1, 2011.

Linda Holden, Valier, Montana, appointed to a term ending September 1, 2012.

Susan Mattocks, Miles City, Montana, appointed to a term ending September 1, 2013.

(33) As members of the Board of Public Accountants, in accordance with 2-15-1756, MCA:

Beatrice Rosenleaf, Anaconda, Montana, appointed to a term ending July 1, 2012.

Jack Meyer, Missoula, Montana, appointed to a term ending July 1, 2012.

(34) As members of the Public Employees Retirement Board, in accordance with 2-15-1009, MCA:

Dianna Porter, Butte, Montana, appointed to a term ending April 1, 2013.

Darcy Halpin, Belgrade, Montana, appointed to a term ending April 1, 2013.

Loren Bough, Big Sky, Montana, appointed to a term ending April 1, 2009.

(35) As members of the Public Safety Officer Standards and Training Council, in accordance with 44-4-402, MCA:

Winnie Ore, Helena, Montana, appointed to a term ending January 1, 2011.

Mike Anderson, Havre, Montana, appointed to a term ending January 1, 2011.

Bonnie Wallem, Kalispell, Montana, appointed to a term ending January 1, 2009.

Mike Reddick, Helena, Montana, appointed to a term ending January 1, 2009.

James Marble, Stevensville, Montana, appointed to a term ending January 1, 2011.

Tony Harbaugh, Miles City, Montana, appointed to a term ending January 1, 2009.

Steve Barry, Helena, Montana, appointed to a term ending January 1, 2009.

Levi Talkington, Lewistown, Montana, appointed to a term ending January 1, 2011.

Dennis McCave, Billings, Montana, appointed to a term ending January 1, 2009.

Frances Weeks, Poplar, Montana, appointed to a term ending January 1, 2011.

Robert M. McCarthy, Butte, Montana, appointed to a term ending January 1, 2011.

Raymond Murray, Missoula, Montana, appointed to a term ending January 1, 2009.

Hannah Tillman, Crow Agency, Montana, appointed to a term ending January 1, 2009.

(36) As a member of the Board of Radiologic Technologists, in accordance with 2-15-1738, MCA:

Mike Nielsen, Billings, Montana, appointed to a term ending July 1, 2010.

(37) As members of the Board of Real Estate Appraisers, in accordance with 2-15-1758, MCA:

Dennis Hoeger, Bozeman, Montana, appointed to a term ending May 1, 2010.

Jennifer McGinnis, Polson, Montana, appointed to a term ending May 1, 2010.

Marilyn Rose, Great Falls, Montana, appointed to a term ending May 1, 2010.

Peter Fontana, Great Falls, Montana, appointed to a term ending May 1, 2011.

Kraig P. Kosena, Missoula, Montana, appointed to a term ending May 1, 2011.

(38) As members of the Board of Realty Regulation, in accordance with 2-15-1757, MCA:

Shirley McDermott, Laurel, Montana, appointed to a term ending May 9, 2011.

C.E. "Abe" Abramson, Missoula, Montana, appointed to a term ending May 9, 2011.

Connie Wardell, Billings, Montana, appointed to a term ending May 9, 2011.

Larry Milless, Corvallis, Montana, appointed to a term ending May 9, 2011.

Pat M. Goodover II, Great Falls, Montana, appointed to a term ending May 9, 2012.

(39) As a member of the Board of Research and Commercialization Technology, in accordance with 2-15-1819, MCA:

Jim Davison, Anaconda, Montana, appointed to a term ending July 1, 2009.

(40) As members of the Board of Respiratory Care Practitioners, in accordance with 2-15-1750, MCA:

Thomas Fallang, Butte, Montana, appointed to a term ending January 1, 2011.

Carl Hallenborg, Helena, Montana, appointed to a term ending January 1, 2011.

(41) As members of the Board of Sanitarians, in accordance with 2-15-1751, MCA:

James Zabrocki, Miles City, Montana, appointed to a term ending July 1, 2010.

Kathleen Driscoll, Hamilton, Montana, appointed to a term ending July 1, 2011.

Gene Townsend, Three Forks, Montana, appointed to a term ending July 1, 2011.

Gerald Cormier, Billings, Montana, appointed to a term ending July 1, 2011.

(42) As members of the Board of Social Work Examiners and Professional Counselors, in accordance with 2-15-1744, MCA:

Ann Gilkey, Helena, Montana, appointed to a term ending January 1, 2011.

Linda Crummett, Billings, Montana, appointed to a term ending January 1, 2013.

Treasa Glinnwater, Ronan, Montana, appointed to a term ending January 1, 2013.

John Lynn, Missoula, Montana, appointed to a term ending January 1, 2013.

Henry Pretty On Top, Lodge Grass, Montana, appointed to a term ending January 1, 2013.

(43) As members of the Board of Speech-Language Pathologists and Audiologists, in accordance with 2-15-1739, MCA:

Sharon Dinstel, Colstrip, Montana, appointed to a term ending December 31, 2010.

James L. Sias, Ronan, Montana, appointed to a term ending December 31, 2010.

Cheri Fjare, Big Timber, Montana, appointed to a term ending December 31, 2010.

Tina Hoagland, Billings, Montana, appointed to a term ending December 31, 2011.

Lynn Harris, Missoula, Montana, appointed to a term ending December 31, 2011.

(44) As members of the State Compensation Insurance Fund Board, in accordance with 2-15-1019, MCA:

Joe Dwyer, Billings, Montana, appointed to a term ending April 28, 2011.

Wallace M. Yovetich, Billings, Montana, appointed to a term ending April 28, 2011.

Boyd Taylor, Butte, Montana, appointed to a term ending April 28, 2011.

Thomas R. Heisler, Great Falls, Montana, appointed to a term ending April 28, 2009.

(45) As a member of the State Tax Appeal Board, in accordance with 15-2-101, MCA:

Karen E. Powell, Helena, Montana, appointed to a term ending January 1, 2015.

(46) As members of the Board of Veterans' Affairs, in accordance with 2-15-1205, MCA:

C.E. Crookshanks, Missoula, Montana, appointed to a term ending August 1, 2011.

Lloyd Jackson, Pablo, Montana, appointed to a term ending August 1, 2011.

Bob Pavlovich, Butte, Montana, appointed to a term ending August 1, 2011.

Harvey Rattey, Glendive, Montana, appointed to a term ending August 1, 2011.

James Heffernan, Helena, Montana, appointed to a term ending August 1, 2011.

Donald Kettner, Glendive, Montana, appointed to a term ending August 1, 2012.

(47) As members of the Board of Veterinary Medicine, in accordance with 2-15-1742, MCA:

Barbara Calm, Kila, Montana, appointed to a term ending July 31, 2012.

Kim K. Baker, Hot Springs, Montana, appointed to a term ending July 31, 2010.

Jean Lindley, Miles City, Montana, appointed to a term ending July 31, 2011.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 61st Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 14, 2009

### SENATE RESOLUTION NO. 3

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA 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.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Transportation Commission, in accordance with section 2-15-2502, MCA:

Barb Skelton, Billings, Montana, appointed to a term ending January 1, 2013.

Rick Griffith, Butte, Montana, appointed to a term ending January 1, 2013.

Diann Seymour-Winterburn, Helena, Montana, appointed to a term ending January 1, 2013.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 61st Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted February 23, 2009

**SENATE RESOLUTION NO. 4**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA 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.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a student member of the Board of Regents, in accordance with section 2-15-1508, MCA:

Mitchell Jessen, Dillon, Montana, appointed to a term ending June 30, 2009.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 61st Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted February 20, 2009

**SENATE RESOLUTION NO. 5**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA 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.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Board of Public Education, in accordance with section 2-15-1508, MCA:

Bernard Olson, Lakeside, Montana, appointed to a term ending February 1, 2015.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 61st Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted February 20, 2009

**SENATE RESOLUTION NO. 6**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA 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.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Board of Regents, in accordance with section 2-15-1508, MCA:

Clayton Christian, Missoula, Montana, appointed to a term ending February 1, 2015.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 61st Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted February 20, 2009

### **SENATE RESOLUTION NO. 7**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA 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.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Board of Livestock, in accordance with section 2-15-3102, MCA:

Brett DeBruycker, Dutton, Montana, appointed to a term ending March 1, 2009.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 61st Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted February 21, 2009

### **SENATE RESOLUTION NO. 9**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS MADE BY THE GOVERNOR AND SUBMITTED BY

## WRITTEN COMMUNICATION DATED FEBRUARY 26, 2009, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

(1) As members of the Board of Aeronautics, in accordance with section 2-15-2506, MCA:

Tricia McKenna, Bozeman Montana, for a term ending January 1, 2013.

Bill Hunt Jr., Shelby, Montana, for a term ending January 1, 2013.

Fred Leistiko, Kalispell, Montana, for a term ending January 1, 2013.

Roger Lincoln, Gildford, Montana, for a term ending January 1, 2013.

Ted Schye, Fort Peck, Montana, for a term ending January 1, 2013.

(2) As a member of the Board of Architects and Landscape Architects, in accordance with section 2-15-1761, MCA:

James G. Shepard, Billings, Montana, for a term ending March 27, 2012.

(3) As members of the Capital Investment Board, in accordance with section 90-10-201, MCA:

Lawrence A. Anderson, Great Falls, Montana, for a term ending January 1, 2013.

Ellen Feaver, Helena, Montana, for a term ending January 1, 2013.

Robert Pancich, Great Falls, Montana, for a term ending January 1, 2013.

(4) As members of the Board of Chiropractors, in accordance with section 2-15-1737, MCA:

John Sando, Butte, Montana, for a term ending January 1, 2012.

Alice Whiteman, Missoula, Montana, for a term ending January 1, 2012.

(5) As a member of the Board of Clinical Laboratory Science Practitioners, in accordance with section 2-15-1753, MCA:

Wendy Palmer, Raynesford, Montana, for a term ending April 16, 2012.

(6) As members of the Coal Board, in accordance with section 2-15-1821, MCA:

Gerald Navratil, Sidney, Montana, for a term ending January 1, 2013.

John Williams, Colstrip, Montana, for a term ending January 1, 2013.

Dan Dutton, Belfry, Montana, for a term ending January 1, 2013.

Chad Fenner, Hardin, Montana, for a term ending January 1, 2013.

(7) As members of the Board of Crime Control, in accordance with section 2-15-2006, MCA:

Mike Anderson, Havre, Montana, for a term ending January 1, 2013.

Mikie Baker-Hajek, Great Falls, Montana, for a term ending January 1, 2013.

Steve Bullock, Helena, Montana, for a term ending January 1, 2013.

James R. Cashell, Bozeman, Montana, for a term ending January 1, 2013.

Lyndon Erickson, Glasgow, Montana, for a term ending January 1, 2013.

Harold F. Hanser, Billings, Montana, for a term ending January 1, 2013.

Pamela B. Kennedy, Kalispell, Montana, for a term ending January 1, 2013.



Steve McArthur, Butte, Montana, for a term ending January 1, 2013.

Nickolas C. Murnion, Jordan, Montana, for a term ending January 1, 2013.

Bonnie Wallem, Kalispell, Montana, for a term ending January 1, 2013.

(8) As members of the Board of Dentistry, in accordance with section 2-15-1732, MCA:

Jennifer Porter, Bozeman, Montana, for a term ending March 29, 2014.

Dale Chamberlain, Lewistown, Montana, for a term ending March 29, 2014.

(9) As a member of the State Electrical Board, in accordance with section 2-15-1764, MCA:

Rick Hutchinson, Black Eagle, Montana, for a term ending July 1, 2014.

(10) As members of the Montana Facility Finance Authority, in accordance with section 2-15-1815, MCA:

James W. (Bill) Kearns, Townsend, Montana, for a term ending January 1, 2013.

Richard King, Missoula, Montana, for a term ending January 1, 2013.

Jon Marchi, Polson, Montana, for a term ending January 1, 2013.

Larry Putnam, Helena, Montana, for a term ending January 1, 2013.

(11) As a member of the Board of Hail Insurance, in accordance with section 2-15-3003, MCA:

Trudy Laas Skari, Chester, Montana, for a term ending April 18, 2012.

(12) As members of the Human Rights Commission, in accordance with section 2-15-1706, MCA:

Maria Beltran, Billings, Montana, for a term ending January 1, 2013.

Linda Minich, Jefferson City, Montana, for a term ending January 1, 2013.

Allen Secher, Whitefish, Montana, for a term ending January 1, 2013.

(13) As members of the Board of Labor Appeals, in accordance with section 2-15-1704, MCA:

Norman Grosfield, Helena, Montana, for a term ending January 1, 2013.

Brian Boland, Great Falls, Montana, for a term ending January 1, 2013.

(14) As members of the Board of Occupational Therapy Practice, in accordance with section 2-15-1749, MCA:

Lynn Yocom, Anaconda, Montana, for a term ending December 31, 2012.

Sue Furey, Missoula, Montana, for a term ending December 31, 2012.

(15) As members of the Board of Oil and Gas Conservation, in accordance with section 2-15-3303, MCA:

Donald D. Bradshaw, Fort Benton, Montana, for a term ending January 1, 2013.

Linda Nelson, Medicine Lake, Montana, for a term ending January 1, 2013.

Wayne Smith, Valier, Montana, for a term ending January 1, 2013.

Jay Gunderson, Billings, Montana, for a term ending January 1, 2013.

(16) As a member of the Board of Optometry, in accordance with section 2-15-1736, MCA:

Rock E. Svennungsen, Shelby, Montana, for a term ending April 3, 2013.

(17) As members of the Board of Personnel Appeals, in accordance with section 2-15-1705, MCA:

Quinton Nyman, Helena, Montana, for a term ending January 1, 2013.

James (Jay) Reardon, Helena, Montana, for a term ending January 1, 2013.

Karla Stanton, Billings, Montana, for a term ending January 1, 2013.

(18) As a member of the Board of Professional Engineers and Land Surveyors, in accordance with section 2-15-1763, MCA:

Hal Jacobson, Helena, Montana, for a term ending July 1, 2010.

(19) As a member of the Board of Public Accountants, in accordance with section 2-15-1756, MCA:

Linda Harris, Absarokee, Montana, for a term ending July 1, 2013.

(20) As members of the Board of Public Assistance, in accordance with section 2-15-2203, MCA:

Amy D. Christensen, Helena, Montana, for a term ending January 1, 2013.

Scott Sorensen, Whitefish, Montana, for a term ending January 1, 2013.

(21) As a member of the Public Employees Retirement Board, in accordance with section 2-15-1009, MCA:

Timm Twardoski, Helena, Montana, for a term ending April 1, 2011.

(22) As members of the Montana Public Safety Officer Standards and Training Council, in accordance with section 44-4-402, MCA:

Steve Barry, Helena, Montana, for a term ending January 1, 2013.

Tony Harbaugh, Miles City, Montana, for a term ending January 1, 2013.

Georgette Hogan, Hardin, Montana, for a term ending January 1, 2011.

Robert M. McCarthy, Butte, Montana, for a term ending January 1, 2013.

Dennis McCave, Billings, Montana, for a term ending January 1, 2013.

Raymond Murray, Missoula, Montana, for a term ending January 1, 2013.

Bonnie Wallem, Kalispell, Montana, for a term ending January 1, 2013.

Greg Watson, Whitehall, Montana, for a term ending January 1, 2013.

(23) As members of the Board of Radiologic Technologists, in accordance with section 2-15-1738, MCA:

Hugh Cecil, Kalispell, Montana, for a term ending July 1, 2011.

Anna L. Hazen, Fort Benton, Montana, for a term ending July 1, 2011.

Charlotte Kelley, Clancy, Montana, for a term ending July 1, 2011.

Charles McCubbins, Columbia Falls, Montana, for a term ending July 1, 2011.

(24) As a member of the Board of Research and Commercialization Technology, in accordance with section 2-15-1819, MCA:

Mr. Michael Dolson, Plains, Montana, for a term ending July 1, 2010.

(25) As members of the Board of Respiratory Care Practitioners, in accordance with section 2-15-1750, MCA:

Eileen Carney, Libby, Montana, for a term ending January 1, 2013.

Leonard Bates, Wolf Creek, Montana, for a term January 1, 2013.

Tony Jay Miller, Joplin, Montana, for a term ending January 1, 2013.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 61st Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 21, 2009

### **SENATE RESOLUTION NO. 10**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA 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.

WHEREAS, the Governor of the State of Montana has made the appointment to the Board of Livestock, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As member of the Board of Livestock, in accordance with section 2-15-3102, MCA:

Ed Waldner, Chester, Montana, for a term ending March 1, 2011.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 61st Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 26, 2009

### **SENATE RESOLUTION NO. 11**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED FEBRUARY 26, 2009, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Board of Environmental Review, in accordance with section 2-15-3502, MCA:

Mr. Marvin Miller, Butte, Montana, appointed for a term ending January 1, 2013.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 61st Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 8, 2009

### **SENATE RESOLUTION NO. 12**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED FEBRUARY 26, 2009, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Board of Environmental Review, in accordance with section 2-15-3502, MCA:

Mr. Joseph Whalen, Miles City, Montana, appointed for a term ending January 1, 2013.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 61st Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 8, 2009

### **SENATE RESOLUTION NO. 13**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED FEBRUARY 26, 2009, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Board of Environmental Review, in accordance with section 2-15-3502, MCA:

Ms. Robin Shropshire, Helena, Montana, appointed for a term ending January 1, 2013.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 61st Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment

and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 8, 2009

### **SENATE RESOLUTION NO. 18**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA 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.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Board of Livestock, in accordance with section 2-15-3102, MCA:

Janice French, Hobson, Montana, for a term ending March 1, 2015.

Brett DeBruycker, Dutton, Montana, for a term ending March 1, 2015.

Jeffery Lewis, Corvallis, Montana, for a term ending March 1, 2011.

John H. Lehfeldt, Lavina, Montana, for a term ending March 1, 2013.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 61st Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 6, 2009

### **SENATE RESOLUTION NO. 19**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 23, 2009, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As Director of the Department of Environmental Quality, in accordance with section 2-15-111, MCA:

Mr. Richard Opper, Helena, Montana, appointed to serve a term at the pleasure of the Governor.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 61st Legislature of the State of Montana does hereby concur in, confirm, and consent to the above nomination and that the Secretary of the Senate immediately deliver a copy of this

resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 6, 2009

### **SENATE RESOLUTION NO. 20**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 23, 2009, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As Director of the Department of Natural Resources and Conservation, in accordance with section 2-15-111, MCA:

Ms. Mary Sexton, Helena, Montana, appointed to serve a term at the pleasure of the Governor.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 61st Legislature of the State of Montana does hereby concur in, confirm, and consent to the above nomination and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 6, 2009

### **SENATE RESOLUTION NO. 21**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA 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.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As Commissioner of Labor and Industry, in accordance with sections 2-15-111 and 2-15-1701, MCA:

Mr. Keith Kelly, Helena, Montana, appointed to serve a term at the pleasure of the Governor.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 61st Legislature of the State of Montana does hereby concur in, confirm, and consent to the above nomination and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 8, 2009

**SENATE RESOLUTION NO. 22**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA 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.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As Director of the Department of Commerce, in accordance with sections 2-15-111 and 2-15-1801, MCA:

Mr. Anthony J. Preite, Helena, Montana, appointed to serve a term at the pleasure of the Governor.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 61st Legislature of the State of Montana does hereby concur in, confirm, and consent to the above nomination and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 8, 2009

**SENATE RESOLUTION NO. 23**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA 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.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As Director of the Department of Public Health and Human Services, in accordance with section 2-15-111, MCA:

Ms. Anna Whiting Sorrell, Helena, Montana, appointed to serve a term at the pleasure of the Governor.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 61st Legislature of the State of Montana does hereby concur in, confirm, and consent to the above nomination and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 8, 2009

**SENATE RESOLUTION NO. 25**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 24, 2009, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As Director of the Department of Fish, Wildlife, and Parks, in accordance with section 2-15-111, MCA:

Mr. Joseph Maurier, Helena, Montana, appointed to serve a term at the pleasure of the Governor.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 61st Legislature of the State of Montana does hereby concur in, confirm, and consent to the above nomination and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 15, 2009

**SENATE RESOLUTION NO. 28**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 18, 2009, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

(1) As members of the Hard Rock Mining Impact Board, in accordance with section 2-15-1822, MCA:

Edward M. Tinsley, Helena, Montana, for a term ending January 1, 2013.

Mary Ellen Cremer, Big Timber, Montana, for a term ending January 1, 2013.

Joe Michaletz, Helena, Montana, for a term ending January 1, 2013.

(2) As members of the Board of Horseracing, in accordance with section 2-15-3106, MCA:

Mike Tatsey, Valier, Montana, for a term ending January 20, 2012.

Carol Lambert, Broadus, Montana, for a term ending January 20, 2012.

(3) As members of the Board of Housing, in accordance with section 2-15-1814, MCA:

Audrey Black Eagle, Lodge Grass, Montana, for a term ending January 1, 2013.

J.P. Crowley, Helena, Montana, for a term ending January 1, 2013.

Jeff Rupp, Bozeman, Montana, for a term ending January 1, 2013.



Elizabeth Scanlin, Red Lodge, Montana, for a term ending January 1, 2013.

(4) As members of the Milk Control Board, in accordance with section 2-15-3105, MCA:

Gary A. Parker, Fort Shaw, Montana, for a term ending January 1, 2013.

James Prinkki, Roberts, Montana, for a term ending January 1, 2013.

Larry Van Dyke, Bozeman, Montana, for a term ending January 1, 2013.

(5) As a member of the Board of Nursing, in accordance with section 2-15-1734, MCA:

Connie Reichelt, Havre, Montana, for a term ending July 1, 2013.

(6) As members of the Board of Pardons and Parole, in accordance with section 2-15-2302, MCA:

Teresa McCann O'Connor, Billings, Montana, for a term ending January 1, 2013.

John Ward, Helena, Montana, for a term ending January 1, 2013.

Samuel Lemaich, Missoula, Montana, for a term ending January 1, 2013.

(7) As a member of the Board of Radiologic Technologists, in accordance with section 2-15-1738, MCA:

Kelli Bush, Butte, Montana, for a term ending July 1, 2012.

(8) As a member of the Board of Realty Regulation, in accordance with section 2-15-1757, MCA:

Lucinda Willis, Polson, Montana, for a term ending May 9, 2013.

(9) As members of the State Compensation Insurance Fund Board, in accordance with section 2-15-1019, MCA:

James Swanson, Glendive, Montana, for a term ending April 28, 2013.

Jane DeBruycker, Dutton, Montana, for a term ending April 28, 2013.

Ken Johnson, Missoula, Montana, for a term ending April 28, 2013.

Thomas R. Heisler, Great Falls, Montana, for a term ending April 28, 2013.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 61st Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 8, 2009

## SENATE RESOLUTION NO. 29

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA 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.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As Director of the Department of Agriculture, in accordance with sections 2-15-111 and 2-15-3001, MCA:

Mr. Ron de Yong, Helena, Montana, appointed to serve a term at the pleasure of the Governor.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 61st Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 15, 2009

### **SENATE RESOLUTION NO. 30**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA 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.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Pacific Northwest Electric Power and Conservation Planning Council, in accordance with section 90-4-402, MCA:

Ms. Rhonda Whiting, Missoula, Montana, appointed to serve a term at the pleasure of the Governor.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 61st Legislature of the State of Montana does hereby concur in, confirm, and consent to the above nomination and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 15, 2009

### **SENATE RESOLUTION NO. 31**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA 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.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Pacific Northwest Electric Power and Conservation Planning Council, in accordance with section 90-4-402, MCA:

Mr. Bruce Measure, Helena, Montana, appointed to serve a term at the pleasure of the Governor.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 61st Legislature of the State of Montana does hereby concur in, confirm, and consent to the above nomination and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 15, 2009

### **SENATE RESOLUTION NO. 32**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA 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.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As the Director of the Department of Transportation, in accordance with sections 2-15-111 and 2-15-2501, MCA:

Jim Lynch, Kalispell, Montana, appointed to serve a term at the pleasure of the Governor.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 61st Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 7, 2009

### **SENATE RESOLUTION NO. 33**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 23, 2009, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to 5-5-302:

(1) As a member of the Montana Arts Council, in accordance with section 22-2-102, MCA:

Mark Kuipers, Missoula, Montana, for a term ending February 1, 2010.

(2) As a member of the Board of Barbers and Cosmetologists, in accordance with section 2-15-1747, MCA:

Thayne Orton, Florence, Montana, for a term ending October 1, 2012.

(3) As a member of the Board of Crime Control, in accordance with section 2-15-2006, MCA:

Angela Russell, Lodge Grass, Montana, for a term ending January 1, 2011.

(4) As members of the Montana Historical Society Board of Trustees, in accordance with section 22-3-104, MCA:

Lee Rostad, Martinsdale, Montana, for a term ending July 1, 2014.

Jim Utterback, Helena, Montana, for a term ending July 1, 2014.

Jim Court, Billings, Montana, for a term ending July 1, 2014.

Steve Carney, Scobey, Montana, for a term ending July 1, 2012.

(5) As a member of the Board of Nursing Home Administrators, in accordance with section 2-15-1735, MCA:

Loren Hines, Butte, Montana, for a term ending May 28, 2014.

(6) As members of the Board of Physical Therapy Examiners, in accordance with section 2-15-1748, MCA:

Kim Miller, Virginia City, Montana, for a term ending July 1, 2012.

Patti Jo Lane, Great Falls, Montana, for a term ending July 1, 2012.

(7) As a member of the Board of Private Security, in accordance with section 2-15-1781, MCA:

Daniel Taylor, Glasgow, Montana, for a term ending August 1, 2009.

(8) As members of the Board of Professional Engineers and Professional Land Surveyors, in accordance with section 2-15-1763, MCA:

John Neil, Great Falls, Montana, for a term ending July 1, 2013.

Tom Heinecke, Kalispell, Montana, for a term ending July 1, 2013.

(9) As members of the Board of Real Estate Appraisers, in accordance with section 2-15-1758, MCA:

Kathleen Susan Gallaher, Bozeman, Montana, for a term ending May 1, 2012.

Darwin Ernst, Hamilton, Montana, for a term ending May 1, 2012.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 61st Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 17, 2009

### **SENATE RESOLUTION NO. 34**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED APRIL 2, 2009, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

(1) As members of the County Printing Board, in accordance with section 2-15-1026, MCA:

Dan Killoy, Miles City, Montana, appointed to a term ending April 1, 2011.

Calvin J. Oraw, Sidney, Montana, appointed to a term ending April 1, 2011.

Marianne Roose, Eureka, Montana, appointed to a term ending April 1, 2011.

Milton Wester, Laurel, Montana, appointed to a term ending April 1, 2011.

Laura Obert, Townsend, Montana, appointed to a term ending April 1, 2011.

(2) Appointed as a member to the Board of Funeral Service, in accordance with section 2-15-1743, MCA:

R.J. Brown, Lewistown, Montana, appointed to a term ending July 1, 2014.

(3) Appointed as members to the Board of Hearing Aid Dispensers, in accordance with section 2-15-1740, MCA:

Lee Frantz Oines, Missoula, Montana, appointed to a term ending July 1, 2011.

Jim Lieberg, Helena, Montana, appointed to a term ending July 1, 2011.

Mervin Michel, Great Falls, Montana, appointed to a term ending July 1, 2012.

Brian Bolenbaugh, Missoula, Montana, appointed to a term ending July 1, 2012.

(4) Appointed as members to the Livestock Loss Reduction and Mitigation Board, in accordance with section 2-15-3110, MCA:

Brad Radtke, Drummond, Montana, appointed to a term ending January 1, 2013.

Whitney Wankel, Bozeman, Montana, appointed to a term ending January 1, 2013.

James Cross, Kalispell, Montana, appointed to a term ending January 1, 2013.

Michael Leahy, Bozeman, Montana, appointed to a term ending January 1, 2013.

John Herman, Hot Springs, Montana, appointed to a term ending January 1, 2011.

(5) Appointed as a member to the Board of Pharmacy, in accordance with section 2-15-1733, MCA:

Michael Bertagnolli, Three Forks, Montana, appointed to a term ending July 1, 2014.

(6) Appointed as a member to the Board of Plumbers, in accordance with section 2-15-1765, MCA:

Donna L. Paulson, Great Falls, Montana, appointed to a term ending May 4, 2013.

(7) Appointed as a member to the Board of Public Accountants, in accordance with section 2-15-1756, MCA:

Rick Reisig, Great Falls, Montana, appointed to a term ending July 1, 2013.

(8) Appointed as members to the Public Employees Retirement Board, in accordance with section 2-15-1009, MCA:

Terrence M. Smith, Bozeman, Montana, appointed to a term ending April 1, 2014.

Patrick McKittrick, Great Falls, Montana, appointed to a term ending April 1, 2014.

(9) Appointed as a member to the Board of Sanitarians, in accordance with section 2-15-1751, MCA:

Rodney Fink, Columbus, Montana, appointed to a term ending July 1, 2012.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 61st Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 17, 2009

### **SENATE RESOLUTION NO. 35**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA 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.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Board of Milk Control, in accordance with section 2-15-3105, MCA:

Jerrold A. Weissman, Great Falls, Montana, for a term ending January 1, 2011.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 61st Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 17, 2009

### **SENATE RESOLUTION NO. 36**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA 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.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As Director of Revenue, in accordance with sections 2-15-111 and 2-15-1302, MCA:

Mr. Dan R. Bucks, Helena, Montana, appointed to serve a term at the pleasure of the Governor.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 61st Legislature of the State of Montana does hereby concur in, confirm, and consent to the above nomination and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 23, 2009

### **SENATE RESOLUTION NO. 37**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED APRIL 2, 2009, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

Appointed as members to the Board of Investments, in accordance with section 2-15-1808, MCA:

Elouise Cobell, Browning, Montana, appointed to a term ending January 1, 2013.

Teresa Olcott Cohea, Helena, Montana, appointed to a term ending January 1, 2013.

Jack Prothero, Great Falls, Montana, appointed to a term ending January 1, 2013.

James Turcotte, Helena, Montana, appointed to a term ending January 1, 2013.

Patrick McKittrick, Great Falls, Montana, appointed to a term ending January 1, 2013.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 61st Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 21, 2009

**SENATE RESOLUTION NO. 38**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA 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.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Board of Public Education, in accordance with section 2-15-1508, MCA:

John Edwards, Billings, Montana, appointed to a term ending February 1, 2016.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 61st Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 17, 2009



## **2008 BALLOT ISSUES**

**Approved by Voters in the  
November 2008 General Election**



## LEGISLATIVE REFERENDUM NO. 118

### AN ACT REFERRED BY THE LEGISLATURE

The 2007 Legislature submitted this proposal for a vote. This proposal asks Montana voters to continue the 6-mill levy to support the university system. Without voter approval, the current 6 mill levy to support the university system will expire in January 2009. If passed, this proposal would be effective on January 1, 2009 and terminate January 1, 2019.

According to 2009 revenue estimates, the projected annual revenue from the 6-mill levy is \$12,505,000 for 2007 and is estimated to grow at an average growth rate of 3.36% each year through tax year 2018.

The complete text of LR-118 follows:

AN ACT SUBMITTING A 6-MILL LEVY FOR SUPPORT OF THE MONTANA UNIVERSITY SYSTEM TO THE ELECTORATE; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE.

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

**Section 1. Tax levy for university system.** There is levied upon the taxable value of all real estate and personal property subject to taxation in the state of Montana 6 mills for the support, maintenance, and improvement of the Montana university system. The funds raised from the levy must be deposited in the state special revenue fund.

**Section 2. Codification instruction.** Section 1 is intended to be codified as an integral part of Title 15, chapter 10, part 1, and the provisions of Title 15, chapter 10, part 1, apply to section 1.

**Section 3. Effective dates.** (1) Except as provided in subsection (2), this act is effective upon approval by the electorate.

(2) If approved by the electorate, section 1 is effective January 1, 2009.

**Section 4. Termination.** Section 1 terminates January 1, 2019.

**Section 5. Submission to electorate.** This act shall be submitted to the qualified electors of Montana at the general election to be held in November 2008 by printing on the ballot the full title of this act and the following:

- FOR imposing a levy of 6 mills for the support of the Montana university system.
- AGAINST imposing a levy of 6 mills for the support of the Montana university system.

Legislative Referendum No. 118 was approved by the following vote at the General Election held November 4, 2008:

For:	264,158
Against:	200,957

## INITIATIVE NO. 155

### A LAW PROPOSED BY INITIATIVE PETITION

I-155 establishes the Healthy Montana Kids plan to expand and coordinate health coverage for uninsured children under the Children's Health Insurance Program (CHIP), the Montana Medicaid Program, and employer-sponsored health insurance. The State Health Department may: raise income eligibility

levels for children under CHIP and Medicaid; simplify transitions between CHIP and Medicaid coverage; provide assistance for children in employer-sponsored insurance; and work with health care providers, schools, organizations, and agencies to encourage enrollment of uninsured children. Funding for I-155 will come from a share of the insurance premium tax and federal matching funds.

I-155 costs an estimated \$22 million of state funds, paid from the treasury with a share of current revenues from the insurance premium tax. Actual expenditures will depend on other factors, including the amount of federal matching dollars and enrollment.

The complete text of I-155 follows:

*Be it enacted by the People of the State of Montana:*

**NEW SECTION. Section 1. Short title.** [Sections 1 through 9] may be cited as the “Healthy Montana Kids Plan Act”.

**NEW SECTION. Section 2. Purpose.** The purposes of [sections 1 through 9] are to:

(1) create the healthy Montana kids plan, which offers health coverage to uninsured children by increasing eligibility for the children’s health insurance program and the Montana medicaid program and by helping families cover their children under employer-sponsored plans;

(2) provide for active enrollment of children in the plan; and

(3) fully utilize available federal funds to provide health coverage for children.

**NEW SECTION. Section 3. Definitions.** For purposes of [sections 1 through 9], the following definitions apply:

(1) “Comprehensive” means health insurance having benefits at least as extensive as those provided under the children’s health insurance program.

(2) “Department” means the department of public health and human services provided for in 2-15-2201.

(3) “Enrollee” means a child who is enrolled or in the process of being enrolled in the plan, including children already enrolled in the programs described in [section 4(2)].

(4) (a) “Enrollment partner” means an organization or individual approved by the department to assist in enrolling eligible children in the plan.

(b) An enrollment partner may be but is not limited to:

(i) a licensed health care provider;

(ii) a school;

(iii) a community-based organization; or

(iv) a government agency.

(5) “Health coverage” means a program administered by the department or a disability insurance plan, referred to in 33-1-207(1)(b), that provides public or private health insurance for children.

(6) “Income” has the meaning provided in 15-30-171(9)(a).

(7) “Plan” means the healthy Montana kids plan established in [section 4].

(8) “Premium” means the amount of money charged to provide coverage under a public or private health coverage plan.

(9) "Presumptive eligibility" has the meaning provided in 42 CFR 457.355.

**NEW SECTION. Section 4. Healthy Montana kids plan.** (1) There is a healthy Montana kids plan that provides comprehensive health coverage to uninsured children who are residents of the state.

(2) The plan includes and coordinates access to health coverage for enrollees in the children's health insurance program and the Montana medicaid program.

(3) The department shall administer the plan.

(4) To the extent permitted by federal law, the department shall use the name of the plan on documents associated with programs described in subsection (2), including but not limited to advertising, brochures, applications, and membership cards.

(5) State funding of the plan is contingent upon the availability of federal matching funds through the children's health insurance program or the Montana medicaid program.

**NEW SECTION. Section 5. Rulemaking — active enrollment — plan coordination.** (1) The department shall adopt rules necessary to implement [sections 1 through 9], including plan administration, plan enrollment, outreach efforts, and standards of performance to allow enrollment partners to assist in enrolling children in the plan or other health coverage plans administered by the department.

(2) The rules must:

(a) establish a process for identifying and approving enrollment partners;

(b) create and define an active enrollment process;

(c) promote seamless movement between programs described in [section 4(2)];

(d) promote accessible enrollment through enrollment partners;

(e) provide, to the extent permitted by law, a single point of access in the department for plan members;

(f) define income for purposes of determining eligibility for children's health coverage programs within the plan;

(g) provide for presumptive eligibility; and

(h) encourage enrollment partners to actively enroll as many eligible, uninsured children as possible in the plan or in an employer-sponsored plan as described in [section 6].

(3) The rules may include the development of enrollment partner training, technical assistance programs, and performance measures.

(4) The rules may provide for an exemption from the active enrollment process based upon an individual showing of:

(a) religious conviction;

(b) private insurance that offers creditable coverage, as defined in 42 U.S.C. 300gg(c), obtained by the parents for the child from a private group or individual health insurance issuer or under a self-funded employer health plan; or

(c) other compelling circumstances.

(5) The rules governing eligibility and premium assistance must be consistent with [sections 1 through 9]. Rules may include but are not limited to financial standards and criteria for income, nonfinancial criteria, family

responsibility, residency, the application process, termination of eligibility, definition of terms, and confidentiality of applicant and recipient information.

**NEW SECTION. Section 6. Enrollment in employer-sponsored plans.** The department may:

(1) provide premium assistance to families who have access to one or more employer-sponsored comprehensive group health insurance plans in order to provide coverage for eligible children. The premium assistance may not exceed the cost of coverage for that child under the plan.

(2) provide assistance to employers who establish a premium-only health benefits plan under section 125 of the Internal Revenue Code, 26 U.S.C. 125, for the purpose of enrolling children in such a plan and allowing their families to pay any premium with pretax dollars.

**NEW SECTION. Section 7. Federal financial participation.** The department shall request any necessary state plan amendments or waivers of federal requirements in order to allow receipt of the maximum available federal funds to facilitate implementation of [sections 1 through 9], subject to appropriation of necessary matching state funds.

**NEW SECTION. Section 8. Exemption from resource test.** An otherwise applicable eligibility resource test provided for in 53-6-113(6) and 53-6-131(7) does not apply to plan applicants.

**NEW SECTION. Section 9. Special revenue account.** (1) There is an account in the state special revenue fund to the credit of the department for the purposes provided in subsection (2). There must be paid into the account the amounts collected under 33-2-708(3)(b). Any interest or income derived from the account must be deposited in the account.

(2) Money in the account:

(a) is to be used solely to cover the number of additional enrollees in the plan that exceeds the number of enrollees as of [the effective date of this act], within the limits provided in 53-4-1004, 53-6-131, and [sections 1 through 9], and to cover the costs of enrollment, including premium assistance, under [section 6(1)], and to pay administrative costs associated with expanded eligibility, and to establish and maintain a reserve; and

(b) may be used only to match federal funds available under the children's health insurance program and the Montana medicaid program.

(3) The unexpended balance of an appropriation from the account must remain in the account and may be used only for the purposes stated in subsection (2).

(4) The special revenue account does not affect and is not exclusive of any other sources of funding for the programs described in [section 4(2)], including the special revenue account provided for in 53-4-1012.

(5) If the department determines that there is insufficient funding for the purposes of subsection (2), it may reduce eligibility requirements for participants in the children's health insurance program as provided in 53-4-1004(4).

**Section 10.** Section 33-2-708, MCA, is amended to read:

**"33-2-708. Fees and licenses.** (1) (a) Except as provided in 33-17-212(2), the commissioner shall collect a fee of \$1,900 from each insurer applying for or annually renewing a certificate of authority to conduct the business of insurance in Montana.

- (b) The commissioner shall collect certain additional fees as follows:
- (i) nonresident insurance producer's license:
    - (A) application for original license, including issuance of license, if issued, \$100;
    - (B) biennial renewal of license, \$50;
    - (C) lapsed license reinstatement fee, \$100;
  - (ii) resident insurance producer's license lapsed license reinstatement fee, \$100;
    - (iii) surplus lines insurance producer's license:
      - (A) application for original license and for issuance of license, if issued, \$50;
      - (B) biennial renewal of license, \$100;
      - (C) lapsed license reinstatement fee, \$200;
    - (iv) insurance adjuster's license:
      - (A) application for original license, including issuance of license, if issued, \$50;
      - (B) biennial renewal of license, \$100;
      - (C) lapsed license reinstatement fee, \$200;
    - (v) insurance consultant's license:
      - (A) application for original license, including issuance of license, if issued, \$50;
      - (B) biennial renewal of license, \$100;
      - (C) lapsed license reinstatement fee, \$200;
    - (vi) viatical settlement broker's license:
      - (A) application for original license, including issuance of license, if issued, \$50;
      - (B) biennial renewal of license, \$100;
      - (C) lapsed license reinstatement fee, \$200;
    - (vii) resident and nonresident rental car entity producer's license:
      - (A) application for original license, including issuance of license, if issued, \$100;
      - (B) quarterly filing fee, \$25;
    - (viii) an original notification fee for a life insurance producer acting as a viatical settlement broker, in accordance with 33-20-1303(2)(b), \$50;
    - (ix) 50 cents for each page for copies of documents on file in the commissioner's office.

(c) The commissioner may adopt rules to determine the date by which a nonresident insurance producer, a surplus lines insurance producer, an insurance adjuster, or an insurance consultant is required to pay the fee for the biennial renewal of a license.

(2) (a) The commissioner shall charge a fee of \$75 for each course or program submitted for review as required by 33-17-1204 and 33-17-1205, but may not charge more than \$1,500 to a sponsoring organization submitting courses or programs for review in any biennium.

(b) Insurers and associations composed of members of the insurance industry are exempt from the charge in subsection (2)(a).

(3) (a) ~~The Except as provided in subsection (3)(b),~~ the commissioner shall promptly deposit with the state treasurer to the credit of the general fund all fines and penalties and those amounts received pursuant to 33-2-311, 33-2-705, 33-28-201, and 50-3-109.

(b) The commissioner shall deposit 33% of the money collected under 33-2-705 in the special revenue account provided for [section 9].

(c) All other fees collected by the commissioner pursuant to Title 33 and the rules adopted under Title 33 must be deposited in the state special revenue fund to the credit of the state auditor's office.

(4) All fees are considered fully earned when received. In the event of overpayment, only those amounts in excess of \$10 will be refunded."

**Section 11.** Section 53-4-1004, MCA, is amended to read:

**"53-4-1004. (Temporary) Eligibility for program — rulemaking.** (1) To be considered eligible for the program, a child:

(a) must be 18 years of age or younger;

(b) must have a combined family income at or below ~~175%~~ 250% of the federal poverty level or at a lower level determined by the department of public health and human services as provided in subsection (4);

(c) may not already be covered by private insurance that offers creditable coverage, as defined in 42 U.S.C. 300gg(c), for 3 months prior to enrollment in the program or since birth, whichever period is less;

(d) may not be eligible for medicaid benefits; and

(e) must be a United States citizen or qualified alien and a Montana resident.

(2) The department of public health and human services shall adopt rules that establish the program's criteria for residency. The criteria must conform as nearly as practicable with the residency requirements for medicaid eligibility.

(3) Subject to 53-4-1009(3), rules governing eligibility may also include financial standards and criteria for income and resources, treatment of resources, and nonfinancial criteria.

(4) If the department determines that there is insufficient funding for the program, it may lower the percentage of the federal poverty level established in subsection (1)(b) in order to reduce the number of persons who may be eligible to participate or may limit the amount, scope, or duration of specific services provided. (Terminates on occurrence of contingency—sec. 15, Ch. 571, L. 1999.)"

**Section 12.** Section 53-6-131, MCA, is amended to read:

**"53-6-131. Eligibility requirements.** (1) Medical assistance under the Montana medicaid program may be granted to a person who is determined by the department of public health and human services, in its discretion, to be eligible as follows:

(a) The person receives or is considered to be receiving supplemental security income benefits under Title XVI of the Social Security Act, 42 U.S.C. 1381, et seq., and does not have income or resources in excess of the applicable medical assistance limits.

(b) The person would be eligible for assistance under the program described in subsection (1)(a) if that person were to apply for that assistance.



(c) The person is in a medical facility that is a medicaid provider and, but for residence in the facility, the person would be receiving assistance under the program in subsection (1)(a).

(d) The person is under 21 years of age and in foster care under the supervision of the state or was in foster care under the supervision of the state and has been adopted as a child with special needs.

(e) The person meets the nonfinancial criteria of the categories in subsections (1)(a) through (1)(d) and:

(i) the person's income does not exceed the income level specified for federally aided categories of assistance and the person's resources are within the resource standards of the federal supplemental security income program; or

(ii) the person, while having income greater than the medically needy income level specified for federally aided categories of assistance:

(A) has an adjusted income level, after incurring medical expenses, that does not exceed the medically needy income level specified for federally aided categories of assistance or, alternatively, has paid in cash to the department the amount by which the person's income exceeds the medically needy income level specified for federally aided categories of assistance; and

(B) has resources that are within the resource standards of the federal supplemental security income program.

(f) The person is a qualified pregnant woman or child as defined in 42 U.S.C. 1396d(n).

(g) The person is under 19 years of age and lives with a family having a combined income that does not exceed 185% of the federal poverty level. The Department may establish lower income levels to the extent necessary to maximize federal matching funds provided for in [section 4].

(2) The department may establish income and resource limitations. Limitations of income and resources must be within the amounts permitted by federal law for the medicaid program. Any otherwise applicable eligibility resource test prescribed by the department does not apply to enrollees in the healthy Montana kids plan provided for in [section 4].

(3) The Montana medicaid program shall pay, as required by federal law, the premiums necessary for medicaid-eligible persons participating in the medicare program and may, within the discretion of the department, pay all or a portion of the medicare premiums, deductibles, and coinsurance for a qualified medicare-eligible person or for a qualified disabled and working individual, as defined in section 6408(d)(2) of the federal Omnibus Budget Reconciliation Act of 1989, Public Law 101-239, who:

(a) has income that does not exceed income standards as may be required by the Social Security Act; and

(b) has resources that do not exceed standards that the department determines reasonable for purposes of the program.

(4) The department may pay a medicaid-eligible person's expenses for premiums, coinsurance, and similar costs for health insurance or other available health coverage, as provided in 42 U.S.C. 1396b(a)(1).

(5) In accordance with waivers of federal law that are granted by the secretary of the U.S. department of health and human services, the department of public health and human services may grant eligibility for basic medicaid benefits as described in 53-6-101 to an individual receiving section 1931

medicaid benefits, as defined in 53-4-602, as the specified caretaker relative of a dependent child under the section 1931 medicaid program. A recipient who is pregnant, meets the criteria for disability provided in Title II of the Social Security Act, 42 U.S.C. 416, et seq., or is less than 21 years of age is entitled to full medicaid coverage, as provided in 53-6-101.

(6) The department, under the Montana medicaid program, may provide, if a waiver is not available from the federal government, medicaid and other assistance mandated by Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be amended, and not specifically listed in this part to categories of persons that may be designated by the act for receipt of assistance.

(7) Notwithstanding any other provision of this chapter, medical assistance must be provided to infants and pregnant women whose family income does not exceed 133% of the federal poverty threshold, as provided in 42 U.S.C. 1396a(a)(10)(A)(ii)(IX) and 42 U.S.C. 1396a(l)(2)(A)(i), and whose family resources do not exceed standards that the department determines reasonable for purposes of the program.

(8) Subject to appropriations, the department may cooperate with and make grants to a nonprofit corporation that uses donated funds to provide basic preventive and primary health care medical benefits to children whose families are ineligible for the Montana medicaid program and who are ineligible for any other health care coverage, are under 19 years of age, and are enrolled in school if of school age.

(9) A person described in subsection (7) must be provided continuous eligibility for medical assistance, as authorized in 42 U.S.C. 1396a(e)(5) through a(e)(7).

(10) Full medical assistance under the Montana medicaid program may be granted to an individual during the period in which the individual requires treatment of breast or cervical cancer, or both, or of a precancerous condition of the breast or cervix, if the individual:

(a) has been screened for breast and cervical cancer under the Montana breast and cervical health program funded by the centers for disease control and prevention program established under Title XV of the Public Health Service Act, 42 U.S.C. 300k, or in accordance with federal requirements;

(b) needs treatment for breast or cervical cancer, or both, or a precancerous condition of the breast or cervix;

(c) is not otherwise covered under creditable coverage, as provided by federal law or regulation;

(d) is not eligible for medical assistance under any mandatory categorically needy eligibility group; and

(e) has not attained 65 years of age.”

**NEW SECTION. Section 13. Codification instruction.** [Sections 1 through 9] are intended to be codified as an integral part of Title 53, chapter 4, and the provisions of Title 53, chapter 4, apply to [sections 1 through 9].

**NEW SECTION. Section 14. Contingent termination.** (1) [Section 11], amending 53-4-1004, terminates on the date that the director of the department of public health and human services certifies to the governor that the federal government has terminated the program or that the federal funding for the program has been discontinued.

(2) The governor shall transmit a copy of the certification to the code commissioner.

(3) Any excess funds remaining upon the termination of the program must be transferred to the general fund.

**NEW SECTION. Section 15. Effective date.** This act is effective upon approval by the electorate.

Initiative No. 118 was approved by the following vote at the General Election held November 4, 2008:

For:	329,289
Against:	141,701



## **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**  
**2006 Ballot Issues**



**CODE SECTIONS AFFECTED**

This table was compiled before the codification process was completed. It does not reflect certain sections affected by name change amendments. All other substantive changes are reflected. Those sections for which renumbering is not attributed to a particular chapter and bill number were renumbered by the Code Commissioner under the authority of 1-11-204(3)(a)(ii).

<u>Title-Chapter-Section</u>	<u>Action</u>	<u>Chapter</u>	<u>Bill Number</u>
1-1-228	enacted	Ch. 93	SB 196
1-1-229	enacted	Ch. 333	HB 238
1-5-401	amended	Ch. 319	SB 299
1-5-402	amended	Ch. 319	SB 299
1-5-416	amended	Ch. 319	SB 299
1-5-419	amended	Ch. 319	SB 299
1-5-610	amended	Ch. 319	SB 299
1-11-204	amended	Ch. 160	HB 54
2-2-102	amended	Ch. 77	HB 426
2-4-101	amended	Ch. 152	SB 20
2-4-102	amended	Ch. 2	SB 7
2-4-110	amended	Ch. 21	SB 90
2-4-302	amended	Ch. 21	SB 90
2-4-305	amended	Ch. 21	SB 90
	amended	Ch. 152	SB 20
	amended	Ch. 270	SB 123
	amended	Ch. 303	HB 475
2-4-306	amended	Ch. 303	HB 475
	amended	Ch. 489	HB 645
2-4-311	amended	Ch. 303	HB 475
2-4-312	amended	Ch. 21	SB 90
2-4-313	amended	Ch. 303	HB 475
2-4-623	amended	Ch. 445	HB 483
2-4-702	amended	Ch. 445	HB 483
2-5-103	amended	Ch. 2	SB 7
2-6-109	amended	Ch. 125	HB 283
2-6-501	enacted	Ch. 163	HB 155
2-6-502	enacted	Ch. 163	HB 155
2-6-503	enacted	Ch. 163	HB 155
2-6-504	enacted	Ch. 163	HB 155
2-7-501	amended	Ch. 351	SB 8
2-8-501	enacted	Ch. 125	HB 283
2-9-212	amended	Ch. 412	SB 491
2-15-102	amended	Ch. 164	HB 193
2-15-149	amended	Ch. 164	HB 193
2-15-217	amended	Ch. 164	HB 193
2-15-225	amended	Ch. 164	HB 193
2-15-1027	repealed	Ch. 9	SB 24
2-15-1205	amended	Ch. 164	HB 193
2-15-1523	amended	Ch. 436	HB 52
2-15-1704	amended	Ch. 88	SB 150
2-15-1705	amended	Ch. 65	HB 136
2-15-1731	amended	Ch. 82	SB 77
2-15-1733	amended	Ch. 247	SB 275
2-15-1738	amended	Ch. 109	HB 80
2-15-1740	amended	Ch. 109	HB 80
2-15-1741	amended	Ch. 109	HB 80
2-15-1744	amended	Ch. 109	HB 80
2-15-1748	amended	Ch. 109	HB 80
2-15-1750	amended	Ch. 109	HB 80
2-15-1753	amended	Ch. 109	HB 80

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2-15-1756	amended	Ch. 109	HB 80
2-15-1781	amended	Ch. 2	SB 7
2-15-1782	enacted	Ch. 451	HB 662
2-15-2302	amended	Ch. 242	HB 591
2-15-3004	amended	Ch. 486	HB 676
2-15-3006	amended	Ch. 15	HB 100
2-15-3112	amended	Ch. 14	HB 90
2-15-3113	amended	Ch. 2	SB 7
2-16-612	amended	Ch. 188	HB 197
2-16-614	amended	Ch. 188	HB 197
2-17-101	amended	Ch. 375	HB 110
2-17-411	amended	Ch. 463	HB 602
2-17-425	enacted	Ch. 463	HB 602
2-17-807	amended	Ch. 46	SB 252
2-17-808	amended	Ch. 46	SB 252
2-18-101	amended	Ch. 7	HB 13
2-18-110	repealed	Ch. 7	HB 13
2-18-202	amended	Ch. 7	HB 13
2-18-207	repealed	Ch. 7	HB 13
2-18-301	amended	Ch. 7	HB 13
2-18-303	amended	Ch. 7	HB 13
2-18-501	amended	Ch. 91	SB 170
2-18-601	amended	Ch. 185	HB 144
2-18-620	repealed	Ch. 185	HB 144
2-18-702	amended	Ch. 145	SB 208
2-18-703	amended	Ch. 7	HB 13
	amended	Ch. 412	SB 491
2-18-1204	amended	Ch. 7	HB 13
3-1-1001	amended	Ch. 12	SB 125
3-5-102	amended	Ch. 422	SB 158
3-5-510	amended	Ch. 52	HB 242
3-5-604	amended	Ch. 154	SB 197
3-7-311	amended	Ch. 103	HB 39
3-15-201	amended	Ch. 52	HB 242
3-15-204	amended	Ch. 52	HB 242
3-15-313	amended	Ch. 167	HB 372
5-2-202	amended	Ch. 250	HB 23
5-2-304	amended	Ch. 284	HB 170
5-4-204	amended	Ch. 392	SB 18
5-4-205	amended	Ch. 392	SB 18
5-4-306	amended	Ch. 102	HB 192
5-5-202	amended	Ch. 285	SB 22
5-5-231	enacted	Ch. 285	SB 22
5-11-402	amended	Ch. 250	HB 23
7-1-111	amended	Ch. 395	SB 55
7-1-201	amended	Ch. 286	SB 57
7-1-202	amended	Ch. 286	SB 57
7-1-2111	amended	Ch. 57	HB 38
7-1-4127	amended	Ch. 97	SB 296
7-2-2723	amended	Ch. 2	SB 7
7-2-2743	amended	Ch. 2	SB 7
7-3-121	amended	Ch. 2	SB 7
7-3-122	amended	Ch. 2	SB 7
7-3-124	amended	Ch. 2	SB 7
7-3-154	amended	Ch. 2	SB 7
7-3-4465	amended	Ch. 291	SB 148
7-4-501	amended	Ch. 122	HB 230
7-4-505	amended	Ch. 122	HB 230
7-4-506	amended	Ch. 122	HB 230
7-4-2101	amended	Ch. 291	SB 148
7-4-2102	amended	Ch. 291	SB 148
7-4-2104	amended	Ch. 291	SB 148
7-4-2105	amended	Ch. 291	SB 148



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7-4-2108	amended	Ch. 291	SB 148
7-4-2111	amended	Ch. 291	SB 148
7-4-2208	amended	Ch. 123	HB 244
7-4-2312	amended	Ch. 291	SB 148
7-4-2503	amended	Ch. 133	HB 545
	amended	Ch. 291	SB 148
7-4-2504	amended	Ch. 291	SB 148
7-4-2505	amended	Ch. 2	SB 7
7-4-2525	amended	Ch. 291	SB 148
7-4-2715	amended	Ch. 291	SB 148
7-4-4202	repealed	Ch. 291	SB 148
7-5-2129	amended	Ch. 291	SB 148
7-5-2150	enacted	Ch. 69	HB 245
7-5-2401	renumbered 18-7-401	Ch. 148	HB 67
7-5-2402	renumbered 18-7-402	Ch. 148	HB 67
7-5-2403	renumbered 18-7-403	Ch. 148	HB 67
7-5-2404	amended and renumbered 18-7-404	Ch. 148	HB 67
7-5-2405	renumbered 18-7-405	Ch. 148	HB 67
7-5-2411	renumbered 18-7-411	Ch. 148	HB 67
7-5-2412	renumbered 18-7-412	Ch. 148	HB 67
7-5-2413	renumbered 18-7-413	Ch. 148	HB 67
7-5-2414	renumbered 18-7-414	Ch. 148	HB 67
7-6-201	amended	Ch. 291	SB 148
7-6-1501	amended	Ch. 381	HB 312
7-6-1602	amended	Ch. 358	SB 231
7-6-1603	amended	Ch. 358	SB 231
7-6-2426	amended	Ch. 45	SB 215
7-6-2527	amended	Ch. 38	SB 98
	amended	Ch. 286	SB 57
7-6-4020	amended	Ch. 351	SB 8
7-6-4035	amended	Ch. 351	SB 8
7-6-4413	amended	Ch. 291	SB 148
7-7-140	enacted	Ch. 489	HB 645
7-7-141	enacted	Ch. 489	HB 645
7-7-2101	amended	Ch. 286	SB 57
7-7-2255	amended	Ch. 489	HB 645
7-7-2501	amended	Ch. 489	HB 645
7-7-4255	amended	Ch. 489	HB 645
7-7-4402	amended	Ch. 248	SB 294
	amended	Ch. 265	SB 9
7-7-4421	amended	Ch. 489	HB 645
7-7-4424	amended	Ch. 248	SB 294
7-7-4501	amended	Ch. 489	HB 645
7-8-2215	amended	Ch. 291	SB 148
7-8-2219	amended	Ch. 170	HB 623
7-8-2301	amended	Ch. 170	HB 623
7-8-2308	amended	Ch. 170	HB 623
7-8-2402	amended	Ch. 170	HB 623
7-8-2502	amended	Ch. 170	HB 623
7-8-2504	amended	Ch. 170	HB 623
7-8-4201	amended	Ch. 170	HB 623
7-10-101	enacted	Ch. 351	SB 8
7-10-102	enacted	Ch. 351	SB 8
7-10-103	enacted	Ch. 351	SB 8
7-10-104	enacted	Ch. 351	SB 8
7-10-105	enacted	Ch. 351	SB 8
7-10-106	enacted	Ch. 351	SB 8
7-10-110	enacted	Ch. 351	SB 8
7-10-115	enacted	Ch. 351	SB 8
7-10-201	enacted	Ch. 351	SB 8
7-10-202	enacted	Ch. 351	SB 8
7-10-205	enacted	Ch. 351	SB 8
7-10-206	enacted	Ch. 351	SB 8

7-10-207	enacted	Ch. 351	SB	8
7-10-208	enacted	Ch. 351	SB	8
7-10-209	enacted	Ch. 351	SB	8
7-10-215	enacted	Ch. 351	SB	8
7-10-216	enacted	Ch. 351	SB	8
7-10-217	enacted	Ch. 351	SB	8
7-10-218	enacted	Ch. 351	SB	8
7-10-219	enacted	Ch. 351	SB	8
7-10-220	enacted	Ch. 351	SB	8
7-10-221	enacted	Ch. 351	SB	8
7-10-222	enacted	Ch. 351	SB	8
7-11-1001	enacted	Ch. 286	SB	57
7-11-1002	enacted	Ch. 286	SB	57
7-11-1003	enacted	Ch. 286	SB	57
7-11-1006	enacted	Ch. 286	SB	57
7-11-1007	enacted	Ch. 286	SB	57
7-11-1008	enacted	Ch. 286	SB	57
7-11-1011	enacted	Ch. 286	SB	57
7-11-1012	enacted	Ch. 286	SB	57
7-11-1013	enacted	Ch. 286	SB	57
7-11-1014	enacted	Ch. 286	SB	57
7-11-1015	enacted	Ch. 286	SB	57
7-11-1021	enacted	Ch. 286	SB	57
7-11-1022	enacted	Ch. 286	SB	57
7-11-1023	enacted	Ch. 286	SB	57
7-11-1024	enacted	Ch. 286	SB	57
7-11-1025	enacted	Ch. 286	SB	57
7-11-1026	enacted	Ch. 286	SB	57
7-11-1027	enacted	Ch. 286	SB	57
7-11-1028	enacted	Ch. 286	SB	57
7-11-1029	enacted	Ch. 286	SB	57
7-11-1101	repealed	Ch. 286	SB	57
7-11-1102	amended	Ch. 286	SB	57
7-11-1105	repealed	Ch. 286	SB	57
7-11-1106	repealed	Ch. 286	SB	57
7-11-1107	repealed	Ch. 286	SB	57
7-11-1111	repealed	Ch. 286	SB	57
7-11-1112	amended	Ch. 286	SB	57
7-12-2103	amended	Ch. 342	HB	449
7-12-2105	amended	Ch. 342	HB	449
7-12-2109	amended	Ch. 342	HB	449
7-12-2112	amended	Ch. 342	HB	449
7-12-2153	amended	Ch. 349	HB	630
7-12-2171	amended	Ch. 489	HB	645
7-12-2172	amended	Ch. 287	SB	58
7-12-2182	amended	Ch. 349	HB	630
7-12-2185	amended	Ch. 349	HB	630
7-12-2186	amended	Ch. 349	HB	630
7-12-4001	repealed	Ch. 286	SB	57
7-12-4169	amended	Ch. 349	HB	630
7-12-4204	amended	Ch. 287	SB	58
7-12-4222	amended	Ch. 349	HB	630
7-12-4225	amended	Ch. 349	HB	630
7-12-4227	amended	Ch. 349	HB	630
7-12-4429	amended	Ch. 100	SB	390
7-13-201	repealed	Ch. 286	SB	57
7-13-202	repealed	Ch. 286	SB	57
7-13-203	repealed	Ch. 286	SB	57
7-13-204	repealed	Ch. 286	SB	57
7-13-205	repealed	Ch. 286	SB	57
7-13-206	repealed	Ch. 286	SB	57
7-13-207	repealed	Ch. 286	SB	57
7-13-208	repealed	Ch. 286	SB	57

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7-13-209	repealed	Ch. 286	SB	57
7-13-210	repealed	Ch. 286	SB	57
7-13-211	repealed	Ch. 286	SB	57
7-13-212	repealed	Ch. 286	SB	57
7-13-213	repealed	Ch. 286	SB	57
7-13-215	repealed	Ch. 286	SB	57
7-13-216	repealed	Ch. 286	SB	57
7-13-217	repealed	Ch. 286	SB	57
7-13-218	repealed	Ch. 286	SB	57
7-13-231	repealed	Ch. 286	SB	57
7-13-232	repealed	Ch. 286	SB	57
7-13-233	repealed	Ch. 286	SB	57
7-13-234	repealed	Ch. 286	SB	57
7-13-235	repealed	Ch. 286	SB	57
7-13-236	repealed	Ch. 286	SB	57
7-13-237	repealed	Ch. 286	SB	57
7-13-301	repealed	Ch. 286	SB	57
7-13-302	repealed	Ch. 286	SB	57
7-13-303	repealed	Ch. 286	SB	57
7-13-304	repealed	Ch. 286	SB	57
7-13-305	repealed	Ch. 286	SB	57
7-13-306	repealed	Ch. 286	SB	57
7-13-307	repealed	Ch. 286	SB	57
7-13-308	repealed	Ch. 286	SB	57
7-13-309	repealed	Ch. 286	SB	57
7-13-310	repealed	Ch. 286	SB	57
7-13-311	repealed	Ch. 286	SB	57
7-13-2256	amended	Ch. 342	HB	449
7-13-2301	amended	Ch. 342	HB	449
7-13-2302	amended	Ch. 342	HB	449
7-13-2303	amended	Ch. 96	SB	262
7-13-2501	repealed	Ch. 286	SB	57
7-13-2502	repealed	Ch. 286	SB	57
7-13-2503	repealed	Ch. 286	SB	57
7-13-2504	repealed	Ch. 286	SB	57
7-13-2505	repealed	Ch. 286	SB	57
7-13-2506	repealed	Ch. 286	SB	57
7-13-2507	repealed	Ch. 286	SB	57
7-13-2508	repealed	Ch. 286	SB	57
7-13-2509	repealed	Ch. 286	SB	57
7-13-2510	repealed	Ch. 286	SB	57
7-13-2511	amended	Ch. 286	SB	57
7-13-2512	amended	Ch. 286	SB	57
7-13-2521	repealed	Ch. 286	SB	57
7-13-2527	amended	Ch. 2	SB	7
	repealed	Ch. 286	SB	57
7-13-2528	repealed	Ch. 286	SB	57
7-13-2529	repealed	Ch. 286	SB	57
7-13-2541	repealed	Ch. 286	SB	57
7-13-2542	repealed	Ch. 286	SB	57
7-14-112	amended	Ch. 486	HB	676
7-14-2101	amended	Ch. 241	HB	563
7-14-2134	amended	Ch. 201	HB	190
7-14-2138	amended	Ch. 286	SB	57
7-14-2622	enacted	Ch. 241	HB	563
7-14-2701	repealed	Ch. 286	SB	57
7-14-2702	repealed	Ch. 286	SB	57
7-14-2703	repealed	Ch. 286	SB	57
7-14-2704	repealed	Ch. 286	SB	57
7-14-2705	repealed	Ch. 286	SB	57
7-14-2706	repealed	Ch. 286	SB	57
7-14-2707	repealed	Ch. 286	SB	57
7-14-2708	repealed	Ch. 286	SB	57

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7-14-2709	repealed	Ch. 286	SB	57
7-14-2710	repealed	Ch. 286	SB	57
7-14-2711	repealed	Ch. 286	SB	57
7-14-2712	repealed	Ch. 286	SB	57
	amended	Ch. 291	SB	148
7-14-2713	repealed	Ch. 286	SB	57
	repealed	Ch. 291	SB	148
7-14-2714	repealed	Ch. 286	SB	57
7-14-2715	repealed	Ch. 286	SB	57
7-14-2716	repealed	Ch. 286	SB	57
7-14-2717	repealed	Ch. 286	SB	57
7-14-2718	repealed	Ch. 286	SB	57
7-14-2719	repealed	Ch. 286	SB	57
7-14-2720	repealed	Ch. 286	SB	57
7-14-2721	repealed	Ch. 286	SB	57
7-14-2731	repealed	Ch. 286	SB	57
7-14-2732	repealed	Ch. 286	SB	57
7-14-2733	repealed	Ch. 286	SB	57
7-14-2734	repealed	Ch. 286	SB	57
7-14-2735	repealed	Ch. 286	SB	57
7-14-2736	repealed	Ch. 286	SB	57
7-14-2737	repealed	Ch. 286	SB	57
7-14-2738	repealed	Ch. 286	SB	57
7-14-2739	repealed	Ch. 286	SB	57
7-14-2740	repealed	Ch. 286	SB	57
7-14-2741	repealed	Ch. 286	SB	57
7-14-2742	repealed	Ch. 286	SB	57
7-14-2743	repealed	Ch. 286	SB	57
7-14-2744	repealed	Ch. 286	SB	57
7-14-2745	repealed	Ch. 286	SB	57
7-14-2746	repealed	Ch. 286	SB	57
7-14-2751	repealed	Ch. 286	SB	57
7-14-2752	repealed	Ch. 286	SB	57
7-14-2753	repealed	Ch. 286	SB	57
7-14-2754	repealed	Ch. 286	SB	57
7-14-2755	repealed	Ch. 286	SB	57
7-14-2756	repealed	Ch. 286	SB	57
7-14-2757	repealed	Ch. 286	SB	57
7-14-2758	repealed	Ch. 286	SB	57
7-14-2759	repealed	Ch. 286	SB	57
7-14-2760	repealed	Ch. 286	SB	57
7-14-2761	repealed	Ch. 286	SB	57
7-14-2762	repealed	Ch. 286	SB	57
7-14-2763	repealed	Ch. 286	SB	57
7-14-2901	repealed	Ch. 286	SB	57
7-14-2902	repealed	Ch. 286	SB	57
7-14-2903	repealed	Ch. 286	SB	57
7-14-2907	repealed	Ch. 286	SB	57
7-14-2908	repealed	Ch. 286	SB	57
7-14-4403	amended	Ch. 246	SB	261
7-15-4262	amended	Ch. 170	HB	623
7-15-4282	amended	Ch. 394	SB	48
7-15-4283	amended	Ch. 394	SB	48
7-15-4284	amended	Ch. 394	SB	48
7-15-4285	amended	Ch. 483	HB	658
7-15-4286	amended	Ch. 394	SB	48
7-15-4288	amended	Ch. 394	SB	48
7-15-4290	amended	Ch. 394	SB	48
	amended	Ch. 489	HB	645
7-15-4292	amended	Ch. 394	SB	48
7-15-4293	amended	Ch. 350	HB	653
	amended	Ch. 394	SB	48
7-15-4294	amended	Ch. 394	SB	48

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7-15-4295	amended	Ch. 394	SB	48
7-15-4296	amended	Ch. 394	SB	48
7-15-4299	amended	Ch. 394	SB	48
7-15-4301	amended	Ch. 394	SB	48
	amended	Ch. 489	HB	645
7-15-4302	amended	Ch. 394	SB	48
	amended	Ch. 489	HB	645
7-15-4304	amended	Ch. 394	SB	48
7-15-4324	amended	Ch. 394	SB	48
7-16-2105	amended	Ch. 286	SB	57
7-16-2109	amended	Ch. 286	SB	57
7-16-2201	repealed	Ch. 286	SB	57
7-16-2202	repealed	Ch. 286	SB	57
7-16-2203	repealed	Ch. 286	SB	57
7-16-2205	repealed	Ch. 286	SB	57
7-16-2211	repealed	Ch. 286	SB	57
7-16-2212	repealed	Ch. 286	SB	57
7-16-2213	repealed	Ch. 286	SB	57
7-16-2214	repealed	Ch. 286	SB	57
7-16-2215	repealed	Ch. 286	SB	57
7-16-2216	repealed	Ch. 286	SB	57
7-16-2217	repealed	Ch. 286	SB	57
7-16-2218	repealed	Ch. 286	SB	57
7-16-2219	repealed	Ch. 286	SB	57
7-16-2401	repealed	Ch. 286	SB	57
7-16-2402	repealed	Ch. 286	SB	57
7-16-2403	repealed	Ch. 286	SB	57
7-16-2411	repealed	Ch. 286	SB	57
7-16-2412	repealed	Ch. 286	SB	57
7-16-2413	repealed	Ch. 286	SB	57
7-16-2421	repealed	Ch. 286	SB	57
7-16-2422	repealed	Ch. 286	SB	57
7-16-2423	repealed	Ch. 286	SB	57
7-16-2431	repealed	Ch. 286	SB	57
7-16-2433	repealed	Ch. 286	SB	57
7-16-2441	repealed	Ch. 286	SB	57
7-16-2442	repealed	Ch. 286	SB	57
7-16-2443	repealed	Ch. 286	SB	57
7-21-2116	amended	Ch. 291	SB	148
7-21-2303	amended	Ch. 291	SB	148
7-21-2305	amended	Ch. 291	SB	148
7-21-2306	amended	Ch. 291	SB	148
7-21-2308	amended	Ch. 291	SB	148
7-21-2404	amended	Ch. 291	SB	148
7-21-2407	amended	Ch. 291	SB	148
7-21-2408	amended	Ch. 291	SB	148
7-21-2409	amended	Ch. 291	SB	148
7-21-2410	amended	Ch. 291	SB	148
7-21-2503	amended	Ch. 291	SB	148
7-21-2507	amended	Ch. 291	SB	148
7-21-3101	amended	Ch. 291	SB	148
7-21-3105	amended	Ch. 291	SB	148
7-21-3107	amended	Ch. 291	SB	148
7-21-3202	repealed	Ch. 291	SB	148
7-21-3212	amended	Ch. 291	SB	148
7-21-3213	repealed	Ch. 291	SB	148
7-21-3401	repealed	Ch. 286	SB	57
7-21-3406	repealed	Ch. 286	SB	57
7-21-3407	repealed	Ch. 286	SB	57
7-21-3408	repealed	Ch. 286	SB	57
7-21-3409	repealed	Ch. 286	SB	57
7-21-3410	repealed	Ch. 286	SB	57
7-21-3411	amended	Ch. 286	SB	57

7-21-3412	repealed	Ch. 286	SB	57
7-21-3413	repealed	Ch. 286	SB	57
7-21-3421	repealed	Ch. 286	SB	57
7-21-3422	repealed	Ch. 286	SB	57
7-21-3423	repealed	Ch. 286	SB	57
7-21-3424	repealed	Ch. 286	SB	57
7-21-3425	repealed	Ch. 286	SB	57
7-21-3426	repealed	Ch. 286	SB	57
7-21-3427	repealed	Ch. 286	SB	57
7-21-3428	repealed	Ch. 286	SB	57
7-21-3429	repealed	Ch. 286	SB	57
7-21-3430	repealed	Ch. 286	SB	57
7-21-3431	repealed	Ch. 286	SB	57
7-21-3432	repealed	Ch. 286	SB	57
7-21-3433	repealed	Ch. 286	SB	57
7-21-3434	repealed	Ch. 286	SB	57
7-21-3435	repealed	Ch. 286	SB	57
7-21-3451	repealed	Ch. 286	SB	57
7-21-3452	repealed	Ch. 286	SB	57
7-21-3453	repealed	Ch. 286	SB	57
7-21-3454	repealed	Ch. 286	SB	57
7-21-3455	repealed	Ch. 286	SB	57
7-21-3456	repealed	Ch. 286	SB	57
7-21-3457	repealed	Ch. 286	SB	57
7-21-3458	repealed	Ch. 286	SB	57
7-22-2110	repealed	Ch. 407	SB	369
7-22-2123	amended	Ch. 407	SB	369
7-22-2124	amended	Ch. 407	SB	369
7-22-2207	repealed	Ch. 286	SB	57
7-22-2208	repealed	Ch. 286	SB	57
7-22-2209	repealed	Ch. 286	SB	57
7-22-2210	repealed	Ch. 286	SB	57
7-22-2211	repealed	Ch. 286	SB	57
7-22-2212	repealed	Ch. 286	SB	57
7-22-2213	repealed	Ch. 286	SB	57
7-22-2214	repealed	Ch. 286	SB	57
7-22-2215	repealed	Ch. 286	SB	57
7-22-2216	repealed	Ch. 286	SB	57
7-22-2221	repealed	Ch. 286	SB	57
7-22-2222	repealed	Ch. 286	SB	57
7-22-2223	repealed	Ch. 286	SB	57
7-22-2224	repealed	Ch. 286	SB	57
7-22-2225	repealed	Ch. 286	SB	57
7-22-2226	repealed	Ch. 286	SB	57
7-22-2231	repealed	Ch. 286	SB	57
7-22-2232	repealed	Ch. 286	SB	57
7-22-2233	repealed	Ch. 286	SB	57
7-22-2401	repealed	Ch. 286	SB	57
7-22-2402	repealed	Ch. 286	SB	57
7-22-2403	repealed	Ch. 286	SB	57
7-22-2405	repealed	Ch. 286	SB	57
7-22-2408	repealed	Ch. 286	SB	57
7-22-2409	repealed	Ch. 286	SB	57
7-22-2410	repealed	Ch. 286	SB	57
7-22-2411	repealed	Ch. 286	SB	57
7-22-2415	repealed	Ch. 286	SB	57
7-22-2416	repealed	Ch. 286	SB	57
7-22-2417	repealed	Ch. 286	SB	57
7-22-2418	repealed	Ch. 286	SB	57
7-22-2419	repealed	Ch. 286	SB	57
7-22-2420	repealed	Ch. 286	SB	57
7-22-2431	repealed	Ch. 286	SB	57
7-22-2432	repealed	Ch. 286	SB	57

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7-22-2433	repealed	Ch. 286	SB	57
7-22-2434	repealed	Ch. 286	SB	57
7-22-2441	repealed	Ch. 286	SB	57
7-22-2442	repealed	Ch. 286	SB	57
7-22-2443	repealed	Ch. 286	SB	57
7-22-2444	repealed	Ch. 286	SB	57
7-22-2445	repealed	Ch. 286	SB	57
7-22-2446	repealed	Ch. 286	SB	57
7-22-2447	repealed	Ch. 286	SB	57
7-22-2448	repealed	Ch. 286	SB	57
7-22-2512	amended	Ch. 286	SB	57
7-31-4102	repealed	Ch. 291	SB	148
7-32-303	amended	Ch. 2	SB	7
	amended	Ch. 75	HB	293
7-32-305	enacted	Ch. 142	HB	324
7-32-2144	amended	Ch. 388	HB	634
7-33-2001	amended	Ch. 171	SB	74
7-33-2129	amended	Ch. 95	SB	255
7-33-2314	amended	Ch. 291	SB	148
7-35-101	repealed	Ch. 286	SB	57
7-35-102	repealed	Ch. 286	SB	57
7-35-2101	repealed	Ch. 286	SB	57
7-35-2102	repealed	Ch. 286	SB	57
7-35-2103	repealed	Ch. 286	SB	57
7-35-2104	repealed	Ch. 286	SB	57
7-35-2105	repealed	Ch. 286	SB	57
7-35-2106	repealed	Ch. 286	SB	57
7-35-2107	repealed	Ch. 286	SB	57
7-35-2108	repealed	Ch. 286	SB	57
7-35-2109	repealed	Ch. 286	SB	57
7-35-2110	repealed	Ch. 286	SB	57
7-35-2111	repealed	Ch. 286	SB	57
7-35-2112	repealed	Ch. 286	SB	57
7-35-2113	repealed	Ch. 286	SB	57
7-35-2114	repealed	Ch. 286	SB	57
7-35-2115	repealed	Ch. 286	SB	57
7-35-2116	repealed	Ch. 286	SB	57
7-35-2121	repealed	Ch. 286	SB	57
7-35-2122	repealed	Ch. 286	SB	57
7-35-2123	repealed	Ch. 286	SB	57
7-35-2124	repealed	Ch. 286	SB	57
7-35-2125	repealed	Ch. 286	SB	57
7-35-2201	repealed	Ch. 286	SB	57
7-35-2202	repealed	Ch. 286	SB	57
7-35-4101	repealed	Ch. 286	SB	57
7-35-4103	repealed	Ch. 286	SB	57
7-35-4105	repealed	Ch. 286	SB	57
7-35-4106	repealed	Ch. 286	SB	57
7-35-4107	repealed	Ch. 286	SB	57
7-35-4108	repealed	Ch. 286	SB	57
7-35-4109	repealed	Ch. 286	SB	57
10-1-104	amended	Ch. 49	HB	121
10-1-108	amended	Ch. 227	HB	127
10-1-201	amended	Ch. 56	HB	37
10-1-202	amended	Ch. 56	HB	37
10-1-206	amended	Ch. 56	HB	37
10-1-302	amended	Ch. 56	HB	37
10-1-405	amended	Ch. 56	HB	37
10-1-501	amended	Ch. 202	HB	104
10-1-503	amended	Ch. 56	HB	37
10-1-601	amended	Ch. 56	HB	37
10-1-611	amended	Ch. 56	HB	37
10-1-804	amended	Ch. 56	HB	37

10-1-805	amended	Ch. 56	HB 37
10-1-806	amended	Ch. 56	HB 37
10-1-1009	amended	Ch. 261	HB 466
10-2-103	amended	Ch. 56	HB 37
10-2-105	amended	Ch. 56	HB 37
10-2-107	amended	Ch. 56	HB 37
10-2-112	amended	Ch. 486	HB 676
10-2-401	amended	Ch. 461	HB 213
10-2-416	amended	Ch. 461	HB 213
10-2-603	amended	Ch. 486	HB 676
10-3-101	amended	Ch. 56	HB 37
	amended	Ch. 255	HB 362
10-3-102	amended	Ch. 56	HB 37
10-3-103	amended	Ch. 63	HB 114
	amended	Ch. 255	HB 362
10-3-110	enacted	Ch. 255	HB 362
10-3-111	amended	Ch. 63	HB 114
	amended	Ch. 255	HB 362
10-3-112	amended	Ch. 56	HB 37
10-3-118	enacted	Ch. 63	HB 114
10-3-119	enacted	Ch. 63	HB 114
10-3-120	enacted	Ch. 63	HB 114
10-3-204	amended	Ch. 56	HB 37
10-3-302	amended	Ch. 56	HB 37
	amended	Ch. 255	HB 362
10-3-303	amended	Ch. 56	HB 37
	amended	Ch. 255	HB 362
10-3-312	amended	Ch. 429	SB 343
10-3-313	amended	Ch. 56	HB 37
10-3-314	amended	Ch. 56	HB 37
10-3-501	amended	Ch. 56	HB 37
10-3-503	amended	Ch. 56	HB 37
10-3-505	amended	Ch. 56	HB 37
10-3-605	amended	Ch. 56	HB 37
10-3-607	amended	Ch. 56	HB 37
10-3-702	amended	Ch. 56	HB 37
10-3-801	amended	Ch. 71	HB 273
	amended	Ch. 486	HB 676
10-3-1106	amended	Ch. 56	HB 37
10-3-1304	amended	Ch. 2	SB 7
10-4-101	amended	Ch. 2	SB 7
10-4-102	amended	Ch. 111	HB 118
10-4-301	amended	Ch. 110	HB 82
10-4-302	amended	Ch. 111	HB 118
10-4-313	amended	Ch. 111	HB 118
13-1-101	amended	Ch. 89	SB 155
	amended	Ch. 297	HB 19
13-1-108	amended	Ch. 297	HB 19
13-1-113	amended	Ch. 297	HB 19
13-1-114	amended	Ch. 56	HB 37
13-1-115	amended	Ch. 297	HB 19
13-1-201	amended	Ch. 56	HB 37
13-1-303	amended	Ch. 89	SB 155
13-2-110	amended	Ch. 297	HB 19
13-2-112	amended	Ch. 56	HB 37
13-2-116	amended	Ch. 297	HB 19
13-2-206	amended	Ch. 56	HB 37
13-2-220	amended	Ch. 297	HB 19
13-2-221	amended	Ch. 56	HB 37
13-2-222	amended	Ch. 297	HB 19
13-2-301	amended	Ch. 297	HB 19
13-2-304	amended	Ch. 297	HB 19
13-2-402	amended	Ch. 297	HB 19



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13-3-102	amended	Ch. 56	HB 37
13-3-103	amended	Ch. 56	HB 37
13-3-201	amended	Ch. 56	HB 37
13-3-205	amended	Ch. 297	HB 19
13-3-206	amended	Ch. 297	HB 19
13-3-211	amended	Ch. 56	HB 37
13-4-102	amended	Ch. 297	HB 19
13-4-106	amended	Ch. 297	HB 19
13-4-202	amended	Ch. 297	HB 19
13-4-203	amended	Ch. 297	HB 19
13-10-201	amended	Ch. 292	SB 156
13-10-203	amended	Ch. 56	HB 37
13-10-208	amended	Ch. 292	SB 156
13-10-211	amended	Ch. 297	HB 19
13-10-305	amended	Ch. 56	HB 37
13-10-325	amended	Ch. 56	HB 37
	amended	Ch. 292	SB 156
13-10-326	amended	Ch. 292	SB 156
13-10-405	amended	Ch. 292	SB 156
13-10-501	amended	Ch. 56	HB 37
13-10-503	amended	Ch. 292	SB 156
13-10-507	amended	Ch. 56	HB 37
13-10-601	amended	Ch. 292	SB 156
13-10-602	amended	Ch. 56	HB 37
13-12-201	amended	Ch. 292	SB 156
13-12-210	amended	Ch. 56	HB 37
13-13-118	amended	Ch. 56	HB 37
13-13-120	amended	Ch. 56	HB 37
13-13-204	amended	Ch. 217	SB 124
	amended	Ch. 297	HB 19
13-13-205	amended	Ch. 297	HB 19
13-13-212	amended	Ch. 219	SB 276
	amended	Ch. 297	HB 19
13-13-213	amended	Ch. 297	HB 19
13-13-214	amended	Ch. 297	HB 19
13-13-222	amended	Ch. 297	HB 19
13-13-225	amended	Ch. 56	HB 37
13-13-227	amended	Ch. 56	HB 37
13-13-241	amended	Ch. 297	HB 19
13-13-301	amended	Ch. 297	HB 19
13-13-602	amended	Ch. 56	HB 37
13-14-111	amended	Ch. 56	HB 37
13-14-112	amended	Ch. 292	SB 156
13-14-113	amended	Ch. 230	HB 328
	amended	Ch. 292	SB 156
13-14-211	amended	Ch. 56	HB 37
13-14-212	amended	Ch. 56	HB 37
13-15-105	amended	Ch. 2	SB 7
13-15-106	amended	Ch. 217	SB 124
13-15-107	amended	Ch. 2	SB 7
	amended	Ch. 297	HB 19
13-15-201	amended	Ch. 56	HB 37
13-15-204	amended	Ch. 56	HB 37
13-15-205	amended	Ch. 56	HB 37
13-15-206	amended	Ch. 212	HB 509
13-15-401	amended	Ch. 89	SB 155
13-15-403	amended	Ch. 56	HB 37
13-15-404	amended	Ch. 56	HB 37
13-15-502	amended	Ch. 56	HB 37
	amended	Ch. 89	SB 155
13-15-504	amended	Ch. 56	HB 37
13-15-505	amended	Ch. 56	HB 37
13-15-506	amended	Ch. 56	HB 37

13-16-101	amended	Ch. 56	HB 37
13-16-201	amended	Ch. 56	HB 37
13-16-203	amended	Ch. 56	HB 37
13-16-204	amended	Ch. 56	HB 37
13-16-211	amended	Ch. 56	HB 37
13-16-301	amended	Ch. 56	HB 37
13-16-302	amended	Ch. 56	HB 37
13-16-307	amended	Ch. 56	HB 37
13-16-415	amended	Ch. 56	HB 37
13-16-416	amended	Ch. 56	HB 37
13-16-417	amended	Ch. 56	HB 37
13-16-418	amended	Ch. 56	HB 37
13-16-419	amended	Ch. 56	HB 37
13-17-103	amended	Ch. 297	HB 19
13-17-203	amended	Ch. 297	HB 19
13-17-212	amended	Ch. 297	HB 19
13-17-501	enacted	Ch. 89	SB 155
13-17-502	enacted	Ch. 89	SB 155
13-17-503	enacted	Ch. 89	SB 155
13-17-504	enacted	Ch. 89	SB 155
13-17-505	enacted	Ch. 89	SB 155
13-17-506	enacted	Ch. 89	SB 155
13-17-507	enacted	Ch. 89	SB 155
13-17-508	enacted	Ch. 89	SB 155
13-17-509	enacted	Ch. 89	SB 155
13-19-101	amended	Ch. 56	HB 37
13-19-102	amended	Ch. 297	HB 19
13-19-105	amended	Ch. 297	HB 19
13-19-106	amended	Ch. 297	HB 19
13-19-203	amended	Ch. 56	HB 37
13-19-204	amended	Ch. 297	HB 19
13-19-205	amended	Ch. 297	HB 19
13-19-206	amended	Ch. 297	HB 19
13-19-207	amended	Ch. 297	HB 19
13-19-301	amended	Ch. 56	HB 37
	amended	Ch. 297	HB 19
13-19-302	amended	Ch. 56	HB 37
13-19-303	amended	Ch. 297	HB 19
13-19-304	amended	Ch. 56	HB 37
	amended	Ch. 297	HB 19
13-19-305	amended	Ch. 56	HB 37
	amended	Ch. 297	HB 19
13-19-306	amended	Ch. 56	HB 37
	amended	Ch. 297	HB 19
13-19-307	amended	Ch. 56	HB 37
	amended	Ch. 297	HB 19
13-19-308	amended	Ch. 56	HB 37
	amended	Ch. 297	HB 19
13-19-310	amended	Ch. 56	HB 37
	amended	Ch. 297	HB 19
13-19-311	amended	Ch. 297	HB 19
13-19-312	amended	Ch. 297	HB 19
13-19-313	amended	Ch. 297	HB 19
13-19-314	amended	Ch. 297	HB 19
13-21-104	amended	Ch. 278	SB 367
13-21-201	amended	Ch. 278	SB 367
13-21-203	amended	Ch. 297	HB 19
13-21-207	amended	Ch. 278	SB 367
13-21-210	amended	Ch. 278	SB 367
	amended	Ch. 297	HB 19
13-25-203	amended	Ch. 292	SB 156
13-25-205	amended	Ch. 292	SB 156
13-26-103	amended	Ch. 292	SB 156

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13-27-305	amended	Ch. 56	HB 37
13-27-306	amended	Ch. 56	HB 37
13-27-308	amended	Ch. 56	HB 37
13-27-311	amended	Ch. 297	HB 19
13-27-316	amended	Ch. 2	SB 7
13-27-404	amended	Ch. 56	HB 37
13-27-405	amended	Ch. 56	HB 37
13-27-503	amended	Ch. 56	HB 37
13-35-106	amended	Ch. 56	HB 37
13-35-107	amended	Ch. 292	SB 156
13-35-201	amended	Ch. 56	HB 37
13-35-204	amended	Ch. 56	HB 37
13-35-209	amended	Ch. 56	HB 37
13-35-214	amended	Ch. 56	HB 37
13-35-215	amended	Ch. 56	HB 37
13-35-217	amended	Ch. 56	HB 37
13-35-218	amended	Ch. 56	HB 37
13-35-221	amended	Ch. 56	HB 37
13-35-301	amended	Ch. 56	HB 37
13-36-101	amended	Ch. 56	HB 37
13-36-102	amended	Ch. 56	HB 37
13-36-103	amended	Ch. 56	HB 37
13-36-104	amended	Ch. 56	HB 37
13-36-201	amended	Ch. 56	HB 37
13-36-202	amended	Ch. 56	HB 37
13-36-204	amended	Ch. 56	HB 37
13-36-205	amended	Ch. 56	HB 37
13-36-206	amended	Ch. 56	HB 37
13-36-207	amended	Ch. 56	HB 37
13-36-208	amended	Ch. 56	HB 37
13-36-209	amended	Ch. 56	HB 37
13-36-210	amended	Ch. 56	HB 37
13-36-211	amended	Ch. 56	HB 37
13-37-104	amended	Ch. 56	HB 37
13-37-105	amended	Ch. 56	HB 37
13-37-106	amended	Ch. 7	HB 13
13-37-116	amended	Ch. 56	HB 37
13-37-119	amended	Ch. 56	HB 37
13-37-122	amended	Ch. 56	HB 37
13-37-125	amended	Ch. 56	HB 37
13-37-126	amended	Ch. 292	SB 156
13-37-201	amended	Ch. 56	HB 37
13-37-202	amended	Ch. 56	HB 37
13-37-203	amended	Ch. 56	HB 37
13-37-204	amended	Ch. 56	HB 37
13-37-205	amended	Ch. 56	HB 37
13-37-206	amended	Ch. 56	HB 37
13-37-207	amended	Ch. 56	HB 37
13-37-208	amended	Ch. 56	HB 37
13-37-215	amended	Ch. 56	HB 37
13-37-216	amended	Ch. 94	SB 219
13-37-217	amended	Ch. 56	HB 37
13-37-225	amended	Ch. 56	HB 37
13-37-226	amended	Ch. 252	HB 147
	amended	Ch. 274	SB 227
	amended	Ch. 297	HB 19
13-37-228	amended	Ch. 56	HB 37
	amended	Ch. 252	HB 147
13-37-230	amended	Ch. 162	HB 146
13-37-231	amended	Ch. 56	HB 37
13-37-402	amended	Ch. 347	HB 622
13-37-403	enacted	Ch. 347	HB 622
13-38-101	amended	Ch. 56	HB 37

13-38-201	amended	Ch. 56	HB 37
13-38-202	amended	Ch. 56	HB 37
13-38-203	amended	Ch. 56	HB 37
13-38-205	amended	Ch. 56	HB 37
15-1-104	amended	Ch. 56	HB 37
15-1-121	amended	Ch. 2	SB 7
15-1-122	amended	Ch. 183	SB 21
	amended	Ch. 486	HB 676
15-1-204	amended	Ch. 56	HB 37
15-1-402	amended	Ch. 57	HB 38
	amended	Ch. 344	HB 562
15-1-409	enacted	Ch. 344	HB 562
15-1-601	amended	Ch. 56	HB 37
15-1-603	amended	Ch. 56	HB 37
15-1-702	amended	Ch. 56	HB 37
15-1-705	amended	Ch. 56	HB 37
15-1-707	amended	Ch. 56	HB 37
15-2-101	amended	Ch. 56	HB 37
15-2-102	amended	Ch. 7	HB 13
15-2-103	amended	Ch. 56	HB 37
15-2-104	amended	Ch. 56	HB 37
15-2-304	amended	Ch. 56	HB 37
15-6-134	amended (voided by sec. 16, Ch. 483)	Ch. 6	SB 115
	amended	Ch. 421	HB 670
	amended	Ch. 483	HB 658
15-6-137	amended	Ch. 357	SB 198
15-6-138	amended	Ch. 2	SB 7
	amended	Ch. 343	HB 487
	amended	Ch. 421	HB 670
	amended	Ch. 487	SB 489
15-6-141	amended	Ch. 357	SB 198
	amended	Ch. 487	SB 489
15-6-143	amended	Ch. 483	HB 658
15-6-156	amended	Ch. 357	SB 198
15-6-157	amended	Ch. 277	SB 308
	amended	Ch. 357	SB 198
15-6-158	amended	Ch. 277	SB 308
15-6-159	amended	Ch. 277	SB 308
15-6-191	repealed	Ch. 6	SB 115
15-6-192	amended	Ch. 2	SB 7
15-6-193	amended	Ch. 483	HB 658
15-6-201	amended	Ch. 286	SB 57
15-6-202	amended	Ch. 343	HB 487
15-6-211	amended	Ch. 6	SB 115
15-6-219	amended	Ch. 295	SB 280
15-6-221	amended	Ch. 2	SB 7
15-6-222	amended	Ch. 483	HB 658
15-6-225	amended	Ch. 56	HB 37
15-7-102	amended	Ch. 483	HB 658
15-7-111	amended	Ch. 2	SB 7
	amended	Ch. 483	HB 658
15-7-134	repealed	Ch. 2	SB 7
15-7-201	amended	Ch. 483	HB 658
15-8-205	amended	Ch. 2	SB 7
15-8-301	amended	Ch. 2	SB 7
15-8-501	amended	Ch. 56	HB 37
15-8-502	amended	Ch. 56	HB 37
15-10-420	amended	Ch. 2	SB 7
	amended	Ch. 57	HB 38
	amended	Ch. 351	SB 8
	amended	Ch. 412	SB 491
	amended	Ch. 483	HB 658
15-16-101	amended	Ch. 483	HB 658

## CODE SECTIONS AFFECTED

15-16-102	amended	Ch. 6	SB 115
15-16-402	amended	Ch. 2	SB 7
15-16-503	amended	Ch. 56	HB 37
15-17-121	amended	Ch. 323	SB 361
15-17-212	amended	Ch. 323	SB 361
15-17-318	amended	Ch. 56	HB 37
15-17-323	amended	Ch. 2	SB 7
15-17-911	amended	Ch. 2	SB 7
15-18-212	amended	Ch. 411	SB 467
15-18-213	amended	Ch. 411	SB 467
15-18-216	amended	Ch. 411	SB 467
15-18-411	amended	Ch. 2	SB 7
15-18-413	amended	Ch. 2	SB 7
15-23-101	amended	Ch. 487	SB 489
15-23-301	amended	Ch. 487	SB 489
15-23-701	amended	Ch. 433	SB 509
15-23-703	amended (voided by sec. 4, Ch. 476)	Ch. 264	HB 588
	amended	Ch. 433	SB 509
	amended	Ch. 476	SB 510
15-23-705	repealed	Ch. 264	HB 588
15-23-706	repealed	Ch. 264	HB 588
15-23-707	repealed	Ch. 264	HB 588
15-23-715	enacted	Ch. 476	SB 510
15-24-301	amended	Ch. 2	SB 7
	amended	Ch. 343	HB 487
15-24-1101	amended	Ch. 56	HB 37
15-24-1201	amended	Ch. 56	HB 37
15-24-1206	amended	Ch. 56	HB 37
15-24-1209	enacted	Ch. 472	SB 465
15-24-1703	amended	Ch. 57	HB 38
15-24-2101	enacted	Ch. 421	HB 670
15-24-2102	enacted	Ch. 421	HB 670
15-24-2103	enacted	Ch. 421	HB 670
15-24-2403	amended	Ch. 2	SB 7
	amended	Ch. 56	HB 37
15-24-3111	amended	Ch. 277	SB 308
15-30-101	renumbered 15-30-2101	Ch. 147	HB 24
	amended	Ch. 401	SB 260
15-30-102	renumbered 15-30-2102	Ch. 147	HB 24
15-30-103	renumbered 15-30-2103	Ch. 147	HB 24
15-30-105	renumbered 15-30-2104	Ch. 147	HB 24
15-30-106	renumbered 15-30-2105	Ch. 147	HB 24
15-30-107	renumbered 15-30-2118	Ch. 147	HB 24
15-30-110	repealed	Ch. 147	HB 24
15-30-111	amended and renumbered 15-30-2110	Ch. 147	HB 24
	amended	Ch. 382	HB 315
	amended	Ch. 389	HB 636
15-30-112	renumbered 15-30-2114	Ch. 147	HB 24
	amended	Ch. 470	SB 418
15-30-113	amended	Ch. 56	HB 37
	renumbered 15-30-2115	Ch. 147	HB 24
15-30-114	amended and renumbered 15-30-2116	Ch. 147	HB 24
15-30-115	repealed	Ch. 147	HB 24
15-30-116	renumbered 15-30-2117	Ch. 147	HB 24
15-30-117	renumbered 15-30-2119	Ch. 147	HB 24
15-30-121	renumbered 15-30-2131	Ch. 147	HB 24
15-30-122	renumbered 15-30-2132	Ch. 147	HB 24
15-30-123	renumbered 15-30-2133	Ch. 147	HB 24
15-30-124	renumbered 15-30-2302	Ch. 147	HB 24
15-30-125	renumbered 15-30-2319	Ch. 147	HB 24
15-30-126	renumbered 15-31-172	Ch. 147	HB 24
15-30-127	renumbered 15-30-2141	Ch. 147	HB 24
15-30-128	renumbered 15-30-2366	Ch. 147	HB 24

15-30-129	amended	Ch. 56	HB 37
	renumbered 15-30-2367	Ch. 147	HB 24
15-30-130	renumbered 15-30-2365	Ch. 147	HB 24
15-30-131	renumbered 15-30-2111	Ch. 147	HB 24
15-30-132	amended	Ch. 56	HB 37
	renumbered 15-30-2112	Ch. 147	HB 24
15-30-134	amended	Ch. 56	HB 37
	renumbered 15-30-2113	Ch. 147	HB 24
15-30-135	amended	Ch. 56	HB 37
	renumbered 15-30-2151	Ch. 147	HB 24
15-30-136	renumbered 15-30-2152	Ch. 147	HB 24
	amended (voided by sec. 9, Ch. 470)	Ch. 470	SB 418
15-30-137	renumbered 15-30-2153	Ch. 147	HB 24
15-30-138	renumbered 15-30-2154	Ch. 147	HB 24
15-30-140	amended	Ch. 2	SB 7
	renumbered 15-30-2336	Ch. 147	HB 24
15-30-141	renumbered 15-30-2601	Ch. 147	HB 24
15-30-142	renumbered 15-30-2602	Ch. 147	HB 24
	amended	Ch. 470	SB 418
15-30-143	amended	Ch. 56	HB 37
	renumbered 15-30-2603	Ch. 147	HB 24
15-30-144	renumbered 15-30-2604	Ch. 147	HB 24
	amended	Ch. 470	SB 418
15-30-145	renumbered 15-30-2605	Ch. 147	HB 24
15-30-146	renumbered 15-30-2606	Ch. 147	HB 24
	amended	Ch. 470	SB 418
15-30-147	renumbered 15-30-2607	Ch. 147	HB 24
15-30-148	renumbered 15-30-2608	Ch. 147	HB 24
15-30-149	renumbered 15-30-2609	Ch. 147	HB 24
	amended	Ch. 470	SB 418
15-30-150	renumbered 15-30-2387	Ch. 147	HB 24
15-30-151	renumbered 15-30-2388	Ch. 147	HB 24
15-30-152	renumbered 15-30-2389	Ch. 147	HB 24
15-30-153	renumbered 15-30-2386	Ch. 147	HB 24
15-30-154	renumbered 15-30-2142	Ch. 147	HB 24
15-30-155	renumbered 15-30-2390	Ch. 147	HB 24
15-30-156	amended	Ch. 56	HB 37
15-30-156	renumbered 15-30-2143	Ch. 147	HB 24
15-30-157	renumbered 15-30-2144	Ch. 147	HB 24
15-30-163	renumbered 15-30-2326	Ch. 147	HB 24
15-30-164	renumbered 15-30-2320	Ch. 147	HB 24
15-30-165	renumbered 15-30-2327	Ch. 147	HB 24
15-30-166	renumbered 15-30-2328	Ch. 147	HB 24
15-30-167	renumbered 15-30-2329	Ch. 147	HB 24
15-30-168	renumbered 15-30-2358	Ch. 147	HB 24
15-30-169	renumbered 15-30-2391	Ch. 147	HB 24
	repealed	Ch. 486	HB 676
15-30-171	amended and renumbered 15-30-2337	Ch. 147	HB 24
15-30-172	amended and renumbered 15-30-2338	Ch. 147	HB 24
15-30-173	amended	Ch. 56	HB 37
	repealed	Ch. 147	HB 24
15-30-174	amended and renumbered 15-30-2339	Ch. 147	HB 24
15-30-175	repealed	Ch. 147	HB 24
15-30-176	amended and renumbered 15-30-2340	Ch. 147	HB 24
15-30-177	amended and renumbered 15-30-2341	Ch. 147	HB 24
15-30-178	repealed	Ch. 147	HB 24
15-30-179	repealed	Ch. 147	HB 24
15-30-180	renumbered 15-30-2342	Ch. 147	HB 24
15-30-182	renumbered 15-30-2356	Ch. 147	HB 24
15-30-183	renumbered 15-30-2301	Ch. 147	HB 24
15-30-184	renumbered 15-30-2357	Ch. 147	HB 24
	repealed	Ch. 309	HB 635
15-30-185	renumbered 15-30-2368	Ch. 147	HB 24

## CODE SECTIONS AFFECTED

15-30-186	renumbered 15-30-2373	Ch. 147	HB	24
15-30-188	renumbered 15-30-2369	Ch. 147	HB	24
15-30-189	renumbered 15-30-2370	Ch. 147	HB	24
15-30-190	renumbered 15-30-2371	Ch. 147	HB	24
15-30-191	renumbered 15-30-2372	Ch. 147	HB	24
15-30-193	renumbered 15-30-2392	Ch. 147	HB	24
15-30-194	renumbered 15-30-2364	Ch. 147	HB	24
15-30-196	renumbered 15-30-2381	Ch. 147	HB	24
15-30-201	renumbered 15-30-2501	Ch. 147	HB	24
15-30-202	renumbered 15-30-2502	Ch. 147	HB	24
15-30-203	renumbered 15-30-2503	Ch. 147	HB	24
15-30-204	renumbered 15-30-2504	Ch. 147	HB	24
15-30-205	amended	Ch. 56	HB	37
	renumbered 15-30-2505	Ch. 147	HB	24
15-30-206	amended	Ch. 56	HB	37
	renumbered 15-30-2506	Ch. 147	HB	24
15-30-207	renumbered 15-30-2507	Ch. 147	HB	24
15-30-208	renumbered 15-30-2508	Ch. 147	HB	24
15-30-209	renumbered 15-30-2509	Ch. 147	HB	24
15-30-210	renumbered 15-30-2510	Ch. 147	HB	24
15-30-215	renumbered 15-30-2511	Ch. 147	HB	24
15-30-241	renumbered 15-30-2512	Ch. 147	HB	24
15-30-246	renumbered 15-30-2521	Ch. 147	HB	24
15-30-247	renumbered 15-30-2522	Ch. 147	HB	24
15-30-248	renumbered 15-30-2523	Ch. 147	HB	24
15-30-255	renumbered 15-30-2531	Ch. 147	HB	24
15-30-261	renumbered 15-30-2536	Ch. 147	HB	24
15-30-262	renumbered 15-30-2537	Ch. 147	HB	24
15-30-263	renumbered 15-30-2538	Ch. 147	HB	24
15-30-264	renumbered 15-30-2539	Ch. 147	HB	24
15-30-265	renumbered 15-30-2540	Ch. 147	HB	24
15-30-266	renumbered 15-30-2541	Ch. 147	HB	24
15-30-267	renumbered 15-30-2542	Ch. 147	HB	24
15-30-268	renumbered 15-30-2543	Ch. 147	HB	24
15-30-269	renumbered 15-30-2544	Ch. 147	HB	24
15-30-270	renumbered 15-30-2545	Ch. 147	HB	24
15-30-271	renumbered 15-30-2546	Ch. 147	HB	24
15-30-272	renumbered 15-30-2547	Ch. 147	HB	24
15-30-301	amended	Ch. 24	SB	181
	renumbered 15-30-2616	Ch. 147	HB	24
15-30-302	amended	Ch. 56	HB	37
	renumbered 15-30-2617	Ch. 147	HB	24
15-30-303	renumbered 15-30-2618	Ch. 147	HB	24
15-30-304	renumbered 15-30-2619	Ch. 147	HB	24
15-30-305	renumbered 15-30-2620	Ch. 147	HB	24
15-30-306	renumbered 15-30-2621	Ch. 147	HB	24
15-30-307	amended	Ch. 56	HB	37
	renumbered 15-30-2622	Ch. 147	HB	24
15-30-310	renumbered 15-30-2629	Ch. 147	HB	24
15-30-311	renumbered 15-30-2630	Ch. 147	HB	24
15-30-312	renumbered 15-30-2631	Ch. 147	HB	24
15-30-313	renumbered 15-30-2632	Ch. 147	HB	24
15-30-314	amended	Ch. 56	HB	37
	renumbered 15-30-2633	Ch. 147	HB	24
15-30-316	renumbered 15-30-2634	Ch. 147	HB	24
15-30-321	renumbered 15-30-2641	Ch. 147	HB	24
15-30-323	renumbered 15-30-2642	Ch. 147	HB	24
15-30-324	renumbered 15-30-2643	Ch. 147	HB	24
15-30-331	amended	Ch. 56	HB	37
	renumbered 15-30-2651	Ch. 147	HB	24
15-30-601	renumbered 15-30-3001	Ch. 147	HB	24
15-30-602	renumbered 15-30-3002	Ch. 147	HB	24
15-30-603	renumbered 15-30-3003	Ch. 147	HB	24

15-30-604	renumbered	15-30-3004	Ch. 147	HB 24
15-30-605	renumbered	15-30-3005	Ch. 147	HB 24
15-30-1101	renumbered	15-30-3301	Ch. 147	HB 24
15-30-1102	renumbered	15-30-3302	Ch. 147	HB 24
		amended	Ch. 401	SB 260
15-30-1111	renumbered	15-30-3311	Ch. 147	HB 24
15-30-1112	renumbered	15-30-3312	Ch. 147	HB 24
15-30-1113	renumbered	15-30-3313	Ch. 147	HB 24
		amended	Ch. 401	SB 260
15-30-1114	renumbered	15-30-3314	Ch. 147	HB 24
15-30-1121	renumbered	15-30-3321	Ch. 147	HB 24
15-30-2101	formerly	15-30-101	Ch. 147	HB 24
15-30-2102	formerly	15-30-102	Ch. 147	HB 24
15-30-2103	formerly	15-30-103	Ch. 147	HB 24
15-30-2104	formerly	15-30-105	Ch. 147	HB 24
15-30-2105	formerly	15-30-106	Ch. 147	HB 24
15-30-2110	formerly	15-30-111	Ch. 147	HB 24
15-30-2111	formerly	15-30-131	Ch. 147	HB 24
15-30-2112	formerly	15-30-132	Ch. 147	HB 24
15-30-2113	formerly	15-30-134	Ch. 147	HB 24
15-30-2114	formerly	15-30-112	Ch. 147	HB 24
15-30-2115	formerly	15-30-113	Ch. 147	HB 24
15-30-2116	formerly	15-30-114	Ch. 147	HB 24
15-30-2117	formerly	15-30-116	Ch. 147	HB 24
15-30-2118	formerly	15-30-107	Ch. 147	HB 24
15-30-2119	formerly	15-30-117	Ch. 147	HB 24
15-30-2131	formerly	15-30-121	Ch. 147	HB 24
15-30-2132	formerly	15-30-122	Ch. 147	HB 24
15-30-2133	formerly	15-30-123	Ch. 147	HB 24
15-30-2141	formerly	15-30-127	Ch. 147	HB 24
15-30-2142	formerly	15-30-154	Ch. 147	HB 24
15-30-2143	formerly	15-30-156	Ch. 147	HB 24
15-30-2144	formerly	15-30-157	Ch. 147	HB 24
15-30-2151	formerly	15-30-135	Ch. 147	HB 24
15-30-2152	formerly	15-30-136	Ch. 147	HB 24
15-30-2153	formerly	15-30-137	Ch. 147	HB 24
15-30-2154	formerly	15-30-138	Ch. 147	HB 24
15-30-2301	formerly	15-30-183	Ch. 147	HB 24
15-30-2302	formerly	15-30-124	Ch. 147	HB 24
15-30-2319	formerly	15-30-125	Ch. 147	HB 24
15-30-2320	formerly	15-30-164	Ch. 147	HB 24
15-30-2326	formerly	15-30-163	Ch. 147	HB 24
15-30-2327	formerly	15-30-165	Ch. 147	HB 24
15-30-2328	formerly	15-30-166	Ch. 147	HB 24
15-30-2329	formerly	15-30-167	Ch. 147	HB 24
15-30-2336	formerly	15-30-140	Ch. 147	HB 24
15-30-2337	formerly	15-30-171	Ch. 147	HB 24
15-30-2338	formerly	15-30-172	Ch. 147	HB 24
15-30-2339	formerly	15-30-174	Ch. 147	HB 24
15-30-2340	formerly	15-30-176	Ch. 147	HB 24
15-30-2341	formerly	15-30-177	Ch. 147	HB 24
15-30-2342	formerly	15-30-180	Ch. 147	HB 24
15-30-2356	formerly	15-30-182	Ch. 147	HB 24
15-30-2357	formerly	15-30-184	Ch. 147	HB 24
15-30-2358	formerly	15-30-168	Ch. 147	HB 24
15-30-2364	formerly	15-30-194	Ch. 147	HB 24
15-30-2365	formerly	15-30-130	Ch. 147	HB 24
15-30-2366	formerly	15-30-128	Ch. 147	HB 24
15-30-2367	formerly	15-30-129	Ch. 147	HB 24
15-30-2368	formerly	15-30-185	Ch. 147	HB 24
15-30-2369	formerly	15-30-188	Ch. 147	HB 24
15-30-2370	formerly	15-30-189	Ch. 147	HB 24
15-30-2371	formerly	15-30-190	Ch. 147	HB 24





15-30-2646	enacted	Ch. 470	SB 418
15-30-2651	formerly 15-30-331	Ch. 147	HB 24
15-30-3001	formerly 15-30-601	Ch. 147	HB 24
15-30-3002	formerly 15-30-602	Ch. 147	HB 24
15-30-3003	formerly 15-30-603	Ch. 147	HB 24
15-30-3004	formerly 15-30-604	Ch. 147	HB 24
15-30-3005	formerly 15-30-605	Ch. 147	HB 24
15-30-3301	formerly 15-30-1101	Ch. 147	HB 24
15-30-3302	formerly 15-30-1102	Ch. 147	HB 24
15-30-3311	formerly 15-30-1111	Ch. 147	HB 24
15-30-3312	formerly 15-30-1112	Ch. 147	HB 24
15-30-3313	formerly 15-30-1113	Ch. 147	HB 24
15-30-3314	formerly 15-30-1114	Ch. 147	HB 24
15-30-3321	formerly 15-30-1121	Ch. 147	HB 24
15-31-121	amended	Ch. 2	SB 7
15-31-152	repealed	Ch. 309	HB 635
15-31-163	enacted	Ch. 389	HB 636
15-31-172	formerly 15-30-126	Ch. 147	HB 24
15-31-322	amended	Ch. 11	SB 43
15-31-521	amended	Ch. 56	HB 37
15-31-523	amended	Ch. 56	HB 37
15-31-524	amended	Ch. 56	HB 37
15-31-551	amended	Ch. 56	HB 37
15-32-101	amended	Ch. 56	HB 37
15-32-102	amended	Ch. 334	HB 262
15-32-103	amended	Ch. 56	HB 37
15-32-201	amended	Ch. 334	HB 262
15-33-104	amended	Ch. 56	HB 37
15-35-102	amended	Ch. 318	SB 292
	amended	Ch. 433	SB 509
15-35-103	amended	Ch. 318	SB 292
15-35-104	amended	Ch. 56	HB 37
	amended	Ch. 364	SB 430
15-35-107	amended	Ch. 433	SB 509
15-35-108	amended	Ch. 33	SB 23
	amended	Ch. 425	SB 100
	amended	Ch. 459	HB 123
	amended	Ch. 486	HB 676
15-36-304	amended	Ch. 33	SB 23
15-36-313	amended	Ch. 364	SB 430
15-36-331	amended	Ch. 33	SB 23
	amended	Ch. 57	HB 38
15-36-332	amended	Ch. 33	SB 23
15-37-103	amended	Ch. 4	SB 11
15-38-104	amended	Ch. 477	HB 678
15-38-106	amended	Ch. 477	HB 678
15-38-113	amended	Ch. 477	HB 678
15-38-202	amended	Ch. 288	SB 62
15-38-301	amended	Ch. 486	HB 676
15-39-105	amended	Ch. 364	SB 430
15-39-110	amended	Ch. 57	HB 38
15-44-102	amended	Ch. 56	HB 37
15-44-103	amended	Ch. 483	HB 658
15-59-105	amended	Ch. 56	HB 37
15-60-207	amended	Ch. 56	HB 37
15-66-102	amended	Ch. 489	HB 645
15-70-204	amended	Ch. 322	SB 353
15-70-221	amended	Ch. 22	SB 116
15-70-232	amended	Ch. 56	HB 37
15-70-301	amended	Ch. 260	HB 416
15-70-320	enacted	Ch. 260	HB 416
15-70-522	amended	Ch. 277	SB 308
15-72-112	amended	Ch. 364	SB 430

## CODE SECTIONS AFFECTED

16-1-101	amended	Ch. 181	SB 395
16-1-102	amended	Ch. 197	HB 400
16-1-106	amended	Ch. 101	SB 438
	amended	Ch. 197	HB 400
	amended	Ch. 414	SB 511
16-1-203	amended	Ch. 56	HB 37
16-1-204	amended	Ch. 56	HB 37
16-1-306	amended	Ch. 2	SB 7
16-1-401	amended	Ch. 259	HB 412
16-1-405	repealed	Ch. 2	SB 7
16-2-101	amended	Ch. 391	HB 656
16-3-105	amended	Ch. 56	HB 37
16-3-212	amended	Ch. 56	HB 37
16-3-221	amended	Ch. 181	SB 395
16-3-222	amended	Ch. 181	SB 395
16-3-223	amended	Ch. 56	HB 37
16-3-231	amended	Ch. 56	HB 37
16-3-232	amended	Ch. 56	HB 37
16-3-233	amended	Ch. 56	HB 37
16-3-242	amended	Ch. 56	HB 37
16-3-244	amended	Ch. 197	HB 400
16-3-302	amended	Ch. 56	HB 37
16-3-306	amended	Ch. 56	HB 37
16-3-406	amended	Ch. 56	HB 37
16-4-104	amended	Ch. 56	HB 37
16-4-108	amended	Ch. 56	HB 37
16-4-110	amended	Ch. 56	HB 37
16-4-201	amended	Ch. 56	HB 37
16-4-209	amended	Ch. 56	HB 37
16-4-306	enacted	Ch. 169	HB 621
16-4-313	enacted	Ch. 414	SB 511
16-4-420	amended	Ch. 187	HB 195
16-4-801	amended	Ch. 62	HB 94
16-6-105	amended	Ch. 56	HB 37
16-6-205	amended	Ch. 56	HB 37
16-6-207	amended	Ch. 56	HB 37
16-6-209	amended	Ch. 56	HB 37
16-6-309	amended	Ch. 56	HB 37
16-6-313	amended	Ch. 56	HB 37
16-10-203	amended	Ch. 56	HB 37
16-11-105	amended	Ch. 364	SB 430
16-11-119	amended	Ch. 461	HB 213
	amended	Ch. 486	HB 676
16-11-124	amended	Ch. 10	SB 29
16-11-134	amended	Ch. 56	HB 37
16-11-149	amended	Ch. 364	SB 430
17-1-103	amended	Ch. 56	HB 37
17-1-106	amended	Ch. 462	HB 279
	amended	Ch. 489	HB 645
17-1-112	amended	Ch. 56	HB 37
17-1-131	amended	Ch. 56	HB 37
17-2-107	amended	Ch. 465	SB 65
17-2-124	amended	Ch. 489	HB 645
17-3-112	enacted	Ch. 489	HB 645
17-3-211	amended	Ch. 105	HB 45
17-3-212	amended	Ch. 105	HB 45
17-3-213	amended	Ch. 105	HB 45
17-3-1003	amended	Ch. 465	SB 65
17-4-105	amended	Ch. 184	HB 133
17-5-116	enacted	Ch. 489	HB 645
17-5-117	enacted	Ch. 489	HB 645
17-5-205	amended	Ch. 438	HB 97
17-5-305	amended	Ch. 342	HB 449

17-5-501	repealed	Ch. 10	SB 29
17-5-502	repealed	Ch. 10	SB 29
17-5-503	repealed	Ch. 10	SB 29
17-5-504	repealed	Ch. 10	SB 29
	amended	Ch. 489	HB 645
17-5-505	repealed	Ch. 10	SB 29
17-5-506	repealed	Ch. 10	SB 29
17-5-507	repealed	Ch. 10	SB 29
17-5-715	amended	Ch. 56	HB 37
17-5-803	amended	Ch. 342	HB 449
	amended	Ch. 485	HB 674
	amended	Ch. 489	HB 645
17-5-820	amended	Ch. 376	HB 128
	amended	Ch. 394	SB 48
17-5-911	amended	Ch. 10	SB 29
17-5-912	amended	Ch. 10	SB 29
17-5-922	amended	Ch. 489	HB 645
17-5-927	amended	Ch. 56	HB 37
17-5-1302	amended	Ch. 341	HB 384
17-5-1312	amended	Ch. 341	HB 384
17-5-1506	amended	Ch. 489	HB 645
17-5-1516	amended	Ch. 56	HB 37
17-5-2201	amended	Ch. 341	HB 384
17-6-204	amended	Ch. 56	HB 37
17-6-213	amended	Ch. 56	HB 37
17-6-340	amended	Ch. 377	HB 152
17-6-606	amended	Ch. 486	HB 676
17-7-102	amended	Ch. 486	HB 676
	amended	Ch. 489	HB 645
17-7-111	amended	Ch. 2	SB 7
	amended	Ch. 8	SB 2
	amended	Ch. 225	HB 107
	amended	Ch. 478	HB 5
	amended	Ch. 486	HB 676
17-7-112	amended	Ch. 8	SB 2
17-7-113	amended	Ch. 10	SB 29
	amended	Ch. 56	HB 37
17-7-122	amended	Ch. 10	SB 29
17-7-123	amended	Ch. 10	SB 29
	amended	Ch. 225	HB 107
	amended	Ch. 478	HB 5
17-7-138	amended	Ch. 2	SB 7
	amended	Ch. 226	HB 112
17-7-139	amended	Ch. 226	HB 112
17-7-201	amended	Ch. 135	SB 49
17-7-213	enacted	Ch. 135	SB 49
17-7-304	amended	Ch. 426	SB 117
	amended	Ch. 486	HB 676
17-7-402	amended	Ch. 489	HB 645
17-7-502	amended	Ch. 103	HB 39
	amended	Ch. 227	HB 127
	amended	Ch. 264	HB 588
	amended	Ch. 330	HB 42
	amended	Ch. 374	HB 108
	amended	Ch. 390	HB 655
	amended	Ch. 426	SB 117
	amended	Ch. 427	SB 164
	amended	Ch. 441	HB 154
	amended	Ch. 442	HB 194
	amended	Ch. 484	HB 669
	amended	Ch. 485	HB 674
	amended	Ch. 489	HB 645
17-8-101	amended	Ch. 225	HB 107

## CODE SECTIONS AFFECTED

17-8-104	amended	Ch. 56	HB 37
17-8-308	amended	Ch. 56	HB 37
17-8-402	amended	Ch. 64	HB 122
17-8-403	amended	Ch. 64	HB 122
17-8-404	amended	Ch. 64	HB 122
17-8-405	amended	Ch. 64	HB 122
17-8-406	amended	Ch. 64	HB 122
17-8-407	amended	Ch. 64	HB 122
17-8-408	repealed	Ch. 64	HB 122
17-8-410	amended	Ch. 64	HB 122
17-8-411	amended	Ch. 64	HB 122
17-8-412	amended	Ch. 64	HB 122
17-8-413	enacted	Ch. 64	HB 122
18-1-402	amended	Ch. 56	HB 37
18-1-403	amended	Ch. 56	HB 37
18-2-101	amended	Ch. 439	HB 98
18-2-107	amended	Ch. 465	SB 65
18-2-204	amended	Ch. 56	HB 37
18-2-303	amended	Ch. 48	HB 120
18-2-317	enacted	Ch. 439	HB 98
18-2-401	amended	Ch. 2	SB 7
	amended	Ch. 277	SB 308
18-2-402	amended	Ch. 277	SB 308
18-2-403	amended	Ch. 277	SB 308
18-2-407	amended	Ch. 277	SB 308
18-2-411	amended	Ch. 277	SB 308
18-2-412	amended	Ch. 277	SB 308
18-2-413	enacted	Ch. 277	SB 308
18-2-414	enacted	Ch. 277	SB 308
18-2-415	enacted	Ch. 277	SB 308
18-2-416	enacted	Ch. 277	SB 308
18-2-417	enacted	Ch. 277	SB 308
18-2-424	amended	Ch. 56	HB 37
18-2-501	amended	Ch. 29	HB 181
18-4-132	amended	Ch. 439	HB 98
18-5-204	amended	Ch. 56	HB 37
18-5-411	amended	Ch. 56	HB 37
18-5-605	amended	Ch. 2	SB 7
18-7-401	formerly 7-5-2401	Ch. 148	HB 67
18-7-402	formerly 7-5-2402	Ch. 148	HB 67
18-7-403	formerly 7-5-2403	Ch. 148	HB 67
18-7-404	formerly 7-5-2404	Ch. 148	HB 67
18-7-405	formerly 7-5-2405	Ch. 148	HB 67
18-7-411	formerly 7-5-2411	Ch. 148	HB 67
18-7-412	formerly 7-5-2412	Ch. 148	HB 67
18-7-413	formerly 7-5-2413	Ch. 148	HB 67
18-7-414	formerly 7-5-2414	Ch. 148	HB 67
18-11-105	amended	Ch. 56	HB 37
19-1-301	amended	Ch. 56	HB 37
19-1-402	amended	Ch. 161	HB 58
19-1-503	amended	Ch. 161	HB 58
19-1-601	repealed	Ch. 161	HB 58
19-1-602	repealed	Ch. 161	HB 58
19-1-603	repealed	Ch. 161	HB 58
19-1-604	repealed	Ch. 161	HB 58
19-1-701	repealed	Ch. 161	HB 58
19-1-702	amended	Ch. 56	HB 37
19-1-703	repealed	Ch. 161	HB 58
19-1-705	amended	Ch. 56	HB 37
19-1-706	repealed	Ch. 161	HB 58
19-1-801	repealed	Ch. 161	HB 58
19-1-813	amended	Ch. 161	HB 58
19-1-814	repealed	Ch. 161	HB 58

19-1-825	amended	Ch. 161	HB 58
19-2-303	amended	Ch. 283	HB 109
	amended	Ch. 284	HB 170
19-2-506	amended	Ch. 283	HB 109
19-2-602	amended	Ch. 284	HB 170
19-2-704	amended	Ch. 283	HB 109
19-2-710	amended	Ch. 283	HB 109
19-2-715	amended	Ch. 283	HB 109
19-2-801	amended	Ch. 283	HB 109
19-2-902	amended	Ch. 284	HB 170
19-2-904	amended	Ch. 56	HB 37
19-2-907	amended	Ch. 284	HB 170
19-2-908	amended	Ch. 283	HB 109
19-2-1001	amended	Ch. 284	HB 170
19-2-1002	amended	Ch. 284	HB 170
19-2-1004	amended	Ch. 382	HB 315
19-2-1005	amended	Ch. 284	HB 170
19-2-1011	enacted	Ch. 284	HB 170
19-2-1013	enacted	Ch. 284	HB 170
19-2-1014	enacted	Ch. 284	HB 170
19-3-201	amended	Ch. 283	HB 109
19-3-202	amended	Ch. 56	HB 37
19-3-315	amended	Ch. 284	HB 170
19-3-316	amended	Ch. 283	HB 109
19-3-403	amended	Ch. 283	HB 109
19-3-412	amended	Ch. 284	HB 170
19-3-504	amended	Ch. 283	HB 109
19-3-513	amended	Ch. 283	HB 109
19-3-906	amended	Ch. 283	HB 109
19-3-1015	amended	Ch. 283	HB 109
19-3-1106	amended	Ch. 283	HB 109
19-3-1210	amended	Ch. 283	HB 109
19-3-1501	amended	Ch. 284	HB 170
19-3-2111	amended	Ch. 283	HB 109
19-3-2121	amended	Ch. 2	SB 7
19-3-2123	amended	Ch. 284	HB 170
19-3-2126	amended	Ch. 284	HB 170
19-3-2133	amended	Ch. 283	HB 109
19-5-601	amended	Ch. 283	HB 109
19-5-612	amended	Ch. 283	HB 109
19-5-701	amended	Ch. 284	HB 170
19-5-801	amended	Ch. 283	HB 109
19-5-802	amended	Ch. 283	HB 109
19-6-612	amended	Ch. 283	HB 109
19-7-404	amended	Ch. 283	HB 109
19-7-612	amended	Ch. 283	HB 109
19-7-1001	amended	Ch. 284	HB 170
19-8-712	amended	Ch. 283	HB 109
19-8-801	amended	Ch. 284	HB 170
19-9-207	amended	Ch. 216	HB 626
19-9-301	amended	Ch. 284	HB 170
19-9-302	amended	Ch. 56	HB 37
19-9-904	amended	Ch. 283	HB 109
19-9-1101	amended	Ch. 283	HB 109
19-9-1206	amended	Ch. 284	HB 170
19-9-1208	amended	Ch. 284	HB 170
19-13-104	amended	Ch. 283	HB 109
19-13-210	amended	Ch. 284	HB 170
19-13-301	amended	Ch. 284	HB 170
19-13-704	amended	Ch. 283	HB 109
19-13-803	amended	Ch. 283	HB 109
19-13-804	amended	Ch. 283	HB 109
19-17-107	amended	Ch. 283	HB 109

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19-17-401	amended	Ch. 283	HB 109
19-17-406	amended	Ch. 56	HB 37
19-17-407	amended	Ch. 382	HB 315
19-17-408	amended	Ch. 283	HB 109
19-17-504	amended	Ch. 283	HB 109
19-18-106	amended	Ch. 56	HB 37
19-18-202	amended	Ch. 56	HB 37
19-18-502	amended	Ch. 56	HB 37
19-18-511	amended	Ch. 56	HB 37
19-18-514	amended	Ch. 56	HB 37
19-18-603	amended	Ch. 56	HB 37
19-18-604	amended	Ch. 56	HB 37
19-18-605	amended	Ch. 56	HB 37
19-18-607	amended	Ch. 56	HB 37
19-18-612	amended	Ch. 382	HB 315
19-19-302	amended	Ch. 56	HB 37
19-19-303	amended	Ch. 56	HB 37
19-19-401	amended	Ch. 56	HB 37
19-19-402	amended	Ch. 56	HB 37
19-19-403	amended	Ch. 56	HB 37
19-19-404	amended	Ch. 56	HB 37
19-19-405	amended	Ch. 56	HB 37
19-19-406	amended	Ch. 56	HB 37
19-19-501	amended	Ch. 56	HB 37
19-19-502	amended	Ch. 56	HB 37
19-19-503	amended	Ch. 56	HB 37
19-19-504	amended	Ch. 382	HB 315
19-19-505	amended	Ch. 56	HB 37
19-20-101	amended	Ch. 282	HB 59
19-20-103	amended	Ch. 56	HB 37
19-20-301	amended	Ch. 56	HB 37
19-20-302	amended	Ch. 282	HB 59
19-20-303	amended	Ch. 56	HB 37
19-20-304	amended	Ch. 56	HB 37
19-20-305	amended	Ch. 282	HB 59
19-20-401	amended	Ch. 282	HB 59
19-20-406	amended	Ch. 56	HB 37
	repealed	Ch. 282	HB 59
19-20-409	amended	Ch. 282	HB 59
19-20-501	amended	Ch. 298	HB 34
19-20-603	amended	Ch. 282	HB 59
19-20-605	amended	Ch. 282	HB 59
	amended	Ch. 298	HB 34
19-20-701	amended	Ch. 282	HB 59
19-20-702	amended	Ch. 282	HB 59
19-20-703	amended	Ch. 282	HB 59
	amended	Ch. 298	HB 34
19-20-706	amended	Ch. 382	HB 315
19-20-718	amended	Ch. 282	HB 59
19-20-731	amended (voided by sec. 9, Ch. 298)	Ch. 129	HB 363
	amended (voided by sec. 8, Ch. 298)	Ch. 282	HB 59
	amended	Ch. 298	HB 34
19-20-732	enacted	Ch. 129	HB 363
19-20-733	enacted	Ch. 298	HB 34
19-20-804	amended	Ch. 282	HB 59
19-20-905	amended	Ch. 282	HB 59
19-20-1001	amended	Ch. 282	HB 59
19-20-1003	amended	Ch. 282	HB 59
19-20-1004	enacted	Ch. 282	HB 59
19-21-203	amended	Ch. 2	SB 7
	amended	Ch. 426	SB 117
19-21-211	amended	Ch. 56	HB 37
19-21-212	amended	Ch. 382	HB 315

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20-1-201	amended	Ch. 56	HB 37
20-1-202	amended	Ch. 56	HB 37
20-1-203	amended	Ch. 56	HB 37
20-1-211	amended	Ch. 56	HB 37
20-2-111	amended	Ch. 56	HB 37
20-2-112	amended	Ch. 56	HB 37
20-2-131	amended	Ch. 56	HB 37
20-3-101	amended	Ch. 56	HB 37
20-3-102	amended	Ch. 56	HB 37
20-3-105	amended	Ch. 56	HB 37
20-3-202	amended	Ch. 56	HB 37
20-3-203	amended	Ch. 56	HB 37
20-3-206	amended	Ch. 56	HB 37
20-3-208	amended	Ch. 56	HB 37
20-3-211	amended	Ch. 56	HB 37
20-3-308	amended	Ch. 56	HB 37
20-3-309	amended	Ch. 56	HB 37
20-3-310	amended	Ch. 56	HB 37
20-3-311	amended	Ch. 56	HB 37
20-3-312	amended	Ch. 60	HB 57
20-3-313	amended	Ch. 132	HB 432
20-3-322	amended	Ch. 444	HB 332
20-3-344	amended	Ch. 56	HB 37
20-3-353	amended	Ch. 56	HB 37
20-3-354	amended	Ch. 56	HB 37
20-3-361	amended	Ch. 56	HB 37
20-4-101	amended	Ch. 56	HB 37
20-4-104	amended	Ch. 56	HB 37
20-4-106	amended	Ch. 56	HB 37
20-4-121	amended	Ch. 56	HB 37
20-4-132	amended	Ch. 56	HB 37
20-4-202	amended	Ch. 56	HB 37
20-4-304	amended	Ch. 56	HB 37
20-4-401	amended	Ch. 144	SB 173
20-4-502	amended	Ch. 59	HB 46
20-5-102	amended	Ch. 56	HB 37
20-5-103	amended	Ch. 56	HB 37
20-5-105	amended	Ch. 56	HB 37
20-5-106	amended	Ch. 56	HB 37
20-5-107	amended	Ch. 56	HB 37
20-5-111	amended	Ch. 56	HB 37
20-5-201	amended	Ch. 444	HB 332
20-5-202	amended	Ch. 444	HB 332
20-5-405	amended	Ch. 56	HB 37
20-5-406	amended	Ch. 56	HB 37
20-5-503	amended	Ch. 149	HB 72
20-6-103	amended	Ch. 56	HB 37
20-6-105	amended	Ch. 305	HB 488
20-6-411	amended	Ch. 60	HB 57
20-6-414	amended	Ch. 60	HB 57
20-6-422	amended	Ch. 60	HB 57
20-6-605	amended	Ch. 56	HB 37
20-6-704	amended	Ch. 60	HB 57
20-7-113	amended	Ch. 56	HB 37
20-7-116	amended	Ch. 56	HB 37
20-7-328	amended	Ch. 2	SB 7
20-7-329	amended	Ch. 2	SB 7
20-7-330	amended	Ch. 2	SB 7
20-7-334	enacted	Ch. 418	HB 464
20-7-420	amended	Ch. 137	SB 216
20-7-462	amended	Ch. 56	HB 37
20-7-463	amended	Ch. 56	HB 37
20-7-606	amended	Ch. 56	HB 37



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20-7-607	amended	Ch. 56	HB 37
20-7-608	amended	Ch. 56	HB 37
20-7-1201	enacted	Ch. 417	HB 459
20-8-108	amended	Ch. 56	HB 37
20-8-120	amended	Ch. 56	HB 37
20-9-204	amended	Ch. 178	SB 273
20-9-207	amended	Ch. 56	HB 37
20-9-306	amended	Ch. 486	HB 676
20-9-311	amended	Ch. 137	SB 216
20-9-341	amended	Ch. 465	SB 65
20-9-342	amended	Ch. 377	HB 152
20-9-343	amended	Ch. 377	HB 152
20-9-403	amended	Ch. 489	HB 645
20-9-406	amended	Ch. 213	HB 513
20-9-424	amended	Ch. 56	HB 37
20-9-433	amended	Ch. 489	HB 645
20-9-436	amended	Ch. 56	HB 37
20-9-441	amended	Ch. 56	HB 37
20-9-442	amended	Ch. 56	HB 37
20-9-501	amended	Ch. 2	SB 7
	amended	Ch. 489	HB 645
20-9-502	amended	Ch. 213	HB 513
20-9-516	amended	Ch. 377	HB 152
20-9-534	amended	Ch. 377	HB 152
20-9-603	amended	Ch. 10	SB 29
20-9-620	amended	Ch. 377	HB 152
	amended	Ch. 465	SB 65
20-9-622	amended	Ch. 377	HB 152
20-9-631	repealed	Ch. 2	SB 7
20-9-707	amended	Ch. 2	SB 7
	amended	Ch. 137	SB 216
20-10-112	amended	Ch. 56	HB 37
20-10-121	amended	Ch. 56	HB 37
20-10-122	amended	Ch. 56	HB 37
20-10-123	amended	Ch. 56	HB 37
20-15-106	amended	Ch. 282	HB 59
20-15-209	amended	Ch. 56	HB 37
20-15-219	amended	Ch. 56	HB 37
20-15-222	amended	Ch. 56	HB 37
20-15-224	amended	Ch. 56	HB 37
20-15-227	amended	Ch. 56	HB 37
20-15-228	amended	Ch. 56	HB 37
20-15-403	amended	Ch. 27	HB 138
	amended	Ch. 282	HB 59
	amended	Ch. 286	SB 57
20-20-107	amended	Ch. 297	HB 19
20-20-109	enacted	Ch. 297	HB 19
20-20-201	amended	Ch. 56	HB 37
20-20-203	amended	Ch. 297	HB 19
20-20-301	amended	Ch. 56	HB 37
20-20-411	amended	Ch. 56	HB 37
20-20-417	amended	Ch. 56	HB 37
20-20-418	enacted	Ch. 297	HB 19
20-25-101	amended	Ch. 56	HB 37
20-25-226	amended	Ch. 56	HB 37
20-25-242	amended	Ch. 56	HB 37
20-25-306	amended	Ch. 56	HB 37
20-25-322	amended	Ch. 56	HB 37
20-25-323	amended	Ch. 56	HB 37
20-25-402	amended	Ch. 489	HB 645
20-25-422	amended	Ch. 465	SB 65
20-25-423	repealed	Ch. 57	HB 38
20-25-427	amended	Ch. 489	HB 645

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20-25-504	amended	Ch. 56	HB 37
20-25-511	amended	Ch. 56	HB 37
20-25-512	amended	Ch. 56	HB 37
20-25-513	amended	Ch. 56	HB 37
20-25-516	amended	Ch. 56	HB 37
20-25-603	amended	Ch. 56	HB 37
20-25-703	amended	Ch. 56	HB 37
20-25-801	amended	Ch. 56	HB 37
20-25-806	amended	Ch. 56	HB 37
20-26-1511	enacted	Ch. 379	HB 224
20-31-301	amended	Ch. 56	HB 37
22-1-101	amended	Ch. 56	HB 37
22-1-301	amended	Ch. 47	HB 61
22-1-308	amended	Ch. 56	HB 37
22-1-317	amended	Ch. 56	HB 37
22-1-328	amended	Ch. 47	HB 61
22-1-329	amended	Ch. 47	HB 61
22-1-330	amended	Ch. 47	HB 61
22-1-506	amended	Ch. 56	HB 37
22-1-601	amended	Ch. 56	HB 37
22-1-712	enacted	Ch. 286	SB 57
22-2-103	amended	Ch. 56	HB 37
22-2-107	amended	Ch. 2	SB 7
22-2-403	amended	Ch. 56	HB 37
22-2-406	amended	Ch. 56	HB 37
22-2-602	amended	Ch. 164	HB 193
22-3-431	amended	Ch. 56	HB 37
22-3-432	amended	Ch. 56	HB 37
22-3-701	amended	Ch. 56	HB 37
22-3-805	amended	Ch. 56	HB 37
22-3-806	amended	Ch. 56	HB 37
22-3-1201	enacted	Ch. 399	SB 204
22-3-1202	enacted	Ch. 399	SB 204
22-3-1203	enacted	Ch. 399	SB 204
23-1-106	amended	Ch. 121	HB 223
23-1-126	amended	Ch. 427	SB 164
23-1-127	amended	Ch. 427	SB 164
23-2-301	amended	Ch. 56	HB 37
23-2-311	amended	Ch. 56	HB 37
23-2-312	enacted	Ch. 201	HB 190
23-2-313	enacted	Ch. 201	HB 190
23-2-321	amended	Ch. 56	HB 37
23-2-402	amended	Ch. 56	HB 37
23-2-503	amended	Ch. 56	HB 37
23-2-505	amended	Ch. 56	HB 37
23-2-527	amended	Ch. 56	HB 37
23-2-535	amended	Ch. 56	HB 37
23-3-301	amended	Ch. 378	HB 171
23-3-402	amended	Ch. 378	HB 171
23-3-404	amended	Ch. 378	HB 171
23-3-405	amended	Ch. 378	HB 171
23-3-501	amended	Ch. 109	HB 80
	amended	Ch. 378	HB 171
23-3-502	amended	Ch. 378	HB 171
23-3-601	amended	Ch. 378	HB 171
23-3-602	amended	Ch. 378	HB 171
23-3-603	amended	Ch. 378	HB 171
23-4-105	amended	Ch. 426	SB 117
23-4-202	amended	Ch. 426	SB 117
23-4-204	amended	Ch. 426	SB 117
23-4-302	amended	Ch. 426	SB 117
23-4-304	amended	Ch. 426	SB 117
23-5-112	amended	Ch. 355	SB 86

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23-5-115	amended	Ch. 355	SB 86
23-5-119	amended	Ch. 2	SB 7
23-5-131	amended	Ch. 56	HB 37
23-5-135	amended	Ch. 56	HB 37
23-5-155	amended	Ch. 56	HB 37
23-5-157	amended	Ch. 355	SB 86
23-5-178	enacted	Ch. 355	SB 86
23-5-221	amended	Ch. 56	HB 37
23-5-324	amended	Ch. 355	SB 86
23-5-409	amended	Ch. 56	HB 37
23-5-412	amended	Ch. 355	SB 86
23-5-413	amended	Ch. 355	SB 86
23-5-621	amended	Ch. 355	SB 86
23-5-622	amended	Ch. 56	HB 37
23-7-212	amended	Ch. 56	HB 37
23-7-302	amended	Ch. 56	HB 37
23-7-307	amended	Ch. 56	HB 37
23-7-401	amended	Ch. 56	HB 37
25-1-401	amended	Ch. 56	HB 37
25-1-402	amended	Ch. 56	HB 37
25-1-1102	amended	Ch. 56	HB 37
25-2-125	amended	Ch. 56	HB 37
25-2-206	amended	Ch. 56	HB 37
25-3-206	amended	Ch. 56	HB 37
25-3-401	amended	Ch. 56	HB 37
25-3-402	amended	Ch. 56	HB 37
25-3-501	amended	Ch. 56	HB 37
25-3-602	amended	Ch. 56	HB 37
25-3-603	amended	Ch. 56	HB 37
25-4-101	amended	Ch. 56	HB 37
25-4-102	amended	Ch. 56	HB 37
25-4-203	amended	Ch. 56	HB 37
25-4-302	amended	Ch. 56	HB 37
25-4-401	amended	Ch. 56	HB 37
25-4-402	amended	Ch. 56	HB 37
25-4-403	amended	Ch. 56	HB 37
25-4-404	amended	Ch. 56	HB 37
25-4-502	amended	Ch. 56	HB 37
25-4-601	amended	Ch. 56	HB 37
25-4-602	amended	Ch. 56	HB 37
25-5-103	amended	Ch. 56	HB 37
25-5-202	amended	Ch. 56	HB 37
25-5-203	amended	Ch. 56	HB 37
25-5-301	amended	Ch. 56	HB 37
25-7-206	amended	Ch. 56	HB 37
25-7-209	amended	Ch. 56	HB 37
25-7-223	amended	Ch. 56	HB 37
25-7-301	amended	Ch. 56	HB 37
25-7-304	amended	Ch. 56	HB 37
25-7-403	amended	Ch. 56	HB 37
25-7-501	amended	Ch. 56	HB 37
25-7-503	amended	Ch. 56	HB 37
25-7-701	amended	Ch. 56	HB 37
25-7-702	amended	Ch. 56	HB 37
25-8-101	amended	Ch. 56	HB 37
25-8-103	amended	Ch. 56	HB 37
25-8-104	amended	Ch. 56	HB 37
25-9-103	amended	Ch. 56	HB 37
25-9-104	amended	Ch. 56	HB 37
25-9-204	amended	Ch. 56	HB 37
25-9-311	amended	Ch. 56	HB 37
25-9-404	amended	Ch. 56	HB 37
25-9-504	amended	Ch. 56	HB 37

25-9-507	amended	Ch. 56	HB 37
25-9-601	amended	Ch. 176	SB 209
25-9-602	amended	Ch. 176	SB 209
25-9-603	amended	Ch. 176	SB 209
25-9-604	repealed	Ch. 176	SB 209
25-9-605	amended	Ch. 176	SB 209
25-9-606	amended	Ch. 176	SB 209
25-9-607	amended	Ch. 176	SB 209
25-9-610	enacted	Ch. 176	SB 209
25-9-611	enacted	Ch. 176	SB 209
25-9-612	enacted	Ch. 176	SB 209
25-10-101	amended	Ch. 56	HB 37
25-10-102	amended	Ch. 56	HB 37
25-10-104	amended	Ch. 56	HB 37
25-10-107	amended	Ch. 56	HB 37
25-10-108	amended	Ch. 56	HB 37
25-10-201	amended	Ch. 56	HB 37
25-10-302	amended	Ch. 443	HB 301
25-10-303	amended	Ch. 56	HB 37
25-10-304	enacted	Ch. 443	HB 301
25-10-305	enacted	Ch. 443	HB 301
25-10-402	amended	Ch. 56	HB 37
25-10-501	amended	Ch. 56	HB 37
25-10-503	amended	Ch. 56	HB 37
25-10-504	amended	Ch. 56	HB 37
25-10-711	amended	Ch. 56	HB 37
25-11-102	amended	Ch. 56	HB 37
25-13-103	amended	Ch. 56	HB 37
25-13-104	amended	Ch. 56	HB 37
25-13-105	amended	Ch. 56	HB 37
25-13-201	amended	Ch. 56	HB 37
25-13-205	amended	Ch. 56	HB 37
25-13-302	amended	Ch. 56	HB 37
25-13-304	amended	Ch. 56	HB 37
25-13-308	amended	Ch. 56	HB 37
25-13-405	amended	Ch. 56	HB 37
25-13-502	amended	Ch. 56	HB 37
25-13-506	amended	Ch. 56	HB 37
25-13-610	amended	Ch. 56	HB 37
25-13-614	amended	Ch. 56	HB 37
25-13-702	amended	Ch. 56	HB 37
25-13-704	amended	Ch. 56	HB 37
25-13-705	amended	Ch. 56	HB 37
25-13-706	amended	Ch. 56	HB 37
25-13-713	amended	Ch. 56	HB 37
25-13-801	amended	Ch. 56	HB 37
25-13-802	amended	Ch. 56	HB 37
25-13-803	amended	Ch. 56	HB 37
25-13-804	amended	Ch. 56	HB 37
25-13-806	amended	Ch. 56	HB 37
25-13-807	amended	Ch. 56	HB 37
25-13-808	amended	Ch. 56	HB 37
25-13-809	amended	Ch. 56	HB 37
25-13-810	amended	Ch. 56	HB 37
25-13-811	amended	Ch. 56	HB 37
25-13-821	amended	Ch. 56	HB 37
25-13-822	amended	Ch. 56	HB 37
25-13-823	amended	Ch. 56	HB 37
25-13-825	amended	Ch. 56	HB 37
25-14-102	amended	Ch. 56	HB 37
25-14-103	amended	Ch. 56	HB 37
25-14-104	amended	Ch. 56	HB 37
25-14-106	amended	Ch. 56	HB 37

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25-14-108	amended	Ch. 56	HB 37
25-14-201	amended	Ch. 56	HB 37
25-14-204	amended	Ch. 56	HB 37
25-14-205	amended	Ch. 56	HB 37
25-14-302	amended	Ch. 56	HB 37
25-14-303	amended	Ch. 56	HB 37
25-14-304	amended	Ch. 56	HB 37
25-14-306	amended	Ch. 56	HB 37
25-14-307	amended	Ch. 56	HB 37
25-14-308	amended	Ch. 56	HB 37
25-14-309	amended	Ch. 56	HB 37
25-14-310	amended	Ch. 56	HB 37
25-14-311	amended	Ch. 56	HB 37
25-14-312	amended	Ch. 56	HB 37
25-15-102	amended	Ch. 56	HB 37
25-15-103	amended	Ch. 56	HB 37
25-15-104	amended	Ch. 56	HB 37
25-15-105	amended	Ch. 56	HB 37
25-15-106	amended	Ch. 56	HB 37
25-15-201	amended	Ch. 56	HB 37
25-15-202	amended	Ch. 56	HB 37
25-31-102	amended	Ch. 56	HB 37
25-31-405	amended	Ch. 56	HB 37
25-31-406	amended	Ch. 56	HB 37
25-31-409	amended	Ch. 455	SB 400
25-31-512	amended	Ch. 56	HB 37
25-31-523	amended	Ch. 56	HB 37
25-31-705	amended	Ch. 56	HB 37
25-31-706	amended	Ch. 56	HB 37
25-31-707	amended	Ch. 56	HB 37
25-31-1002	amended	Ch. 56	HB 37
25-31-1111	amended	Ch. 56	HB 37
25-33-103	amended	Ch. 56	HB 37
25-33-104	amended	Ch. 56	HB 37
25-33-201	amended	Ch. 56	HB 37
25-33-202	amended	Ch. 56	HB 37
25-33-204	amended	Ch. 56	HB 37
25-33-208	repealed	Ch. 455	SB 400
25-33-305	amended	Ch. 56	HB 37
25-35-601	amended	Ch. 56	HB 37
25-35-603	amended	Ch. 56	HB 37
25-35-604	amended	Ch. 56	HB 37
25-35-605	amended	Ch. 56	HB 37
25-35-608	amended	Ch. 56	HB 37
25-35-702	amended	Ch. 56	HB 37
25-35-801	amended	Ch. 56	HB 37
25-35-802	amended	Ch. 56	HB 37
25-35-803	amended	Ch. 56	HB 37
25-35-804	amended	Ch. 56	HB 37
25-35-806	amended	Ch. 56	HB 37
26-1-106	amended	Ch. 56	HB 37
26-1-302	amended	Ch. 56	HB 37
26-1-303	amended	Ch. 56	HB 37
26-1-401	amended	Ch. 56	HB 37
26-1-402	amended	Ch. 56	HB 37
26-1-502	amended	Ch. 56	HB 37
26-1-601	amended	Ch. 56	HB 37
26-1-605	amended	Ch. 56	HB 37
26-1-623	amended	Ch. 56	HB 37
26-1-624	enacted	Ch. 472	SB 465
26-1-701	amended	Ch. 56	HB 37
26-1-803	amended	Ch. 56	HB 37
26-1-804	amended	Ch. 56	HB 37

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26-1-805	amended	Ch. 56	HB 37
26-1-806	amended	Ch. 56	HB 37
26-1-807	amended	Ch. 56	HB 37
26-1-809	amended	Ch. 56	HB 37
26-1-810	amended	Ch. 56	HB 37
26-1-902	amended	Ch. 56	HB 37
26-1-903	amended	Ch. 56	HB 37
26-1-1011	amended	Ch. 56	HB 37
26-2-101	amended	Ch. 56	HB 37
26-2-102	amended	Ch. 56	HB 37
26-2-103	amended	Ch. 56	HB 37
26-2-104	amended	Ch. 56	HB 37
26-2-105	amended	Ch. 56	HB 37
26-2-106	amended	Ch. 56	HB 37
26-2-107	amended	Ch. 56	HB 37
26-2-201	amended	Ch. 56	HB 37
26-2-203	amended	Ch. 56	HB 37
26-2-301	amended	Ch. 56	HB 37
26-2-302	amended	Ch. 56	HB 37
26-2-303	amended	Ch. 56	HB 37
26-2-403	amended	Ch. 56	HB 37
26-2-404	amended	Ch. 56	HB 37
26-2-507	amended	Ch. 56	HB 37
26-2-509	amended	Ch. 56	HB 37
26-3-104	amended	Ch. 56	HB 37
26-3-203	amended	Ch. 56	HB 37
27-1-204	amended	Ch. 56	HB 37
27-1-210	amended	Ch. 56	HB 37
27-1-211	amended	Ch. 56	HB 37
27-1-223	amended	Ch. 56	HB 37
27-1-303	amended	Ch. 56	HB 37
27-1-308	amended	Ch. 56	HB 37
27-1-313	amended	Ch. 56	HB 37
27-1-315	amended	Ch. 56	HB 37
27-1-316	amended	Ch. 56	HB 37
27-1-320	amended	Ch. 56	HB 37
27-1-321	amended	Ch. 56	HB 37
27-1-402	amended	Ch. 56	HB 37
27-1-415	amended	Ch. 56	HB 37
27-1-416	amended	Ch. 56	HB 37
27-1-417	amended	Ch. 56	HB 37
27-1-421	amended	Ch. 56	HB 37
27-1-432	amended	Ch. 56	HB 37
27-1-433	amended	Ch. 56	HB 37
27-1-501	amended	Ch. 56	HB 37
27-1-511	amended	Ch. 56	HB 37
27-1-512	amended	Ch. 56	HB 37
27-1-513	amended	Ch. 56	HB 37
27-1-514	amended	Ch. 56	HB 37
27-1-515	amended	Ch. 56	HB 37
27-1-701	amended	Ch. 56	HB 37
27-1-711	amended	Ch. 56	HB 37
27-1-712	amended	Ch. 56	HB 37
27-1-713	amended	Ch. 56	HB 37
27-1-714	amended	Ch. 56	HB 37
27-1-715	amended	Ch. 56	HB 37
27-1-719	amended	Ch. 56	HB 37
27-1-731	amended	Ch. 56	HB 37
27-1-733	amended	Ch. 56	HB 37
27-1-736	amended	Ch. 157	SB 368
27-1-751	enacted	Ch. 331	HB 150
27-1-752	enacted	Ch. 331	HB 150
27-1-753	enacted	Ch. 331	HB 150

27-1-754	enacted	Ch. 331	HB 150
27-1-802	amended	Ch. 56	HB 37
27-1-803	amended	Ch. 56	HB 37
27-1-813	amended	Ch. 56	HB 37
27-1-820	amended	Ch. 56	HB 37
27-1-1102	amended	Ch. 56	HB 37
27-1-1103	amended	Ch. 56	HB 37
27-2-210	amended	Ch. 56	HB 37
27-2-213	amended	Ch. 56	HB 37
27-2-402	amended	Ch. 56	HB 37
27-2-405	amended	Ch. 56	HB 37
27-2-407	amended	Ch. 56	HB 37
27-2-408	amended	Ch. 56	HB 37
27-5-116	enacted	Ch. 339	HB 322
27-5-211	amended	Ch. 56	HB 37
	amended	Ch. 339	HB 322
27-5-216	amended	Ch. 56	HB 37
27-5-217	amended	Ch. 56	HB 37
27-5-312	amended	Ch. 339	HB 322
27-5-323	amended	Ch. 56	HB 37
27-6-202	amended	Ch. 56	HB 37
27-6-203	amended	Ch. 56	HB 37
27-6-301	amended	Ch. 56	HB 37
27-6-305	amended	Ch. 56	HB 37
27-6-404	amended	Ch. 56	HB 37
27-6-502	amended	Ch. 56	HB 37
27-6-503	amended	Ch. 56	HB 37
27-6-601	amended	Ch. 56	HB 37
27-6-604	amended	Ch. 56	HB 37
27-6-702	amended	Ch. 56	HB 37
27-9-102	amended	Ch. 56	HB 37
27-9-104	amended	Ch. 56	HB 37
27-12-103	amended	Ch. 56	HB 37
27-12-202	amended	Ch. 56	HB 37
27-12-203	amended	Ch. 56	HB 37
27-12-301	amended	Ch. 56	HB 37
27-12-305	amended	Ch. 56	HB 37
27-12-404	amended	Ch. 56	HB 37
27-12-503	amended	Ch. 56	HB 37
27-12-601	amended	Ch. 56	HB 37
27-12-604	amended	Ch. 56	HB 37
27-12-701	amended	Ch. 56	HB 37
27-15-101	amended	Ch. 56	HB 37
27-15-102	amended	Ch. 56	HB 37
27-16-102	amended	Ch. 56	HB 37
27-16-204	amended	Ch. 56	HB 37
27-16-205	amended	Ch. 56	HB 37
27-16-206	amended	Ch. 56	HB 37
27-16-207	amended	Ch. 56	HB 37
27-16-208	amended	Ch. 56	HB 37
27-16-209	amended	Ch. 56	HB 37
27-16-210	amended	Ch. 56	HB 37
27-16-402	amended	Ch. 56	HB 37
27-16-403	amended	Ch. 56	HB 37
27-16-404	amended	Ch. 56	HB 37
27-16-405	amended	Ch. 56	HB 37
27-16-406	amended	Ch. 56	HB 37
27-16-407	amended	Ch. 56	HB 37
27-16-501	amended	Ch. 56	HB 37
27-16-502	amended	Ch. 56	HB 37
27-16-503	amended	Ch. 56	HB 37
27-16-505	amended	Ch. 56	HB 37
27-16-601	amended	Ch. 56	HB 37

27-16-602	amended	Ch. 56	HB 37
27-16-604	amended	Ch. 56	HB 37
27-16-1002	amended	Ch. 56	HB 37
27-16-1003	amended	Ch. 56	HB 37
27-16-1004	amended	Ch. 56	HB 37
27-16-1005	amended	Ch. 56	HB 37
27-16-1006	amended	Ch. 56	HB 37
27-17-101	amended	Ch. 56	HB 37
27-17-102	amended	Ch. 56	HB 37
27-17-201	amended	Ch. 56	HB 37
27-17-203	amended	Ch. 56	HB 37
27-17-204	amended	Ch. 56	HB 37
27-17-205	amended	Ch. 56	HB 37
27-17-206	amended	Ch. 56	HB 37
27-17-301	amended	Ch. 56	HB 37
27-17-302	amended	Ch. 56	HB 37
27-17-303	amended	Ch. 56	HB 37
27-17-304	amended	Ch. 56	HB 37
27-17-306	amended	Ch. 56	HB 37
27-17-309	amended	Ch. 56	HB 37
27-17-310	amended	Ch. 56	HB 37
27-17-402	amended	Ch. 56	HB 37
27-18-101	amended	Ch. 346	HB 608
27-18-102	amended	Ch. 56	HB 37
27-18-112	amended	Ch. 56	HB 37
27-18-202	amended	Ch. 56	HB 37
	amended	Ch. 346	HB 608
27-18-203	amended	Ch. 56	HB 37
	amended	Ch. 346	HB 608
27-18-204	amended	Ch. 56	HB 37
	amended	Ch. 346	HB 608
27-18-205	amended	Ch. 56	HB 37
27-18-207	amended	Ch. 56	HB 37
27-18-301	amended	Ch. 56	HB 37
27-18-303	amended	Ch. 56	HB 37
27-18-306	amended	Ch. 56	HB 37
27-18-401	amended	Ch. 56	HB 37
27-18-403	amended	Ch. 56	HB 37
27-18-405	amended	Ch. 56	HB 37
27-18-406	amended	Ch. 56	HB 37
27-18-407	amended	Ch. 56	HB 37
27-18-410	amended	Ch. 56	HB 37
27-18-412	amended	Ch. 56	HB 37
27-18-414	amended	Ch. 56	HB 37
27-18-501	amended	Ch. 56	HB 37
27-18-502	amended	Ch. 56	HB 37
27-18-503	amended	Ch. 56	HB 37
27-18-601	amended	Ch. 56	HB 37
27-18-602	amended	Ch. 56	HB 37
27-18-603	amended	Ch. 56	HB 37
27-18-604	amended	Ch. 56	HB 37
27-18-702	amended	Ch. 56	HB 37
27-18-713	amended	Ch. 56	HB 37
27-18-715	amended	Ch. 56	HB 37
27-18-721	amended	Ch. 56	HB 37
27-18-725	amended	Ch. 56	HB 37
27-18-726	amended	Ch. 56	HB 37
27-18-803	amended	Ch. 56	HB 37
27-18-902	amended	Ch. 56	HB 37
27-18-903	amended	Ch. 56	HB 37
27-18-904	amended	Ch. 56	HB 37
27-18-905	amended	Ch. 56	HB 37
27-18-906	amended	Ch. 56	HB 37



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27-18-1502	amended	Ch. 56	HB 37
	amended	Ch. 346	HB 608
27-18-1503	amended	Ch. 56	HB 37
27-18-1504	amended	Ch. 56	HB 37
27-19-203	amended	Ch. 56	HB 37
27-19-315	amended	Ch. 56	HB 37
27-19-318	amended	Ch. 56	HB 37
27-20-102	amended	Ch. 2	SB 7
	amended	Ch. 56	HB 37
27-20-201	amended	Ch. 56	HB 37
27-20-203	amended	Ch. 56	HB 37
27-20-301	amended	Ch. 56	HB 37
27-20-302	amended	Ch. 56	HB 37
27-26-203	amended	Ch. 56	HB 37
27-26-303	amended	Ch. 56	HB 37
27-26-402	amended	Ch. 56	HB 37
27-27-103	amended	Ch. 56	HB 37
27-28-101	amended	Ch. 56	HB 37
27-28-103	amended	Ch. 56	HB 37
27-28-104	amended	Ch. 56	HB 37
27-28-205	amended	Ch. 56	HB 37
27-28-301	amended	Ch. 56	HB 37
27-28-302	amended	Ch. 56	HB 37
27-28-306	amended	Ch. 56	HB 37
27-28-307	amended	Ch. 56	HB 37
27-28-308	amended	Ch. 56	HB 37
27-28-401	amended	Ch. 56	HB 37
27-28-506	amended	Ch. 56	HB 37
27-30-203	amended	Ch. 56	HB 37
27-30-204	amended	Ch. 56	HB 37
27-30-302	amended	Ch. 56	HB 37
27-31-101	amended	Ch. 56	HB 37
27-32-101	amended	Ch. 56	HB 37
27-32-102	amended	Ch. 56	HB 37
27-32-301	amended	Ch. 56	HB 37
28-1-104	amended	Ch. 56	HB 37
28-1-201	amended	Ch. 56	HB 37
28-1-202	amended	Ch. 56	HB 37
28-1-303	amended	Ch. 56	HB 37
28-1-405	amended	Ch. 56	HB 37
28-1-406	amended	Ch. 56	HB 37
28-1-407	amended	Ch. 56	HB 37
28-1-502	amended	Ch. 56	HB 37
28-1-1101	amended	Ch. 56	HB 37
28-1-1104	amended	Ch. 56	HB 37
28-1-1105	amended	Ch. 56	HB 37
28-1-1106	amended	Ch. 56	HB 37
28-1-1112	amended	Ch. 56	HB 37
28-1-1113	amended	Ch. 56	HB 37
28-1-1204	amended	Ch. 56	HB 37
28-1-1206	amended	Ch. 56	HB 37
28-1-1211	amended	Ch. 56	HB 37
28-1-1212	amended	Ch. 56	HB 37
28-1-1221	amended	Ch. 56	HB 37
28-1-1224	amended	Ch. 56	HB 37
28-1-1302	amended	Ch. 56	HB 37
28-1-1303	amended	Ch. 56	HB 37
28-1-1304	amended	Ch. 56	HB 37
28-1-1504	amended	Ch. 56	HB 37
28-1-1602	amended	Ch. 56	HB 37
28-1-1603	amended	Ch. 56	HB 37
28-2-202	amended	Ch. 56	HB 37
28-2-203	amended	Ch. 56	HB 37

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28-2-204	amended	Ch. 56	HB 37
28-2-205	amended	Ch. 56	HB 37
28-2-206	amended	Ch. 56	HB 37
28-2-405	amended	Ch. 56	HB 37
28-2-406	amended	Ch. 56	HB 37
28-2-407	amended	Ch. 56	HB 37
28-2-501	amended	Ch. 56	HB 37
28-2-502	amended	Ch. 56	HB 37
28-2-512	amended	Ch. 56	HB 37
28-2-702	amended	Ch. 56	HB 37
28-2-704	amended	Ch. 56	HB 37
28-2-708	amended	Ch. 56	HB 37
28-2-709	amended	Ch. 56	HB 37
28-2-801	amended	Ch. 56	HB 37
28-2-902	amended	Ch. 56	HB 37
28-2-903	amended	Ch. 56	HB 37
28-2-906	amended	Ch. 56	HB 37
28-2-1703	amended	Ch. 56	HB 37
28-2-1711	amended	Ch. 56	HB 37
28-2-1713	amended	Ch. 56	HB 37
28-2-2104	amended	Ch. 254	HB 357
28-2-2201	enacted	Ch. 302	HB 451
28-2-2202	enacted	Ch. 302	HB 451
28-3-306	amended	Ch. 56	HB 37
28-3-704	amended	Ch. 56	HB 37
28-10-103	amended	Ch. 158	SB 432
28-10-105	amended	Ch. 56	HB 37
28-10-301	amended	Ch. 56	HB 37
28-10-302	amended	Ch. 56	HB 37
28-10-401	amended	Ch. 56	HB 37
28-10-402	amended	Ch. 56	HB 37
28-10-404	amended	Ch. 56	HB 37
28-10-405	amended	Ch. 56	HB 37
28-10-407	amended	Ch. 56	HB 37
28-10-408	amended	Ch. 56	HB 37
28-10-409	amended	Ch. 56	HB 37
28-10-501	amended	Ch. 56	HB 37
28-10-502	amended	Ch. 56	HB 37
28-10-601	amended	Ch. 56	HB 37
28-10-602	amended	Ch. 56	HB 37
28-10-603	amended	Ch. 56	HB 37
28-10-605	amended	Ch. 56	HB 37
28-10-606	amended	Ch. 56	HB 37
28-10-608	amended	Ch. 56	HB 37
28-10-609	amended	Ch. 56	HB 37
28-10-701	amended	Ch. 56	HB 37
28-10-702	amended	Ch. 56	HB 37
28-10-703	amended	Ch. 56	HB 37
28-10-801	amended	Ch. 56	HB 37
28-10-802	amended	Ch. 56	HB 37
28-11-103	amended	Ch. 56	HB 37
28-11-105	amended	Ch. 56	HB 37
28-11-108	amended	Ch. 56	HB 37
28-11-202	amended	Ch. 56	HB 37
28-11-203	amended	Ch. 56	HB 37
28-11-206	amended	Ch. 56	HB 37
28-11-211	amended	Ch. 56	HB 37
28-11-214	amended	Ch. 56	HB 37
28-11-304	amended	Ch. 56	HB 37
28-11-312	amended	Ch. 56	HB 37
28-11-316	amended	Ch. 56	HB 37
28-11-317	amended	Ch. 56	HB 37
28-11-401	amended	Ch. 56	HB 37

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28-11-402	amended	Ch. 56	HB 37
28-11-411	amended	Ch. 56	HB 37
28-11-412	amended	Ch. 56	HB 37
28-11-414	amended	Ch. 56	HB 37
28-11-415	amended	Ch. 56	HB 37
28-11-416	amended	Ch. 56	HB 37
28-11-417	amended	Ch. 56	HB 37
28-11-418	amended	Ch. 56	HB 37
30-2A-531	amended	Ch. 56	HB 37
30-2A-513	amended	Ch. 56	HB 37
30-2A-511	amended	Ch. 56	HB 37
30-2A-507	amended	Ch. 56	HB 37
30-2A-504	amended	Ch. 56	HB 37
30-2A-405	amended	Ch. 56	HB 37
30-2A-401	amended	Ch. 56	HB 37
30-2A-310	amended	Ch. 56	HB 37
30-2A-221	amended	Ch. 56	HB 37
30-2A-220	amended	Ch. 56	HB 37
30-2A-109	amended	Ch. 56	HB 37
30-2A-108	amended	Ch. 56	HB 37
30-2A-103	amended	Ch. 56	HB 37
30-2-201	amended	Ch. 56	HB 37
30-2-304	amended	Ch. 56	HB 37
30-2-305	amended	Ch. 56	HB 37
30-2-308	amended	Ch. 56	HB 37
30-2-311	amended	Ch. 56	HB 37
30-2-312	amended	Ch. 56	HB 37
30-2-313	amended	Ch. 56	HB 37
30-2-316	amended	Ch. 56	HB 37
30-2-318	amended	Ch. 56	HB 37
30-2-319	amended	Ch. 56	HB 37
30-2-320	amended	Ch. 56	HB 37
30-2-324	amended	Ch. 56	HB 37
30-2-325	amended	Ch. 56	HB 37
30-2-401	amended	Ch. 56	HB 37
30-2-402	amended	Ch. 56	HB 37
30-2-403	amended	Ch. 56	HB 37
30-2-501	amended	Ch. 56	HB 37
30-2-504	amended	Ch. 56	HB 37
30-2-505	amended	Ch. 56	HB 37
30-2-507	amended	Ch. 56	HB 37
30-2-508	amended	Ch. 56	HB 37
30-2-509	amended	Ch. 56	HB 37
30-2-510	amended	Ch. 56	HB 37
30-2-602	amended	Ch. 56	HB 37
30-2-603	amended	Ch. 56	HB 37
30-2-604	amended	Ch. 56	HB 37
30-2-606	amended	Ch. 56	HB 37
30-2-607	amended	Ch. 56	HB 37
30-2-608	amended	Ch. 56	HB 37
30-2-609	amended	Ch. 56	HB 37
30-2-610	amended	Ch. 56	HB 37
30-2-611	amended	Ch. 56	HB 37
30-2-612	amended	Ch. 56	HB 37
30-2-613	amended	Ch. 56	HB 37
30-2-615	amended	Ch. 56	HB 37
30-2-616	amended	Ch. 56	HB 37
30-2-702	amended	Ch. 56	HB 37
30-2-704	amended	Ch. 56	HB 37
30-2-706	amended	Ch. 56	HB 37
30-2-707	amended	Ch. 56	HB 37
30-2-709	amended	Ch. 56	HB 37
30-2-711	amended	Ch. 56	HB 37

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30-2-712	amended	Ch. 56	HB 37
30-2-714	amended	Ch. 56	HB 37
30-2-717	amended	Ch. 56	HB 37
30-2-718	amended	Ch. 56	HB 37
30-2-722	amended	Ch. 56	HB 37
30-2-723	amended	Ch. 56	HB 37
30-7-302	amended	Ch. 56	HB 37
30-10-204	amended	Ch. 56	HB 37
30-10-205	amended	Ch. 56	HB 37
30-10-208	amended	Ch. 56	HB 37
30-10-306	amended	Ch. 56	HB 37
30-10-307	amended	Ch. 56	HB 37
30-10-324	amended	Ch. 2	SB 7
30-11-106	amended	Ch. 56	HB 37
30-11-109	amended	Ch. 56	HB 37
30-11-110	amended	Ch. 56	HB 37
30-11-111	amended	Ch. 56	HB 37
30-11-113	amended	Ch. 56	HB 37
30-11-114	amended	Ch. 56	HB 37
30-11-201	amended	Ch. 56	HB 37
30-11-202	amended	Ch. 56	HB 37
30-11-203	amended	Ch. 56	HB 37
30-11-205	amended	Ch. 56	HB 37
30-11-206	amended	Ch. 56	HB 37
30-11-207	amended	Ch. 56	HB 37
30-11-211	amended	Ch. 56	HB 37
30-11-213	amended	Ch. 56	HB 37
30-11-215	amended	Ch. 56	HB 37
30-11-220	amended	Ch. 56	HB 37
30-11-221	amended	Ch. 56	HB 37
30-11-223	amended	Ch. 56	HB 37
30-11-302	amended	Ch. 56	HB 37
30-11-502	amended	Ch. 56	HB 37
30-11-503	amended	Ch. 56	HB 37
30-11-504	amended	Ch. 56	HB 37
30-11-508	amended	Ch. 56	HB 37
30-11-510	amended	Ch. 56	HB 37
30-11-511	amended	Ch. 56	HB 37
30-11-512	amended	Ch. 56	HB 37
30-11-513	amended	Ch. 56	HB 37
30-11-514	amended	Ch. 56	HB 37
30-11-515	amended	Ch. 109	HB 80
30-11-601	amended	Ch. 56	HB 37
30-11-602	amended	Ch. 56	HB 37
30-11-603	amended	Ch. 56	HB 37
30-11-604	amended	Ch. 56	HB 37
30-11-605	amended	Ch. 56	HB 37
30-11-606	amended	Ch. 56	HB 37
30-11-607	amended	Ch. 56	HB 37
30-11-701	amended	Ch. 168	HB 387
30-11-703	amended	Ch. 56	HB 37
30-11-713	amended	Ch. 56	HB 37
30-11-806	amended	Ch. 56	HB 37
30-11-807	amended	Ch. 56	HB 37
30-12-202	amended	Ch. 56	HB 37
30-12-205	amended	Ch. 56	HB 37
30-12-211	amended	Ch. 56	HB 37
30-12-406	amended	Ch. 56	HB 37
30-12-504	amended	Ch. 56	HB 37
30-13-112	repealed	Ch. 291	SB 148
30-13-131	amended	Ch. 56	HB 37
30-13-133	amended	Ch. 56	HB 37
30-13-135	amended	Ch. 56	HB 37

## CODE SECTIONS AFFECTED

30-13-216	amended	Ch. 56	HB 37
30-13-218	amended	Ch. 56	HB 37
30-13-301	amended	Ch. 177	SB 250
30-13-333	amended	Ch. 177	SB 250
30-13-338	enacted	Ch. 177	SB 250
30-14-112	amended	Ch. 56	HB 37
30-14-113	amended	Ch. 56	HB 37
30-14-114	amended	Ch. 56	HB 37
30-14-132	amended	Ch. 56	HB 37
30-14-203	amended	Ch. 56	HB 37
30-14-204	amended	Ch. 56	HB 37
30-14-213	amended	Ch. 56	HB 37
30-14-221	amended	Ch. 56	HB 37
30-14-303	amended	Ch. 56	HB 37
30-14-402	amended	Ch. 56	HB 37
30-14-504	amended	Ch. 56	HB 37
30-14-505	amended	Ch. 56	HB 37
30-14-507	amended	Ch. 56	HB 37
30-14-1112	amended	Ch. 56	HB 37
30-14-2101	enacted	Ch. 338	HB 318
30-14-2102	enacted	Ch. 338	HB 318
30-14-2103	enacted	Ch. 338	HB 318
30-14-2104	enacted	Ch. 338	HB 318
30-14-2501	amended	Ch. 240	HB 542
30-14-2502	amended	Ch. 240	HB 542
30-14-2503	amended	Ch. 240	HB 542
30-20-101	enacted	Ch. 205	HB 246
30-20-102	enacted	Ch. 205	HB 246
30-20-103	enacted	Ch. 205	HB 246
30-20-104	enacted	Ch. 205	HB 246
30-20-105	enacted	Ch. 205	HB 246
30-20-106	enacted	Ch. 205	HB 246
30-22-101	enacted	Ch. 316	SB 247
30-22-102	enacted	Ch. 316	SB 247
30-22-103	enacted	Ch. 316	SB 247
31-1-101	amended	Ch. 56	HB 37
31-1-108	amended	Ch. 56	HB 37
31-1-212	amended	Ch. 56	HB 37
31-1-222	amended	Ch. 56	HB 37
31-1-231	amended	Ch. 56	HB 37
31-1-232	amended	Ch. 56	HB 37
31-1-234	amended	Ch. 56	HB 37
31-1-236	amended	Ch. 56	HB 37
31-1-243	amended	Ch. 56	HB 37
31-1-304	amended	Ch. 56	HB 37
31-1-305	amended	Ch. 56	HB 37
31-1-402	amended	Ch. 56	HB 37
31-1-502	amended	Ch. 56	HB 37
31-1-704	amended	Ch. 81	SB 54
31-1-705	amended	Ch. 81	SB 54
31-1-707	enacted	Ch. 81	SB 54
31-1-711	amended	Ch. 81	SB 54
31-1-722	amended	Ch. 81	SB 54
31-1-729	enacted	Ch. 81	SB 54
31-1-805	amended	Ch. 134	SB 47
31-1-810	amended	Ch. 134	SB 47
31-1-828	enacted	Ch. 134	SB 47
31-1-829	enacted	Ch. 134	SB 47
31-2-102	amended	Ch. 56	HB 37
31-2-103	amended	Ch. 56	HB 37
31-2-104	amended	Ch. 56	HB 37
31-2-105	amended	Ch. 56	HB 37
31-2-106	amended	Ch. 2	SB 7

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31-2-201	amended	Ch. 56	HB 37
31-2-202	amended	Ch. 56	HB 37
31-2-203	amended	Ch. 56	HB 37
31-2-204	amended	Ch. 56	HB 37
31-2-205	amended	Ch. 56	HB 37
31-2-209	amended	Ch. 56	HB 37
31-2-210	amended	Ch. 56	HB 37
31-2-212	amended	Ch. 56	HB 37
31-2-214	amended	Ch. 56	HB 37
31-2-215	amended	Ch. 56	HB 37
31-2-220	amended	Ch. 56	HB 37
31-2-221	amended	Ch. 56	HB 37
31-2-224	amended	Ch. 56	HB 37
31-2-225	amended	Ch. 56	HB 37
31-2-229	amended	Ch. 56	HB 37
31-2-329	amended	Ch. 56	HB 37
31-2-333	amended	Ch. 56	HB 37
31-3-102	amended	Ch. 56	HB 37
31-3-113	amended	Ch. 56	HB 37
31-3-114	amended	Ch. 56	HB 37
31-3-121	amended	Ch. 56	HB 37
31-3-123	amended	Ch. 56	HB 37
31-3-131	amended	Ch. 56	HB 37
32-1-206	amended	Ch. 56	HB 37
32-1-403	amended	Ch. 56	HB 37
32-1-421	amended	Ch. 56	HB 37
32-1-430	amended	Ch. 324	SB 375
32-1-451	amended	Ch. 56	HB 37
32-1-463	amended	Ch. 56	HB 37
32-1-466	amended	Ch. 56	HB 37
32-1-471	amended	Ch. 56	HB 37
32-1-474	amended	Ch. 56	HB 37
32-1-506	amended	Ch. 56	HB 37
32-1-510	amended	Ch. 56	HB 37
32-1-535	amended	Ch. 56	HB 37
32-1-807	amended	Ch. 56	HB 37
32-1-808	amended	Ch. 56	HB 37
32-1-903	amended	Ch. 56	HB 37
32-1-905	amended	Ch. 56	HB 37
32-1-906	amended	Ch. 56	HB 37
32-1-907	amended	Ch. 56	HB 37
32-1-908	amended	Ch. 56	HB 37
32-1-910	amended	Ch. 56	HB 37
32-2-108	amended	Ch. 56	HB 37
32-2-109	amended	Ch. 56	HB 37
32-2-209	amended	Ch. 56	HB 37
32-2-210	amended	Ch. 56	HB 37
32-2-212	amended	Ch. 56	HB 37
32-2-232	amended	Ch. 56	HB 37
32-2-233	amended	Ch. 56	HB 37
32-2-241	amended	Ch. 56	HB 37
32-2-245	amended	Ch. 56	HB 37
32-2-254	amended	Ch. 56	HB 37
32-2-255	amended	Ch. 56	HB 37
32-2-307	amended	Ch. 56	HB 37
32-2-401	amended	Ch. 56	HB 37
32-2-403	amended	Ch. 56	HB 37
32-2-404	amended	Ch. 56	HB 37
32-2-408	amended	Ch. 56	HB 37
32-2-409	amended	Ch. 56	HB 37
32-3-406	amended	Ch. 56	HB 37
32-3-407	amended	Ch. 56	HB 37
32-3-416	amended	Ch. 56	HB 37

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32-3-418	amended	Ch. 56	HB 37
32-3-507	amended	Ch. 56	HB 37
32-3-604	amended	Ch. 324	SB 375
32-3-605	amended	Ch. 56	HB 37
32-4-203	amended	Ch. 56	HB 37
32-4-205	amended	Ch. 56	HB 37
32-4-301	amended	Ch. 56	HB 37
32-5-304	amended	Ch. 56	HB 37
32-6-106	amended	Ch. 56	HB 37
32-6-302	amended	Ch. 56	HB 37
32-6-303	amended	Ch. 56	HB 37
32-7-103	amended	Ch. 56	HB 37
32-7-108	amended	Ch. 56	HB 37
32-9-101	amended	Ch. 321	SB 351
32-9-102	amended	Ch. 321	SB 351
32-9-103	amended	Ch. 321	SB 351
32-9-104	amended	Ch. 321	SB 351
32-9-105	enacted	Ch. 321	SB 351
32-9-106	enacted	Ch. 321	SB 351
32-9-107	enacted	Ch. 321	SB 351
32-9-108	repealed	Ch. 321	SB 351
32-9-109	amended	Ch. 321	SB 351
32-9-110	amended	Ch. 321	SB 351
32-9-112	enacted	Ch. 321	SB 351
32-9-113	enacted	Ch. 321	SB 351
32-9-114	enacted	Ch. 321	SB 351
32-9-115	repealed	Ch. 321	SB 351
32-9-116	amended	Ch. 321	SB 351
32-9-117	amended	Ch. 321	SB 351
32-9-118	amended	Ch. 321	SB 351
32-9-119	repealed	Ch. 321	SB 351
32-9-120	enacted	Ch. 321	SB 351
32-9-121	amended	Ch. 321	SB 351
32-9-122	amended	Ch. 321	SB 351
32-9-123	amended	Ch. 321	SB 351
32-9-124	amended	Ch. 321	SB 351
32-9-125	amended	Ch. 321	SB 351
32-9-126	amended	Ch. 321	SB 351
32-9-127	enacted	Ch. 321	SB 351
32-9-128	enacted	Ch. 321	SB 351
32-9-129	enacted	Ch. 321	SB 351
32-9-130	amended	Ch. 321	SB 351
32-9-133	amended	Ch. 321	SB 351
32-9-145	enacted	Ch. 321	SB 351
32-9-148	enacted	Ch. 321	SB 351
32-9-150	enacted	Ch. 321	SB 351
32-9-151	enacted	Ch. 321	SB 351
32-9-155	enacted	Ch. 321	SB 351
32-9-160	enacted	Ch. 321	SB 351
32-10-101	repealed	Ch. 321	SB 351
32-10-102	repealed	Ch. 321	SB 351
32-10-103	repealed	Ch. 321	SB 351
32-10-201	repealed	Ch. 321	SB 351
32-10-202	repealed	Ch. 321	SB 351
32-10-203	repealed	Ch. 321	SB 351
32-10-204	repealed	Ch. 321	SB 351
32-10-207	repealed	Ch. 321	SB 351
32-10-208	repealed	Ch. 321	SB 351
32-10-209	repealed	Ch. 321	SB 351
32-10-301	repealed	Ch. 321	SB 351
32-10-302	repealed	Ch. 321	SB 351
32-10-303	repealed	Ch. 321	SB 351
32-10-309	repealed	Ch. 321	SB 351

32-10-310	repealed	Ch. 321	SB 351
32-10-401	repealed	Ch. 321	SB 351
	amended	Ch. 324	SB 375
32-10-402	repealed	Ch. 321	SB 351
32-10-403	repealed	Ch. 321	SB 351
32-10-404	repealed	Ch. 321	SB 351
32-10-405	repealed	Ch. 321	SB 351
32-10-406	repealed	Ch. 321	SB 351
32-10-501	repealed	Ch. 321	SB 351
32-10-502	repealed	Ch. 321	SB 351
32-10-503	repealed	Ch. 321	SB 351
32-10-504	repealed	Ch. 321	SB 351
32-10-505	repealed	Ch. 321	SB 351
32-10-506	repealed	Ch. 321	SB 351
32-10-507	repealed	Ch. 321	SB 351
32-10-512	repealed	Ch. 321	SB 351
32-10-513	repealed	Ch. 321	SB 351
32-10-514	repealed	Ch. 321	SB 351
32-10-515	repealed	Ch. 321	SB 351
33-1-102	amended	Ch. 359	SB 234
33-1-111	amended	Ch. 2	SB 7
33-1-211	amended	Ch. 56	HB 37
33-1-228	amended	Ch. 56	HB 37
33-1-302	amended	Ch. 56	HB 37
33-1-304	amended	Ch. 56	HB 37
33-1-312	amended	Ch. 56	HB 37
33-1-402	amended	Ch. 56	HB 37
33-1-502	amended	Ch. 56	HB 37
33-1-601	amended	Ch. 271	SB 133
33-1-602	amended	Ch. 56	HB 37
33-1-603	amended	Ch. 56	HB 37
33-1-612	amended	Ch. 56	HB 37
33-1-613	amended	Ch. 56	HB 37
33-1-1301	amended	Ch. 272	SB 151
33-1-1302	amended	Ch. 272	SB 151
33-1-1303	amended	Ch. 272	SB 151
33-1-1304	enacted	Ch. 272	SB 151
33-1-1401	enacted	Ch. 50	HB 159
33-1-1402	enacted	Ch. 50	HB 159
33-1-1403	enacted	Ch. 50	HB 159
33-2-111	amended	Ch. 56	HB 37
33-2-112	amended	Ch. 56	HB 37
33-2-116	amended	Ch. 56	HB 37
	amended	Ch. 271	SB 133
33-2-120	amended	Ch. 56	HB 37
33-2-121	amended	Ch. 56	HB 37
33-2-127	amended	Ch. 56	HB 37
33-2-205	amended	Ch. 56	HB 37
33-2-208	amended	Ch. 56	HB 37
33-2-211	amended	Ch. 56	HB 37
33-2-214	amended	Ch. 56	HB 37
33-2-301	amended	Ch. 271	SB 133
	amended	Ch. 313	SB 127
33-2-305	amended	Ch. 271	SB 133
	amended	Ch. 313	SB 127
33-2-306	amended	Ch. 56	HB 37
	amended	Ch. 271	SB 133
	amended	Ch. 313	SB 127
33-2-308	amended	Ch. 56	HB 37
33-2-309	amended	Ch. 56	HB 37
33-2-310	amended	Ch. 56	HB 37
33-2-311	amended	Ch. 56	HB 37
33-2-503	amended	Ch. 56	HB 37



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33-2-605	amended	Ch. 56	HB 37
33-2-606	amended	Ch. 56	HB 37
33-2-607	amended	Ch. 56	HB 37
33-2-612	amended	Ch. 56	HB 37
33-2-705	amended	Ch. 309	HB 635
33-2-708	amended	Ch. 486	HB 676
33-2-1104	amended	Ch. 56	HB 37
33-2-1105	amended	Ch. 56	HB 37
33-2-1106	amended	Ch. 56	HB 37
33-2-1120	amended	Ch. 56	HB 37
33-2-1122	amended	Ch. 56	HB 37
33-2-1206	amended	Ch. 56	HB 37
33-2-1211	amended	Ch. 56	HB 37
33-2-1212	amended	Ch. 56	HB 37
33-2-1310	amended	Ch. 56	HB 37
33-2-1321	amended	Ch. 56	HB 37
33-2-1323	amended	Ch. 56	HB 37
33-2-1333	amended	Ch. 56	HB 37
33-2-1334	amended	Ch. 56	HB 37
33-2-1341	amended	Ch. 56	HB 37
33-2-1344	amended	Ch. 56	HB 37
33-2-1345	amended	Ch. 56	HB 37
33-2-1347	amended	Ch. 56	HB 37
33-2-1348	amended	Ch. 56	HB 37
33-2-1352	amended	Ch. 56	HB 37
33-2-1353	amended	Ch. 56	HB 37
33-2-1355	amended	Ch. 56	HB 37
33-2-1357	amended	Ch. 56	HB 37
33-2-1358	amended	Ch. 56	HB 37
33-2-1360	amended	Ch. 56	HB 37
33-2-1362	amended	Ch. 56	HB 37
33-2-1364	amended	Ch. 56	HB 37
33-2-1365	amended	Ch. 56	HB 37
33-2-1366	amended	Ch. 56	HB 37
33-2-1367	amended	Ch. 56	HB 37
33-2-1368	amended	Ch. 56	HB 37
33-2-1369	amended	Ch. 56	HB 37
33-2-1370	amended	Ch. 56	HB 37
33-2-1372	amended	Ch. 56	HB 37
33-2-1374	amended	Ch. 56	HB 37
33-2-1377	amended	Ch. 56	HB 37
33-2-1379	amended	Ch. 56	HB 37
33-2-1380	amended	Ch. 56	HB 37
33-2-1381	amended	Ch. 56	HB 37
33-2-1382	amended	Ch. 56	HB 37
33-2-1383	amended	Ch. 56	HB 37
33-2-1385	amended	Ch. 56	HB 37
33-2-1387	amended	Ch. 56	HB 37
33-2-1903	amended	Ch. 28	HB 160
33-3-216	amended	Ch. 56	HB 37
33-3-217	amended	Ch. 56	HB 37
33-3-218	amended	Ch. 56	HB 37
33-3-301	amended	Ch. 56	HB 37
33-3-308	amended	Ch. 56	HB 37
33-3-309	amended	Ch. 56	HB 37
33-3-411	amended	Ch. 56	HB 37
33-3-412	amended	Ch. 56	HB 37
33-3-433	amended	Ch. 56	HB 37
33-3-436	amended	Ch. 56	HB 37
33-3-442	amended	Ch. 56	HB 37
33-3-443	amended	Ch. 56	HB 37
33-3-444	amended	Ch. 56	HB 37
33-3-447	amended	Ch. 56	HB 37

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33-3-502	amended	Ch. 56	HB 37
33-3-602	amended	Ch. 56	HB 37
33-3-604	amended	Ch. 56	HB 37
33-4-302	amended	Ch. 56	HB 37
33-4-316	amended	Ch. 56	HB 37
33-4-402	amended	Ch. 56	HB 37
33-4-411	amended	Ch. 56	HB 37
33-4-502	amended	Ch. 271	SB 133
33-4-503	amended	Ch. 271	SB 133
33-4-504	amended	Ch. 271	SB 133
33-4-506	amended	Ch. 56	HB 37
33-4-507	amended	Ch. 56	HB 37
33-4-508	amended	Ch. 56	HB 37
33-4-509	amended	Ch. 56	HB 37
33-5-202	amended	Ch. 56	HB 37
33-5-303	amended	Ch. 56	HB 37
33-5-403	amended	Ch. 56	HB 37
33-5-404	amended	Ch. 56	HB 37
33-5-405	amended	Ch. 56	HB 37
33-5-406	amended	Ch. 56	HB 37
33-5-407	amended	Ch. 56	HB 37
33-5-409	amended	Ch. 56	HB 37
33-5-412	amended	Ch. 56	HB 37
33-6-102	amended	Ch. 56	HB 37
33-6-401	amended	Ch. 56	HB 37
33-7-119	amended	Ch. 56	HB 37
33-7-120	amended	Ch. 56	HB 37
33-7-121	amended	Ch. 56	HB 37
33-7-208	amended	Ch. 56	HB 37
33-7-209	amended	Ch. 56	HB 37
33-7-216	amended	Ch. 56	HB 37
33-7-307	amended	Ch. 56	HB 37
33-7-411	amended	Ch. 56	HB 37
33-9-102	amended	Ch. 56	HB 37
33-10-108	amended	Ch. 56	HB 37
33-10-109	amended	Ch. 56	HB 37
33-10-115	amended	Ch. 56	HB 37
33-14-203	amended	Ch. 56	HB 37
33-14-204	amended	Ch. 56	HB 37
33-14-301	amended	Ch. 56	HB 37
33-14-302	amended	Ch. 56	HB 37
33-15-103	amended	Ch. 56	HB 37
33-15-201	amended	Ch. 56	HB 37
33-15-206	amended	Ch. 56	HB 37
33-15-327	amended	Ch. 56	HB 37
33-15-329	amended	Ch. 56	HB 37
33-15-402	amended	Ch. 56	HB 37
33-15-511	amended	Ch. 56	HB 37
33-15-512	amended	Ch. 56	HB 37
33-15-513	amended	Ch. 56	HB 37
33-15-514	amended	Ch. 56	HB 37
33-16-111	amended	Ch. 56	HB 37
33-16-112	amended	Ch. 56	HB 37
33-16-113	amended	Ch. 56	HB 37
33-16-114	amended	Ch. 56	HB 37
33-16-204	amended	Ch. 56	HB 37
33-16-206	amended	Ch. 56	HB 37
33-16-211	amended	Ch. 56	HB 37
33-16-223	amended	Ch. 56	HB 37
33-16-224	amended	Ch. 56	HB 37
33-16-305	amended	Ch. 56	HB 37
33-17-102	amended	Ch. 313	SB 127
33-17-211	amended	Ch. 271	SB 133

33-17-212	amended	Ch. 271	SB 133
	amended	Ch. 313	SB 127
33-17-214	amended	Ch. 271	SB 133
	amended	Ch. 313	SB 127
33-17-231	amended	Ch. 271	SB 133
33-17-301	amended	Ch. 271	SB 133
33-17-411	amended	Ch. 56	HB 37
33-17-513	amended	Ch. 56	HB 37
33-17-1001	amended	Ch. 271	SB 133
	amended	Ch. 313	SB 127
33-17-1002	amended	Ch. 271	SB 133
33-17-1103	amended	Ch. 271	SB 133
33-17-1203	amended	Ch. 313	SB 127
	amended	Ch. 398	SB 176
33-17-1204	amended	Ch. 271	SB 133
33-18-201	amended	Ch. 56	HB 37
33-18-203	amended	Ch. 56	HB 37
33-18-221	amended	Ch. 192	HB 291
33-18-222	amended	Ch. 192	HB 291
33-18-223	amended	Ch. 192	HB 291
33-18-224	amended	Ch. 192	HB 291
33-18-1003	amended	Ch. 56	HB 37
33-18-1004	amended	Ch. 56	HB 37
33-19-105	amended	Ch. 271	SB 133
33-19-205	amended	Ch. 56	HB 37
33-19-306	amended (voided by sec. 28, Ch. 413)	Ch. 387	HB 615
	amended	Ch. 413	SB 508
33-20-117	amended	Ch. 56	HB 37
33-20-606	amended	Ch. 271	SB 133
33-20-1002	amended	Ch. 56	HB 37
33-20-1103	amended	Ch. 56	HB 37
33-20-1105	amended	Ch. 56	HB 37
33-20-1208	amended	Ch. 56	HB 37
33-20-1303	amended	Ch. 271	SB 133
33-20-1307	amended	Ch. 271	SB 133
33-20-1308	amended	Ch. 272	SB 151
33-20-1314	amended	Ch. 272	SB 151
33-20-1318	enacted	Ch. 272	SB 151
33-21-104	amended	Ch. 56	HB 37
33-21-111	amended	Ch. 56	HB 37
33-21-113	amended	Ch. 56	HB 37
	amended	Ch. 271	SB 133
33-21-204	amended	Ch. 56	HB 37
33-22-101	amended	Ch. 271	SB 133
33-22-112	amended	Ch. 56	HB 37
33-22-123	enacted	Ch. 262	HB 544
33-22-125	amended	Ch. 56	HB 37
33-22-135	amended	Ch. 67	HB 151
33-22-137	enacted	Ch. 271	SB 133
33-22-142	amended	Ch. 271	SB 133
33-22-206	amended	Ch. 56	HB 37
33-22-208	amended	Ch. 56	HB 37
33-22-222	amended	Ch. 56	HB 37
33-22-224	amended	Ch. 56	HB 37
33-22-227	amended	Ch. 56	HB 37
33-22-232	amended	Ch. 271	SB 133
33-22-244	amended	Ch. 207	HB 264
33-22-302	amended	Ch. 271	SB 133
33-22-401	repealed	Ch. 143	SB 141
33-22-502	amended	Ch. 56	HB 37
33-22-507	amended	Ch. 56	HB 37
33-22-510	amended	Ch. 56	HB 37
33-22-515	enacted	Ch. 359	SB 234

33-22-521	amended	Ch. 207	HB 264
33-22-530	amended	Ch. 271	SB 133
33-22-602	amended	Ch. 271	SB 133
33-22-604	amended	Ch. 56	HB 37
33-22-706	amended	Ch. 359	SB 234
33-22-1001	amended	Ch. 56	HB 37
33-22-1602	amended	Ch. 56	HB 37
33-22-1809	amended	Ch. 271	SB 133
33-22-1816	amended	Ch. 87	SB 135
33-22-2004	amended	Ch. 87	SB 135
33-22-2006	amended	Ch. 87	SB 135
33-22-2007	amended	Ch. 87	SB 135
33-22-2008	amended	Ch. 87	SB 135
33-23-201	amended	Ch. 56	HB 37
33-23-213	amended	Ch. 56	HB 37
33-23-216	amended	Ch. 56	HB 37
33-24-102	amended	Ch. 56	HB 37
33-25-216	amended	Ch. 56	HB 37
33-25-302	amended	Ch. 56	HB 37
33-25-401	amended	Ch. 56	HB 37
33-26-101	amended	Ch. 56	HB 37
33-26-107	amended	Ch. 56	HB 37
33-28-102	amended	Ch. 28	HB 160
33-28-104	amended	Ch. 271	SB 133
33-28-105	amended	Ch. 28	HB 160
33-28-107	amended	Ch. 28	HB 160
33-28-201	amended	Ch. 28	HB 160
33-28-202	amended	Ch. 28	HB 160
33-28-207	amended	Ch. 28	HB 160
33-30-102	amended	Ch. 271	SB 133
33-30-105	amended	Ch. 56	HB 37
33-30-303	amended	Ch. 56	HB 37
33-30-1002	amended	Ch. 56	HB 37
33-30-1005	amended	Ch. 56	HB 37
33-30-1006	amended	Ch. 56	HB 37
33-30-1009	amended	Ch. 56	HB 37
33-30-1102	amended	Ch. 56	HB 37
33-31-102	amended	Ch. 195	HB 365
	amended	Ch. 271	SB 133
33-31-111	amended	Ch. 271	SB 133
	amended	Ch. 359	SB 234
33-31-201	amended	Ch. 56	HB 37
	amended	Ch. 195	HB 365
33-31-221	amended	Ch. 56	HB 37
33-31-311	amended	Ch. 271	SB 133
33-31-312	amended	Ch. 56	HB 37
33-31-402	amended	Ch. 56	HB 37
33-31-403	amended	Ch. 56	HB 37
33-31-404	amended	Ch. 56	HB 37
33-31-405	amended	Ch. 56	HB 37
33-35-306	amended	Ch. 359	SB 234
35-1-418	amended	Ch. 56	HB 37
35-1-421	amended	Ch. 56	HB 37
35-1-423	amended	Ch. 56	HB 37
35-1-424	amended	Ch. 56	HB 37
35-1-428	amended	Ch. 56	HB 37
35-1-435	amended	Ch. 56	HB 37
35-1-443	amended	Ch. 56	HB 37
35-1-451	amended	Ch. 56	HB 37
35-1-452	amended	Ch. 56	HB 37
35-1-453	amended	Ch. 56	HB 37
35-1-458	amended	Ch. 56	HB 37
35-1-461	amended	Ch. 56	HB 37

35-1-464	amended	Ch. 56	HB 37
35-1-535	amended	Ch. 56	HB 37
35-1-828	amended	Ch. 56	HB 37
35-1-830	amended	Ch. 56	HB 37
35-1-831	amended	Ch. 56	HB 37
35-1-832	amended	Ch. 56	HB 37
35-1-836	amended	Ch. 56	HB 37
35-1-837	amended	Ch. 56	HB 37
35-1-941	amended	Ch. 56	HB 37
35-1-943	amended	Ch. 56	HB 37
35-1-1310	amended	Ch. 56	HB 37
35-2-416	amended	Ch. 56	HB 37
35-2-441	amended	Ch. 56	HB 37
35-2-447	amended	Ch. 56	HB 37
35-2-448	amended	Ch. 56	HB 37
35-2-449	amended	Ch. 56	HB 37
35-2-453	amended	Ch. 56	HB 37
35-2-510	amended	Ch. 56	HB 37
35-2-722	amended	Ch. 56	HB 37
35-2-727	amended	Ch. 56	HB 37
35-2-732	amended	Ch. 56	HB 37
35-2-831	amended	Ch. 56	HB 37
35-3-205	amended	Ch. 56	HB 37
35-3-206	amended	Ch. 56	HB 37
35-3-207	amended	Ch. 56	HB 37
35-4-403	amended	Ch. 56	HB 37
35-4-404	amended	Ch. 56	HB 37
35-8-304	amended	Ch. 88	SB 150
35-9-201	amended	Ch. 56	HB 37
35-9-202	amended	Ch. 56	HB 37
35-9-203	amended	Ch. 56	HB 37
35-9-204	amended	Ch. 56	HB 37
35-9-205	amended	Ch. 56	HB 37
35-9-302	amended	Ch. 56	HB 37
35-9-503	amended	Ch. 56	HB 37
35-10-506	amended	Ch. 56	HB 37
35-11-201	amended	Ch. 56	HB 37
35-11-202	amended	Ch. 56	HB 37
35-12-504	amended	Ch. 56	HB 37
35-12-506	amended	Ch. 56	HB 37
35-12-804	amended	Ch. 56	HB 37
35-12-1002	amended	Ch. 56	HB 37
35-12-1006	amended	Ch. 56	HB 37
35-12-1102	amended	Ch. 56	HB 37
35-12-1103	amended	Ch. 56	HB 37
35-12-1105	amended	Ch. 56	HB 37
35-12-1203	amended	Ch. 56	HB 37
35-12-1404	amended	Ch. 56	HB 37
35-13-204	amended	Ch. 56	HB 37
35-13-205	amended	Ch. 56	HB 37
35-13-206	amended	Ch. 56	HB 37
35-13-207	amended	Ch. 56	HB 37
35-15-303	amended	Ch. 56	HB 37
35-15-403	amended	Ch. 56	HB 37
35-15-404	amended	Ch. 56	HB 37
35-15-505	amended	Ch. 56	HB 37
35-16-210	amended	Ch. 56	HB 37
35-16-211	amended	Ch. 56	HB 37
35-16-212	amended	Ch. 56	HB 37
35-16-302	amended	Ch. 56	HB 37
35-16-303	amended	Ch. 56	HB 37
35-16-304	amended	Ch. 56	HB 37
35-16-311	amended	Ch. 56	HB 37

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35-16-314	amended	Ch. 56	HB 37
35-17-206	amended	Ch. 56	HB 37
35-17-303	amended	Ch. 56	HB 37
35-17-311	amended	Ch. 56	HB 37
35-17-313	amended	Ch. 56	HB 37
35-17-401	amended	Ch. 56	HB 37
35-17-505	amended	Ch. 56	HB 37
35-18-312	amended	Ch. 56	HB 37
35-18-314	amended	Ch. 56	HB 37
35-18-405	amended	Ch. 56	HB 37
35-18-501	amended	Ch. 56	HB 37
35-20-101	amended	Ch. 56	HB 37
35-20-102	amended	Ch. 56	HB 37
35-20-103	amended	Ch. 56	HB 37
35-20-208	amended	Ch. 56	HB 37
35-20-209	amended	Ch. 56	HB 37
35-20-216	amended	Ch. 56	HB 37
35-20-302	amended	Ch. 56	HB 37
35-20-304	amended	Ch. 56	HB 37
35-21-810	amended	Ch. 208	HB 386
37-1-205	amended	Ch. 56	HB 37
37-1-316	amended	Ch. 109	HB 80
	amended	Ch. 158	SB 432
37-1-410	amended	Ch. 109	HB 80
37-2-102	amended	Ch. 56	HB 37
37-2-103	amended	Ch. 56	HB 37
37-2-104	amended	Ch. 166	HB 307
37-2-106	amended	Ch. 56	HB 37
37-2-201	amended	Ch. 56	HB 37
37-2-303	amended	Ch. 56	HB 37
37-2-304	enacted	Ch. 158	SB 432
37-2-311	amended	Ch. 56	HB 37
37-2-312	amended	Ch. 56	HB 37
37-3-102	amended	Ch. 109	HB 80
37-3-203	amended	Ch. 326	SB 401
37-3-208	amended	Ch. 326	SB 401
37-3-305	amended	Ch. 109	HB 80
37-3-306	amended	Ch. 109	HB 80
37-3-308	amended	Ch. 109	HB 80
37-3-310	amended	Ch. 56	HB 37
37-3-311	amended	Ch. 109	HB 80
37-3-321	amended	Ch. 56	HB 37
37-3-323	amended	Ch. 109	HB 80
37-3-325	amended	Ch. 56	HB 37
37-3-326	amended	Ch. 56	HB 37
37-3-328	amended	Ch. 56	HB 37
37-3-342	amended	Ch. 109	HB 80
37-3-401	amended	Ch. 326	SB 401
37-3-801	enacted	Ch. 385	HB 578
37-3-802	enacted	Ch. 385	HB 578
37-3-803	enacted	Ch. 385	HB 578
37-3-804	enacted	Ch. 385	HB 578
37-3-805	enacted	Ch. 385	HB 578
37-3-806	enacted	Ch. 385	HB 578
37-3-807	enacted	Ch. 385	HB 578
37-4-322	amended	Ch. 56	HB 37
37-4-325	amended	Ch. 56	HB 37
37-4-341	enacted	Ch. 315	SB 226
37-4-501	amended	Ch. 56	HB 37
	amended	Ch. 109	HB 80
37-4-511	amended	Ch. 56	HB 37
37-6-103	amended	Ch. 56	HB 37
37-6-301	amended	Ch. 56	HB 37

## CODE SECTIONS AFFECTED

37-7-101	amended	Ch. 293	SB 174
	amended	Ch. 299	HB 409
37-7-201	amended	Ch. 293	SB 174
37-7-306	enacted	Ch. 293	SB 174
37-7-506	amended	Ch. 56	HB 37
37-7-509	amended	Ch. 56	HB 37
37-7-1401	amended	Ch. 299	HB 409
37-7-1402	amended	Ch. 299	HB 409
37-7-1403	enacted	Ch. 299	HB 409
37-7-1404	enacted	Ch. 299	HB 409
37-7-1405	enacted	Ch. 299	HB 409
37-7-1408	amended	Ch. 299	HB 409
37-8-202	amended	Ch. 109	HB 80
37-9-201	amended	Ch. 56	HB 37
37-9-203	amended	Ch. 109	HB 80
37-9-301	amended	Ch. 56	HB 37
	amended	Ch. 109	HB 80
37-9-302	amended	Ch. 109	HB 80
37-9-305	amended	Ch. 109	HB 80
37-9-312	amended	Ch. 56	HB 37
	amended	Ch. 109	HB 80
37-10-302	amended	Ch. 109	HB 80
37-11-311	amended	Ch. 56	HB 37
37-12-324	amended	Ch. 56	HB 37
37-13-315	amended	Ch. 56	HB 37
37-14-307	amended	Ch. 56	HB 37
37-15-301	amended	Ch. 56	HB 37
37-16-102	amended	Ch. 34	SB 53
37-16-103	amended	Ch. 56	HB 37
37-16-202	amended	Ch. 109	HB 80
37-16-303	amended	Ch. 34	SB 53
37-16-304	amended	Ch. 34	SB 53
37-16-402	amended	Ch. 56	HB 37
37-16-405	amended	Ch. 109	HB 80
37-16-411	amended	Ch. 109	HB 80
37-16-413	amended	Ch. 109	HB 80
37-17-102	amended	Ch. 2	SB 7
37-17-104	amended	Ch. 453	SB 235
37-17-301	amended	Ch. 56	HB 37
37-17-313	amended	Ch. 56	HB 37
37-18-102	amended	Ch. 56	HB 37
37-18-302	amended	Ch. 109	HB 80
37-18-313	amended	Ch. 56	HB 37
37-18-501	amended	Ch. 56	HB 37
37-18-502	amended	Ch. 56	HB 37
37-19-101	amended	Ch. 208	HB 386
37-19-201	amended	Ch. 56	HB 37
37-19-901	enacted	Ch. 208	HB 386
37-19-902	enacted	Ch. 208	HB 386
37-19-903	enacted	Ch. 208	HB 386
37-19-904	enacted	Ch. 208	HB 386
37-19-905	enacted	Ch. 208	HB 386
37-19-906	enacted	Ch. 208	HB 386
37-19-907	enacted	Ch. 208	HB 386
37-19-908	enacted	Ch. 208	HB 386
37-19-909	enacted	Ch. 208	HB 386
37-21-101	repealed	Ch. 109	HB 80
37-21-201	repealed	Ch. 109	HB 80
37-21-301	amended	Ch. 56	HB 37
	repealed	Ch. 109	HB 80
37-21-302	repealed	Ch. 109	HB 80
37-21-405	repealed	Ch. 109	HB 80
37-21-406	repealed	Ch. 109	HB 80

37-22-102	amended	Ch. 199	HB 530
37-22-201	amended	Ch. 403	SB 271
37-22-401	amended	Ch. 56	HB 37
37-22-411	amended	Ch. 56	HB 37
37-23-102	amended	Ch. 453	SB 235
37-23-301	amended	Ch. 56	HB 37
37-24-301	amended	Ch. 56	HB 37
37-25-302	amended	Ch. 56	HB 37
37-25-303	amended	Ch. 109	HB 80
37-25-304	amended	Ch. 56	HB 37
37-26-401	amended	Ch. 56	HB 37
37-26-402	amended	Ch. 56	HB 37
37-29-201	amended	Ch. 109	HB 80
37-29-405	amended	Ch. 56	HB 37
37-33-401	enacted	Ch. 451	HB 662
37-33-402	enacted	Ch. 451	HB 662
37-33-403	enacted	Ch. 451	HB 662
37-33-404	enacted	Ch. 451	HB 662
37-33-405	enacted	Ch. 451	HB 662
37-33-501	enacted	Ch. 451	HB 662
37-33-502	enacted	Ch. 451	HB 662
37-33-503	enacted	Ch. 451	HB 662
37-33-504	enacted	Ch. 451	HB 662
37-35-201	amended	Ch. 109	HB 80
37-35-202	amended	Ch. 109	HB 80
37-36-202	amended	Ch. 109	HB 80
37-37-101	enacted	Ch. 403	SB 271
37-37-102	enacted	Ch. 403	SB 271
37-37-201	enacted	Ch. 403	SB 271
37-37-202	enacted	Ch. 403	SB 271
37-37-301	enacted	Ch. 403	SB 271
37-40-102	amended	Ch. 56	HB 37
37-40-301	amended	Ch. 56	HB 37
37-40-312	amended	Ch. 56	HB 37
37-42-201	amended	Ch. 56	HB 37
37-42-305	amended	Ch. 56	HB 37
37-43-102	amended	Ch. 56	HB 37
37-43-201	amended	Ch. 56	HB 37
37-43-302	amended	Ch. 56	HB 37
37-43-305	amended	Ch. 56	HB 37
37-43-306	amended	Ch. 56	HB 37
37-43-308	amended	Ch. 56	HB 37
37-47-302	amended	Ch. 109	HB 80
37-47-404	amended	Ch. 109	HB 80
37-50-101	amended	Ch. 109	HB 80
37-50-102	amended	Ch. 109	HB 80
37-50-203	amended	Ch. 109	HB 80
37-50-301	amended	Ch. 109	HB 80
37-50-314	amended	Ch. 109	HB 80
37-50-323	repealed	Ch. 109	HB 80
37-50-324	repealed	Ch. 109	HB 80
37-50-325	enacted	Ch. 109	HB 80
37-50-330	amended	Ch. 109	HB 80
37-50-335	amended	Ch. 109	HB 80
37-50-341	amended	Ch. 109	HB 80
37-50-401	amended	Ch. 109	HB 80
37-50-402	amended	Ch. 109	HB 80
37-50-403	amended	Ch. 56	HB 37
37-51-201	amended	Ch. 56	HB 37
37-51-323	amended	Ch. 56	HB 37
37-51-503	amended	Ch. 56	HB 37
37-51-504	amended	Ch. 56	HB 37
37-51-511	amended	Ch. 56	HB 37



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37-53-102	amended	Ch. 56	HB 37
	amended	Ch. 317	SB 269
37-53-104	amended	Ch. 317	SB 269
37-53-202	amended	Ch. 317	SB 269
37-53-203	amended	Ch. 317	SB 269
37-53-204	amended	Ch. 317	SB 269
37-53-205	amended	Ch. 317	SB 269
37-53-211	repealed	Ch. 317	SB 269
37-53-212	repealed	Ch. 317	SB 269
37-53-214	repealed	Ch. 317	SB 269
37-53-301	amended	Ch. 56	HB 37
	amended	Ch. 317	SB 269
37-53-302	amended	Ch. 317	SB 269
37-53-303	amended	Ch. 317	SB 269
37-53-304	amended	Ch. 317	SB 269
37-53-305	amended	Ch. 56	HB 37
37-53-307	amended	Ch. 317	SB 269
37-53-308	amended	Ch. 317	SB 269
37-53-401	repealed	Ch. 317	SB 269
37-53-402	repealed	Ch. 317	SB 269
37-53-403	amended	Ch. 56	HB 37
	repealed	Ch. 317	SB 269
37-53-504	repealed	Ch. 317	SB 269
37-53-505	repealed	Ch. 317	SB 269
37-54-412	amended	Ch. 56	HB 37
37-54-415	amended	Ch. 56	HB 37
37-54-416	amended	Ch. 56	HB 37
37-60-101	amended	Ch. 194	HB 354
37-60-103	amended	Ch. 194	HB 354
37-60-104	amended	Ch. 56	HB 37
37-60-105	amended	Ch. 194	HB 354
37-60-301	amended	Ch. 194	HB 354
37-60-304	amended	Ch. 194	HB 354
37-60-401	amended	Ch. 56	HB 37
37-60-404	amended	Ch. 56	HB 37
37-61-201	amended	Ch. 56	HB 37
37-61-203	amended	Ch. 56	HB 37
37-61-207	amended	Ch. 56	HB 37
37-61-210	amended	Ch. 56	HB 37
37-61-214	amended	Ch. 56	HB 37
37-61-215	amended	Ch. 443	HB 301
37-61-301	amended	Ch. 56	HB 37
37-61-309	amended	Ch. 56	HB 37
37-61-401	amended	Ch. 56	HB 37
37-61-402	amended	Ch. 56	HB 37
37-61-404	amended	Ch. 56	HB 37
37-61-405	amended	Ch. 56	HB 37
37-61-406	amended	Ch. 56	HB 37
37-61-407	amended	Ch. 56	HB 37
37-61-408	amended	Ch. 56	HB 37
37-61-412	amended	Ch. 56	HB 37
37-61-416	amended	Ch. 56	HB 37
37-61-417	amended	Ch. 56	HB 37
37-61-418	amended	Ch. 56	HB 37
37-61-420	amended	Ch. 56	HB 37
37-65-103	amended	Ch. 56	HB 37
37-65-301	amended	Ch. 56	HB 37
37-66-104	amended	Ch. 56	HB 37
37-66-105	amended	Ch. 56	HB 37
37-66-302	amended	Ch. 56	HB 37
37-66-303	amended	Ch. 56	HB 37
37-66-308	amended	Ch. 56	HB 37
37-68-101	amended	Ch. 257	HB 374

37-68-102	amended	Ch. 257	HB 374
37-68-103	amended	Ch. 56	HB 37
	amended	Ch. 257	HB 374
37-68-201	amended	Ch. 257	HB 374
37-68-301	amended	Ch. 257	HB 374
37-68-302	amended	Ch. 257	HB 374
37-68-303	amended	Ch. 56	HB 37
	amended	Ch. 257	HB 374
37-68-304	amended	Ch. 257	HB 374
37-68-305	amended	Ch. 257	HB 374
37-68-307	repealed	Ch. 257	HB 374
37-68-311	amended	Ch. 257	HB 374
37-68-314	amended	Ch. 56	HB 37
	repealed	Ch. 257	HB 374
37-68-315	amended	Ch. 257	HB 374
37-68-322	amended	Ch. 257	HB 374
37-69-103	amended	Ch. 56	HB 37
37-69-303	amended	Ch. 56	HB 37
37-69-324	amended	Ch. 56	HB 37
37-72-203	amended	Ch. 56	HB 37
37-72-301	amended	Ch. 56	HB 37
39-1-103	amended	Ch. 56	HB 37
39-2-102	amended	Ch. 56	HB 37
39-2-104	enacted	Ch. 185	HB 144
39-2-303	amended	Ch. 56	HB 37
39-2-401	amended	Ch. 56	HB 37
39-2-402	amended	Ch. 56	HB 37
39-2-403	amended	Ch. 56	HB 37
39-2-404	amended	Ch. 56	HB 37
39-2-405	amended	Ch. 56	HB 37
39-2-406	amended	Ch. 56	HB 37
39-2-407	amended	Ch. 56	HB 37
39-2-408	amended	Ch. 56	HB 37
39-2-409	amended	Ch. 56	HB 37
39-2-410	amended	Ch. 56	HB 37
39-2-411	amended	Ch. 56	HB 37
39-2-501	amended	Ch. 56	HB 37
39-2-502	amended	Ch. 56	HB 37
39-2-601	amended	Ch. 56	HB 37
39-2-605	amended	Ch. 56	HB 37
39-2-606	amended	Ch. 56	HB 37
39-2-701	amended	Ch. 56	HB 37
39-2-702	amended	Ch. 56	HB 37
39-2-703	amended	Ch. 56	HB 37
39-2-704	amended	Ch. 56	HB 37
39-2-802	amended	Ch. 56	HB 37
39-2-803	amended	Ch. 56	HB 37
39-3-102	amended	Ch. 56	HB 37
39-3-103	amended	Ch. 56	HB 37
39-3-204	amended	Ch. 26	HB 101
39-3-205	amended	Ch. 26	HB 101
39-3-209	amended	Ch. 56	HB 37
39-3-210	amended	Ch. 56	HB 37
39-3-211	amended	Ch. 56	HB 37
39-3-214	amended	Ch. 56	HB 37
39-3-215	amended	Ch. 56	HB 37
39-3-404	amended	Ch. 56	HB 37
39-3-503	amended	Ch. 56	HB 37
39-3-506	amended	Ch. 56	HB 37
39-3-507	amended	Ch. 56	HB 37
39-3-508	amended	Ch. 56	HB 37
39-3-509	amended	Ch. 56	HB 37
39-3-511	amended	Ch. 56	HB 37

## CODE SECTIONS AFFECTED

39-3-512	amended	Ch. 56	HB 37
39-3-513	amended	Ch. 56	HB 37
39-3-516	amended	Ch. 56	HB 37
39-3-517	amended	Ch. 56	HB 37
39-3-519	amended	Ch. 56	HB 37
39-4-101	amended	Ch. 56	HB 37
39-4-102	amended	Ch. 56	HB 37
39-4-103	amended	Ch. 56	HB 37
39-4-107	amended	Ch. 56	HB 37
39-4-110	amended	Ch. 56	HB 37
39-4-112	amended	Ch. 56	HB 37
39-8-202	amended	Ch. 112	HB 119
39-29-111	amended	Ch. 56	HB 37
39-30-206	amended	Ch. 56	HB 37
39-30-207	amended	Ch. 56	HB 37
39-31-204	amended	Ch. 56	HB 37
39-31-305	amended	Ch. 56	HB 37
39-31-311	amended	Ch. 56	HB 37
39-31-401	amended	Ch. 56	HB 37
39-31-402	amended	Ch. 56	HB 37
39-31-404	amended	Ch. 56	HB 37
39-31-406	amended	Ch. 56	HB 37
39-32-102	amended	Ch. 56	HB 37
39-32-109	amended	Ch. 56	HB 37
39-33-101	amended	Ch. 56	HB 37
39-33-102	amended	Ch. 56	HB 37
39-33-103	amended	Ch. 56	HB 37
39-33-202	amended	Ch. 56	HB 37
39-34-103	amended	Ch. 56	HB 37
39-51-102	amended	Ch. 56	HB 37
39-51-201	amended	Ch. 25	HB 76
	amended	Ch. 489	HB 645
39-51-206	amended	Ch. 56	HB 37
39-51-301	amended	Ch. 25	HB 76
39-51-305	amended	Ch. 56	HB 37
39-51-309	amended	Ch. 56	HB 37
39-51-310	amended	Ch. 25	HB 76
39-51-403	amended	Ch. 2	SB 7
	amended	Ch. 88	SB 150
39-51-404	amended	Ch. 25	HB 76
39-51-406	amended	Ch. 10	SB 29
	amended	Ch. 25	HB 76
39-51-407	amended	Ch. 25	HB 76
39-51-408	amended	Ch. 25	HB 76
39-51-409	amended	Ch. 435	HB 10
39-51-501	amended	Ch. 88	SB 150
39-51-503	amended	Ch. 2	SB 7
	amended	Ch. 25	HB 76
39-51-504	amended	Ch. 25	HB 76
39-51-601	amended	Ch. 56	HB 37
39-51-602	amended	Ch. 25	HB 76
39-51-603	amended	Ch. 88	SB 150
39-51-1105	amended	Ch. 25	HB 76
	amended	Ch. 88	SB 150
39-51-1121	amended	Ch. 25	HB 76
39-51-1125	amended	Ch. 25	HB 76
39-51-1212	amended	Ch. 25	HB 76
39-51-1213	amended	Ch. 25	HB 76
39-51-1215	amended	Ch. 56	HB 37
39-51-1216	amended	Ch. 56	HB 37
	amended	Ch. 88	SB 150
39-51-1301	amended	Ch. 88	SB 150

39-51-1302	amended	Ch. 25	HB 76
	amended	Ch. 56	HB 37
39-51-1306	amended	Ch. 56	HB 37
39-51-2101	amended	Ch. 88	SB 150
39-51-2104	amended	Ch. 88	SB 150
39-51-2107	amended	Ch. 56	HB 37
39-51-2112	enacted	Ch. 88	SB 150
39-51-2113	enacted	Ch. 88	SB 150
39-51-2115	enacted	Ch. 489	HB 645
39-51-2116	enacted	Ch. 489	HB 645
39-51-2201	amended	Ch. 25	HB 76
39-51-2304	amended	Ch. 25	HB 76
39-51-2305	amended	Ch. 56	HB 37
39-51-2306	amended	Ch. 25	HB 76
39-51-2307	amended	Ch. 88	SB 150
39-51-2401	amended	Ch. 25	HB 76
	amended	Ch. 56	HB 37
39-51-2402	amended	Ch. 88	SB 150
39-51-2403	amended	Ch. 88	SB 150
39-51-2405	amended	Ch. 25	HB 76
	amended	Ch. 88	SB 150
39-51-2408	amended	Ch. 25	HB 76
39-51-2509	amended	Ch. 56	HB 37
39-51-3101	amended	Ch. 56	HB 37
39-51-3102	amended	Ch. 56	HB 37
39-51-3103	amended	Ch. 56	HB 37
39-51-3104	amended	Ch. 56	HB 37
	repealed	Ch. 88	SB 150
39-51-3201	amended	Ch. 88	SB 150
39-51-3202	amended	Ch. 88	SB 150
39-51-3203	amended	Ch. 56	HB 37
39-51-3204	amended	Ch. 25	HB 76
39-51-3206	amended	Ch. 88	SB 150
39-51-3207	amended	Ch. 88	SB 150
39-71-107	amended	Ch. 112	HB 119
39-71-117	amended	Ch. 112	HB 119
39-71-118	amended	Ch. 112	HB 119
	amended	Ch. 312	SB 84
39-71-123	amended	Ch. 112	HB 119
39-71-201	amended	Ch. 27	HB 138
	amended	Ch. 112	HB 119
39-71-307	amended	Ch. 112	HB 119
39-71-320	enacted	Ch. 125	HB 283
39-71-401	amended	Ch. 234	HB 378
	amended	Ch. 450	HB 598
39-71-403	amended	Ch. 17	HB 126
39-71-411	amended	Ch. 56	HB 37
39-71-412	amended	Ch. 56	HB 37
39-71-417	amended	Ch. 120	HB 204
39-71-441	enacted	Ch. 112	HB 119
39-71-501	amended	Ch. 112	HB 119
39-71-506	amended	Ch. 112	HB 119
39-71-509	amended	Ch. 56	HB 37
39-71-515	amended	Ch. 56	HB 37
39-71-518	amended	Ch. 56	HB 37
39-71-520	amended	Ch. 112	HB 119
39-71-541	enacted	Ch. 112	HB 119
39-71-601	amended	Ch. 112	HB 119
39-71-613	amended	Ch. 112	HB 119
39-71-704	amended	Ch. 112	HB 119
39-71-711	amended	Ch. 112	HB 119
39-71-712	amended	Ch. 112	HB 119
39-71-726	amended	Ch. 56	HB 37

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39-71-727	amended	Ch. 112	HB 119
39-71-743	amended	Ch. 112	HB 119
39-71-905	amended	Ch. 112	HB 119
39-71-915	amended	Ch. 112	HB 119
39-71-1503	amended	Ch. 27	HB 138
39-71-2102	amended	Ch. 56	HB 37
39-71-2115	enacted	Ch. 112	HB 119
39-71-2311	amended	Ch. 218	SB 192
39-71-2331	enacted	Ch. 218	SB 192
39-71-2332	enacted	Ch. 218	SB 192
39-71-2339	amended	Ch. 112	HB 119
39-71-2352	amended	Ch. 2	SB 7
39-71-2401	amended	Ch. 56	HB 37
39-71-2901	amended	Ch. 20	SB 42
39-71-2905	amended	Ch. 112	HB 119
39-71-2910	amended	Ch. 56	HB 37
39-71-2914	amended	Ch. 56	HB 37
39-73-102	amended	Ch. 56	HB 37
39-73-104	amended	Ch. 2	SB 7
	amended	Ch. 112	HB 119
39-73-105	amended	Ch. 56	HB 37
39-73-108	amended	Ch. 56	HB 37
39-73-111	amended	Ch. 56	HB 37
39-74-101	enacted	Ch. 238	HB 517
39-74-102	enacted	Ch. 238	HB 517
39-74-103	enacted	Ch. 238	HB 517
39-74-104	enacted	Ch. 238	HB 517
39-74-105	enacted	Ch. 238	HB 517
40-1-201	amended	Ch. 56	HB 37
40-1-207	amended	Ch. 56	HB 37
40-1-311	amended	Ch. 249	SB 311
40-1-312	amended	Ch. 56	HB 37
40-1-404	amended	Ch. 56	HB 37
40-2-103	amended	Ch. 56	HB 37
40-2-104	amended	Ch. 56	HB 37
40-2-106	amended	Ch. 327	SB 441
40-2-107	amended	Ch. 56	HB 37
40-2-108	amended	Ch. 56	HB 37
40-2-109	amended	Ch. 56	HB 37
40-2-202	amended	Ch. 56	HB 37
40-2-203	amended	Ch. 56	HB 37
40-2-205	amended	Ch. 56	HB 37
40-2-206	amended	Ch. 56	HB 37
40-2-207	amended	Ch. 56	HB 37
40-2-210	amended	Ch. 56	HB 37
40-2-302	amended	Ch. 56	HB 37
40-3-113	amended	Ch. 56	HB 37
40-3-116	amended	Ch. 56	HB 37
40-3-124	amended	Ch. 56	HB 37
40-3-125	amended	Ch. 56	HB 37
40-4-131	amended	Ch. 56	HB 37
40-4-203	amended	Ch. 56	HB 37
40-4-207	amended	Ch. 56	HB 37
40-4-211	amended	Ch. 210	HB 403
40-4-212	amended	Ch. 356	SB 108
40-4-216	amended	Ch. 356	SB 108
40-4-219	amended	Ch. 356	SB 108
40-4-228	amended	Ch. 356	SB 108
40-4-234	amended	Ch. 356	SB 108
40-5-214	amended	Ch. 56	HB 37
40-5-225	amended	Ch. 184	HB 133
40-5-303	amended	Ch. 223	HB 95
40-5-403	amended	Ch. 184	HB 133

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40-5-419	enacted	Ch. 184	HB 133
40-5-601	amended	Ch. 184	HB 133
	amended	Ch. 223	HB 95
40-5-701	amended	Ch. 223	HB 95
40-5-907	amended	Ch. 184	HB 133
40-6-104	amended	Ch. 56	HB 37
40-6-114	amended	Ch. 56	HB 37
40-6-119	amended	Ch. 154	SB 197
40-6-202	amended	Ch. 56	HB 37
40-6-214	amended	Ch. 56	HB 37
40-6-217	amended	Ch. 56	HB 37
40-6-235	amended	Ch. 56	HB 37
40-6-236	amended	Ch. 56	HB 37
40-6-601	amended	Ch. 210	HB 403
40-6-602	amended	Ch. 210	HB 403
40-9-102	amended	Ch. 92	SB 182
40-9-103	enacted	Ch. 220	SB 405
41-1-201	amended	Ch. 56	HB 37
41-1-202	amended	Ch. 56	HB 37
41-1-302	amended	Ch. 56	HB 37
41-1-303	amended	Ch. 56	HB 37
41-1-305	amended	Ch. 56	HB 37
41-1-306	amended	Ch. 56	HB 37
	amended	Ch. 179	SB 340
41-1-406	amended	Ch. 56	HB 37
41-1-407	amended	Ch. 56	HB 37
41-1-501	amended	Ch. 179	SB 340
41-1-502	enacted	Ch. 179	SB 340
41-1-503	enacted	Ch. 179	SB 340
41-2-103	amended	Ch. 2	SB 7
41-3-101	amended	Ch. 196	HB 397
41-3-102	amended	Ch. 179	SB 340
41-3-205	amended	Ch. 2	SB 7
41-3-437	amended	Ch. 210	HB 403
41-3-438	amended	Ch. 179	SB 340
	amended	Ch. 210	HB 403
41-3-439	amended	Ch. 210	HB 403
41-4-101	amended	Ch. 56	HB 37
41-5-103	amended	Ch. 2	SB 7
41-5-105	amended	Ch. 56	HB 37
41-5-215	amended	Ch. 54	SB 256
	amended	Ch. 373	HB 55
41-5-216	amended	Ch. 54	SB 256
41-5-322	amended	Ch. 2	SB 7
41-5-331	amended	Ch. 2	SB 7
	amended	Ch. 37	SB 91
41-5-333	amended	Ch. 37	SB 91
41-5-1201	amended	Ch. 2	SB 7
41-5-1202	amended	Ch. 2	SB 7
41-5-1203	amended	Ch. 2	SB 7
41-5-1204	amended	Ch. 2	SB 7
41-5-1205	amended	Ch. 2	SB 7
41-5-1301	amended	Ch. 2	SB 7
41-5-1302	amended	Ch. 2	SB 7
41-5-1304	amended	Ch. 2	SB 7
41-5-1401	amended	Ch. 2	SB 7
41-5-1404	amended	Ch. 56	HB 37
41-5-1411	amended	Ch. 56	HB 37
41-5-1432	amended	Ch. 2	SB 7
41-5-1501	amended	Ch. 2	SB 7
41-5-1511	amended	Ch. 2	SB 7
41-5-1512	amended	Ch. 2	SB 7
41-5-1513	amended	Ch. 373	HB 55

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41-5-1525	amended	Ch. 223	HB 95
41-5-1701	amended	Ch. 2	SB 7
41-5-1703	amended	Ch. 2	SB 7
41-5-1706	amended	Ch. 2	SB 7
41-5-1901	amended	Ch. 56	HB 37
41-6-106	amended	Ch. 56	HB 37
42-2-216	amended	Ch. 56	HB 37
42-2-409	amended	Ch. 151	HB 367
42-4-211	enacted	Ch. 151	HB 367
42-7-105	amended	Ch. 151	HB 367
44-1-104	amended	Ch. 56	HB 37
44-1-201	amended	Ch. 56	HB 37
44-1-303	amended	Ch. 2	SB 7
	amended	Ch. 56	HB 37
44-1-503	amended	Ch. 56	HB 37
44-1-504	amended	Ch. 7	HB 13
	amended	Ch. 426	SB 117
44-1-512	amended	Ch. 56	HB 37
44-1-513	amended	Ch. 56	HB 37
44-1-516	amended	Ch. 56	HB 37
44-1-611	amended	Ch. 56	HB 37
44-1-801	amended	Ch. 56	HB 37
44-1-803	amended	Ch. 56	HB 37
44-1-805	amended	Ch. 56	HB 37
44-1-806	amended	Ch. 90	SB 160
44-1-808	amended	Ch. 56	HB 37
44-1-902	amended	Ch. 90	SB 160
44-1-903	amended	Ch. 56	HB 37
44-1-909	enacted	Ch. 90	SB 160
44-1-910	amended	Ch. 56	HB 37
44-1-1103	amended	Ch. 56	HB 37
44-2-301	amended	Ch. 56	HB 37
44-2-313	amended	Ch. 56	HB 37
44-2-402	amended	Ch. 56	HB 37
44-3-213	amended	Ch. 56	HB 37
44-3-404	amended	Ch. 56	HB 37
44-4-111	amended	Ch. 56	HB 37
44-4-206	amended	Ch. 56	HB 37
44-4-903	amended	Ch. 56	HB 37
44-4-904	amended	Ch. 56	HB 37
44-4-1101	enacted	Ch. 103	HB 39
44-4-1102	enacted	Ch. 103	HB 39
44-5-215	amended	Ch. 56	HB 37
44-11-102	amended	Ch. 56	HB 37
44-11-201	amended	Ch. 56	HB 37
44-11-304	amended	Ch. 56	HB 37
44-12-102	amended	Ch. 56	HB 37
44-12-103	amended	Ch. 56	HB 37
44-12-204	amended	Ch. 56	HB 37
44-12-205	amended	Ch. 56	HB 37
45-1-205	amended	Ch. 348	HB 628
45-2-101	amended	Ch. 473	SB 476
45-2-202	amended	Ch. 56	HB 37
45-2-203	amended	Ch. 56	HB 37
45-2-212	amended	Ch. 56	HB 37
45-2-213	amended	Ch. 56	HB 37
45-2-301	amended	Ch. 56	HB 37
45-2-302	amended	Ch. 56	HB 37
45-2-303	amended	Ch. 56	HB 37
45-2-311	amended	Ch. 400	SB 214
45-2-312	amended	Ch. 56	HB 37
45-3-102	amended	Ch. 56	HB 37

45-3-103	amended	Ch. 56	HB 37
	amended	Ch. 332	HB 228
45-3-104	amended	Ch. 56	HB 37
45-3-105	amended	Ch. 56	HB 37
45-3-106	amended	Ch. 56	HB 37
45-3-107	amended	Ch. 56	HB 37
45-3-108	amended	Ch. 56	HB 37
45-3-109	amended	Ch. 56	HB 37
45-3-110	enacted	Ch. 332	HB 228
45-3-111	enacted	Ch. 332	HB 228
45-3-112	enacted	Ch. 332	HB 228
45-4-101	amended	Ch. 56	HB 37
45-4-102	amended	Ch. 56	HB 37
45-4-103	amended	Ch. 56	HB 37
45-5-203	amended	Ch. 56	HB 37
45-5-204	amended	Ch. 56	HB 37
45-5-221	amended	Ch. 56	HB 37
45-5-301	amended	Ch. 56	HB 37
45-5-511	amended	Ch. 56	HB 37
45-5-604	amended	Ch. 56	HB 37
45-5-611	amended	Ch. 56	HB 37
45-5-612	amended	Ch. 56	HB 37
45-5-625	amended	Ch. 198	HB 407
45-6-101	amended	Ch. 121	HB 223
	amended	Ch. 473	SB 476
45-6-102	amended	Ch. 56	HB 37
45-6-103	amended	Ch. 473	SB 476
45-6-104	amended	Ch. 473	SB 476
45-6-106	enacted	Ch. 466	SB 171
45-6-201	amended	Ch. 56	HB 37
45-6-202	amended	Ch. 56	HB 37
45-6-203	amended	Ch. 121	HB 223
45-6-204	amended	Ch. 56	HB 37
	amended	Ch. 263	HB 574
45-6-205	amended	Ch. 56	HB 37
45-6-301	amended	Ch. 400	SB 214
	amended	Ch. 473	SB 476
45-6-302	amended	Ch. 56	HB 37
45-6-305	amended	Ch. 56	HB 37
45-6-308	amended	Ch. 56	HB 37
45-6-309	amended	Ch. 473	SB 476
45-6-311	amended	Ch. 473	SB 476
45-6-312	amended	Ch. 2	SB 7
	amended	Ch. 473	SB 476
45-6-313	amended	Ch. 473	SB 476
45-6-314	amended	Ch. 56	HB 37
45-6-315	amended	Ch. 56	HB 37
45-6-316	amended	Ch. 473	SB 476
45-6-317	amended	Ch. 473	SB 476
45-6-318	amended	Ch. 56	HB 37
45-6-319	amended	Ch. 56	HB 37
45-6-325	amended	Ch. 473	SB 476
45-6-326	amended	Ch. 56	HB 37
45-6-327	amended	Ch. 56	HB 37
	amended	Ch. 400	SB 214
45-6-328	enacted	Ch. 400	SB 214
45-6-329	enacted	Ch. 400	SB 214
45-6-332	amended	Ch. 473	SB 476
45-6-341	amended	Ch. 473	SB 476
45-7-101	amended	Ch. 56	HB 37
45-7-103	amended	Ch. 56	HB 37
	amended	Ch. 98	SB 331
45-7-104	amended	Ch. 56	HB 37



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45-7-201	amended	Ch. 56	HB 37
45-7-203	amended	Ch. 56	HB 37
45-7-204	amended	Ch. 56	HB 37
45-7-205	amended	Ch. 56	HB 37
45-7-206	amended	Ch. 56	HB 37
45-7-207	amended	Ch. 56	HB 37
45-7-210	amended	Ch. 473	SB 476
45-7-301	amended	Ch. 56	HB 37
45-7-303	amended	Ch. 56	HB 37
45-7-304	amended	Ch. 56	HB 37
45-7-305	amended	Ch. 56	HB 37
45-7-308	amended	Ch. 56	HB 37
45-7-309	amended	Ch. 56	HB 37
45-7-401	amended	Ch. 56	HB 37
45-7-501	amended	Ch. 56	HB 37
45-8-101	amended	Ch. 56	HB 37
45-8-103	amended	Ch. 56	HB 37
45-8-104	amended	Ch. 56	HB 37
45-8-106	amended	Ch. 56	HB 37
45-8-111	amended	Ch. 56	HB 37
45-8-112	amended	Ch. 56	HB 37
45-8-113	amended	Ch. 56	HB 37
45-8-114	amended	Ch. 56	HB 37
45-8-115	amended	Ch. 56	HB 37
45-8-201	amended	Ch. 56	HB 37
45-8-203	amended	Ch. 56	HB 37
45-8-207	amended	Ch. 56	HB 37
45-8-210	amended	Ch. 56	HB 37
45-8-214	amended	Ch. 56	HB 37
45-8-215	amended	Ch. 56	HB 37
45-8-316	amended	Ch. 56	HB 37
45-8-321	amended	Ch. 332	HB 228
45-8-325	amended	Ch. 56	HB 37
45-8-327	amended	Ch. 56	HB 37
45-8-331	amended	Ch. 56	HB 37
45-8-333	amended	Ch. 56	HB 37
45-8-334	amended	Ch. 56	HB 37
45-8-335	amended	Ch. 56	HB 37
45-8-336	amended	Ch. 56	HB 37
45-8-339	amended	Ch. 56	HB 37
45-8-340	amended	Ch. 56	HB 37
45-8-405	amended	Ch. 56	HB 37
45-9-104	amended	Ch. 56	HB 37
45-9-105	amended	Ch. 56	HB 37
45-9-106	amended	Ch. 56	HB 37
45-9-114	amended	Ch. 56	HB 37
45-9-115	amended	Ch. 56	HB 37
45-9-121	amended	Ch. 56	HB 37
45-9-127	amended	Ch. 56	HB 37
45-10-102	amended	Ch. 56	HB 37
45-10-103	amended	Ch. 156	SB 325
45-10-105	amended	Ch. 56	HB 37
46-1-1112	amended	Ch. 3	SB 10
46-2-101	amended	Ch. 56	HB 37
46-4-101	amended	Ch. 56	HB 37
46-4-110	amended	Ch. 56	HB 37
46-4-111	amended	Ch. 56	HB 37
46-4-113	amended	Ch. 56	HB 37
46-4-202	amended	Ch. 56	HB 37
46-4-205	amended	Ch. 56	HB 37
46-4-207	amended	Ch. 56	HB 37
46-4-307	enacted	Ch. 198	HB 407
46-4-406	enacted	Ch. 214	HB 534

46-4-407	enacted	Ch. 214	HB 534
46-4-408	enacted	Ch. 214	HB 534
46-4-409	enacted	Ch. 214	HB 534
46-4-410	enacted	Ch. 214	HB 534
46-4-411	enacted	Ch. 214	HB 534
46-5-313	enacted	Ch. 332	HB 228
46-6-310	amended	Ch. 360	SB 281
46-6-412	amended	Ch. 56	HB 37
46-6-502	amended	Ch. 332	HB 228
46-7-101	amended	Ch. 56	HB 37
46-8-113	amended	Ch. 467	SB 263
46-9-111	amended	Ch. 56	HB 37
46-9-203	amended	Ch. 56	HB 37
46-9-206	amended	Ch. 56	HB 37
46-9-301	amended	Ch. 56	HB 37
46-9-401	amended	Ch. 360	SB 281
46-9-502	amended	Ch. 56	HB 37
46-11-301	amended	Ch. 56	HB 37
46-11-303	amended	Ch. 56	HB 37
46-11-313	amended	Ch. 56	HB 37
46-11-331	amended	Ch. 56	HB 37
46-11-332	amended	Ch. 56	HB 37
46-11-401	amended	Ch. 56	HB 37
46-12-104	amended	Ch. 56	HB 37
46-12-203	amended	Ch. 56	HB 37
46-14-311	amended	Ch. 268	SB 96
46-16-131	enacted	Ch. 332	HB 228
46-16-603	amended	Ch. 56	HB 37
46-16-606	amended	Ch. 56	HB 37
46-17-302	amended	Ch. 56	HB 37
	amended	Ch. 335	HB 269
46-18-111	amended	Ch. 268	SB 96
46-18-112	amended	Ch. 53	SB 35
46-18-201	amended	Ch. 128	HB 308
46-18-207	amended	Ch. 39	SB 103
46-18-230	enacted	Ch. 180	SB 341
46-18-232	amended	Ch. 56	HB 37
	amended	Ch. 180	SB 341
46-18-233	amended	Ch. 56	HB 37
46-18-236	amended	Ch. 374	HB 108
46-18-241	amended	Ch. 66	HB 149
	amended	Ch. 374	HB 108
46-18-246	amended	Ch. 66	HB 149
46-18-250	amended	Ch. 374	HB 108
46-18-251	amended	Ch. 374	HB 108
46-18-702	amended	Ch. 56	HB 37
46-18-703	amended	Ch. 56	HB 37
46-18-705	amended	Ch. 56	HB 37
46-19-101	amended	Ch. 53	SB 35
46-19-102	amended	Ch. 327	SB 441
46-19-203	amended	Ch. 56	HB 37
46-19-204	amended	Ch. 56	HB 37
46-19-301	amended	Ch. 56	HB 37
46-19-401	amended	Ch. 56	HB 37
46-20-204	amended	Ch. 56	HB 37
46-20-707	amended	Ch. 56	HB 37
46-21-111	amended	Ch. 221	SB 447
46-21-201	amended	Ch. 51	HB 205
46-22-103	amended	Ch. 56	HB 37
46-23-207	amended	Ch. 56	HB 37
46-23-316	amended	Ch. 56	HB 37
46-23-508	amended	Ch. 2	SB 7
46-23-1020	enacted	Ch. 228	HB 177

## CODE SECTIONS AFFECTED

46-23-1022	amended	Ch. 56	HB 37
46-23-1031	amended	Ch. 66	HB 149
46-24-204	amended	Ch. 56	HB 37
46-30-101	amended	Ch. 56	HB 37
46-30-202	amended	Ch. 56	HB 37
46-30-211	amended	Ch. 56	HB 37
46-30-212	amended	Ch. 56	HB 37
46-30-213	amended	Ch. 56	HB 37
46-30-214	amended	Ch. 56	HB 37
46-30-215	amended	Ch. 56	HB 37
46-30-217	amended	Ch. 56	HB 37
46-30-218	amended	Ch. 56	HB 37
46-30-225	amended	Ch. 56	HB 37
46-30-226	amended	Ch. 56	HB 37
46-30-227	amended	Ch. 56	HB 37
46-30-228	amended	Ch. 56	HB 37
46-30-229	amended	Ch. 56	HB 37
46-30-301	amended	Ch. 56	HB 37
46-30-302	amended	Ch. 56	HB 37
46-30-303	amended	Ch. 56	HB 37
46-30-304	amended	Ch. 56	HB 37
46-30-305	amended	Ch. 56	HB 37
46-30-402	amended	Ch. 56	HB 37
46-30-403	amended	Ch. 56	HB 37
46-30-404	amended	Ch. 56	HB 37
46-30-405	amended	Ch. 56	HB 37
46-30-412	amended	Ch. 56	HB 37
46-31-101	amended	Ch. 56	HB 37
46-31-204	amended	Ch. 56	HB 37
47-1-111	amended	Ch. 467	SB 263
47-1-201	amended	Ch. 486	HB 676
49-1-101	amended	Ch. 56	HB 37
49-1-202	amended	Ch. 56	HB 37
49-2-202	amended	Ch. 56	HB 37
49-2-301	amended	Ch. 56	HB 37
49-2-310	amended	Ch. 56	HB 37
49-2-311	amended	Ch. 56	HB 37
49-3-209	amended	Ch. 56	HB 37
49-4-102	amended	Ch. 56	HB 37
49-4-302	amended	Ch. 233	HB 373
49-4-304	amended	Ch. 233	HB 373
49-4-502	amended	Ch. 56	HB 37
49-4-503	amended	Ch. 56	HB 37
49-4-504	amended	Ch. 56	HB 37
49-4-505	amended	Ch. 56	HB 37
49-4-508	amended	Ch. 56	HB 37
49-4-509	amended	Ch. 56	HB 37
50-2-120	amended	Ch. 56	HB 37
50-2-121	amended	Ch. 56	HB 37
50-2-122	amended	Ch. 56	HB 37
50-2-124	amended	Ch. 56	HB 37
50-4-510	enacted	Ch. 206	HB 263
50-4-511	enacted	Ch. 206	HB 263
50-4-512	enacted	Ch. 206	HB 263
50-4-516	enacted	Ch. 207	HB 264
50-4-517	enacted	Ch. 207	HB 264
50-4-518	enacted	Ch. 207	HB 264
50-4-805	amended	Ch. 336	HB 280
50-5-101	amended	Ch. 2	SB 7
	amended	Ch. 456	SB 446
50-5-117	amended	Ch. 310	SB 26
50-5-121	enacted	Ch. 456	SB 446
50-5-122	enacted	Ch. 456	SB 446

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50-5-207	amended	Ch. 310	SB 26
50-5-212	amended	Ch. 56	HB 37
50-5-245	amended	Ch. 456	SB 446
	amended (voided by sec. 7, Ch. 456)	Ch. 471	SB 439
50-5-246	enacted	Ch. 456	SB 446
50-5-1105	amended	Ch. 56	HB 37
50-5-1106	amended	Ch. 56	HB 37
50-6-104	amended	Ch. 150	HB 93
50-6-105	enacted	Ch. 150	HB 93
50-6-201	amended	Ch. 150	HB 93
50-6-202(3)	enacted	Ch. 82	SB 77
50-6-203	amended	Ch. 150	HB 93
50-6-302	amended	Ch. 150	HB 93
	amended	Ch. 354	SB 79
50-6-313	amended	Ch. 56	HB 37
50-6-317	amended	Ch. 56	HB 37
	amended	Ch. 150	HB 93
50-6-322	enacted	Ch. 354	SB 79
50-6-323	amended	Ch. 150	HB 93
50-6-503	amended	Ch. 2	SB 7
50-9-103	amended	Ch. 56	HB 37
50-11-101	enacted	Ch. 126	HB 288
50-11-102	enacted	Ch. 126	HB 288
50-11-103	enacted	Ch. 126	HB 288
50-15-108	amended	Ch. 56	HB 37
50-15-114	amended	Ch. 56	HB 37
50-15-202	amended	Ch. 139	HB 106
50-15-204	amended	Ch. 139	HB 106
50-15-302	amended	Ch. 56	HB 37
50-15-402	amended	Ch. 56	HB 37
50-16-103	enacted	Ch. 365	SB 442
50-16-104	enacted	Ch. 365	SB 442
50-16-522	amended	Ch. 56	HB 37
50-16-543	amended	Ch. 56	HB 37
50-16-544	amended	Ch. 56	HB 37
50-16-553	amended	Ch. 56	HB 37
50-16-702	amended	Ch. 362	SB 350
50-16-1003	amended	Ch. 362	SB 350
50-16-1007	repealed	Ch. 362	SB 350
50-16-1008	amended	Ch. 362	SB 350
50-16-1009	amended	Ch. 362	SB 350
50-16-1013	amended	Ch. 362	SB 350
50-16-1014	enacted	Ch. 362	SB 350
50-16-1015	enacted	Ch. 362	SB 350
50-16-1016	enacted	Ch. 362	SB 350
50-17-112	amended	Ch. 56	HB 37
50-18-106	amended	Ch. 56	HB 37
50-19-101	amended	Ch. 2	SB 7
50-19-322	amended	Ch. 10	SB 29
50-20-106	amended	Ch. 56	HB 37
50-20-108	amended	Ch. 56	HB 37
50-21-104	amended	Ch. 56	HB 37
50-21-106	amended	Ch. 56	HB 37
50-23-102	amended	Ch. 56	HB 37
50-30-107	amended	Ch. 56	HB 37
50-30-204	amended	Ch. 56	HB 37
50-30-205	amended	Ch. 56	HB 37
50-30-301	amended	Ch. 56	HB 37
50-30-302	amended	Ch. 56	HB 37
50-30-305	amended	Ch. 56	HB 37
50-30-307	amended	Ch. 56	HB 37
50-31-108	amended	Ch. 56	HB 37
50-31-504	amended	Ch. 56	HB 37

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50-31-507	amended	Ch. 56	HB 37
50-31-509	amended	Ch. 56	HB 37
50-32-205	amended	Ch. 61	HB 70
50-32-302	amended	Ch. 56	HB 37
50-32-311	amended	Ch. 56	HB 37
50-32-401	amended	Ch. 56	HB 37
50-41-101	repealed	Ch. 109	HB 80
50-41-102	repealed	Ch. 109	HB 80
50-41-103	repealed	Ch. 109	HB 80
50-41-104	repealed	Ch. 109	HB 80
50-41-105	amended	Ch. 56	HB 37
	repealed	Ch. 109	HB 80
50-41-106	repealed	Ch. 109	HB 80
50-41-107	repealed	Ch. 109	HB 80
50-42-105	amended	Ch. 56	HB 37
50-43-106	amended	Ch. 56	HB 37
50-44-101	repealed	Ch. 486	HB 676
50-44-102	repealed	Ch. 486	HB 676
50-44-103	repealed	Ch. 486	HB 676
50-46-102	amended	Ch. 156	SB 325
50-46-103	amended	Ch. 156	SB 325
50-46-201	amended	Ch. 156	SB 325
50-46-205	amended	Ch. 156	SB 325
50-46-206	amended	Ch. 156	SB 325
50-50-103	amended	Ch. 482	HB 331
50-50-205	amended	Ch. 482	HB 331
50-50-215	amended	Ch. 56	HB 37
50-50-304	amended	Ch. 56	HB 37
50-50-402	amended	Ch. 56	HB 37
50-50-403	amended	Ch. 56	HB 37
50-51-107	amended	Ch. 56	HB 37
50-51-204	amended	Ch. 56	HB 37
	amended	Ch. 482	HB 331
50-51-215	amended	Ch. 56	HB 37
50-52-202	amended	Ch. 56	HB 37
	amended	Ch. 482	HB 331
50-52-209	amended	Ch. 56	HB 37
50-57-205	amended	Ch. 482	HB 331
50-60-102	amended	Ch. 300	HB 420
50-60-106	amended	Ch. 300	HB 420
50-60-301	amended	Ch. 300	HB 420
50-60-502	amended	Ch. 56	HB 37
50-60-515	amended	Ch. 56	HB 37
50-60-802	amended	Ch. 300	HB 420
50-61-116	amended	Ch. 56	HB 37
50-62-104	amended	Ch. 56	HB 37
50-62-110	amended	Ch. 56	HB 37
50-63-403	amended	Ch. 56	HB 37
50-70-101	repealed	Ch. 27	HB 138
50-70-102	repealed	Ch. 27	HB 138
50-70-103	repealed	Ch. 27	HB 138
50-70-104	repealed	Ch. 27	HB 138
50-70-105	repealed	Ch. 27	HB 138
50-70-107	repealed	Ch. 27	HB 138
	amended	Ch. 56	HB 37
50-70-108	repealed	Ch. 27	HB 138
50-70-109	repealed	Ch. 27	HB 138
50-70-111	repealed	Ch. 27	HB 138
50-70-112	repealed	Ch. 27	HB 138
50-70-113	repealed	Ch. 27	HB 138
50-70-114	repealed	Ch. 27	HB 138
50-70-115	repealed	Ch. 27	HB 138
	amended	Ch. 56	HB 37

50-70-116	repealed	Ch. 27	HB 138
50-70-117	repealed	Ch. 27	HB 138
50-70-118	repealed	Ch. 27	HB 138
50-71-101	repealed	Ch. 27	HB 138
50-71-102	amended and renumbered 50-71-204	Ch. 27	HB 138
50-71-103	repealed	Ch. 27	HB 138
50-71-104	repealed	Ch. 27	HB 138
50-71-105	repealed	Ch. 27	HB 138
50-71-106	repealed	Ch. 27	HB 138
50-71-107	repealed	Ch. 27	HB 138
50-71-108	repealed	Ch. 27	HB 138
50-71-109	repealed	Ch. 27	HB 138
50-71-110	repealed	Ch. 27	HB 138
50-71-111	enacted	Ch. 27	HB 138
50-71-112	enacted	Ch. 27	HB 138
50-71-113	enacted	Ch. 27	HB 138
50-71-114	enacted	Ch. 27	HB 138
50-71-115	enacted	Ch. 27	HB 138
50-71-116	enacted	Ch. 27	HB 138
50-71-117	enacted	Ch. 27	HB 138
50-71-118	enacted	Ch. 27	HB 138
50-71-119	enacted	Ch. 27	HB 138
50-71-120	enacted	Ch. 27	HB 138
50-71-121	enacted	Ch. 27	HB 138
50-71-122	enacted	Ch. 27	HB 138
50-71-123	enacted	Ch. 27	HB 138
50-71-201	amended	Ch. 56	HB 37
50-71-203	amended	Ch. 56	HB 37
50-71-204	formerly 50-71-102	Ch. 27	HB 138
50-71-301	repealed	Ch. 27	HB 138
50-71-302	repealed	Ch. 27	HB 138
50-71-303	repealed	Ch. 27	HB 138
	amended	Ch. 56	HB 37
50-71-311	repealed	Ch. 27	HB 138
50-71-312	repealed	Ch. 27	HB 138
50-71-313	repealed	Ch. 27	HB 138
50-71-314	repealed	Ch. 27	HB 138
50-71-315	repealed	Ch. 27	HB 138
50-71-316	repealed	Ch. 27	HB 138
50-71-321	repealed	Ch. 27	HB 138
50-71-322	repealed	Ch. 27	HB 138
50-71-323	repealed	Ch. 27	HB 138
50-71-324	repealed	Ch. 27	HB 138
50-71-325	repealed	Ch. 27	HB 138
	amended	Ch. 56	HB 37
50-71-326	repealed	Ch. 27	HB 138
50-71-327	repealed	Ch. 27	HB 138
50-71-331	repealed	Ch. 27	HB 138
50-71-332	repealed	Ch. 27	HB 138
50-71-333	repealed	Ch. 27	HB 138
50-71-334	repealed	Ch. 27	HB 138
	amended	Ch. 56	HB 37
50-72-204	amended	Ch. 56	HB 37
50-72-205	amended	Ch. 56	HB 37
50-73-102	amended	Ch. 27	HB 138
	amended	Ch. 56	HB 37
50-73-205	amended	Ch. 56	HB 37
50-73-207	amended	Ch. 56	HB 37
50-73-305	amended	Ch. 56	HB 37
50-73-307	amended	Ch. 56	HB 37
50-73-401	amended	Ch. 56	HB 37
50-73-402	amended	Ch. 27	HB 138
50-73-404	amended	Ch. 56	HB 37

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50-73-406	amended	Ch. 27	HB 138
50-73-409	amended	Ch. 27	HB 138
50-73-410	amended	Ch. 56	HB 37
50-73-411	amended	Ch. 56	HB 37
50-73-412	amended	Ch. 56	HB 37
50-73-413	amended	Ch. 56	HB 37
50-74-203	amended	Ch. 56	HB 37
50-74-214	amended	Ch. 56	HB 37
50-74-215	amended	Ch. 56	HB 37
50-74-217	amended	Ch. 56	HB 37
50-74-311	amended	Ch. 56	HB 37
50-76-101	amended	Ch. 56	HB 37
50-76-108	amended	Ch. 56	HB 37
50-77-102	amended	Ch. 56	HB 37
50-78-204	amended	Ch. 56	HB 37
50-78-305	amended	Ch. 56	HB 37
50-78-402	amended	Ch. 56	HB 37
50-79-501	amended	Ch. 56	HB 37
52-2-302	amended	Ch. 430	SB 399
52-2-310	enacted	Ch. 430	SB 399
52-2-311	enacted	Ch. 430	SB 399
52-2-723	amended	Ch. 56	HB 37
52-3-115	amended	Ch. 489	HB 645
52-3-410	enacted	Ch. 320	SB 330
52-3-503	amended	Ch. 320	SB 330
52-3-602	amended	Ch. 56	HB 37
52-3-813	amended	Ch. 2	SB 7
52-5-105	amended	Ch. 56	HB 37
52-5-114	amended	Ch. 56	HB 37
53-1-107	amended	Ch. 374	HB 108
53-1-202	amended	Ch. 312	SB 84
53-1-301	repealed	Ch. 312	SB 84
53-1-302	repealed	Ch. 312	SB 84
53-1-303	repealed	Ch. 312	SB 84
53-1-304	repealed	Ch. 312	SB 84
53-1-402	amended	Ch. 461	HB 213
53-1-413	amended	Ch. 461	HB 213
53-1-602	amended	Ch. 461	HB 213
53-2-107	amended	Ch. 56	HB 37
53-2-110	amended	Ch. 184	HB 133
53-2-612	amended	Ch. 153	SB 82
53-2-613	amended	Ch. 184	HB 133
53-2-1215	enacted	Ch. 325	SB 388
53-2-1216	enacted	Ch. 325	SB 388
53-2-1217	enacted	Ch. 325	SB 388
53-2-1218	enacted	Ch. 325	SB 388
53-2-1219	enacted	Ch. 325	SB 388
53-2-1220	enacted	Ch. 325	SB 388
53-4-212	amended	Ch. 486	HB 676
	amended	Ch. 489	HB 645
53-4-1004	amended	Ch. 87	SB 135
53-4-1005	amended	Ch. 486	HB 676
53-4-1007	amended	Ch. 486	HB 676
53-4-1012	amended	Ch. 486	HB 676
53-5-901	amended	Ch. 56	HB 37
53-6-113	amended	Ch. 452	SB 119
53-6-131	amended	Ch. 165	HB 214
	amended	Ch. 452	SB 119
53-6-149	amended	Ch. 489	HB 645
53-6-151	enacted	Ch. 489	HB 645
53-6-165	amended	Ch. 153	SB 82
53-6-167	amended	Ch. 153	SB 82
53-6-168	amended	Ch. 153	SB 82

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53-6-178	amended	Ch. 153	SB 82
53-6-195	enacted	Ch. 452	SB 119
53-6-702	amended	Ch. 195	HB 365
53-6-703	amended	Ch. 426	SB 117
53-6-1201	amended	Ch. 2	SB 7
	amended	Ch. 461	HB 213
	amended	Ch. 486	HB 676
	amended	Ch. 489	HB 645
53-7-204	amended	Ch. 10	SB 29
53-9-104	amended	Ch. 374	HB 108
53-9-113	enacted	Ch. 374	HB 108
53-9-132	amended	Ch. 374	HB 108
53-9-133	amended	Ch. 374	HB 108
53-19-106	amended	Ch. 56	HB 37
53-19-110	amended	Ch. 56	HB 37
53-19-309	amended	Ch. 2	SB 7
53-20-125	amended	Ch. 2	SB 7
53-20-128	amended	Ch. 2	SB 7
53-20-131	amended	Ch. 56	HB 37
53-20-133	amended	Ch. 2	SB 7
53-20-145	amended	Ch. 56	HB 37
53-20-164	amended	Ch. 56	HB 37
53-20-209	amended	Ch. 56	HB 37
53-20-221	enacted	Ch. 281	SB 463
53-20-222	enacted	Ch. 281	SB 463
53-21-102	amended	Ch. 80	SB 40
	amended	Ch. 481	HB 132
53-21-105	amended	Ch. 56	HB 37
53-21-114	amended	Ch. 56	HB 37
53-21-117	amended	Ch. 56	HB 37
53-21-118	amended	Ch. 56	HB 37
53-21-119	amended	Ch. 56	HB 37
53-21-122	amended	Ch. 80	SB 40
	amended	Ch. 481	HB 132
53-21-123	amended	Ch. 481	HB 132
53-21-125	amended	Ch. 56	HB 37
53-21-132	amended	Ch. 388	HB 634
53-21-133	amended	Ch. 56	HB 37
53-21-138	renumbered 53-21-1201	Ch. 479	HB 130
53-21-139	renumbered 53-21-1202	Ch. 479	HB 130
53-21-140	amended	Ch. 42	SB 157
53-21-141	amended	Ch. 56	HB 37
53-21-142	amended	Ch. 56	HB 37
53-21-146	amended	Ch. 56	HB 37
53-21-148	amended	Ch. 56	HB 37
53-21-162	amended	Ch. 481	HB 132
53-21-163	amended	Ch. 56	HB 37
53-21-167	amended	Ch. 56	HB 37
53-21-168	amended	Ch. 56	HB 37
53-21-183	amended	Ch. 56	HB 37
53-21-187	amended	Ch. 56	HB 37
53-21-604	enacted	Ch. 388	HB 634
53-21-605	enacted	Ch. 388	HB 634
53-21-1001	amended	Ch. 481	HB 132
53-21-1201	formerly 53-21-138	Ch. 479	HB 130
53-21-1202	formerly 53-21-139	Ch. 479	HB 130
53-21-1203	enacted	Ch. 479	HB 130
53-21-1204	enacted	Ch. 480	HB 131
53-21-1205	enacted	Ch. 481	HB 132
53-21-1206	enacted	Ch. 481	HB 132
53-22-101	amended	Ch. 56	HB 37
53-22-104	amended	Ch. 10	SB 29
53-22-105	amended	Ch. 56	HB 37



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53-30-104	amended	Ch. 56	HB 37
53-30-131	amended	Ch. 312	SB 84
53-30-132	amended	Ch. 312	SB 84
	amended	Ch. 374	HB 108
53-30-133	amended	Ch. 312	SB 84
53-30-134	enacted	Ch. 413	SB 508
53-30-142	amended	Ch. 56	HB 37
53-30-503	amended	Ch. 286	SB 57
60-1-201	amended	Ch. 241	HB 563
60-1-215	enacted	Ch. 140	HB 304
60-1-216	enacted	Ch. 141	HB 311
60-2-113	amended	Ch. 48	HB 120
60-2-133	amended	Ch. 273	SB 222
60-2-606	enacted	Ch. 410	SB 457
60-4-205	amended	Ch. 56	HB 37
60-5-111	amended	Ch. 56	HB 37
60-7-204	amended	Ch. 56	HB 37
60-11-201	amended	Ch. 56	HB 37
61-1-101	amended	Ch. 83	SB 88
	amended	Ch. 353	SB 73
61-2-105	amended	Ch. 56	HB 37
61-2-106	amended	Ch. 56	HB 37
61-2-109	enacted	Ch. 486	HB 676
61-2-201	amended	Ch. 56	HB 37
61-2-204	amended	Ch. 56	HB 37
61-2-207	amended	Ch. 56	HB 37
61-2-501	enacted	Ch. 437	HB 85
61-2-502	enacted	Ch. 437	HB 85
61-2-503	enacted	Ch. 437	HB 85
61-2-504	enacted	Ch. 437	HB 85
61-2-505	enacted	Ch. 437	HB 85
61-2-506	enacted	Ch. 437	HB 85
61-2-507	enacted	Ch. 437	HB 85
61-3-103	amended	Ch. 41	SB 152
61-3-208	amended	Ch. 235	HB 380
61-3-223	amended	Ch. 41	SB 152
61-3-224	amended	Ch. 41	SB 152
61-3-301	amended	Ch. 413	SB 508
61-3-303	amended	Ch. 41	SB 152
	amended	Ch. 413	SB 508
61-3-312	amended	Ch. 413	SB 508
61-3-315	amended	Ch. 413	SB 508
61-3-321	amended (voided by sec. 28, Ch. 413)	Ch. 387	HB 615
	amended	Ch. 413	SB 508
61-3-332	amended	Ch. 413	SB 508
61-3-333	amended	Ch. 413	SB 508
61-3-338	enacted	Ch. 413	SB 508
61-3-407	amended	Ch. 233	HB 373
	amended	Ch. 413	SB 508
61-3-414	enacted	Ch. 337	HB 306
61-3-426	amended	Ch. 233	HB 373
61-3-455	amended	Ch. 337	HB 306
61-3-458	amended	Ch. 233	HB 373
	amended	Ch. 337	HB 306
61-3-459	amended	Ch. 233	HB 373
61-3-465	amended	Ch. 413	SB 508
61-3-474	amended	Ch. 41	SB 152
61-3-478	amended	Ch. 312	SB 84
	amended	Ch. 413	SB 508
61-3-480	amended	Ch. 413	SB 508
61-3-509	amended	Ch. 41	SB 152
61-3-535	amended	Ch. 413	SB 508
61-3-562	amended	Ch. 413	SB 508

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61-3-710	amended	Ch. 16	HB 125
61-4-106	amended	Ch. 56	HB 37
61-4-128	amended	Ch. 2	SB 7
61-4-132	amended	Ch. 56	HB 37
61-4-201	amended	Ch. 308	HB 567
61-4-202	amended	Ch. 308	HB 567
61-4-204	amended	Ch. 308	HB 567
61-4-205	amended	Ch. 308	HB 567
61-4-207	amended	Ch. 308	HB 567
61-4-208	amended	Ch. 308	HB 567
61-4-209	amended	Ch. 56	HB 37
61-4-210	amended	Ch. 308	HB 567
61-4-212	enacted	Ch. 308	HB 567
61-4-406	amended	Ch. 56	HB 37
61-5-116	amended	Ch. 56	HB 37
61-5-208	amended	Ch. 41	SB 152
	amended	Ch. 448	HB 536
61-5-214	amended	Ch. 360	SB 281
61-5-218	amended	Ch. 360	SB 281
61-5-304	amended	Ch. 56	HB 37
61-5-401	amended	Ch. 56	HB 37
61-5-403	amended	Ch. 56	HB 37
61-5-405	amended	Ch. 348	HB 628
61-6-101	amended (voided by sec. 28, Ch. 413)	Ch. 387	HB 615
	amended	Ch. 413	SB 508
61-6-102	amended (voided by sec. 28, Ch. 413)	Ch. 387	HB 615
	amended	Ch. 413	SB 508
61-6-103	amended	Ch. 56	HB 37
	amended (voided by sec. 28, Ch. 413)	Ch. 387	HB 615
	amended	Ch. 413	SB 508
61-6-105	amended (voided by sec. 28, Ch. 413)	Ch. 387	HB 615
	amended	Ch. 413	SB 508
61-6-106	repealed (voided by sec. 28, Ch. 413)	Ch. 387	HB 615
	repealed	Ch. 413	SB 508
61-6-121	amended	Ch. 56	HB 37
61-6-131	amended	Ch. 56	HB 37
61-6-132	amended	Ch. 56	HB 37
61-6-136	amended	Ch. 56	HB 37
61-6-137	amended	Ch. 56	HB 37
61-6-138	amended	Ch. 56	HB 37
61-6-142	amended	Ch. 56	HB 37
61-6-157	enacted	Ch. 413	SB 508
61-6-158	enacted	Ch. 413	SB 508
61-6-201	amended	Ch. 56	HB 37
61-6-302	amended	Ch. 203	HB 116
	amended (voided by sec. 28, Ch. 413)	Ch. 387	HB 615
	amended	Ch. 413	SB 508
61-6-303	amended	Ch. 56	HB 37
61-6-309	enacted	Ch. 413	SB 508
61-7-104	amended	Ch. 56	HB 37
61-7-105	amended	Ch. 56	HB 37
61-7-107	amended	Ch. 56	HB 37
61-7-112	amended	Ch. 56	HB 37
61-7-118	amended	Ch. 335	HB 269
61-8-107	amended	Ch. 56	HB 37
61-8-203	amended	Ch. 447	HB 531
61-8-206	amended	Ch. 447	HB 531
61-8-310	amended	Ch. 83	SB 88
61-8-347	amended	Ch. 256	HB 371
61-8-348	amended	Ch. 256	HB 371
61-8-349	amended	Ch. 256	HB 371
61-8-350	amended	Ch. 256	HB 371
61-8-370	amended	Ch. 428	SB 268

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61-8-371	amended	Ch. 472	SB 465
61-8-408	amended	Ch. 56	HB 37
61-8-442	amended	Ch. 448	HB 536
61-8-604	amended	Ch. 56	HB 37
61-8-703	amended	Ch. 56	HB 37
61-8-713	amended	Ch. 256	HB 371
61-8-723	amended	Ch. 56	HB 37
61-8-726	amended	Ch. 83	SB 88
61-8-733	amended	Ch. 448	HB 536
61-8-813	amended	Ch. 256	HB 371
61-8-906	amended	Ch. 224	HB 103
61-9-204	amended	Ch. 413	SB 508
61-9-321	amended	Ch. 146	SB 409
61-9-501	amended	Ch. 146	SB 409
61-9-503	amended	Ch. 146	SB 409
61-10-141	amended	Ch. 340	HB 356
61-10-144	amended	Ch. 340	HB 356
61-11-101	amended	Ch. 76	HB 298
61-11-102	amended	Ch. 41	SB 152
61-11-203	amended	Ch. 155	SB 319
61-12-202	amended	Ch. 56	HB 37
61-12-301	amended	Ch. 56	HB 37
61-12-306	amended	Ch. 56	HB 37
61-12-307	amended	Ch. 56	HB 37
61-12-308	amended	Ch. 56	HB 37
61-12-314	amended	Ch. 56	HB 37
61-12-407	amended	Ch. 56	HB 37
61-12-901	enacted	Ch. 363	SB 356
67-1-211	amended	Ch. 56	HB 37
67-1-301	amended	Ch. 22	SB 116
67-2-403	amended	Ch. 10	SB 29
67-2-503	amended	Ch. 56	HB 37
67-3-102	amended	Ch. 56	HB 37
67-3-201	amended	Ch. 56	HB 37
67-11-104	amended	Ch. 56	HB 37
	amended	Ch. 77	HB 426
69-1-106	amended	Ch. 56	HB 37
69-1-107	amended	Ch. 56	HB 37
69-1-108	repealed	Ch. 35	SB 72
	amended	Ch. 56	HB 37
69-1-109	repealed	Ch. 35	SB 72
69-1-111	amended	Ch. 35	SB 72
	amended	Ch. 56	HB 37
69-1-112	amended	Ch. 35	SB 72
69-1-113	amended	Ch. 56	HB 37
69-1-115	enacted	Ch. 35	SB 72
69-1-222	amended	Ch. 56	HB 37
69-2-102	amended	Ch. 56	HB 37
69-2-203	amended	Ch. 56	HB 37
69-2-204	amended	Ch. 56	HB 37
69-2-217	amended	Ch. 99	SB 376
69-3-106	amended	Ch. 56	HB 37
69-3-208	amended	Ch. 56	HB 37
69-3-326	amended	Ch. 56	HB 37
69-3-327	amended	Ch. 35	SB 72
69-3-329	amended	Ch. 56	HB 37
69-3-703	amended	Ch. 56	HB 37
69-3-1402	amended	Ch. 127	HB 294
69-3-1404	amended	Ch. 127	HB 294
69-3-1413	enacted	Ch. 127	HB 294
69-3-1414	enacted	Ch. 127	HB 294
69-3-1415	enacted	Ch. 127	HB 294
69-3-1416	enacted	Ch. 127	HB 294

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69-3-2003	amended	Ch. 30	HB 207
	amended	Ch. 118	HB 179
	amended	Ch. 232	HB 343
69-3-2004	amended	Ch. 31	HB 208
69-3-2005	amended	Ch. 232	HB 343
	amended	Ch. 277	SB 308
69-4-103	enacted	Ch. 74	HB 287
69-4-203	amended	Ch. 56	HB 37
69-4-353	amended	Ch. 56	HB 37
69-4-355	amended	Ch. 56	HB 37
69-4-1103	amended	Ch. 56	HB 37
69-7-112	amended	Ch. 342	HB 449
69-8-402	amended	Ch. 55	HB 27
69-8-419	amended	Ch. 2	SB 7
69-8-421	amended	Ch. 2	SB 7
69-11-101	amended	Ch. 56	HB 37
69-11-103	amended	Ch. 56	HB 37
69-11-104	amended	Ch. 56	HB 37
69-11-105	amended	Ch. 56	HB 37
69-11-106	amended	Ch. 56	HB 37
69-11-107	amended	Ch. 56	HB 37
69-11-108	amended	Ch. 56	HB 37
69-11-109	amended	Ch. 56	HB 37
69-11-121	amended	Ch. 56	HB 37
69-11-201	amended	Ch. 56	HB 37
69-11-203	amended	Ch. 56	HB 37
69-11-204	amended	Ch. 56	HB 37
69-11-206	amended	Ch. 56	HB 37
69-11-208	amended	Ch. 56	HB 37
69-11-209	amended	Ch. 56	HB 37
69-11-301	amended	Ch. 56	HB 37
69-11-302	amended	Ch. 56	HB 37
69-11-303	amended	Ch. 56	HB 37
69-11-304	amended	Ch. 56	HB 37
69-11-402	amended	Ch. 56	HB 37
69-11-403	amended	Ch. 56	HB 37
69-11-404	amended	Ch. 56	HB 37
69-11-405	amended	Ch. 56	HB 37
69-11-406	amended	Ch. 56	HB 37
69-11-408	amended	Ch. 56	HB 37
69-11-409	amended	Ch. 56	HB 37
69-11-411	amended	Ch. 56	HB 37
69-11-421	amended	Ch. 56	HB 37
69-11-424	amended	Ch. 56	HB 37
69-11-428	amended	Ch. 56	HB 37
69-11-429	amended	Ch. 56	HB 37
69-12-102	amended	Ch. 224	HB 103
69-12-203	amended	Ch. 56	HB 37
69-12-401	amended	Ch. 56	HB 37
69-13-101	amended	Ch. 231	HB 338
69-13-102	amended	Ch. 231	HB 338
69-13-201	amended	Ch. 231	HB 338
69-13-301	amended	Ch. 231	HB 338
69-13-302	amended	Ch. 231	HB 338
69-13-303	amended	Ch. 231	HB 338
69-14-113	amended	Ch. 56	HB 37
69-14-131	amended	Ch. 56	HB 37
69-14-132	amended	Ch. 56	HB 37
69-14-134	amended	Ch. 56	HB 37
69-14-207	amended	Ch. 56	HB 37
69-14-208	amended	Ch. 56	HB 37
69-14-210	amended	Ch. 56	HB 37
69-14-211	amended	Ch. 56	HB 37

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69-14-215	amended	Ch. 56	HB 37
69-14-238	amended	Ch. 56	HB 37
69-14-502	amended	Ch. 56	HB 37
69-14-505	amended	Ch. 56	HB 37
69-14-709	amended	Ch. 56	HB 37
69-14-710	amended	Ch. 56	HB 37
69-14-711	amended	Ch. 56	HB 37
69-14-901	amended	Ch. 56	HB 37
69-14-924	amended	Ch. 56	HB 37
69-14-932	amended	Ch. 56	HB 37
69-14-1002	amended	Ch. 56	HB 37
69-14-1003	amended	Ch. 56	HB 37
69-14-1005	amended	Ch. 56	HB 37
69-14-1006	amended	Ch. 56	HB 37
70-1-109	amended	Ch. 56	HB 37
70-1-303	amended	Ch. 56	HB 37
70-1-310	amended	Ch. 56	HB 37
70-1-510	amended	Ch. 56	HB 37
70-1-512	amended	Ch. 56	HB 37
70-1-518	amended	Ch. 56	HB 37
70-1-521	amended	Ch. 307	HB 546
70-1-522	enacted	Ch. 307	HB 546
70-1-704	amended	Ch. 56	HB 37
70-2-102	amended	Ch. 56	HB 37
70-3-104	amended	Ch. 56	HB 37
70-3-202	amended	Ch. 56	HB 37
70-3-203	amended	Ch. 56	HB 37
70-4-102	amended	Ch. 56	HB 37
70-4-103	amended	Ch. 56	HB 37
70-4-202	amended	Ch. 56	HB 37
70-4-203	amended	Ch. 56	HB 37
70-4-204	amended	Ch. 56	HB 37
70-4-205	amended	Ch. 56	HB 37
70-4-206	amended	Ch. 56	HB 37
70-5-102	amended	Ch. 56	HB 37
70-5-103	amended	Ch. 56	HB 37
70-5-105	amended	Ch. 56	HB 37
70-5-106	amended	Ch. 56	HB 37
70-5-107	amended	Ch. 56	HB 37
70-6-102	amended	Ch. 56	HB 37
70-6-108	amended	Ch. 56	HB 37
70-6-201	amended	Ch. 56	HB 37
70-6-202	amended	Ch. 56	HB 37
70-6-203	amended	Ch. 56	HB 37
70-6-204	amended	Ch. 56	HB 37
70-6-205	amended	Ch. 56	HB 37
70-6-207	amended	Ch. 56	HB 37
70-6-208	amended	Ch. 56	HB 37
70-6-209	amended	Ch. 56	HB 37
70-6-210	amended	Ch. 56	HB 37
70-6-211	amended	Ch. 56	HB 37
70-6-213	amended	Ch. 56	HB 37
70-6-214	amended	Ch. 56	HB 37
70-6-303	amended	Ch. 56	HB 37
70-6-412	amended	Ch. 56	HB 37
70-6-420	amended	Ch. 56	HB 37
70-6-501	amended	Ch. 56	HB 37
70-6-502	amended	Ch. 56	HB 37
70-6-504	amended	Ch. 56	HB 37
70-6-505	amended	Ch. 56	HB 37
70-7-101	amended	Ch. 56	HB 37
70-7-102	amended	Ch. 56	HB 37
70-7-106	amended	Ch. 56	HB 37

70-7-107	amended	Ch. 56	HB 37
70-7-110	amended	Ch. 56	HB 37
70-7-111	amended	Ch. 56	HB 37
70-7-112	amended	Ch. 56	HB 37
70-7-203	amended	Ch. 56	HB 37
70-7-204	amended	Ch. 56	HB 37
70-8-201	amended	Ch. 56	HB 37
70-9-402	amended	Ch. 56	HB 37
70-9-403	amended	Ch. 56	HB 37
70-9-404	amended	Ch. 56	HB 37
70-9-405	amended	Ch. 56	HB 37
70-9-406	amended	Ch. 56	HB 37
70-9-502	amended	Ch. 56	HB 37
70-15-205	amended	Ch. 56	HB 37
70-15-210	amended	Ch. 56	HB 37
70-15-301	amended	Ch. 56	HB 37
70-15-303	amended	Ch. 56	HB 37
70-16-102	amended	Ch. 56	HB 37
70-16-104	amended	Ch. 56	HB 37
70-16-105	amended	Ch. 56	HB 37
70-16-106	amended	Ch. 56	HB 37
70-16-203	amended	Ch. 56	HB 37
70-16-204	amended	Ch. 56	HB 37
70-16-205	amended	Ch. 56	HB 37
70-16-207	amended	Ch. 56	HB 37
70-16-208	amended	Ch. 56	HB 37
70-16-209	amended	Ch. 56	HB 37
70-16-210	amended	Ch. 56	HB 37
70-17-203	amended	Ch. 307	HB 546
70-17-204	amended	Ch. 307	HB 546
70-17-205	amended	Ch. 56	HB 37
70-17-206	amended	Ch. 307	HB 546
70-18-101	amended	Ch. 56	HB 37
70-18-102	amended	Ch. 56	HB 37
70-19-102	amended	Ch. 56	HB 37
70-19-202	amended	Ch. 56	HB 37
70-19-204	amended	Ch. 56	HB 37
70-19-301	amended	Ch. 56	HB 37
70-19-303	amended	Ch. 56	HB 37
70-19-304	amended	Ch. 56	HB 37
70-19-305	amended	Ch. 56	HB 37
70-19-401	amended	Ch. 56	HB 37
70-19-407	amended	Ch. 56	HB 37
70-19-412	amended	Ch. 56	HB 37
70-20-101	amended	Ch. 56	HB 37
70-20-102	amended	Ch. 56	HB 37
70-20-105	amended	Ch. 56	HB 37
70-20-108	amended	Ch. 56	HB 37
70-20-109	amended	Ch. 56	HB 37
70-20-113	amended	Ch. 43	SB 161
	amended	Ch. 56	HB 37
70-20-302	amended	Ch. 56	HB 37
70-20-303	amended	Ch. 56	HB 37
70-20-304	amended	Ch. 56	HB 37
70-20-306	amended	Ch. 307	HB 546
70-20-311	amended	Ch. 56	HB 37
70-20-313	amended	Ch. 56	HB 37
70-20-314	amended	Ch. 56	HB 37
70-20-316	amended	Ch. 56	HB 37
70-20-402	amended	Ch. 56	HB 37
70-20-403	amended	Ch. 56	HB 37
70-21-210	amended	Ch. 56	HB 37
70-21-307	amended	Ch. 56	HB 37

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70-22-104	amended	Ch. 56	HB 37
70-22-108	amended	Ch. 56	HB 37
70-22-110	amended	Ch. 56	HB 37
70-22-115	enacted	Ch. 314	SB 193
70-23-301	amended	Ch. 446	HB 486
70-23-308	amended	Ch. 307	HB 546
70-23-402	amended	Ch. 56	HB 37
70-23-502	amended	Ch. 56	HB 37
70-23-505	amended	Ch. 56	HB 37
70-23-506	amended	Ch. 56	HB 37
	amended	Ch. 307	HB 546
70-23-601	amended	Ch. 307	HB 546
70-23-604	amended	Ch. 56	HB 37
70-23-605	amended	Ch. 56	HB 37
70-23-610	amended	Ch. 56	HB 37
70-23-611	amended	Ch. 56	HB 37
70-23-612	amended	Ch. 56	HB 37
70-23-613	amended	Ch. 56	HB 37
70-23-902	amended	Ch. 56	HB 37
70-24-110	enacted	Ch. 332	HB 228
70-24-204	amended	Ch. 56	HB 37
70-24-205	enacted	Ch. 138	SB 323
70-24-301	amended	Ch. 56	HB 37
70-24-303	amended	Ch. 43	SB 161
70-24-304	amended	Ch. 56	HB 37
70-24-312	amended	Ch. 56	HB 37
70-24-322	amended	Ch. 56	HB 37
70-24-403	amended	Ch. 56	HB 37
70-24-405	amended	Ch. 56	HB 37
70-24-408	amended	Ch. 56	HB 37
70-24-409	amended	Ch. 56	HB 37
70-24-421	amended	Ch. 56	HB 37
70-25-101	amended	Ch. 56	HB 37
70-26-101	amended	Ch. 56	HB 37
70-26-102	amended	Ch. 56	HB 37
70-26-104	amended	Ch. 56	HB 37
70-26-105	amended	Ch. 56	HB 37
70-26-106	amended	Ch. 56	HB 37
70-26-108	amended	Ch. 56	HB 37
70-26-203	amended	Ch. 56	HB 37
70-26-204	amended	Ch. 56	HB 37
70-26-205	amended	Ch. 56	HB 37
70-26-206	amended	Ch. 56	HB 37
70-27-108	amended	Ch. 56	HB 37
70-27-110	amended	Ch. 56	HB 37
70-27-111	amended	Ch. 56	HB 37
70-27-203	amended	Ch. 56	HB 37
70-27-205	amended	Ch. 56	HB 37
70-27-207	amended	Ch. 56	HB 37
70-27-208	amended	Ch. 56	HB 37
70-27-210	amended	Ch. 56	HB 37
70-28-104	amended	Ch. 56	HB 37
70-28-106	amended	Ch. 56	HB 37
70-28-108	amended	Ch. 56	HB 37
70-28-110	amended	Ch. 56	HB 37
70-28-111	amended	Ch. 56	HB 37
70-28-112	amended	Ch. 56	HB 37
70-28-113	amended	Ch. 56	HB 37
70-28-201	amended	Ch. 56	HB 37
70-28-206	amended	Ch. 56	HB 37
70-28-209	amended	Ch. 56	HB 37
70-28-212	amended	Ch. 56	HB 37
70-28-213	amended	Ch. 56	HB 37

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70-28-215	amended	Ch. 56	HB 37
70-28-303	amended	Ch. 56	HB 37
70-29-102	amended	Ch. 56	HB 37
70-29-105	amended	Ch. 56	HB 37
70-29-108	amended	Ch. 56	HB 37
70-29-201	amended	Ch. 56	HB 37
70-29-208	amended	Ch. 56	HB 37
70-29-209	amended	Ch. 56	HB 37
70-29-212	amended	Ch. 56	HB 37
70-29-216	amended	Ch. 56	HB 37
70-29-217	amended	Ch. 56	HB 37
70-29-219	amended	Ch. 56	HB 37
70-29-221	amended	Ch. 56	HB 37
70-29-304	amended	Ch. 56	HB 37
70-29-306	amended	Ch. 56	HB 37
70-29-307	amended	Ch. 56	HB 37
70-29-326	amended	Ch. 56	HB 37
70-29-327	amended	Ch. 56	HB 37
70-29-330	amended	Ch. 56	HB 37
70-30-102	amended	Ch. 286	SB 57
70-30-105	amended	Ch. 474	SB 498
70-31-302	amended	Ch. 56	HB 37
70-31-303	amended	Ch. 56	HB 37
70-31-304	amended	Ch. 56	HB 37
70-31-305	amended	Ch. 56	HB 37
70-32-103	amended	Ch. 56	HB 37
70-32-106	amended	Ch. 2	SB 7
70-32-209	amended	Ch. 56	HB 37
70-32-210	amended	Ch. 56	HB 37
70-33-314	amended	Ch. 211	HB 495
71-1-113	amended	Ch. 56	HB 37
71-1-204	amended	Ch. 56	HB 37
71-1-207	amended	Ch. 56	HB 37
71-1-209	amended	Ch. 56	HB 37
71-1-210	amended	Ch. 56	HB 37
71-1-211	amended	Ch. 56	HB 37
71-1-212	amended	Ch. 2	SB 7
71-1-213	amended	Ch. 56	HB 37
71-1-229	amended	Ch. 56	HB 37
71-1-230	amended	Ch. 56	HB 37
71-1-231	amended	Ch. 56	HB 37
71-1-232	amended	Ch. 56	HB 37
71-1-234	amended	Ch. 56	HB 37
71-1-312	amended	Ch. 56	HB 37
71-1-315	amended	Ch. 56	HB 37
71-1-317	amended	Ch. 56	HB 37
71-1-318	amended	Ch. 56	HB 37
71-2-101	amended	Ch. 56	HB 37
71-2-106	amended	Ch. 56	HB 37
71-2-107	amended	Ch. 56	HB 37
71-2-108	amended	Ch. 56	HB 37
71-2-109	amended	Ch. 56	HB 37
71-2-110	amended	Ch. 56	HB 37
71-3-101	amended	Ch. 56	HB 37
71-3-107	amended	Ch. 56	HB 37
71-3-112	amended	Ch. 56	HB 37
71-3-115	amended	Ch. 56	HB 37
71-3-117	amended	Ch. 56	HB 37
71-3-118	amended	Ch. 56	HB 37
71-3-124	amended	Ch. 367	SB 462
71-3-203	amended	Ch. 56	HB 37
71-3-301	amended	Ch. 56	HB 37
71-3-303	amended	Ch. 56	HB 37



## CODE SECTIONS AFFECTED

71-3-304	amended	Ch. 56	HB 37
71-3-305	amended	Ch. 56	HB 37
71-3-401	amended	Ch. 56	HB 37
71-3-404	amended	Ch. 56	HB 37
71-3-523	amended	Ch. 56	HB 37
71-3-524	amended	Ch. 56	HB 37
71-3-525	amended	Ch. 56	HB 37
71-3-526	amended	Ch. 56	HB 37
71-3-531	amended	Ch. 182	HB 326
71-3-533	amended	Ch. 56	HB 37
71-3-537	amended	Ch. 56	HB 37
71-3-538	enacted	Ch. 182	HB 326
71-3-541	amended	Ch. 56	HB 37
71-3-542	amended	Ch. 56	HB 37
71-3-601	amended	Ch. 56	HB 37
71-3-605	amended	Ch. 56	HB 37
71-3-608	amended	Ch. 56	HB 37
71-3-611	amended	Ch. 56	HB 37
71-3-612	amended	Ch. 56	HB 37
71-3-614	amended	Ch. 56	HB 37
71-3-616	amended	Ch. 56	HB 37
71-3-701	amended	Ch. 56	HB 37
71-3-703	amended	Ch. 56	HB 37
71-3-712	amended	Ch. 56	HB 37
71-3-801	amended	Ch. 56	HB 37
71-3-802	amended	Ch. 56	HB 37
71-3-1002	amended	Ch. 367	SB 462
71-3-1004	amended	Ch. 56	HB 37
71-3-1009	amended	Ch. 56	HB 37
71-3-1011	amended	Ch. 56	HB 37
	amended	Ch. 367	SB 462
71-3-1203	amended	Ch. 56	HB 37
71-3-1301	amended	Ch. 56	HB 37
71-3-1302	amended	Ch. 56	HB 37
71-3-1401	amended	Ch. 56	HB 37
71-3-1402	amended	Ch. 56	HB 37
71-3-1403	amended	Ch. 56	HB 37
71-3-1501	amended	Ch. 56	HB 37
71-3-1502	amended	Ch. 56	HB 37
71-3-1503	amended	Ch. 56	HB 37
71-3-1505	amended	Ch. 56	HB 37
71-3-1601	enacted	Ch. 367	SB 462
71-3-1602	enacted	Ch. 367	SB 462
71-3-1603	enacted	Ch. 367	SB 462
71-3-1604	enacted	Ch. 367	SB 462
71-3-1605	enacted	Ch. 367	SB 462
71-3-1606	enacted	Ch. 367	SB 462
71-3-1607	enacted	Ch. 367	SB 462
72-1-111	amended	Ch. 56	HB 37
72-1-301	amended	Ch. 56	HB 37
72-1-302	amended	Ch. 56	HB 37
72-1-303	amended	Ch. 56	HB 37
72-2-903	amended	Ch. 56	HB 37
72-2-904	amended	Ch. 56	HB 37
72-2-905	amended	Ch. 56	HB 37
72-2-909	amended	Ch. 56	HB 37
72-3-101	amended	Ch. 56	HB 37
72-3-106	amended	Ch. 56	HB 37
72-3-112	amended	Ch. 56	HB 37
72-3-123	amended	Ch. 56	HB 37
72-3-201	amended	Ch. 56	HB 37
72-3-202	amended	Ch. 56	HB 37
72-3-204	amended	Ch. 56	HB 37

72-3-211	amended	Ch. 56	HB 37
72-3-214	amended	Ch. 56	HB 37
72-3-221	amended	Ch. 56	HB 37
72-3-223	amended	Ch. 56	HB 37
72-3-224	amended	Ch. 56	HB 37
72-3-225	amended	Ch. 56	HB 37
72-3-302	amended	Ch. 56	HB 37
72-3-304	amended	Ch. 56	HB 37
72-3-306	amended	Ch. 56	HB 37
72-3-308	amended	Ch. 56	HB 37
72-3-312	amended	Ch. 56	HB 37
72-3-313	amended	Ch. 56	HB 37
72-3-403	amended	Ch. 56	HB 37
72-3-404	amended	Ch. 56	HB 37
72-3-504	amended	Ch. 56	HB 37
72-3-511	amended	Ch. 56	HB 37
72-3-513	amended	Ch. 56	HB 37
72-3-514	amended	Ch. 56	HB 37
72-3-515	amended	Ch. 56	HB 37
72-3-516	amended	Ch. 56	HB 37
72-3-521	amended	Ch. 56	HB 37
72-3-522	amended	Ch. 56	HB 37
72-3-523	amended	Ch. 56	HB 37
72-3-525	amended	Ch. 56	HB 37
72-3-526	amended	Ch. 56	HB 37
72-3-527	amended	Ch. 56	HB 37
72-3-601	amended	Ch. 56	HB 37
72-3-602	amended	Ch. 56	HB 37
72-3-603	amended	Ch. 56	HB 37
72-3-604	amended	Ch. 56	HB 37
72-3-605	amended	Ch. 56	HB 37
72-3-606	amended	Ch. 2	SB 7
	amended	Ch. 56	HB 37
72-3-610	amended	Ch. 56	HB 37
72-3-611	amended	Ch. 56	HB 37
72-3-612	amended	Ch. 56	HB 37
72-3-614	amended	Ch. 56	HB 37
72-3-615	amended	Ch. 56	HB 37
72-3-616	amended	Ch. 56	HB 37
72-3-617	amended	Ch. 56	HB 37
72-3-621	amended	Ch. 56	HB 37
72-3-623	amended	Ch. 56	HB 37
72-3-632	amended	Ch. 56	HB 37
72-3-634	amended	Ch. 56	HB 37
72-3-703	amended	Ch. 56	HB 37
72-3-801	amended	Ch. 56	HB 37
72-3-803	amended	Ch. 56	HB 37
72-3-804	amended	Ch. 56	HB 37
72-3-805	amended	Ch. 56	HB 37
72-3-808	amended	Ch. 56	HB 37
72-3-811	amended	Ch. 56	HB 37
72-3-812	amended	Ch. 56	HB 37
72-3-814	amended	Ch. 56	HB 37
72-3-821	amended	Ch. 56	HB 37
72-3-902	amended	Ch. 56	HB 37
72-3-903	amended	Ch. 56	HB 37
72-3-906	amended	Ch. 56	HB 37
72-3-907	amended	Ch. 56	HB 37
72-3-911	amended	Ch. 56	HB 37
72-3-912	amended	Ch. 56	HB 37
72-3-915	amended	Ch. 56	HB 37
72-3-916	amended	Ch. 56	HB 37
72-3-918	amended	Ch. 56	HB 37

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72-3-1003	amended	Ch. 56	HB 37
72-3-1005	amended	Ch. 56	HB 37
72-3-1006	amended	Ch. 364	SB 430
72-3-1012	amended	Ch. 56	HB 37
72-3-1014	amended	Ch. 56	HB 37
72-3-1015	amended	Ch. 56	HB 37
72-3-1102	amended	Ch. 56	HB 37
72-4-201	amended	Ch. 56	HB 37
72-4-202	amended	Ch. 56	HB 37
72-4-203	amended	Ch. 56	HB 37
72-4-306	amended	Ch. 56	HB 37
72-4-309	amended	Ch. 56	HB 37
72-4-311	amended	Ch. 56	HB 37
72-4-402	amended	Ch. 56	HB 37
72-5-101	amended	Ch. 56	HB 37
	amended	Ch. 237	HB 504
72-5-102	amended	Ch. 236	HB 477
72-5-104	amended	Ch. 56	HB 37
72-5-202	amended	Ch. 56	HB 37
72-5-211	amended	Ch. 56	HB 37
72-5-213	amended	Ch. 56	HB 37
72-5-223	amended	Ch. 210	HB 403
72-5-225	amended	Ch. 210	HB 403
72-5-232	repealed	Ch. 236	HB 477
72-5-301	amended	Ch. 56	HB 37
72-5-304	amended	Ch. 236	HB 477
72-5-312	amended	Ch. 56	HB 37
72-5-314	amended	Ch. 56	HB 37
72-5-316	amended	Ch. 56	HB 37
72-5-317	amended	Ch. 56	HB 37
72-5-318	amended	Ch. 56	HB 37
72-5-319	amended	Ch. 56	HB 37
72-5-320	amended	Ch. 56	HB 37
72-5-321	amended	Ch. 237	HB 504
72-5-323	repealed	Ch. 236	HB 477
72-5-401	amended	Ch. 56	HB 37
72-5-402	amended	Ch. 56	HB 37
72-5-403	amended	Ch. 56	HB 37
72-5-404	amended	Ch. 56	HB 37
72-5-405	amended	Ch. 56	HB 37
72-5-406	amended	Ch. 56	HB 37
72-5-407	amended	Ch. 56	HB 37
72-5-409	amended	Ch. 56	HB 37
72-5-410	amended	Ch. 56	HB 37
72-5-411	amended	Ch. 56	HB 37
72-5-412	amended	Ch. 56	HB 37
72-5-413	amended	Ch. 56	HB 37
72-5-414	amended	Ch. 56	HB 37
72-5-415	amended	Ch. 56	HB 37
72-5-422	amended	Ch. 56	HB 37
72-5-423	amended	Ch. 56	HB 37
72-5-424	amended	Ch. 56	HB 37
72-5-425	amended	Ch. 56	HB 37
72-5-426	amended	Ch. 56	HB 37
72-5-427	amended	Ch. 56	HB 37
72-5-428	amended	Ch. 56	HB 37
72-5-429	amended	Ch. 56	HB 37
72-5-430	amended	Ch. 56	HB 37
72-5-431	amended	Ch. 56	HB 37
72-5-433	amended	Ch. 56	HB 37
72-5-434	amended	Ch. 56	HB 37
72-5-435	amended	Ch. 56	HB 37
72-5-436	amended	Ch. 56	HB 37

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72-5-437	amended	Ch. 56	HB 37
72-5-439	amended	Ch. 56	HB 37
72-5-501	amended	Ch. 56	HB 37
72-5-502	amended	Ch. 56	HB 37
72-5-601	enacted	Ch. 236	HB 477
72-5-602	enacted	Ch. 236	HB 477
72-5-603	enacted	Ch. 236	HB 477
72-5-604	enacted	Ch. 236	HB 477
72-5-605	enacted	Ch. 236	HB 477
72-5-606	enacted	Ch. 236	HB 477
72-5-611	enacted	Ch. 236	HB 477
72-5-612	enacted	Ch. 236	HB 477
72-5-613	enacted	Ch. 236	HB 477
72-5-614	enacted	Ch. 236	HB 477
72-5-615	enacted	Ch. 236	HB 477
72-5-616	enacted	Ch. 236	HB 477
72-5-617	enacted	Ch. 236	HB 477
72-5-618	enacted	Ch. 236	HB 477
72-5-619	enacted	Ch. 236	HB 477
72-5-624	enacted	Ch. 236	HB 477
72-5-625	enacted	Ch. 236	HB 477
72-5-629	enacted	Ch. 236	HB 477
72-5-630	enacted	Ch. 236	HB 477
72-5-631	enacted	Ch. 236	HB 477
72-5-636	enacted	Ch. 236	HB 477
72-5-637	enacted	Ch. 236	HB 477
72-5-638	enacted	Ch. 236	HB 477
72-9-110	amended	Ch. 56	HB 37
72-12-401	amended	Ch. 56	HB 37
72-12-403	amended	Ch. 56	HB 37
72-12-404	amended	Ch. 56	HB 37
72-12-405	amended	Ch. 56	HB 37
72-12-407	amended	Ch. 56	HB 37
72-14-201	amended	Ch. 56	HB 37
72-14-202	amended	Ch. 56	HB 37
72-14-401	amended	Ch. 56	HB 37
72-14-402	amended	Ch. 56	HB 37
72-15-101	amended	Ch. 56	HB 37
72-15-102	amended	Ch. 56	HB 37
72-15-103	amended	Ch. 56	HB 37
72-15-105	amended	Ch. 56	HB 37
72-15-107	amended	Ch. 56	HB 37
72-15-109	amended	Ch. 56	HB 37
72-15-110	amended	Ch. 56	HB 37
72-15-201	amended	Ch. 56	HB 37
72-15-202	amended	Ch. 56	HB 37
72-15-203	amended	Ch. 56	HB 37
72-15-204	amended	Ch. 56	HB 37
72-15-205	amended	Ch. 56	HB 37
72-15-206	amended	Ch. 56	HB 37
72-15-207	amended	Ch. 56	HB 37
72-15-208	amended	Ch. 56	HB 37
72-15-210	amended	Ch. 56	HB 37
72-15-211	amended	Ch. 56	HB 37
72-15-213	amended	Ch. 56	HB 37
72-15-302	amended	Ch. 56	HB 37
72-15-303	amended	Ch. 56	HB 37
72-15-304	amended	Ch. 56	HB 37
72-16-501	amended	Ch. 56	HB 37
72-16-608	amended	Ch. 56	HB 37
72-16-609	amended	Ch. 56	HB 37
72-30-102	amended	Ch. 328	SB 444
72-30-207	amended	Ch. 328	SB 444

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72-30-208	amended	Ch. 328	SB 444
72-30-209	amended	Ch. 328	SB 444
72-30-210	amended	Ch. 328	SB 444
72-31-101	amended	Ch. 56	HB 37
72-31-102	amended	Ch. 56	HB 37
72-33-216	amended	Ch. 56	HB 37
72-33-217	amended	Ch. 56	HB 37
72-33-219	amended	Ch. 56	HB 37
72-33-306	amended	Ch. 56	HB 37
72-33-503	amended	Ch. 56	HB 37
72-34-130	amended	Ch. 56	HB 37
72-34-514	amended	Ch. 56	HB 37
72-34-515	amended	Ch. 56	HB 37
72-34-516	amended	Ch. 56	HB 37
72-35-313	amended	Ch. 56	HB 37
72-36-206	amended	Ch. 56	HB 37
75-1-110	amended	Ch. 2	SB 7
	amended	Ch. 107	HB 75
	amended	Ch. 200	HB 593
75-1-201	amended	Ch. 416	HB 418
75-1-208	amended	Ch. 366	SB 451
75-1-220	amended	Ch. 2	SB 7
75-1-312	amended	Ch. 56	HB 37
75-2-103	amended	Ch. 445	HB 483
75-2-104	amended	Ch. 416	HB 418
75-2-111	amended	Ch. 2	SB 7
75-2-122	amended	Ch. 56	HB 37
75-2-123	amended	Ch. 56	HB 37
75-2-211	amended	Ch. 2	SB 7
	amended	Ch. 445	HB 483
75-2-212	amended	Ch. 56	HB 37
75-2-213	enacted	Ch. 445	HB 483
75-2-225	amended	Ch. 159	HB 21
75-2-226	amended	Ch. 159	HB 21
75-2-411	amended	Ch. 56	HB 37
75-5-103	amended	Ch. 267	SB 95
	amended	Ch. 445	HB 483
	amended	Ch. 474	SB 498
75-5-105	amended	Ch. 56	HB 37
75-5-305	amended	Ch. 73	HB 285
75-5-306	amended	Ch. 56	HB 37
75-5-313	enacted	Ch. 267	SB 95
75-5-317	amended	Ch. 73	HB 285
75-5-325	amended	Ch. 73	HB 285
75-5-401	amended	Ch. 474	SB 498
75-5-410	amended	Ch. 104	HB 41
75-5-603	amended	Ch. 56	HB 37
75-5-610	enacted	Ch. 445	HB 483
75-5-614	amended	Ch. 416	HB 418
75-5-621	amended	Ch. 416	HB 418
75-5-641	amended	Ch. 56	HB 37
	amended	Ch. 416	HB 418
75-5-801	amended	Ch. 56	HB 37
75-5-901	enacted	Ch. 245	SB 200
75-5-902	enacted	Ch. 245	SB 200
75-5-903	enacted	Ch. 245	SB 200
75-5-904	enacted	Ch. 245	SB 200
75-5-905	enacted	Ch. 245	SB 200
75-5-1102	amended	Ch. 489	HB 645
75-5-1107	amended	Ch. 489	HB 645
75-5-1113	amended	Ch. 342	HB 449
75-6-103	amended	Ch. 85	SB 102
	amended	Ch. 449	HB 557

75-6-131	enacted	Ch. 449	HB 557
75-6-202	amended	Ch. 489	HB 645
75-6-226	amended	Ch. 489	HB 645
75-7-205	amended	Ch. 56	HB 37
75-7-411	amended	Ch. 245	SB 200
75-10-101	amended	Ch. 2	SB 7
75-10-102	amended	Ch. 2	SB 7
75-10-103	amended	Ch. 2	SB 7
75-10-112	amended	Ch. 2	SB 7
75-10-212	amended	Ch. 56	HB 37
75-10-213	amended	Ch. 243	SB 68
75-10-214	amended	Ch. 56	HB 37
75-10-223	amended	Ch. 56	HB 37
75-10-233	amended	Ch. 56	HB 37
75-10-501	amended	Ch. 56	HB 37
75-10-622	amended	Ch. 426	SB 117
75-10-625	amended	Ch. 10	SB 29
75-10-626	amended	Ch. 10	SB 29
75-10-701	amended	Ch. 395	SB 55
75-10-704	amended	Ch. 486	HB 676
75-10-733	amended	Ch. 117	HB 153
75-10-735	amended	Ch. 117	HB 153
75-10-736	amended	Ch. 117	HB 153
75-10-743	amended	Ch. 266	SB 71
75-10-745	amended	Ch. 266	SB 71
75-10-756	enacted	Ch. 368	SB 464
75-10-757	enacted	Ch. 368	SB 464
75-10-901	repealed	Ch. 366	SB 451
75-10-902	repealed	Ch. 366	SB 451
75-10-903	repealed	Ch. 366	SB 451
75-10-906	repealed	Ch. 366	SB 451
75-10-907	repealed	Ch. 366	SB 451
75-10-908	repealed	Ch. 366	SB 451
75-10-909	repealed	Ch. 366	SB 451
75-10-910	repealed	Ch. 366	SB 451
75-10-913	repealed	Ch. 366	SB 451
75-10-914	repealed	Ch. 366	SB 451
75-10-916	repealed	Ch. 366	SB 451
75-10-917	repealed	Ch. 366	SB 451
75-10-918	repealed	Ch. 366	SB 451
75-10-919	repealed	Ch. 366	SB 451
75-10-920	repealed	Ch. 366	SB 451
75-10-921	repealed	Ch. 366	SB 451
75-10-922	repealed	Ch. 366	SB 451
75-10-923	repealed	Ch. 366	SB 451
75-10-924	repealed	Ch. 366	SB 451
75-10-925	repealed	Ch. 366	SB 451
75-10-926	repealed	Ch. 366	SB 451
75-10-927	repealed	Ch. 366	SB 451
75-10-928	repealed	Ch. 366	SB 451
75-10-929	repealed	Ch. 366	SB 451
75-10-930	repealed	Ch. 366	SB 451
75-10-933	repealed	Ch. 366	SB 451
75-10-934	repealed	Ch. 366	SB 451
75-10-935	repealed	Ch. 366	SB 451
75-10-938	repealed	Ch. 366	SB 451
75-10-939	repealed	Ch. 366	SB 451
75-10-940	amended	Ch. 56	HB 37
	repealed	Ch. 366	SB 451
75-10-941	amended	Ch. 56	HB 37
	repealed	Ch. 366	SB 451
75-10-942	repealed	Ch. 366	SB 451
75-10-943	repealed	Ch. 366	SB 451

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75-10-944	repealed	Ch. 366	SB 451
75-10-945	repealed	Ch. 366	SB 451
75-10-950	repealed	Ch. 366	SB 451
75-10-951	repealed	Ch. 366	SB 451
75-10-952	repealed	Ch. 366	SB 451
75-10-953	repealed	Ch. 366	SB 451
75-10-954	repealed	Ch. 366	SB 451
75-10-1007	amended	Ch. 2	SB 7
75-10-1401	enacted	Ch. 200	HB 593
75-10-1402	enacted	Ch. 200	HB 593
75-10-1403	enacted	Ch. 200	HB 593
75-10-1404	enacted	Ch. 200	HB 593
75-10-1405	enacted	Ch. 200	HB 593
75-10-1410	enacted	Ch. 200	HB 593
75-10-1411	enacted	Ch. 200	HB 593
75-10-1501	enacted	Ch. 296	SB 424
75-10-1502	enacted	Ch. 296	SB 424
75-10-1503	enacted	Ch. 296	SB 424
75-10-1504	enacted	Ch. 296	SB 424
75-10-1505	enacted	Ch. 296	SB 424
75-10-1506	enacted	Ch. 296	SB 424
75-10-1507	enacted	Ch. 296	SB 424
75-10-1508	enacted	Ch. 296	SB 424
75-10-1509	enacted	Ch. 296	SB 424
75-11-302	amended	Ch. 396	SB 97
75-11-307	amended	Ch. 396	SB 97
75-11-309	amended	Ch. 396	SB 97
75-11-314	amended	Ch. 396	SB 97
75-11-601	enacted	Ch. 409	SB 427
75-11-602	enacted	Ch. 409	SB 427
75-11-603	enacted	Ch. 409	SB 427
75-11-604	enacted	Ch. 409	SB 427
75-11-605	enacted	Ch. 409	SB 427
75-16-104	amended	Ch. 56	HB 37
75-20-104	amended	Ch. 357	SB 198
	amended	Ch. 469	SB 360
75-20-223	amended	Ch. 445	HB 483
75-20-404	amended	Ch. 56	HB 37
75-20-405	amended	Ch. 56	HB 37
75-20-409	amended	Ch. 56	HB 37
75-20-411	amended	Ch. 56	HB 37
75-25-101	amended	Ch. 489	HB 645
75-25-102	amended	Ch. 489	HB 645
76-1-222	amended	Ch. 56	HB 37
76-1-601	amended	Ch. 446	HB 486
76-2-101	amended	Ch. 446	HB 486
76-2-102	amended	Ch. 446	HB 486
76-2-107	amended	Ch. 446	HB 486
76-2-202	amended	Ch. 446	HB 486
76-2-203	amended	Ch. 446	HB 486
76-2-205	amended	Ch. 446	HB 486
76-2-206	amended	Ch. 446	HB 486
76-2-210	amended	Ch. 446	HB 486
76-2-221	amended	Ch. 56	HB 37
76-2-226	amended	Ch. 56	HB 37
76-2-227	amended	Ch. 56	HB 37
76-2-304	amended	Ch. 446	HB 486
76-2-321	amended	Ch. 56	HB 37
76-2-326	amended	Ch. 56	HB 37
76-2-327	amended	Ch. 56	HB 37
76-3-207	amended	Ch. 446	HB 486
76-3-210	repealed	Ch. 446	HB 486
76-3-303	amended	Ch. 56	HB 37

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76-3-405	amended	Ch. 56	HB 37
76-3-411	enacted	Ch. 258	HB 404
76-3-504	amended	Ch. 446	HB 486
76-3-506	amended	Ch. 446	HB 486
76-3-507	amended	Ch. 446	HB 486
76-3-510	amended	Ch. 405	SB 305
	amended	Ch. 446	HB 486
76-3-511	amended	Ch. 2	SB 7
76-3-604	amended	Ch. 405	SB 305
76-3-608	amended	Ch. 406	SB 310
	amended	Ch. 446	HB 486
76-3-609	amended	Ch. 446	HB 486
76-3-610	amended	Ch. 446	HB 486
76-3-620	amended	Ch. 446	HB 486
76-3-621	amended	Ch. 446	HB 486
76-3-625	amended	Ch. 446	HB 486
76-4-110	amended	Ch. 56	HB 37
76-4-125	amended	Ch. 405	SB 305
76-4-134	enacted	Ch. 279	SB 392
76-5-103	amended	Ch. 113	HB 129
	amended	Ch. 124	HB 270
76-5-201	amended	Ch. 113	HB 129
76-5-402	amended	Ch. 124	HB 270
76-7-204	amended	Ch. 2	SB 7
76-13-104	amended	Ch. 172	SB 111
76-13-108	amended	Ch. 56	HB 37
76-13-123	amended	Ch. 2	SB 7
76-13-145	enacted	Ch. 397	SB 131
76-13-150	amended	Ch. 441	HB 154
76-13-211	amended	Ch. 2	SB 7
76-13-213	amended	Ch. 173	SB 143
76-13-402	amended	Ch. 2	SB 7
76-13-405	amended	Ch. 2	SB 7
76-13-406	amended	Ch. 2	SB 7
76-13-413	amended	Ch. 56	HB 37
76-13-423	amended	Ch. 56	HB 37
76-13-702	amended	Ch. 58	HB 44
	amended	Ch. 115	HB 139
76-13-801	enacted	Ch. 289	SB 113
76-13-802	enacted	Ch. 289	SB 113
76-14-105	amended	Ch. 56	HB 37
76-15-101	amended	Ch. 56	HB 37
76-15-312	amended	Ch. 56	HB 37
76-15-313	amended	Ch. 56	HB 37
76-15-315	amended	Ch. 56	HB 37
76-15-408	amended	Ch. 2	SB 7
76-15-515	amended	Ch. 36	SB 78
76-15-526	amended	Ch. 56	HB 37
76-15-604	amended	Ch. 56	HB 37
76-15-606	amended	Ch. 56	HB 37
76-15-710	amended	Ch. 56	HB 37
76-15-722	amended	Ch. 56	HB 37
76-15-723	amended	Ch. 56	HB 37
77-1-101	amended	Ch. 465	SB 65
77-1-104	amended	Ch. 56	HB 37
77-1-108	amended	Ch. 465	SB 65
77-1-109	amended	Ch. 465	SB 65
77-1-111	amended	Ch. 56	HB 37
	amended	Ch. 472	SB 465
77-1-112	amended	Ch. 56	HB 37
77-1-114	amended	Ch. 56	HB 37
77-1-115	amended	Ch. 56	HB 37
77-1-121	amended	Ch. 239	HB 529



## CODE SECTIONS AFFECTED

77-1-122	enacted	Ch. 239	HB 529
77-1-126	amended	Ch. 472	SB 465
77-1-127	amended	Ch. 465	SB 65
	amended	Ch. 472	SB 465
77-1-132	enacted	Ch. 465	SB 65
77-1-134	enacted	Ch. 472	SB 465
77-1-201	amended	Ch. 56	HB 37
77-1-218	enacted	Ch. 485	HB 674
77-1-219	enacted	Ch. 485	HB 674
77-1-220	enacted	Ch. 485	HB 674
77-1-602	repealed	Ch. 465	SB 65
77-1-604	repealed	Ch. 465	SB 65
77-1-605	amended	Ch. 465	SB 65
77-1-606	repealed	Ch. 465	SB 65
77-1-607	repealed	Ch. 465	SB 65
77-1-608	repealed	Ch. 465	SB 65
77-1-609	repealed	Ch. 465	SB 65
77-1-613	amended	Ch. 465	SB 65
77-1-702	amended	Ch. 56	HB 37
77-1-801	amended	Ch. 56	HB 37
77-1-802	amended	Ch. 465	SB 65
77-1-805	amended	Ch. 56	HB 37
77-1-806	amended	Ch. 56	HB 37
	amended	Ch. 472	SB 465
77-1-808	amended	Ch. 465	SB 65
77-1-809	amended	Ch. 465	SB 65
	amended	Ch. 472	SB 465
77-1-810	amended	Ch. 465	SB 65
77-1-815	amended	Ch. 465	SB 65
77-1-905	amended	Ch. 465	SB 65
77-1-1101	enacted	Ch. 475	SB 507
77-1-1102	enacted	Ch. 475	SB 507
77-1-1103	enacted	Ch. 475	SB 507
77-1-1104	enacted	Ch. 475	SB 507
77-1-1105	enacted	Ch. 475	SB 507
77-1-1106	enacted	Ch. 475	SB 507
77-1-1107	enacted	Ch. 475	SB 507
77-1-1108	enacted	Ch. 475	SB 507
77-2-101	amended	Ch. 475	SB 507
77-2-105	amended	Ch. 56	HB 37
77-2-315	amended	Ch. 56	HB 37
77-2-324	amended	Ch. 56	HB 37
77-2-328	amended	Ch. 465	SB 65
77-2-329	amended	Ch. 56	HB 37
77-2-332	amended	Ch. 56	HB 37
77-2-333	amended	Ch. 56	HB 37
77-2-334	amended	Ch. 56	HB 37
77-2-335	amended	Ch. 56	HB 37
77-2-336	amended	Ch. 56	HB 37
77-2-362	amended	Ch. 2	SB 7
	amended	Ch. 465	SB 65
77-2-363	amended	Ch. 209	HB 402
77-2-366	amended	Ch. 209	HB 402
77-3-102	amended	Ch. 56	HB 37
77-3-104	amended	Ch. 56	HB 37
77-3-115	amended	Ch. 56	HB 37
77-3-307	amended	Ch. 56	HB 37
77-3-409	amended	Ch. 56	HB 37
77-3-411	enacted	Ch. 432	SB 475
77-3-426	amended	Ch. 56	HB 37
77-3-430	amended	Ch. 474	SB 498
77-3-442	amended	Ch. 472	SB 465
77-4-108	amended	Ch. 56	HB 37

77-4-121	amended	Ch. 56	HB 37
77-4-128	amended	Ch. 56	HB 37
77-4-129	amended	Ch. 56	HB 37
77-4-208	amended	Ch. 377	HB 152
77-5-204	amended	Ch. 465	SB 65
77-5-212	amended	Ch. 108	HB 78
77-5-216	amended	Ch. 116	HB 140
77-5-219	amended	Ch. 465	SB 65
77-5-224	enacted	Ch. 465	SB 65
77-6-108	amended	Ch. 56	HB 37
77-6-112	amended	Ch. 56	HB 37
77-6-113	amended	Ch. 472	SB 465
77-6-115	amended	Ch. 56	HB 37
	amended	Ch. 472	SB 465
77-6-201	amended	Ch. 56	HB 37
77-6-209	amended	Ch. 56	HB 37
77-6-212	amended	Ch. 56	HB 37
77-6-302	amended	Ch. 472	SB 465
77-6-303	amended	Ch. 472	SB 465
77-6-401	amended	Ch. 56	HB 37
77-6-501	amended	Ch. 472	SB 465
80-2-104	amended	Ch. 56	HB 37
80-2-202	amended	Ch. 56	HB 37
80-2-241	amended	Ch. 56	HB 37
80-2-243	amended	Ch. 56	HB 37
80-3-314	amended	Ch. 191	HB 290
80-3-321	amended	Ch. 191	HB 290
80-4-406	amended	Ch. 56	HB 37
80-4-424	amended	Ch. 56	HB 37
80-4-428	amended	Ch. 56	HB 37
80-4-430	amended	Ch. 56	HB 37
80-4-504	amended	Ch. 56	HB 37
80-4-506	amended	Ch. 56	HB 37
80-4-521	amended	Ch. 56	HB 37
80-4-522	amended	Ch. 56	HB 37
80-4-523	amended	Ch. 56	HB 37
80-4-524	amended	Ch. 56	HB 37
80-4-529	amended	Ch. 56	HB 37
80-4-530	amended	Ch. 56	HB 37
80-4-537	amended	Ch. 56	HB 37
80-4-539	amended	Ch. 56	HB 37
80-4-605	amended	Ch. 56	HB 37
80-4-711	amended	Ch. 19	HB 368
80-5-510	amended	Ch. 426	SB 117
80-6-101	amended	Ch. 468	SB 322
80-6-102	amended	Ch. 56	HB 37
	amended	Ch. 468	SB 322
80-6-103	amended	Ch. 56	HB 37
	amended	Ch. 468	SB 322
80-6-104	amended	Ch. 56	HB 37
	amended	Ch. 468	SB 322
80-6-105	repealed	Ch. 468	SB 322
80-6-106	enacted	Ch. 468	SB 322
80-6-111	amended	Ch. 56	HB 37
	amended	Ch. 468	SB 322
80-6-112	amended	Ch. 468	SB 322
80-6-113	amended	Ch. 468	SB 322
80-6-114	amended	Ch. 468	SB 322
80-6-115	repealed	Ch. 468	SB 322
80-6-201	amended	Ch. 468	SB 322
80-6-202	amended	Ch. 468	SB 322
80-6-203	amended	Ch. 468	SB 322
80-6-303	amended	Ch. 468	SB 322

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80-6-1105	amended	Ch. 56	HB 37
80-6-1109	amended	Ch. 486	HB 676
80-7-105	amended (voided by sec. 2, Ch. 393)	Ch. 384	HB 478
	amended	Ch. 393	SB 38
80-7-106	amended	Ch. 384	HB 478
	amended	Ch. 393	SB 38
80-7-108	amended	Ch. 384	HB 478
80-7-109	amended	Ch. 384	HB 478
80-7-110	amended	Ch. 384	HB 478
80-7-122	amended	Ch. 384	HB 478
80-7-133	amended	Ch. 384	HB 478
80-7-135	amended	Ch. 384	HB 478
80-7-505	amended	Ch. 56	HB 37
80-7-908	amended	Ch. 10	SB 29
80-7-1001	enacted	Ch. 429	SB 343
80-7-1002	enacted	Ch. 429	SB 343
80-7-1003	enacted	Ch. 429	SB 343
80-7-1004	enacted	Ch. 429	SB 343
80-7-1005	enacted	Ch. 429	SB 343
80-7-1006	enacted	Ch. 429	SB 343
80-7-1007	enacted	Ch. 429	SB 343
80-7-1008	enacted	Ch. 429	SB 343
80-7-1009	enacted	Ch. 429	SB 343
80-7-1010	enacted	Ch. 429	SB 343
80-7-1011	enacted	Ch. 429	SB 343
80-7-1012	enacted	Ch. 429	SB 343
80-7-1013	enacted	Ch. 429	SB 343
80-7-1014	enacted	Ch. 429	SB 343
80-7-1104	amended	Ch. 56	HB 37
80-8-102	amended	Ch. 56	HB 37
80-8-103	amended	Ch. 56	HB 37
80-8-108	amended	Ch. 56	HB 37
80-8-202	amended	Ch. 56	HB 37
80-8-206	amended	Ch. 56	HB 37
80-8-208	amended	Ch. 56	HB 37
80-8-301	amended	Ch. 56	HB 37
80-8-303	amended	Ch. 56	HB 37
80-10-101	amended	Ch. 56	HB 37
	amended	Ch. 395	SB 55
80-10-102	amended	Ch. 395	SB 55
80-10-103	amended	Ch. 395	SB 55
	amended	Ch. 423	SB 300
80-10-104	amended	Ch. 423	SB 300
80-10-110	enacted	Ch. 395	SB 55
80-10-201	amended	Ch. 56	HB 37
	amended	Ch. 395	SB 55
80-10-202	amended	Ch. 395	SB 55
80-10-204	amended	Ch. 56	HB 37
	amended	Ch. 395	SB 55
80-10-205	amended	Ch. 395	SB 55
80-10-206	amended	Ch. 395	SB 55
80-10-207	amended	Ch. 395	SB 55
80-10-208	amended	Ch. 395	SB 55
80-10-209	amended	Ch. 395	SB 55
80-10-211	amended	Ch. 56	HB 37
80-10-303	amended	Ch. 56	HB 37
	amended	Ch. 395	SB 55
80-10-503	amended	Ch. 56	HB 37
80-11-204	amended	Ch. 56	HB 37
80-11-224	amended	Ch. 10	SB 29
80-11-305	amended	Ch. 56	HB 37
80-11-308	amended	Ch. 56	HB 37
80-11-311	amended	Ch. 56	HB 37

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80-11-404	amended	Ch. 56	HB 37
80-11-405	amended	Ch. 15	HB 100
	amended	Ch. 56	HB 37
80-11-416	amended	Ch. 56	HB 37
80-11-801	amended	Ch. 70	HB 247
80-11-901	enacted	Ch. 386	HB 583
80-12-202	amended	Ch. 56	HB 37
80-12-203	amended	Ch. 18	HB 168
	amended	Ch. 56	HB 37
80-12-211	amended	Ch. 56	HB 37
80-12-310	amended	Ch. 56	HB 37
80-15-218	amended	Ch. 56	HB 37
80-15-302	amended	Ch. 395	SB 55
81-1-101	amended	Ch. 361	SB 286
81-1-202	amended	Ch. 56	HB 37
81-1-301	amended	Ch. 56	HB 37
81-1-302	amended	Ch. 56	HB 37
81-2-101	amended	Ch. 56	HB 37
81-2-109	amended	Ch. 56	HB 37
81-2-112	amended	Ch. 56	HB 37
81-2-201	amended	Ch. 56	HB 37
81-2-204	amended	Ch. 56	HB 37
81-2-206	amended	Ch. 56	HB 37
81-2-208	amended	Ch. 56	HB 37
81-2-209	amended	Ch. 56	HB 37
81-2-303	amended	Ch. 56	HB 37
81-2-502	amended	Ch. 56	HB 37
81-2-602	amended	Ch. 56	HB 37
81-2-703	amended	Ch. 56	HB 37
81-3-106	amended	Ch. 56	HB 37
81-3-203	amended	Ch. 56	HB 37
	amended	Ch. 290	SB 126
81-3-204	amended	Ch. 56	HB 37
81-3-205	amended	Ch. 56	HB 37
81-3-211	amended	Ch. 290	SB 126
81-3-214	repealed	Ch. 23	SB 130
	amended	Ch. 56	HB 37
81-3-223	amended	Ch. 56	HB 37
81-3-231	amended	Ch. 56	HB 37
81-3-233	amended	Ch. 56	HB 37
81-4-104	amended	Ch. 56	HB 37
81-4-108	amended	Ch. 56	HB 37
81-4-207	amended	Ch. 56	HB 37
81-4-208	amended	Ch. 56	HB 37
81-4-212	amended	Ch. 56	HB 37
81-4-220	amended	Ch. 56	HB 37
81-4-308	amended	Ch. 56	HB 37
81-4-322	amended	Ch. 56	HB 37
81-4-326	amended	Ch. 56	HB 37
81-4-327	amended	Ch. 56	HB 37
81-4-405	amended	Ch. 56	HB 37
81-4-406	amended	Ch. 56	HB 37
81-4-410	amended	Ch. 56	HB 37
81-4-505	amended	Ch. 56	HB 37
	amended	Ch. 291	SB 148
81-4-506	amended	Ch. 56	HB 37
81-4-507	amended	Ch. 56	HB 37
81-4-508	amended	Ch. 56	HB 37
81-4-509	amended	Ch. 56	HB 37
	amended	Ch. 291	SB 148
81-4-512	amended	Ch. 56	HB 37
81-4-513	amended	Ch. 56	HB 37
81-4-603	amended	Ch. 56	HB 37

## CODE SECTIONS AFFECTED

	amended . . . . .	Ch. 269 . . . . .	SB 104
81-5-103 . . . . .	amended . . . . .	Ch. 56 . . . . .	HB 37
81-6-102 . . . . .	amended . . . . .	Ch. 56 . . . . .	HB 37
81-7-102 . . . . .	amended . . . . .	Ch. 56 . . . . .	HB 37
81-7-115 . . . . .	amended . . . . .	Ch. 56 . . . . .	HB 37
81-7-203 . . . . .	amended . . . . .	Ch. 56 . . . . .	HB 37
81-7-204 . . . . .	amended . . . . .	Ch. 56 . . . . .	HB 37
81-7-403 . . . . .	amended . . . . .	Ch. 56 . . . . .	HB 37
81-7-501 . . . . .	amended . . . . .	Ch. 56 . . . . .	HB 37
81-8-215 . . . . .	amended . . . . .	Ch. 56 . . . . .	HB 37
81-8-232 . . . . .	amended . . . . .	Ch. 56 . . . . .	HB 37
81-8-235 . . . . .	amended . . . . .	Ch. 56 . . . . .	HB 37
81-8-251 . . . . .	amended . . . . .	Ch. 56 . . . . .	HB 37
81-8-261 . . . . .	amended . . . . .	Ch. 56 . . . . .	HB 37
81-8-263 . . . . .	amended . . . . .	Ch. 56 . . . . .	HB 37
81-8-274 . . . . .	amended . . . . .	Ch. 56 . . . . .	HB 37
81-8-278 . . . . .	amended . . . . .	Ch. 56 . . . . .	HB 37
81-8-312 . . . . .	amended . . . . .	Ch. 56 . . . . .	HB 37
81-8-315 . . . . .	amended . . . . .	Ch. 56 . . . . .	HB 37
81-8-702 . . . . .	amended . . . . .	Ch. 56 . . . . .	HB 37
81-8-704 . . . . .	amended . . . . .	Ch. 56 . . . . .	HB 37
81-9-111 . . . . .	amended . . . . .	Ch. 56 . . . . .	HB 37
	amended . . . . .	Ch. 416 . . . . .	HB 418
81-9-112 . . . . .	amended . . . . .	Ch. 56 . . . . .	HB 37
	amended . . . . .	Ch. 416 . . . . .	HB 418
81-9-114 . . . . .	amended . . . . .	Ch. 56 . . . . .	HB 37
81-9-115 . . . . .	amended . . . . .	Ch. 416 . . . . .	HB 418
81-9-116 . . . . .	amended . . . . .	Ch. 416 . . . . .	HB 418
81-9-201 . . . . .	amended . . . . .	Ch. 416 . . . . .	HB 418
81-9-218 . . . . .	amended . . . . .	Ch. 56 . . . . .	HB 37
81-9-220 . . . . .	amended . . . . .	Ch. 56 . . . . .	HB 37
81-9-229 . . . . .	amended . . . . .	Ch. 416 . . . . .	HB 418
81-9-230 . . . . .	amended . . . . .	Ch. 56 . . . . .	HB 37
	amended . . . . .	Ch. 416 . . . . .	HB 418
81-9-235 . . . . .	amended . . . . .	Ch. 56 . . . . .	HB 37
81-9-240 . . . . .	enacted . . . . .	Ch. 416 . . . . .	HB 418
81-9-241 . . . . .	enacted . . . . .	Ch. 416 . . . . .	HB 418
81-9-313 . . . . .	amended . . . . .	Ch. 56 . . . . .	HB 37
81-9-314 . . . . .	amended . . . . .	Ch. 56 . . . . .	HB 37
81-9-315 . . . . .	amended . . . . .	Ch. 56 . . . . .	HB 37
81-9-316 . . . . .	amended . . . . .	Ch. 56 . . . . .	HB 37
81-9-402 . . . . .	amended . . . . .	Ch. 56 . . . . .	HB 37
81-9-403 . . . . .	amended . . . . .	Ch. 56 . . . . .	HB 37
81-10-101 . . . . .	enacted . . . . .	Ch. 390 . . . . .	HB 655
81-10-102 . . . . .	enacted . . . . .	Ch. 390 . . . . .	HB 655
81-10-103 . . . . .	enacted . . . . .	Ch. 390 . . . . .	HB 655
81-10-104 . . . . .	enacted . . . . .	Ch. 390 . . . . .	HB 655
81-20-204 . . . . .	amended . . . . .	Ch. 56 . . . . .	HB 37
81-20-209 . . . . .	amended . . . . .	Ch. 56 . . . . .	HB 37
81-21-102 . . . . .	amended . . . . .	Ch. 56 . . . . .	HB 37
81-22-203 . . . . .	amended . . . . .	Ch. 56 . . . . .	HB 37
81-22-205 . . . . .	amended . . . . .	Ch. 56 . . . . .	HB 37
81-22-207 . . . . .	amended . . . . .	Ch. 56 . . . . .	HB 37
81-22-402 . . . . .	amended . . . . .	Ch. 56 . . . . .	HB 37
81-22-415 . . . . .	amended . . . . .	Ch. 56 . . . . .	HB 37
81-23-101 . . . . .	amended . . . . .	Ch. 361 . . . . .	SB 286
81-23-103 . . . . .	amended . . . . .	Ch. 361 . . . . .	SB 286
81-23-104 . . . . .	amended . . . . .	Ch. 361 . . . . .	SB 286
81-23-201 . . . . .	amended . . . . .	Ch. 56 . . . . .	HB 37
	amended . . . . .	Ch. 361 . . . . .	SB 286
81-23-202 . . . . .	amended . . . . .	Ch. 361 . . . . .	SB 286
81-23-203 . . . . .	amended . . . . .	Ch. 361 . . . . .	SB 286
81-23-204 . . . . .	amended . . . . .	Ch. 361 . . . . .	SB 286

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81-23-302	amended	Ch. 361	SB 286
81-23-303	amended	Ch. 361	SB 286
81-23-304	repealed	Ch. 361	SB 286
81-23-305	amended	Ch. 56	HB 37
	repealed	Ch. 361	SB 286
81-23-401	amended	Ch. 361	SB 286
81-23-402	amended	Ch. 361	SB 286
81-23-403	amended	Ch. 56	HB 37
81-23-404	amended	Ch. 361	SB 286
81-23-405	amended	Ch. 361	SB 286
81-23-406	amended	Ch. 361	SB 286
81-23-407	enacted	Ch. 361	SB 286
82-1-105	amended	Ch. 56	HB 37
82-1-108	amended	Ch. 56	HB 37
82-1-202	amended	Ch. 56	HB 37
82-1-203	amended	Ch. 56	HB 37
82-2-101	amended	Ch. 56	HB 37
82-2-102	amended	Ch. 56	HB 37
82-2-103	amended	Ch. 56	HB 37
82-2-105	amended	Ch. 56	HB 37
82-2-106	amended	Ch. 56	HB 37
82-2-107	amended	Ch. 56	HB 37
82-2-108	amended	Ch. 56	HB 37
82-2-109	amended	Ch. 56	HB 37
82-2-112	amended	Ch. 56	HB 37
82-2-114	amended	Ch. 56	HB 37
82-2-115	amended	Ch. 56	HB 37
82-2-203	amended	Ch. 56	HB 37
82-2-205	amended	Ch. 56	HB 37
82-2-401	amended	Ch. 56	HB 37
82-2-402	amended	Ch. 56	HB 37
82-2-405	amended	Ch. 56	HB 37
82-2-421	amended	Ch. 56	HB 37
82-2-701	enacted	Ch. 276	SB 297
82-2-702	enacted	Ch. 276	SB 297
82-4-142	amended	Ch. 56	HB 37
82-4-235	amended	Ch. 72	HB 278
82-4-238	amended	Ch. 56	HB 37
82-4-239	amended	Ch. 78	SB 5
82-4-355	amended	Ch. 56	HB 37
82-4-371	amended	Ch. 78	SB 5
82-4-405	amended	Ch. 477	HB 678
82-4-424	amended	Ch. 477	HB 678
82-4-432	amended	Ch. 477	HB 678
82-4-437	amended	Ch. 477	HB 678
82-4-438	enacted	Ch. 477	HB 678
82-4-439	enacted	Ch. 477	HB 678
82-10-103	amended	Ch. 56	HB 37
82-10-401	amended	Ch. 56	HB 37
82-10-402	amended	Ch. 56	HB 37
	amended	Ch. 474	SB 498
82-10-506	amended	Ch. 56	HB 37
82-10-507	amended	Ch. 56	HB 37
82-11-101	amended	Ch. 474	SB 498
82-11-103	amended	Ch. 56	HB 37
82-11-104	amended	Ch. 474	SB 498
82-11-110	enacted	Ch. 329	SB 449
82-11-111	amended	Ch. 329	SB 449
	amended	Ch. 474	SB 498
82-11-117	amended	Ch. 56	HB 37
82-11-118	amended	Ch. 474	SB 498
82-11-122	amended	Ch. 474	SB 498
82-11-123	amended	Ch. 474	SB 498

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82-11-127	amended	Ch. 474	SB 498
82-11-136	amended	Ch. 474	SB 498
82-11-137	amended	Ch. 474	SB 498
82-11-141	amended	Ch. 56	HB 37
82-11-142	amended	Ch. 56	HB 37
82-11-151	amended	Ch. 56	HB 37
82-11-161	amended	Ch. 474	SB 498
82-11-163	amended	Ch. 474	SB 498
82-11-180	enacted	Ch. 474	SB 498
82-11-181	enacted	Ch. 474	SB 498
82-11-182	enacted	Ch. 474	SB 498
82-11-183	enacted	Ch. 474	SB 498
82-11-184	enacted	Ch. 474	SB 498
82-11-185	enacted	Ch. 474	SB 498
82-11-201	amended	Ch. 244	SB 136
	amended	Ch. 474	SB 498
82-11-204	amended	Ch. 474	SB 498
82-11-205	amended	Ch. 474	SB 498
82-11-206	amended	Ch. 56	HB 37
82-11-207	amended	Ch. 311	SB 76
82-11-209	amended	Ch. 56	HB 37
82-11-212	amended	Ch. 56	HB 37
82-11-214	amended	Ch. 474	SB 498
82-11-303	amended	Ch. 56	HB 37
82-11-304	amended	Ch. 56	HB 37
82-11-305	amended	Ch. 56	HB 37
82-11-306	amended	Ch. 56	HB 37
82-15-204	amended	Ch. 56	HB 37
82-15-205	amended	Ch. 56	HB 37
85-1-203	amended	Ch. 404	SB 303
85-1-619	amended	Ch. 2	SB 7
85-1-622	amended	Ch. 56	HB 37
85-2-102	amended	Ch. 251	HB 40
85-2-105	amended	Ch. 285	SB 22
85-2-114	amended	Ch. 103	HB 39
85-2-122	amended	Ch. 103	HB 39
85-2-132	amended	Ch. 56	HB 37
85-2-134	amended	Ch. 56	HB 37
85-2-214	amended	Ch. 56	HB 37
85-2-217	amended	Ch. 5	SB 39
85-2-218	amended	Ch. 56	HB 37
85-2-224	amended	Ch. 56	HB 37
85-2-234	amended	Ch. 56	HB 37
85-2-280	amended	Ch. 486	HB 676
85-2-306	amended	Ch. 86	SB 120
85-2-307	amended	Ch. 251	HB 40
85-2-308	amended	Ch. 251	HB 40
85-2-309	amended	Ch. 251	HB 40
85-2-310	amended	Ch. 251	HB 40
85-2-344	amended	Ch. 2	SB 7
85-2-362	amended	Ch. 104	HB 41
85-2-364	amended	Ch. 104	HB 41
85-2-401	amended	Ch. 251	HB 40
85-2-402	amended	Ch. 86	SB 120
	amended	Ch. 424	SB 396
85-2-405	amended	Ch. 56	HB 37
85-2-412	amended	Ch. 56	HB 37
85-2-413	amended	Ch. 56	HB 37
85-2-416	amended	Ch. 56	HB 37
85-2-418	amended	Ch. 56	HB 37
85-2-501	amended	Ch. 86	SB 120
85-2-506	amended	Ch. 86	SB 120
85-2-507	repealed	Ch. 86	SB 120

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85-2-508	amended	Ch. 86	SB 120
85-2-509	repealed	Ch. 86	SB 120
85-2-511	repealed	Ch. 86	SB 120
85-2-513	repealed	Ch. 86	SB 120
85-2-518	repealed	Ch. 86	SB 120
85-2-520	repealed	Ch. 86	SB 120
85-2-523	enacted	Ch. 86	SB 120
85-2-524	enacted	Ch. 86	SB 120
85-2-525	enacted	Ch. 436	HB 52
85-2-702	amended	Ch. 5	SB 39
85-2-704	amended	Ch. 5	SB 39
85-2-804	amended	Ch. 56	HB 37
	amended	Ch. 251	HB 40
85-3-301	amended	Ch. 56	HB 37
85-3-411	amended	Ch. 56	HB 37
85-3-421	amended	Ch. 56	HB 37
85-5-102	amended	Ch. 56	HB 37
85-5-103	amended	Ch. 56	HB 37
85-5-104	amended	Ch. 56	HB 37
85-5-105	amended	Ch. 56	HB 37
85-5-108	amended	Ch. 56	HB 37
85-5-109	amended	Ch. 56	HB 37
85-5-110	amended	Ch. 56	HB 37
85-5-202	amended	Ch. 56	HB 37
85-5-302	amended	Ch. 56	HB 37
85-5-401	amended	Ch. 56	HB 37
85-5-402	amended	Ch. 56	HB 37
85-5-405	amended	Ch. 56	HB 37
85-5-406	amended	Ch. 56	HB 37
85-7-1504	amended	Ch. 56	HB 37
85-7-1506	amended	Ch. 56	HB 37
85-7-1507	amended	Ch. 56	HB 37
85-7-1508	amended	Ch. 56	HB 37
85-7-1615	amended	Ch. 56	HB 37
85-7-1618	amended	Ch. 56	HB 37
85-7-1703	amended	Ch. 56	HB 37
85-7-1811	amended	Ch. 56	HB 37
85-7-1901	amended	Ch. 56	HB 37
85-7-1912	amended	Ch. 56	HB 37
85-7-1924	amended	Ch. 56	HB 37
85-7-2017	amended	Ch. 56	HB 37
85-7-2027	amended	Ch. 56	HB 37
85-7-2114	amended	Ch. 56	HB 37
85-7-2115	amended	Ch. 56	HB 37
85-7-2116	amended	Ch. 56	HB 37
85-7-2133	amended	Ch. 56	HB 37
85-7-2153	amended	Ch. 56	HB 37
85-7-2166	amended	Ch. 56	HB 37
85-8-111	amended	Ch. 56	HB 37
85-8-115	amended	Ch. 56	HB 37
85-8-119	amended	Ch. 56	HB 37
85-8-121	amended	Ch. 56	HB 37
85-8-307	amended	Ch. 56	HB 37
85-8-308	amended	Ch. 56	HB 37
85-8-312	amended	Ch. 56	HB 37
85-8-314	amended	Ch. 56	HB 37
85-8-321	amended	Ch. 56	HB 37
85-8-345	amended	Ch. 56	HB 37
85-8-362	amended	Ch. 56	HB 37
85-8-364	amended	Ch. 56	HB 37
85-8-402	amended	Ch. 56	HB 37
85-8-403	amended	Ch. 56	HB 37
85-8-404	amended	Ch. 56	HB 37



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85-8-612	amended	Ch. 56	HB 37
85-9-103	amended	Ch. 56	HB 37
85-9-304	amended	Ch. 56	HB 37
85-9-401	amended	Ch. 56	HB 37
85-9-402	amended	Ch. 56	HB 37
85-9-421	amended	Ch. 56	HB 37
85-9-502	amended	Ch. 56	HB 37
85-9-504	amended	Ch. 56	HB 37
85-9-628	amended	Ch. 56	HB 37
85-20-104	amended	Ch. 56	HB 37
85-20-105	amended	Ch. 56	HB 37
85-20-106	amended	Ch. 56	HB 37
85-20-901	amended	Ch. 44	SB 201
85-20-904	amended	Ch. 44	SB 201
85-20-1004	amended	Ch. 440	HB 135
85-20-1501	enacted	Ch. 204	HB 161
85-20-1505	amended	Ch. 204	HB 161
85-20-1601	enacted	Ch. 280	SB 426
87-1-102	amended	Ch. 121	HB 223
	amended	Ch. 229	HB 218
	amended	Ch. 253	HB 222
87-1-201	amended	Ch. 10	SB 29
	amended	Ch. 330	HB 42
87-1-204	amended	Ch. 56	HB 37
87-1-205	amended	Ch. 56	HB 37
87-1-206	amended	Ch. 56	HB 37
87-1-207	amended	Ch. 56	HB 37
87-1-208	amended	Ch. 56	HB 37
87-1-209	amended	Ch. 427	SB 164
	amended	Ch. 485	HB 674
87-1-210	amended	Ch. 56	HB 37
87-1-217	amended	Ch. 275	SB 228
87-1-218	enacted	Ch. 485	HB 674
87-1-225	amended	Ch. 56	HB 37
87-1-230	enacted	Ch. 427	SB 164
87-1-247	amended	Ch. 306	HB 499
87-1-250	amended	Ch. 306	HB 499
87-1-251	enacted	Ch. 306	HB 499
87-1-266	amended	Ch. 114	HB 137
87-1-270	amended	Ch. 304	HB 480
87-1-272	amended	Ch. 2	SB 7
87-1-302	amended	Ch. 56	HB 37
87-1-304	amended	Ch. 13	HB 74
87-1-402	amended	Ch. 56	HB 37
87-1-501	amended	Ch. 56	HB 37
87-1-503	amended	Ch. 32	HB 296
87-1-504	amended	Ch. 2	SB 7
87-1-505	amended	Ch. 2	SB 7
87-1-506	amended	Ch. 429	SB 343
87-1-511	amended	Ch. 56	HB 37
87-1-513	amended	Ch. 426	SB 117
87-1-601	amended	Ch. 330	HB 42
87-1-603	amended	Ch. 485	HB 674
87-1-621	enacted	Ch. 330	HB 42
87-1-701	amended	Ch. 56	HB 37
87-1-704	amended	Ch. 56	HB 37
87-2-105	amended	Ch. 68	HB 172
87-2-106	amended	Ch. 253	HB 222
87-2-112	amended	Ch. 56	HB 37
87-2-126	enacted	Ch. 68	HB 172
87-2-201	amended	Ch. 2	SB 7
87-2-203	amended	Ch. 56	HB 37
87-2-204	amended	Ch. 56	HB 37

87-2-514	amended	Ch. 2	SB 7
87-2-525	enacted	Ch. 174	SB 185
87-2-526	enacted	Ch. 345	HB 585
87-2-602	amended	Ch. 56	HB 37
87-2-604	amended	Ch. 56	HB 37
87-2-702	amended	Ch. 136	SB 184
87-2-704	amended	Ch. 175	SB 188
87-2-803	amended	Ch. 193	HB 317
	amended	Ch. 352	SB 32
87-2-805	amended	Ch. 131	HB 383
	amended	Ch. 189	HB 221
	amended	Ch. 304	HB 480
87-2-1001	amended	Ch. 130	HB 366
87-2-1002	amended	Ch. 56	HB 37
87-2-1003	amended	Ch. 130	HB 366
87-3-101	amended	Ch. 229	HB 218
87-3-123	amended	Ch. 56	HB 37
87-3-130	amended	Ch. 294	SB 202
87-3-206	amended	Ch. 56	HB 37
87-3-221	amended	Ch. 56	HB 37
87-3-235	amended	Ch. 431	SB 425
87-3-236	repealed 3/1/2012	Ch. 431	SB 425
87-3-405	amended	Ch. 56	HB 37
87-3-506	amended	Ch. 56	HB 37
	amended	Ch. 229	HB 218
87-3-507	amended	Ch. 56	HB 37
87-4-301	amended	Ch. 56	HB 37
87-4-303	amended	Ch. 56	HB 37
87-4-502	amended	Ch. 408	SB 404
87-4-602	amended	Ch. 56	HB 37
87-4-702	amended	Ch. 56	HB 37
87-4-703	amended	Ch. 56	HB 37
87-4-704	amended	Ch. 56	HB 37
87-4-705	amended	Ch. 56	HB 37
87-4-903	amended	Ch. 56	HB 37
87-4-904	amended	Ch. 56	HB 37
87-4-915	amended	Ch. 56	HB 37
87-4-1002	amended	Ch. 56	HB 37
87-4-1003	amended	Ch. 56	HB 37
87-5-102	amended	Ch. 301	HB 443
87-5-108	amended	Ch. 56	HB 37
87-5-131	amended	Ch. 275	SB 228
87-5-721	amended	Ch. 429	SB 343
87-5-725	enacted	Ch. 119	HB 203
90-1-104	amended	Ch. 164	HB 193
90-1-112	amended	Ch. 309	HB 635
90-1-117	enacted	Ch. 215	HB 572
90-1-118	enacted	Ch. 215	HB 572
90-1-119	enacted	Ch. 215	HB 572
90-1-131	amended	Ch. 164	HB 193
90-1-132	amended	Ch. 164	HB 193
90-1-133	amended	Ch. 164	HB 193
90-1-147	amended	Ch. 215	HB 572
90-1-175	enacted	Ch. 489	HB 645
90-1-201	amended	Ch. 460	HB 158
90-1-202	amended	Ch. 460	HB 158
90-1-203	amended	Ch. 460	HB 158
90-1-204	amended	Ch. 460	HB 158
	amended	Ch. 489	HB 645
90-1-205	amended	Ch. 460	HB 158
90-1-501	enacted	Ch. 484	HB 669
90-1-502	enacted	Ch. 484	HB 669
90-1-503	enacted	Ch. 484	HB 669

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90-1-504	enacted	Ch. 484	HB 669
90-2-1111	amended	Ch. 56	HB 37
90-3-1003	amended	Ch. 30	HB 207
	amended	Ch. 118	HB 179
	amended	Ch. 232	HB 343
90-3-1301	enacted	Ch. 383	HB 333
90-3-1302	enacted	Ch. 383	HB 333
90-4-201	amended	Ch. 10	SB 29
90-4-305	amended	Ch. 56	HB 37
90-4-309	amended	Ch. 56	HB 37
90-4-314	amended	Ch. 56	HB 37
90-4-317	amended	Ch. 56	HB 37
90-4-602	amended	Ch. 478	HB 5
90-4-615	amended	Ch. 478	HB 5
90-4-616	enacted	Ch. 478	HB 5
90-4-617	enacted	Ch. 478	HB 5
90-4-618	enacted	Ch. 478	HB 5
90-4-1001	amended	Ch. 454	SB 290
90-4-1002	repealed	Ch. 454	SB 290
90-4-1003	amended	Ch. 454	SB 290
90-4-1005	enacted	Ch. 489	HB 645
90-4-1101	amended	Ch. 439	HB 98
90-4-1102	amended	Ch. 439	HB 98
90-4-1103	amended	Ch. 439	HB 98
90-4-1104	amended	Ch. 439	HB 98
90-4-1105	amended	Ch. 439	HB 98
90-4-1106	amended	Ch. 439	HB 98
90-4-1107	amended	Ch. 439	HB 98
90-4-1108	amended	Ch. 439	HB 98
90-4-1109	amended	Ch. 439	HB 98
90-4-1202	amended	Ch. 232	HB 343
90-5-101	amended	Ch. 489	HB 645
90-5-103	amended	Ch. 489	HB 645
90-5-202	amended	Ch. 56	HB 37
90-6-120	amended	Ch. 56	HB 37
90-6-204	amended	Ch. 56	HB 37
90-6-303	amended	Ch. 56	HB 37
90-6-304	amended	Ch. 442	HB 194
90-6-309	amended	Ch. 57	HB 38
90-6-331	amended	Ch. 442	HB 194
90-6-701	amended	Ch. 458	HB 11
90-6-801	enacted	Ch. 377	HB 152
90-6-802	enacted	Ch. 377	HB 152
90-6-803	enacted	Ch. 377	HB 152
90-6-809	enacted	Ch. 377	HB 152
90-6-810	enacted	Ch. 377	HB 152
90-6-811	enacted	Ch. 377	HB 152
90-6-812	enacted	Ch. 377	HB 152
90-6-818	enacted	Ch. 377	HB 152
90-6-819	enacted	Ch. 377	HB 152
90-6-1001	amended	Ch. 33	SB 23
90-7-102	amended	Ch. 402	SB 264
	amended	Ch. 489	HB 645
90-7-104	amended	Ch. 402	SB 264
	amended	Ch. 489	HB 645
90-7-116	enacted	Ch. 402	SB 264
90-7-225	enacted	Ch. 402	SB 264
90-7-229	enacted	Ch. 489	HB 645
90-7-230	enacted	Ch. 489	HB 645
90-7-319	amended	Ch. 56	HB 37
90-9-102	amended	Ch. 106	HB 48
90-9-103	amended	Ch. 106	HB 48
90-9-202	amended	Ch. 106	HB 48

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90-9-203	amended	Ch. 106	HB 48
90-9-301	amended	Ch. 106	HB 48
90-9-303	repealed	Ch. 106	HB 48
90-9-306	amended	Ch. 106	HB 48
90-9-307	amended	Ch. 106	HB 48
90-9-308	enacted	Ch. 106	HB 48
90-9-309	enacted	Ch. 106	HB 48
90-9-310	enacted	Ch. 106	HB 48
90-9-311	amended	Ch. 106	HB 48
90-9-312	repealed	Ch. 106	HB 48
90-9-313	repealed	Ch. 106	HB 48
90-9-314	repealed	Ch. 106	HB 48
90-9-315	repealed	Ch. 106	HB 48
90-9-316	repealed	Ch. 106	HB 48
90-9-317	repealed	Ch. 106	HB 48
90-9-401	amended	Ch. 106	HB 48
90-9-402	amended	Ch. 106	HB 48
90-10-101	repealed	Ch. 309	HB 635
90-10-102	repealed	Ch. 309	HB 635
90-10-103	repealed	Ch. 309	HB 635
90-10-201	repealed	Ch. 309	HB 635
90-10-202	repealed	Ch. 309	HB 635
90-10-301	repealed	Ch. 309	HB 635
90-10-302	repealed	Ch. 309	HB 635
90-10-303	repealed	Ch. 309	HB 635
90-10-304	repealed	Ch. 309	HB 635
90-10-305	repealed	Ch. 309	HB 635
90-10-306	repealed	Ch. 309	HB 635
90-10-307	repealed	Ch. 309	HB 635
90-10-308	repealed	Ch. 309	HB 635
90-10-309	repealed	Ch. 309	HB 635
90-10-310	repealed	Ch. 309	HB 635
90-11-101	amended	Ch. 164	HB 193
90-11-102	amended	Ch. 164	HB 193

**SESSION LAWS AFFECTED**

<u>Laws Affected</u>	<u>Action</u>	<u>Chapter</u>	<u>Bill Number</u>
<b>Laws of 1991</b>			
Ch. 712, sec. 9 . . . . .	repealed . . . . .	159 . . . . .	HB 21
<b>Laws of 1995</b>			
Chapter 542, sec. 4, 5 . . . . .	repealed . . . . .	159 . . . . .	HB 21
<b>Laws of 1997</b>			
Chapter 411, sec. 1 . . . . .	repealed . . . . .	159 . . . . .	HB 21
<b>Laws of 2001</b>			
Chapter 398, sec. 4, 5, 6, 7 . . . . .	repealed . . . . .	159 . . . . .	HB 21
Chapter 516, sec. 8 . . . . .	repealed . . . . .	159 . . . . .	HB 21
<b>Laws of 2003</b>			
Chapter 81, sec. 4 . . . . .	repealed . . . . .	40 . . . . .	SB 140
Chapter 390, sec. 20 . . . . .	repealed . . . . .	222 . . . . .	HB 71
Chapter 390, sec. 20 . . . . .	amended . . . . .	489 . . . . .	HB 645
Chapter 481, sec. 3, 6 . . . . .	amended . . . . .	459 . . . . .	HB 123
Chapter 567, sec. 10 . . . . .	repealed . . . . .	84 . . . . .	SB 89
<b>Laws of 2005</b>			
Chapter 23 . . . . .	repealed . . . . .	40 . . . . .	SB 140
Chapter 129, sec. 3, 5 . . . . .	repealed . . . . .	159 . . . . .	HB 21
Chapter 169, sec. 4 . . . . .	repealed . . . . .	84 . . . . .	SB 89
Chapter 486, sec. 6 . . . . .	repealed . . . . .	79 . . . . .	SB 25
Chapter 487, sec. 30 . . . . .	repealed . . . . .	79 . . . . .	SB 25
Chapter 560, sec. 2 . . . . .	amended . . . . .	478 . . . . .	HB 5
Chapter 569, sec. 1, 2, 3, 4, 5, 6, 7, 8 . . . . .	repealed . . . . .	159 . . . . .	HB 21
Chapter 593, sec. 17 . . . . .	amended . . . . .	186 . . . . .	HB 163
Chapter 606, sec. 4, 7 . . . . .	amended . . . . .	489 . . . . .	HB 645
Chapter 606, sec. 4, 7 . . . . .	repealed . . . . .	222 . . . . .	HB 71
<b>Laws of 2007</b>			
Chapter 185 . . . . .	repealed . . . . .	40 . . . . .	SB 140
Chapter 351, sec. 6 . . . . .	repealed . . . . .	310 . . . . .	SB 26
Chapter 367, sec. 9 . . . . .	amended . . . . .	186 . . . . .	HB 163
Chapter 383, sec. 1 . . . . .	amended . . . . .	458 . . . . .	HB 11
Chapter 517, sec. 4, 5, 6, 8 . . . . .	repealed . . . . .	222 . . . . .	HB 71
Chapter 517, sec. 4, 5, 6, 8 . . . . .	amended . . . . .	489 . . . . .	HB 645
<b>Special Laws of May 2007</b>			
Chapter 5, sec. 9-B . . . . .	amended . . . . .	489 . . . . .	HB 645
<b>Special Laws of September 2007</b>			
Chapter 2, sec. 6 . . . . .	repealed . . . . .	441 . . . . .	HB 154

**SENATE BILL TO CHAPTER NUMBER**

<u>Bill No.</u>	<u>Chapter No.</u>	<u>Bill No.</u>	<u>Chapter No.</u>	<u>Bill No.</u>	<u>Chapter No.</u>
SB 2	8	SB 104	269	SB 216	137
SB 5	78	SB 108	356	SB 219	94
SB 7	2	SB 111	172	SB 222	273
SB 8	351	SB 113	289	SB 226	315
SB 9	265	SB 115	6	SB 227	274
SB 10	3	SB 116	22	SB 228	275
SB 11	4	SB 117	426	SB 231	358
SB 18	392	SB 119	452	SB 234	359
SB 20	152	SB 120	86	SB 235	453
SB 21	183	SB 123	270	SB 247	316
SB 22	285	SB 124	217	SB 250	177
SB 23	33	SB 125	12	SB 252	46
SB 24	9	SB 126	290	SB 255	95
SB 25	79	SB 127	313	SB 256	54
SB 26	310	SB 130	23	SB 260	401
SB 29	10	SB 131	397	SB 261	246
SB 32	352	SB 133	271	SB 262	96
SB 35	53	SB 135	87	SB 263	467
SB 38	393	SB 136	244	SB 264	402
SB 39	5	SB 140	40	SB 268	428
SB 40	80	SB 141	143	SB 269	317
SB 42	20	SB 143	173	SB 271	403
SB 43	11	SB 148	291	SB 273	178
SB 47	134	SB 150	88	SB 275	247
SB 48	394	SB 151	272	SB 276	219
SB 49	135	SB 152	41	SB 280	295
SB 53	34	SB 155	89	SB 281	360
SB 54	81	SB 156	292	SB 286	361
SB 55	395	SB 157	42	SB 290	454
SB 57	286	SB 158	422	SB 292	318
SB 58	287	SB 160	90	SB 294	248
SB 62	288	SB 161	43	SB 296	97
SB 65	465	SB 164	427	SB 297	276
SB 68	243	SB 170	91	SB 299	319
SB 71	266	SB 171	466	SB 300	423
SB 72	35	SB 173	144	SB 303	404
SB 73	353	SB 174	293	SB 305	405
SB 74	171	SB 176	398	SB 308	277
SB 76	311	SB 181	24	SB 310	406
SB 77	82	SB 182	92	SB 311	249
SB 78	36	SB 184	136	SB 319	155
SB 79	354	SB 185	174	SB 322	468
SB 82	153	SB 188	175	SB 323	138
SB 84	312	SB 192	218	SB 325	156
SB 86	355	SB 193	314	SB 330	320
SB 88	83	SB 196	93	SB 331	98
SB 89	84	SB 197	154	SB 340	179
SB 90	21	SB 198	357	SB 341	180
SB 91	37	SB 200	245	SB 343	429
SB 95	267	SB 201	44	SB 350	362
SB 96	268	SB 202	294	SB 351	321
SB 97	396	SB 204	399	SB 353	322
SB 98	38	SB 208	145	SB 356	363
SB 100	425	SB 209	176	SB 360	469
SB 102	85	SB 214	400	SB 361	323
SB 103	39	SB 215	45	SB 367	278

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SB 368	157	SB 424	296	SB 462	367
SB 369	407	SB 425	431	SB 463	281
SB 375	324	SB 426	280	SB 464	368
SB 376	99	SB 427	409	SB 465	472
SB 388	325	SB 430	364	SB 467	411
SB 390	100	SB 432	158	SB 475	432
SB 392	279	SB 438	101	SB 476	473
SB 395	181	SB 439	471	SB 489	487
SB 396	424	SB 441	327	SB 491	412
SB 399	430	SB 442	365	SB 498	474
SB 400	455	SB 444	328	SB 507	475
SB 401	326	SB 446	456	SB 508	413
SB 404	408	SB 447	221	SB 509	433
SB 405	220	SB 449	329	SB 510	476
SB 409	146	SB 451	366	SB 511	414
SB 418	470	SB 457	410		

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Bill No.	Chapter No.	Bill No.	Chapter No.	Bill No.	Chapter No.
HB 1	1	HB 71	222	HB 129	113
HB 2	488	HB 72	149	HB 130	479
HB 3	434	HB 74	13	HB 131	480
HB 4	369	HB 75	107	HB 132	481
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04/28/2009	Ch.	369	HB	4
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04/28/2009	Ch.	373	HB	55
04/28/2009	Ch.	376	HB	128
04/28/2009	Ch.	377	HB	152
04/28/2009	Ch.	378	HB	171
04/28/2009	Ch.	382	HB	315
04/28/2009	Ch.	384	HB	478
04/28/2009	Ch.	389	HB	636
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		§§ 1 and 4		
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		§§ 1, and 27-31		
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		§§ 1, 2, and 4-8	
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		§ 1	
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07/01/2009	Ch.	461	HB	213
		§§ 5 and 9		
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10/01/2009	Ch.	81	SB	54
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10/01/2009	Ch.	184	HB	133
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10/01/2009	Ch.	193	HB	317
10/01/2009	Ch.	194	HB	354
10/01/2009	Ch.	196	HB	397
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10/01/2009	Ch.	224	HB	103
10/01/2009	Ch.	228	HB	177
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10/01/2009	Ch.	231	HB	338
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10/01/2009	Ch.	252	HB	147
10/01/2009	Ch.	254	HB	357
10/01/2009	Ch.	255	HB	362
10/01/2009	Ch.	256	HB	371
10/01/2009	Ch.	257	HB	374
10/01/2009	Ch.	258	HB	404
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10/01/2009	Ch.	263	HB	574
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10/01/2009	Ch.	293	SB	174
10/01/2009	Ch.	295	SB	280
10/01/2009	Ch.	297	HB	19
10/01/2009	Ch.	299	HB	409
10/01/2009	Ch.	300	HB	420
10/01/2009	Ch.	302	HB	451
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10/01/2009	Ch.	307	HB	546
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10/01/2009	Ch.	338	HB	318
10/01/2009	Ch.	339	HB	322
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10/01/2009	Ch.	348	HB	628
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		§ 2		
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		§ 3		
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? . . . . .	Ch.	44 . . . . .	(§ 1, Effective upon signature of the parties as provided in 85-20-901)	SB	201
? . . . . .	Ch.	240 . . . . .	(§ 3, Effective contingent upon a final court ruling that [section2(1)(a)] is invalid or unconstitutional.)	HB	542
? . . . . .	Ch.	474 . . . . .	(§§ 2-26, Effective on the date that the board of oil and gas conservation is granted primacy to administer activities at carbon dioxide sequestration wells by the United States environmental protection agency.)	SB	498

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1	1	Appropriation		65	41-5-1202	5	1	85-2-217
	2	Effective date		66	41-5-1203		2	85-2-702
2	1	2-4-102		67	41-5-1204		3	85-2-704
	2	2-5-103		68	41-5-1205		4	Notification to tribal governments
	3	2-15-1781		69	41-5-1301		5	Effective date
	4	2-15-3113		70	41-5-1302	6	1	15-6-134 (Voided by sec. 16, Ch. 483)
	5	7-2-2723		71	41-5-1304		2	15-6-211
	6	7-2-2743		72	41-5-1401		3	15-16-102
	7	7-3-121		73	41-5-1432		4	Repealer
	8	7-3-122		74	41-5-1501		5	Effective date
	9	7-3-124		75	41-5-1511		6	Retroactive applicability
	10	7-3-154		76	41-5-1512	7	1	2-18-101
	11	7-4-2505		77	41-5-1701		2	2-18-202
	12	7-13-2527		78	41-5-1703		3	2-18-301
	13	7-32-303		79	41-5-1706		4	2-18-303
	14	10-3-1304		80	44-1-303		5	2-18-703
	15	10-4-101		81	45-6-312		6	2-18-1204
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	19	15-1-121		85	50-19-101		10	Appropriations
	20	15-6-138		86	52-3-813		11	Repealer
	21	15-6-192		87	53-6-1201		12	Effective date
	22	15-6-221		88	53-19-309	8	1	17-7-111
	23	15-7-111		89	53-20-125		2	17-7-112
	24	15-8-205		90	53-20-128		3	Effective date
	25	15-8-301		91	53-20-133		9	1
	26	15-10-420		92	61-4-128		2	Effective date
	27	15-16-402		93	69-8-419	8	1	Repealer
	28	15-17-323		94	69-8-421		2	Effective date
	29	15-17-911		95	70-32-106		3	Effective date
	30	15-18-411		96	71-1-212	9	1	Repealer
	31	15-18-413		97	72-3-606		2	Effective date
	32	15-24-301		98	75-1-110	10	1	16-11-124
	33	15-24-2403		99	75-1-220		2	17-5-911
	34	15-30-140		100	75-2-111		3	17-5-912
	35	15-31-121		101	75-2-211		4	17-7-113
	36	16-1-306		102	75-10-101		5	17-7-122
	37	17-7-111		103	75-10-102		6	17-7-123
	38	17-7-138		104	75-10-103		7	20-9-603
	39	18-2-401		105	75-10-112		8	39-51-406
	40	18-5-605		106	75-10-1007		9	50-19-322
	41	19-3-2121		107	76-3-511		10	53-7-204
	42	19-21-203		108	76-7-204		11	53-22-104
	43	20-7-328		109	76-13-123		12	67-2-403
	44	20-7-329		110	76-13-211		13	75-10-625
	45	20-7-330		111	76-13-402		14	75-10-626
	46	20-9-501		112	76-13-405		15	80-7-908
	47	20-9-707		113	76-13-406		16	80-11-224
	48	22-2-107		114	76-15-408		17	87-1-201
	49	23-5-119		115	77-2-362		18	90-4-201
	50	27-20-102		116	85-1-619		19	Repealer
	51	30-10-324		117	85-2-344	11	1	15-31-322
	52	31-2-106		118	87-1-272		2	Effective date
	53	33-1-111		119	87-1-504		3	Retroactive applicability
	54	37-17-102		120	87-1-505		1	3-1-1001
	55	39-51-403		121	87-2-201	12	1	Effective date
	56	39-51-503		122	87-2-514		2	Effective date
	57	39-71-2352		123	Repealer	13	1	87-1-304
	58	39-73-104		124	Directions to code commissioner		2	Effective date
	59	41-2-103				14	1	2-15-3112
	60	41-3-205	3	1	46-1-1112		2	Effective date
	61	41-5-103	4	1	15-37-103	15	1	2-15-3006
	62	41-5-322		2	Effective date		2	80-11-405
	63	41-5-331		3	Retroactive applicability		3	Effective date
	64	41-5-1201				16	1	61-3-710

17	2	Effective date	20	50-73-406	44	1	85-20-901
	1	39-71-403	21	50-73-409		2	85-20-904
	2	Effective date	22	Repealer		3	Effective dates
18	1	80-12-203	23	Notification to		4	Retroactive
	2	Effective date		tribal			applicability
19	1	80-4-711		governments	45	1	7-6-2426
	2	Effective date	24	Codification	46	1	2-17-807
20	1	39-71-2901		instruction —		2	2-17-808
	2	Effective date		directions to code		3	Effective date
21	1	2-4-110		commissioner	47	1	22-1-301
	2	2-4-302	25	Saving clause		2	22-1-328
	3	2-4-305	26	Effective date		3	22-1-329
	4	2-4-312	28	1		4	22-1-330
	5	Effective date		2		5	Notification to
22	1	15-70-221		3			tribal
	2	67-1-301		4			governments
	3	Effective date		5		6	Effective date
	4	Applicability		6		48	1
23	1	Repealer		7			18-2-303
	2	Effective date		8		2	60-2-113
24	1	15-30-301	29	1		3	Effective date
	2	Effective date		2		49	1
25	1	39-51-201	30	1			10-1-104
	2	39-51-301		2		2	Applicability
	3	39-51-310		3		50	1
	4	39-51-404	31	1			33-1-1401
	5	39-51-406	32	1		2	33-1-1402
	6	39-51-407		2		3	33-1-1403
	7	39-51-408		Notification to		4	Codification
	8	39-51-503		tribal			instruction
	9	39-51-504		governments	51	5	Effective date
	10	39-51-602		Effective date		1	46-21-201
	11	39-51-1105	33	1		2	Applicability
	12	39-51-1121		2		52	1
	13	39-51-1125		3			3-5-510
	14	39-51-1212		4		2	3-15-201
	15	39-51-1213		5		3	3-15-204
	16	39-51-1302		6		4	Effective date
	17	39-51-2201	34	1		53	1
	18	39-51-2304		2			46-18-112
	19	39-51-2306		3		2	46-19-101
	20	39-51-2401		37-16-102		54	1
	21	39-51-2405		37-16-303			41-5-215
	22	39-51-2408		37-16-304		3	Effective date
	23	39-51-3204	35	1		55	1
	24	Effective date		69-1-115			69-8-402
26	1	39-3-204		2		2	Effective date
	2	39-3-205		69-1-111		56	1
	3	Effective date		69-1-112			10-1-201
27	1	50-71-111	36	1		2	10-1-202
	2	50-71-112		2		3	10-1-206
	3	50-71-113		Effective date		4	10-1-206
	4	50-71-114	37	1		4	10-1-302
	5	50-71-115		41-5-331		5	10-1-405
	6	50-71-116		2		6	10-1-503
	7	50-71-117		41-5-333		7	10-1-601
	8	50-71-118	38	1		8	10-1-611
	9	50-71-119		7-6-2527		9	10-1-804
	10	50-71-120		Effective date		10	10-1-805
	11	50-71-121		46-18-207		11	10-1-806
	12	50-71-122	39	1		12	10-2-103
	13	50-71-123		2		13	10-2-105
	14	20-15-403		Effective date		14	10-2-107
	15	39-71-201		Applicability		15	10-3-101
	16	39-71-1503	40	1		16	10-3-102
	17	50-71-102		Repealer		17	10-3-112
	(Renumbered	50-71-204)	41	1		18	10-3-204
	18	50-73-102		61-3-103		19	10-3-302
	19	50-73-402		61-3-223		20	10-3-303
				61-3-224		21	10-3-313
				61-3-303		22	10-3-314
				61-3-474		23	10-3-501
				61-3-509		24	10-3-503
				61-5-208		25	10-3-505
				61-11-102		26	10-3-605
				Effective date		27	10-3-607
			42	1		28	10-3-702
				53-21-140		29	10-3-1106
			43	1			
				70-20-113			
				70-24-303			
				2			

30	13-1-114	100	13-35-221	170	15-30-302
31	13-1-201	101	13-35-301	171	15-30-307
32	13-2-112	102	13-36-101	172	15-30-314
33	13-2-206	103	13-36-102	173	15-30-331
34	13-2-221	104	13-36-103	174	15-31-521
35	13-3-102	105	13-36-104	175	15-31-523
36	13-3-103	106	13-36-201	176	15-31-524
37	13-3-201	107	13-36-202	177	15-31-551
38	13-3-211	108	13-36-204	178	15-32-101
39	13-10-203	109	13-36-205	179	15-32-103
40	13-10-305	110	13-36-206	180	15-33-104
41	13-10-325	111	13-36-207	181	15-35-104
42	13-10-501	112	13-36-208	182	15-44-102
43	13-10-507	113	13-36-209	183	15-59-105
44	13-10-602	114	13-36-210	184	15-60-207
45	13-12-210	115	13-36-211	185	15-70-232
46	13-13-118	116	13-37-104	186	16-1-203
47	13-13-120	117	13-37-105	187	16-1-204
48	13-13-225	118	13-37-116	188	16-3-105
49	13-13-227	119	13-37-119	189	16-3-212
50	13-13-602	120	13-37-122	190	16-3-223
51	13-14-111	121	13-37-125	191	16-3-231
52	13-14-211	122	13-37-201	192	16-3-232
53	13-14-212	123	13-37-202	193	16-3-233
54	13-15-201	124	13-37-203	194	16-3-242
55	13-15-204	125	13-37-204	195	16-3-302
56	13-15-205	126	13-37-205	196	16-3-306
57	13-15-403	127	13-37-206	197	16-3-406
58	13-15-404	128	13-37-207	198	16-4-104
59	13-15-502	129	13-37-208	199	16-4-108
60	13-15-504	130	13-37-215	200	16-4-110
61	13-15-505	131	13-37-217	201	16-4-201
62	13-15-506	132	13-37-225	202	16-4-209
63	13-16-101	133	13-37-228	203	16-6-105
64	13-16-201	134	13-37-231	204	16-6-205
65	13-16-203	135	13-38-101	205	16-6-207
66	13-16-204	136	13-38-201	206	16-6-209
67	13-16-211	137	13-38-202	207	16-6-309
68	13-16-301	138	13-38-203	208	16-6-313
69	13-16-302	139	13-38-205	209	16-10-203
70	13-16-307	140	15-1-104	210	16-11-134
71	13-16-415	141	15-1-204	211	17-1-103
72	13-16-416	142	15-1-601	212	17-1-112
73	13-16-417	143	15-1-603	213	17-1-131
74	13-16-418	144	15-1-702	214	17-5-715
75	13-16-419	145	15-1-705	215	17-5-927
76	13-19-101	146	15-1-707	216	17-5-1516
77	13-19-203	147	15-2-101	217	17-6-204
78	13-19-301	148	15-2-103	218	17-6-213
79	13-19-302	149	15-2-104	219	17-7-113
80	13-19-304	150	15-2-304	220	17-8-104
81	13-19-305	151	15-6-225	221	17-8-308
82	13-19-306	152	15-8-501	222	18-1-402
83	13-19-307	153	15-8-502	223	18-1-403
84	13-19-308	154	15-16-503	224	18-2-204
85	13-19-310	155	15-17-318	225	18-2-424
86	13-27-305	156	15-24-1101	226	18-5-204
87	13-27-306	157	15-24-1201	227	18-5-411
88	13-27-308	158	15-24-1206	228	18-11-105
89	13-27-404	159	15-24-2403	229	19-1-301
90	13-27-405	160	15-30-113	230	19-1-702
91	13-27-503	161	15-30-129	231	19-1-705
92	13-35-106	162	15-30-132	232	19-2-904
93	13-35-201	163	15-30-134	233	19-3-202
94	13-35-204	164	15-30-135	234	19-9-302
95	13-35-209	165	15-30-143	235	19-17-406
96	13-35-214	166	15-30-156	236	19-18-106
97	13-35-215	167	15-30-173	237	19-18-202
98	13-35-217	168	15-30-205	238	19-18-502
99	13-35-218	169	15-30-206	239	19-18-511



240	19-18-514	310	20-8-108	380	25-1-1102
241	19-18-603	311	20-8-120	381	25-2-125
242	19-18-604	312	20-9-207	382	25-2-206
243	19-18-605	313	20-9-424	383	25-3-206
244	19-18-607	314	20-9-436	384	25-3-401
245	19-19-302	315	20-9-441	385	25-3-402
246	19-19-303	316	20-9-442	386	25-3-501
247	19-19-401	317	20-10-112	387	25-3-602
248	19-19-402	318	20-10-121	388	25-3-603
249	19-19-403	319	20-10-122	389	25-4-101
250	19-19-404	320	20-10-123	390	25-4-102
251	19-19-405	321	20-15-209	391	25-4-203
252	19-19-406	322	20-15-219	392	25-4-302
253	19-19-501	323	20-15-222	393	25-4-401
254	19-19-502	324	20-15-224	394	25-4-402
255	19-19-503	325	20-15-227	395	25-4-403
256	19-19-505	326	20-15-228	396	25-4-404
257	19-20-103	327	20-20-201	397	25-4-502
258	19-20-301	328	20-20-301	398	25-4-601
259	19-20-303	329	20-20-411	399	25-4-602
260	19-20-304	330	20-20-417	400	25-5-103
261	19-20-406	331	20-25-101	401	25-5-202
262	19-21-211	332	20-25-226	402	25-5-203
263	20-1-201	333	20-25-242	403	25-5-301
264	20-1-202	334	20-25-306	404	25-7-206
265	20-1-203	335	20-25-322	405	25-7-209
266	20-1-211	336	20-25-323	406	25-7-223
267	20-2-111	337	20-25-504	407	25-7-301
268	20-2-112	338	20-25-511	408	25-7-304
269	20-2-131	339	20-25-512	409	25-7-403
270	20-3-101	340	20-25-513	410	25-7-501
271	20-3-102	341	20-25-516	411	25-7-503
272	20-3-105	342	20-25-603	412	25-7-701
273	20-3-202	343	20-25-703	413	25-7-702
274	20-3-203	344	20-25-801	414	25-8-101
275	20-3-206	345	20-25-806	415	25-8-103
276	20-3-208	346	20-31-301	416	25-8-104
277	20-3-211	347	22-1-101	417	25-9-103
278	20-3-308	348	22-1-308	418	25-9-104
279	20-3-309	349	22-1-317	419	25-9-204
280	20-3-310	350	22-1-506	420	25-9-311
281	20-3-311	351	22-1-601	421	25-9-404
282	20-3-344	352	22-2-103	422	25-9-504
283	20-3-353	353	22-2-403	423	25-9-507
284	20-3-354	354	22-2-406	424	25-10-101
285	20-3-361	355	22-3-431	425	25-10-102
286	20-4-101	356	22-3-432	426	25-10-104
287	20-4-104	357	22-3-701	427	25-10-107
288	20-4-106	358	22-3-805	428	25-10-108
289	20-4-121	359	22-3-806	429	25-10-201
290	20-4-132	360	23-2-301	430	25-10-303
291	20-4-202	361	23-2-311	431	25-10-402
292	20-4-304	362	23-2-321	432	25-10-501
293	20-5-102	363	23-2-402	433	25-10-503
294	20-5-103	364	23-2-503	434	25-10-504
295	20-5-105	365	23-2-505	435	25-10-711
296	20-5-106	366	23-2-527	436	25-11-102
297	20-5-107	367	23-2-535	437	25-13-103
298	20-5-111	368	23-5-131	438	25-13-104
299	20-5-405	369	23-5-135	439	25-13-105
300	20-5-406	370	23-5-155	440	25-13-201
301	20-6-103	371	23-5-221	441	25-13-205
302	20-6-605	372	23-5-409	442	25-13-302
303	20-7-113	373	23-5-622	443	25-13-304
304	20-7-116	374	23-7-212	444	25-13-308
305	20-7-462	375	23-7-302	445	25-13-405
306	20-7-463	376	23-7-307	446	25-13-502
307	20-7-606	377	23-7-401	447	25-13-506
308	20-7-607	378	25-1-401	448	25-13-610
309	20-7-608	379	25-1-402	449	25-13-614

450	25-13-702	520	25-35-806	590	27-1-731
451	25-13-704	521	26-1-106	591	27-1-733
452	25-13-705	522	26-1-302	592	27-1-802
453	25-13-706	523	26-1-303	593	27-1-803
454	25-13-713	524	26-1-401	594	27-1-813
455	25-13-801	525	26-1-402	595	27-1-820
456	25-13-802	526	26-1-502	596	27-1-1102
457	25-13-803	527	26-1-601	597	27-1-1103
458	25-13-804	528	26-1-605	598	27-2-210
459	25-13-806	529	26-1-623	599	27-2-213
460	25-13-807	530	26-1-701	600	27-2-402
461	25-13-808	531	26-1-803	601	27-2-405
462	25-13-809	532	26-1-804	602	27-2-407
463	25-13-810	533	26-1-805	603	27-2-408
464	25-13-811	534	26-1-806	604	27-5-211
465	25-13-821	535	26-1-807	605	27-5-216
466	25-13-822	536	26-1-809	606	27-5-217
467	25-13-823	537	26-1-810	607	27-5-323
468	25-13-825	538	26-1-902	608	27-6-202
469	25-14-102	539	26-1-903	609	27-6-203
470	25-14-103	540	26-1-1011	610	27-6-301
471	25-14-104	541	26-2-101	611	27-6-305
472	25-14-106	542	26-2-102	612	27-6-404
473	25-14-108	543	26-2-103	613	27-6-502
474	25-14-201	544	26-2-104	614	27-6-503
475	25-14-204	545	26-2-105	615	27-6-601
476	25-14-205	546	26-2-106	616	27-6-604
477	25-14-302	547	26-2-107	617	27-6-702
478	25-14-303	548	26-2-201	618	27-9-102
479	25-14-304	549	26-2-203	619	27-9-104
480	25-14-306	550	26-2-301	620	27-12-103
481	25-14-307	551	26-2-302	621	27-12-202
482	25-14-308	552	26-2-303	622	27-12-203
483	25-14-309	553	26-2-403	623	27-12-301
484	25-14-310	554	26-2-404	624	27-12-305
485	25-14-311	555	26-2-507	625	27-12-404
486	25-14-312	556	26-2-509	626	27-12-503
487	25-15-102	557	26-3-104	627	27-12-601
488	25-15-103	558	26-3-203	628	27-12-604
489	25-15-104	559	27-1-204	629	27-12-701
490	25-15-105	560	27-1-210	630	27-15-101
491	25-15-106	561	27-1-211	631	27-15-102
492	25-15-201	562	27-1-223	632	27-16-102
493	25-15-202	563	27-1-303	633	27-16-204
494	25-31-102	564	27-1-308	634	27-16-205
495	25-31-405	565	27-1-313	635	27-16-206
496	25-31-406	566	27-1-315	636	27-16-207
497	25-31-512	567	27-1-316	637	27-16-208
498	25-31-523	568	27-1-320	638	27-16-209
499	25-31-705	569	27-1-321	639	27-16-210
500	25-31-706	570	27-1-402	640	27-16-402
501	25-31-707	571	27-1-415	641	27-16-403
502	25-31-1002	572	27-1-416	642	27-16-404
503	25-31-1111	573	27-1-417	643	27-16-405
504	25-33-103	574	27-1-421	644	27-16-406
505	25-33-104	575	27-1-432	645	27-16-407
506	25-33-201	576	27-1-433	646	27-16-501
507	25-33-202	577	27-1-501	647	27-16-502
508	25-33-204	578	27-1-511	648	27-16-503
509	25-33-305	579	27-1-512	649	27-16-505
510	25-35-601	580	27-1-513	650	27-16-601
511	25-35-603	581	27-1-514	651	27-16-602
512	25-35-604	582	27-1-515	652	27-16-604
513	25-35-605	583	27-1-701	653	27-16-1002
514	25-35-608	584	27-1-711	654	27-16-1003
515	25-35-702	585	27-1-712	655	27-16-1004
516	25-35-801	586	27-1-713	656	27-16-1005
517	25-35-802	587	27-1-714	657	27-16-1006
518	25-35-803	588	27-1-715	658	27-17-101
519	25-35-804	589	27-1-719	659	27-17-102

660	27-17-201	730	27-28-302	800	28-10-407
661	27-17-203	731	27-28-306	801	28-10-408
662	27-17-204	732	27-28-307	802	28-10-409
663	27-17-205	733	27-28-308	803	28-10-501
664	27-17-206	734	27-28-401	804	28-10-502
665	27-17-301	735	27-28-506	805	28-10-601
666	27-17-302	736	27-30-203	806	28-10-602
667	27-17-303	737	27-30-204	807	28-10-603
668	27-17-304	738	27-30-302	808	28-10-605
669	27-17-306	739	27-31-101	809	28-10-606
670	27-17-309	740	27-32-101	810	28-10-608
671	27-17-310	741	27-32-102	811	28-10-609
672	27-17-402	742	27-32-301	812	28-10-701
673	27-18-102	743	28-1-104	813	28-10-702
674	27-18-112	744	28-1-201	814	28-10-703
675	27-18-202	745	28-1-202	815	28-10-801
676	27-18-203	746	28-1-303	816	28-10-802
677	27-18-204	747	28-1-405	817	28-11-103
678	27-18-205	748	28-1-406	818	28-11-105
679	27-18-207	749	28-1-407	819	28-11-108
680	27-18-301	750	28-1-502	820	28-11-202
681	27-18-303	751	28-1-1101	821	28-11-203
682	27-18-306	752	28-1-1104	822	28-11-206
683	27-18-401	753	28-1-1105	823	28-11-211
684	27-18-403	754	28-1-1106	824	28-11-214
685	27-18-405	755	28-1-1112	825	28-11-304
686	27-18-406	756	28-1-1113	826	28-11-312
687	27-18-407	757	28-1-1204	827	28-11-316
688	27-18-410	758	28-1-1206	828	28-11-317
689	27-18-412	759	28-1-1211	829	28-11-401
690	27-18-414	760	28-1-1212	830	28-11-402
691	27-18-501	761	28-1-1221	831	28-11-411
692	27-18-502	762	28-1-1224	832	28-11-412
693	27-18-503	763	28-1-1302	833	28-11-414
694	27-18-601	764	28-1-1303	834	28-11-415
695	27-18-602	765	28-1-1304	835	28-11-416
696	27-18-603	766	28-1-1504	836	28-11-417
697	27-18-604	767	28-1-1602	837	28-11-418
698	27-18-702	768	28-1-1603	838	30-2-201
699	27-18-713	769	28-2-202	839	30-2-304
700	27-18-715	770	28-2-203	840	30-2-305
701	27-18-721	771	28-2-204	841	30-2-308
702	27-18-725	772	28-2-205	842	30-2-311
703	27-18-726	773	28-2-206	843	30-2-312
704	27-18-803	774	28-2-405	844	30-2-313
705	27-18-902	775	28-2-406	845	30-2-316
706	27-18-903	776	28-2-407	846	30-2-318
707	27-18-904	777	28-2-501	847	30-2-319
708	27-18-905	778	28-2-502	848	30-2-320
709	27-18-906	779	28-2-512	849	30-2-324
710	27-18-1502	780	28-2-702	850	30-2-325
711	27-18-1503	781	28-2-704	851	30-2-401
712	27-18-1504	782	28-2-708	852	30-2-402
713	27-19-203	783	28-2-709	853	30-2-403
714	27-19-315	784	28-2-801	854	30-2-501
715	27-19-318	785	28-2-902	855	30-2-504
716	27-20-102	786	28-2-903	856	30-2-505
717	27-20-201	787	28-2-906	857	30-2-507
718	27-20-203	788	28-2-1703	858	30-2-508
719	27-20-301	789	28-2-1711	859	30-2-509
720	27-20-302	790	28-2-1713	860	30-2-510
721	27-26-203	791	28-3-306	861	30-2-602
722	27-26-303	792	28-3-704	862	30-2-603
723	27-26-402	793	28-10-105	863	30-2-604
724	27-27-103	794	28-10-301	864	30-2-606
725	27-28-101	795	28-10-302	865	30-2-607
726	27-28-103	796	28-10-401	866	30-2-608
727	27-28-104	797	28-10-402	867	30-2-609
728	27-28-205	798	28-10-404	868	30-2-610
729	27-28-301	799	28-10-405	869	30-2-611

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871	30-2-613	941	30-11-713	1011	32-1-451
872	30-2-615	942	30-11-806	1012	32-1-463
873	30-2-616	943	30-11-807	1013	32-1-466
874	30-2-702	944	30-12-202	1014	32-1-471
875	30-2-704	945	30-12-205	1015	32-1-474
876	30-2-706	946	30-12-211	1016	32-1-506
877	30-2-707	947	30-12-406	1017	32-1-510
878	30-2-709	948	30-12-504	1018	32-1-535
879	30-2-711	949	30-13-131	1019	32-1-807
880	30-2-712	950	30-13-133	1020	32-1-808
881	30-2-714	951	30-13-135	1021	32-1-903
882	30-2-717	952	30-13-216	1022	32-1-905
883	30-2-718	953	30-13-218	1023	32-1-906
884	30-2-722	954	30-14-112	1024	32-1-907
885	30-2-723	955	30-14-113	1025	32-1-908
886	30-2A-103	956	30-14-114	1026	32-1-910
887	30-2A-108	957	30-14-132	1027	32-2-108
888	30-2A-109	958	30-14-203	1028	32-2-109
889	30-2A-220	959	30-14-204	1029	32-2-209
890	30-2A-221	960	30-14-213	1030	32-2-210
891	30-2A-310	961	30-14-221	1031	32-2-212
892	30-2A-401	962	30-14-303	1032	32-2-232
893	30-2A-405	963	30-14-402	1033	32-2-233
894	30-2A-504	964	30-14-504	1034	32-2-241
895	30-2A-507	965	30-14-505	1035	32-2-245
896	30-2A-511	966	30-14-507	1036	32-2-254
897	30-2A-513	967	30-14-1112	1037	32-2-255
898	30-2A-531	968	31-1-101	1038	32-2-307
899	30-7-302	969	31-1-108	1039	32-2-401
900	30-10-204	970	31-1-212	1040	32-2-403
901	30-10-205	971	31-1-222	1041	32-2-404
902	30-10-208	972	31-1-231	1042	32-2-408
903	30-10-306	973	31-1-232	1043	32-2-409
904	30-10-307	974	31-1-234	1044	32-3-406
905	30-11-106	975	31-1-236	1045	32-3-407
906	30-11-109	976	31-1-243	1046	32-3-416
907	30-11-110	977	31-1-304	1047	32-3-418
908	30-11-111	978	31-1-305	1048	32-3-507
909	30-11-113	979	31-1-402	1049	32-3-605
910	30-11-114	980	31-1-502	1050	32-4-203
911	30-11-201	981	31-2-102	1051	32-4-205
912	30-11-202	982	31-2-103	1052	32-4-301
913	30-11-203	983	31-2-104	1053	32-5-304
914	30-11-205	984	31-2-105	1054	32-6-106
915	30-11-206	985	31-2-201	1055	32-6-302
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918	30-11-213	988	31-2-204	1058	32-7-108
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920	30-11-220	990	31-2-209	1060	33-1-228
921	30-11-221	991	31-2-210	1061	33-1-302
922	30-11-223	992	31-2-212	1062	33-1-304
923	30-11-302	993	31-2-214	1063	33-1-312
924	30-11-502	994	31-2-215	1064	33-1-402
925	30-11-503	995	31-2-220	1065	33-1-502
926	30-11-504	996	31-2-221	1066	33-1-602
927	30-11-508	997	31-2-224	1067	33-1-603
928	30-11-510	998	31-2-225	1068	33-1-612
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930	30-11-512	1000	31-2-329	1070	33-2-111
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932	30-11-514	1002	31-3-102	1072	33-2-116
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934	30-11-602	1004	31-3-114	1074	33-2-121
935	30-11-603	1005	31-3-121	1075	33-2-127
936	30-11-604	1006	31-3-123	1076	33-2-205
937	30-11-605	1007	31-3-131	1077	33-2-208
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939	30-11-607	1009	32-1-403	1079	33-2-214

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1515	39-31-402	1585	40-6-217	1655	45-5-204
1516	39-31-404	1586	40-6-235	1656	45-5-221
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1518	39-32-102	1588	41-1-201	1658	45-5-511
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1523	39-33-202	1593	41-1-306	1663	45-6-201
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1526	39-51-206	1596	41-4-101	1666	45-6-205
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1528	39-51-309	1598	41-5-1404	1668	45-6-305
1529	39-51-601	1599	41-5-1411	1669	45-6-308
1530	39-51-1215	1600	41-5-1901	1670	45-6-314
1531	39-51-1216	1601	41-6-106	1671	45-6-315
1532	39-51-1302	1602	42-2-216	1672	45-6-318
1533	39-51-1306	1603	44-1-104	1673	45-6-319
1534	39-51-2107	1604	44-1-201	1674	45-6-326
1535	39-51-2305	1605	44-1-303	1675	45-6-327
1536	39-51-2401	1606	44-1-503	1676	45-7-101
1537	39-51-2509	1607	44-1-512	1677	45-7-103
1538	39-51-3101	1608	44-1-513	1678	45-7-104
1539	39-51-3102	1609	44-1-516	1679	45-7-201
1540	39-51-3103	1610	44-1-611	1680	45-7-203
1541	39-51-3104	1611	44-1-801	1681	45-7-204
1542	39-51-3203	1612	44-1-803	1682	45-7-205
1543	39-71-411	1613	44-1-805	1683	45-7-206
1544	39-71-412	1614	44-1-808	1684	45-7-207
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1546	39-71-515	1616	44-1-910	1686	45-7-303
1547	39-71-518	1617	44-1-1103	1687	45-7-304
1548	39-71-726	1618	44-2-301	1688	45-7-305
1549	39-71-2102	1619	44-2-313	1689	45-7-308
1550	39-71-2401	1620	44-2-402	1690	45-7-309
1551	39-71-2910	1621	44-3-213	1691	45-7-401
1552	39-71-2914	1622	44-3-404	1692	45-7-501
1553	39-73-102	1623	44-4-111	1693	45-8-101
1554	39-73-105	1624	44-4-206	1694	45-8-103
1555	39-73-108	1625	44-4-903	1695	45-8-104
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1569	40-2-206	1639	45-2-301	1709	45-8-325

1710	45-8-327	1780	46-30-226	1850	50-42-105
1711	45-8-331	1781	46-30-227	1851	50-43-106
1712	45-8-333	1782	46-30-228	1852	50-50-215
1713	45-8-334	1783	46-30-229	1853	50-50-304
1714	45-8-335	1784	46-30-301	1854	50-50-402
1715	45-8-336	1785	46-30-302	1855	50-50-403
1716	45-8-339	1786	46-30-303	1856	50-51-107
1717	45-8-340	1787	46-30-304	1857	50-51-204
1718	45-8-405	1788	46-30-305	1858	50-51-215
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1720	45-9-105	1790	46-30-403	1860	50-52-209
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1722	45-9-114	1792	46-30-405	1862	50-60-515
1723	45-9-115	1793	46-30-412	1863	50-61-116
1724	45-9-121	1794	46-31-101	1864	50-62-104
1725	45-9-127	1795	46-31-204	1865	50-62-110
1726	45-10-102	1796	49-1-101	1866	50-63-403
1727	45-10-105	1797	49-1-202	1867	50-70-107
1728	46-2-101	1798	49-2-202	1868	50-70-115
1729	46-4-101	1799	49-2-301	1869	50-71-201
1730	46-4-110	1800	49-2-310	1870	50-71-203
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1732	46-4-113	1802	49-3-209	1872	50-71-325
1733	46-4-202	1803	49-4-102	1873	50-71-334
1734	46-4-205	1804	49-4-502	1874	50-72-204
1735	46-4-207	1805	49-4-503	1875	50-72-205
1736	46-6-412	1806	49-4-504	1876	50-73-102
1737	46-7-101	1807	49-4-505	1877	50-73-205
1738	46-9-111	1808	49-4-508	1878	50-73-207
1739	46-9-203	1809	49-4-509	1879	50-73-305
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1745	46-11-313	1815	50-5-1105	1885	50-73-412
1746	46-11-331	1816	50-5-1106	1886	50-73-413
1747	46-11-332	1817	50-6-313	1887	50-74-203
1748	46-11-401	1818	50-6-317	1888	50-74-214
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1750	46-12-203	1820	50-15-108	1890	50-74-217
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1752	46-16-606	1822	50-15-302	1892	50-76-101
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1754	46-18-232	1824	50-16-522	1894	50-77-102
1755	46-18-233	1825	50-16-543	1895	50-78-204
1756	46-18-702	1826	50-16-544	1896	50-78-305
1757	46-18-703	1827	50-16-553	1897	50-78-402
1758	46-18-705	1828	50-17-112	1898	50-79-501
1759	46-19-203	1829	50-18-106	1899	52-2-723
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1766	46-23-207	1836	50-30-204	1906	53-19-110
1767	46-23-316	1837	50-30-205	1907	53-20-131
1768	46-23-1022	1838	50-30-301	1908	53-20-145
1769	46-24-204	1839	50-30-302	1909	53-20-164
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1772	46-30-211	1842	50-31-108	1912	53-21-114
1773	46-30-212	1843	50-31-504	1913	53-21-117
1774	46-30-213	1844	50-31-507	1914	53-21-118
1775	46-30-214	1845	50-31-509	1915	53-21-119
1776	46-30-215	1846	50-32-302	1916	53-21-125
1777	46-30-217	1847	50-32-311	1917	53-21-133
1778	46-30-218	1848	50-32-401	1918	53-21-141
1779	46-30-225	1849	50-41-105	1919	53-21-142



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1922	53-21-163	1992	69-3-703	2062	70-3-203
1923	53-21-167	1993	69-4-203	2063	70-4-102
1924	53-21-168	1994	69-4-353	2064	70-4-103
1925	53-21-183	1995	69-4-355	2065	70-4-202
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1929	53-30-104	1999	69-11-104	2069	70-4-206
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1931	60-4-205	2001	69-11-106	2071	70-5-103
1932	60-5-111	2002	69-11-107	2072	70-5-105
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1934	60-11-201	2004	69-11-109	2074	70-5-107
1935	61-2-105	2005	69-11-121	2075	70-6-102
1936	61-2-106	2006	69-11-201	2076	70-6-108
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1938	61-2-204	2008	69-11-204	2078	70-6-202
1939	61-2-207	2009	69-11-206	2079	70-6-203
1940	61-4-106	2010	69-11-208	2080	70-6-204
1941	61-4-132	2011	69-11-209	2081	70-6-205
1942	61-4-209	2012	69-11-301	2082	70-6-207
1943	61-4-406	2013	69-11-302	2083	70-6-208
1944	61-5-116	2014	69-11-303	2084	70-6-209
1945	61-5-304	2015	69-11-304	2085	70-6-210
1946	61-5-401	2016	69-11-402	2086	70-6-211
1947	61-5-403	2017	69-11-403	2087	70-6-213
1948	61-6-103	2018	69-11-404	2088	70-6-214
1949	61-6-121	2019	69-11-405	2089	70-6-303
1950	61-6-131	2020	69-11-406	2090	70-6-412
1951	61-6-132	2021	69-11-408	2091	70-6-420
1952	61-6-136	2022	69-11-409	2092	70-6-501
1953	61-6-137	2023	69-11-411	2093	70-6-502
1954	61-6-138	2024	69-11-421	2094	70-6-504
1955	61-6-142	2025	69-11-424	2095	70-6-505
1956	61-6-201	2026	69-11-428	2096	70-7-101
1957	61-6-303	2027	69-11-429	2097	70-7-102
1958	61-7-104	2028	69-12-203	2098	70-7-106
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1961	61-7-112	2031	69-14-131	2101	70-7-111
1962	61-8-107	2032	69-14-132	2102	70-7-112
1963	61-8-408	2033	69-14-134	2103	70-7-203
1964	61-8-604	2034	69-14-207	2104	70-7-204
1965	61-8-703	2035	69-14-208	2105	70-8-201
1966	61-8-723	2036	69-14-210	2106	70-9-402
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1971	61-12-308	2041	69-14-505	2111	70-9-502
1972	61-12-314	2042	69-14-709	2112	70-15-205
1973	61-12-407	2043	69-14-710	2113	70-15-210
1974	67-1-211	2044	69-14-711	2114	70-15-301
1975	67-2-503	2045	69-14-901	2115	70-15-303
1976	67-3-102	2046	69-14-924	2116	70-16-102
1977	67-3-201	2047	69-14-932	2117	70-16-104
1978	67-11-104	2048	69-14-1002	2118	70-16-105
1979	69-1-106	2049	69-14-1003	2119	70-16-106
1980	69-1-107	2050	69-14-1005	2120	70-16-203
1981	69-1-108	2051	69-14-1006	2121	70-16-204
1982	69-1-111	2052	70-1-109	2122	70-16-205
1983	69-1-113	2053	70-1-303	2123	70-16-207
1984	69-1-222	2054	70-1-310	2124	70-16-208
1985	69-2-102	2055	70-1-510	2125	70-16-209
1986	69-2-203	2056	70-1-512	2126	70-16-210
1987	69-2-204	2057	70-1-518	2127	70-17-205
1988	69-3-106	2058	70-1-704	2128	70-18-101
1989	69-3-208	2059	70-2-102	2129	70-18-102

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2133	70-19-301	2203	70-28-110	2273	71-3-523
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2135	70-19-304	2205	70-28-112	2275	71-3-525
2136	70-19-305	2206	70-28-113	2276	71-3-526
2137	70-19-401	2207	70-28-201	2277	71-3-533
2138	70-19-407	2208	70-28-206	2278	71-3-537
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2177	70-24-405	2247	71-1-231	2317	72-3-123
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2345	72-3-526	2415	72-5-407	2485	72-34-516
2346	72-3-527	2416	72-5-409	2486	72-35-313
2347	72-3-601	2417	72-5-410	2487	72-36-206
2348	72-3-602	2418	72-5-411	2488	75-1-312
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2351	72-3-605	2421	72-5-414	2491	75-2-212
2352	72-3-606	2422	72-5-415	2492	75-2-411
2353	72-3-610	2423	72-5-422	2493	75-5-105
2354	72-3-611	2424	72-5-423	2494	75-5-306
2355	72-3-612	2425	72-5-424	2495	75-5-603
2356	72-3-614	2426	72-5-425	2496	75-5-641
2357	72-3-615	2427	72-5-426	2497	75-5-801
2358	72-3-616	2428	72-5-427	2498	75-7-205
2359	72-3-617	2429	72-5-428	2499	75-10-212
2360	72-3-621	2430	72-5-429	2500	75-10-214
2361	72-3-623	2431	72-5-430	2501	75-10-223
2362	72-3-632	2432	72-5-431	2502	75-10-233
2363	72-3-634	2433	72-5-433	2503	75-10-501
2364	72-3-703	2434	72-5-434	2504	75-10-940
2365	72-3-801	2435	72-5-435	2505	75-10-941
2366	72-3-803	2436	72-5-436	2506	75-16-104
2367	72-3-804	2437	72-5-437	2507	75-20-404
2368	72-3-805	2438	72-5-439	2508	75-20-405
2369	72-3-808	2439	72-5-501	2509	75-20-409
2370	72-3-811	2440	72-5-502	2510	75-20-411
2371	72-3-812	2441	72-9-110	2511	76-1-222
2372	72-3-814	2442	72-12-401	2512	76-2-221
2373	72-3-821	2443	72-12-403	2513	76-2-226
2374	72-3-902	2444	72-12-404	2514	76-2-227
2375	72-3-903	2445	72-12-405	2515	76-2-321
2376	72-3-906	2446	72-12-407	2516	76-2-326
2377	72-3-907	2447	72-14-201	2517	76-2-327
2378	72-3-911	2448	72-14-202	2518	76-3-303
2379	72-3-912	2449	72-14-401	2519	76-3-405
2380	72-3-915	2450	72-14-402	2520	76-4-110
2381	72-3-916	2451	72-15-101	2521	76-13-108
2382	72-3-918	2452	72-15-102	2522	76-13-413
2383	72-3-1003	2453	72-15-103	2523	76-13-423
2384	72-3-1005	2454	72-15-105	2524	76-14-105
2385	72-3-1012	2455	72-15-107	2525	76-15-101
2386	72-3-1014	2456	72-15-109	2526	76-15-312
2387	72-3-1015	2457	72-15-110	2527	76-15-313
2388	72-3-1102	2458	72-15-201	2528	76-15-315
2389	72-4-201	2459	72-15-202	2529	76-15-526
2390	72-4-202	2460	72-15-203	2530	76-15-604
2391	72-4-203	2461	72-15-204	2531	76-15-606
2392	72-4-306	2462	72-15-205	2532	76-15-710
2393	72-4-309	2463	72-15-206	2533	76-15-722
2394	72-4-311	2464	72-15-207	2534	76-15-723
2395	72-4-402	2465	72-15-208	2535	77-1-104
2396	72-5-101	2466	72-15-210	2536	77-1-111
2397	72-5-104	2467	72-15-211	2537	77-1-112
2398	72-5-202	2468	72-15-213	2538	77-1-114
2399	72-5-211	2469	72-15-302	2539	77-1-115
2400	72-5-213	2470	72-15-303	2540	77-1-201
2401	72-5-301	2471	72-15-304	2541	77-1-702
2402	72-5-312	2472	72-16-501	2542	77-1-801
2403	72-5-314	2473	72-16-608	2543	77-1-805
2404	72-5-316	2474	72-16-609	2544	77-1-806
2405	72-5-317	2475	72-31-101	2545	77-2-105
2406	72-5-318	2476	72-31-102	2546	77-2-315
2407	72-5-319	2477	72-33-216	2547	77-2-324
2408	72-5-320	2478	72-33-217	2548	77-2-329
2409	72-5-401	2479	72-33-219	2549	77-2-332

2550	77-2-333	2620	80-12-211	2690	81-9-218
2551	77-2-334	2621	80-12-310	2691	81-9-220
2552	77-2-335	2622	80-15-218	2692	81-9-230
2553	77-2-336	2623	81-1-202	2693	81-9-235
2554	77-3-102	2624	81-1-301	2694	81-9-313
2555	77-3-104	2625	81-1-302	2695	81-9-314
2556	77-3-115	2626	81-2-101	2696	81-9-315
2557	77-3-307	2627	81-2-109	2697	81-9-316
2558	77-3-409	2628	81-2-112	2698	81-9-402
2559	77-3-426	2629	81-2-201	2699	81-9-403
2560	77-4-108	2630	81-2-204	2700	81-20-204
2561	77-4-121	2631	81-2-206	2701	81-20-209
2562	77-4-128	2632	81-2-208	2702	81-21-102
2563	77-4-129	2633	81-2-209	2703	81-22-203
2564	77-6-108	2634	81-2-303	2704	81-22-205
2565	77-6-112	2635	81-2-502	2705	81-22-207
2566	77-6-115	2636	81-2-602	2706	81-22-402
2567	77-6-201	2637	81-2-703	2707	81-22-415
2568	77-6-209	2638	81-3-106	2708	81-23-201
2569	77-6-212	2639	81-3-203	2709	81-23-305
2570	77-6-401	2640	81-3-204	2710	81-23-403
2571	80-2-104	2641	81-3-205	2711	82-1-105
2572	80-2-202	2642	81-3-214	2712	82-1-108
2573	80-2-241	2643	81-3-223	2713	82-1-202
2574	80-2-243	2644	81-3-231	2714	82-1-203
2575	80-4-406	2645	81-3-233	2715	82-2-101
2576	80-4-424	2646	81-4-104	2716	82-2-102
2577	80-4-428	2647	81-4-108	2717	82-2-103
2578	80-4-430	2648	81-4-207	2718	82-2-105
2579	80-4-504	2649	81-4-208	2719	82-2-106
2580	80-4-506	2650	81-4-212	2720	82-2-107
2581	80-4-521	2651	81-4-220	2721	82-2-108
2582	80-4-522	2652	81-4-308	2722	82-2-109
2583	80-4-523	2653	81-4-322	2723	82-2-112
2584	80-4-524	2654	81-4-326	2724	82-2-114
2585	80-4-529	2655	81-4-327	2725	82-2-115
2586	80-4-530	2656	81-4-405	2726	82-2-203
2587	80-4-537	2657	81-4-406	2727	82-2-205
2588	80-4-539	2658	81-4-410	2728	82-2-401
2589	80-4-605	2659	81-4-505	2729	82-2-402
2590	80-6-102	2660	81-4-506	2730	82-2-405
2591	80-6-103	2661	81-4-507	2731	82-2-421
2592	80-6-104	2662	81-4-508	2732	82-4-142
2593	80-6-111	2663	81-4-509	2733	82-4-238
2594	80-6-1105	2664	81-4-512	2734	82-4-355
2595	80-7-505	2665	81-4-513	2735	82-10-103
2596	80-7-1104	2666	81-4-603	2736	82-10-401
2597	80-8-102	2667	81-5-103	2737	82-10-402
2598	80-8-103	2668	81-6-102	2738	82-10-506
2599	80-8-108	2669	81-7-102	2739	82-10-507
2600	80-8-202	2670	81-7-115	2740	82-11-103
2601	80-8-206	2671	81-7-203	2741	82-11-117
2602	80-8-208	2672	81-7-204	2742	82-11-141
2603	80-8-301	2673	81-7-403	2743	82-11-142
2604	80-8-303	2674	81-7-501	2744	82-11-151
2605	80-10-101	2675	81-8-215	2745	82-11-206
2606	80-10-201	2676	81-8-232	2746	82-11-209
2607	80-10-204	2677	81-8-235	2747	82-11-212
2608	80-10-211	2678	81-8-251	2748	82-11-303
2609	80-10-303	2679	81-8-261	2749	82-11-304
2610	80-10-503	2680	81-8-263	2750	82-11-305
2611	80-11-204	2681	81-8-274	2751	82-11-306
2612	80-11-305	2682	81-8-278	2752	82-15-204
2613	80-11-308	2683	81-8-312	2753	82-15-205
2614	80-11-311	2684	81-8-315	2754	85-1-622
2615	80-11-404	2685	81-8-702	2755	85-2-132
2616	80-11-405	2686	81-8-704	2756	85-2-134
2617	80-11-416	2687	81-9-111	2757	85-2-214
2618	80-12-202	2688	81-9-112	2758	85-2-218
2619	80-12-203	2689	81-9-114	2759	85-2-224

2760	85-2-234		2830	87-1-205		2	Effective date
2761	85-2-405		2831	87-1-206	63	1	10-3-118
2762	85-2-412		2832	87-1-207		2	10-3-119
2763	85-2-413		2833	87-1-208		3	10-3-120
2764	85-2-416		2834	87-1-210		4	10-3-103
2765	85-2-418		2835	87-1-225		5	10-3-111
2766	85-2-804		2836	87-1-302		6	Codification instruction
2767	85-3-301		2837	87-1-402			
2768	85-3-411		2838	87-1-501	64	1	17-8-402
2769	85-3-421		2839	87-1-511		2	17-8-403
2770	85-5-102		2840	87-1-701		3	17-8-404
2771	85-5-103		2841	87-1-704		4	17-8-405
2772	85-5-104		2842	87-2-112		5	17-8-406
2773	85-5-105		2843	87-2-203		6	17-8-407
2774	85-5-108		2844	87-2-204		7	17-8-410
2775	85-5-109		2845	87-2-602		8	17-8-411
2776	85-5-110		2846	87-2-604		9	17-8-412
2777	85-5-202		2847	87-2-1002		10	17-8-413
2778	85-5-302		2848	87-3-123		11	Repealer
2779	85-5-401		2849	87-3-206		12	Codification instruction
2780	85-5-402		2850	87-3-221			
2781	85-5-405		2851	87-3-405		13	Effective date
2782	85-5-406		2852	87-3-506	65	1	2-15-1705
2783	85-7-1504		2853	87-3-507		2	Effective date
2784	85-7-1506		2854	87-4-301	66	1	46-18-241
2785	85-7-1507		2855	87-4-303		2	46-18-246
2786	85-7-1508		2856	87-4-602		3	46-23-1031
2787	85-7-1615		2857	87-4-702		4	Effective date
2788	85-7-1618		2858	87-4-703	67	1	33-22-135
2789	85-7-1703		2859	87-4-704		2	Effective date
2790	85-7-1811		2860	87-4-705	68	1	87-2-126
2791	85-7-1901		2861	87-4-903		2	87-2-105
2792	85-7-1912		2862	87-4-904		3	Codification instruction
2793	85-7-1924		2863	87-4-915			
2794	85-7-2017		2864	87-4-1002		4	Effective date
2795	85-7-2027		2865	87-4-1003	69	1	7-5-2150
2796	85-7-2114		2866	87-5-108		2	Codification instruction
2797	85-7-2115		2867	90-2-1111			
2798	85-7-2116		2868	90-4-305		3	Effective date
2799	85-7-2133		2869	90-4-309	70	1	80-11-801
2800	85-7-2153		2870	90-4-314		2	Effective date
2801	85-7-2166		2871	90-4-317	71	1	10-3-801
2802	85-8-111		2872	90-5-202	72	1	82-4-235
2803	85-8-115		2873	90-6-120		2	Contingent voidness
2804	85-8-119		2874	90-6-204			
2805	85-8-121		2875	90-6-303	73	1	75-5-305
2806	85-8-307		2876	90-7-319		2	75-5-317
2807	85-8-308					3	75-5-325
2808	85-8-312	57	1	7-1-2111			
2809	85-8-312		2	15-1-402	74	1	69-4-103
2810	85-8-314		3	15-10-420		2	Codification instruction
2811	85-8-321		4	15-24-1703			
2812	85-8-345		5	15-36-331		3	Effective date
2813	85-8-362		6	15-39-110	75	1	7-32-303
2814	85-8-364		7	90-6-309	76	1	61-11-101
2815	85-8-402		8	Repealer		2	Effective date
2816	85-8-403		9	Effective date		3	Applicability
2817	85-8-404	58	1	76-13-702	77	1	2-2-102
2818	85-8-612		2	Effective date		2	67-11-104
2819	85-9-103	59	1	20-4-502	78	1	82-4-239
2820	85-9-304		2	Effective date		2	82-4-371
2821	85-9-401	60	1	20-3-312		3	Effective date
2822	85-9-402		2	20-6-411	79	1	Repealer
2823	85-9-421		3	20-6-414	80	1	53-21-102
2824	85-9-502		4	20-6-422		2	53-21-122
2825	85-9-504		5	20-6-704		3	Effective date
2826	85-9-628		6	Effective date	81	1	31-1-707
2827	85-20-104		7	Applicability		2	31-1-729
2828	85-20-105	61	1	50-32-205		3	31-1-704
2829	85-20-106		2	Effective date		4	31-1-705
2830	87-1-204	62	1	16-4-801		5	31-1-711

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	6	31-1-722		12	13-15-401		16	Saving clause
	7	Codification instruction		13	13-15-502		17	Effective date
82	1	50-6-202(3)		14	Codification instruction	107	1	75-1-110
	2	2-15-1731	90	1	44-1-909	108	1	77-5-212
	3	Codification instruction		2	44-1-806		2	Saving clause
	4	Effective date		3	44-1-902		3	Effective date
83	1	61-1-101		4	Codification instruction	109	1	37-50-325
	2	61-8-310		5	Effective date		2	2-15-1738
	3	61-8-726	91	1	2-18-501		3	2-15-1740
84	1	Repealer		2	Effective date		4	2-15-1741
	2	Effective date	92	1	40-9-102		5	2-15-1744
85	1	75-6-103		2	Applicability		6	2-15-1748
86	1	85-2-306	93	1	1-1-228		7	2-15-1750
	2	85-2-402		2	Notification to tribal governments		8	2-15-1753
	3	85-2-501					9	2-15-1756
	4	85-2-523					10	23-3-501
	5	85-2-506		3	Codification instruction		11	30-11-515
	6	85-2-508					12	37-1-316
	7	85-2-524	94	1	13-37-216		13	37-1-410
	8	Repealer	95	1	7-33-2129		14	37-3-102
	9	Saving clause	96	1	7-13-2303		15	37-3-305
	10	Codification instruction		2	Effective date		16	37-3-306
	11	Effective date	97	1	7-1-4127		17	37-3-308
87	1	33-22-1816		2	Effective date		18	37-3-311
	2	33-22-2004	98	1	45-7-103		19	37-3-323
	3	33-22-2006	99	1	69-2-217		20	37-3-342
	4	33-22-2007	100	1	7-12-4429		21	37-4-501
	5	33-22-2008	101	1	16-1-106		22	37-8-202
	6	53-4-1004	102	1	5-4-306		23	37-9-203
	7	Contingent voidness		2	Effective date		24	37-9-301
	8	Effective dates	103	1	3-7-311		25	37-9-302
88	1	2-15-1704		2	17-7-502		26	37-9-305
	2	39-51-2112		3	85-2-114		27	37-9-312
	3	39-51-2113		4	85-2-122		28	37-10-302
	4	35-8-304		5	44-4-1101		29	37-16-202
	5	39-51-403		6	44-4-1102		30	37-16-405
	6	39-51-501		7	Codification instruction		31	37-16-411
	7	39-51-603		8	Effective date		32	37-16-413
	8	39-51-1105	104	1	75-5-410		33	37-18-302
	9	39-51-1216		2	85-2-362		34	37-25-303
	10	39-51-1301		3	85-2-364		35	37-29-201
	11	39-51-2101		4	Coordination instruction		36	37-35-201
	12	39-51-2104		5	Coordination instruction		37	37-35-202
	13	39-51-2307		6	Effective date		38	37-36-202
	14	39-51-2402		7	Applicability		39	37-47-302
	15	39-51-2403					40	37-47-404
	16	39-51-2405	105	1	17-3-211		41	37-50-101
	17	39-51-3201		2	17-3-212		42	37-50-102
	18	39-51-3202		3	17-3-213		43	37-50-203
	19	39-51-3206		4	Effective date		44	37-50-301
	20	39-51-3207	106	1	90-9-102		45	37-50-314
	21	Repealer		2	90-9-103		46	37-50-330
	22	Codification instruction		3	90-9-202		47	37-50-335
	23	Effective dates		4	90-9-203		48	37-50-341
89	1	13-17-501		5	90-9-301		49	37-50-401
	2	13-17-502		6	90-9-306		50	37-50-402
	3	13-17-503		7	90-9-307		51	Repealer
	4	13-17-504		8	90-9-311		52	Codification instruction
	5	13-17-505		9	90-9-401	110	1	10-4-301
	6	13-17-506		10	90-9-402		2	Effective date
	7	13-17-507		11	90-9-308	111	1	10-4-102
	8	13-17-508		12	90-9-309		2	10-4-302
	9	13-17-509		13	90-9-310		3	10-4-313
	10	13-1-101		14	Repealer		4	Effective date
	11	13-1-303		15	Codification instruction	112	1	39-71-441
							2	39-71-2115

3	39-71-541	123	1	7-4-2208	2	Codification
4	39-8-202		2	Effective date		instruction
5	39-71-107	124	1	76-5-103	3	Effective date
6	39-71-117		2	76-5-402	141	60-1-216
7	39-71-118	125	1	2-8-501	2	Codification
8	39-71-123		2	39-71-320		instruction
9	39-71-201		3	2-6-109	3	Effective date
10	39-71-307		4	Codification	142	7-32-305
11	39-71-501			instruction	2	Codification
12	39-71-506		5	Effective date		instruction
13	39-71-520	126	1	50-11-101	3	Effective date
14	39-71-601		2	50-11-102	143	1 Repealer
15	39-71-613		3	50-11-103	2	Effective date
16	39-71-704		4	Codification	144	1 20-4-401
17	39-71-711			instruction	145	1 2-18-702
18	39-71-712	127	1	69-3-1413	2	Effective date
19	39-71-727		2	69-3-1414	146	1 61-9-321
20	39-71-743		3	69-3-1415	2	61-9-501
21	39-71-905		4	69-3-1416	3	61-9-503
22	39-71-915		5	69-3-1402	147	1 Instructions to
23	39-71-2339		6	69-3-1404		code
24	39-71-2905		7	Codification		commissioner
25	39-73-104			instruction	2	15-30-111
26	Notification to		8	Effective date		(Renumbered
	tribal		9	Applicability		15-30-2110)
	governments	128	1	46-18-201	3	15-30-114
27	Codification		2	Effective date		(Renumbered
	instructions	129	1	19-20-732		15-30-2116)
28	Saving clause		2	19-20-731 (Voided	4	15-30-171
29	Effective dates			and replaced by		(Renumbered
30	Retroactive			sec. 9, Ch. 298)		15-30-2337)
	applicability		3	Codification	5	15-30-172
113	1 76-5-103			instruction		(Renumbered
	2 76-5-201		4	Effective date —		15-30-2338)
	3 Saving clause			applicability	6	15-30-174
	4 Effective date		5	Termination		(Renumbered
114	1 87-1-266	130	1	87-2-1001		15-30-2339)
	2 Effective date		2	87-2-1003	7	15-30-176
115	1 76-13-702		3	Effective date		(Renumbered
	2 Effective date	131	1	87-2-805		15-30-2340)
116	1 77-5-216		2	Effective date	8	15-30-177
	2 Federal funding	132	1	20-3-313		(Renumbered
	for forest health		2	Effective date		15-30-2341)
	concerns —	133	1	7-4-2503	9	Repealer
	authorized	134	1	31-1-828	148	1 7-5-2404
	expenditure		2	31-1-829		(Renumbered
	(Voided by sec. 4,		3	31-1-805		18-7-404)
	Ch. 289)		4	31-1-810	2	Instructions to
	3 Effective date		5	Codification		code
117	1 75-10-733			instruction		commissioner
	2 75-10-735	135	1	17-7-213	3	Effective date
	3 75-10-736		2	17-7-201	149	1 20-5-503
118	1 69-3-2003		3	Codification	2	Effective date
	2 90-3-1003			instruction	3	Retroactive
	3 Effective date		4	Effective date		applicability
	4 Retroactive		5	Applicability	150	1 50-6-104
	applicability	136	1	87-2-702	2	50-6-105
119	1 87-5-725		2	Effective date	3	50-6-201
	2 Codification	137	1	20-7-420	4	50-6-203
	instruction		2	20-9-311	5	50-6-302
	3 Effective date		3	20-9-707	6	50-6-317
120	1 39-71-417		4	Effective date —	7	50-6-323
121	1 23-1-106			applicability	8	Codification
	2 45-6-101	138	1	70-24-205		instruction
	3 45-6-203		2	Codification	151	1 42-4-211
	4 87-1-102			instruction	2	42-2-409
122	1 7-4-501	139	1	50-15-202	3	42-7-105
	2 7-4-505		2	50-15-204	4	Codification
	3 7-4-506	140	1	60-1-215		instruction
	4 Effective date				152	1 2-4-101





	7	75-10-1411	3	40-6-602	2	Codification
	8	75-1-110	4	41-3-437		instruction
	9	Codification	5	41-3-438	229	1 87-1-102
		instruction	6	41-3-439	2	87-3-101
	10	Saving clause	7	72-5-223	3	87-3-506
	11	Effective date	8	72-5-225	4	Effective date
201	1	7-14-2134	211	1 70-33-314	230	1 13-14-113
	2	23-2-312	2	Effective date	231	1 69-13-101
	3	23-2-313	212	1 13-15-206	2	69-13-102
	4	Codification	213	1 20-9-406	3	69-13-201
		instruction	2	20-9-502	4	69-13-301
	5	Nonseverability	214	1 46-4-406	5	69-13-302
	6	Effective date	2	46-4-407	6	69-13-303
202	1	10-1-501	3	46-4-408	232	1 69-3-2003
	2	Effective date	4	46-4-409	2	69-3-2005
203	1	61-6-302	5	46-4-410	3	90-3-1003
	2	Effective date	6	46-4-411	4	90-4-1202
204	1	85-20-1501	7	Codification	5	Effective date
	2	85-20-1505		instruction	6	Retroactive
	3	General fund	215	1 90-1-117		applicability
		transfer (Voided	2	90-1-118	233	1 49-4-302
		by sec. 77, Ch.	3	90-1-119	2	49-4-304
		489)	4	90-1-147	3	61-3-407
	4	Appropriation	5	Codification	4	61-3-426
	5	Notification to	6	instruction	5	61-3-458
		tribal		Effective date	6	61-3-459
		governments	216	1 19-9-207	7	Effective date
	6	Codification	2	Effective date	234	1 39-71-401
		instruction	217	1 13-13-204	2	Effective date
	7	Effective date	2	13-15-106	235	1 61-3-208
205	1	30-20-101	3	Effective date	2	Effective date
	2	30-20-102	218	1 39-71-2331	236	1 72-5-601
	3	30-20-103	2	39-71-2332	2	72-5-602
	4	30-20-104	3	39-71-2311	3	72-5-603
	5	30-20-105	4	Codification	4	72-5-604
	6	30-20-106		instruction	5	72-5-605
	7	Codification	5	Effective date —	6	72-5-606
		instruction		applicability	7	72-5-611
	8	Applicability	219	1 13-13-212	8	72-5-612
206	1	50-4-510	2	Effective date	9	72-5-613
	2	50-4-511	220	1 40-9-103	10	72-5-614
	3	50-4-512	2	Codification	11	72-5-615
	4	Codification		instruction	12	72-5-616
		instruction	3	Effective date	13	72-5-617
207	1	33-22-244	221	1 46-21-111	14	72-5-618
	2	33-22-521	222	1 Repealer	15	72-5-619
	3	50-4-516	2	Repealer	16	72-5-624
	4	50-4-517	3	Repealer	17	72-5-625
	5	50-4-518	4	Effective date	18	72-5-629
	6	Codification	223	1 40-5-303	19	72-5-630
		instruction	2	40-5-601	20	72-5-631
	7	Effective date	3	40-5-701	21	72-5-636
208	1	37-19-901	4	41-5-1525	22	72-5-637
	2	37-19-902	5	Effective date	23	72-5-638
	3	37-19-903	6	Retroactive	24	72-5-102
	4	37-19-904		applicability	25	72-5-304
	5	37-19-905	224	1 61-8-906	26	Repealer
	6	37-19-906	2	69-12-102	27	Codification
	7	37-19-907	225	1 17-7-111		instruction
	8	37-19-908	2	17-7-123	237	1 72-5-101
	9	37-19-909	3	17-8-101	2	72-5-321
	10	35-21-810	4	Effective date	3	Effective date
	11	37-19-101	226	1 17-7-138	238	1 39-74-101
	12	Codification	2	17-7-139	2	39-74-102
		instruction	3	Effective date	3	39-74-103
209	1	77-2-363	227	1 10-1-108	4	39-74-104
	2	77-2-366	2	17-7-502	5	39-74-105
	3	Effective date	3	Effective date	6	Codification
210	1	40-4-211	228	1 46-23-1020		instruction
	2	40-6-601			7	Effective date

239	1	77-1-122	3	10-3-111	3	33-2-301
	2	77-1-121	4	10-3-302	4	33-2-305
	3	Codification instruction	5	10-3-303	5	33-2-306
	4	Effective date	6	10-3-110	6	33-4-502
	5	Applicability	7	Codification instruction	7	33-4-503
240	1	30-14-2501	256	61-8-347	8	33-4-504
	2	30-14-2502 (Temporary)	2	61-8-348	9	33-17-211
	3	30-14-2502 (Effective on contingency)	3	61-8-349	10	33-17-212
	4	30-14-2503	4	61-8-350	11	33-17-214
	5	Severability	5	61-8-713	12	33-17-231
	6	Effective date — contingent effective date — contingent termination date	6	61-8-813	13	33-17-301
	7	Applicability	257	37-68-101	14	33-17-1001
241	1	7-14-2622	1	37-68-102	15	33-17-1002
	2	7-14-2101	2	37-68-103	16	33-17-1103
	3	60-1-201	3	37-68-103	17	33-17-1204
	4	Codification instruction	4	37-68-201	18	33-19-105
242	1	2-15-2302	5	37-68-301	19	33-20-606
	2	Notification to tribal governments	6	37-68-302	20	33-20-1303
	3	Saving clause	7	37-68-303	21	33-20-1307
	4	Effective date	8	37-68-304	22	33-21-113
243	1	75-10-213	9	37-68-305	23	33-22-101
	2	Effective date	10	37-68-311	24	33-22-137
244	1	82-11-201	11	37-68-315	25	33-22-142
	2	Effective date	12	37-68-322	26	33-22-232
245	1	75-5-901	13	Repealer	27	33-22-302
	2	75-5-902	258	76-3-411	28	33-22-530
	3	75-5-903	2	Codification instruction	29	33-22-602
	4	75-5-904	259	16-1-401	30	33-22-1809
	5	75-5-905	1	Effective date	31	33-28-104
	6	75-7-411	2	Applicability	32	33-30-102
	7	Codification instruction	3	15-70-320	33	33-31-102
	8	Effective date	260	15-70-301	34	33-31-111
246	1	7-14-4403	1	Codification instruction	35	33-31-311
247	1	2-15-1733	2	Effective date	36	Codification instruction
248	1	7-7-4402	4	Effective date	37	Effective date
	2	7-7-4424	5	Applicability	38	Applicability
	3	Effective date	261	10-1-1009	272	33-1-1301
249	1	40-1-311	2	Effective date	2	33-1-1302
250	1	5-2-202	262	33-22-123	3	33-1-1304
	2	5-11-402	2	Codification instruction	4	33-1-1303
	3	Effective date	263	45-6-204	5	33-20-1308
251	1	85-2-102	264	15-23-703 (Voided and replaced by sec. 4, Ch. 476)	6	33-20-1314
	2	85-2-307	1	15-23-703 (Voided and replaced by sec. 4, Ch. 476)	7	33-20-1318
	3	85-2-308	2	17-7-502	8	Codification instruction
	4	85-2-309	3	Repealer	9	Severability
	5	85-2-310	4	Notification to tribal governments	10	Effective dates
	6	85-2-401	265	7-7-4402	273	60-2-133
	7	85-2-804	2	Effective date	274	13-37-226
	8	Effective date	266	75-10-743	275	87-1-217
	9	Applicability	1	75-10-745	2	87-5-131
252	1	13-37-226	2	75-5-103	3	Effective date
	2	13-37-228	267	75-5-313	276	82-2-701
253	1	87-1-102	3	Codification instruction	2	82-2-702
	2	87-2-106	268	46-14-311	3	Codification instruction
	3	Effective date	2	46-18-111	4	Effective date
254	1	28-2-2104	3	Effective date	5	18-2-413
255	1	10-3-101	269	81-4-603	2	18-2-414
	2	10-3-103	270	2-4-305	3	18-2-415
			271	Effective date	4	18-2-416
			1	33-1-601	5	18-2-417
			2	33-2-116	6	15-6-157
					7	15-6-158
					8	15-6-159
					9	15-24-3111
					10	15-70-522
					11	18-2-401
					12	18-2-402

13	18-2-403	16	19-3-1210	14	7-11-1023
14	18-2-407	17	19-3-2111	15	7-11-1024
15	18-2-411	18	19-3-2133	16	7-11-1025
16	18-2-412	19	19-5-601	17	7-11-1026
17	69-3-2005	20	19-5-612	18	7-11-1027
18	Codification	21	19-5-801	19	7-11-1028
	instruction	22	19-5-802	20	7-11-1029
19	Saving clause	23	19-6-612	21	22-1-712
20	Effective date	24	19-7-404	22	7-1-201
278	1 13-21-104	25	19-7-612	23	7-1-202
	2 13-21-201	26	19-8-712	24	7-6-2527
	3 13-21-207	27	19-9-904	25	7-7-2101
	4 13-21-210	28	19-9-1101	26	7-11-1102
	5 Report by	29	19-13-104	27	7-11-1112
	secretary of state	30	19-13-704	28	7-13-2511
	6 Effective date	31	19-13-803	29	7-13-2512
279	1 76-4-134	32	19-13-804	30	7-14-2138
	2 Codification	33	19-17-107	31	7-16-2105
	instruction	34	19-17-401	32	7-16-2109
	3 Effective date	35	19-17-408	33	7-21-3411
280	1 85-20-1601	36	19-17-504	34	7-22-2512
	2 Codification	37	Effective date	35	15-6-201
	instruction	284	1 5-2-304	36	20-15-403
	3 Effective date	2	19-2-303	37	53-30-503
281	1 53-20-221	3	19-2-602	38	70-30-102
	2 53-20-222	4	19-2-902	39	Repealer
	3 Codification	5	19-2-907	40	Codification
	instruction	6	19-2-1001		instruction
	4 Effective date	7	19-2-1002	41	Codification
282	1 19-20-101	8	19-2-1005		instruction
	2 19-20-302	9	19-2-1011	42	Saving clause
	3 19-20-305	10	19-2-1013	43	Transition
	4 19-20-401	11	19-3-315	44	Effective date
	5 19-20-409	12	19-3-412	287	1 7-12-2172
	6 19-20-603	13	19-3-1501	2	7-12-4204
	7 19-20-605	14	19-3-2123	3	Effective date
	8 19-20-701	15	19-3-2126	288	1 15-38-202
	9 19-20-702	16	19-5-701	2	Effective date
	10 19-20-703	17	19-7-1001	289	1 76-13-801
	11 19-20-718	18	19-8-801		(Amended by sec.
	12 19-20-731 (Voided	19	19-9-301		3, Ch. 289)
	by sec. 8, Ch. 298)	20	19-9-1206	2	76-13-802 (Voided
	13 19-20-804	21	19-9-1208		and replaced by
	14 19-20-905	22	19-13-210		sec. 4, Ch. 289)
	15 19-20-1001	23	19-13-301	3	Coordination
	16 19-20-1003	24	19-2-1014		instruction
	17 19-20-1004	25	Codification	4	Coordination
	18 20-15-106		instruction		instruction
	19 20-15-403	26	Effective date	5	Codification
	20 Repealer	27	Retroactive		instruction
	21 Codification		applicability	6	Effective date
	instruction	285	1 5-5-231	7	Termination
	22 Effective date	2	5-5-202	290	1 81-3-203
	23 Retroactive	3	85-2-105	2	81-3-211
	applicability	4	Codification	3	Effective date
283	1 19-2-303		instruction	291	1 7-3-4465
	2 19-2-506		Effective date	2	7-4-2101
	3 19-2-704	286	1 7-11-1001	3	7-4-2102
	4 19-2-710	2	7-11-1002	4	7-4-2104
	5 19-2-715	3	7-11-1003	5	7-4-2105
	6 19-2-801	4	7-11-1006	6	7-4-2108
	7 19-2-908	5	7-11-1007	7	7-4-2111
	8 19-3-201	6	7-11-1008	8	7-4-2312
	9 19-3-316	7	7-11-1011	9	7-4-2503
	10 19-3-403	8	7-11-1012	10	7-4-2504
	11 19-3-504	9	7-11-1013	11	7-4-2525
	12 19-3-513	10	7-11-1014	12	7-4-2715
	13 19-3-906	11	7-11-1015	13	7-5-2129
	14 19-3-1015	12	7-11-1021	14	7-6-201
	15 19-3-1106	13	7-11-1022	15	7-6-4413

16	7-8-2215	11	13-2-402	2	37-7-1404
17	7-14-2712	12	13-3-205	3	37-7-1405
18	7-21-2116	13	13-3-206	4	37-7-101
19	7-21-2303	14	13-4-102	5	37-7-1401
20	7-21-2305	15	13-4-106	6	37-7-1402
21	7-21-2306	16	13-4-202	7	37-7-1408
22	7-21-2308	17	13-4-203	8	Codification
23	7-21-2404	18	13-10-211		instruction
24	7-21-2407	19	13-13-204	300	1 50-60-102
25	7-21-2408	20	13-13-205	2	50-60-106
26	7-21-2409	21	13-13-212	3	50-60-301
27	7-21-2410	22	13-13-213	4	50-60-802
28	7-21-2503	23	13-13-214	301	1 87-5-102
29	7-21-2507	24	13-13-222	2	Effective date
30	7-21-3101	25	13-13-241	302	1 28-2-2201
31	7-21-3105	26	13-13-301	2	28-2-2202
32	7-21-3107	27	13-15-107	3	Codification
33	7-21-3212	28	13-17-103		instruction
34	7-33-2314	29	13-17-203	303	1 2-4-305
35	81-4-505	30	13-17-212	2	2-4-306
36	81-4-509	31	13-19-102	3	2-4-311
37	Repealer	32	13-19-105	4	2-4-313
292	1 13-10-201	33	13-19-106	304	1 87-1-270
2	13-10-208	34	13-19-204	2	87-2-805
3	13-10-325	35	13-19-205	3	Effective date
4	13-10-326	36	13-19-206	305	1 20-6-105
5	13-10-405	37	13-19-207	2	Effective date
6	13-10-503	38	13-19-301	306	1 87-1-247
7	13-10-601	39	13-19-303	2	87-1-250
8	13-12-201	40	13-19-304	3	87-1-251
9	13-14-112	41	13-19-305	4	Codification
10	13-14-113	42	13-19-306		instruction
11	13-25-203	43	13-19-307	5	Effective date
12	13-25-205	44	13-19-308	307	1 70-1-522
13	13-26-103	45	13-19-310	2	70-1-521
14	13-35-107	46	13-19-311	3	70-17-203
15	13-37-126	47	13-19-312	4	70-17-204
293	1 37-7-101	48	13-19-313	5	70-17-206
2	37-7-306	49	13-19-314	6	70-20-306
3	37-7-201	50	13-21-203	7	70-23-308
4	Codification	51	13-21-210	8	70-23-506
294	1 87-3-130	52	13-27-311	9	70-23-601
2	Effective date	53	13-37-226	10	Codification
295	1 15-6-219	54	20-20-107		instruction
2	Applicability	55	20-20-109	308	1 61-4-201
296	1 75-10-1501	56	20-20-203	2	61-4-202
2	75-10-1502	57	20-20-418	3	61-4-204
3	75-10-1503	58	Codification	4	61-4-205
4	75-10-1504		instruction	5	61-4-207
5	75-10-1505	59	Coordination	6	61-4-208
6	75-10-1506		instruction	7	61-4-210
7	75-10-1507	298	1 19-20-733	8	61-4-212
8	75-10-1508		(Replaced by sec.	9	Codification
9	75-10-1509		7, Ch. 298)		instruction
10	Notification to	2	19-20-501	10	Severability
	tribal	3	19-20-605	11	Effective date
	governments	4	19-20-703	309	1 33-2-705
	Codification	5	19-20-731 (Voided	2	90-1-112
	instruction		and replaced by	3	Repealer
	Effective date		sec. 9, Ch. 298)	4	Effective date
297	1 13-1-101	6	Codification	310	1 50-5-117
2	13-1-108		instruction	2	50-5-207
3	13-1-113	7	Coordination	3	Repealer
4	13-1-115		instruction	4	Effective date
5	13-2-110	8	Coordination	311	1 82-11-207
6	13-2-116		instruction	2	Effective date
7	13-2-220	9	Coordination	312	1 39-71-118
8	13-2-222		instruction	2	53-1-202
9	13-2-301	10	Effective date	3	53-30-131
10	13-2-304	299	1 37-7-1403	4	53-30-132

	5	53-30-133	13	32-9-116	5	87-1-601
	6	61-3-478	14	32-9-114	6	Codification
	7	Repealer	15	32-9-117		instruction
	8	Retroactive	16	32-9-127	7	Effective dates
		applicability	17	32-9-120	8	Termination
313	1	33-2-301	18	32-9-118	331	27-1-751
	2	33-2-305	19	32-9-121	2	27-1-752
	3	33-2-306	20	32-9-122	3	27-1-753
	4	33-17-102	21	32-9-128	4	27-1-754
	5	33-17-212	22	32-9-123	5	Codification
	6	33-17-214	23	32-9-145		instruction
	7	33-17-1001	24	32-9-148	6	Severability
	8	33-17-1203	25	32-9-124	7	Two-thirds vote
	9	Effective date	26	32-9-125		required
	10	Applicability	27	32-9-126	8	Effective date
314	1	70-22-115	28	32-9-150	9	Applicability
	2	Codification	29	32-9-151	332	45-3-110
		instruction	30	32-9-155	2	45-3-111
315	1	37-4-341	31	32-9-130	3	45-3-112
	2	Codification	32	32-9-133	4	45-3-103
		instruction	33	32-9-160	5	46-5-313
316	1	30-22-101	34	Repealer	6	70-24-110
	2	30-22-102	35	Codification	7	45-8-321
	3	30-22-103		instruction	8	46-6-502
	4	Codification	36	Severability	9	46-16-131
		instruction	37	Contingent	10	Codification
317	1	37-53-102		suspension		instruction
	2	37-53-104	38	Effective date	11	Effective date
	3	37-53-202	322	1 15-70-204	333	1 1-1-229
	4	37-53-203		2 Effective date	2	2 Codification
	5	37-53-204	323	1 15-17-121		instruction
	6	37-53-205		2 15-17-212	334	1 15-32-102
	7	37-53-301	324	1 32-1-430		2 15-32-201
	8	37-53-302		2 32-3-604	3	3 Effective date
	9	37-53-303		3 32-10-401	4	4 Retroactive
	10	37-53-304	325	1 53-2-1215		applicability
	11	37-53-307		2 53-2-1216	335	1 46-17-302
	12	37-53-308		3 53-2-1217	2	61-7-118
	13	Repealer		4 53-2-1218	3	3 Effective date
318	1	15-35-102		5 53-2-1219	336	1 50-4-805
	2	15-35-103		6 53-2-1220	2	2 Notification to
	3	Notification to		7 Codification		tribal
		tribal		8 Codification		governments
		governments		8 Contingent	337	3 Effective date
	4	Effective date		voidness	1	61-3-414
	5	Applicability	326	1 37-3-203	2	61-3-455
319	1	1-5-401		2 37-3-208	3	61-3-458
	2	1-5-402		3 37-3-401	4	4 No appropriation
	3	1-5-416		4 Effective date	5	5 Codification
	4	1-5-419	327	1 40-2-106		instruction
	5	1-5-610		2 46-19-102	6	6 Effective date
	6	Effective date	328	1 72-30-102	338	1 30-14-2101
320	1	52-3-503		2 72-30-207	2	2 30-14-2102
	2	52-3-410		3 72-30-208	3	3 30-14-2103
	3	Reporting		4 72-30-209	4	4 30-14-2104
		requirement		5 72-30-210	5	5 Codification
	4	Codification		6 Effective date		instruction
		instruction	329	1 82-11-111	339	1 27-5-116
321	1	32-9-101		2 82-11-110	2	2 27-5-211
	2	32-9-102		3 Codification	3	3 27-5-312
	3	32-9-103		instruction	4	4 Codification
	4	32-9-104	330	1 17-7-502		instruction
	5	32-9-129		2 87-1-201	340	1 61-10-141
	6	32-9-105		3 87-1-621	2	2 61-10-144
	7	32-9-106		(Temporary —	341	1 17-5-1302
	8	32-9-107		terminates June	2	2 17-5-1312
	9	32-9-109		30, 2013)	3	3 17-5-2201
	10	32-9-110		4 87-1-621	4	4 Effective date
	11	32-9-112		(Effective July 1,	342	1 7-12-2103
	12	32-9-113		2013)	2	2 7-12-2105

3	7-12-2109	16	7-10-215	3	81-23-103
4	7-12-2112	17	7-10-216	4	81-23-104
5	7-13-2256	18	7-10-217	5	81-23-201
6	7-13-2301	19	7-10-218	6	81-23-202
7	7-13-2302	20	7-10-219	7	81-23-203
8	17-5-305	21	7-10-220	8	81-23-204
9	17-5-803	22	7-10-221	9	81-23-302
10	69-7-112	23	7-10-222	10	81-23-303
11	75-5-1113	24	2-7-501	11	81-23-401
12	Effective date	25	7-6-4020	12	81-23-402
343 1	15-6-138	26	7-6-4035	13	81-23-404
2	15-6-202	27	15-10-420	14	81-23-405
3	15-24-301	28	Notification to	15	81-23-406
4	Effective date		tribal	16	81-23-407
5	Applicability		governments	17	Repealer
344 1	15-1-409	29	Codification	18	Codification
2	15-1-402		instruction		instruction
3	Codification	30	Saving clause	19	Effective date
	instruction	31	Effective date	20	Termination
4	Applicability	352 1	87-2-803	362 1	50-16-1014
345 1	87-2-526	2	Effective date	2	50-16-1015
2	Codification	353 1	61-1-101	3	50-16-1016
	instruction	354 1	50-6-302	4	50-16-702
3	Effective date	2	50-6-322	5	50-16-1003
4	Termination	3	Codification	6	50-16-1008
346 1	27-18-101		instruction	7	50-16-1009
2	27-18-202	4	Effective date	8	50-16-1013
3	27-18-203	355 1	23-5-112	9	Repealer
4	27-18-204	2	23-5-115	10	Codification
5	27-18-1502	3	23-5-157		instruction
6	Effective date	4	23-5-324	363 1	61-12-901
347 1	13-37-402	5	23-5-412	2	Codification
2	13-37-403	6	23-5-413		instruction
3	Effective date	7	23-5-621	364 1	15-35-104
4	Retroactive	8	23-5-178	2	15-36-313
	applicability	9	Codification	3	15-39-105
348 1	45-1-205		instruction	4	15-72-112
2	61-5-405	10	Effective date	5	16-11-105
349 1	7-12-2153	11	Applicability	6	16-11-149
2	7-12-2182	356 1	40-4-212	7	72-3-1006
3	7-12-2185	2	40-4-216	8	Retroactive
4	7-12-2186	3	40-4-219		applicability
5	7-12-4169	4	40-4-228	365 1	50-16-103
6	7-12-4222	5	40-4-234	2	50-16-104
7	7-12-4225	357 1	15-6-137	3	Codification
8	7-12-4227	2	15-6-141		instruction
9	Effective date	3	15-6-156	4	Effective dates
350 1	7-15-4293	4	15-6-157	366 1	75-1-208
	(Amended by sec.	5	75-20-104	2	Repealer
	2, Ch. 350)	6	Applicability	3	Effective date
2	Coordination	358 1	7-6-1602	367 1	71-3-1601
	instruction	2	7-6-1603	2	71-3-1602
3	Effective date	3	Effective date	3	71-3-1603
4	Retroactive	359 1	33-22-515	4	71-3-1604
	applicability	2	33-1-102	5	71-3-1605
351 1	7-10-101	3	33-22-706	6	71-3-1606
2	7-10-102	4	33-31-111	7	71-3-1607
3	7-10-103	5	33-35-306	8	71-3-124
4	7-10-104	6	Codification	9	71-3-1002
5	7-10-105		instruction	10	71-3-1011
6	7-10-106	7	Saving clause	11	Notification to
7	7-10-110	8	Effective date		tribal
8	7-10-115	9	Applicability		governments
9	7-10-201	360 1	46-6-310	12	Codification
10	7-10-202	2	46-9-401		instruction
11	7-10-205	3	61-5-214	13	Saving clause
12	7-10-206	4	61-5-218	368 1	75-10-756
13	7-10-207	5	Effective date	2	75-10-757
14	7-10-208	361 1	81-1-101	3	Codification
15	7-10-209	2	81-23-101		instruction

	4	Effective date	2	41-5-1513		2	Effective date
	5	Applicability	3	Effective date	381	1	7-6-1501
369	1	Time limits	4	Retroactive		2	Saving clause
	2	Appropriations		applicability	382	1	15-30-111
	3	Effective date	374	53-9-113		2	19-2-1004
370	1	Appropriations	2	17-7-502		3	19-17-407
		from natural	3	46-18-236		4	19-18-612
		resources projects	4	46-18-241		5	19-19-504
		state special	5	46-18-250		6	19-20-706
		revenue account	6	46-18-251		7	19-21-212
	2	Conditions of	7	53-1-107		8	Effective date
		grants	8	53-9-104		9	Retroactive
	3	Appropriations	9	53-9-132			applicability
		established	10	53-9-133	383	1	90-3-1301
	4	Review of	11	53-30-132		2	90-3-1302
		previously	12	Codification		3	Codification
		authorized grants		instruction			instruction
	5	Notification to	13	Effective date		4	Effective date
		tribal	14	Termination	384	1	80-7-105 (Voided
		governments	375	2-17-101			and replaced by
	6	Coordination	376	17-5-820			sec. 2, Ch. 393)
		instruction	2	Appropriation of		2	80-7-106
	7	Severability		bond proceeds		3	80-7-108
	8	Effective date	3	Effective date		4	80-7-109
371	1	Appropriations	377	90-6-801		5	80-7-110
		for reclamation	2	90-6-802		6	80-7-122
		and development	3	90-6-803		7	80-7-133
		grants	4	90-6-809		8	80-7-135
	2	Approved grants	5	90-6-810		9	Coordination
		and projects	6	90-6-811			instruction
	3	Coordination of	7	90-6-812		10	Effective date
		fund sources for	8	90-6-818	385	1	37-3-801
		grants program	9	90-6-819		2	37-3-802
		projects	10	Department to		3	37-3-803
	4	Conditions of		award grants for		4	37-3-804
		grants		2011 biennium —		5	37-3-805
	5	Other		appropriation —		6	37-3-806
		appropriations		report to		7	37-3-807
	6	Coordination		legislature		8	No appropriation
		instruction	11	17-6-340		9	Codification
	7	Effective date	12	20-9-342			instruction
372	1	Approval of	13	20-9-343		10	Effective date
		renewable	14	20-9-516	386	1	80-11-901
		resource projects	15	20-9-534		2	Fund transfer
		and authorization	16	20-9-620		3	Appropriation
		to provide loans	17	20-9-622		4	Codification
	2	Projects not	18	77-4-208			instruction
		completing	19	Codification		5	Coordination
		requirements —		instruction			instruction
		projects	20	Severability		6	Effective date
		reauthorized	21	Effective date	387	1	Creation of online
	3	Coal severance	22	Applicability			motor vehicle
		tax bonds		(Amended by sec.			liability insurance
		authorized		32, Ch. 486)			verification
	4	Conditions of	378	23-3-301			system (Voided by
		loans	2	23-3-402			sec. 28, Ch. 413)
	5	Private and	3	23-3-404		2	Law enforcement
		discount purchase	4	23-3-405			use of verification
		of loans	5	23-3-501			system (Voided by
	6	Appropriations	6	23-3-502			sec. 28, Ch. 413)
		established	7	23-3-601		3	Online motor
	7	Creation of state	8	23-3-602			vehicle liability
		debt —	9	23-3-603			insurance
		appropriation of	10	Effective date			verification
		coal severance tax	379	20-26-1511			operating account
		— bonding	2	Appropriation			(Voided by sec.
		provisions	3	Codification			28, Ch. 413)
	8	Severability		instruction		4	33-19-306 (Voided
	9	Effective date	4	Effective date			by sec. 28, Ch.
373	1	41-5-215	380	Appropriation			413)

5	61-3-321 (Voided by sec. 28, Ch. 413)	8	7-15-4293	2	37-37-102
		9	7-15-4294	3	37-37-201
6	61-6-101 (Voided by sec. 28, Ch. 413)	10	7-15-4295	4	37-37-202
		11	7-15-4296	5	37-37-301
7	61-6-102 (Voided by sec. 28, Ch. 413)	12	7-15-4299	6	37-22-201
		13	7-15-4301	7	Codification instruction
8	61-6-103 (Voided by sec. 28, Ch. 413)	14	7-15-4302	8	Effective date
		15	7-15-4304	404	85-1-203
9	61-6-105 (Voided by sec. 28, Ch. 413)	16	7-15-4324	1	Notification to tribal governments
		17	17-5-820	2	76-3-510
395		18	Effective date	405	76-3-604
		1	80-10-110	3	76-4-125
9	61-6-105 (Voided by sec. 28, Ch. 413)	2	7-1-111	4	Effective date
		3	75-10-701	406	76-3-608
10	61-6-302 (Voided by sec. 28, Ch. 413)	4	80-10-101	407	7-22-2123
		5	80-10-102	1	7-22-2124
11	Repealer (Voided by sec. 28, Ch. 413)	6	80-10-103	2	Repealer
		7	80-10-201	3	Effective date
12	Codification instruction (Voided by sec. 28, Ch. 413)	8	80-10-202	408	87-4-502
		9	80-10-204	1	Effective date
13	Effective date (Voided by sec. 28, Ch. 413)	10	80-10-205	409	75-11-601
		11	80-10-206	2	75-11-602
388		12	80-10-207	3	75-11-603
1	53-21-604	13	80-10-208	4	75-11-604
2	7-32-2144	14	80-10-209	5	75-11-605
3	53-21-132	15	80-10-303	6	Codification instruction
4	53-21-605	16	80-15-302	7	Nonseverability
5	Report to legislature	17	Codification instruction	8	Effective date
		18	Effective date	9	Applicability
6	Appropriation	396		410	60-2-606
7	Codification instruction	1	75-11-302	2	Codification instruction
8	Effective date	2	75-11-307	3	Effective date
9	Termination	3	75-11-309	4	Termination
389		4	75-11-314	411	15-18-212
1	15-31-163	5	Applicability	1	15-18-213
2	15-30-111	397		2	15-18-216
3	Codification instruction	1	76-13-145	412	2-9-212
		2	Appropriation	1	2-18-703
4	Effective date	3	Codification instruction	2	15-10-420
5	Retroactive applicability	4	Effective date	3	Transition
390		398		4	Saving clause
1	81-10-101	1	22-3-1201	5	Effective date
2	81-10-102	2	22-3-1202	6	61-6-157
3	81-10-103	3	22-3-1203	1	61-6-309
4	81-10-104	4	Codification instruction	3	61-6-158
5	17-7-502	400		4	61-3-338
6	Codification instruction	1	45-6-328	5	53-30-134
391		2	45-6-329	6	33-19-306
1	16-2-101	3	45-2-311	7	61-3-301
392		4	45-6-301	8	61-3-303
1	5-4-204	5	45-6-327	9	61-3-312
2	5-4-205	6	Codification instruction	10	61-3-315
3	Effective date	401		11	61-3-321
393		1	15-30-101	12	61-3-332
1	80-7-106	2	15-30-1102	13	61-3-333
2	Coordination instruction (Amends 80-7-105)	3	15-30-1113	14	61-3-407
		4	Effective date	15	61-3-465
3	Effective date	5	Retroactive applicability	16	61-3-478
394		402		17	61-3-480
1	7-15-4282	1	90-7-102	18	61-3-535
2	7-15-4283	2	90-7-104	19	61-3-562
3	7-15-4284	3	90-7-116	20	61-6-101
4	7-15-4286	4	90-7-225	21	61-6-102
5	7-15-4288	5	Codification instruction	22	61-6-103
6	7-15-4290	6	Effective date	23	61-6-105
7	7-15-4292	403			
		1	37-37-101		





			reduction of	2	25-10-305	9	37-33-504
			appropriation	3	25-10-302	10	2-15-1782
	16		Severability	4	37-61-215	11	Codification
	17		Effective date	5	Codification		instruction
436	1		85-2-525		instruction	12	Effective date
	2		2-15-1523	6	Saving clause	452	1 53-6-195
	3		Appropriation	7	Severability	2	53-6-113
	4		Contingent	8	Applicability	3	53-6-131
			voidness	444	1 20-3-322	4	Transition
	5		Codification	2	20-5-201	5	Codification
			instruction	3	20-5-202		instruction
	6		Effective date	445	1 75-2-213	6	Effective date
437	1		61-2-501	2	2-4-623	453	1 37-17-104
	2		61-2-502	3	2-4-702	2	37-23-102
	3		61-2-503	4	75-2-103	454	1 90-4-1001
	4		61-2-504	5	75-2-211	2	90-4-1003
	5		61-2-505	6	75-5-103	3	Repealer
	6		61-2-506	7	75-5-610	4	Effective date
	7		61-2-507	8	75-20-223	455	1 25-31-409
	8		Coordination	9	Codification	2	Repealer
			instruction		instruction	456	1 50-5-101
	9		Codification	10	Severability	2	50-5-121
			instruction	11	Effective date	3	50-5-122
	10		Notification to	12	Applicability	4	50-5-245
			tribal	446	1 70-23-301	5	50-5-246
			governments	2	76-1-601	6	Codification
	11		Effective date	3	76-2-101		instruction
	12		Termination	4	76-2-102	7	Coordination
438	1		17-5-205	5	76-2-107		instruction
	2		Effective date	6	76-2-202	8	Effective date
439	1		18-2-317	7	76-2-203	457	1 Appropriation of
	2		18-2-101	8	76-2-205		cultural and
	3		18-4-132	9	76-2-206		aesthetic grant
	4		90-4-1101	10	76-2-210		funds — priority
	5		90-4-1102	11	76-2-304		of disbursement
	6		90-4-1103	12	76-3-207	2	Appropriation of
	7		90-4-1104	13	76-3-504		cultural and
	8		90-4-1105	14	76-3-506		aesthetic grant
	9		90-4-1106	15	76-3-507		funds
	10		90-4-1107	16	76-3-510	3	Reversion of
	11		90-4-1108	17	76-3-608		grant money
	12		90-4-1109	18	76-3-609	4	Reduction of
	13		Codification	19	76-3-610		grants on pro rata
			instruction	20	76-3-620		basis
	14		Effective date	21	76-3-621	5	Effective date
440	1		85-20-1004	22	76-3-625	458	1 Appropriations
	2		General fund	23	Repealer		from treasure
			transfer (Voided	24	Effective date		state endowment
			by sec. 76, Ch.	25	Applicability		state special
			489)	447	1 61-8-203		revenue account
	3		Appropriation	2	61-8-206	2	Approval of
	4		Notification to	3	Effective date		grants —
			tribal	448	1 61-5-208		completion of
			governments	2	61-8-442		biennial
	5		Effective date	3	61-8-733		appropriation
441	1		17-7-502	4	Applicability	3	Conditions of
	2		76-13-150	449	1 75-6-131		grants —
	3		Authorization to	2	75-6-103		disbursement of
			pay unpaid fire	3	Codification		funds
			costs from		instruction	4	Other powers and
			appropriation for	4	Applicability		duties of
			fire prevention	450	1 39-71-401		department
			and suppression	2	Effective date	5	Appropriations
	4		Repealer	451	1 37-33-401		from treasure
	5		Effective date	2	37-33-402		state endowment
442	1		17-7-502	3	37-33-403		state special
	2		90-6-304	4	37-33-404		revenue account
	3		90-6-331	5	37-33-405		for emergency
	4		Effective date	6	37-33-501		grants
	5		Termination	7	37-33-502		
443	1		25-10-304	8	37-33-503		

6	Appropriations from treasure	2	17-3-1003	8	Codification instruction
	state endowment	3	18-2-107	9	Coordination instruction
	state special	4	20-9-341	10	Effective dates
	revenue account	5	20-9-620	11	Applicability — retroactive applicability
	for preliminary engineering grants	6	20-25-422	471	1 50-5-245 (Voided by sec. 7, Ch. 456)
7	Appropriation from treasure	7	77-1-101	2	Effective date (Voided by sec. 7, Ch. 456)
	state endowment	8	77-1-108	472	1 Findings
	regional water	9	77-1-109	2	15-24-1209
	system special	10	77-1-127	3	26-1-624
	revenue account	11	77-1-605	4	77-1-134
8	Approval of funds — completion of appropriation	12	77-1-613	5	61-8-371
	Conditions — manner of disbursement of funds	13	77-1-802	6	77-1-111
9	90-6-701	14	77-1-808	7	77-1-126
	Sec. 1, Ch. 383, L. 2007	15	77-1-809	8	77-1-127
	Notification to tribal governments	16	77-1-810	9	77-1-806
13	Coordination instruction	17	77-1-815	10	77-1-809
	Effective dates	18	77-1-905	11	77-3-442
459	1 15-35-108	19	77-2-328	12	77-6-113
	2 Sec. 3, Ch. 481, L. 2003	20	77-2-362	13	77-6-115
	3 Sec. 6, Ch. 481, L. 2003	21	77-5-204	14	77-6-302
	4 Effective dates	22	77-5-219	15	77-6-303
	5 Termination	23	77-1-132	16	77-6-501
460	1 90-1-201	24	77-5-224	17	Codification instruction
	2 90-1-202	25	Unencumbered balances — transfer	18	Effective date
	3 90-1-203	466	1 45-6-106	473	1 45-2-101
	4 90-1-204	2	2 Codification instruction	2	45-6-101
	5 90-1-205	3	3 Effective date	3	45-6-103
	6 Notification to tribal governments	4	4 Applicability	4	45-6-104
461	1 State veterans' home in southwestern Montana	467	1 46-8-113	5	45-6-301
	2 Account — state veterans' home in southwestern Montana	2	2 47-1-111	6	45-6-309
	3 10-2-401	3	3 Contingent voidness	7	45-6-311
	4 10-2-416	4	4 Effective date	8	45-6-312
	5 16-11-119	468	1 80-6-106	9	45-6-313
	6 53-1-402	2	2 80-6-101	10	45-6-316
	7 53-1-413	3	3 80-6-102	11	45-6-317
	8 53-1-602	4	4 80-6-103	12	45-6-325
	9 53-6-1201	5	5 80-6-104	13	45-6-332
	10 Effective dates	6	6 80-6-111	14	45-6-341
462	1 17-1-106	7	7 80-6-112	15	45-7-210
463	1 2-17-425	8	8 80-6-113	474	1 82-11-180
	2 2-17-411	9	9 80-6-114	2	82-11-181
	3 Codification instruction	10	10 80-6-201	3	82-11-182
	4 Effective date	11	11 80-6-202	4	82-11-183
464	1 Appropriation	12	12 80-6-203	5	82-11-184
	2 Effective date	13	13 80-6-303	6	82-11-185
465	1 17-2-107	14	14 Repealer	7	70-30-105
		15	15 Codification instruction	8	75-5-103
		469	1 75-20-104	9	75-5-401
		2	2 Effective date	10	77-3-430
		3	3 Applicability	11	82-10-402
		470	1 15-30-2646	12	82-11-101
		2	2 15-30-112	13	82-11-104
		3	3 15-30-136 (Voided by sec. 9, Ch. 470)	14	82-11-111
		4	4 15-30-142	15	82-11-118
		5	5 15-30-144	16	82-11-122
		6	6 15-30-146	17	82-11-123
		7	7 15-30-149	18	82-11-127
				19	82-11-136
				20	82-11-137
				21	82-11-161
				22	82-11-163
				23	82-11-201

24	82-11-204		balance to	7	15-7-111
25	82-11-205		Montana tech	8	15-7-201
26	82-11-214	9	Planning and	9	15-10-420
27	Notification to		design	10	15-16-101
	tribal	10	Capital projects	11	15-44-103
	governments		— contingent	12	Extension of 2009
28	Codification		funds		deadlines relating
	instruction	11	Review by		to property
29	Saving clause		department of		taxation
30	Transition —		environmental	13	Application
	contingent		quality		deadline
	implementation	12	Legislative		extensions
31	Effective dates —		consent	14	Revenue and
	contingency	13	17-7-111		transportation
475	1 77-1-1101	14	17-7-123		interim
	2 77-1-1102	15	90-4-602		committee review
	3 77-1-1103	16	90-4-615		of property tax
	4 77-1-1104	17	90-4-616		assistance
	5 77-1-1105	18	90-4-617	15	Appropriation —
	6 77-1-1106	19	90-4-618		contingency
	7 77-1-1107	20	Sec. 2, Ch. 560, L.	16	Coordination
	8 77-1-1108		2005		instruction
	9 77-2-101	21	Codification	17	Saving clause
	10 Codification		instruction	18	Effective date
	instruction	22	Severability	19	Retroactive
	11 Severability	23	Effective date		applicability
	12 Contingent	24	Retroactive	484	1 90-1-501
	voidness		applicability		2 90-1-502
476	1 15-23-715	479	53-21-1203		3 90-1-503
	2 15-23-703 (Voided		Implementation		4 90-1-504
	and replaced by	2	— report		5 17-7-502
	sec. 4, Ch. 476)	3	Codification		6 Codification
	3 Codification		instruction —		instruction
	instruction		instructions to	7	Coordination
	4 Coordination		code		instruction
	instruction	4	commissioner	8	Coordination
	5 Applicability		Coordination		instruction
477	1 82-4-438		instruction	9	Effective date
	2 15-38-104		5 Effective dates	485	1 77-1-218
	3 15-38-106	480	1 53-21-1204		2 77-1-219
	4 15-38-113		2 Implementation		3 77-1-220
	5 82-4-405		— report		4 17-5-803
	6 82-4-424	3	Codification		5 17-7-502
	7 82-4-432		instruction		6 87-1-209
	8 82-4-439	4	Coordination		7 87-1-218
	9 82-4-437		instruction		8 87-1-603
	10 Codification	5	Effective dates		9 Authorization of
	instruction	481	1 53-21-102		bonds
	11 Effective date		2 53-21-122		10 Appropriation of
	12 Applicability —	3	53-21-123		bond proceeds
	retroactive	4	53-21-162		11 Codification
	applicability	5	53-21-1205		instruction
478	1 Definitions	6	53-21-1206		12 Severability
	2 Capital project	7	53-21-1001		13 Coordination
	appropriations	8	Report		instruction
	and	9	Codification		14 Two-thirds vote
	authorizations		instruction		required
3	Fund transfers	10	Effective date		15 Effective date
4	Capital	482	1 50-50-103	486	1 2-15-3004
	improvements		2 50-50-205		2 7-14-112
5	Land acquisition	3	50-51-204		3 10-2-112
	appropriations	4	50-52-202		4 10-2-603
6	Montana	5	50-57-205		5 10-3-801
	stimulus capital	6	Effective date		6 15-1-122
	improvements	483	1 7-15-4285		7 15-35-108
	7 Transfer of		2 15-6-134		8 15-38-301
	appropriations —	3	15-6-143		9 16-11-119
	definition	4	15-6-193		10 17-6-606
8	Reappropriation	5	15-6-222		11 17-7-102
	of remaining	6	15-7-102		12 17-7-111

13	17-7-304	13	17-2-124	61	Contingent loan acquisition
14	20-9-306	14	17-5-504		account — fund transfer
15	33-2-708	15	17-5-803		(Line-item vetoed)
16	47-1-201	16	17-5-922	62	Fund transfer
17	53-4-212	17	17-5-1506	63	Allocation and distribution of increased state support for schools
18	53-4-1005	18	17-7-102		Sec. 20, Ch. 390, L. 2003
19	53-4-1007	19	17-7-402	65	Sec. 4, Ch. 606, L. 2005
20	53-4-1012	20	17-7-502	66	Sec. 7, Ch. 606, L. 2005
21	53-6-1201	21	20-9-403	67	Sec. 4, Ch. 517, L. 2007
22	75-10-704	22	20-9-433	68	Sec. 5, Ch. 517, L. 2007
23	80-6-1109	23	20-9-501	69	Sec. 6, Ch. 517, L. 2007
24	85-2-280	24	Permissive levy	70	Sec. 8, Ch. 517, L. 2007
25	61-2-109	25	Over-BASE budget levy	71	Sec. 9-B, items 4b and 10, Ch. 5, Special L. May 2007
26	Legislative intent	26	20-25-402	72	Coordination instruction
27	Emergency medical service grant program reports	27	20-25-427	73	Coordination instruction
28	Fund transfers	28	39-51-201	74	Coordination instruction
29	Vehicle insurance verification system — vendor requirement	29	39-51-2115	75	Coordination instruction (Line-item vetoed)
30	Repealer	30	39-51-2116	76	Coordination instruction
31	Codification instruction	31	52-3-115	77	Coordination instruction
32	Coordination instruction	32	53-4-212	78	Codification instruction
33	Effective date	33	53-6-149	79	Contingent voidness
34	Applicability	34	53-6-151	80	Effective date
35	Termination	35	53-6-1201	81	Retroactive applicability
487	1 15-6-138	36	75-5-1102	82	Termination
	2 15-6-141	37	75-5-1107	83	Voided appropriation — use — appropriation (Line-item vetoed)
	3 15-23-101	38	75-6-202	84	Appropriation control
	4 15-23-301	39	75-6-226	85	Appropriations — fund transfers — allocations
	5 Effective date	40	75-25-101		
	6 Retroactive applicability	41	75-25-102		
488	1 Short title	42	90-1-204		
	2 First level expenditures	43	17-5-116		
	3 Severability	44	17-5-117		
	4 Appropriation control	45	7-7-140		
	5 Program definition	46	7-7-141		
	6 Personal services funding — 2013 biennium	47	90-5-101		
	7 Totals not appropriations	48	90-5-103		
	8 Effective date	49	90-7-102		
	9 Appropriations Rates	50	90-7-104		
489	1 2-4-306	51	90-7-230		
	2 7-7-2255	52	90-7-229		
	3 7-7-2501	53	17-3-112		
	4 7-7-4255	54	Dissemination of information — reporting and accountability		
	5 7-7-4421	55	Distressed wood products industry recovery program — findings — loans and grants — rulemaking (Voided by sec. 8, Ch. 484)		
	6 7-7-4501	56	90-1-175		
	7 7-12-2171	57	Distribution of local government, tribal government, and school funds		
	8 7-15-4290	58	Quick start energy grants		
	9 7-15-4301	59	90-4-1005		
	10 7-15-4302	60	Welcome home loan program (Line-item vetoed)		
	11 15-66-102				
	12 17-1-106				

**2008 BALLOT ISSUES**

## Legislative Referendum

<u>LR</u>	<u>Sec.</u>	<u>MCA</u>
118	1	15-10-108
	2	Codification instruction
	3	Effective dates
	4	Termination
	5	Submission to electorate

## Initiative

<u>Init.</u>	<u>Sec.</u>	<u>MCA</u>
155	1	53-4-1101
	2	53-4-1102
	3	53-4-1103
	4	53-4-1104
	5	53-4-1105
	6	53-4-1108
	7	53-4-1109
	8	53-4-1110
	9	53-4-1115
	10	33-2-708
	11	53-4-1004
	12	53-6-131
	13	Codification instruction
	14	Contingent termination
	15	Effective date

**LAWS**

**Enacted by the  
SIXTIETH LEGISLATURE  
IN SPECIAL SESSION**

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

**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.**

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**COMPILED BY MONTANA  
LEGISLATIVE SERVICES DIVISION**

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MONTANA SESSION LAWS  
SEPTEMBER 2007 SPECIAL SESSION

**OFFICERS AND MEMBERS  
OF THE MONTANA SENATE**

SEPTEMBER 2007

50 Members

26 Democrats

24 Republicans

OFFICERS

President.....Mike Cooney  
 President Pro Tempore .....Dan Harrington  
 Majority Leader .....Carol Williams  
 Majority Whips .....Lane Larson, Lynda Moss  
 Minority Leader .....Corey Stapleton  
 Minority Whips .....Greg Barkus, Dan McGee  
 Secretary of the Senate .....John Mudd

MEMBERS

Name	Party	District	Preferred Mailing Address
Bales, Keith	(R)	20	HC 39 Box 33, Otter MT 59062-9703
Balyeat, Joe	(R)	34	6909 Rising Eagle Rd, Bozeman MT 59715-8621
Barkus, Gregory	(R)	4	PO Box 2647, Kalispell MT 59903-2647
Black, Jerry	(R)	14	445 O'Haire Blvd, Shelby MT 59474-1950
Brown, Roy	(R)	25	PO Box 22273, Billings MT 59104-2273
Brueggeman, John	(R)	6	321 Lakeview Dr, Polson MT 59860-9317
Cobb, John	(R)	9	PO Box 388, Augusta MT 59410-0388
Cocchiarella, Vicki	(D)	47	515 8th Ave, Helena MT 59601-3778
Cooney, Mike	(D)	40	713 Pyrite Court, Helena MT 59601-5877
Curtiss, Aubyn	(R)	1	PO Box 216, Fortine MT 59918-0216
Elliott, Jim	(D)	7	100 Trout Creek Rd, Trout Creek MT 59874-9609
Esp, John	(R)	31	PO Box 1024, Big Timber MT 59011-1024
Essmann, Jeff	(R)	28	2101 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
Hansen, Ken (Kim)	(D)	17	PO Box 686, Harlem MT 59526-0686
Harrington, Dan	(D)	38	1201 N Excelsior Ave, Butte MT 59701-8505
Hawks, Bob	(D)	33	703 W Koch St, Bozeman MT 59715-4477
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
Kitzenberg, Sam	(D)	18	130 Bonnie St Apt 1, Glasgow MT 59230-2101
Laible, Rick	(R)	44	PO Box 370, Darby MT 59829-0370
Larson, Lane	(D)	22	1417 Cedar Canyon Rd, Billings MT 59101-6440
Laslovich, Jesse	(D)	43	112 Mountain View St, Anaconda MT 59711-1616
Lewis, Dave	(R)	42	5871 Collins Rd, Helena MT 59602-9584
Lind, Greg	(D)	50	PO Box 16720, Missoula MT 59808-6720
McGee, Daniel	(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
O'Neil, Jerry	(R)	3	985 Walsh Rd, Columbia Falls MT 59912-9044
Pease, Gerald	(D)	21	PO Box 556, Lodge Grass MT 59050-0556
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
Ryan, Don	(D)	10	2101 7th Ave S, Great Falls MT 59405-2821
Schmidt, Trudi	(D)	11	4029 6th Ave S, Great Falls MT 59405-3746

MONTANA SESSION LAWS  
SEPTEMBER 2007 SPECIAL SESSION

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Shockley, Jim	(R)	45	PO Box 608, Victor MT 59875-0608
Smith, Frank	(D)	16	PO Box 729, Poplar MT 59255-0729
Squires, Carolyn	(D)	48	2111 S 10th St W, Missoula MT 59801-3412
Stapleton, Corey	(R)	27	2015 Eastridge Dr, Billings MT 59102-7904
Steinbeisser, Donald	(R)	19	11918 County Rd 348, Sidney MT 59270-9620
Story, Robert	(R)	30	133 Valley Creek Rd, Park City MT 59063-8040
Tash, Bill	(R)	36	240 Vista Dr, Dillon MT 59725-3111
Tropila, Joseph	(D)	13	209 2nd St NW, Great Falls MT 59404-1301
Tropila, Mitch	(D)	12	PO Box 2286, Great Falls MT 59403-2286
Wanzenried, David	(D)	49	903 Sky Dr, Missoula MT 59804-3121
Weinberg, Dan	(D)	2	575 Delrey Rd, Whitefish MT 59937-8042
Williams, Carol	(D)	46	3533 Lincoln Hills Pt, Missoula MT 59802

MONTANA SESSION LAWS  
SEPTEMBER 2007 SPECIAL SESSION

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

**SEPTEMBER 2007**

100 Members

50 Republicans                      49 Democrats                      1 Constitutionalist

**OFFICERS**

Speaker .....Scott Sales  
Speaker Pro Tempore.....Debbie Barrett  
Majority Leader.....Michael Lange  
Majority Whips.....Tom McGillvray, Gary MacLaren  
Minority Leader.....John Parker  
Deputy Minority Leader.....Bob Bergren  
Minority Floor Leader.....Art Noonan  
Minority Whips.....Margarett Campbell, Dave McAlpin  
Minority Caucus Leader.....Dan Villa  
Chief Clerk of the House.....Marilyn Miller

**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, Debby	(R)	72	18580 MT Hwy 324, Dillon MT 59725-8031
Beck, Bill	(R)	6	PO Box 2049, Whitefish MT 59937-2049
Becker, Arlene	(D)	52	1440 Lewis Ave, Billings MT 59101-4240
Bergren, Bob	(D)	33	1132 26th Ave W, Havre MT 59501-8609
Bixby, Norma	(D)	41	PO Box 1165, Lame Deer MT 59043-1165
Blasdel, Mark	(R)	10	PO Box 291, Somers MT 59932-0291
Boggio, Scott	(R)	59	HC 50 Box 4754, Red Lodge MT 59068-4754
Branae, Gary	(D)	54	415 Yellowstone Ave, Billings MT 59101-1730
Butcher, Edward	(R)	29	PO Box 89, Winifred MT 59489-0089
Caferro, Mary	(D)	80	PO Box 1036, Helena MT 59624-1036
Callahan, Tim	(D)	21	728 36 Ave NE, Great Falls MT 59404-1132
Campbell, Margarett	(D)	31	PO Box 228, Poplar MT 59255-0228
Clark, Edith	(R)	28	PO Box 34, Sweetgrass MT 59484-0034
Cohenour, Jill	(D)	78	2610 Colt Dr, East Helena MT 59635-3442
Cordier, Douglas	(D)	3	1930 Tamarack Ln, Columbia Falls MT 59912-8816
Dickenson, Sue	(D)	25	620 Riverview Dr E, Great Falls MT 59404-1637
Driscoll, Robyn	(D)	51	724 N 16th St, Billings MT 59101-0418
Dutton, Ernie	(R)	56	2046 Mariposa Ln, Billings MT 59102-2347
Ebinger, Bob	(D)	62	128 S Yellowstone St, Livingston MT 59047-2634
Erickson, Ron	(D)	93	3250 Pattee Canyon Rd, Missoula MT 59803-1703
Everett, George	(R)	5	1344 Helena Flats Rd, Kalispell MT 59901-6548
Franklin, Eve	(D)	24	PO Box 6507, Great Falls MT 59406-6507
French, Julie	(D)	36	PO Box 356, Scobey MT 59263-0356
Furey, Timothy	(D)	91	280 Hellgate Dr, Missoula MT 59802-8739
Gallik, Dave	(D)	79	1124 Billings Ave, Helena MT 59601-3505
Glaser, William	(R)	44	1402 Indian Creek Rd, Huntley MT 59037-9338
Grinde, Wanda	(D)	48	1910 Bannack Dr, Billings MT 59105-4236
Groesbeck, George	(D)	74	2044 Carolina Ave, Butte MT 59701-6025
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
Heinert, Ralph	(R)	1	PO Box 577, Libby MT 59923-0577
Hendrick, Gordon	(R)	14	PO Box 262, Superior MT 59872-0262
Henry, Teresa	(D)	96	204 Chestnut St, Missoula MT 59801-1809

MONTANA SESSION LAWS  
 SEPTEMBER 2007 SPECIAL SESSION

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Hilbert, Edward	(R)	38	120 Hillcrest Ave, Glendive MT 59330-2815
Himmelberger, Dennis	(R)	47	PO Box 22272, Billings MT 59104-2272
Hiner, Cynthia	(D)	85	1027 Kentucky St, Deer Lodge MT 59722-2041
Hollenbaugh, Galen	(D)	81	907 N Ewing St, Helena MT 59601-3405
Ingraham, Pat	(R)	13	PO Box 1151, Thompson Falls MT 59873-1151
Jacobson, Hal	(D)	82	4813 US Hwy 12 W, Helena MT 59601-9694
Jayne, Joey	(D)	15	299 Lumpry Rd, Arlee MT 59821-9747
Jones, Llew	(R)	27	1102 4th Ave SW, Conrad MT 59425-1919
Jones, William	(R)	9	567 East Village Dr, Bigfork MT 59911-6152
Jopek, Mike	(D)	4	PO Box 4272, Whitefish MT 59937-4272
Jore, Rick	(C)	12	30488 Mount Harding Ln, Ronan MT 59864-9446
Kasten, Dave	(R)	30	113 Bob Fudge Rd, Brockway MT 59214-8706
Keane, Jim	(D)	75	2131 Wall St, Butte MT 59701-5527
Kerns, Krayton	(R)	58	1408 Golf Course Rd, Laurel MT 59044-3600
Klock, Harry	(R)	83	PO Box 308, Harlowton MT 59036-0308
Koopman, Roger	(R)	70	811 S Tracy Ave, Bozeman MT 59715-5325
Kottel, Deborah	(D)	20	6301 43rd St SW, Great Falls MT 59404-5249
Lake, Bob	(R)	88	PO Box 2096, Hamilton MT 59840-2096
Lambert, Carol	(R)	39	PO Box 2, Broadus MT 59317-0002
Lange, Michael	(R)	55	208 Fair Park Dr, Billings MT 59102-5734
MacLaren, Gary	(R)	89	429 Curlew Orchard Rd, Victor MT 59875-9519
Malcolm, Bruce	(R)	61	2319 Hwy 89 S, Emigrant MT 59027-6023
McAlpin, Dave	(D)	94	800 Woodworth Ave, Missoula MT 59801-7046
McChesney, Bill	(D)	40	316 Missouri Ave, Miles City MT 59301-4140
McGillvray, Tom	(R)	50	3642 Donna Dr, Billings MT 59102-1119
McNutt, Walter	(R)	37	110 12th Ave SW, Sidney MT 59270-3614
Mendenhall, Scott	(R)	77	214 Solomon Mountain Rd, Clancy MT 59634-9213
Milburn, Mike	(R)	19	276 Chestnut Valley Rd, Cascade MT 59421-8204
Morgan, Penny	(R)	57	3401 Waterloo Cir, Billings MT 59101-8000
Musgrove, John	(D)	34	810 8th St, Havre MT 59501-4127
Noonan, Art	(D)	73	1621 Whitman Ave, Butte MT 59701-5380
Nooney, Bill	(R)	100	PO Box 4892, Missoula MT 59806-4892
O'Hara, Jesse	(R)	18	2221 Holly Ct, Great Falls MT 59404-3562
Olson, Alan	(R)	45	18 Halfbreed Creek Rd, Roundup MT 59072-6524
Parker, John	(D)	23	PO Box 558, Great Falls MT 59403-0558
Peterson, Ken	(R)	46	424 48th St W, Billings MT 59106-2306
Phillips, Mike	(D)	66	615 S Black Ave, Bozeman MT 59715-5303
Pomnichowski, JP	(D)	63	222 Westridge Dr, Bozeman MT 59715-6025
Raser, Holly	(D)	98	4304 Spurgin Rd, Missoula MT 59804-4520
Reinhart, Michele	(D)	97	PO Box 5945, Missoula MT 59806-5945
Rice, Diane	(R)	71	PO Box 216, Harrison MT 59735-0216
Ripley, Rick	(R)	17	8920 MT Hwy 200, Wolf Creek MT 59648-8639
Ross, John	(R)	60	129 N Stillwater Rd, Absarokee MT 59001-6235
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	155 W Granite, Butte MT 59701-9256
Sinrud, John	(R)	67	284 Frontier Dr, Bozeman MT 59718-7975
Small-Eastman, Veronica	(D)	42	PO Box 262, Lodge Grass MT 59050-0262
Sonju, Jon	(R)	7	PO Box 2954, Kalispell MT 59903-2954
Stahl, Wayne	(R)	35	PO Box 345, Saco MT 59261-0345
Stoker, Ron	(R)	87	PO Box 1059, Darby MT 59829-1059
Taylor, Janna	(R)	11	PO Box 233, Dayton MT 59914-0233
Thomas, Bill	(D)	26	1200 Adobe Dr, Great Falls MT 59404-3732
Van Dyk, Kendall	(D)	49	PO Box 441, Billings MT 59103-0441
Villa, Dan	(D)	86	1619 W Park Ave, Anaconda MT 59711-1831
Vincent, Chas	(R)	2	5957 Champion Rd, Libby MT 59923
Ward, John	(R)	84	4525 Glass Dr, Helena MT 59602-9509
Wells, Jack	(R)	69	150 Coulee Dr, Bozeman MT 59718-7717
Wilmer, Franke	(D)	64	7205 Lorelei Dr, Bozeman MT 59715-8925
Wilson, Bill	(D)	22	1305 2nd Ave N, Great Falls MT 59401-3217
Windy Boy, Jonathan	(D)	32	PO Box 269, Box Elder MT 59521-0269
Wiseman, Brady	(D)	65	3247 Gardenbrook Ln, Bozeman MT 59715-0686
Witte, Craig	(R)	8	131 Collier Ln, Kalispell MT 59901-4621

**CHAPTER NO. 1**

[HB 1]

AN ACT PROVIDING RECOVERY FUNDS FOR THE STATUTORY APPROPRIATION FOR EMERGENCIES AND DISASTERS; PROVIDING FOR A STUDY OF STATE FIRE SUPPRESSION METHODS AND COSTS; REQUIRING A REPORT ON IMPLEMENTING AUDIT RECOMMENDATIONS; PROVIDING APPROPRIATIONS FOR FIRE SUPPRESSION AND FOR DISASTER RESPONSE AND RECOVERY ACTIVITIES; PROVIDING AN APPROPRIATION FOR THE FIRE SUPPRESSION STUDY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

**Section 1. Fire suppression committee — study.** (1) There is a fire suppression committee established to conduct a comprehensive fire suppression study.

(2) The committee consists of six senators appointed by the committee on committees and six representatives appointed by the speaker of the house. Three senators and three representatives must be members of the majority party, and three senators and three representatives must be members of the minority party.

(3) The legislative services division shall provide staff assistance to the committee, and the committee may receive staff assistance from the legislative fiscal division and the legislative audit division. The committee shall conduct meetings in Miles City, Libby, Thompson Falls, Lewistown, and Hamilton.

(4) The study must include:

(a) an investigation of firefighting operations in Montana, including operations on tribal land and private land, by the state and federal governments and the management policies affecting the success of those operations;

(b) an investigation of the efficient use of fire suppression resources, including equipment and firefighters;

(c) an investigation of impacts of operations on private land and on the effective use of private resources to fight fires; and

(d) an investigation of state and federal forest management policies and how those policies may contribute to an increased number of wildfires, greater safety risk to firefighters, or compromised effectiveness of fire suppression efforts.

(5) The fire suppression committee shall complete the study by September 15, 2008, and report to the 61st legislature on its findings and recommendations, including any recommendations for legislation.

**Section 2. Report on implementing audit recommendations.** The department of natural resources and conservation shall prepare a report to the governor and the 61st legislature on its progress in implementing the 27 recommendations of the legislative audit division contained in the December 2004 performance audit entitled "Wildland Fire Administration".

**Section 3. Appropriations.** (1) There is appropriated \$39 million from the state general fund to the department of natural resources and conservation for wildfire suppression and for wildfire disaster response and recovery activities in Montana.

(2) There is appropriated \$3 million from the general fund to the department of military affairs for fiscal year 2008 for wildfire suppression and for wildfire disaster response and recovery activities in Montana.

(3) Of the \$42 million appropriated to the departments of natural resources and conservation and military affairs for fiscal year 2008, up to \$16 million is intended to be treated as the recovery of money previously expended under 10-3-312 in fiscal year 2008.

(4) The amounts appropriated in [this act] may not be used to purchase or lease capital assets on a long-term basis.

**Section 4. Appropriation.** There is appropriated from the state general fund to the legislative services division \$200,000 for the purpose of conducting the study provided for in [section 1].

**Section 5. Effective date.** [This act] is effective on passage and approval.

Approved September 17, 2007

## CHAPTER NO. 2

[HB 3]

AN ACT CREATING A FIRE SUPPRESSION ACCOUNT TO BE USED FOR FIRE SUPPRESSION COSTS; PROVIDING FUNDING FOR THE ACCOUNT FROM REIMBURSEMENTS FROM PRIVATE PARTIES FOR FIRE SUPPRESSION COSTS; STATUTORILY APPROPRIATING THE MONEY IN THE ACCOUNT; TRANSFERRING FUNDS FROM THE STATE GENERAL FUND TO THE FIRE SUPPRESSION ACCOUNT; AMENDING SECTION 17-7-502, MCA; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE.

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

**Section 1. Fire suppression account — fund transfer.** (1) There is a fire suppression account in the state special revenue fund to the credit of the department of natural resources and conservation.

(2) The department of administration shall transfer from the state general fund to the account the amount necessary to achieve a \$40 million fund balance. The transfer must be made at the beginning of each fiscal year. The legislature may transfer money from other funds to the account.

(3) Funds received for restitution by private parties must be deposited in the account.

(4) Money in the account may be used only for the purpose of paying fire suppression costs.

(5) Beginning July 1, 2008, the money in the account is statutorily appropriated, as provided in 17-7-502, to the department for use as provided in this section.

(6) Interest earned on the balance of the account is retained in the account.

**Section 2.** Section 17-7-502, MCA, is amended to read:

**“17-7-502. Statutory appropriations — definition — requisites for validity.** (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-407; 5-13-403; 7-4-2502; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-1-121; 15-1-218; 15-23-706; 15-31-906; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-369; 15-70-601; 16-11-509; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-4-105; 23-4-202; 23-4-204; 23-4-302; 23-4-304; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 41-5-2011; 42-2-105; 44-1-504; 44-12-206; 44-13-102; 50-4-623; 53-1-109; 53-6-703; 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; [section 1]; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161; 87-1-513; 90-1-115; 90-1-205; 90-3-1003; 90-9-306; and section 2, Chapter 6, Special Laws of May 2007.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to 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 have statutory appropriation authority for the payments. (In subsection (3): pursuant to Ch. 422, L. 1997, the inclusion of 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 3 and 6, Ch. 481, L. 2003, the inclusion of 15-35-108 terminates June 30, 2010; pursuant to sec. 17, Ch. 593, L. 2005, the inclusion of 15-31-906 terminates January 1, 2010; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; and pursuant to sec. 10, Ch. 6, Sp. L. May 2007, the inclusion of section 2, Chapter 6, Special Laws of May 2007, terminates July 1, 2008.)"

**Section 3. Fund transfer.** The amount of \$40 million is transferred from the state general fund to the fire suppression account established in [section 1].

**Section 4. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 76, chapter 13, and the provisions of Title 76, chapter 13, apply to [section 1].

**Section 5. Effective date.** (1) Except as provided in subsection (2), [this act] is effective on passage and approval.

(2) [Section 2] is effective July 1, 2008.

**Section 6. Termination.** [This act] terminates June 30, 2009.

Approved September 17, 2007

**CHAPTER NO. 3**

[HB 4]

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

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

**Section 1. Appropriations.** The following amounts are appropriated from the state general fund for costs of the special legislative session of September 2007:

LEGISLATIVE BRANCH (1104)

1. Senate (25)	\$41,570
2. House of Representatives (26)	78,842
3. Legislative Services Division (22)	11,907

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

Approved September 17, 2007

**CODE SECTIONS AFFECTED**

<u>Title-Chapter-Section</u>	<u>Action</u>	<u>Chapter</u>	<u>Bill Number</u>
17-7-502 .....	amended.....	Ch. 2 .....	HB 3
76-13-150.....	enacted.....	Ch. 2 .....	HB 3

**HOUSE BILL TO CHAPTER NUMBER**

<u>Bill Number</u>	<u>Chapter Number</u>
HB 1 .....	1
HB 3 .....	2
HB 4 .....	3

**CHAPTER NUMBER TO BILL NUMBER**

<u>Chapter Number</u>	<u>Bill Number</u>
Ch. 1. ....	HB 1
Ch. 2. ....	HB 3
Ch. 3. ....	HB 4



**EFFECTIVE DATES BY  
CHAPTER NUMBER**

<u>Chapter Number</u>	<u>Bill Number</u>	<u>Effective Date</u>
Ch. 1 . . . . .	HB 1 . . . . .	09/17/2007
Ch. 2 §§ 1 and 3-6 . . . . .	HB 3 . . . . .	09/17/2007
§ 2 . . . . .		07/01/2008
Ch. 3 . . . . .	HB 4 . . . . .	09/17/2007

**EFFECTIVE DATES BY DATE**

<u>Effective Date</u>	<u>Chapter Number</u>	<u>Bill Number</u>
09/17/2007 . . . . .	Ch. 1 . . . . .	HB 1
09/17/2007 . . . . .	Ch. 2 . . . . .	HB 3
	§§ 1 and 3-6	
09/17/2007 . . . . .	Ch. 3 . . . . .	HB 4
07/01/2008 . . . . .	Ch. 2 . . . . .	HB 3
	§ 2	

**SESSION LAW TO CODE**

<u>Ch.</u>	<u>Sec.</u>	<u>MCA</u>
1	1	Fire suppression committee — study
	2	Report on implementing audit recommendations
	3	Appropriations
	4	Appropriation
	5	Effective date
2	1	76-13-150
	2	17-7-502
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	2	Effective date



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