

**65th MONTANA LEGISLATURE - NOVEMBER 2017 SPECIAL SESSION  
Held at Helena, the Seat of Government, November 14 & 15, 2017**

**HISTORY AND FINAL STATUS OF BILLS AND RESOLUTIONS**

**LAWS OF MONTANA (SESSION LAWS)**

**MONTANA CODE ANNOTATED  
Statute Text 2017**

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Jaret Coles  
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Alexis Sandru

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Jameson Walker

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Trevor Graff

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Megan Moore

Hope Stockwell

Pad McCracken

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Rachel Weiss

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**Documents Processing**

Fong Hom

**Distribution & Typesetting**

Molly A. Petersen

**Proofreading**

Kip Rusek, Senior Proofreader

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Helena MT 59620-1706

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**NOVEMBER 2017 SPECIAL SESSION**

**TABLE OF CONTENTS**

Officers and Members of the Montana Senate ..... i

Officers and Members of the Montana House of Representatives ..... iii

History and Final Status

    Sponsor List of Legislation ..... 3

    Senate Bills and Resolutions ..... 4

    House Bills and Resolutions ..... 11

Laws and Resolutions of the State of Montana (Session Laws)

    Chapters 1-9 ..... 17

    Resolutions ..... 111

    Tables

        Bill Number to Chapter Number ..... 137

        Effective Dates by Chapter Number ..... 137

        Effective Dates by Date ..... 137

        Session Laws Affected ..... 137

        Session Law to Code ..... 138

Montana Code Annotated

    Code Sections Affected ..... 141

    Updated Section Text ..... 142



# OFFICERS AND MEMBERS OF THE MONTANA SENATE

2017

50 Members

32 Republicans

18 Democrats

## OFFICERS

President .....Scott Sales  
 President Pro Tempore .....Bob Keenan  
 Majority Leader.....Fred Thomas  
 Majority Whips..... Mark Blasdel, Ed Buttrey, Cary Smith  
 Minority Leader .....Jon Sesso  
 Minority Whips ..... Tom Facey, JP Ponnichowski  
 Secretary of the Senate..... Marilyn Miller  
 Sergeant at Arms ..... Carl Spencer

## MEMBERS

Name	Party	District	Preferred Mailing Address
Ankney, Duane	R	20	PO Box 2138, Colstrip MT 59323-2138
Barrett, Dick	D	45	219 Agnes Ave, Missoula MT 59801-8730
Blasdel, Mark	R	4	PO Box 1493, Kalispell MT 59903-1493
Boland, Cydnie (Carlie)	D	12	1215 6th Ave N, Great Falls MT 59401-1601
Brown, Dee	R	2	PO Box 444, Hungry Horse MT 59919-0444
Buttrey, Edward	R	11	27 Granite Hill Ln, Great Falls MT 59405-8041
Cafarro, Mary	D	41	607 N Davis St, Helena MT 59601-3737
Cohenour, Jill	D	42	2610 Colt Dr, East Helena MT 59635-3442
Connell, Pat	R	43	567 Tiffany Ln, Hamilton MT 59840-9241
Facey, Tom	D	50	418 Plymouth St, Missoula MT 59801-4133
Fielder, Jennifer	R	7	PO Box 2558, Thompson Falls MT 59873-2558
Fitzpatrick, Steve	R	10	3203 15th Ave S, Great Falls MT 59405-5416
Gauthier, Terry	R	40	PO Box 4939, Helena MT 59604
Gross, Jen	D	25	P.O. Box 30821, Billings MT 59107
Hinebauch, Steve	R	18	610 Road 118, Wibaux MT 59353
Hinkle, Jedediah	R	32	1700 Drummond Blvd, Belgrade MT 59714
Hoven, Brian	R	13	1501 Meadowlark Dr, Great Falls MT 59404-3325
Howard, David	R	29	PO Box 10, Park City MT 59063-0010
Jones, Llew	R	9	1102 4th Ave SW, Conrad MT 59425-1919
Kary, Doug	R	22	415 W Wicks Ln, Billings MT 59105-3457
Keenan, Bob	R	5	PO Box 697, Bigfork MT 59911-0697
Lang, Mike	R	17	PO Box 104, Malta MT 59538-0104
MacDonald, Margaret (Margie)	D	26	PO Box 245, Billings MT 59103
Malek, Sue	D	46	1400 Prairie Way, Missoula MT 59802-3420
McClafferty, Edie	D	38	1311 Stuart Ave, Butte MT 59701-5014
McNally, Mary	D	24	PO Box 20584, Billings MT 59104-0584
Moore, Frederick (Eric)	R	19	487 Signal Butte Rd, Miles City MT 59301-9205
Olszewski, Albert	R	6	PO Box 8891, Kalispell MT 59904-1243
Osmundson, Ryan	R	15	1394 S Buffalo Canyon Rd, Buffalo MT 59418-8005
Phillips, Mike	D	31	9 W Arnold St, Bozeman MT 59715-6127
Ponnichowski, JP	D	33	222 Westridge Dr, Bozeman MT 59715-6025
Regier, Keith	R	3	1078 Stillwater Rd, Kalispell MT 59901-6902
Richmond, Tom	R	28	3103 Westfield Dr, Billings MT 59106-1402
Sales, Scott	R	35	PO Box 11163, Bozeman MT 59719-1163
Salomon, Daniel	R	47	42470 Salomon Rd, Ronan MT 59864-9272
Sands, Diane	D	49	4487 Nicole Ct, Missoula MT 59803-2791

Sesso, Jon	D	37	811 W Galena St, Butte MT 59701-1540
Small, Jason	R	21	HC 42 Box 560, Busby MT 59016
Smith, Cary	R	27	6133 Timbercove Dr, Billings MT 59106-
Smith, Frank	D	16	PO Box 729, Poplar MT 59255-0729
Swandal, Nels	R	30	PO Box 147, Wilsall MT 59086-0147
Tempel, Russel	R	14	1839 1200 Rd S, Chester MT 59522
Thomas, Fred	R	44	1004 S Burnt Fork Rd, Stevensville MT 59870-6658
Vance, Gordon	R	34	PO Box 1, Belgrade MT 59714
Vincent, Chas	R	1	34 Paul Bunyan Ln, Libby MT 59923-7990
Vuckovich, Gene	D	39	1205 W 3rd St, Anaconda MT 59711-1801
Webb, Roger	R	23	1132 Ginger Ave, Billings MT 59105-2062
Welborn, Jeffrey	R	36	PO Box 790, Dillon MT 59725-0790
Whitford, Lea	D	8	221 Ed Williams Rd, Cut Bank MT 59427-9144
Wolken, Cynthia	D	48	PO Box 16503, Missoula MT 59808-6503

# OFFICERS AND MEMBERS OF THE MONTANA HOUSE OF REPRESENTATIVES

2017

100 Members

59 Republicans

41 Democrats

## OFFICERS

Speaker ..... Austin Knudsen  
 Speaker Pro Tempore..... Greg Hertz  
 Majority Leader ..... Ron Ehli  
 Majority Whips..... Seth Berglee, Alan Doane, Theresa Manzella, Brad Tschida  
 Minority Leader..... Jenny Eck  
 Minority Caucus Chair ..... Tom Woods  
 Minority Whips ..... Nate McConnell, Shane Morigeau, Casey Schreiner  
 Chief Clerk of the House.....Lindsey Vroegindewey  
 Sergeant at Arms .....Brad Murfitt

## MEMBERS

Name	Party	District	Preferred Mailing Address
Abbott, Kim	D	83	PO Box 1752, Helena MT 59624
Anderson, Fred	R	20	1609 39th St S, Great Falls MT 59405
Bachmeier, Jacob	D	28	620 7th Ave, Havre MT 59501-4013
Ballance, Nancy	R	87	PO Box 314, Hamilton MT 59840-0314
Bartel, Dan	R	29	PO Box 1181, Lewistown MT 59457
Beard, Becky	R	80	PO Box 85, Elliston MT 59728
Bennett, Bryce	D	91	118 W Alder St Apt 306, Missoula MT 59802-4233
Berglee, Seth	R	58	PO Box 340, Joliet MT 59041-0340
Bishop, Laurie	D	60	211 South Yellowstone St, Livingston MT 59047
Brodehl, Randy	R	9	16 White Bark, Kalispell MT 59901-2122
Brown, Bob	R	13	PO Box 1907, Thompson Falls MT 59873-1907
Brown, Zach	D	63	601 S Tracy Ave, Bozeman MT 59715-5321
Burnett, Tom	R	67	4143 Rain Roper Dr, Bozeman MT 59715-0634
Cook, Rob	R	18	223 1st Ave SW, Conrad MT 59425-1805
Court, Virginia	D	50	18 Heatherwood Ln, Billings MT 59102-2449
Cuffe, Mike	R	2	PO Box 1685, Eureka MT 59917-1685
Curdy, Willis	D	98	11280 Kona Ranch Rd, Missoula MT 59804-9790
Curtis, Amanda	D	74	1117 N Emmett Ave, Butte MT 59701-8514
Custer, Geraldine	R	39	PO Box 1075, Forsyth MT 59327-1075
Doane, Alan	R	36	268 County Road 521, Bloomfield MT 59315-9500
Dudik, Kimberly	D	94	PO Box 16712, Missoula MT 59808-6712
Dunwell, Mary Ann	D	84	PO Box 4656, Helena MT 59604
Eck, Jenny	D	79	PO Box 1206, Helena MT 59624-1206
Ehli, Ron	R	86	PO Box 765, Hamilton MT 59840-0765
Ellis, Janet	D	81	PO Box 385, Helena MT 59624-0385
Essmann, Jeff	R	54	PO Box 80945, Billings MT 59108-0945
Fern, Dave	D	5	211 Dakota Ave, Whitefish MT 59937
Fitzgerald, Ross	R	17	451 1st Rd NE, Fairfield MT 59436
Fleming, John	D	93	55533 McKeever Rd, Saint Ignatius MT 59865-9331
Flynn, Kelly	R	70	PO Box 233, Townsend MT 59644-0233
Funk, Moffie	D	82	825 8th Ave, Helena MT 59601-3716
Galt, Wylie	R	30	106 71 Ranch Rd, Martinsdale MT 59053
Garner, Frank	R	7	PO Box 10176, Kalispell MT 59904-0176
Glimm, Carl	R	6	5107 Ashley Lake Rd, Kila MT 59920-9787
Greef, Edward	R	88	PO Box 1327, Florence MT 59833-1327
Grubbs, Bruce	R	68	322 North 22nd Ave, Bozeman MT 59718
Gunderson, Steve	R	1	310 Conifer Rd, Libby MT 59923
Hamilton, Jim	D	61	155 Franklin Hills Dr, Bozeman MT 59715
Hamlett, Bradley Maxon	D	23	PO Box 49, Cascade MT 59421-0049
Harris, Bill	R	37	PO Box 205, Winnett MT 59087-0205

Hayman, Denise	D	66	120 Sourdough Ridge Rd, Bozeman MT 59715
Hertz, Adam	R	96	10414 Royal Coachman Dr, Missoula MT 59808
Hertz, Greg	R	12	PO Box 1747, Polson MT 59860-1747
Hill Smith, Ellie	D	90	501 Daly Ave, Missoula MT 59801-4412
Holmlund, Kenneth	R	38	1612 Tompy St, Miles City MT 59301-4431
Hopkins, Mike	R	92	PO Box 848, Missoula MT 59806
Jacobson, Tom	D	21	521 Riverview Dr E, Great Falls MT 59404-1634
Jones, Donald	R	46	1945 Clark Ave, Billings MT 59102-4019
Karjala, Jessica	D	48	6125 Masters Blvd, Billings MT 59106-1036
Keane, Jim	D	73	2131 Wall St, Butte MT 59701-5527
Kelker, Kathy	D	47	2438 Rimrock Rd, Billings MT 59102-0556
Kipp Iii, George	D	15	PO Box 191, Heart Butte MT 59448-0191
Knokey, Jon	R	65	2607 Rose St, Bozeman MT 59718
Knudsen, Austin	R	34	PO Box 624, Culbertson MT 59218-0624
Knudsen, Casey	R	33	PO Box 18, Malta MT 59538
Lavin, Steve	R	8	PO Box 11241, Kalispell MT 59904-4241
Lenz, Dennis	R	53	PO Box 20752, Billings MT 59104-0752
Loge, Denley	R	14	1296 4 Mile Rd, Saint Regis MT 59866
Lynch, Ryan	D	76	PO Box 934, Butte MT 59703-0934
Mandeville, Forrest	R	57	PO Box 337, Columbus MT 59019-0337
Manzella, Theresa	R	85	640 Gold Creek Loop, Hamilton MT 59840-9742
McCarthy, Kelly	D	49	625 Yellowstone Ave, Billings MT 59101-1624
McConnell, Nate	D	89	PO Box 8511, Missoula MT 59807-8511
McKamey, Wendy	R	19	33 Upper Millegan Rd, Great Falls MT 59405-8427
Morigeau, Shane	D	95	PO Box 7552, Missoula MT 59807
Mortensen, Dale	R	44	446 Caravan Ave, Billings MT 59105-2839
Noland, Mark	R	10	PO Box 1852, Bigfork MT 59911-1852
O'Hara, James	R	27	5254 Frenchman Ridge Rd, Fort Benton MT 59442
Olsen, Andrea	D	100	622 Rollins St, Missoula MT 59801-3719
Patelis, Jimmy	R	52	6312 Gray Hawk Way, Billings MT 59108
Peppers, Rae	D	41	PO Box 497, Lame Deer MT 59043-0497
Perry, Zac	D	3	PO Box 268, Hungry Horse MT 59919-0268
Pierson, Gordon	D	78	603 Washington St, Deer Lodge MT 59722-1347
Price, Jean	D	24	422 15th St S, Great Falls MT 59405-2424
Redfield, Alan	R	59	538 Mill Creek Rd, Livingston MT 59047-8709
Regier, Matt	R	4	PO Box 9763, Kalispell MT 59904-9763
Ricci, Vince	R	55	1231 5th Ave, Laurel MT 59044-9602
Rosendale, Adam	R	51	812 Wyoming Ave, Billings MT 59101
Ryan, Marilyn	D	99	2407 56th St, Missoula MT 59806
Sales, Walt	R	69	3400 Stagecoach Trail, Manhattan MT 59741
Schreiner, Casey	D	26	2223 6th Ave N, Great Falls MT 59401-1819
Shaw, Ray	R	71	251 Bivens Creek Rd, Sheridan MT 59749-9638
Sheldon-Galloway, Lola	R	22	202 Sun Prairie Rd, Great Falls MT 59404
Skees, Derek	R	11	PO Box 9134, Kalispell MT 59901
Smith, Bridget	D	31	516 Hill St, Wolf Point MT 59201-1245
Staffanson, Scott	R	35	34704 County Road 122, Sidney MT 59270-6353
Stewart-Peregoy, Sharon	D	42	PO Box 211, Crow Agency MT 59022-0211
Swanson, Kathy	D	77	308 E 6th St, Anaconda MT 59711-3016
Trebas, Jeremy	R	25	PO Box 2364, Great Falls MT 59403
Tschida, Brad	R	97	10825 Mullan Rd, Missoula MT 59808-9479
Usher, Barry	R	40	6900 South Frontage Rd, Billings MT 59101
Vinton, Sue	R	56	5115 High Trail Rd, Billings MT 59101
Wagoner, Kirk	R	75	1 Jackson Creek Rd #2347, Montana City MT 59634-9714
Webb, Peggy	R	43	1132 Ginger Ave, Billings MT 59105
Webber, Susan	D	16	PO Box 1011, Browning MT 59417-1011
Welch, Tom	R	72	607 Highland Ave, Dillon MT 59725
White, Kerry	R	64	4000 Blackwood Rd, Bozeman MT 59718-7621
Windy Boy, Jonathan	D	32	PO Box 250, Box Elder MT 59521-0195
Woods, Tom	D	62	1447 Cherry Dr, Bozeman MT 59715-5924
Zolnikov, Daniel	R	45	PO Box 50403, Billings MT 59105-0403



**HISTORY AND FINAL STATUS  
OF BILLS AND RESOLUTIONS**

**NOVEMBER 2017 SPECIAL SESSION**



## LEGISLATION BY PRIMARY SPONSOR/REQUESTING ENTITY

ANKNEY, DUANE  
SB 2

BALLANCE, NANCY  
HB 1      HB 2      HB 3      HB 6

BARRETT, DICK  
SB 6

BUTTREY, EDWARD  
SB 4      SB 8

COOK, ROB  
HB 5

FITZPATRICK, STEVE  
SB 5

GOVERNOR  
HB 1      HB 3      HB 4      SB 1      SB 2      SB 3      SB 4  
SB 5      SB 6      SB 7

HERTZ, GREG  
HR 1

HOLMLUND, KENNETH  
HB 4

HOVEN, BRIAN  
SB 7

JONES, LLEW  
SB 9      SB 11

OLSZEWSKI, ALBERT  
SB 10

OSMUNDSON, RYAN  
SB 3

REDFIELD, ALAN  
HB 7

REGIER, KEITH  
SB 12      SR 1      SR 2

SWANDAL, NELS  
SB 1

THOMAS, FRED  
SJ 1

USHER, BARRY  
HB 8

**SENATE BILLS AND RESOLUTIONS**

SB 1 INTRODUCED BY SWANDAL *LC0003 DRAFTER: SCURR*

TEMPORARILY SUSPEND EMPLOYER CONTRIBUTIONS TO JUDGES' RETIREMENT SYSTEM

BY REQUEST OF GOVERNOR

11/10	INTRODUCED		
11/13	FISCAL NOTE RECEIVED		
11/13	REFERRED TO FINANCE AND CLAIMS		
11/13	HEARING		
11/13	FISCAL NOTE PRINTED		
11/15	COMMITTEE EXEC ACTION--BILL PASSED AS AMENDED	18	0
11/15	COMMITTEE REPORT--BILL PASSED AS AMENDED		
11/15	2ND READING PASSED	48	0
11/15	3RD READING PASSED	48	0
	TRANSMITTED TO HOUSE		
11/15	2ND READING CONCURRED	93	6
11/15	3RD READING CONCURRED	95	5
	RETURNED TO SENATE		
11/15	SENT TO ENROLLING		
11/15	RETURNED FROM ENROLLING		
11/15	SIGNED BY PRESIDENT		
11/16	SIGNED BY SPEAKER		
11/16	TRANSMITTED TO GOVERNOR		
11/24	SIGNED BY GOVERNOR		
11/24	CHAPTER NUMBER ASSIGNED		
	CHAPTER NUMBER 1		
	EFFECTIVE DATE: 1/01/2018 - ALL SECTIONS		

SB 2 INTRODUCED BY ANKNEY *LC0004 DRAFTER: MCCrackEN*

REVISE LAWS RELATED TO SCHOOL FUNDING BLOCK GRANTS AND REIMBURSEMENTS

BY REQUEST OF GOVERNOR

11/09	FISCAL NOTE PROBABLE		
11/11	INTRODUCED		
11/11	REFERRED TO FINANCE AND CLAIMS		
11/13	FISCAL NOTE REQUESTED		
11/13	FISCAL NOTE RECEIVED		
11/13	HEARING		
11/13	FISCAL NOTE SIGNED		
11/13	FISCAL NOTE PRINTED		
11/15	COMMITTEE EXEC ACTION--BILL PASSED AS AMENDED	18	0
11/15	COMMITTEE REPORT--BILL PASSED AS AMENDED		
11/15	2ND READING PASSED	45	3
11/15	3RD READING PASSED	45	3
	TRANSMITTED TO HOUSE		
11/15	2ND READING CONCURRED	87	13
11/15	3RD READING CONCURRED	80	20

## SENATE BILLS AND RESOLUTIONS

11/15 RETURNED TO SENATE  
 11/15 SENT TO ENROLLING  
 11/15 RETURNED FROM ENROLLING  
 11/15 SIGNED BY PRESIDENT  
 11/16 SIGNED BY SPEAKER  
 11/16 TRANSMITTED TO GOVERNOR  
 11/24 SIGNED BY GOVERNOR  
 11/24 CHAPTER NUMBER ASSIGNED  
         CHAPTER NUMBER 2  
         EFFECTIVE DATE: 11/24/2017 - SECTIONS 8, 10, AND 12-13  
         EFFECTIVE DATE: 7/01/2018 - SECTIONS 1-7, 9, AND 11

SB 3 INTRODUCED BY OSMUNDSON *LC0002 DRAFTER: WEISS*

PROVIDING A TWO MONTH STATE EMPLOYER CONTRIBUTION HOLIDAY

BY REQUEST OF GOVERNOR

11/08	FISCAL NOTE PROBABLE		
11/11	INTRODUCED		
11/11	REFERRED TO FINANCE AND CLAIMS		
11/13	FISCAL NOTE RECEIVED		
11/13	HEARING		
11/13	FISCAL NOTE SIGNED		
11/13	FISCAL NOTE PRINTED		
11/15	COMMITTEE EXEC ACTION--BILL PASSED AS AMENDED	18	0
11/15	COMMITTEE REPORT--BILL PASSED AS AMENDED		
11/15	2ND READING PASSED	48	0
11/15	3RD READING PASSED	48	0

	TRANSMITTED TO HOUSE		
11/15	2ND READING CONCURRED	98	2
11/15	3RD READING CONCURRED	99	1

RETURNED TO SENATE  
 11/15 SENT TO ENROLLING  
 11/15 RETURNED FROM ENROLLING  
 11/15 SIGNED BY PRESIDENT  
 11/16 SIGNED BY SPEAKER  
 11/16 TRANSMITTED TO GOVERNOR  
 11/24 SIGNED BY GOVERNOR  
 11/24 CHAPTER NUMBER ASSIGNED  
         CHAPTER NUMBER 3  
         EFFECTIVE DATE: 11/24/2017 - ALL SECTIONS

SB 4 INTRODUCED BY BUTTREY *LC0008 DRAFTER: WALKER*

AUTHORIZE MANAGEMENT FEE ON CERTAIN PORTFOLIOS UNDER THE BOARD OF INVESTMENTS

BY REQUEST OF GOVERNOR

11/08	FISCAL NOTE PROBABLE		
11/11	INTRODUCED		
11/11	REFERRED TO BUSINESS, LABOR, AND ECONOMIC AFFAIRS		
11/13	FISCAL NOTE REQUESTED		
11/13	FISCAL NOTE RECEIVED		
11/13	HEARING		

11/13	FISCAL NOTE SIGNED		
11/13	FISCAL NOTE PRINTED		
11/14	COMMITTEE EXEC ACTION--BILL PASSED	6	4
11/15	COMMITTEE REPORT--BILL PASSED		
11/15	2ND READING PASSED AS AMENDED	30	18
11/15	3RD READING PASSED	29	19
	TRANSMITTED TO HOUSE		
11/15	2ND READING NOT CONCURRED	49	51
11/15	RECONSIDERED PREVIOUS ACTION; REMAINS IN 2ND READING PROCESS	65	35
11/16	2ND READING CONCURRED	72	28
11/16	3RD READING CONCURRED	71	29
	RETURNED TO SENATE		
11/16	SENT TO ENROLLING		
11/16	RETURNED FROM ENROLLING		
11/16	SIGNED BY PRESIDENT		
11/16	SIGNED BY SPEAKER		
11/16	TRANSMITTED TO GOVERNOR		
11/24	SIGNED BY GOVERNOR		
11/24	CHAPTER NUMBER ASSIGNED		
	CHAPTER NUMBER 4		
	EFFECTIVE DATE: 11/24/2017 - ALL SECTIONS		

SB 5 INTRODUCED BY FITZPATRICK *LC0006 DRAFTER: WALKER*

REVISING THE SALE OF NEW LIQUOR LICENSES BY REQUIRING AN AUCTION OF NEW LICENSES

BY REQUEST OF GOVERNOR

11/12	INTRODUCED		
11/12	REFERRED TO BUSINESS, LABOR, AND ECONOMIC AFFAIRS		
11/13	FISCAL NOTE REQUESTED		
11/13	FISCAL NOTE RECEIVED		
11/13	HEARING		
11/13	FISCAL NOTE PRINTED		
11/14	COMMITTEE EXEC ACTION--BILL PASSED AS AMENDED	10	0
11/15	COMMITTEE REPORT--BILL PASSED AS AMENDED		
11/15	2ND READING PASSED AS AMENDED	45	2
11/15	3RD READING PASSED	44	4
	TRANSMITTED TO HOUSE		
11/16	2ND READING CONCURRED	81	19
11/16	3RD READING CONCURRED	81	19
	RETURNED TO SENATE		
11/16	SENT TO ENROLLING		
11/16	RETURNED FROM ENROLLING		
11/16	SIGNED BY PRESIDENT		
11/16	SIGNED BY SPEAKER		
11/16	TRANSMITTED TO GOVERNOR		
11/24	SIGNED BY GOVERNOR		
11/24	CHAPTER NUMBER ASSIGNED		
	CHAPTER NUMBER 5		
	EFFECTIVE DATE: 11/24/2017 - SECTIONS 1, 3-4, 6-7, 9, 11, 13, AND 15-17		
	EFFECTIVE DATE: 1/01/2024 - SECTIONS 2, 5, 8, 10, 12, AND 14		

SB 6 INTRODUCED BY BARRETT *LC0007 DRAFTER: M. MOORE*

TEMPORARILY INCREASE ACCOMMODATIONS/RENTAL CAR TAX RATES TO  
OFFSET FIRE COSTS

BY REQUEST OF GOVERNOR

11/08 FISCAL NOTE PROBABLE  
11/12 INTRODUCED  
11/12 REFERRED TO TAXATION  
11/13 FISCAL NOTE REQUESTED  
11/13 FISCAL NOTE RECEIVED  
11/13 FISCAL NOTE SIGNED  
11/13 FISCAL NOTE PRINTED  
11/13 HEARING  
11/15 TABLED IN COMMITTEE  
DIED IN STANDING COMMITTEE

SB 7 INTRODUCED BY HOVEN *LC0016 DRAFTER: M. MOORE*

REQUIRE 3RD-PARTY INTERMEDIARIES TO PAY/REMIT THE LODGING FACILITY  
USE TAX

BY REQUEST OF GOVERNOR

11/13 FISCAL NOTE PROBABLE  
11/14 INTRODUCED  
11/14 FISCAL NOTE REQUESTED  
11/14 REFERRED TO TAXATION  
11/14 HEARING  
11/14 FISCAL NOTE RECEIVED  
11/14 FISCAL NOTE SIGNED  
11/14 FISCAL NOTE PRINTED  
11/15 TABLED IN COMMITTEE  
DIED IN STANDING COMMITTEE

SB 8 INTRODUCED BY BUTTREY *LC0021 DRAFTER: WALKER*

REVISE INSURANCE PREMIUM TAX LAWS PERTAINING TO CERTAIN HEALTH  
INSURERS

11/14 FISCAL NOTE REQUESTED  
11/14 INTRODUCED  
11/14 REFERRED TO BUSINESS, LABOR, AND ECONOMIC AFFAIRS  
11/14 HEARING  
11/14 FISCAL NOTE RECEIVED  
11/14 COMMITTEE EXEC ACTION--BILL PASSED AS AMENDED 6 4  
11/14 FISCAL NOTE PRINTED  
11/15 COMMITTEE REPORT--BILL PASSED AS AMENDED  
11/15 2ND READING PASSED AS AMENDED 27 21  
11/15 3RD READING PASSED 25 23

TRANSMITTED TO HOUSE  
11/15 REFERRED TO BUSINESS AND LABOR  
11/16 REVISED FISCAL NOTE RECEIVED  
DIED IN PROCESS

SB 9 INTRODUCED BY L. JONES

*LC0020 DRAFTER: JOHNSON*

GENERALLY REVISE LAWS TO PROVIDE FOR BUDGET STABILIZATION

11/14	INTRODUCED		
11/14	REFERRED TO FINANCE AND CLAIMS		
11/14	HEARING		
11/15	COMMITTEE EXEC ACTION--BILL PASSED AS AMENDED	16	2
11/15	COMMITTEE REPORT--BILL PASSED AS AMENDED		
11/15	2ND READING PASSED	32	16
11/15	3RD READING PASSED	31	17
	TRANSMITTED TO HOUSE		
11/16	2ND READING CONCURRED	58	42
11/16	3RD READING CONCURRED	58	42
	RETURNED TO SENATE		
11/16	SENT TO ENROLLING		
11/16	RETURNED FROM ENROLLING		
11/16	SIGNED BY PRESIDENT		
11/16	SIGNED BY SPEAKER		
11/16	TRANSMITTED TO GOVERNOR		
11/24	CHAPTER NUMBER ASSIGNED		
	CHAPTER NUMBER 7		
	EFFECTIVE DATE: 11/27/2017 - ALL SECTIONS		

SB 10 INTRODUCED BY OLSZEWSKI

*LC0026 DRAFTER: SANDRU*

PROVIDING FOR THE AMENDMENT OF BIRTH CERTIFICATE SEX DESIGNATIONS

11/14	INTRODUCED		
11/14	REFERRED TO FINANCE AND CLAIMS		
11/14	HEARING		
11/15	COMMITTEE EXEC ACTION--BILL PASSED	11	7
11/15	COMMITTEE REPORT--BILL PASSED		
11/15	2ND READING INDEFINITELY POSTPONE MOTION FAILED	22	26
11/15	2ND READING PASSED	29	19
11/15	3RD READING PASSED	29	19
	TRANSMITTED TO HOUSE		
	DIED IN PROCESS		

SB 11 INTRODUCED BY L. JONES

*LC0023 DRAFTER: WALKER*

REVISE INSURANCE TAX PREMIUM LAWS RELATING TO WORKERS' COMPENSATION

11/14	INTRODUCED		
11/14	FISCAL NOTE REQUESTED		
11/15	FISCAL NOTE RECEIVED		
11/15	FISCAL NOTE PRINTED		
	DIED IN PROCESS		

SB 12 INTRODUCED BY K. REGIER

*LC0027 DRAFTER: O'CONNELL*

TRANSFER GENERAL FUND APPROPRIATION FROM MT DEVELOPMENTAL CENTER TO FIRE FUND



	11/14	INTRODUCED		
	11/14	REFERRED TO FINANCE AND CLAIMS		
	11/14	HEARING		
	11/15	COMMITTEE EXEC ACTION--BILL PASSED	10	8
	11/15	COMMITTEE REPORT--BILL PASSED		
	11/15	2ND READING PASSED	28	20
	11/15	3RD READING PASSED	27	21
		TRANSMITTED TO HOUSE		
	11/15	2ND READING NOT CONCURRED DIED IN PROCESS	45	55
SR 1		INTRODUCED BY K. REGIER		<i>LC0014 DRAFTER: FOX</i>
		CONFIRM GUBERNATORIAL APPOINTMENTS TO THE JUDICIARY		
	11/13	INTRODUCED		
	11/13	REFERRED TO SELECT COMMITTEE ON JUDICIAL APPOINTMENTS		
	11/14	HEARING		
	11/14	COMMITTEE EXEC ACTION--RESOLUTION ADOPTED	8	0
	11/14	COMMITTEE REPORT--RESOLUTION ADOPTED		
	11/14	RESOLUTION ADOPTED	46	0
	11/14	SENT TO ENROLLING		
	11/15	RETURNED FROM ENROLLING		
	11/15	SIGNED BY PRESIDENT		
	11/16	FILED WITH SECRETARY OF STATE		
SR 2		INTRODUCED BY K. REGIER		<i>LC0015 DRAFTER: FOX</i>
		CONFIRM CHIEF JUSTICE APPOINTMENT TO WATER COURT		
	11/13	INTRODUCED		
	11/13	REFERRED TO SELECT COMMITTEE ON JUDICIAL APPOINTMENTS		
	11/14	HEARING		
	11/14	COMMITTEE EXEC ACTION--RESOLUTION ADOPTED	8	0
	11/14	COMMITTEE REPORT--RESOLUTION ADOPTED		
	11/14	RESOLUTION ADOPTED	46	0
	11/14	SENT TO ENROLLING		
	11/15	RETURNED FROM ENROLLING		
	11/15	SIGNED BY PRESIDENT		
	11/16	FILED WITH SECRETARY OF STATE		
SJ 1		INTRODUCED BY THOMAS		<i>LC0011 DRAFTER: EVERTS</i>
		SPECIAL SESSION JOINT RULES RESOLUTION		
	11/11	INTRODUCED		
	11/11	REFERRED TO RULES		
	11/13	COMMITTEE EXEC ACTION--BILL PASSED	12	0
	11/14	COMMITTEE REPORT--BILL PASSED		
	11/14	2ND READING PASSED	47	1
	11/14	3RD READING PASSED	46	2
		TRANSMITTED TO HOUSE		
	11/14	COMMITTEE EXEC ACTION--BILL CONCURRED	11	6
	11/14	COMMITTEE REPORT--BILL CONCURRED		
	11/14	2ND READING CONCURRED	59	41
	11/14	3RD READING CONCURRED	59	41

	RETURNED TO SENATE
11/14	SENT TO ENROLLING
11/15	RETURNED FROM ENROLLING
11/15	SIGNED BY PRESIDENT
11/16	SIGNED BY SPEAKER
11/16	FILED WITH SECRETARY OF STATE

## HOUSE BILLS AND RESOLUTIONS

HB 1 INTRODUCED BY BALLANCE *LC0001 DRAFTER: JOHNSON*

LEGISLATION APPROVING FUND BALANCE AND OTHER TRANSFERS AS  
SUBMITTED BY OBPP

BY REQUEST OF GOVERNOR

11/10 INTRODUCED  
11/10 REFERRED TO APPROPRIATIONS  
11/13 FISCAL NOTE REQUESTED  
11/13 FISCAL NOTE RECEIVED  
11/13 FISCAL NOTE SIGNED  
11/13 FISCAL NOTE PRINTED  
11/13 HEARING  
DIED IN PROCESS

HB 2 INTRODUCED BY BALLANCE *LC0017 DRAFTER: COLES*

INCORP. HB 2 REVISIONS FROM REG. SESSION AND REVISE APPROPRIATIONS  
WITHIN CALL

11/14 INTRODUCED  
11/14 REFERRED TO APPROPRIATIONS  
11/14 HEARING  
11/14 COMMITTEE EXEC ACTION--BILL PASSED AS AMENDED 13 9  
11/15 COMMITTEE REPORT--BILL PASSED AS AMENDED  
11/15 2ND READING PASSED AS AMENDED 59 41  
11/15 3RD READING PASSED 59 41  
  
TRANSMITTED TO SENATE  
11/15 2ND READING CONCURRED 30 18  
11/15 3RD READING CONCURRED 30 18  
  
RETURNED TO HOUSE  
11/15 SENT TO ENROLLING  
11/15 RETURNED FROM ENROLLING  
11/16 SIGNED BY SPEAKER  
11/16 SIGNED BY PRESIDENT  
11/16 TRANSMITTED TO GOVERNOR  
11/24 CHAPTER NUMBER ASSIGNED  
CHAPTER NUMBER 8  
EFFECTIVE DATE: 11/27/2017 - ALL SECTIONS

HB 3 INTRODUCED BY BALLANCE *LC0009 DRAFTER: JOHNSON*

TRANSFER FUNDS FOR FIRE SUPPRESSION COSTS

BY REQUEST OF GOVERNOR

11/10 INTRODUCED  
11/10 REFERRED TO APPROPRIATIONS  
11/13 HEARING  
11/15 COMMITTEE EXEC ACTION--BILL PASSED 22 0

11/15	COMMITTEE REPORT--BILL PASSED		
11/16	2ND READING PASSED	100	0
11/16	3RD READING PASSED	100	0
	TRANSMITTED TO SENATE		
11/16	2ND READING CONCURRED	47	0
11/16	3RD READING CONCURRED	48	0
	RETURNED TO HOUSE		
11/16	SENT TO ENROLLING		
11/16	RETURNED FROM ENROLLING		
11/16	SIGNED BY SPEAKER		
11/16	SIGNED BY PRESIDENT		
11/16	TRANSMITTED TO GOVERNOR		
11/24	SIGNED BY GOVERNOR		
11/24	CHAPTER NUMBER ASSIGNED		
	CHAPTER NUMBER 9		
	EFFECTIVE DATE: 11/24/2017 - ALL SECTIONS		

HB 4 INTRODUCED BY HOLMLUND *LC0005 DRAFTER: KURTZ*

REVISE STATE FIRE ASSESSMENT TO APPLY TO ALL PARCELS

BY REQUEST OF GOVERNOR

11/12	INTRODUCED		
11/12	REFERRED TO APPROPRIATIONS		
11/13	FISCAL NOTE REQUESTED		
11/13	FISCAL NOTE RECEIVED		
11/13	FISCAL NOTE SIGNED		
11/13	FISCAL NOTE PRINTED		
11/13	HEARING		
	DIED IN PROCESS		

HB 5 INTRODUCED BY COOK *LC0022 DRAFTER: O'CONNELL*

AUTHORIZE INSURANCE COMMISSIONER TO APPLY FOR HEALTH CARE INNOVATION WAIVERS

11/14	INTRODUCED		
11/14	REFERRED TO APPROPRIATIONS		
11/14	HEARING		
11/14	COMMITTEE EXEC ACTION--BILL PASSED	12	10
11/14	COMMITTEE REPORT--BILL PASSED		
11/14	2ND READING PASSED	58	42
11/15	3RD READING PASSED	58	42
	TRANSMITTED TO SENATE		
11/15	2ND READING CONCURRED	30	18
11/15	3RD READING CONCURRED	30	18
	RETURNED TO HOUSE		
11/15	SENT TO ENROLLING		
11/15	RETURNED FROM ENROLLING		
11/16	SIGNED BY SPEAKER		
11/16	TRANSMITTED TO GOVERNOR		
11/24	VETOED BY GOVERNOR		

HB 6 INTRODUCED BY BALLANCE

LC0019 DRAFTER: JOHNSON

## PROVIDE FOR FUND TRANSFERS AND OTHER MEASURES

11/14	INTRODUCED		
11/14	REFERRED TO APPROPRIATIONS		
11/14	HEARING		
11/14	COMMITTEE EXEC ACTION--BILL PASSED AS AMENDED	12	10
11/14	COMMITTEE EXEC ACTION--BILL PASSED AS AMENDED	22	0
11/15	COMMITTEE REPORT--BILL PASSED AS AMENDED		
11/16	2ND READING PASSED	99	1
11/16	3RD READING PASSED	99	1
	TRANSMITTED TO SENATE		
11/16	2ND READING CONCURRED	47	1
11/16	3RD READING CONCURRED	47	1
	RETURNED TO HOUSE		
11/16	SENT TO ENROLLING		
11/16	RETURNED FROM ENROLLING		
11/16	SIGNED BY SPEAKER		
11/16	SIGNED BY PRESIDENT		
11/16	TRANSMITTED TO GOVERNOR		
11/24	CHAPTER NUMBER ASSIGNED		
	CHAPTER NUMBER 6		
	EFFECTIVE DATE: 11/27/2017 - SECTIONS 21 AND 27		
	EFFECTIVE DATE: 12/15/2017 - SECTIONS 1-20, 22-26, AND 28		

HB 7 INTRODUCED BY REDFIELD

LC0025 DRAFTER: M. MOORE

## REPEALING CERTAIN INDIVIDUAL AND CORPORATE INCOME TAX CREDITS FOR 2 YEARS

11/14	INTRODUCED		
11/14	REFERRED TO TAXATION		
11/14	HEARING		
11/14	FISCAL NOTE REQUESTED		
11/15	FISCAL NOTE RECEIVED		
11/15	FISCAL NOTE PRINTED		
11/15	COMMITTEE EXEC ACTION--BILL PASSED AS AMENDED	12	8
11/15	COMMITTEE REPORT--BILL PASSED AS AMENDED		
11/15	REVISED FISCAL NOTE REQUESTED		
11/15	REVISED FISCAL NOTE RECEIVED		
11/15	REVISED FISCAL NOTE SIGNED		
11/15	REVISED FISCAL NOTE PRINTED		
	DIED IN PROCESS		

HB 8 INTRODUCED BY USHER

LC0024 DRAFTER: ALDRICH

## AUTHORIZE STATE EMPLOYEE FURLOUGHS

11/14	FISCAL NOTE PROBABLE		
11/14	INTRODUCED		
11/14	REFERRED TO APPROPRIATIONS		
11/14	HEARING		
11/14	FISCAL NOTE REQUESTED		
11/14	FISCAL NOTE RECEIVED		
11/14	COMMITTEE EXEC ACTION--BILL PASSED AS AMENDED	12	10

11/14	FISCAL NOTE PRINTED		
11/14	COMMITTEE REPORT--BILL PASSED AS AMENDED		
11/14	2ND READING PASSED	55	45
11/15	3RD READING PASSED	55	45
	TRANSMITTED TO SENATE		
11/15	2ND READING CONCURRED	30	18
11/15	3RD READING CONCURRED	30	18
	RETURNED TO HOUSE		
11/15	SENT TO ENROLLING		
11/15	RETURNED FROM ENROLLING		
11/16	SIGNED BY SPEAKER		
11/16	TRANSMITTED TO GOVERNOR		
11/24	VETOED BY GOVERNOR		

HR 1 INTRODUCED BY G. HERTZ

*LC0012 DRAFTER: EVERTS*

SPECIAL SESSION HOUSE RULES RESOLUTION

11/09	INTRODUCED		
11/10	REFERRED TO RULES		
11/13	HEARING		
11/13	COMMITTEE EXEC ACTION--RESOLUTION ADOPTED AS AMENDED	10	7
11/14	COMMITTEE REPORT--RESOLUTION ADOPTED AS AMENDED		
11/14	RESOLUTION ADOPTED	59	41
11/14	SENT TO ENROLLING		
11/15	RETURNED FROM ENROLLING		
11/15	SIGNED BY SPEAKER		
11/15	FILED WITH SECRETARY OF STATE		

**LAWS**

**Enacted by the**

**SIXTY-FIFTH LEGISLATURE  
IN SPECIAL SESSION**

**NOVEMBER 2017**





## LAWS OF MONTANA (SESSION LAWS)

### Enacted by the 65th Montana Legislature in Special Session

Explanatory Note: New parts of existing statutes are printed in italics and deleted provisions are shown as stricken. (Per Section 5-11-205, MCA)

## CHAPTER NO. 1

[SB 1]

AN ACT TEMPORARILY SUSPENDING EMPLOYER CONTRIBUTIONS TO THE JUDGES' RETIREMENT SYSTEM TO REDUCE THE SYSTEM'S FUNDING SURPLUS; AMENDING SECTION 19-5-404, MCA; PROVIDING FOR CONTINGENT VOIDNESS; AND PROVIDING AN EFFECTIVE DATE, APPLICABILITY DATES, AND A TERMINATION DATE.

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

**Section 1.** Section 19-5-404, MCA, is amended to read:

**“19-5-404. State employer contribution.** (1) Except as provided in subsection (2), the state shall pay as employer contributions ~~25.81%~~ 0% of the compensation paid to all of the employer's employees, except those properly excluded from membership.

(2) The state shall contribute monthly from the natural resources operations state special revenue account, established in 15-38-301, to the judges' pension trust fund an amount equal to ~~25.81%~~ 0% of the compensation paid to the chief water court judge. The judiciary shall include in its budget and shall request for legislative appropriation an amount necessary to defray the state's portion of the costs of this section.”

**Section 2. Contingent voidness.** If House Bill No. 2 does not reduce appropriations to the judicial branch by at least \$2 million in fiscal year 2018 and at least \$3 million in fiscal year 2019, then [this act] is void.

**Section 3. Effective date.** [This act] is effective January 1, 2018.

**Section 4. Applicability.** [This act] applies to the first full pay period in January 2018 through the last full pay period in June 2019.

**Section 5. Termination.** [This act] terminates June 30, 2019.

Approved November 24, 2017

## CHAPTER NO. 2

[SB 2]

AN ACT REVISING LAWS RELATED TO SCHOOL FUNDING BLOCK GRANTS AND REIMBURSEMENTS; ELIMINATING THE COMBINED FUND AND TRANSPORTATION FUND BLOCK GRANTS TO SCHOOL DISTRICTS; ELIMINATING THE BLOCK GRANT REIMBURSEMENTS TO COUNTIES FOR COUNTYWIDE SCHOOL TRANSPORTATION AND COUNTYWIDE SCHOOL RETIREMENT; REDUCING THE TOTAL AMOUNT OF STATE TRANSPORTATION REIMBURSEMENTS TO SCHOOL DISTRICTS FOR FISCAL YEARS 2018 AND 2019; TEMPORARILY REQUIRING SCHOOL DISTRICTS TO TRANSFER REVENUE FROM CERTAIN FUNDS TO THE TRANSPORTATION FUND TO ELIMINATE PROPERTY TAX INCREASES; AMENDING SECTIONS 15-1-121, 15-1-123, 20-9-141, 20-9-501, 20-9-638, 20-10-144, AND 20-10-146, MCA; REPEALING SECTIONS 20-9-630 AND 20-9-632, MCA; PROVIDING FOR CONTINGENT VOIDNESS; AND PROVIDING EFFECTIVE DATES.

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

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

**“15-1-121. Entitlement share payment – purpose – appropriation.** (1) As described in 15-1-120(3), each local government is entitled to an annual amount that is the replacement for revenue received by local governments for diminishment of property tax base and various earmarked fees and other revenue that, pursuant to Chapter 574, Laws of 2001, amended by section 4, Chapter 13, Special Laws of August 2002, and later enactments, were consolidated to provide aggregation of certain reimbursements, fees, tax collections, and other revenue in the state treasury with each local government's share. The reimbursement under this section is provided by direct payment from the state treasury rather than the ad hoc system that offset certain state payments with local government collections due the state and reimbursements made by percentage splits, with a local government remitting a portion of collections to the state, retaining a portion, and in some cases sending a portion to other local governments.

(2) The sources of dedicated revenue that were relinquished by local governments in exchange for an entitlement share of the state general fund were:

- (a) personal property tax reimbursements pursuant to sections 167(1) through (5) and 169(6), Chapter 584, Laws of 1999;
- (b) vehicle, boat, and aircraft taxes and fees pursuant to:
  - (i) Title 23, chapter 2, part 5;
  - (ii) Title 23, chapter 2, part 6;
  - (iii) Title 23, chapter 2, part 8;
  - (iv) 61-3-317;
  - (v) 61-3-321;
  - (vi) Title 61, chapter 3, part 5, except for 61-3-509(3), as that subsection read prior to the amendment of 61-3-509 in 2001;
  - (vii) Title 61, chapter 3, part 7;
  - (viii) 5% of the fees collected under 61-10-122;
  - (ix) 61-10-130;
  - (x) 61-10-148; and
  - (xi) 67-3-205;
- (c) gaming revenue pursuant to Title 23, chapter 5, part 6, except for the permit fee in 23-5-612(2)(a);
- (d) district court fees pursuant to:
  - (i) 25-1-201, except those fees in 25-1-201(1)(d), (1)(g), and (1)(j);
  - (ii) 25-1-202;
  - (iii) 25-9-506; and
  - (iv) 27-9-103;
- (e) certificate of title fees for manufactured homes pursuant to 15-1-116;
- (f) financial institution taxes collected pursuant to the former provisions of Title 15, chapter 31, part 7;
- (g) all beer, liquor, and wine taxes pursuant to:
  - (i) 16-1-404;
  - (ii) 16-1-406; and
  - (iii) 16-1-411;
- (h) late filing fees pursuant to 61-3-220;
- (i) title and registration fees pursuant to 61-3-203;
- (j) veterans' cemetery license plate fees pursuant to 61-3-459;
- (k) county personalized license plate fees pursuant to 61-3-406;
- (l) special mobile equipment fees pursuant to 61-3-431;
- (m) single movement permit fees pursuant to 61-4-310;
- (n) state aeronautics fees pursuant to 67-3-101; and
- (o) department of natural resources and conservation payments in lieu of taxes pursuant to former Title 77, chapter 1, part 5.

(3) Except as provided in subsection (7)(b), the total amount received by each local government in the prior fiscal year as an entitlement share payment under this section is the base component for the subsequent fiscal year distribution, and in each subsequent year the prior year entitlement share payment, including any reimbursement payments received pursuant to subsection (7), is each local government's base component. The sum of all local governments' base components is the fiscal year entitlement share pool.

(4) (a) Except as provided in subsections (4)(b)(iv) and (7)(b), the base entitlement share pool must be increased annually by an entitlement share growth rate as provided for in this subsection (4). The amount determined through the application of annual growth rates is the entitlement share pool for each fiscal year.

(b) By October 1 of each year, the department shall calculate the growth rate of the entitlement share pool for the next fiscal year in the following manner:

(i) The department shall calculate the entitlement share growth rate based on the ratio of two factors of state revenue sources for the first, second, and third most recently completed fiscal years as recorded on the statewide budgeting and accounting system. The first factor is the sum of the revenue for the first and second previous completed fiscal years received from the sources referred to in subsections (2)(b), (2)(c), and (2)(g) divided by the sum of the revenue for the second and third previous completed fiscal years received from the same sources multiplied by 0.75. The second factor is the sum of the revenue for the first and second previous completed fiscal years received from individual income tax as provided in Title 15, chapter 30, and corporate income tax as provided in Title 15, chapter 31, divided by the sum of the revenue for the second and third previous completed fiscal years received from the same sources multiplied by 0.25.

(ii) Except as provided in subsections (4)(b)(iii) and (4)(b)(iv), the entitlement share growth rate is the lesser of:

- (A) the sum of the first factor plus the second factor; or

(B) 1.03 for counties, 1.0325 for consolidated local governments, and 1.035 for cities and towns.

(iii) In no instance can the entitlement growth factor be less than 1. Subject to subsection (4)(b)(iv), the entitlement share growth rate is applied to the most recently completed fiscal year entitlement payment to determine the subsequent fiscal year payment.

(iv) The entitlement share growth rate, as described in this subsection (4), is:

(A) for fiscal year 2018, 1.005;

(B) for fiscal year 2019, 1.0187;

(C) for fiscal year 2020 and thereafter, determined as provided in subsection (4)(b)(ii). The rate must be applied to the entitlement payment for the previous fiscal year as if the payment had been calculated using entitlement share growth rates for fiscal years 2018 and 2019 as provided in subsection (4)(b)(ii).

(5) As used in this section, “local government” means a county, a consolidated local government, an incorporated city, and an incorporated town. A local government does not include a tax increment financing district provided for in subsection (8). The county or consolidated local government is responsible for making an allocation from the county’s or consolidated local government’s share of the entitlement share pool to each special district within the county or consolidated local government in a manner that reasonably reflects each special district’s loss of revenue sources for which reimbursement is provided in this section. The allocation for each special district that existed in 2002 must be based on the relative proportion of the loss of revenue in 2002.

(6) (a) The entitlement share pools calculated in this section, the amounts determined under 15-1-123(2) for local governments, the funding provided for in subsection (8) of this section, and the amounts determined under 15-1-123(4)(3) for tax increment financing districts are statutorily appropriated, as provided in 17-7-502, from the general fund to the department for distribution to local governments.

(b) (i) The growth amount is the difference between the entitlement share pool in the current fiscal year and the entitlement share pool in the previous fiscal year. The growth factor in the entitlement share must be calculated separately for:

(A) counties;

(B) consolidated local governments; and

(C) incorporated cities and towns.

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

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

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

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

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

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

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

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

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

(v) In each fiscal year, the amount of the entitlement share pool before the growth amount or adjustments made under subsection (7) are applied is to be distributed to each local government in the same manner as the entitlement share pool was distributed in the prior fiscal year.

(7) (a) If the legislature enacts a reimbursement provision that is to be distributed pursuant to this section, the department shall determine the reimbursement amount as provided in the enactment and add the appropriate amount to the entitlement share distribution under this section. The total entitlement share distributions in a fiscal year, including distributions made pursuant to this subsection, equal the local fiscal year entitlement share pool. The ratio of each local government’s distribution from the entitlement share pool must be recomputed to determine each local government’s ratio to be used in the subsequent year’s distribution determination under subsections (6)(b)(ii)(A), (6)(b)(iii)(A), and (6)(b)(iv)(A).

(b) For fiscal year 2018 and thereafter, the growth rate provided for in subsection (4) does not apply to the portion of the entitlement share pool attributable to the reimbursement provided for in 15-1-123(2). The department shall calculate the portion of the entitlement share pool attributable to the reimbursement in 15-1-123(2), including the application of the growth rate in previous fiscal years, for counties, consolidated local governments, and cities and, for fiscal year 2018 and thereafter, apply the growth rate for that portion of the entitlement share pool as provided in 15-1-123(2).

(c) The growth amount resulting from the application of the growth rate in 15-1-123(2) must be allocated as provided in subsections (6)(b)(ii)(A), (6)(b)(iii)(A), and (6)(b)(iv)(A) of this section.

(8) (a) Except for a tax increment financing district entitled to a reimbursement under 15-1-123(4)(3), if a tax increment financing district was not in existence during the fiscal year ending June 30, 2000, then the tax increment financing district is not entitled to any funding. If a tax increment financing district referred to in subsection (8)(b) terminates, then the funding for the district provided for in subsection (8)(b) terminates.

(b) One-half of the payments provided for in this subsection (8)(b) must be made by November 30 and the other half by May 31 of each year. Subject to subsection (8)(a), the entitlement share for tax increment financing districts is as follows:

Flathead	Kalispell - District 2	\$4,638
Flathead	Kalispell - District 3	37,231
Flathead	Whitefish District	148,194
Gallatin	Bozeman - downtown	31,158
Missoula	Missoula - 1-1C	225,251
Missoula	Missoula - 4-1C	30,009

(9) The estimated fiscal year entitlement share pool and any subsequent entitlement share pool for local governments do not include revenue received from tax increment financing districts, ~~from countywide transportation block grants, or from countywide retirement block grants.~~

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

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

(12) (a) Except as provided in 2-7-517, a payment required pursuant to this section may not be offset by a debt owed to a state agency by a local government in accordance with Title 17, chapter 4, part 1.

(b) A payment required pursuant to this section must be withheld if a local government:

(i) fails to meet a deadline established in 2-7-503(1), 7-6-611(2), 7-6-4024(3), or 7-6-4036(1); and

(ii) fails to remit any amounts collected on behalf of the state as required by 15-1-504 or any other amounts owed to the state or another taxing jurisdiction, as otherwise required by law, within 45 days of the end of a month.

(c) A payment required pursuant to this section may be withheld if, for more than 90 days, a local government fails to:

(i) file a financial report required by 15-1-504;

(ii) remit any amounts collected on behalf of the state as required by 15-1-504; or

(iii) remit any other amounts owed to the state or another taxing jurisdiction."

**Section 2.** Section 15-1-123, MCA, is amended to read:

**"15-1-123. Reimbursement for class eight rate reduction and exemption – distribution – appropriations.** (1) For the tax rate reductions in 15-6-138(3), the increased exemption amount in 15-6-138(4), the effective tax rate reductions on property under 15-6-145 because of the rate reductions required by the amendments of 15-6-138 in section 2, Chapter 411, Laws of 2011, and section 2, Chapter 396, Laws of 2013, and the effective tax rate reductions on property under 15-6-145 because of the increased exemption amount required by the amendment of 15-6-138 in section 2, Chapter 396, Laws of 2013, the department shall reimburse each local government, as defined in 15-1-121(5), ~~each school district, the county retirement fund under 20-9-501, the countywide school transportation reimbursement under 20-10-146,~~ each tax increment financing district, and the 6-mill university levy for the purposes of 15-10-108 the difference between property tax collections under 15-6-138 as amended by section 2, Chapter 411, Laws of 2011, and section 2, Chapter 396, Laws of 2013, and under 15-6-145 and the property tax revenue that would have been collected under 15-6-138 and 15-6-145 if 15-6-138 had not been amended by section 2, Chapter 411, Laws of 2011, and section 2, Chapter 396, Laws of 2013. The difference is the annual reimbursable amount for each local government, ~~each school district,~~ each tax increment financing district, and the 6-mill levy for the support of the Montana university system under 15-10-108.

(2) The department shall distribute the reimbursements calculated in subsection (1) to local governments with the entitlement share payments under 15-1-121(7). For fiscal year 2018 and thereafter, the growth rate applied to the reimbursement is one-half of the average rate of inflation for the prior 3 years.

~~(3) The office of public instruction shall distribute the reimbursements calculated in subsection (1) to school districts with the block grants pursuant to 20-9-630. School district reimbursements for subsequent fiscal years are made pursuant to 20-9-630.~~

(4)(3) The amount determined under subsection (1) for each tax increment financing district must be added to the reimbursement amount for the tax increment financing district as provided in 15-1-121(8)(b) if the tax increment financing district is still in existence. If a tax increment financing district that is entitled to a reimbursement under this section is not listed under 15-1-121(8)(b), the reimbursement must be made to that tax increment financing district at the same time as other districts.

~~(5)(4)~~ (a) The amount determined under subsection (1) for the 6-mill university levy must be added to current collections and reimbursements for the support of the Montana university system as provided in 15-10-108.

(b) The department of administration shall transfer the amount determined under this subsection ~~(5)(4)~~ from the general fund to the state special revenue fund for the support of the Montana university system as provided in 15-10-108.

~~(6) The office of public instruction shall distribute the reimbursements calculated in subsection (1) to the countywide retirement fund under 20-9-501. One-half of the amount must be distributed in November and the remainder in May.~~

~~(7) The office of public instruction shall distribute the reimbursements calculated in subsection (1) to the county transportation fund reimbursement under 20-10-146. The reimbursement must be made at the same time as countywide school transportation block grants are distributed under 20-9-632."~~

**Section 3.** Section 20-9-141, MCA, is amended to read:

**"20-9-141. Computation of general fund net levy requirement by county superintendent.**

(1) The county superintendent shall compute the levy requirement for each district's general fund on the basis of the following procedure:

(a) Determine the funding required for the district's final general fund budget less the sum of direct state aid and the special education allowable cost payment for the district by totaling:

(i) the district's nonisolated school BASE budget requirement to be met by a district levy as provided in 20-9-303; and

(ii) any general fund budget amount adopted by the trustees of the district under the provisions of 20-9-308 and 20-9-353.

(b) Determine the money available for the reduction of the property tax on the district for the general fund by totaling:

(i) the general fund balance reappropriated, as established under the provisions of 20-9-104;

(ii) amounts received in the last fiscal year for which revenue reporting was required for each of the following:

(A) interest earned by the investment of general fund cash in accordance with the provisions of 20-9-213(4); and

(B) any other revenue received during the school fiscal year that may be used to finance the general fund, excluding any guaranteed tax base aid;

(iii) anticipated oil and natural gas production taxes;

(iv) pursuant to subsection (4), anticipated revenue from coal gross proceeds under 15-23-703;

~~(v) any portion of the combined fund block grant allocated to the district general fund by the trustees pursuant to 20-9-630;~~

~~(vi)(v)~~ if applicable, a coal-fired generating unit closure mitigation block grant as provided in 20-9-638; and

~~(vii)(vi)~~ any portion of the increment remitted to a school district under 7-15-4291 used to reduce the BASE levy budget.

(c) Notwithstanding the provisions of subsection (2), subtract the money available to reduce the property tax required to finance the general fund that has been determined in subsection (1)(b) from any general fund budget amount adopted by the trustees of the district, up to the BASE budget amount, to determine the general fund BASE budget levy requirement.

(d) Determine the sum of:

(i) any amount remaining after the determination in subsection (1)(c);

(ii) any portion of the increment remitted to a school district under 7-15-4291 used to reduce the over-BASE budget levy; and

(iii) any tuition payments for out-of-district pupils to be received under the provisions of 20-5-320 through 20-5-324, except the amount of tuition received for a pupil who is a child with a disability in excess of the amount received for a pupil without disabilities, as calculated under 20-5-323(2).

(e) Subtract the amount determined in subsection (1)(d) from any additional funding requirement to be met by an over-BASE budget amount, a district levy as provided in 20-9-303, and any additional financing as provided in 20-9-353 to determine any additional general fund levy requirements.

(2) The county superintendent shall calculate the number of mills to be levied on the taxable property in the district to finance the general fund levy requirement for any amount that does not exceed the BASE budget amount for the district by dividing the amount determined in subsection (1)(c) by the sum of:

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

(b) the current total taxable valuation of the district, as certified by the department of revenue under 15-10-202, divided by 1,000.

(3) The net general fund levy requirement determined in subsections (1)(c) and (1)(d) must be reported to the county commissioners by the later of the first Tuesday in September or within 30 calendar days after receiving certified taxable values by the county superintendent as the general fund net levy requirement for the district, and a levy must be set by the county commissioners in accordance with 20-9-142.

(4) For each school district, the department of revenue shall calculate and report to the county superintendent the amount of revenue anticipated for the ensuing fiscal year from revenue from coal gross proceeds under 15-23-703.”

**Section 4.** Section 20-9-501, MCA, is amended to read:

**“20-9-501. Retirement costs and retirement fund.** (1) The trustees of a district or the management board of a cooperative employing personnel who are members of the teachers’ retirement system or the public employees’ retirement system, who are covered by unemployment insurance, or who are covered by any federal social security system requiring employer contributions shall establish a retirement fund for the purposes of budgeting and paying the employer’s contributions to the systems as provided in subsection (2)(a). The district’s or the cooperative’s contribution for each employee who is a member of the teachers’ retirement system must be calculated in accordance with Title 19, chapter 20, part 6. The district’s or the cooperative’s contribution for each employee who is a member of the public employees’ retirement system must be calculated in accordance with 19-3-316. The district’s or the cooperative’s contributions for each employee covered by any federal social security system must be paid in accordance with federal law and regulation. The district’s or the cooperative’s contribution for each employee who is covered by unemployment insurance must be paid in accordance with Title 39, chapter 51, part 11.

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

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

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

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

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

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

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

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

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

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

(ii) oil and natural gas production taxes;

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

(iv) 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 20% 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.

~~(v) property tax reimbursements made pursuant to 15-1-123(6);~~

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

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

(5) The county superintendent shall:

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

(b) report each levy requirement to the county commissioners by the later of the first Tuesday in September or within 30 calendar days after receiving certified taxable values 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 on or before September 15. The report must be completed on forms supplied by the superintendent of public instruction.”

**Section 5.** Section 20-9-638, MCA, is amended to read:

**“20-9-638. Coal-fired generating unit closure mitigation block grant.** (1) (a) The office of public instruction shall provide a coal-fired generating unit closure mitigation block grant to each school district with a fiscal year 2017 taxable valuation that includes a coal-fired generating unit with a generating capacity that is greater than or equal to 200 megawatts, was placed in service prior to 1980, and is retiring or planned for retirement on or before July 1, 2022.

(b) The electronic reporting system that is used by the office of public instruction and school districts must be used to allocate the block grant amount into each district’s general fund budget as an anticipated revenue source.

(2) Each year, 70% of each district’s block grant must be distributed in November and 30% of each district’s block grant must be distributed in May at the same time that guaranteed tax base aid is distributed.

(3) The block grant is equal to the amount received in fiscal year 2017 by the district general fund from the block grants provided for in *former* 20-9-630(4)(a) as that section read prior to July 1, 2017.

(4) (a) If the owner of a coal-fired generating unit that is retired or planned for retirement on or before July 1, 2022, makes a payment in accordance with a retirement plan approved by the department of environmental quality or a transition agreement with the governor and attorney general for the purpose of decommissioning requirements and a portion of the payment is allocated to a school district for the purposes of school funding cost shifts, then that portion must repay to the

state general fund the cost of the block grant payments under this section, as discounted in accordance with an agreement for payment to the state, on the following schedule, not to exceed the limitation provided in subsection (4)(b):

- (i) if the generating unit closes prior to June 30, 2018, 100% of the total block grant payments under this section must be returned to the general fund;
  - (ii) if the generating unit closes during fiscal year 2019, 90% of the block grant payments under this section must be returned to the general fund;
  - (iii) if the generating unit closes during fiscal year 2020, 80% of the block grant payments under this section must be returned to the general fund;
  - (iv) if the generating unit closes during fiscal year 2021, 70% of the block grant payments under this section must be returned to the general fund; and
  - (v) if the generating unit closes during fiscal year 2022 or on July 1, 2022, 60% of the block grant payments under this section must be returned to the general fund.
- (b) Repayment under subsection (4)(a) may not exceed the amount of any portion of a payment allocated to a school district in accordance with a retirement plan or a transition plan.”

**Section 6.** Section 20-10-144, MCA, is amended to read:

**“20-10-144. Computation of revenue and net tax levy requirements for district transportation fund budget.** Before the second Monday of August, the county superintendent shall compute the revenue available to finance the transportation fund budget of each district. The county superintendent shall compute the revenue for each district on the following basis:

(1) The “schedule amount” of the budget expenditures that is derived from the rate schedules in 20-10-141 and 20-10-142 must be determined by adding the following amounts:

(a) the sum of the maximum reimbursable expenditures for all approved school bus routes maintained by the district (to determine the maximum reimbursable expenditure, multiply the applicable rate for each bus mile by the total number of miles to be traveled during the ensuing school fiscal year on each bus route approved by the county transportation committee and maintained by the district); plus

(b) the total of all individual transportation per diem reimbursement rates for the district as determined from the contracts submitted by the district multiplied by the number of pupil-instruction days scheduled for the ensuing school attendance year; plus

(c) any estimated costs for supervised home study or supervised correspondence study for the ensuing school fiscal year; plus

(d) the amount budgeted in the budget for the contingency amount permitted in 20-10-143, except if the amount exceeds 10% of the total of subsections (1)(a), (1)(b), and (1)(c) or \$100, whichever is larger, the contingency amount on the budget must be reduced to the limitation amount and used in this determination of the schedule amount; plus

(e) any estimated costs for transporting a child out of district when the child has mandatory approval to attend school in a district outside the district of residence.

(2) (a) The schedule amount determined in subsection (1) or the total transportation fund budget, whichever is smaller, is divided by 2 and is used to determine the available state and county revenue to be budgeted on the following basis:

(i) one-half is the budgeted state transportation reimbursement; and

(ii) one-half is the budgeted county transportation fund reimbursement and must be financed in the manner provided in 20-10-146.

(b) When the district has a sufficient amount of fund balance for reappropriation and other sources of district revenue, as determined in subsection (3), to reduce the total district obligation for financing to zero, any remaining amount of district revenue and fund balance reappropriated must be used to reduce the county financing obligation in subsection (2)(a)(ii) and, if the county financing obligations are reduced to zero, to reduce the state financial obligation in subsection (2)(a)(i).

(c) The county revenue requirement for a joint district, after the application of any district money under subsection (2)(b), must be prorated to each county incorporated by the joint district in the same proportion as the ANB of the joint district is distributed by pupil residence in each county.

(3) The total of the money available for the reduction of property tax on the district for the transportation fund must be determined by totaling:

(a) anticipated federal money received under the provisions of 20 U.S.C. 7701, et seq., or other anticipated federal money received in lieu of that federal act;

(b) anticipated payments from other districts for providing school bus transportation services for the district;

(c) anticipated payments from a parent or guardian for providing school bus transportation services for a child;

(d) anticipated or reappropriated interest to be earned by the investment of transportation fund cash in accordance with the provisions of 20-9-213(4);

(e) anticipated revenue from coal gross proceeds under 15-23-703;

(f) anticipated oil and natural gas production taxes;



(g) anticipated transportation payments for out-of-district pupils under the provisions of 20-5-320 through 20-5-324;

~~(h) school district block grants distributed under 20-9-630;~~

~~(i)(h)~~ any other revenue anticipated by the trustees to be earned during the ensuing school fiscal year that may be used to finance the transportation fund; and

~~(j)(i)~~ any fund balance available for reappropriation as determined by subtracting the amount of the end-of-the-year fund balance earmarked as the transportation fund operating reserve for the ensuing school fiscal year by the trustees from the end-of-the-year fund balance in the transportation fund. The operating reserve may not be more than 20% of the final transportation fund budget for the ensuing school fiscal year and is for the purpose of paying transportation fund warrants issued by the district under the final transportation fund budget.

(4) The district levy requirement for each district's transportation fund must be computed by:

(a) subtracting the schedule amount calculated in subsection (1) from the total preliminary transportation budget amount; and

(b) subtracting the amount of money available to reduce the property tax on the district, as determined in subsection (3), from the amount determined in subsection (4)(a).

(5) The transportation fund levy requirements determined in subsection (4) for each district must be reported to the county commissioners on or before the later of the first Tuesday in September or within 30 calendar days after receiving certified taxable values by the county superintendent as the transportation fund levy requirements for the district, and the levy must be made by the county commissioners in accordance with 20-9-142."

**Section 7.** Section 20-10-146, MCA, is amended to read:

**"20-10-146. County transportation reimbursement.** (1) The apportionment of the county transportation reimbursement by the county superintendent for school bus transportation or individual transportation that is actually rendered by a district in accordance with this title, board of public education transportation policy, and the transportation rules of the superintendent of public instruction must be the same as the state transportation reimbursement payment, except that:

(a) if any cash was used to reduce the budgeted county transportation reimbursement under the provisions of 20-10-144(2)(b), the annual apportionment is limited to the budget amount;

(b) when the county transportation reimbursement for a school bus has been prorated between two or more counties because the school bus is conveying pupils of more than one district located in the counties, the apportionment of the county transportation reimbursement must be adjusted to pay the amount computed under the proration; and

(c) when county transportation reimbursement is required under the mandatory attendance agreement provisions of 20-5-321.

(2) The county transportation net levy requirement for the financing of the county transportation fund reimbursements to districts is computed by:

(a) totaling the net requirement for all districts of the county, including reimbursements to a special education cooperative or prorated reimbursements to joint districts or reimbursements under the mandatory attendance agreement provisions of 20-5-321;

(b) determining the sum of the money available to reduce the county transportation net levy requirement by adding:

(i) anticipated money that may be realized in the county transportation 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 transportation block grants distributed under 20-9-632;~~

~~(v)(iv)~~ any fund balance available for reappropriation from the end-of-the-year fund balance in the county transportation fund;

~~(vi)(v)~~ federal forest reserve funds allocated under the provisions of 17-3-213; and

~~(vii) property tax reimbursements made pursuant to 15-1-123(7); and~~

~~(viii)(vi)~~ other revenue anticipated that may be realized in the county transportation fund during the ensuing school fiscal year; and

(c) subtracting the money available, as determined in subsection (2)(b), to reduce the levy requirement from the county transportation net levy requirement.

(3) The net levy requirement determined in subsection (2)(c) must be reported to the county commissioners on or before the later of the first Tuesday in September or within 30 calendar days after receiving certified taxable values by the county superintendent, and a levy must be set by the county commissioners in accordance with 20-9-142.

(4) The county superintendent of each county shall submit a report of the revenue amounts used to establish the levy requirements to the superintendent of public instruction on or before September 15. The report must be completed on forms supplied by the superintendent of public instruction.

(5) The county superintendent shall apportion the county transportation reimbursement from the proceeds of the county transportation fund. The county superintendent shall order the county treasurer to make the apportionments in accordance with 20-9-212(2) and after the receipt of the semiannual state transportation reimbursement payments.”

**Section 8. Proportional reduction to general fund appropriation for school transportation for fiscal years 2018 and 2019.** Notwithstanding 20-10-141 and 20-10-145, the office of public instruction shall proportionally reduce the state transportation reimbursement to each school district in fiscal years 2018 and 2019 in order to distribute no more than the amounts appropriated. The office of public instruction may not request a supplemental appropriation for school transportation reimbursements for fiscal years 2018 and 2019. This section does not impact or reduce county transportation reimbursements under 20-10-146.

**Section 9. Guaranteed tax base aid for countywide retirement mills in fiscal year 2019.** Notwithstanding 20-9-368, 20-9-369, and 20-9-501, and for fiscal year 2019 only, a county is not eligible for guaranteed tax base aid in support of the county retirement fund for the amount of the county’s property tax reimbursements received by the county in fiscal year 2018 pursuant to 15-1-123(6) as that subsection read prior to [the effective date of this section]. The remainder of the county’s retirement fund levy requirement after the amount of the county’s property tax reimbursements made in fiscal year 2018 is funded by unsubsidized mills or other local nonlevy revenue is eligible for the guaranteed tax base aid subsidy per mill pursuant to 20-9-368, 20-9-369, and 20-9-501.

**Section 10. Fund transfers.** For fiscal years 2018, 2019, 2020, and 2021 only, a school district shall transfer state or local revenue from any budgeted or nonbudgeted fund, other than the debt service fund or retirement fund, to its transportation fund in a total amount not to exceed an amount estimated by the district to be necessary to eliminate an increase in school district property taxes resulting from [this act].

**Section 11. Repealer.** The following sections of the Montana Code Annotated are repealed:  
20-9-630. School district block grants.  
20-9-632. Countywide school transportation block grants.

**Section 12. Contingent voidness.** If House Bill No. 2 does not reduce general fund appropriations to the Office of Public Instruction for “Reimbursement Block Grants” to \$0 in fiscal year 2019, then [this act] is void.

**Section 13. Effective dates.** (1) Except as provided in subsection (2), [this act] is effective July 1, 2018.

(2) [Sections 8, 10, 12, and this section] are effective upon passage and approval.

Approved November 24, 2017

## CHAPTER NO. 3

[SB 3]

AN ACT AUTHORIZING THE GOVERNOR TO DIRECT A STATE AGENCY TO SUSPEND THE EMPLOYER CONTRIBUTION FOR STATE EMPLOYEE GROUP BENEFITS; AMENDING SECTIONS 2-18-703 AND 7-4-2502, MCA; PROVIDING FOR CONTINGENT VOIDNESS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE.

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

**Section 1.** Section 2-18-703, MCA, is amended to read:

**“2-18-703. Contributions.** (1) ~~Each~~ *Except as provided in subsection (2)(b), 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) (a) ~~For~~ *Except as provided in subsection (2)(b), for* employees defined in 2-18-701 and for members of the legislature, the employer contribution for group benefits is \$1,054 a month from January 2017 through December 2019.

(b) *The approving authority, as defined in 17-7-102, may direct a state agency to suspend the employer contribution for state employee group benefits described in subsections (1) and (2)(a) for a period of up to 2 months.*

(c) (i) *Except as provided in subsection (2)(c)(ii), for the purposes of this subsection (2), “state agency” means a state entity that pays the employer contribution for state employee group benefits.*

(ii) *The term does not include the Montana university system.*

(b)(d) For employees defined in 2-18-701 and for members of the legislature, beginning January 2020 and for each succeeding month, the cost of group benefits, including both the employer and employee contributions for group benefits and health flexible spending accounts, may not exceed the monthly amount for self-only coverage and coverage other than self-only that will trigger the excise tax under 26 U.S.C. 4980I, including any cost-of-living adjustments under 26 U.S.C. 4980I. This section

limits contributions for group benefits only to the extent needed to avoid triggering the excise tax under 26 U.S.C. 4980I.

(e)(e) For employees of the Montana university system, the employer contribution for group benefits is \$1,054 a month from July 2016 through the earlier of:

(i) June 2020; or

(ii) the month before the first month in which the excise tax under 26 U.S.C. 4980I applies.

(d)(f) For employees of the Montana university system, beginning the earlier of July 2020 or the first month in 2020 in which the excise tax under 26 U.S.C. 4980I applies, and for each succeeding month, the cost of group benefits, including both the employer and employee contributions for group benefits and health flexible spending accounts, may not exceed the monthly amount for self-only coverage and coverage other than self-only that will trigger the excise tax under 26 U.S.C. 4980I, including any cost-of-living adjustments under 26 U.S.C. 4980I. This section limits contributions for group benefits only to the extent needed to avoid triggering the excise tax under 26 U.S.C. 4980I.

(e)(g) (i) 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 and to the protections of 2-18-1205. 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.

(ii) *Payments required under this subsection (2)(g) may be suspended if a state agency is directed to suspend the employer contribution for the state employee group benefit plan pursuant to subsection (2)(b).*

(3) For employees of elementary and high school districts, the employer's contributions may exceed but may not be less than \$10 a month.

(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) (i) Subject to subsections (4)(c)(ii) and (4)(c)(iii), 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.

(ii) 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.

(iii) 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.

(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.

(6) ~~Unused~~ *Except as provided in subsection (2)(b), 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.

(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 2.** Section 7-4-2502, MCA, is amended to read:

**"7-4-2502. Payment of salaries of county officials and assistants – state share for county attorney – statutory appropriation.** (1) The salaries of the county officers and their assistants may be paid monthly, twice monthly, or every 2 weeks out of the general fund of the county and upon the order of the board of county commissioners.

(2) The funding for the salary and health insurance benefits for the county attorney is a shared responsibility of the state and the county. The state's share is payable as provided in subsection (3).

(3) (a) For each fiscal year, the department of justice shall pay to each county and consolidated government the amount calculated under subsection (3)(b). Payments must be made quarterly.

(b) (i) For each county and consolidated government with a full-time county attorney, the amount paid each fiscal year must be equal to 50% of 85% of a district court judge's salary most recently set under 3-5-211 plus an amount equal to 50% of the employer contribution for group benefits under 2-18-703(2) for an employee as defined in 2-18-701.

(ii) For each county and consolidated government with a part-time county attorney, the total amount paid each fiscal year must be equal to the amount calculated under subsection (3)(b)(i) prorated according to the position's regular work hours.

(iii) *The payments required under subsection (3)(b)(i) are not affected if the governor directs a state agency not to pay the employer contribution for employee group benefits as allowed in 2-18-703(2)(b).*

(c) For the purpose of this subsection (3), the following definitions apply:

(i) "Full-time county attorney" means that as of July 1 immediately preceding the regular legislative session, the county attorney position has been established as a full-time position pursuant to 7-4-2706.

(ii) "Part-time county attorney" means that as of July 1 immediately preceding the regular legislative session, the county attorney position has been established as a part-time position pursuant to 7-4-2706.

(iii) "Salary" means wage plus the employer contributions required for retirement, workers' compensation insurance, and the Federal Insurance Contributions Act as determined for a district court judge.

(4) The amount to be paid to each county pursuant to subsection (3) is statutorily appropriated, as provided in 17-7-502, from the general fund to the department of justice.

(5) The board may, under limitations and restrictions prescribed by law, fix the compensation of all county officers not otherwise fixed by law and provide for the payment of the compensation and may, for all or the remainder of each fiscal year, in conjunction with setting salaries for other officers as provided in 7-4-2504, set their salaries at the prior fiscal year level."

**Section 3. Contingent voidness.** If House Bill No. 2 is not passed and approved, then [this act] is void.

**Section 4. Effective date.** [This act] is effective on passage and approval.

**Section 5. Termination.** [This act] terminates June 30, 2019.

Approved November 24, 2017

## CHAPTER NO. 4

[SB 4]

AN ACT PROVIDING FOR A 3% MANAGEMENT RATE ON CERTAIN PORTFOLIOS MANAGED BY THE BOARD OF INVESTMENTS; PROVIDING FUND TRANSFERS; EXCLUDING CERTAIN FUNDS; AMENDING SECTION 39-71-2320, 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. Management rate transfer – exceptions.** (1) Subject to any limitations in the Montana constitution, for each calendar year, the board of investments shall transfer to the fire suppression account provided for in 76-13-150 a 3% management rate on any board of investments' investment portfolio:

(a) that has an average asset balance greater than \$1 billion; and

(b) whose average asset balance contains sufficient funds to offset all liabilities as determined by the most recent actuarial study, including the independent actuarial report submitted to the legislature under 39-71-2363(3).

(2) The 3% management rate applies to the average asset balance in excess of \$1 billion. The board of investments shall transfer the 3% management rate to the fire suppression account provided for in 76-13-150 on or before April 1 of the immediately following calendar year.

(3) The state fund may not raise rates or reduce dividends to offset real or estimated losses associated with the 3% management rate transfer.

**Section 2.** Section 39-71-2320, MCA, is amended to read:

**"39-71-2320. Property of state fund – investment required – exception.** ~~All~~ *Except for the management rate transfer under [section 1], all* premiums and other money paid to the state fund, all property and securities acquired through the use of money belonging to the state fund, and all interest and dividends earned upon money belonging to the state fund are the sole property of the state fund and must be used exclusively for the operations and obligations of the state fund. ~~The~~ *Except for the management rate transfer, the* money collected by the state fund for claims for injuries occurring on or after July 1, 1990, may not be used for any other purpose and may not be transferred by the legislature to other funds or used for other programs. However, state fund money must be invested by the board

of investments provided for in 2-15-1808, and subject to the investment agreement with the board of investments, the earnings on investments are the sole property of the state fund as provided in this section.”

**Section 3. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 17, and the provisions of Title 17 apply to [section 1].

**Section 4. Effective date.** [This act] is effective on passage and approval.

**Section 5. Applicability.** [This act] applies to calendar years 2017 and 2018, and the 3% management rate is payable to the fire suppression account provided for in 76-13-150 by April 1, 2018, and April 1, 2019, respectively.

**Section 6. Termination.** [This act] terminates June 30, 2019.

Approved November 24, 2017

## CHAPTER NO. 5

[SB 5]

AN ACT REVISING LIQUOR LICENSE LAWS TO PROVIDE FOR A COMPETITIVE BIDDING PROCESS RELATING TO ALCOHOL LICENSES; PROVIDING FOR THE TRANSFER OF ALL-BEVERAGES LICENSES, THE ISSUANCE OF NEW RETAIL BEER LICENSES, AND THE ISSUANCE OF NEW RESTAURANT BEER AND WINE LICENSES; ELIMINATING A LOTTERY PROCESS; REVISING QUOTA AREA REQUIREMENTS; PROVIDING COMPETITIVE BIDDING PROCEDURES; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 16-4-105, 16-4-201, 16-4-204, 16-4-207, 16-4-305, 16-4-306, 16-4-402, 16-4-420, AND 23-5-119, MCA; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE.

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

**Section 1.** Section 16-4-105, MCA, is amended to read:

**“16-4-105. Limit on retail beer licenses – wine license amendments – limitation on use of license – exceptions – lottery competitive bidding – rulemaking.** (1) Except as provided in 16-4-109, 16-4-110, 16-4-115, 16-4-420, and chapter 4, part 3, of this title, a license to sell beer at retail or beer and wine at retail, in accordance with the provisions of this code and the rules of the department, may be issued to any person, ~~firm, or corporation~~ *business entity* that is approved by the department as a person, ~~firm, or corporation~~ qualified to sell beer, subject to the provisions in ~~subsections (1)(a) through (1)(e).~~ *the following exceptions:*

(a) The number of retail beer licenses that the department may issue for premises situated within incorporated cities and incorporated towns and within a distance of 5 miles from the corporate limits of the cities and towns must be determined on the basis of population prescribed in 16-4-502 as follows:

(i) in incorporated towns of 500 inhabitants or less and within a distance of 5 miles from the corporate limits of the towns, not more than one retail beer license;

(ii) in incorporated cities or incorporated towns of more than 500 inhabitants and not over 2,000 inhabitants and within a distance of 5 miles from the corporate limits of the cities or towns, one retail beer license for every 500 inhabitants;

(iii) in incorporated cities of over 2,000 inhabitants and within a distance of 5 miles from the corporate limits of the cities, four retail beer licenses for the first 2,000 inhabitants, two additional retail beer licenses for the next 2,000 inhabitants or major fraction of 2,000 inhabitants, and one additional retail beer license for every additional 2,000 inhabitants.

(b) The number of ~~the~~ inhabitants in ~~each~~ incorporated cities ~~and~~ *city or* incorporated towns ~~town,~~ exclusive of the number of inhabitants residing within a distance of 5 miles from the corporate limits of the ~~cities or towns~~ *city or town,* governs the number of retail beer licenses that may be issued for use within the ~~cities and towns~~ *city or town* and within a distance of 5 miles from the corporate limits of the ~~cities and towns~~ *city or town.* ~~If two or more incorporated municipalities are situated within a distance of 5 miles from each other, the total number of retail beer licenses that may be issued for use in both the incorporated municipalities and within a distance of 5 miles from their respective corporate limits must be determined on the basis of the combined populations of both municipalities and may not exceed the limitations in this section.~~ The distance of 5 miles from the corporate limits of any incorporated city or incorporated town must be measured in a straight line from the nearest entrance of the premises proposed for licensing to the nearest corporate boundary of the city or town.

(c) *When the 5-mile boundary of one incorporated city or incorporated town overlaps the 5-mile boundary of another incorporated city or incorporated town, the quota area for each city or town terminates in a straight line equidistant between each city or town.*

(e)(d) Retail beer licenses of issue on March 7, 1947, and retail beer licenses issued under 16-4-110 that are in excess of the limitations in this section are renewable, but new licenses may not be issued in violation of the limitations.

(d)(e) The limitations do not prevent the issuance of a nontransferable and nonassignable retail beer license to an enlisted persons', noncommissioned officers', or officers' club located on a state or federal military reservation on May 13, 1985, or to a post of a nationally chartered veterans' organization or a lodge of a recognized national fraternal organization if the veterans' or fraternal organization has been in existence for a period of 5 years or more prior to January 1, 1949.

(e)(f) The number of retail beer licenses that the department may issue for use at premises situated outside of any incorporated city or incorporated town and outside of the area within a distance of 5 miles from the corporate limits or for use at premises situated within any unincorporated area must be determined by the department in its discretion, except that a retail beer license may not be issued for any premises so situated unless the department determines that the issuance of the license is required by public convenience and necessity pursuant to 16-4-203. Subsection (3) (12) does not apply to licenses issued under this subsection (1)(e)(f). The owner of the license whose premises are situated outside of an incorporated city or *incorporated* town may offer gambling, regardless of when the license was issued, if the owner and premises qualify under Title 23, chapter 5, part 3, 5, or 6.

(2) (a) *For a period of 12 years after [the effective date of this act], existing licenses as of [the effective date of this act] in either of two quota areas that were established as provided in subsection (1)(c) may be transferred between the two quota areas if they were part of a combined quota area prior to [the effective date of this act].*

(b) *If any new retail beer licenses are allowed by separating a combined quota area that existed as of [the effective date of this act], as provided in subsection (1)(c), the department shall publish the availability of no more than one new beer license a year until the quota has been reached.*

(3) *A license issued under subsection (1)(f) that becomes located within 5 miles of an incorporated city or town because of annexation after April 15, 2005, may not be transferred to another location within the city quota area for 5 years from the date of the annexation.*

(4) *When the department determines that a quota area is eligible for a new retail beer license under subsection (1) or (2)(b), the department shall use a competitive bidding process to determine the party afforded the opportunity to apply for the new license. The department shall:*

(a) *determine the minimum bid based on 75% of the market value of retail beer licenses in the quota area;*

(b) *publish notice that a quota area is eligible for a new license;*

(c) *notify the bidder with the highest bid; and*

(d) *keep confidential the identity of bidders, number of bids, and bid amounts until the highest bidder has been approved.*

(5) *To enter the competitive bidding process, a bidder shall submit:*

(a) *an application form provided by the department; and*

(b) *an irrevocable letter of credit from a financial institution establishing the department as the beneficiary of the bid amount.*

(6) *In the case of a tie for the highest bid, the tied bidders may submit new bids. The minimum bid must be set at the tied bid amount. To submit a new bid, a tied bidder shall submit:*

(a) *an application form provided by the department; and*

(b) *an irrevocable letter of credit from a financial institution establishing the department as the beneficiary of the new bid amount.*

(7) *The highest bidder shall:*

(a) *submit an application provided by the department and applicable fees for the license within 60 days of the department's notification of being the highest bidder;*

(b) *pay the bid amount prior to the license being approved;*

(c) *meet all other requirements to own a retail beer license; and*

(d) *commence business within 1 year of the department's notification unless the department grants an extension because commencement was delayed by circumstances beyond the applicant's control.*

(8) *If the highest bidder is not approved to own the license, the department shall offer the license to the next highest bidder. That bidder shall comply with the requirements of subsection (7).*

(9) *If no bids are received during the competitive bidding process or if a quota area is already eligible for another new license, the department shall process applications for the license in the order received.*

(10) (a) *The successful applicant is subject to forfeiture of the license and the original license fee if the successful applicant:*

(i) *transfers the awarded license to another person or business entity after receiving the license unless that transfer is due to a death of an owner;*

(ii) *does not use the license within 1 year of receiving the license or stops using the license within 5 years. The department may extend the time for use if the successful applicant provides evidence that the delay in use is for reasons outside the applicant's control; or*

(iii) *proposes a location for the license that had the same license type within the previous 12 months.*

(b) *If a license is forfeited, the department shall offer the license to the next eligible highest bidder in the auction.*

(2)(11) A person holding a license to sell beer for consumption on the premises at retail may apply to the department for an amendment to the license permitting the holder to sell wine as well as beer. The department may issue an amendment if it finds, on a satisfactory showing by the applicant, that the sale of wine for consumption on the premises would be supplementary to a restaurant or prepared-food business. Except for beer and wine licenses issued pursuant to 16-4-420, a person holding a beer and wine license may sell wine for consumption on or off the premises. Nonretention of the beer license, for whatever reason, means automatic loss of the wine amendment license.

(3)-(a)(12) Except as provided in subsections *subsection (1)(e)(f)* and (3)(b), a license issued pursuant to this section after October 1, 1997, must have a conspicuous notice that the license may not be used for premises where gambling is conducted.

(b) Subsection (3)(a) does not apply to licenses issued under this section if the department received the application before October 1, 1997. For the purposes of this subsection (3)(b), the application is received by the department before October 1, 1997, if the application's mail cover is postmarked by the United States postal service before October 1, 1997, or if the application was consigned to a private courier service for delivery to the department before October 1, 1997. An applicant who consigns an application to a private courier shall provide to the department, upon demand, documentary evidence satisfactory to the department that the application was consigned to a private courier before October 1, 1997.

(4) A license issued under subsection (1)(e) that becomes located within 5 miles of an incorporated city or town because of annexation after April 15, 2005, may not be transferred to another location within the city quota area for 5 years from the date of the annexation.

(5) (a) When the department determines that a quota area is eligible for an additional retail beer license as provided in this section, the department shall advertise the availability of the license in the quota area for which the license is available. If there are more applicants than number of licenses available, the license must be awarded to an applicant by a lottery.

(b) The department shall numerically rank all applicants in the lottery. Only the successful applicants will be required to submit a completed application and a one-time processing fee set by the department by rule. An applicant's ranking may not be sold or transferred to another person or business entity. An applicant's ranking applies only to the intended license advertised by the department or to the number of licenses determined to be available for the lottery when there are more applicants than licenses available. The department shall determine an applicant's qualifications for a retail beer license awarded by lottery prior to the award of a license by lottery.

(c)(13) A successful lottery applicant shall pay to the department a \$25,000 original license fee and in subsequent years pay the annual fee for the license as provided in 16-4-501.

(d) (i) The successful lottery applicant is subject to forfeiture of the license and the original license fee if the successful lottery applicant:

(A) enters into a concession agreement, as defined in rule, for the license awarded by lottery in the first 5 years;

(B) transfers a license awarded by lottery within 5 years of receiving the license; or

(C) does not use the license within 1 year of receiving the license or stops using the license within 5 years. The department may extend the time for use if the lottery winner provides evidence the delay in use is for reasons outside the applicant's control.

(ii) In the case of forfeiture, the department shall offer the license to the next eligible ranked applicant in the lottery.

(6)(14) The department may adopt rules to implement this section."

**Section 2.** Section 16-4-105, MCA, is amended to read:

**"16-4-105. Limit on retail beer licenses – wine license amendments – limitation on use of license – exceptions – lottery – rulemaking.** (1) Except as provided in 16-4-109, 16-4-110, 16-4-115, 16-4-420, and chapter 4, part 3, of this title, a license to sell beer at retail or beer and wine at retail, in accordance with the provisions of this code and the rules of the department, may be issued to any person, firm, or corporation *business entity* that is approved by the department as a person, firm, or corporation qualified to sell beer, subject to the provisions in subsections (1)(a) through (1)(e): *the following exceptions:*

(a) The number of retail beer licenses that the department may issue for premises situated within incorporated cities and incorporated towns and within a distance of 5 miles from the corporate limits of the cities and towns must be determined on the basis of population prescribed in 16-4-502 as follows:

(i) in incorporated towns of 500 inhabitants or less and within a distance of 5 miles from the corporate limits of the towns, not more than one retail beer license;

(ii) in incorporated cities or incorporated towns of more than 500 inhabitants and not over 2,000 inhabitants and within a distance of 5 miles from the corporate limits of the cities or towns, one retail beer license for every 500 inhabitants;

(iii) in incorporated cities of over 2,000 inhabitants and within a distance of 5 miles from the corporate limits of the cities, four retail beer licenses for the first 2,000 inhabitants, two additional

retail beer licenses for the next 2,000 inhabitants or major fraction of 2,000 inhabitants, and one additional retail beer license for every additional 2,000 inhabitants.

(b) The number of the inhabitants in *each* incorporated cities and *city* or incorporated towns *town*, exclusive of the number of inhabitants residing within a distance of 5 miles from the corporate limits of the cities or towns *city* or *town*, governs the number of retail beer licenses that may be issued for use within the cities and towns *city* or *town* and within a distance of 5 miles from the corporate limits of the cities and towns *city* or *town*. If two or more incorporated municipalities are situated within a distance of 5 miles from each other, the total number of retail beer licenses that may be issued for use in both the incorporated municipalities and within a distance of 5 miles from their respective corporate limits must be determined on the basis of the combined populations of both municipalities and may not exceed the limitations in this section. The distance of 5 miles from the corporate limits of any incorporated city or incorporated town must be measured in a straight line from the nearest entrance of the premises proposed for licensing to the nearest corporate boundary of the city or town.

(c) *When the 5-mile boundary of one incorporated city or incorporated town overlaps the 5-mile boundary of another incorporated city or incorporated town, the quota area for each city or town terminates in a straight line equidistant between each city or town.*

(d) Retail beer licenses of issue on March 7, 1947, and retail beer licenses issued under 16-4-110 that are in excess of the limitations in this section are renewable, but new licenses may not be issued in violation of the limitations.

(e) The limitations do not prevent the issuance of a nontransferable and nonassignable retail beer license to an enlisted persons', noncommissioned officers', or officers' club located on a state or federal military reservation on May 13, 1985, or to a post of a nationally chartered veterans' organization or a lodge of a recognized national fraternal organization if the veterans' or fraternal organization has been in existence for a period of 5 years or more prior to January 1, 1949.

(f) The number of retail beer licenses that the department may issue for use at premises situated outside of any incorporated city or incorporated town and outside of the area within a distance of 5 miles from the corporate limits or for use at premises situated within any unincorporated area must be determined by the department in its discretion, except that a retail beer license may not be issued for any premises so situated unless the department determines that the issuance of the license is required by public convenience and necessity pursuant to 16-4-203. Subsection (3) (5) does not apply to licenses issued under this subsection (1)(e)(f). The owner of the license whose premises are situated outside of an incorporated city or *incorporated* town may offer gambling, regardless of when the license was issued, if the owner and premises qualify under Title 23, chapter 5, part 3, 5, or 6.

(2) (a) *For a period of 7 years after [the effective date of this section], existing licenses as of [the effective date of section 1] in either of two quota areas that were established as provided in subsection (1)(c) may be transferred between the two quota areas if they were part of a combined quota area prior to [the effective date of section 1].*

(b) *If any new retail beer licenses are allowed by separating a combined quota area that existed as of [the effective date of section 1], as provided in subsection (1)(c), the department shall publish the availability of no more than one new beer license a year until the quota has been reached.*

(3) *A license issued under subsection (1)(f) that becomes located within 5 miles of an incorporated city or town because of annexation after April 15, 2005, may not be transferred to another location within the city quota area for 5 years from the date of the annexation.*

(4) A person holding a license to sell beer for consumption on the premises at retail may apply to the department for an amendment to the license permitting the holder to sell wine as well as beer. The department may issue an amendment if it finds, on a satisfactory showing by the applicant, that the sale of wine for consumption on the premises would be supplementary to a restaurant or prepared-food business. Except for beer and wine licenses issued pursuant to 16-4-420, a person holding a beer and wine license may sell wine for consumption on or off the premises. Nonretention of the beer license, for whatever reason, means automatic loss of the wine amendment license.

(5) Except as provided in subsections subsection (1)(e)(f) and (3)(b), a license issued pursuant to this section after October 1, 1997, must have a conspicuous notice that the license may not be used for premises where gambling is conducted.

(6) Subsection (3)(a) does not apply to licenses issued under this section if the department received the application before October 1, 1997. For the purposes of this subsection (3)(b), the application is received by the department before October 1, 1997, if the application's mail cover is postmarked by the United States postal service before October 1, 1997, or if the application was consigned to a private courier service for delivery to the department before October 1, 1997. An applicant who consigns an application to a private courier shall provide to the department, upon demand, documentary evidence satisfactory to the department that the application was consigned to a private courier before October 1, 1997.

(7) *A license issued under subsection (1)(e) that becomes located within 5 miles of an incorporated city or town because of annexation after April 15, 2005, may not be transferred to another location within the city quota area for 5 years from the date of the annexation.*



~~(5)~~(6) (a) When the department determines that a quota area is eligible for an additional retail beer license as provided in this section, the department shall advertise the availability of the license in the quota area for which the license is available. If there are more applicants than number of licenses available, the license must be awarded to an applicant by a lottery.

(b) The department shall numerically rank all applicants in the lottery. Only the successful applicants will be required to submit a completed application and a one-time processing fee set by the department by rule. An applicant's ranking may not be sold or transferred to another person or business entity. An applicant's ranking applies only to the intended license advertised by the department or to the number of licenses determined to be available for the lottery when there are more applicants than licenses available. The department shall determine an applicant's qualifications for a retail beer license awarded by lottery prior to the award of a license by lottery.

(c) A successful lottery applicant shall pay to the department a \$25,000 original license fee and in subsequent years pay the annual fee for the license as provided in 16-4-501.

(d) (i) The successful lottery applicant is subject to forfeiture of the license and the original license fee if the successful lottery applicant:

(A) ~~enters into a concession agreement, as defined in rule, for the license awarded by lottery in the first 5 years proposes a location for the license that had the same license type within the previous 12 months;~~

(B) transfers a license awarded by lottery within 5 years of receiving the license; or

(C) does not use the license within 1 year of receiving the license or stops using the license within 5 years. The department may extend the time for use if the lottery winner provides evidence the delay in use is for reasons outside the applicant's control.

(ii) In the case of forfeiture, the department shall offer the license to the next eligible ranked applicant in the lottery.

~~(6)~~(7) The department may adopt rules to implement this section."

**Section 3.** Section 16-4-201, MCA, is amended to read:

**"16-4-201. All-beverages license quota.** (1) Except as otherwise provided by law, a license to sell liquor, beer, and table wine at retail, an all-beverages license, in accordance with the provisions of this code and the rules of the department, may be issued to any person who is approved by the department as a fit and proper person to sell alcoholic beverages, except that the number of all-beverages licenses that the department may issue for premises situated within incorporated cities and incorporated towns and within a distance of 5 miles from the corporate limits of those cities and towns must be determined on the basis of population prescribed in 16-4-502 as follows:

(a) in incorporated towns of 500 inhabitants or less and within a distance of 5 miles from the corporate limits of the towns, not more than two retail licenses;

(b) in incorporated cities or incorporated towns of more than 500 inhabitants and not over 3,000 inhabitants and within a distance of 5 miles from the corporate limits of the cities and towns, three retail licenses for the first 1,000 inhabitants and one retail license for each additional 1,000 inhabitants;

(c) in incorporated cities of over 3,000 inhabitants and within a distance of 5 miles from the corporate limits of the cities, five retail licenses for the first 3,000 inhabitants and one retail license for each additional 1,500 inhabitants.

(2) ~~The number of the inhabitants in cities and towns each incorporated city or incorporated town, exclusive of the number of inhabitants residing within a distance of 5 miles from the corporate limits of the cities or towns city or town, governs the number of retail licenses that may be issued for use within the cities and towns city or town and within a distance of 5 miles from the corporate limits of the cities or towns city or town. If two or more incorporated municipalities are situated within a distance of 5 miles from each other, the total number of retail licenses that may be issued for use in both of the municipalities and within a distance of 5 miles from their respective corporate limits must be determined on the basis of the combined populations of both of the municipalities and may not exceed the limitations in subsection (1) or this subsection.~~ The distance of 5 miles from the corporate limits of any incorporated city or incorporated town must be measured in a straight line from the nearest entrance of the premises proposed for licensing to the nearest corporate boundary of the city or town.

(3) *When the 5-mile boundary of one incorporated city or incorporated town overlaps the 5-mile boundary of another incorporated city or incorporated town, the quota area for each city or town terminates in a straight line equidistant between each city or town.*

(4) *For a period of 12 years after [the effective date of this section], existing licenses as of [the effective date of this section] in either of two quota areas that were established as provided in subsection (3) may be transferred between the two quota areas if they were part of a combined quota area prior to [the effective date of this section].*

(5) *If any new retail all-beverages licenses are allowed by separating a combined quota area that existed as of [the effective date of this section], as provided in subsection (3), the department shall publish the availability of no more than one new retail all-beverages license a year until the quota has been reached.*

~~(3)(6)~~ Retail all-beverages licenses of issue on March 7, 1947, and all-beverages licenses issued under 16-4-209 that are in excess of the limitations in subsections (1) and (2) are renewable, but new licenses may not be issued in violation of the limitations.

~~(4)(7)~~ The limitations in subsections (1) and (2) do not prevent the issuance of a nontransferable and nonassignable, as to ownership only, retail license to an enlisted personnel, noncommissioned officers', or officers' club located on a state or federal military reservation on May 13, 1985, or to any post of a nationally chartered veterans' organization or any lodge of a recognized national fraternal organization if the veterans' or fraternal organization has been in existence for a period of 5 years or more prior to January 1, 1949.

~~(5)(8)~~ The number of retail all-beverages licenses that the department may issue for use at premises situated outside of any incorporated city or incorporated town and outside of the area within a distance of 5 miles from the corporate limits of a city or town may not be more than one license for each 750 *in* population of the county after excluding the population of incorporated cities and incorporated towns in the county.

~~(6)(9)~~ An all-beverages license issued under subsection ~~(5)(8)~~ that becomes located within 5 miles of an incorporated city or town because of annexation after April 15, 2005, may not be transferred to another location within the city quota area for 5 years from the date of annexation.

*(10) The department may adopt rules to implement this section.*"

**Section 4.** Section 16-4-204, MCA, is amended to read:

**"16-4-204. Transfer – catering endorsement – competitive bidding – rulemaking.** (1) (a) Except as provided in subsection ~~(1)(d)(9)~~, a license may be transferred to a new ownership owner and to a location outside the quota area for which it was originally issued where the license is currently located only when the following criteria are met:

(i) the total number of all-beverages licenses in the original current quota area exceeded the quota for that area by at least 25% in the most recent census prescribed in 16-4-502;

(ii) the total number of all-beverages licenses in the quota area to which the license would be transferred, exclusive of those issued under 16-4-209(1)(a) and (1)(b), did not exceed that area's quota in the most recent census prescribed in 16-4-502:

(A) by more than 33%; or

(B) in an incorporated city of more than 10,000 inhabitants and within a distance of 5 miles from its corporate limits, by more than 43%; or

(iii) the department finds, after a public hearing, that the public convenience and necessity would be served by a transfer; and

~~(iv) an applicant for the new ownership to be awarded on a lottery basis by the department has met the following criteria:~~

~~(A) the applicant had not made another application under this subsection (1)(a) for a lottery-awarded license within the previous 12 months;~~

~~(B) the applicant has provided with the application an irrevocable letter of credit from a financial institution that guarantees the applicant's ability to pay \$100,000; and~~

~~(C) the applicant or, if the applicant is not an individual, a person with an ownership interest in the applicant does not have an ownership interest in an all-beverages license.~~

(b) A license transferred pursuant to subsection (1)(a) that was issued pursuant to a lottery competitive bidding process is not eligible to offer gambling under Title 23, chapter 5, part 3, 5, or 6.

~~(c) A successful lottery applicant shall commence business within 1 year of the lottery unless the department grants an extension because a delay was caused by circumstances beyond the control of the applicant.~~

(2) *When the department determines that a license may be transferred from one quota area to another under 16-4-201(1) or (4), the department shall use a competitive bidding process to determine the party afforded the opportunity to purchase and transfer a license. The department shall:*

*(a) determine the minimum bid based on 75% of the market value of all-beverages licenses in the quota area;*

*(b) publish notice that a quota area is eligible for a license transfer;*

*(c) notify the bidder with the highest bid; and*

*(d) keep confidential the identity of bidders, number of bids, and bid amounts until the highest bidder has been approved.*

*(3) To enter the competitive bidding process, a bidder shall submit:*

*(a) an application form provided by the department; and*

*(b) an irrevocable letter of credit from a financial institution establishing the department as the beneficiary of the bid amount.*

*(4) In the case of a tie for the highest bid, the tied bidders may submit new bids. The minimum bid must be set at the tied bid amount. To submit a new bid, a tied bidder shall submit:*

*(a) an application form provided by the department; and*

*(b) an irrevocable letter of credit from a financial institution establishing the department as the beneficiary of the new bid amount.*

(5) *The highest bidder shall:*

(a) *submit an application provided by the department and applicable fees for the license within 60 days of the department's notification of being the highest bidder;*

(b) *pay the bid amount prior to the license being approved;*

(c) *meet all other requirements to own an all-beverages license; and*

(d) *commence business within 1 year of the department's notification unless the department grants an extension because commencement was delayed by circumstances beyond the applicant's control.*

(6) *If the highest bidder is not approved to own the license, the department shall offer the license to the next highest bidder. That bidder shall comply with the requirements of subsection (5).*

(7) *If no bids are received during the competitive bidding process or if a quota area is already eligible for another license transfer under subsection (1), the department shall process applications to transfer a license in the order received.*

(8) (a) *The successful applicant is subject to forfeiture of the license and the original license fee if the successful applicant:*

(i) *transfers an awarded license to another person after receiving the license unless that transfer is due to the death of an owner;*

(ii) *does not use the license within 1 year of receiving the license or stops using the license within 5 years. The department may extend the time for use if the successful applicant provides evidence that the delay in use is for reasons outside the applicant's control; or*

(iii) *proposes a location for the license that had the same license type within the previous 12 months.*

(b) *If a license is forfeited, the department shall offer the license to the next eligible highest bidder in the auction.*

~~(d)~~(9) *A license within an incorporated quota area may be transferred to a new ownership owner and to a new unincorporated location within the same county on application to and with consent of the department when the quota of the total number of all-beverages licenses in the original current quota area, exclusive of those issued under 16-4-209(1)(a) and (1)(b), exceeds the quota for that area by at least 25% in the most recent census and will not fall below that level because of the transfer.*

~~(e)~~ *For 5 years after the transfer of a license between quota areas under subsection (1)(a), the license may not be mortgaged or pledged as security and may not be transferred to another person except for a transfer by inheritance upon the death of the licensee.*

~~(f)~~ *Once a license is transferred to a new quota area under subsection (1)(a), it may not be transferred to another quota area or back to the original quota area.*

~~(g)~~(10) *A license issued under 16-4-209(1)(a) may not be transferred to a location outside the quota area and the exterior boundaries of the Montana Indian reservation for which it was originally issued.*

~~(2)~~(a)(11) (a) *Any all-beverages licensee is, upon the approval and in the discretion of the department, entitled to a catering endorsement to the licensee's all-beverages license to allow the catering and sale of alcoholic beverages to persons attending a special event upon premises not otherwise licensed for the sale of alcoholic beverages for on-premises consumption. The alcoholic beverages must be consumed on the premises where the event is held.*

(b) *A written application for a catering endorsement and an annual fee of \$250 must be submitted to the department for its approval.*

(c) *An all-beverages licensee who holds an endorsement granted under this subsection ~~(2)~~(11) may not cater an event in which the licensee is the sponsor. The catered event must be within 100 miles of the licensee's regular place of business.*

(d) *The licensee shall notify the local law enforcement agency that has jurisdiction over the premises where the catered event is to be held. A fee of \$35 must accompany the notice.*

(e) *The sale of alcoholic beverages pursuant to a catering endorsement is subject to the provisions of 16-6-103.*

(f) *The sale of alcoholic beverages pursuant to a catering endorsement is subject to the provisions of 16-3-306, unless entities named in 16-3-306 give their written approval.*

(g) *A catering endorsement issued for the purpose of selling and serving beer at a special event conducted on the premises of a county fairground or public sports arena authorizes the licensee to sell and serve beer in the grandstand and bleacher area of the premises, as well as from a booth, stand, or other fixed place on the premises.*

(h) *A licensee may not share revenue from the sale of alcoholic beverages with the sponsor of the catered event unless the sponsor is the state of Montana, a political subdivision of the state, or a qualified entity under section 501(c) of the Internal Revenue Code, 26 U.S.C. 501(c), as amended.*

*(12) The department may adopt rules to implement this section."*

**Section 5.** Section 16-4-204, MCA, is amended to read:

**"16-4-204. Transfer – catering endorsement – rulemaking.** (1) (a) Except as provided in subsection ~~(1)(d)~~(2), a license may be transferred to a new ownership owner and to a location outside the quota area for which it was originally issued where the license is currently located only when the following criteria are met:

(i) the total number of all-beverages licenses in the original *current* quota area exceeded the quota for that area by at least 25% in the most recent census prescribed in 16-4-502;

(ii) the total number of all-beverages licenses in the quota area to which the license would be transferred, exclusive of those issued under 16-4-209(1)(a) and (1)(b), did not exceed that area's quota in the most recent census prescribed in 16-4-502:

(A) by more than 33%; or

(B) in an incorporated city of more than 10,000 inhabitants and within a distance of 5 miles from its corporate limits, by more than 43%; or

(iii) the department finds, after a public hearing, that the public convenience and necessity would be served by a transfer; and

(iv) an applicant for the new ownership to be awarded on a lottery basis by the department has met the following criteria:

(A) the applicant had not made another application under this subsection (1)(a) for a lottery-awarded license within the previous 12 months;

(B) the applicant has provided with the application an irrevocable letter of credit from a financial institution that guarantees the applicant's ability to pay \$100,000; and

(C) the applicant or, if the applicant is not an individual, a person with an ownership interest in the applicant does not have an ownership interest in an all-beverages license.

(b) A license transferred pursuant to subsection (1)(a) that was issued pursuant to a lottery is not eligible to offer gambling under Title 23, chapter 5, part 3, 5, or 6.

(c) A successful lottery applicant shall commence business within 1 year of the lottery unless the department grants an extension because a delay was caused by circumstances beyond the control of the applicant.

~~(d)~~(2) A license within an incorporated quota area may be transferred to a new ~~ownership~~ owner and to a new unincorporated location within the same county on application to and with consent of the department when the ~~quota of the~~ total number of all-beverages licenses in the original *current* quota area, exclusive of those issued under 16-4-209(1)(a) and (1)(b), exceeds the quota for that area by at least 25% in the most recent census and will not fall below that level because of the transfer.

~~(e)~~ For 5 years after the transfer of a license between quota areas under subsection (1)(a), the license may not be mortgaged or pledged as security and may not be transferred to another person except for a transfer by inheritance upon the death of the licensee.

~~(f)~~ Once a license is transferred to a new quota area under subsection (1)(a), it may not be transferred to another quota area or back to the original quota area.

~~(g)~~(3) A license issued under 16-4-209(1)(a) may not be transferred to a location outside the quota area and the exterior boundaries of the Montana Indian reservation for which it was originally issued.

~~(2)~~(a)(4) (a) Any all-beverages licensee is, upon the approval and in the discretion of the department, entitled to a catering endorsement to the licensee's all-beverages license to allow the catering and sale of alcoholic beverages to persons attending a special event upon premises not otherwise licensed for the sale of alcoholic beverages for on-premises consumption. The alcoholic beverages must be consumed on the premises where the event is held.

(b) A written application for a catering endorsement and an annual fee of \$250 must be submitted to the department for its approval.

(c) An all-beverages licensee who holds an endorsement granted under this subsection ~~(2)~~(4) may not cater an event in which the licensee is the sponsor. The catered event must be within 100 miles of the licensee's regular place of business.

(d) The licensee shall notify the local law enforcement agency that has jurisdiction over the premises where the catered event is to be held. A fee of \$35 must accompany the notice.

(e) The sale of alcoholic beverages pursuant to a catering endorsement is subject to the provisions of 16-6-103.

(f) The sale of alcoholic beverages pursuant to a catering endorsement is subject to the provisions of 16-3-306, unless entities named in 16-3-306 give their written approval.

(g) A catering endorsement issued for the purpose of selling and serving beer at a special event conducted on the premises of a county fairground or public sports arena authorizes the licensee to sell and serve beer in the grandstand and bleacher area of the premises, as well as from a booth, stand, or other fixed place on the premises.

(h) A licensee may not share revenue from the sale of alcoholic beverages with the sponsor of the catered event unless the sponsor is the state of Montana, a political subdivision of the state, or a qualified entity under section 501(c) of the Internal Revenue Code, 26 U.S.C. 501(c), as amended.

*(5) The department may adopt rules to implement this section."*

**Section 6.** Section 16-4-207, MCA, is amended to read:

**"16-4-207. Notice of application – investigation – publication – protest.** (1) When an application has been filed with the department for a license to sell alcoholic beverages at retail or to transfer the location of a retail license, the department shall review the application for completeness and, based upon review of the application and any other information supplied to the department,

determine whether the applicant or the premises to be licensed meets criteria provided by law. The department may make one request for additional information necessary to complete the application. The application is considered complete when the applicant furnishes the application information requested by the department. When the application is complete, the department of justice shall investigate the application as provided in 16-4-402. When the department determines that an application for a license under this code is complete, the department shall publish in a newspaper of general circulation in the city, town, or county from which the application comes a notice that the applicant has made application for a retail on-premises license or a transfer of location and that protests may be made against the approval of the application by residents of the county from which the application comes, residents of adjoining Montana counties, or residents of adjoining counties in another state if the criteria in subsection (4)(d) are met. Protests must be mailed to the department within 10 days after the final notice is published. Notice of application for a new license must be published once a week for 4 consecutive weeks. Notice of application for transfer of ownership or location of a license must be published once a week for 2 consecutive weeks. Notice may be substantially in the following form:

**NOTICE OF APPLICATION FOR RETAIL  
ALL-BEVERAGES LICENSE**

Notice is given that on the ..... day of ....., 20..., one (name of applicant) filed an application for a retail all-beverages license with the Montana department of revenue to be used at (describe location of premises where beverages are to be sold). Residents of ..... counties may protest against the approval of the application. Each protestor is required to mail a letter that contains in legible print the protestor's full name, mailing address, and street address. Each letter must be signed by the protestor. A protest petition bearing the names and signatures of persons opposing the approval of an application may not be considered as a protest. Protests may be mailed to ....., department of revenue, Helena, Montana, on or before the ..... day of ....., 20.....

Dated .....

Signed

.....

(2) Each applicant shall, at the time of filing an application, pay to the department an amount sufficient to cover the costs of publishing the notice.

(3) (a) If the department receives no written protests, the department may approve the application without holding a public hearing.

(b) A response to a notice of opportunity to protest an application may not be considered unless the response is a letter satisfying all the requirements contained in the notice in subsection (1).

(c) If the department receives sufficient written protests that satisfy the requirements in subsection (1) against the approval of the application, the department shall hold a public hearing as provided in subsection (4).

(4) (a) If the department receives at least one protest but less than the number of protests required for a public convenience and necessity determination as specified in subsection (4)(c), the department shall schedule a public hearing to be held in Helena, Montana, to determine whether the protest presents sufficient cause to deny the application based on the qualifications of the applicant as provided in 16-4-401 or on the grounds for denial of an application provided for in 16-4-405, exclusive of public convenience and necessity. The hearing must be governed by the provisions of Title 2, chapter 4, part 6.

(b) If the department receives the number of protests required for a public convenience and necessity determination as specified in subsection (4)(c) and the application is for an original license or for a transfer of location, the department shall schedule a public hearing to be held in the county of the proposed location of the license to determine whether the protest presents sufficient cause to deny the application based on the qualifications of the applicant as provided in 16-4-401 or on the grounds for denial of an application provided for in 16-4-405 including public convenience and necessity. The hearing must be governed by the provisions of Title 2, chapter 4, part 6.

(c) The minimum number of protests necessary to initiate a public hearing to determine whether an application satisfies the requirements for public convenience and necessity, as specified in 16-4-203, for the proposed premises located within a quota area described in 16-4-201 must be 25% of the quota for all-beverages licenses determined for that quota area according to 16-4-201(1), (2), and ~~(5)~~(8) but in no case less than two. The minimum number of protests determined in this manner will apply only to applications for either on-premises consumption beer or all-beverages licenses.

(d) A resident of a county in another state that adjoins the county in Montana from which an application comes may protest an application only if the county or state of residence of the person has certified to the department that a similarly situated Montana resident would be able to make formal protest of a liquor license application in that state or county. The department may, by rule, establish how the certification is to be made."

**Section 7.** Section 16-4-305, MCA, is amended to read:

**"16-4-305. Montana heritage retail alcoholic beverage licenses – use – quota.** (1) (a) The Montana heritage preservation and development commission may use Montana heritage retail

alcoholic beverage licenses within the quota area in which the licenses were originally issued, for the purpose of providing retail alcoholic beverage sales on property acquired by the state under Title 22, chapter 3, part 10. The licenses are to be considered when determining the appropriate quotas for issuance of other retail liquor licenses.

(b) The department may issue a wine amendment pursuant to 16-4-105(2)(11) if the use of a Montana heritage retail alcoholic beverage license for the sale of beer meets all the requirements of that section.

(2) The Montana heritage preservation and development commission may lease a Montana heritage retail alcoholic beverage license to an individual or entity approved by the department.

(3) Montana heritage retail alcoholic beverage licenses are subject to all laws and rules governing the use and operation of retail liquor licenses.

(4) For the purposes of this section, "Montana heritage retail alcoholic beverage licenses" are all-beverages liquor licenses and retail on-premises beer licenses that have been transferred to the Montana heritage preservation and development commission under the provisions of section 2, Chapter 251, Laws of 1999."

**Section 8.** Section 16-4-305, MCA, is amended to read:

**"16-4-305. Montana heritage retail alcoholic beverage licenses – use – quota.** (1) (a) The Montana heritage preservation and development commission may use Montana heritage retail alcoholic beverage licenses within the quota area in which the licenses were originally issued, for the purpose of providing retail alcoholic beverage sales on property acquired by the state under Title 22, chapter 3, part 10. The licenses are to be considered when determining the appropriate quotas for issuance of other retail liquor licenses.

(b) The department may issue a wine amendment pursuant to 16-4-105(2)(4) if the use of a Montana heritage retail alcoholic beverage license for the sale of beer meets all the requirements of that section.

(2) The Montana heritage preservation and development commission may lease a Montana heritage retail alcoholic beverage license to an individual or entity approved by the department.

(3) Montana heritage retail alcoholic beverage licenses are subject to all laws and rules governing the use and operation of retail liquor licenses.

(4) For the purposes of this section, "Montana heritage retail alcoholic beverage licenses" are all-beverages liquor licenses and retail on-premises beer licenses that have been transferred to the Montana heritage preservation and development commission under the provisions of section 2, Chapter 251, Laws of 1999."

**Section 9.** Section 16-4-306, MCA, is amended to read:

**"16-4-306. Transfer of existing license to political subdivision of state – rulemaking.**

(1) A political subdivision of the state of Montana may apply to the department for the transfer of an existing retail beer or beer and wine license and, upon approval by the department, the political subdivision may own and operate the license or lease the license to a person, firm, corporation, or other entity approved by the department.

(2) A license that is transferred to a political subdivision of the state:

(a) may be transferred only to another political subdivision of the state and not to any other person, firm, corporation, or entity;

(b) does not authorize and may not be used in conjunction with gambling activities except for horseracing as authorized in Title 23, chapter 4;

(c) may be authorized only for a fairgrounds complex owned by the political subdivision;

(d) is authorized for use in all facilities contained in the fairgrounds complex;

(e) is not, with respect to the facilities, subject to the provisions of 16-4-204(2)(11);

(f) must be taken into account in determining the license quota restrictions of 16-4-105; and

(g) is subject to all license fees, laws, and rules applicable to retail beer or beer and wine licenses.

(3) The department may adopt rules to implement the provisions of this section."

**Section 10.** Section 16-4-306, MCA, is amended to read:

**"16-4-306. Transfer of existing license to political subdivision of state – rulemaking.**

(1) A political subdivision of the state of Montana may apply to the department for the transfer of an existing retail beer or beer and wine license and, upon approval by the department, the political subdivision may own and operate the license or lease the license to a person, firm, corporation, or other entity approved by the department.

(2) A license that is transferred to a political subdivision of the state:

(a) may be transferred only to another political subdivision of the state and not to any other person, firm, corporation, or entity;

(b) does not authorize and may not be used in conjunction with gambling activities except for horseracing as authorized in Title 23, chapter 4;

(c) may be authorized only for a fairgrounds complex owned by the political subdivision;

(d) is authorized for use in all facilities contained in the fairgrounds complex;

(e) is not, with respect to the facilities, subject to the provisions of 16-4-204(2)(4);

(f) must be taken into account in determining the license quota restrictions of 16-4-105; and

- (g) is subject to all license fees, laws, and rules applicable to retail beer or beer and wine licenses.  
 (3) The department may adopt rules to implement the provisions of this section.”

**Section 11.** Section 16-4-402, MCA, is amended to read:

**“16-4-402. Application – investigation.** (1) Prior to the issuance of a license under this chapter, the applicant shall file with the department an application containing information and statements relative to the applicant and the premises where the alcoholic beverage is to be sold as required by the department.

(2) (a) Upon receipt of a completed application for a license under this code, accompanied by the necessary license fee or letter of credit as provided in 16-4-501(7)(f), the department of justice shall make a thorough investigation of all matters relating to the application. Based on the results of the investigation or on other information, the department shall determine whether:

- (i) the applicant is qualified to receive a license;
- (ii) the applicant’s premises are suitable for the carrying on of the business; and
- (iii) the requirements of this code and the rules promulgated by the department are met and complied with.

(b) This subsection (2) does not apply to a catering endorsement provided in 16-4-111 or 16-4-204(2)(11), a retail beer and wine license for off-premises consumption as provided in 16-4-115, or a special permit provided in 16-4-301.

(c) For an original license application and an application for transfer of location of a license, the department of justice’s investigation and the department’s determination under this subsection (2) must be completed within 90 days of the receipt of a completed application. If information is requested from the applicant by either department, the time period in this subsection (2)(c) is tolled until the requested information is received by the requesting department. The time period is also tolled if the applicant requests and is granted a delay in the license determination or if the license is for premises that are to be altered, as provided in 16-3-311, or newly constructed. The basis for the tolling of the deadline must be documented.

(3) (a) Upon proof that an applicant made a false statement in any part of the original application, in any part of an annual renewal application, or in any hearing conducted pursuant to an application, the application for the license may be denied, and if issued, the license may be revoked.

(b) A statement on an application or at a hearing that is based upon a verifiable assertion made by a governmental officer, employee, or agent that an applicant relied upon in good faith may not be used as the basis of a false statement for a denial or revocation of a license.

(4) The department shall issue a conditional approval letter upon the last occurrence of either:

- (a) completion of the investigation and determination provided for in subsection (2) if the department has not received information that would cause the department to deny the application; or
- (b) a final agency decision that either denies or dismisses a protest against the approval of an application pursuant to 16-4-207.

(5) The conditional approval letter must state the reasons upon which the future denial of the application may be based. The reasons for denial of the application after the issuance of the conditional approval letter are as follows:

- (a) there is false or erroneous information in the application;
- (b) the premises are not approved by local building, health, or fire officials;
- (c) there are physical changes to the premises that if known prior to the issuance of the conditional approval letter would have constituted grounds for the denial of the application or denial of the issuance of the conditional approval; or
- (d) a final decision by a court exercising jurisdiction over the matter either reverses or remands the department’s final agency decision provided for in subsection (4).”

**Section 12.** Section 16-4-402, MCA, is amended to read:

**“16-4-402. Application – investigation.** (1) Prior to the issuance of a license under this chapter, the applicant shall file with the department an application containing information and statements relative to the applicant and the premises where the alcoholic beverage is to be sold as required by the department.

(2) (a) Upon receipt of a completed application for a license under this code, accompanied by the necessary license fee or letter of credit as provided in 16-4-501(7)(f), the department of justice shall make a thorough investigation of all matters relating to the application. Based on the results of the investigation or on other information, the department shall determine whether:

- (i) the applicant is qualified to receive a license;
- (ii) the applicant’s premises are suitable for the carrying on of the business; and
- (iii) the requirements of this code and the rules promulgated by the department are met and complied with.

(b) This subsection (2) does not apply to a catering endorsement provided in 16-4-111 or 16-4-204(2)(4), a retail beer and wine license for off-premises consumption as provided in 16-4-115, or a special permit provided in 16-4-301.

(c) For an original license application and an application for transfer of location of a license, the department of justice's investigation and the department's determination under this subsection (2) must be completed within 90 days of the receipt of a completed application. If information is requested from the applicant by either department, the time period in this subsection (2)(c) is tolled until the requested information is received by the requesting department. The time period is also tolled if the applicant requests and is granted a delay in the license determination or if the license is for premises that are to be altered, as provided in 16-3-311, or newly constructed. The basis for the tolling of the deadline must be documented.

(3) (a) Upon proof that an applicant made a false statement in any part of the original application, in any part of an annual renewal application, or in any hearing conducted pursuant to an application, the application for the license may be denied, and if issued, the license may be revoked.

(b) A statement on an application or at a hearing that is based upon a verifiable assertion made by a governmental officer, employee, or agent that an applicant relied upon in good faith may not be used as the basis of a false statement for a denial or revocation of a license.

(4) The department shall issue a conditional approval letter upon the last occurrence of either:

(a) completion of the investigation and determination provided for in subsection (2) if the department has not received information that would cause the department to deny the application; or

(b) a final agency decision that either denies or dismisses a protest against the approval of an application pursuant to 16-4-207.

(5) The conditional approval letter must state the reasons upon which the future denial of the application may be based. The reasons for denial of the application after the issuance of the conditional approval letter are as follows:

(a) there is false or erroneous information in the application;

(b) the premises are not approved by local building, health, or fire officials;

(c) there are physical changes to the premises that if known prior to the issuance of the conditional approval letter would have constituted grounds for the denial of the application or denial of the issuance of the conditional approval; or

(d) a final decision by a court exercising jurisdiction over the matter either reverses or remands the department's final agency decision provided for in subsection (4)."

**Section 13.** Section 16-4-420, MCA, is amended to read:

**"16-4-420. Restaurant beer and wine license – competitive bidding – rulemaking.** (1) The department shall issue a restaurant beer and wine license to an applicant whenever the department determines that the applicant, in addition to satisfying the requirements of this section, meets the following qualifications and conditions:

(a) the applicant complies with the licensing criteria provided in 16-4-401 for an on-premises consumption license;

(b) the applicant operates a restaurant at the location where the restaurant beer and wine license will be used or satisfies the department that:

(i) the applicant intends to open a restaurant that will meet the requirements of subsection (6) and intends to operate the restaurant so that at least 65% of the restaurant's gross income during its first year of operation is expected to be the result of the sale of food;

(ii) the restaurant beer and wine license will be used in conjunction with that restaurant, that the restaurant will serve beer and wine only to a patron who orders food, and that beer and wine purchases will be stated on the food bill; and

(iii) the restaurant will serve beer and wine from a service bar, as service bar is defined by the department by rule;

(c) the applicant understands and acknowledges in writing on the application that this license prohibits the applicant from being licensed to conduct any gaming or gambling activity or operate any gambling machines and that if any gaming or gambling activity or machine exists at the location where the restaurant beer and wine license will be used, the activity must be discontinued or the machines must be removed before the restaurant beer and wine license takes effect; and

(d) the applicant states the planned seating capacity of the restaurant, if it is to be built, or the current seating capacity if the restaurant is operating.

(2) (a) A restaurant that has an existing retail license for the sale of beer, wine, or any other alcoholic beverage may not be considered for a restaurant beer and wine license at the same location.

(b) (i) An on-premises retail licensee who sells the licensee's existing retail license may not apply for a license under this section for a period of 1 year from the date that license is transferred to a new purchaser.

(ii) A person, including an individual, with an ownership interest in an existing on-premises retail license that is being transferred to a new purchaser may not attain an ownership interest in a license applied for under this section for a period of 1 year from the date that the existing on-premises retail license is transferred to a new purchaser.

(3) A completed application for a license under this section and the appropriate application fee, as provided in subsection (11), must be submitted to the department. The department shall investigate



the items relating to the application as described in subsections (3)(a) through (3)(d). Based on the results of the investigation and the exercise of 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;
- (c) the requirements of this code and the rules promulgated by the department are complied with;

and

- (d) the seating capacity stated on the application is correct.

(4) An application for a beer and wine license submitted under this section is subject to the provisions of 16-4-203, 16-4-207, and 16-4-405.

(5) If a premises proposed for licensing under this section is a new or remodeled structure, then the department may issue a conditional license prior to completion of the premises based on reasonable evidence, including a statement from the applicant's architect or contractor confirming that the seating capacity stated on the application is correct, that the premises will be suitable for the carrying on of business as a bona fide restaurant, as defined in subsection (6).

(6) (a) For purposes of this section, "restaurant" means a public eating place:

- (i) where individually priced meals are prepared and served for on-premises consumption;
- (ii) where at least 65% of the restaurant's annual gross income from the operation must be from the sale of food and not from the sale of alcoholic beverages. Each year after a license is issued, the applicant shall file with the department a statement, in a form approved by the department, attesting that at least 65% of the gross income of the restaurant during the prior year resulted from the sale of food.

(iii) that has a dining room, a kitchen, and the number and kinds of employees necessary for the preparation, cooking, and serving of meals in order to satisfy the department that the space is intended for use as a full-service restaurant; and

(iv) that serves an evening dinner meal at least 4 days a week for at least 2 hours a day between the hours of 5 p.m. and 11 p.m. The provisions of subsection (6)(b) and this subsection (6)(a)(iv) do not apply to a restaurant for which a restaurant beer and wine license is in effect as of April 9, 2009, or to subsequent renewals of that license.

(b) The term does not mean a fast-food restaurant that, excluding any carry-out business, serves a majority of its food and drink in throw-away containers not reused in the same restaurant.

(7) (a) A restaurant beer and wine license may be transferred, on approval by the department, from the original applicant to a new owner of the restaurant only after 1 year of use by the original owner.

(b) A license issued under this section may be jointly owned, and the license may pass to the surviving joint tenant upon the death of the other tenant. However, the license may not be transferred to any other person or entity by operation of the laws of inheritance or succession or any other laws allowing the transfer of property upon the death of the owner in this state or in another state.

(c) An estate may, upon the sale of a restaurant that is property of the estate and with the approval of the department, transfer a restaurant beer and wine license to a new owner.

(8) (a) The department shall issue a restaurant beer and wine license to a qualified applicant:

(i) except as provided in subsection (8)(c), for a restaurant located in a quota area with a population of 5,000 persons or fewer, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 80% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

(ii) for a restaurant located in a quota area with a population of 5,001 to 20,000 persons, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 160% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

(iii) for a restaurant located in a quota area with a population of 20,001 to 60,000 persons, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 100% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

(iv) for a restaurant located in a quota area with a population of 60,001 persons or more, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 80% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105; and

(v) for a restaurant located in a quota area that is also a resort community, as defined in 7-6-1501, if the number of restaurant beer and wine licenses issued in the quota area that is also a resort community is equal to or less than 200% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105.

(b) In determining the number of restaurant beer and wine licenses that may be issued under this subsection (8) based on the percentage amounts described in subsections (8)(a)(i) through (8)(a)(v), the department shall round to the nearer whole number.

(c) If the department has issued the number of restaurant beer and wine licenses authorized for a quota area under subsection (8)(a)(i), there must be a one-time adjustment of four additional licenses for that quota area.

~~(d) If there are more applicants than licenses available in a quota area, then the license must be awarded by lottery as provided in subsection (9).~~

*(9) If any new restaurant beer and wine licenses are allowed by separating a combined quota area, pursuant to 16-4-105 as of [the effective date of this act], the department shall publish the availability of no more than one new restaurant beer and wine license a year until the quota has been reached.*

~~(9) (a)(10) When a restaurant beer and wine license becomes available by the initial issuance of licenses under this section or as the result of an increase in the population in the a quota area, the nonrenewal of a restaurant beer and wine license, or the lapse or revocation of a license by the department, then the department shall advertise the availability of the license in the quota area for which it is available. If there are more applicants than number of licenses available, the license must be awarded to an applicant by a lottery.~~

~~(b) A preference must be given to an applicant who does not yet have in any quota area a restaurant beer and wine license or a retail beer license and who operates a restaurant that is in the quota area described in subsection (8) in which the license has become available and that meets the qualifications of subsection (6) for at least 12 months prior to the filing of an application. An applicant with a preference must be awarded a license before any applicant without a preference.~~

~~(c) The department shall numerically rank all applicants in the lottery. Only the successful applicants will be required to submit a completed application and a one-time required fee. An applicant's ranking may not be sold or transferred to another person or entity. The preference and an applicant's ranking apply only to the intended license advertised by the department or to the number of licenses determined under subsection (8) when there are more applicants than licenses available. The applicant's qualifications for any other restaurant beer and wine license awarded by lottery must be determined at the time of the lottery.~~

~~(d) If a successful lottery applicant does not use a license within 1 year of notification by the department of license eligibility, the applicant shall forfeit the license. The department shall refund any fees paid except the application fee and offer the license to the next eligible ranked applicant in the lottery.~~

*(11) When the department determines that a quota area is eligible for a new restaurant beer and wine license under subsection (9) or (10), the department shall use a competitive bidding process to determine the party afforded the opportunity to apply for a new license. The department shall:*

*(a) determine the minimum bid based on 75% of the market value of all restaurant beer and wine licenses in the quota area;*

*(b) publish notice that a quota area is eligible for a new license;*

*(c) notify the bidder with the highest bid; and*

*(d) keep confidential the identity of bidders, number of bids, and bid amounts until the highest bidder has been approved.*

*(12) To enter the competitive bidding process, a bidder shall submit:*

*(a) an application form provided by the department; and*

*(b) an irrevocable letter of credit from a financial institution establishing the department as the beneficiary of the bid amount.*

*(13) The highest bidder shall:*

*(a) submit an application provided by the department and applicable fees for the license within 60 days of the department's notification of being the highest bidder;*

*(b) pay the bid amount prior to the license being approved;*

*(c) meet all other requirements to own a restaurant beer and wine license; and*

*(d) commence business within 1 year of the department's notification unless the department grants an extension because commencement was delayed by circumstances beyond the applicant's control.*

*(14) In the case of a tie for the highest bid, the tied bidders may submit new bids. The minimum bid must be set at the tied bid amount. To submit a new bid, a tied bidder shall submit:*

*(a) an application form provided by the department; and*

*(b) an irrevocable letter of credit from a financial institution establishing the department as the beneficiary of the new bid amount.*

*(15) If the highest bidder is not approved to own the license, the department shall offer the license to the next highest bidder. That bidder shall comply with the requirements of subsection (13).*

*(16) If no bids are received during the competitive bidding process or if a quota area is already eligible for another new license, the department shall process applications for the license in the order received.*

*(17) (a) The successful applicant is subject to forfeiture of the license and the original license fee if the successful applicant:*

*(i) transfers an awarded license to another person after receiving the license unless that transfer is due to the death of an owner;*

(ii) does not use the license within 1 year of receiving the license or stops using the license within 5 days. The department may extend the time for use if the successful applicant provides evidence that the delay in use is for reasons outside the applicant's control; or

(iii) proposes a location for the license that had the same license type within the previous 12 months.

(b) If a license is forfeited, the department shall offer the license to the next eligible highest bidder in the auction.

~~(18)~~ Under a restaurant beer and wine license, beer and wine may not be sold for off-premises consumption.

~~(19)~~ An application for a restaurant beer and wine license must be accompanied by a fee equal to 20% of the initial licensing fee. If the department does not make a decision either granting or denying the license within 4 months of receipt of a complete application, the department shall pay interest on the application fee at the rate of 1% a month until a license is issued or the application is denied. Interest may not accrue during any period that the processing of an application is delayed by reason of a protest filed pursuant to 16-4-203 or 16-4-207. If the department denies an application, the application fee, plus any interest, less a processing fee established by rule, must be refunded to the applicant. Upon the issuance of a license, the licensee shall pay the balance of the initial licensing fee. The amount of the initial licensing fee is determined according to the following schedule:

(a) \$5,000 for restaurants with a stated seating capacity of 60 persons or less;

(b) \$10,000 for restaurants with a stated seating capacity of 61 to 100 persons; or

(c) \$20,000 for restaurants with a stated seating capacity of 101 persons or more.

~~(20)~~ The annual fee for a restaurant beer and wine license is \$400.

~~(21)~~ If a restaurant licensed under this part increases the stated seating capacity of the licensed restaurant or if the department determines that a licensee has increased the stated seating capacity of the licensed restaurant, then the licensee shall pay to the department the difference between the fees paid at the time of filing the original application and issuance of a license and the applicable fees for the additional seating.

~~(22)~~ The number of beer and wine licenses issued to restaurants with a stated seating capacity of 101 persons or more may not exceed 25% of the total licenses issued.

~~(23)~~ Possession of a restaurant beer and wine license is not a qualification for licensure of any gaming or gambling activity. A gaming or gambling activity may not occur on the premises of a restaurant with a restaurant beer and wine license.

*(24) The department may adopt rules to implement this section.*

**Section 14.** Section 16-4-420, MCA, is amended to read:

**“16-4-420. Restaurant beer and wine license – rulemaking.** (1) The department shall issue a restaurant beer and wine license to an applicant whenever the department determines that the applicant, in addition to satisfying the requirements of this section, meets the following qualifications and conditions:

(a) the applicant complies with the licensing criteria provided in 16-4-401 for an on-premises consumption license;

(b) the applicant operates a restaurant at the location where the restaurant beer and wine license will be used or satisfies the department that:

(i) the applicant intends to open a restaurant that will meet the requirements of subsection (6) and intends to operate the restaurant so that at least 65% of the restaurant's gross income during its first year of operation is expected to be the result of the sale of food;

(ii) the restaurant beer and wine license will be used in conjunction with that restaurant, that the restaurant will serve beer and wine only to a patron who orders food, and that beer and wine purchases will be stated on the food bill; and

(iii) the restaurant will serve beer and wine from a service bar, as service bar is defined by the department by rule;

(c) the applicant understands and acknowledges in writing on the application that this license prohibits the applicant from being licensed to conduct any gaming or gambling activity or operate any gambling machines and that if any gaming or gambling activity or machine exists at the location where the restaurant beer and wine license will be used, the activity must be discontinued or the machines must be removed before the restaurant beer and wine license takes effect; and

(d) the applicant states the planned seating capacity of the restaurant, if it is to be built, or the current seating capacity if the restaurant is operating.

(2) (a) A restaurant that has an existing retail license for the sale of beer, wine, or any other alcoholic beverage may not be considered for a restaurant beer and wine license at the same location.

(b) (i) An on-premises retail licensee who sells the licensee's existing retail license may not apply for a license under this section for a period of 1 year from the date that license is transferred to a new purchaser.

(ii) A person, including an individual, with an ownership interest in an existing on-premises retail license that is being transferred to a new purchaser may not attain an ownership interest in a license

applied for under this section for a period of 1 year from the date that the existing on-premises retail license is transferred to a new purchaser.

(3) A completed application for a license under this section and the appropriate application fee, as provided in subsection (11), must be submitted to the department. The department shall investigate the items relating to the application as described in subsections (3)(a) through (3)(d). Based on the results of the investigation and the exercise of 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;
  - (c) the requirements of this code and the rules promulgated by the department are complied with;
- and
- (d) the seating capacity stated on the application is correct.

(4) An application for a beer and wine license submitted under this section is subject to the provisions of 16-4-203, 16-4-207, and 16-4-405.

(5) If a premises proposed for licensing under this section is a new or remodeled structure, then the department may issue a conditional license prior to completion of the premises based on reasonable evidence, including a statement from the applicant's architect or contractor confirming that the seating capacity stated on the application is correct, that the premises will be suitable for the carrying on of business as a bona fide restaurant, as defined in subsection (6).

(6) (a) For purposes of this section, "restaurant" means a public eating place:

- (i) where individually priced meals are prepared and served for on-premises consumption;
- (ii) where at least 65% of the restaurant's annual gross income from the operation must be from the sale of food and not from the sale of alcoholic beverages. Each year after a license is issued, the applicant shall file with the department a statement, in a form approved by the department, attesting that at least 65% of the gross income of the restaurant during the prior year resulted from the sale of food.

(iii) that has a dining room, a kitchen, and the number and kinds of employees necessary for the preparation, cooking, and serving of meals in order to satisfy the department that the space is intended for use as a full-service restaurant; and

(iv) that serves an evening dinner meal at least 4 days a week for at least 2 hours a day between the hours of 5 p.m. and 11 p.m. The provisions of subsection (6)(b) and this subsection (6)(a)(iv) do not apply to a restaurant for which a restaurant beer and wine license is in effect as of April 9, 2009, or to subsequent renewals of that license.

(b) The term does not mean a fast-food restaurant that, excluding any carry-out business, serves a majority of its food and drink in throw-away containers not reused in the same restaurant.

(7) (a) A restaurant beer and wine license may be transferred, on approval by the department, from the original applicant to a new owner of the restaurant only after 1 year of use by the original owner.

(b) A license issued under this section may be jointly owned, and the license may pass to the surviving joint tenant upon the death of the other tenant. However, the license may not be transferred to any other person or entity by operation of the laws of inheritance or succession or any other laws allowing the transfer of property upon the death of the owner in this state or in another state.

(c) An estate may, upon the sale of a restaurant that is property of the estate and with the approval of the department, transfer a restaurant beer and wine license to a new owner.

(8) (a) The department shall issue a restaurant beer and wine license to a qualified applicant:

(i) except as provided in subsection (8)(c), for a restaurant located in a quota area with a population of 5,000 persons or fewer, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 80% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

(ii) for a restaurant located in a quota area with a population of 5,001 to 20,000 persons, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 160% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

(iii) for a restaurant located in a quota area with a population of 20,001 to 60,000 persons, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 100% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

(iv) for a restaurant located in a quota area with a population of 60,001 persons or more, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 80% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105; and

(v) for a restaurant located in a quota area that is also a resort community, as defined in 7-6-1501, if the number of restaurant beer and wine licenses issued in the quota area that is also a resort community is equal to or less than 200% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105.

(b) In determining the number of restaurant beer and wine licenses that may be issued under this subsection (8) based on the percentage amounts described in subsections (8)(a)(i) through (8)(a)(v), the department shall round to the nearer whole number.

(c) If the department has issued the number of restaurant beer and wine licenses authorized for a quota area under subsection (8)(a)(i), there must be a one-time adjustment of four additional licenses for that quota area.

(d) If there are more applicants than licenses available in a quota area, then the license must be awarded by lottery as provided in subsection ~~(9)~~(10).

*(9) If any new restaurant beer and wine licenses are allowed by separating a combined quota area, pursuant to 16-4-105 as of [the effective date of section 13], the department shall publish the availability of no more than one new restaurant beer and wine license a year until the quota has been reached.*

~~(9)–(a)(10)~~ When a restaurant beer and wine license becomes available by the initial issuance of licenses under this section or as the result of an increase in the population in ~~the a~~ quota area, the nonrenewal of a restaurant beer and wine license, or the lapse or revocation of a license by the department, then the department shall advertise the availability of the license in the quota area for which it is available. If there are more applicants than number of licenses available, the license must be awarded to an applicant by a lottery.

(b) A preference must be given to an applicant who does not yet have in any quota area a restaurant beer and wine license or a retail beer license and who operates a restaurant that is in the quota area described in subsection (8) in which the license has become available and that meets the qualifications of subsection (6) for at least 12 months prior to the filing of an application. An applicant with a preference must be awarded a license before any applicant without a preference.

(c) The department shall numerically rank all applicants in the lottery. Only the successful applicants will be required to submit a completed application and a one-time required fee. An applicant's ranking may not be sold or transferred to another person or entity. The preference and an applicant's ranking apply only to the intended license advertised by the department or to the number of licenses determined under subsection (8) when there are more applicants than licenses available. The applicant's qualifications for any other restaurant beer and wine license awarded by lottery must be determined at the time of the lottery.

(d) If a successful lottery applicant does not use a license within 1 year of notification by the department of license eligibility, the applicant shall forfeit the license. The department shall refund any fees paid except the application fee and offer the license to the next eligible ranked applicant in the lottery.

~~(10)(11)~~ Under a restaurant beer and wine license, beer and wine may not be sold for off-premises consumption.

~~(11)(12)~~ An application for a restaurant beer and wine license must be accompanied by a fee equal to 20% of the initial licensing fee. If the department does not make a decision either granting or denying the license within 4 months of receipt of a complete application, the department shall pay interest on the application fee at the rate of 1% a month until a license is issued or the application is denied. Interest may not accrue during any period that the processing of an application is delayed by reason of a protest filed pursuant to 16-4-203 or 16-4-207. If the department denies an application, the application fee, plus any interest, less a processing fee established by rule, must be refunded to the applicant. Upon the issuance of a license, the licensee shall pay the balance of the initial licensing fee. The amount of the initial licensing fee is determined according to the following schedule:

- (a) \$5,000 for restaurants with a stated seating capacity of 60 persons or less;
- (b) \$10,000 for restaurants with a stated seating capacity of 61 to 100 persons; or
- (c) \$20,000 for restaurants with a stated seating capacity of 101 persons or more.

~~(12)(13)~~ The annual fee for a restaurant beer and wine license is \$400.

~~(13)(14)~~ If a restaurant licensed under this part increases the stated seating capacity of the licensed restaurant or if the department determines that a licensee has increased the stated seating capacity of the licensed restaurant, then the licensee shall pay to the department the difference between the fees paid at the time of filing the original application and issuance of a license and the applicable fees for the additional seating.

~~(14)(15)~~ The number of beer and wine licenses issued to restaurants with a stated seating capacity of 101 persons or more may not exceed 25% of the total licenses issued.

~~(15)(16)~~ Possession of a restaurant beer and wine license is not a qualification for licensure of any gaming or gambling activity. A gaming or gambling activity may not occur on the premises of a restaurant with a restaurant beer and wine license.

*(17) The department may adopt rules to implement this section.*

**Section 15.** Section 23-5-119, MCA, is amended to read:

**“23-5-119. Appropriate alcoholic beverage license for certain gambling activities.**

(1) Except as provided in subsection (3), to be eligible to offer gambling under Title 23, chapter 5, part 3, 5, or 6, an applicant must own in the applicant's name:

(a) a retail all-beverages license issued under 16-4-201, but the owner of a license transferred after July 1, 2007, to a ~~quota area pursuant to a department-conducted lottery under 16-4-204(1)(a)~~ is not eligible to offer gambling;

(b) except as provided in subsection (1)(c), a license issued prior to October 1, 1997, under 16-4-105, authorizing the sale of beer and wine for consumption on the licensed premises;

(c) a beer and wine license issued in an area outside of an incorporated city or town as provided in 16-4-105(1)(e)(f). The owner of the license whose premises are situated outside of an incorporated city or town may offer gambling, regardless of when the license was issued, if the owner and premises qualify under Title 23, chapter 5, part 3, 5, or 6.

(d) a retail beer and wine license issued under 16-4-109;

(e) a retail all-beverages license issued under 16-4-202; or

(f) a retail all-beverages license issued under 16-4-208.

(2) For purposes of subsection (1)(b), a license issued under 16-4-105 prior to October 1, 1997, may be transferred to a new owner or to a new location or transferred to a new owner and location by the department of revenue pursuant to the applicable provisions of Title 16. The owner of the license that has been transferred may offer gambling if the owner and the premises qualify under Title 23, chapter 5, part 3, 5, or 6.

(3) Lessees of retail all-beverages licenses issued under 16-4-208 or beer and wine licenses issued under 16-4-109 who have applied for and been granted a gambling operator's license under 23-5-177 are eligible to offer and may be granted permits for gambling authorized under Title 23, chapter 5, part 3, 5, or 6.

(4) A license transferee or a qualified purchaser operating pending final approval under 16-4-404(6) who has been granted a gambling operator's license under 23-5-177 may be granted permits for gambling under Title 23, chapter 5, part 3, 5, or 6."

**Section 16. Effective dates.** (1) Except as provided in subsection (2), [this act] is effective on passage and approval.

(2) [Sections 2, 5, 8, 10, 12, and 14] are effective January 1, 2024.

**Section 17. Termination.** [Sections 1, 4, 7, 9, 11, and 13] terminate December 31, 2023.

Approved November 24, 2017

## CHAPTER NO. 6

[HB 6]

AN ACT PROVIDING FOR FUND TRANSFERS; PROVIDING THAT CERTAIN ACCOUNTS AND FUNDS ARE SUBJECT TO LEGISLATIVE FUND TRANSFER; AMENDING SECTIONS 2-15-405, 15-70-125, 17-5-703, 17-7-205, 20-9-516, 20-9-525, 23-1-105, 30-10-115, 33-2-708, 33-28-120, 69-1-402, 75-25-101, 90-1-205, AND 90-4-617, MCA; AMENDING SECTION 3, CHAPTER 259, LAWS OF 2017; PROVIDING FOR CONTINGENT VOIDNESS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE.

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

**Section 1. Fund transfers.** (1) By December 15, 2017, the state treasurer shall make the following transfers:

(a) \$210,000 from the economic development special revenue account provided for in 90-1-205 to the general fund;

(b) \$2,000,000 from the capitol complex major maintenance account to the general fund;

(c) \$3,400,000 from the school facility and technology account provided for in 20-9-516 to the guarantee account provided for in 20-9-622;

(d) \$410,427 from the secretary of state enterprise fund account provided for in 2-15-405 to the general fund;

(e) \$276,964 from the public service commission state special revenue account provided for in 69-1-402 to the general fund.

(2) By August 30, 2018, the state treasurer shall make the following transfers:

(a) \$2,400,000 from the school facility and technology account provided for in 20-9-516 to the guarantee account provided for in 20-9-622;

(b) \$399,668 from the secretary of state enterprise fund account provided for in 2-15-405 to the general fund;

(c) \$248,251 from the public service commission state special revenue account provided for in 69-1-402 to the general fund; and

(d) \$4,000,000 from the highway nonrestricted account provided for in 15-70-125 to the general fund.

(3) By June 30, 2019, the state treasurer shall make the following transfers:

(a) \$2,400,000 from the school facility and technology account provided for in 20-9-516 to the guarantee account provided for in 20-9-622; and

(b) \$4,000,000 from the highway nonrestricted account provided for in 15-70-125 to the general fund.

**Section 2. State auditor fund transfers.** Notwithstanding any other provision of law directing use of its state special revenue funds, the state auditor shall transfer \$530,825 to the state treasurer by December 15, 2017, and \$535,026 by December 1, 2018, credited to the general fund.

**Section 3. Fund transfers.** (1) By December 15, 2017, the state treasurer shall make the following transfers to the general fund:

(a) \$2 million from the economic development special revenue account provided for in 90-1-205;

(b) \$0.5 million from the school major maintenance aid account provided for in 20-9-525;

(c) \$1.2 million from the alternative energy revolving loan account provided for in 75-25-101;

(d) \$5 million from the long-range building program account in the capital projects fund type provided for in 17-7-205;

(e) \$7.5 million from the treasure state endowment special revenue account provided for in 17-5-703(3);

(f) \$250,000 from state parks miscellaneous fund provided for in 23-1-105.

(2) By June 30, 2018, the state treasurer shall transfer \$450,000 from the energy conservation capital projects account provided for in 90-4-617 to the general fund.

(3) By June 30, 2019, the state treasurer shall transfer \$1.2 million from the school major maintenance aid account provided for in 20-9-525 to the general fund.

**Section 4. Additional fund transfers.** By December 15, 2017, notwithstanding statutory restrictions on account usage, the state treasurer shall make the following transfers to the general fund:

(1) \$2.05 million from the natural resources projects state special revenue account established in 15-38-302;

(2) \$400,000 from the Montana national guard land purchase account provided for in 10-1-108;

(3) \$500,000 from the legislative branch reserve account fund provided for in 5-11-407;

(4) \$500,000 from the hard-rock mining reclamation special revenue account provided for in 82-4-315;

(5) \$1 million from the petroleum tank release cleanup fund provided for 75-11-313;

(6) \$2 million from the state special revenue fund for the operation of the building codes program;

(7) \$2 million from the state water project hydroelectric power generation special revenue account provided for in 85-1-220; and

(8) \$1 million from the consumer protection state special revenue account administered by the department of justice.

**Section 5. Fire fund transfer limit – equalization.** (1) For the biennium ending June 30, 2019, the state treasurer shall transfer any revenue received in the fire suppression account provided for in 76-13-150 in excess of \$40 million from the fire suppression account to the general fund.

(2) For the purposes of subsection (1), “revenue received” means any additional revenue and transfers received by the state based on actions of the legislature during the special session commencing November 14, 2017, for the following sources:

(a) insurance premium tax revenue;

(b) corporate and individual income tax revenue;

(c) fire assessment fee revenue;

(d) lodging facility use tax revenue;

(e) accommodations and rental vehicle sales tax revenue;

(f) management rate revenue received pursuant to Senate Bill No. 4;

(g) revenue from contract renegotiations between the state and private correctional facility contractors; and

(h) any legislative transfers directed to the fire suppression account.

(3) For the biennium ending June 30, 2019, if the fire suppression account biennial revenue including transfers in does not equal or exceed \$40 million on June 1, 2018, the state treasurer shall transfer an amount from the general fund to the fire suppression account that brings the fire suppression account biennial revenue including transfers in to \$40 million.

**Section 6.** Section 2-15-405, MCA, is amended to read:

**“2-15-405. Fees charged by secretary of state – deposit to account – rulemaking.** (1) The secretary of state shall, for fees charged by the secretary of state, set by administrative rule each fee authorized by law.

(2) Unless otherwise specified by law, fees:

(a) must be commensurate with the overall costs of the office of the secretary of state; and

(b) must reasonably reflect the prevailing rates charged in the public and private sectors for similar services.

(3) The secretary of state shall maintain records sufficient to support the fees established pursuant to this section.

(4) Except as otherwise provided by law, fees collected by the secretary of state must be deposited to an account in the enterprise fund type to the credit of the secretary of state. All income and interest earned on money in the account must be credited to the account. *Funds in the account are subject to legislative fund transfer.*"

**Section 7.** Section 15-70-125, MCA, is amended to read:

**"15-70-125. Highway nonrestricted account.** (1) There is a highway nonrestricted account in the state special revenue fund. All interest and penalties collected under this chapter, except those collected by a justice's court, must, in accordance with the provisions of 17-2-124, be placed in the highway nonrestricted account. All interest and income earned on the account must be deposited to the credit of the account and any unexpended balance in the account must remain in the account.

(2) *Funds in the account are subject to legislative fund transfer.*"

**Section 8.** Section 17-5-703, MCA, is amended to read:

**"17-5-703. (Temporary) Coal severance tax trust funds.** (1) The trust established under Article IX, section 5, of the Montana constitution is composed of the following funds:

(a) a coal severance tax bond fund into which the constitutionally dedicated receipts from the coal severance tax must be deposited;

(b) a treasure state endowment fund;

(c) a treasure state endowment regional water system fund;

(d) a coal severance tax permanent fund;

(e) a coal severance tax income fund;

(f) a big sky economic development fund; and

(g) a school facilities fund.

(2) (a) The state treasurer shall determine, on July 1 of each year, the amount necessary to meet all principal and interest payments on bonds payable from the coal severance tax bond fund during the next 12 months and retain that amount in the coal severance tax bond fund.

(b) The amount in the coal severance tax bond fund in excess of the amount required in subsection (2)(a) must be transferred from that fund as provided in subsections (4) and (5).

(3) (a) The state treasurer shall monthly transfer from the treasure state endowment fund to the treasure state endowment special revenue account the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account in accordance with 90-6-710. Earnings not transferred to the treasure state endowment special revenue account must be retained in the treasure state endowment fund. *The treasure state endowment special revenue account is subject to legislative fund transfer.*

(b) The state treasurer shall monthly transfer from the treasure state endowment regional water system fund to the treasure state endowment regional water system special revenue account the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account for regional water systems authorized under 90-6-715. Earnings not transferred to the treasure state endowment regional water system special revenue account must be retained in the treasure state endowment regional water system fund.

(4) (a) Starting July 1, 2017, the state treasurer shall quarterly transfer to the school facilities fund provided for in 20-9-380(1) 75% of the amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund. The budget director shall certify to the state treasurer when the balance of the school facilities fund is \$200 million. Beginning with the quarter following this certification, the state treasurer shall instead transfer to the coal severance tax permanent fund 75% of the amount in the coal severance tax bond fund that exceeds the amount that is specified in subsection (2) to be retained in the fund.

(b) The state treasurer shall monthly transfer from the school facilities fund to the account established in 20-9-525 the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account. Earnings not transferred to the account established in 20-9-525 must be retained in the school facilities fund.

(5) (a) From July 1, 2005, through June 30, 2025, the state treasurer shall quarterly transfer to the big sky economic development fund 25% of the amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund.

(b) The state treasurer shall monthly transfer from the big sky economic development fund to the economic development special revenue account, provided for in 90-1-205, the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account in accordance with 90-1-204. Earnings not transferred to the economic development special revenue account must be retained in the big sky economic development fund.

(6) Any amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2)(a) to be retained in the fund and that is not otherwise allocated under this section must be deposited in the coal severance tax permanent fund. (Terminates June 30, 2031--secs. 1 through 3, Ch. 305, L. 2015.)



**17-5-703. (Effective July 1, 2031) Coal severance tax trust funds.** (1) The trust established under Article IX, section 5, of the Montana constitution is composed of the following funds:

(a) a coal severance tax bond fund into which the constitutionally dedicated receipts from the coal severance tax must be deposited;

(b) a treasure state endowment fund;

(c) a coal severance tax permanent fund;

(d) a coal severance tax income fund;

(e) a big sky economic development fund; and

(f) a school facilities fund.

(2) (a) The state treasurer shall determine, on July 1 of each year, the amount necessary to meet all principal and interest payments on bonds payable from the coal severance tax bond fund during the next 12 months and retain that amount in the coal severance tax bond fund.

(b) The amount in the coal severance tax bond fund in excess of the amount required in subsection (2)(a) must be transferred from that fund as provided in subsections (4) and (5).

(3) The state treasurer shall monthly transfer from the treasure state endowment fund to the treasure state endowment special revenue account the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account in accordance with 90-6-710. Earnings not transferred to the treasure state endowment special revenue account must be retained in the treasure state endowment fund.

(4) (a) Starting July 1, 2017, the state treasurer shall quarterly transfer to the school facilities fund provided for in 20-9-380(1) 75% of the amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund. The budget director shall certify to the state treasurer when the balance of the school facilities fund is \$200 million. Beginning with the quarter following this certification, the state treasurer shall instead transfer to the coal severance tax permanent fund 75% of the amount in the coal severance tax bond fund that exceeds the amount that is specified in subsection (2) to be retained in the fund.

(b) The state treasurer shall monthly transfer from the school facilities fund to the account established in 20-9-525 the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account. Earnings not transferred to the account established in 20-9-525 must be retained in the school facilities fund.

(5) (a) From July 1, 2005, through June 30, 2025, the state treasurer shall quarterly transfer to the big sky economic development fund 25% of the amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund.

(b) The state treasurer shall monthly transfer from the big sky economic development fund to the economic development special revenue account, provided for in 90-1-205, the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account in accordance with 90-1-204. Earnings not transferred to the economic development special revenue account must be retained in the big sky economic development fund.

(6) Any amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2)(a) to be retained in the fund and that is not otherwise allocated under this section must be deposited in the coal severance tax permanent fund.”

**Section 9.** Section 17-7-205, MCA, is amended to read:

**“17-7-205. Long-range building program account.** (1) There is a long-range building program account in the capital projects fund type. *The account is subject to legislative fund transfer.*

(2) Cigarette tax revenue is deposited in the account pursuant to 16-11-119.

(3) Coal severance taxes allocated to the account under 15-35-108 may be appropriated for the long-range building program or debt service payments on building projects. Coal severance taxes required for general obligation bond debt service may be transferred to the debt service fund.

(4) Interest earnings, project carryover funds, administrative fees, and miscellaneous revenue must be retained in the account.”

**Section 10.** Section 20-9-516, MCA, is amended to read:

**“20-9-516. School facility and technology account.** (1) There is a school facility and technology account in the state special revenue fund provided for in 17-2-102. ~~The~~ *Subject to legislative fund transfer, the purpose of the account is to provide, contingent on appropriation from the legislature, funding for the following in priority order:*

(a) school technology purposes as provided in 20-9-534; and

(b) state debt service assistance as provided in 20-9-371.

(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; and

(b) the income received from certain lands and riverbeds as provided in 17-3-1003(5).

(3) For the biennium beginning July 1, 2017, no payments may be distributed as authorized under subsection (1)(b). Transfers required by [section 1] must be completed prior to any transfers authorized under subsection (4).

(3)(4) If in any fiscal year the amount of revenue in the school facility and technology account is sufficient to fund debt service assistance without a proration reduction pursuant to 20-9-346(2)(b) and if in that same fiscal year the amount of revenue available in the school major maintenance aid account established in 20-9-525 will result in a proration reduction in school major maintenance aid pursuant to 20-9-525(5) for that fiscal year, the state treasurer shall transfer any excess funds in the school facility and technology account to the school major maintenance aid account not to exceed the amount required to avoid a proration reduction.”

**Section 11.** Section 20-9-525, MCA, is amended to read:

**“20-9-525. School major maintenance aid account – formula.** (1) There is a school major maintenance aid account in the state special revenue fund provided for in 17-2-102.

(2) The Subject to legislative fund transfer, the purpose of the account is to provide, contingent on appropriation from the legislature, funding for school major maintenance aid as provided in subsection (3) for school facility projects that support a basic system of free quality public elementary and secondary schools under 20-9-309 and that involve:

(a) first, making any repairs categorized as “safety”, “damage/wear out”, or “codes and standards” in the facilities condition inventory for buildings of the school district as referenced in the K-12 public schools facility condition and needs assessment final report prepared by the Montana department of administration pursuant to section 1, Chapter 1, Special Laws of December 2005; and

(b) after addressing the repairs in subsection (2)(a), any of the following:

(i) updating the facility condition inventory as recommended in the final report referenced in subsection (2)(a) with the scope and methods of the review to be determined by the trustees, employing experts as the trustees determine necessary. The first update must be completed by July 1, 2019, and each district shall certify the completion to the office of public instruction no later than October 31, 2019. Subsequent updates must be certified to the office of public instruction no less than once every 5 years following the first certification.

(ii) undertaking projects designed to produce operational efficiencies such as utility savings, reduced future maintenance costs, improved utilization of staff, and enhanced learning environments for students, including but not limited to projects addressing:

(A) roofing systems;

(B) heating, air conditioning, and ventilation systems;

(C) energy-efficient window and door systems and insulation;

(D) plumbing systems;

(E) electrical systems and lighting systems;

(F) information technology infrastructure, including internet connectivity both within and to the school facility; and

(G) other critical repairs to an existing school facility or facilities.

(3) (a) In any year in which the legislature has appropriated funds for distribution from the school major maintenance aid account, the superintendent of public instruction shall administer the distribution of school major maintenance aid from the school major maintenance aid account for deposit in the subfund of the building reserve fund provided for in 20-9-502(3)(e). Subject to proration under subsection (5) of this section, aid must be annually distributed no later than the last working day of May to a school district imposing a levy pursuant to 20-9-502(3) in the current school fiscal year, with the amount of state support per dollar of local effort of the applicable elementary and high school program of each district determined as follows:

(i) using the taxable valuation most recently certified by the department of revenue under 15-10-202:

(A) divide the total statewide taxable valuation by the statewide total of school major maintenance amounts and multiply the result by 171%;

(B) multiply the result determined under subsection (3)(a)(i)(A) by the district’s school major maintenance amount;

(C) subtract the district’s taxable valuation from the amount determined under subsection (3)(a)(i)(B); and

(D) divide the amount determined under subsection (3)(a)(i)(C) by 1,000;

(ii) determine the greater of the amount determined in subsection (3)(a)(i) or 18% of the district’s mill value; and

(iii) multiply the result determined under subsection (3)(a)(ii) by the district’s school major maintenance amount, then divide the product by the sum of the result determined under subsection (3)(a)(ii) and the district’s school major maintenance amount.

(b) For a district with an adopted general fund budget in the prior year greater than or equal to 97% of the district’s general fund maximum budget in the prior year, the amount determined in subsection (3)(a)(iii) rounded to the nearest cent is the amount of school major maintenance aid per

dollar of local effort, not to exceed an amount that would result in the state aid composing more than 80% of the district's school major maintenance amount.

(c) For a district with an adopted general fund budget in the prior year less than 97% of the district's maximum budget in the prior year, multiply the amount determined in subsection (3)(a)(iii) by the ratio of the district's adopted general fund budget in the prior year to the district's maximum general fund budget in the prior year. The result, rounded to the nearest cent, is the amount of state school major maintenance aid per dollar of local effort, not to exceed an amount that would result in the state aid composing more than 80% of the district's school major maintenance amount.

(4) Using the taxable valuation most recently certified by the department of revenue under 15-10-202, the superintendent shall provide school districts with a preliminary estimated amount of state school major maintenance aid per dollar of local effort for the ensuing school year no later than March 1 and a final amount for the current school year no later than July 31.

(5) If the appropriation from or the available funds in the school major maintenance aid account in any school fiscal year are less than the amount for which school districts would otherwise qualify, the superintendent of public instruction shall proportionally prorate the aid distributed to ensure that the distributions do not exceed the appropriated or available funds.

(6) If in any fiscal year the amount of revenue in the school major maintenance aid account is sufficient to fund school major maintenance aid without a proration reduction pursuant to subsection (5) and if in that same fiscal year the amount of revenue available in the school facility and technology account established in 20-9-516 will result in a proration reduction in debt service assistance pursuant to 20-9-346(2)(b) for that fiscal year, the state treasurer shall transfer any excess funds in the school major maintenance aid account to the school facility and technology account, not to exceed the amount required to avoid a proration reduction.

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

(a) "Local effort" means an amount of money raised by levying no more than 10 mills pursuant to 20-9-502(3) and, provided that 10 mills have been levied, any additional amount of money deposited or transferred by trustees to the subfund pursuant to 20-9-502(3).

(b) "School major maintenance amount" means the sum of \$15,000 and the product of \$100 multiplied by the district's budgeted ANB for the prior fiscal year."

**Section 12.** Section 23-1-105, MCA, is amended to read:

**"23-1-105. Fees and charges – use of motor vehicle registration fee.** (1) The department may levy and collect reasonable fees or other charges for the use of privileges and conveniences that may be provided and to grant concessions that it considers advisable, except as provided in subsections (2) and (6). All money derived from the activities of the department, except as provided in subsection (5), must be deposited in the state treasury in a state special revenue fund to the credit of the department. *This state special revenue fund is subject to legislative fund transfer.*

(2) Overnight camping fees established by the department under subsection (1) must be discounted 50% for a campsite rented by a person who is a resident of Montana, as defined in 87-2-102, and either 62 years of age or older or certified as disabled in accordance with rules adopted by the department.

(3) For a violation of any fee collection rule involving a vehicle, the registered owner of the vehicle at the time of the violation is personally responsible if an adult is not in the vehicle at the time the violation is discovered by an authorized officer. A defense that the vehicle was driven into the fee area by another person is not allowable unless it is shown that at that time, the vehicle was being used without the consent of the registered owner.

(4) Money received from the collection of fees and charges is subject to the deposit requirements of 17-6-105(6) unless the department has submitted and received approval for a modified deposit schedule pursuant to 17-6-105(8).

(5) There is a fund of the enterprise fund type, as defined in 17-2-102(2)(a), for the purpose of managing state park visitor services revenue. The fund is to be used by the department to serve the recreating public by providing for the obtaining of inventory through purchase, production, or donation and for the sale of educational, commemorative, and interpretive merchandise and other related goods and services at department sites and facilities. The fund consists of money from the sale of educational, commemorative, and interpretive merchandise and other related goods and services and from donations. Gross revenue from the sale of educational, commemorative, and interpretive merchandise and other related goods and services must be deposited in the fund. All interest and earnings on money deposited in the fund must be credited to the fund for use as provided in this subsection.

(6) In recognition of the fact that individuals support state parks through the payment of certain motor vehicle registration fees, persons who pay the fee provided for in 61-3-321(19)(a) may not be required to pay a day-use fee for access to state parks. Other fees for the use of state parks and fishing access sites, such as overnight camping fees, are still chargeable and may be collected by the department.

(7) Any increase in the motor vehicle registration fee collected pursuant to 61-3-321(19)(a) on or after January 1, 2012, that is dedicated to state parks must be used by the department for maintenance and operation of state parks.”

**Section 13.** Section 30-10-115, MCA, is amended to read:

**“30-10-115. Deposits to general fund – exceptions.** (1) Except as provided in subsection (2), all fees and miscellaneous charges received by the commissioner pursuant to parts 1 through 3 of this chapter must be deposited in the general fund.

(2) (a) All notice filing fees collected under 30-10-209(1)(d) and examination costs collected under 30-10-210 must be deposited in the state special revenue fund in an account to the credit of the state auditor’s office. ~~The~~ *Subject to legislative fund transfer, the* funds allocated by this subsection (2)(a) to the state special revenue account may be used only to defray the expenses of the state auditor’s office in discharging its administrative and regulatory powers and duties in relation to notice filing under 30-10-209(1)(d) and examinations.

(b) Any fees in excess of the amount required for the purposes listed in subsection (2)(a) must be deposited in the general fund.

(c) On or after July 1, 2019, 4.5% of the total fees collected annually under 30-10-209(1)(b) must be deposited in the securities restitution assistance fund provided for in 30-10-1004. The remainder must be deposited in the general fund. On or after July 1, 2021, all fees collected annually under 30-10-209(1)(b) must be deposited in the general fund.”

**Section 14.** Section 33-2-708, MCA, is amended to read:

**“33-2-708. Fees and licenses.** (1) (a) Except as provided in subsection (5), 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) navigator certification:

(A) application for original certification, including issuance of certificate if issued, \$100;

(B) biennial renewal of certification, \$50;

(C) lapsed certification reinstatement fee, \$100;

(x) 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, an insurance public 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 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.

(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 and are subject to legislative fund transfer.

(4) All fees are considered fully earned when received. In the event of overpayment, only those amounts in excess of \$10 will be refunded.

(5) The commissioner shall collect a licensing fee of \$500 for casualty insurance companies issuing policies of legal professional liability insurance pursuant to 33-1-206."

**Section 15.** Section 33-28-120, MCA, is amended to read:

**"33-28-120. Captive insurance regulatory and supervision account.** (1) There is an account in the state special revenue fund called the captive insurance regulatory and supervision account, which may be referred to as the captive account.

(2) ~~The Subject to legislative fund transfer,~~ the purpose of the captive account is to provide the financial means for the commissioner to administer this chapter and for reimbursement of reasonable expenses incurred in promoting captive insurance in this state.

(3) (a) Five percent of the premium tax collected under 33-28-201 and all fees and assessments received by the commissioner pursuant to the administration of this chapter must be deposited in the captive account.

(b) All fines and administrative penalties collected pursuant to this chapter must be deposited in the general fund.

(4) All payments from the captive account for the maintenance of staff and associated expenses, including necessary contractual services, may only be disbursed from the state treasury upon warrants issued by the commissioner, after receipt by the commissioner of proper documentation regarding services rendered and expenses incurred.

(5) At the end of each fiscal year, the balance in the captive account must be transferred to the general fund."

**Section 16.** Section 69-1-402, MCA, is amended to read:

**"69-1-402. Funding of department of public service regulation.** (1) All fees collected under this section and any other fees, except as provided in 69-1-114(3) and subject to legislative fund transfer, must be deposited in an account in the state special revenue fund to the credit of the department. An appropriation to the department may consist of a base appropriation for regular operating expenses and a contingency appropriation for expenses due to an unanticipated caseload.

(2) In addition to all other licenses, fees, and taxes imposed by law, all regulated companies shall, within 30 days after the close of each calendar quarter, pay to the department of revenue a fee based on a percentage of gross operating revenue reported pursuant to 69-1-223(2)(a), as determined by the department of revenue under 69-1-403.

(3) The amount of money that may be raised by the fee on the regulated companies during a fiscal year may not be increased, except as provided in 69-1-224(1)(c), from the amount appropriated to the department by the legislature for that fiscal year, including both base and contingency appropriations. Any additional money required for operation of the department must be obtained from other sources in a manner authorized by the legislature."

**Section 17.** 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. *The account is subject to legislative fund transfer.*

(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) The amount of a loan may not exceed \$40,000, and the loan must be repaid within 10 years."

**Section 18.** 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 Subject to legislative fund transfer, 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 allocated for distribution to certified regional development corporations, economic development organizations that are located in a county that is not part of a certified regional development corporation, and tribal governments.”

**Section 19.** Section 90-4-617, MCA, is amended to read:

**“90-4-617. 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 Subject to legislative transfer, 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 20.** Section 3(3), Chapter 259, Laws of 2017, is amended to read:

~~“(3) If [this act], Senate Bill No. 260, and Senate Bill No. 307 are passed and approved, then up to \$2 million of the earnings transferred from the school facilities fund provided for in [section 1(1) of Senate Bill No. 260] to the account established in [section 8 of Senate Bill No. 307] is appropriated in fiscal year 2019 to the office of public instruction for the uses described in [section 8 of Senate Bill No. 307].”~~

**Section 21. Contingent voidness.** (1) If the governor vetoes House Bill No. 2 then [this act] is void.

(2) If the governor line item vetoes items in House Bill No. 2 causing an increase in general fund appropriations of more than 0.1% of general fund appropriations in House Bill No. 2, then [this act] is void.

**Section 22. Contingent voidness.** If House Bill No. 2 does not reduce appropriations from state special revenue funds to the department of commerce by at least \$100,000 in fiscal year 2018 and at least \$100,000 in fiscal year 2019, then the transfers from the economic development special revenue account provided for in 90-1-205 to the general fund in [this act] are void.

**Section 23. Contingent voidness.** If House Bill No. 2 does not reduce general fund appropriations to the office of public instruction for Program 09 by at least \$3.4 million in fiscal year 2018 and by at least \$4.8 million in fiscal year 2019, then the transfers from the school facility and technology special revenue fund provided for in 20-9-516 to the guarantee account provided for in 20-9-622 in [this act] are void.

**Section 24. Contingent voidness.** If House Bill No. 2 does not reduce appropriations from state special revenue funds to the office of the state auditor by at least \$50,000 in fiscal year 2018 and at least \$50,000 in fiscal year 2019, then the transfers in [section 2 of this act] are void.

**Section 25. Contingent voidness.** If House Bill No. 2 does not reduce appropriations to the department of transportation maintenance program by at least \$50,000 of state special revenue funds in fiscal year 2018 and at least \$50,000 of state special revenue funds in fiscal year 2019, then the transfers from the highway nonrestricted account provided for in 15-70-125 to the general fund in [this act] are void.

**Section 26. 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 27. Effective dates.** (1) Except as provided in subsection (2), [this act] is effective December 15, 2017.

(2) [Section 21] and [this section] are effective on passage and approval.

**Section 28. Termination.** [This act] terminates June 30, 2019.

Approved November 26, 2017

## CHAPTER NO. 7

[SB 9]

AN ACT GENERALLY REVISING LAWS TO ONLY PROVIDE BUDGET STABILIZATION MEASURES; PROVIDING DEPOSIT RULES FOR FUNDS RECEIVED FROM CERTAIN CONTRACT RENEGOTIATIONS; PROVIDING FOR A CONTINGENT TRANSFER; CREATING A PRIVATE CORRECTIONAL FACILITY CONTRACT RENEGOTIATION STATE SPECIAL REVENUE

ACCOUNT; PROVIDING FOR CONTINGENT REDUCTIONS TO THE CALCULATION OF THE PROJECTED ENDING GENERAL FUND BALANCE AND PROJECTED GENERAL FUND BUDGET DEFICIT; PROVIDING ALLOCATIONS WITH EXCESS REVENUE; ELIMINATING TRANSFERS FOR THE SECRETARY OF STATE, THE STATE AUDITOR'S OFFICE, AND THE PUBLIC SERVICE COMMISSION IN FISCAL YEAR 2019 IF EXCESS REVENUES ARE RECEIVED; PROVIDING FOR CONTINGENT VOIDNESS; AMENDING SECTION 17-7-140, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND TERMINATION DATES.

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

**Section 1. Private correctional facility contract renegotiation – use of funds – creation of account.** (1) There is a private correctional facility contract renegotiation account in the state special revenue fund. All money received by the state and any savings realized by the state from contract renegotiations between the state and private correctional facility contractors must be deposited as follows:

(a) up to \$15 million must be deposited in the fire suppression account provided for in 76-13-150; and

(b) after \$15 million has been deposited as provided in subsection (1)(a), all excess money must be deposited in the private correctional facility contract renegotiation account and may be appropriated by the legislature to fund essential services.

(2) The department of corrections shall report any savings realized by the state during contract renegotiations to the legislative finance committee and the office of budget and program planning. After notifying the legislative finance committee of savings realized by the state, the office of budget and program planning shall reduce general fund appropriation authority for the department of corrections by the amount of reported savings and transfer an equal amount of money from the general fund to the private correctional facility contract renegotiation account.

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

(a) (i) "Essential services" means governmental services:

(A) delivered;

(I) to the most vulnerable populations;

(II) to families, children, seniors, and individuals with disabilities; and

(III) to ensure a continuum of care allowing individuals to remain in the least restrictive environment;

(B) that were reduced or eliminated through appropriation reductions after introduction of House Bill No. 2 in the house of representatives;

(C) delivered through one-time-only expenditures to mitigate impacts from reductions to general fund appropriations in House Bill No. 2. Appropriations from the account provided for in subsection (1) are not intended to become a part of the base budget as provided in 17-7-102 for the biennium beginning July 1, 2019.

(ii) The term does not include governmental services that are funded through an appropriation that is greater than the introduced version of House Bill No. 2 in the house of representatives.

(b) "Private correctional facility" has the meaning provided in 53-30-602.

(c) "Private correctional facility contractor" means an individual, corporation, partnership, association, or other private organization or entity that operates a private correctional facility under Title 53, chapter 30, part 6.

**Section 2. Contingent fund transfer.** By June 30, 2018, the state treasurer shall transfer \$15 million from the general fund to the fire suppression account provided for in 76-13-150 unless the state treasurer certifies to the legislative fiscal analyst by June 30, 2018, that \$15 million was deposited into the fire suppression account provided for in 76-13-150 pursuant to [section 1].

**Section 3.** Section 17-7-140, MCA, is amended to read:

**"17-7-140. Reduction in spending.** (1) (a) As the chief budget officer of the state, the governor shall ensure that the expenditure of appropriations does not exceed available revenue. Except as provided in subsection (2), in the event of a projected general fund budget deficit, the governor, taking into account the criteria provided in subsection (1)(c), shall direct agencies to reduce spending in an amount that ensures that the projected ending general fund balance for the biennium will be at least:

(i) *subject to subsection (8)*, 6% of the general fund appropriations for the second fiscal year of the biennium prior to October of the year preceding a legislative session;

(ii) 3% of the general fund appropriations for the second fiscal year of the biennium in October of the year preceding a legislative session;

(iii) 2% of the general fund appropriations for the second fiscal year of the biennium in January of the year in which a legislative session is convened; and

(iv) 1% of the general fund appropriations for the second fiscal year of the biennium in March of the year in which a legislative session is convened.

(b) An agency may not be required to reduce general fund spending for any program, as defined in each general appropriations act, by more than 10% during a biennium. Departments or agencies headed by elected officials or the board of regents may not be required to reduce general fund spending by a percentage greater than the percentage of general fund spending reductions required for the total of all other executive branch agencies. The legislature may exempt from a reduction an appropriation item within a program or may direct that the appropriation item may not be reduced by more than 10%.

(c) The governor shall direct agencies to manage their budgets in order to reduce general fund expenditures. Prior to directing agencies to reduce spending as provided in subsection (1)(a), the governor shall direct each agency to analyze the nature of each program that receives a general fund appropriation to determine whether the program is mandatory or permissive and to analyze the impact of the proposed reduction in spending on the purpose of the program. An agency shall submit its analysis to the office of budget and program planning and shall at the same time provide a copy of the analysis to the legislative fiscal analyst. The report must be submitted in an electronic format. The office of budget and program planning shall review each agency's analysis, and the budget director shall submit to the governor a copy of the office of budget and program planning's recommendations for reductions in spending. The budget director shall provide a copy of the recommendations to the legislative fiscal analyst at the time that the recommendations are submitted to the governor and shall provide the legislative fiscal analyst with any proposed changes to the recommendations. The recommendations must be provided in an electronic format. The legislative finance committee shall meet within 20 days of the date that the proposed changes to the recommendations for reductions in spending are provided to the legislative fiscal analyst. The legislative fiscal analyst shall provide a copy of the legislative fiscal analyst's review of the proposed reductions in spending to the budget director at least 5 days before the meeting of the legislative finance committee. The committee may make recommendations concerning the proposed reductions in spending. The governor shall consider each agency's analysis and the recommendations of the office of budget and program planning and the legislative finance committee in determining the agency's reduction in spending. Reductions in spending must be designed to have the least adverse impact on the provision of services determined to be most integral to the discharge of the agency's statutory responsibilities.

(2) Reductions in spending for the following may not be directed by the governor:

- (a) payment of interest and principal on state debt;
- (b) the legislative branch;
- (c) the judicial branch;
- (d) the school BASE funding program, including special education;
- (e) salaries of elected officials during their terms of office; and
- (f) the Montana school for the deaf and blind.

(3) (a) As used in this section, "projected general fund budget deficit" means an amount, certified by the budget director to the governor, by which the projected ending general fund balance for the biennium is less than:

- (i) *subject to subsection (8)*, 5% of the general fund appropriations for the second fiscal year of the biennium prior to October of the year preceding a legislative session;
- (ii) 1.875% in October of the year preceding a legislative session;
- (iii) 1.25% in January of the year in which a legislative session is convened; and
- (iv) 0.625% in March of the year in which a legislative session is convened.

(b) In determining the amount of the projected general fund budget deficit, the budget director shall take into account revenue, established levels of appropriation, anticipated supplemental appropriations for school equalization aid and the cost of the state's wildland fire suppression activities exceeding the amount statutorily appropriated in 10-3-312, and anticipated reversions.

(4) If the budget director determines that an amount of actual or projected receipts will result in an amount less than the amount projected to be received in the revenue estimate established pursuant to 5-5-227, the budget director shall notify the revenue and transportation interim committee of the estimated amount. Within 20 days of notification, the revenue and transportation interim committee shall provide the budget director with any recommendations concerning the amount. The budget director shall consider any recommendations of the revenue and transportation interim committee prior to certifying a projected general fund budget deficit to the governor.

(5) If the budget director certifies a projected general fund budget deficit, the governor may authorize transfers to the general fund from certain accounts as set forth in subsections (6) and (7).

(6) The governor may authorize transfers from the budget stabilization reserve fund provided for in 17-7-130. The governor may authorize \$2 of transfers from the fund for each \$1 of reductions in spending.

(7) If the budget director certifies a projected general fund budget deficit, the governor may authorize transfers to the general fund from the fire suppression account established in 76-13-150. The amount of funds available for a transfer from this account is up to the sum of the fund balance of the account, plus expected current year revenue, minus the sum of 1% of the general fund appropriations



for the second fiscal year of the biennium, plus estimated expenditures from the account for the fiscal year. The governor may authorize \$1 of transfers from the fire suppression account established in 76-13-150 for each \$1 of reductions in spending.

(8) *For the biennium beginning July 1, 2017, the percentages in subsections (1)(a)(i) and (3)(a)(i) are both reduced pursuant to [section 4].*

**Section 4. Coordination instruction.** (1) The percentage in 17-7-140(1)(a)(i) and the percentage in (3)(a)(i) are amended as follows:

(a) If Senate Bill No. 4 is not passed and approved, then the percentages in 17-7-140(1)(a)(i) and (3)(a)(i) are each reduced by 0.53.

(b) If \$15 million in proceeds from [section 1] is not deposited or transferred into the fire suppression account established in 76-13-150 by June 30, 2018, then the percentages in 17-7-140(1)(a)(i) and (3)(a)(i) are each reduced by 0.65.

(c) If House Bill No. 6 is not passed and approved, then the percentages in 17-7-140(1)(a)(i) and (3)(a)(i) are each reduced by 1.51.

(d) (i) If House Bill No. 2 is passed and approved and the governor exercises line item veto authority, then the percentages in 17-7-140(1)(a)(i) and (3)(a)(i) are reduced by a reduction percentage.

(ii) For the purposes of this subsection (1)(d), the following definitions apply:

(A) “Approved line items” means the total general fund line item appropriation amounts in House Bill No. 2 and Chapter 366, Laws of 2017, for fiscal year 2018 and fiscal year 2019 after the governor exercises line item veto authority.

(B) “Legislative line items” means the total general fund line item appropriation amounts in House Bill No. 2 and Chapter 366, Laws of 2017, for fiscal year 2018 and fiscal year 2019.

(C) “Line item veto amount” is calculated by subtracting approved line items from legislative line items.

(D) “Reduction percentage” means the line item veto amount divided by \$2.3 billion and multiplied by 100.

(2) The reductions to the percentage in 17-7-140(1)(a)(i) made pursuant to subsection (1) are cumulative but may not exceed a total reduction of 3.

(3) The reductions to the percentage in 17-7-140(3)(a)(i) made pursuant to subsection (1) are cumulative but may not exceed a total reduction of 3.

**Section 5. Allocations to state agencies with excess revenues.** (1) The state treasurer shall notify the budget director, the legislative fiscal analyst, and the code commissioner on or before August 15, 2018, if the amount of the certified unaudited state general fund revenue and transfers into the general fund received at the end of fiscal year 2018 is more than \$2,264.9 million, to include transfers, except those transfers in House Bill No. 6 and any revenue proceeds generated by Senate Bill No. 5, and shall indicate the amount by which the revenue exceeds \$2,264.9 million.

(2) If the certified unaudited state general fund revenue exceeds \$2,264.9 million by less than \$20 million, all excess revenue remains in the general fund.

(3) (a) If the certified unaudited state general fund revenue exceeds \$2,264.9 million by at least \$20 million and by no more than \$111.4 million, the excess revenue shall be allocated as follows:

(i) \$20 million remains in the general fund;

(ii) one-half of the remainder is transferred into the budget stabilization reserve fund provided for in 17-7-130; and

(iii) one-half of the remainder is allocated to agencies to offset reductions to general fund appropriations made in House Bill No. 2.

(b) The amount allocated to an agency to offset reductions is the amount identified in subsection (3)(c) over the total amount of subject to offset multiplied by one-half of the amount that the certified unaudited state general fund revenue is in excess of \$20 million.

(c) Agencies and amount subject to offset are as follows:

Commissioner of Political Practices	75,831
Department of Administration	538,446
Department of Commerce	362,949
Department of Labor and Industry	179,538
Department of Military Affairs	468,162
Department of Revenue	995,467
Governor’s Office	425,932
Department of Public Health & Human Services	30,551,970
Department of Agriculture	73,854

Department of Environmental Quality	520,616
Department of Livestock	256,234
Department of Natural Resources and Conservation	1,462,945
Crime Control Division	232,828
Department of Corrections	2,225,295
Department of Justice	2,258,568
Board of Public Education	14,211
Commissioner of Higher Education	2,236,411
Montana Arts Council	51,736
Office of Public Instruction	1,141,361
Legislative Branch	443,777
Judicial Branch	1,205,000
TOTAL	45,721,131

(4) If the certified unaudited state general fund revenue exceeds \$2,264.9 million by more than \$111.4 million, excess funds of \$111.4 million or less are allocated pursuant to subsection (3) and excess funds of more than \$111.4 million remain in the general fund.

**Section 6. Coordination instruction.** If both [this act] and House Bill No. 6 are passed and approved, and if the certified unaudited state general fund revenue exceeds \$2,264.9 million by \$20 million or more, then:

(1) the transfer in [section 1] of House Bill No. 6 from the secretary of state enterprise fund account provided for in 2-15-405 to the general fund in fiscal year 2019 is void;

(2) the transfer in [section 1] of House Bill No. 6 from the public service commission state special revenue account provided for in 69-1-402 to the general fund in fiscal year 2019 is void; and

(3) [section 2] of House Bill No. 6 must read:

**“NEW SECTION. Section 2. State auditor fund transfers.** Notwithstanding any other provision of law directing use of its state special revenue funds, the state auditor shall remit \$530,825 to the state treasurer by ~~December 1~~ *December 15, 2017*, credited to the general fund.”

**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. Contingent voidness.** If [this act] is not passed and approved, then [LC 19] is void.

**Section 9. Effective date.** [This act] is effective on passage and approval.

**Section 10. Termination dates.** (1) Except as provided in subsection (2), [this act] terminates June 30, 2019.

(2) [Sections 3 and 4] terminate October 1, 2018.

Approved November 26, 2017

## CHAPTER NO. 8

[HB 2]

A BILL FOR AN ACT ENTITLED: “AN ACT REVISING THE GENERAL APPROPRIATIONS ACT OF 2017 TO INCORPORATE CHANGES TO THE ACT MADE DURING THE 2017 REGULAR LEGISLATIVE SESSION WHILE REVISING APPROPRIATIONS TO INCORPORATE CHANGES WITHIN THE CALL OF THE 2017 SPECIAL SESSION AND ANY CONCURRENT SPECIAL SESSIONS; AMENDING CHAPTER 366, LAWS OF 2017; REPEALING SECTIONS 8, 9, AND 11, CHAPTER 364, LAWS OF 2017, SECTIONS 7, 13, 14, 15, 16, AND 17, CHAPTER 416, LAWS OF 2017, AND SECTIONS 12, 15, 16, 17, 18, 20, 21, 22, 24, AND 28, CHAPTER 429, LAWS OF 2017; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.”

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

**Section 1.** Chapter 366, Laws of 2017, is amended to read:

**“Section 1. Short title.** [This act] may be cited as “The General Appropriations Act of 2017”.

**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 2019 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.** (1) 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 2021 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].

(2) The office of budget and program planning shall establish a separate appropriation on the statewide accounting, budgeting, and human resource system for the funding included in each executive branch agency’s budget to pay fixed cost allocations to the state information technology services division of the department of administration. The appropriations must be designated as restricted.

(3) The office of budget and program planning shall establish a separate appropriation on the statewide accounting, budgeting, and human resource system for the funding included in each executive branch agency’s budget to pay fixed cost allocations for rent in the capitol complex to the general services division of the department of administration. The appropriations must be designated as restricted.

**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 ordinarily numbered with an Arabic numeral.

**Section 6. Personal services funding – 2021 biennium.** (1) Except as provided in subsection (2), present law and new proposal funding budget requests for the 2019 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 fund or equivalent for each fiscal year must be shown at the fourth reporting level or equivalent in the budget request for the 2021 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. Legislative Intent.** (1) The appropriations contained in [this act] do not include any funding for increased rent or lease payments on office, warehouse, or other similar space unless specifically expressed in a legislative line item or change package in the accompanying House Bill No. 2 narrative. It is the intent of the legislature that state agencies are precluded from enacting any inflation provisions for rent or lease agreements or entering into new rent or lease agreements that include automatic inflation adjusters.

(2) *[This act] amends and revises House Bill No. 2, enacted as Chapter 366, Laws of 2017, by incorporating legislative changes from the 2017 regular session that were made by Chapter 364, Laws of 2017, Chapter 416, Laws of 2017, and Chapter 429, Laws of 2017. The 2017 regular legislative session changes are incorporated in the introduced version of [this act] and are intended to reflect current law before the special session commencing November 14, 2017.*

(3) *Legislative change made to [this act] after introduction reflect appropriation decisions made by the legislature in special session and are subject to the governor’s veto power under Article VI, section 10, of the Montana constitution. If the governor exercises a veto of [this act] and the legislature does not override the veto, then Chapter 366, Laws of 2017, remains in effect as passed and approved during the regular legislative session. Likewise, if the governor exercises veto authority under Article VI, section 10(5), of a line item in [this act] and the legislature does not override the line item veto, then the line item that is vetoed reverts to the original item as passed and approved during the regular legislative session.*

(4) *By passing [this act], the legislature appropriates money as originally appropriated in Chapter 366, Laws of 2017, to any line item where the Governor exercises line item veto authority.*

**Section 8. Totals not appropriations.** The totals shown in [this act] are for informational purposes only and are not appropriations.

**Section 9. Effective dates.** (1) Except as provided in subsection (2), [this act] is effective July 1, 2017.

(2) [Section 10] is effective on passage and approval.

**Section 10. Appropriation.** For the biennium ending June 20, 2017, there is appropriated \$2 million from the general fund to the office of state public defender.

**Section 11. Appropriations.** The following money is appropriated for the respective fiscal years:

	Fiscal 2018			Fiscal 2019			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
A. GENERAL GOVERNMENT							
LEGISLATIVE BRANCH (11040)							
1. Legislative Services (20) (Biennial)							
8,981,801	439,298	0	8,821,099	8,204,219	372,562	0	8,576,781
<del>8,269,760</del>	<del>439,139</del>	0	<del>8,709,899</del>	<del>8,095,847</del>		0	<del>8,468,469</del>
7,874,586			8,313,725	7,802,048			8,174,610
2. Legislative Committees and Activities (21) (Biennial)							
745,653	0	0	745,653	584,468	0	0	584,468
<del>695,640</del>			<del>695,640</del>				
681,519			681,519	558,010			558,010
3. Fiscal Analysis and Review (27) (Biennial)							
1,953,403	0	0	1,953,403	2,027,734	0	0	2,027,734
<del>1,901,174</del>			<del>1,901,174</del>	<del>2,019,758</del>			<del>2,019,758</del>
1,805,071			1,805,071	1,953,732			1,953,732
4. Audit and Examination (28) (Biennial)							
2,907,341	1,794,115	0	4,101,456	2,568,655	1,836,949	0	4,405,604
<del>2,292,294</del>	<del>1,793,822</del>		<del>4,076,046</del>	<del>2,520,125</del>			<del>4,557,074</del>
2,177,064	1,754,866		3,931,930	2,423,471			4,260,420
Total							
13,388,288	2,233,323	0	15,621,611	13,385,076	2,209,511	0	15,594,587
<del>13,148,798</del>	<del>2,222,961</del>		<del>15,381,759</del>	<del>13,220,198</del>			<del>15,429,769</del>
12,538,240	2,194,005		14,732,245	12,739,361			14,948,772
It is the intent of the legislature that the legislative finance committee include a study of enterprise, data storage, and network services as part of its 2019 biennial interim work. In addition, as part of the study, the legislative finance committee shall include a customer satisfaction survey to assess agency needs and challenges that may need to be addressed by the state information technology services division of the department of administration.							
CONSUMER COUNSEL (11120)							
1. Administration Program (01)							
0	1,480,938	0	1,480,938	0	1,483,793	0	1,483,793
	<del>1,480,749</del>		<del>1,480,749</del>				
	1,469,103		1,469,103		1,482,687		1,482,687
a. Caseload Contingency (Biennial)							
0	150,000	0	150,000	0	150,000	0	150,000
Total							
0	1,630,938	0	1,630,938	0	1,633,793	0	1,633,793
	<del>1,630,749</del>		<del>1,630,749</del>				
	1,619,103		1,619,103		1,632,687		1,632,687

	Fiscal 2018			Fiscal 2019			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
GOVERNOR'S OFFICE (31010)							
1. Executive Office Program (01)							
2,778,958	0	0	2,778,958	2,778,692	0	0	2,779,692
<del>2,518,467</del>			<del>2,518,467</del>	<del>2,521,232</del>			<del>2,521,232</del>
2,289,078			2,289,078	2,337,707			2,337,707
a. Economic Development (OTO)							
0	200,000	0	200,000	0	200,000	0	200,000
b. Capitol Complex Rent (Restricted)							
134,605	0	0	134,605	137,096	0	0	137,096
<del>111,624</del>			<del>111,624</del>	<del>107,465</del>			<del>107,465</del>
104,246			104,246	100,362			100,362
2. Executive Residence Operations (02)							
<del>167,224</del>			<del>167,224</del>	<del>168,227</del>			<del>168,227</del>
<del>159,353</del>			<del>159,353</del>	<del>160,658</del>			<del>160,658</del>
144,139			144,139	149,574			149,574
a. SITSD Fixed Costs (Restricted)							
6,997	0	0	6,997	6,728	0	0	6,728
6,534			6,534	6,283			6,283
3. Air Transportation Program (03)							
313,434	0	0	313,434	316,999	0	0	316,999
<del>309,194</del>			<del>309,194</del>	<del>312,815</del>			<del>312,815</del>
286,471			286,471	291,938			291,938
a. SITSD Fixed Costs (Restricted)							
2,599	0	0	2,599	2,599	0	0	2,599
2,427			2,427	2,427			2,427
4. Office of Budget and Program Planning (04)							
2,267,449	0	0	2,267,449	2,276,228	0	0	2,276,228
<del>2,131,184</del>			<del>2,131,184</del>	<del>2,141,556</del>			<del>2,141,556</del>
1,935,924			1,935,924	1,991,415			1,991,415
a. Legislative Audit (Restricted/Biennial)							
60,379	0	0	60,379	0	0	0	0
b. Capitol Complex Rent (Restricted)							
65,178	0	0	65,178	66,387	0	0	66,387

It is the intent of the legislature to consider the 2021 biennium budget for the Consumer Counsel from zero to the full recommended budget. The Consumer Counsel shall explain the necessity of personal services, operating expenses, and caseload contingency, including the base budget for the budget submission for the 2021 biennium budget.

General Fund	Fiscal 2018				Fiscal 2019					
	State Special Revenue	Federal Special Revenue	Proprietary	Other	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
<i>c. SITSD Fixed Costs (Restricted)</i>										
59,129	0	0	0	0	56,904	0	0	0	0	56,904
55,221					53,143					53,143
5. Office of Indian Affairs (05)										
190,561	0	0	0	0	190,482	0	0	0	0	190,482
173,548					173,751					173,751
156,799					161,189					161,189
<i>a. Capitol Complex Rent (Restricted)</i>										
5,929	0	0	0	0	6,039	0	0	0	0	6,039
<i>b. SITSD Fixed Costs (Restricted)</i>										
10,105	0	0	0	0	9,740	0	0	0	0	9,740
9,437					9,096					9,096
6. Lieutenant Governor's Office (12)										
334,909	0	0	0	0	335,085	0	0	0	0	335,085
326,937					327,402					327,402
298,586					305,322					305,322
<i>a. SITSD Fixed Costs (Restricted)</i>										
6,248	0	0	0	0	6,008	0	0	0	0	6,008
5,835					5,611					5,611
7. Mental Disabilities Board of Visitors (20)										
478,327	0	0	0	0	479,335	0	0	0	0	479,335
366,906					368,048					368,048
330,856					342,385					342,385
<i>a. Capitol Complex Rent (Restricted)</i>										
5,442	0	0	0	0	5,543	0	0	0	0	5,543
<i>b. SITSD Fixed Costs (Restricted)</i>										
13,522	0	0	0	0	13,347	0	0	0	0	13,347
12,628					12,465					12,465
<hr/>										
Total	200,000	0	0	0	6,791,241	200,000	0	0	0	6,746,048
6,591,241					6,467,346					6,423,318
6,467,346					6,109,714					6,183,982
5,909,714					5,983,982					5,909,714

For the biennium ending June 30, 2019, there is appropriated the total amount of funds in the private correctional facility contract renegotiation account to the governor's office of budget and program planning for the purpose of funding essential services as defined in [section 1 of Senate Bill No. 9]. As provided in [section 1 of Senate Bill No. 9], this appropriation is restricted and may not be used to fund governmental services for any appropriation in an amount greater than the introduced version of [this act].

	Fiscal 2018				Fiscal 2019			
	General Fund	State Special Revenue	Federal Special Revenue	Total	General Fund	State Special Revenue	Federal Special Revenue	Total
<b>COMMISSIONER OF POLITICAL PRACTICES (32020)</b>								
1. Administration (01)								
669,990	0	0	0	669,990	676,879	0	0	676,879
<del>532,509</del>				<del>532,509</del>	<del>532,844</del>			<del>532,844</del>
443,278				443,278	457,010			457,010
a. Legislative Audit (Restricted/Biennial)								
10,189	0	0	0	10,189	0	0	0	0
b. Legal Services (Restricted/OTO)								
89,555	0	0	0	89,555	89,621	0	0	89,621
c. Capitol Complex Rent (Restricted)								
35,706	0	0	0	35,706	36,368	0	0	36,368
d. SITSD Fixed Costs (Restricted)								
97,867	0	0	0	97,867	97,867	0	0	97,867
91,398				91,398	91,398			91,398
<b>Total</b>								
769,674	0	0	0	769,674	769,500	0	0	769,500
<del>765,826</del>				<del>765,826</del>	<del>756,697</del>			<del>756,697</del>
670,126				670,126	674,397			674,397

If the governor appoints and the majority of the senate confirms a commissioner of political practices who is an attorney licensed to practice law in Montana, the appropriation for Legal Services is void.

**OFFICE OF THE STATE AUDITOR (34010)**

1. Central Management (01)								
0	2,141,578	0	0	2,141,578	0	2,145,909	0	2,145,909
	<del>1,916,310</del>			<del>1,916,310</del>		<del>1,920,996</del>		<del>1,920,996</del>
	1,884,690			1,884,690				
a. Legislative Audit (Restricted/Biennial)								
0	10,855	0	0	10,855	0	0	0	0
b. SITSD Fixed Costs (Restricted)								
0	224,313	0	0	224,313	0	224,313	0	224,313
	209,486			209,486		209,486		209,486
2. Insurance Program (03)								
0	5,078,203	0	0	5,078,203	0	5,123,571	0	5,123,571
	<del>5,075,358</del>			<del>5,075,358</del>				
	4,930,498			4,930,498		5,073,571		5,073,571
a. Legislative Audit (Restricted/Biennial)								
0	29,102	0	0	29,102	0	0	0	0

	Fiscal 2018			Fiscal 2019			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
3. Securities (04)	0	1,141,553	0	0	1,143,923	0	1,143,923
		<del>1,140,876</del>					
		1,119,796					
a. Legislative Audit (Restricted/Biennial)	0	6,837	0	0	0	0	0
Total	0	8,408,128	0	0	8,412,803	0	8,412,803
		<del>8,403,651</del>					
		8,191,264			8,347,976		8,347,976
DEPARTMENT OF REVENUE (58010)							
1. Director's Office (01)							
	13,555,277	121,670	0	374,237	123,073	0	14,265,568
	<del>12,218,539</del>						<del>12,924,488</del>
	11,052,007			11,825,775			12,324,488
a. Legislative Audit (Restricted/Biennial)	184,911	0	0	0	0	0	0
		0	0	0	0	0	0
b. SITSD Fixed Costs (Restricted)	996,169	0	0	996,169	0	0	996,169
	930,266			930,266			930,266
c. Capitol Complex Rent (Restricted)	271,059	0	0	276,078	0	0	276,078
2. Liquor Control Division (03)	0	0	0	0	0	0	0
		2,788,254	0	2,788,254	0	0	2,788,254
		<del>2,712,106</del>		<del>2,712,106</del>			<del>2,720,913</del>
		2,650,974		2,650,974			2,720,913
a. Termination Payouts (Restricted/OTO)	0	0	0	60,000	0	0	60,000
b. Overtime (Restricted/OTO)	0	0	0	65,000	0	0	65,000
c. SITSD Fixed Costs (Restricted)	0	0	0	74,665	0	0	74,665
				69,730			69,730
3. Citizen Services and Resource Management (05)	8,463,609	205,381	0	8,479,537	205,381	0	8,724,921
	<del>8,142,042</del>			<del>8,387,426</del>			<del>8,404,366</del>
	7,319,849			7,890,448			8,135,832



	Fiscal 2018			Fiscal 2019			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
<i>a. SITSD Fixed Costs (Restricted)</i>							
278,157	0	0	278,157	278,157	0	0	278,157
259,771			259,771	259,771			259,771
40,151,574	618,190	262,984	11,092,688	10,200,315	619,978	263,600	11,092,893
9,557,204	591,208	245,032	10,373,444	9,590,987	592,846	245,512	10,429,345
9,051,179			9,887,419	9,472,453			10,310,811
<i>a. SITSD Fixed Costs (Restricted)</i>							
288,022	13,776	9,184	310,982	288,022	13,776	9,184	310,982
268,984	12,865	8,577	290,426	268,984	12,865	8,577	290,426
<i>b. Capitol Complex Rent (Restricted)</i>							
274,185	13,114	8,742	296,041	279,259	13,356	8,904	301,519
<i>5. Property Assessment Division (08)</i>							
20,586,989	14,301	0	20,601,290	20,646,835	14,301	0	20,661,136
19,740,446			19,754,747	19,801,615			19,815,916
19,024,910			19,039,211	19,793,216			19,807,517
<i>a. SITSD Fixed Costs (Restricted)</i>							
655,165	0	0	655,165	655,165	0	0	655,165
611,859			611,859	611,859			611,859
<i>b. Capitol Complex Rent (Restricted)</i>							
85,241	0	0	85,241	86,821	0	0	86,821

Total							
52,942,360	959,482	262,984	57,492,320	53,102,482	962,733	263,600	57,665,096
52,671,080	959,450	262,958	57,219,499	52,886,970			57,399,594
49,334,221	958,539	262,351	53,815,055	51,694,930	961,822	262,993	56,251,031

Liquor Control Division proprietary funds necessary to maintain adequate inventories, pay freight charges, and transfer profits and taxes to appropriate accounts from the liquor enterprise fund to the department in the amounts not to exceed \$151 million in fiscal year 2018 and \$158 million in fiscal year 2019. These costs are used to maintain adequate inventories necessary to meet statutory requirements, to pay freight costs, and to transfer profits and taxes to appropriate accounts.

## DEPARTMENT OF ADMINISTRATION (61010)

## 1. Director's Office (01)

410,384	0	12,707	423,091	411,723	0	12,707	424,430
390,468			403,175	392,074			404,787
365,494			373,201	375,222			383,029
<i>a. Legislative Audit (Restricted/Biennial)</i>							
66,969	0	0	66,969	0	0	0	0

	Fiscal 2018			Fiscal 2019		
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue
<i>b. SITSD Fixed Costs (Restricted)</i>						
11,500	0	0	0	11,510	0	0
10,740				10,749		
<i>c. Capitol Complex Rent (Restricted)</i>						
5,970	0	0	0	6,080	0	0
2,553,651	190,845	1,427	1,427	2,562,744	191,107	1,427
2,978,448	159,773			2,986,229	159,867	
1,868,268	153,449			1,831,476		
<i>a. Legislative Audit (Restricted/Biennial)</i>						
0	186	0	0	0	0	0
1,649,000	0	0	0	1,657,000	0	0
<i>b. Supplemental State Contribution (Restricted/OTO)</i>						
95,825	22,074	0	0	95,882	22,077	0
89,491	20,615			89,544	20,618	
58,365	8,998	0	0	59,435	9,163	0
<i>3. Architecture and Engineering Division (04)</i>						
0	2,159,628	0	0	0	2,169,386	0
	2,046,621				2,055,301	
	2,012,893					
<i>a. Legislative Audit (Restricted/Biennial)</i>						
0	2,661	0	0	0	0	0
<i>b. SITSD Fixed Costs (Restricted)</i>						
0	48,056	0	0	0	48,099	0
	44,879				44,911	
<i>c. Capitol Complex Rent (Restricted)</i>						
0	64,920	0	0	0	65,995	0
430,304	273,710	0	0	431,644	274,155	0
345,060	236,089			346,394	236,534	
298,008	231,873			303,344		
<i>a. Legislative Audit (Restricted/Biennial)</i>						
244	0	0	0	0	0	0
<i>b. FirstNet Planning Grant (Biennial)</i>						
0	0	1,063,950	0	0	0	102,190
		1,063,949				

	Fiscal 2018				Fiscal 2019			
	General Fund	State Special Revenue	Federal Special Revenue	Total	General Fund	State Special Revenue	Federal Special Revenue	Total
c. ISP Contract Restriction Implementation (Restricted/Biennial/OTO)								
7,500	0	0	0	7,500	7,500	0	0	7,500
0				0				0
d. SITSD Fixed Costs (Restricted)								
55,904	33,447	0	0	89,351	55,904	33,447	0	89,351
52,209	31,236			83,445	52,209	31,236		83,445
e. Capitol Complex Rent (Restricted)								
27,150	4,174	0	0	31,324	27,150	4,174	0	31,324
5. Banking and Financial Institutions Division (14)								
0	3,973,678	0	0	3,973,678	0	3,984,236	0	3,984,236
	3,868,106			3,868,106		3,878,622		3,878,622
	3,804,866			3,804,866				
a. Legislative Audit (Restricted/Biennial)								
0	4,933	0	0	4,933	0	0	0	0
b. SITSD Fixed Costs (Restricted)								
0	105,540	0	0	105,540	0	105,614	0	105,614
	98,564			98,564		98,633		98,633
6. Montana State Lottery (15)								
0	0	0	0	0	0	0	0	0
	5,026,915			5,026,915		5,035,556		5,035,556
	4,933,504			4,933,504		4,942,203		4,942,203
	4,861,985			4,861,985		4,936,032		4,936,032
a. Legislative Audit (Restricted/Biennial)								
0	0	0	0	0	0	0	0	0
	125,752			125,752				
b. SITSD Fixed Costs (Restricted)								
0	0	0	0	0	0	0	0	0
	93,353			93,353		93,353		93,353
7. State Human Resources Division (23)								
1,618,528	0	0	0	1,618,528	1,627,061	0	0	1,627,061
1,481,508				1,481,508	1,488,905			1,488,905
1,290,952				1,290,952	1,326,576			1,326,576
a. SITSD Fixed Costs (Restricted)								
71,614	0	0	0	71,614	71,644	0	0	71,644
66,880				66,880	66,908			66,908
b. Capitol Complex Rent (Restricted)								
57,313	0	0	0	57,313	58,377	0	0	58,377
8. Montana Tax Appeal Board (37)								
616,241	0	0	0	616,241	616,190	0	0	616,190
579,797				579,797	579,735			579,735
507,941				507,941	518,273			518,273

	Fiscal 2018			Fiscal 2019		
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue
<i>a. SITSD Fixed Costs (Restricted)</i>						
	33,963	0	0	33,974	0	0
	31,158			31,168		
		Proprietary	Other	Total		
		0	0	33,963		
				31,158		
<b>Total</b>						
	7,352,821	6,605,641	1,078,084	5,208,040	0	20,244,586
	7,308,498	6,605,578	1,078,083	5,207,982		20,200,141
	6,446,152	6,484,247		5,136,463		19,144,945
						6,413,611
						6,603,054
						6618,884
						116,324
						5,000,929
						0
						49,139,999
						49,095,989
						18,219,747

Supplemental State Contribution is contingent on passage and approval of House Bill No. 209. Architecture and Engineering Division includes \$30,000 in state special revenue each year of the biennium that is contingent on the passage and approval of Senate Bill No. 43.

The 30-day working capital reserve used to establish state information technology services division rates for state agencies included in HB 2 is based on personal services of \$15,656,816 in FY 2018 and \$15,698,331 in FY 2019, operating expenses of \$29,896,872 in FY 2018 and \$29,756,014 in FY 2019, equipment and intangible assets of \$370,861 in FY 2018 and \$370,861 in FY 2019, and debt service of \$626,360 in FY 2018 and \$626,360 in FY 2019. State agencies shall report to the state information technology services division which services they wish to purchase as a result of changes in the fixed costs for information technology services. The state information technology services division shall report to the legislative finance committee at its June 2017 meeting on how they implemented the agency requests. Further the state information technology services division shall report any further adjustments to state agency rates for information technology at each subsequent meeting of the legislative finance committee.

ISP Contract Restriction Implementation is contingent on passage and approval of SB 95 containing a provision prohibiting a telecommunications or internet service provider from collecting a customer's personal information without the customer's consent.

It is the intent of the legislature to consider the 2021 biennium budget for the banking and financial institutions division in the department of administration from zero to the full recommended budget. The banking and financial institutions division shall explain the necessity of personal services, operating expenses, and state special revenues supporting the expenditures, including the base budget for the budget submission for the 2021 biennium budget.

DEPARTMENT OF COMMERCE (65010)

1. Office of Tourism and Business Development (51)

1,958,970	1,894,544	798,583	0	4,652,007	1,891,919	798,589	0	0	4,652,659
1,920,093	2,089,281	790,866		4,800,240	1,923,734	790,846			4,801,371
1,889,632	2,087,489	787,282		4,764,403					

a. Legislative Audit (Restricted/Biennial)

3,197	40,345	1,151	0	44,693	0	0	0	0	0
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b. SBIR/STTR Program (Restricted/Biennial)

375,000	0	0	0	375,000	375,000	0	0	0	375,000
360,314				360,314	360,314				360,314
180,607				180,607	180,124				180,124

c. Montana Manufacturing Extension Service (Restricted/Biennial)

100,000	0	0	0	100,000	100,000	0	0	0	100,000
0				0	0				0

	Fiscal 2018				Fiscal 2019					
	General Fund	State Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Proprietary	Other	Total
d. Montana Food and Agriculture Development (Restricted)	0	105,000	0	0	105,000	0	105,000	0	0	105,000
e. Primary Business Sector Training (Restricted/OTO)	0	600,000	0	0	600,000	0	600,000	0	0	600,000
f. Indian Country Economic Development - (Restricted/OTO)	0	800,000	0	0	800,000	0	800,000	0	0	800,000
g. Montana Manufacturing Extension Center (Restricted/OTO)	0	200,000	0	0	200,000	0	200,000	0	0	200,000
		100,000			100,000		100,000			100,000
h. Montana State University - Northern Advanced Biofuel Center (Restricted/OTO)	0	200,000	0	0	200,000	0	200,000	0	0	200,000
i. Brownfield Chemical Spills Grant Program (Restricted/Biennial/OTO)	0	5,000	0	0	5,000	0	5,000	0	0	5,000
		0			0		0			0
j. Native Language Preservation - (Restricted/Biennial/OTO)	500,000	0	0	0	500,000	500,000	0	0	0	500,000
	375,000				375,000	375,000				375,000
k. Address Employment Barriers (Restricted)	0	100,000	0	0	100,000	0	100,000	0	0	100,000
l. Tribe Tourism Funding - SB 309 (Restricted)	0	110,000	0	0	110,000	0	120,000	0	0	120,000
m. SITSD Fixed Costs (Restricted)	38,467	5,128	7,683	0	51,288	38,467	5,128	7,683	0	51,288
	35,924	4,789	7,184	0	47,897	35,924	4,789	7,184	0	47,897
2. Community Development Division (60)	829,653	926,451	16,441,691	0	18,197,735	830,119	930,211	16,443,150	0	18,203,480
	809,763	909,952	16,491,358	0	18,197,083	810,397	913,878	16,432,933	0	18,157,208
	712,160	882,558	16,399,738	0	17,994,456	727,638			0	18,074,449
a. Legislative Audit (Restricted/Biennial)	3,131	2,582	7,019	0	12,732	0	0	0	0	0
b. Coal Board Grants (Biennial)	0	1,754,336	0	0	1,754,336	0	1,761,868	0	0	1,761,868
c. Coal Board HB 209	0	1,649,000	0	0	1,649,000	0	1,657,000	0	0	1,657,000
d. Hard Rock Mining Reserve (Restricted)	0	100,000	0	0	100,000	0	100,000	0	0	100,000
e. Quality Schools (Restricted/OTO)	0	100,000	0	0	100,000	0	100,000	0	0	100,000
		0			0		0			0
		0			0		0			0

	Fiscal 2018			Fiscal 2019		
	General Fund	State Special Revenue	Total	General Fund	Fiscal State Special Revenue	Total
<i>f. SITSD Fixed Costs (Restricted)</i>						
	15,570	16,333	42,129	15,571	16,333	42,121
	14,541	15,254	33,336	14,542	15,254	33,337
3. Housing Division (74)	0	75,000	433,921	0	75,000	433,921
4. Board of Horseracing (78)	0	196,771	196,771	0	196,768	196,768
		196,748	196,748		196,746	196,746
<i>a. SITSD Fixed Costs (Restricted)</i>						
	0	22	22	0	22	22
		21	21		21	21
5. Director's Office (81)	0	500,000	500,000	0	500,000	500,000
<b>Total</b>	3,769,951	8,649,029	30,526,285	3,767,320	8,622,766	30,490,696
	3,625,535	8,958,737	30,691,497	3,623,483	8,942,766	30,666,359
	3,214,192	8,823,122	30,108,150	3,256,962	8,836,347	30,192,734
Coal Board HB 209 is contingent on the passage and approval of House Bill No. 209						
If SB 307 is passed and approved and neither SB 367 nor HB 645 are passed and approved with funds for quality schools facility program grants, Quality Schools is void.						
<i>As provided in section 15, Chapter 416, Laws of 2017, the state special revenue fund appropriations for Office of Tourism and Business Development was increased by \$100,000 in the fiscal year beginning July 1, 2017, and \$100,000 in the fiscal year beginning July 1, 2018. This increase may only be used to provide grants to entities that address employment barriers through coaching and advocacy, develop skills in managing personal finances, or develop a skilled workforce within the community.</i>						
<i>As provided in section 17, Chapter 416, Laws of 2017, the state special revenue appropriation for Office of Tourism and Business Development was increased by \$110,000 in the year beginning July 1, 2017, and \$120,000 in the year beginning July 1, 2018. This funding is restricted to the state-tribal economic development commission for the purposes of Chapter 405, Laws of 2017.</i>						
<i>As provided in section 28(1), Chapter 429, Laws of 2017, department of commerce general fund appropriation for Native Language Preservation was reduced by \$125,000 in fiscal year 2018 and by \$125,000 in fiscal year 2019.</i>						
DEPARTMENT OF LABOR AND INDUSTRY (66020)						
1. Workforce Services Division (01)						
	0	11,185,700	17,367,340	0	11,188,764	17,449,248
		10,683,090	27,096,924		10,686,195	27,166,269
		10,434,148	26,616,302			
a. HELP Act Workforce Development (Restricted)	0	884,134	884,134	0	884,101	884,101
b. SITSD Fixed Costs (Restricted)	0	443,170	1,363,127	0	441,894	1,360,340
		413,877	1,216,991		412,685	1,214,388

	Fiscal 2018				Fiscal 2019					
	General Fund	State Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Proprietary	Other	Total
<i>c. Capital Complex Rent (Restricted)</i>										
0	59,440	79,388	0	0	138,828	0	60,675	80,728	0	141,403
2. Unemployment Insurance Division (02)										
0	5,066,301	10,529,488	0	0	15,595,789	0	5,092,816	10,549,049	0	15,641,865
	4,582,065	9,891,877			14,473,942		4,606,031	9,900,949		14,506,980
	4,518,924	9,647,810			14,166,734					
<i>a. SITSD Fixed Costs (Restricted)</i>										
0	345,695	621,226	0	0	966,921	0	345,695	621,226	0	966,921
	322,845	580,163			903,008		322,845	580,163		903,008
<i>b. Capital Complex Rent (Restricted)</i>										
0	138,521	26,385	0	0	164,906	0	141,090	26,874	0	167,964
3. Commissioner's Office/Centralized Services Division (03)										
288,568	356,761	462,183	0	0	1,107,512	288,698	356,926	463,828	0	1,109,452
265,527	349,979	423,991			1,039,497	265,606	350,068	425,203		1,040,877
232,261	346,374	413,177			991,812	236,822				1,012,093
<i>a. SITSD Fixed Costs (Restricted)</i>										
7,053	2,730	14,780	0	0	24,563	7,053	2,730	14,780	0	24,563
6,587	2,550	13,802			22,939	6,587	2,550	13,802		22,939
<i>b. Capital Complex Rent (Restricted)</i>										
14,329	4,052	23,412	0	0	41,793	14,595	4,128	23,845	0	42,568
4. Employment Relations Division (04)										
1,360,379	11,706,183	912,973	0	0	13,979,535	1,362,447	11,729,021	915,249	0	14,006,717
1,314,008	11,345,837	907,613			13,567,458	1,317,010	11,397,996	908,384		13,623,390
1,154,460	11,139,927	903,724			13,198,111	1,181,099				13,487,479
<i>a. SITSD Fixed Costs (Restricted)</i>										
38,625	329,754	5,360	0	0	373,739	38,625	331,025	6,865	0	376,515
36,072	307,957	5,006			349,035	36,072	309,144	6,411		351,627
5. Business Standards Division (05)										
0	16,991,348	383	0	0	16,991,731	0	17,038,124	383	0	17,038,507
	16,591,245				16,591,628		16,638,021			16,638,404
	16,308,771				16,309,154					
<i>a. SITSD Fixed Costs (Restricted)</i>										
0	400,103	0	0	0	400,103	0	400,103	0	0	400,103
	373,654				373,654		373,654			373,654
6. Montana Community Services (07)										
147,345	12,388	3,688,683	0	0	3,848,416	148,200	12,388	3,691,067	0	3,851,675
137,860		3,666,970			3,804,830	138,688		3,669,087		3,820,163
114,767		3,652,309			3,767,076	123,845		3,654,244		3,790,477

	Fiscal 2018			Fiscal 2019		
	General Fund	State Special Revenue	Total	General Fund	State Special Revenue	Total
<i>a. SITSD Fixed Costs (Restricted)</i>						
	1,953	6,228	8,181	1,953	6,228	8,181
	1,824	5,816	7,640	1,824	5,816	7,640
<i>b. Capitol Complex Rent (Restricted)</i>						
	6,694	15,485	22,179	6,818	15,772	22,590
7. Workers' Compensation Court (09)						
	0	0	0	0	0	0
	747,740	733,537	1,481,277	751,462	737,259	1,488,721
	718,781		718,781			
<i>a. SITSD Fixed Costs (Restricted)</i>						
	0	0	0	0	0	0
	14,203		14,203	14,203		14,203
	13,264		13,264	13,264		13,264
<b>Total</b>						
	1,796,292	32,961,050	34,757,342	1,799,345	33,088,844	34,888,189
	1,786,049	32,946,889	34,732,938	1,790,348	32,924,351	34,714,700
	1,566,994	32,352,128	33,919,122	1,607,662	32,924,351	34,531,973

HELP Act Workforce Development is restricted to workforce activities as passed in the Health and Economic Livelihood Partnership (HELP) Act by the 2015 legislature.

DEPARTMENT OF MILITARY AFFAIRS (67010)						
1. Director's Office (01)						
General Fund	State Special Revenue	Proprietary	Other	Total	Federal Special Revenue	Total
742,497	0	0	0	742,497	0	742,497
722,323	492,472	0	0	1,214,795	492,738	1,707,533
632,335	492,387	0	0	1,124,722	0	1,124,722
	482,774	0	0	965,548	0	965,548
	0	0	0	0	0	0
	0	0	0	0	0	0
18,450	0	0	0	18,450	0	18,450
17,230	0	0	0	17,230	0	17,230
2. Challenge Program (02)						
1,118,729	3,316,041	0	0	4,434,770	3,322,855	7,757,625
1,406,754	3,299,566	0	0	4,706,320	3,308,111	8,014,431
1,079,877	3,218,935	0	0	4,298,812	0	4,298,812
a. Legislative Audit (Restricted/Biennial)						
2,830	8,491	0	0	11,321	0	11,321
b. SITSD Fixed Costs (Restricted)						
4,914	14,744	0	0	19,658	14,744	34,402
4,589	13,770	0	0	18,359	13,770	32,129



	Fiscal 2018				Fiscal 2019					
	General Fund	State Special Revenue	Proprietary	Other	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
3. National Guard Scholarship Program (03) (Biennial)	0	0	0	0	209,409	0	0	0	0	209,409
	<del>209,409</del>	<del>207,362</del>			<del>207,362</del>					<del>207,362</del>
					186,626					186,626
4. Starbase Program (04)	0	0	0	0	0	0	0	0	0	0
		342,378			342,378		343,363			343,363
		<del>340,196</del>			<del>340,196</del>		<del>341,229</del>			<del>341,229</del>
		335,980			335,980					
a. Legislative Audit (Restricted/Biennial)	0	755	0	0	755	0	0	0	0	0
b. SITSD Fixed Costs (Restricted)	0	0	0	0	0	0	0	0	0	0
		<del>2,134</del>			<del>2,134</del>		<del>2,134</del>			<del>2,134</del>
		1,993			1,993		1,993			1,993
5. Army National Guard Program (12)	420	16,979,526	0	0	1,709,281	420	17,025,816	0	0	18,735,517
	<del>424,466</del>	<del>16,975,089</del>			<del>1,697,918</del>		<del>17,023,365</del>			<del>18,729,703</del>
	<del>421,889</del>	16,607,992			1,528,012		16,740,188			18,268,620
	374,259									
a. Legislative Audit (Restricted/Biennial)	13,208	27,548	0	0	40,756	0	0	0	0	0
b. SITSD Fixed Costs (Restricted)	877	2,451	0	0	3,328	0	2,451	0	0	3,268
	763	2,289			763		2,289			3,052
6. Air National Guard Program (13)	0	4,875,997	0	0	427,292	0	4,896,288	0	0	5,323,580
		<del>4,868,586</del>			<del>424,812</del>		<del>4,895,254</del>			<del>5,320,066</del>
		4,671,056			382,236		4,767,526			5,149,762
a. Legislative Audit (Restricted/Biennial)	943	3,585	0	0	4,528	0	0	0	0	0
b. SITSD Fixed Costs (Restricted)	344	1,034	0	0	1,378	0	1,034	0	0	1,378
	321	966			321		966			1,287
7. Disaster and Emergency Services (21)	56,659	15,898,344	0	0	1,167,737	56,659	15,841,659	0	0	17,066,055
	<del>1,145,877</del>	<del>15,823,055</del>			<del>1,148,916</del>		<del>15,826,678</del>			<del>17,032,253</del>
	1,066,294	15,743,472			1,106,711		15,784,473			16,947,843
a. Legislative Audit (Restricted/Biennial)	4,906	6,415	0	0	11,321	0	0	0	0	0
b. SITSD Fixed Costs (Restricted)	4,982	4,981	0	0	14,982	0	4,981	0	0	20,963

	Fiscal 2018			Fiscal 2019		
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue
	13,991	13,991	13,991	13,991	13,991	13,991
8. Veterans' Affairs Program (31)	1,182,718	707,348	0	1,184,621	709,532	0
	1,163,861			1,165,845		
	1,018,484	679,944		1,047,678		
a. Legislative Audit (Restricted/Biennial)	3,019	0	0	0	0	0
b. State Special Veterans' Affairs Funding (OTO)	0	50,000	0	0	50,000	0
c. Veterans' Outreach Services (Biennial/OTO)	0	100,000	0	0	0	0
d. SITSD Fixed Costs (Restricted)	12,853	0	0	12,853	0	0
	12,003			12,003		
Total	6,554,489	914,427	41,891,552	6,564,472	816,611	41,922,719
	6,520,871		41,891,017	6,531,659		49,270,989
5,935,831	887,023	41,140,012	47,962,866	6,060,025	41,467,274	48,343,910
If HB 641 fails to be passed and approved, general funds of \$50,011 in FY 2018 and \$50,043 in FY 2019 from the Veterans' Affairs Program will be allocated to personal services for 1.00 FTE for a veterans service officer in the veterans affairs division.						
<b>TOTAL SECTION A</b>						
99,165,116	76,551,523	94,300,975	8,535,534	93,239,105	76,539,703	93,442,097
92,294,003	76,825,516	94,276,172	8,533,993	92,452,457	76,850,703	271,172,407
85,615,470	75,356,910	92,903,410	8,396,407	88,430,830	76,562,102	92,870,367
						8,427,150
						271,639,055
						271,172,407
						266,279,343

	Fiscal 2018			Fiscal 2019		
	General Fund	State Special Revenue	Total	General Fund	State Special Revenue	Total
<b>B. DEPARTMENT OF HEALTH AND HUMAN SERVICES</b>						
<b>DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES (69010)</b>						
<b>1. Disability Employment and Transitions (01)</b>						
5,997,464	949,009	22,642,795	0	29,589,268	6,002,648	29,622,718
5,529,649	940,063	21,644,050		28,113,762	5,572,639	28,393,124
<b>2. Human and Community Services Division (02)</b>						
33,087,994	2,579,094	291,270,947	0	326,937,915	33,049,762	326,938,637
36,087,994				329,937,915	36,049,762	329,938,637
32,327,739	2,503,033	290,009,178		324,840,010	32,224,479	324,952,171
<b>3. Child and Family Services Division (03)</b>						
42,316,476	1,897,614	30,992,388	0	75,206,478	42,359,893	75,272,101
40,284,207		30,729,781		72,911,602	40,274,653	73,154,801
<b>a. Foster Care Stipend (Restricted)</b>						
0	0	430,400	0	430,400	0	430,400
<b>b. Foster care, Adoption, Guardianship Caseload (Restricted/OTO)</b>						
5,107,630	0	2,629,552	0	7,737,182	5,082,921	8,905,431
<b>4. Director's Office (04)</b>						
2,785,092	673,983	3,494,501	0	6,893,576	2,790,333	6,906,362
2,449,443	651,562	3,270,643		6,371,648	2,500,624	6,477,163
<b>a. Suicide Prevention (Restricted/Biennial)</b>						
0	500,000	0	0	500,000	0	500,000
	0			0	0	0
<b>b. Tracking Operational and Performance Program Measures (Biennial/OTO)</b>						
100,000	0	100,000	0	200,000	100,000	200,000
<b>5. Child Support Enforcement Division (05)</b>						
3,592,639	396,743	8,613,849	0	12,603,231	3,604,866	12,639,390
3,325,739		8,156,269		11,873,811	3,432,698	12,176,174
<b>6. Business and Financial Services Division (06)</b>						
3,869,631	567,521	5,656,794	0	10,033,946	3,862,177	9,974,716
3,488,107	427,223	4,745,232		8,360,562	3,476,744	8,274,708
3,411,887	120,288	4,683,103		8,215,278	3,456,941	8,230,608
<b>a. Legislative Audit (Restricted/Biennial)</b>						
167,083	13,927	211,454	0	392,464	0	392,464
<b>b. Capitol Complex Rent (Restricted)</b>						
381,524	380,298	911,562	0	1,673,384	385,436	1,700,008
<b>7. Public Health and Safety Division (07)</b>						
3,898,715	16,871,816	42,182,526	0	62,953,057	3,900,566	63,010,601
3,791,311	16,755,391	41,953,723		62,500,425	3,843,494	62,953,529

	Fiscal 2018			Fiscal 2019		
	General Fund	State Special Revenue	Total	General Fund	State Special Revenue	Total
8. Quality Assurance Division (08)						
	2,496,859	388,706	9,380,220	2,503,228	389,319	6,512,047
	2,433,607	379,727	9,182,068			
9. Technology Services Division (09)						
	12,481,891	1,492,596	32,425,371	12,461,573	1,490,221	17,574,829
	6,379,815	400,892	18,400,846	6,921,133	525,116	11,471,769
	5,272,123	242,310	16,242,831	5,778,639	363,397	10,436,896
a. SITSD Fixed Costs (Restricted)						
	6,102,076	1,091,704	14,024,525	5,540,440	965,105	6,103,060
	5,698,729	1,019,542	13,097,504	5,174,217	901,312	5,699,647
10. Developmental Services Division (10)						
	76,614,646	6,633,290	288,186,472	79,662,794	6,633,290	207,922,711
	74,230,986		285,802,812	77,274,772		297,830,773
	71,762,594	6,560,891	280,731,879	72,675,528	6,488,492	201,385,685
a. Youth Crisis Diversion (OTO)						
	600,000	0	600,000	600,000	0	600,000
b. Montana Developmental Center (Restricted)						
	12,652,089	0	12,652,089	12,686,322	0	12,686,322
11. Health Resources Division (11)						
	159,437,397	72,073,696	824,472,848	167,450,582	71,733,315	640,074,041
	156,632,375		739,294,595	164,563,543		545,517,809
	151,359,822	72,066,976	724,154,908	154,464,735		526,574,069
a. Medicaid Caseload Contingency (Restricted)						
	5,300,000	0	5,300,000	3,300,000	0	3,300,000
12. Medicaid and Health Services Management (12)						
	2,231,977	148,869	18,815,194	2,332,538	149,012	16,334,921
	2,095,111	148,140	17,873,970	2,099,221		15,634,970
13. Management and Fair Hearings Division (16)						
	857,469	60,028	2,176,056	859,492	60,170	1,261,644
	759,425	54,005	1,925,746	773,294	54,884	1,133,271
14. Senior and Long-Term Care Division (22)						
	74,698,662	32,183,387	302,170,188	76,564,947	32,225,325	198,930,210
	73,174,369		300,645,955	75,070,958		306,226,493
	71,635,312	31,938,953	295,902,051	71,697,211		193,323,477
15. Addictive and Mental Disorders Division (33)						
	75,949,820	19,108,208	147,811,585	76,657,701	19,095,736	54,589,016
	74,596,018		146,457,783	75,302,589		148,987,341
	70,635,667	18,949,756	140,224,267	71,163,598	18,999,175	49,979,711

	Fiscal 2018				Fiscal 2019			
	General Fund	State Special Revenue	Federal Special Revenue	Total	General Fund	State Special Revenue	Federal Special Revenue	Total
Total	524,243,354	156,478,457	1,496,545,729	2,177,267,540	535,732,343	156,159,404	1,552,363,503	2,244,255,250
	519,276,637	155,978,457	1,414,272,498	2,089,527,592	530,708,181	155,659,404	1,457,907,271	2,144,274,856
	497,080,811	155,019,219	1,391,052,249	2,043,152,279	499,789,988	155,101,876	1,417,581,592	2,072,473,456

**TOTAL SECTION B**

524,243,354	156,478,457	1,496,545,729	2,177,267,540	535,732,343	156,159,404	1,552,363,503	2,244,255,250
519,276,637	155,978,457	1,414,272,498	2,089,527,592	530,708,181	155,659,404	1,457,907,271	2,144,274,856
497,080,811	155,019,219	1,391,052,249	2,043,152,279	499,789,988	155,101,876	1,417,581,592	2,072,473,456

The Disability Employment and Transitions Division is appropriated \$775,000 of state special revenue from the Montana Telecommunications Access Program (MTAP) during each year of the 2019 biennium to cover a contingent FCC mandate, which would require states to provide both video and internet protocol relay services for people with severe hearing, mobility or speech impairments.

The Montana Developmental Center restricted line item appropriation is restricted to expenditures for the Montana Developmental Center or according to the requirements in **HB-639 as provided in section 2, Chapter 364, Laws of 2017.**

Senior and Long Term Care - County Nursing Home Intergovernmental Transfer (IGT) may be used only to make one-time payments to nursing homes based on the number of Medicaid services provided. State special revenue in County Nursing Home IGT may be expended only after the office of budget and program planning has certified that the department has collected the amount that is necessary to make one-time payments to nursing homes based on the number of Medicaid services provided and to fund the base budget in the nursing facility program and the community services program at the level of \$564,785 from the counties participating in the intergovernmental transfer program for the nursing facilities.

Medicaid Caseload Contingency is contingent upon the passage of **HB-639 containing restrictions related to Medicaid expenditures and caseloads restricted as provided in section 1, Chapter 364, Laws of 2017.**

The department is appropriated an additional \$450,000 of state special revenue authority each year of the biennium contingent upon the recovery of an amount greater than \$450,000 each year as a result of audits identifying fraud, waste, and abuse and documented recovery of those funds.

As provided in section 21, Chapter 429, Laws of 2017, the department of public health and human services general fund appropriation reduction of \$3,500,000 in fiscal year 2018 and \$3,500,000 in fiscal year 2019 must be used to reduce Medicaid provider rates over the 2019 biennium. For the purpose of this paragraph, the rate reduction must be calculated to provide for percentage based equivalency between all single providers and provider types to ensure that all single provider or provider types are subject to the same reduction percentage.

Tracking Operational and Performance Program Measures is restricted as provided in section 10, Chapter 364, Laws of 2017.

As provided in section 12, Chapter 364, Laws of 2017, the increased appropriations provided in section 11, Chapter 364, Laws of 2017, to the Human and Community Services Division is restricted.

		Fiscal 2018			Fiscal 2019						
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
C. NATURAL RESOURCES AND TRANSPORTATION											
DEPARTMENT OF FISH, WILDLIFE, AND PARKS (52010)											
1. Fisheries Division (03)											
0	8,664,525	10,664,197	0	0	19,328,722	0	8,696,351	10,711,432	0	0	19,407,783
	8,656,696	10,654,479			19,311,685						
	8,483,598	10,441,723			18,925,321						
a. Data Management (OTO)											
0	30,000	0	0	0	30,000	0	30,000	0	0	0	30,000
b. Aquatic Invasive Species Reponse (Restricted/OTO)											
0	2,965,783	2,965,783	0	0	5,931,566	0	2,782,758	2,782,758	0	0	5,565,516
c. Drought Management Planning (Restricted/OTO)											
0	150,000	0	0	0	150,000	0	150,000	0	0	0	150,000
2. Law Enforcement Division (04)											
0	9,264,140	2,420,543	0	0	11,684,683	0	9,298,188	2,428,157	0	0	11,726,345
	9,254,542	2,419,954			11,674,496						
	8,781,214	2,328,338			11,109,552						
3. Wildlife Division (05)											
0	14,473,862	8,623,773	0	0	23,097,625	0	14,495,778	8,646,841	0	0	23,142,619
	14,467,555	8,616,499			23,084,054						
	14,330,683	8,477,223			22,807,906						
a. Wolf Management (OTO)											
0	471,218	0	0	0	471,218	0	471,575	0	0	0	471,575
b. Bison Containment (OTO)											
0	54,130	0	0	0	54,130	0	54,047	0	0	0	54,047
c. Grizzly Bear Management (OTO)											
0	87,003	261,010	0	0	348,013	0	86,831	260,494	0	0	347,325
4. Parks Division (06)											
0	8,017,183	171,219	0	0	8,188,402	0	8,039,783	171,983	0	0	8,211,766
	8,010,691	170,917			8,181,548						
	7,846,691	166,217			8,012,908						
a. Snowmobile Equipment (Biennial)											
0	210,000	0	0	0	210,000	0	210,000	0	0	0	210,000
5. Communication and Education Division (08)											
0	2,990,116	956,883	0	0	3,946,999	0	2,989,368	958,832	0	0	3,958,200
	2,989,291	956,697			3,945,928						
	2,943,960	947,160			3,891,120						
6. Administration Division(09)											
0	13,215,267	319,967	0	0	13,535,234	0	13,254,721	317,166	0	0	13,571,887

	Fiscal 2018			Fiscal 2019			Total
	General Fund	State Special Revenue	Proprietary	Other	General Fund	State Special Revenue	
	4,385,125	319,911			4,705,036	11,421,296	11,738,462
	11,238,439	316,929			11,555,368		
a. Legislative Audit (Restricted/Biennial)	0	105,663	0	0	105,663	0	0
b. Capitol Complex Rent (Restricted)	0	367,370	0	0	367,370	0	374,127
c. SITSD Fixed Cost (Restricted)	0	1,459,298	0	0	1,459,298	0	1,459,298
		1,362,838			1,362,838		1,362,838
7. Department Management(12)	0	7,793,696	0	0	8,096,662	243,427	8,058,425
		7,790,102			8,093,049		
		7,634,518			7,874,949		
<b>Total</b>	0	68,492,516	0	0	95,118,917	68,384,398	94,905,488
		68,454,257			95,062,454		
		67,063,108			93,207,922	68,287,938	94,809,028

If federal funds are received by the department for Aquatic Invasive Species Response in excess of the federal special revenue in the Aquatic Invasive Species Response appropriation, the state special revenue appropriation for Aquatic Invasive Species Response must be reduced and federal special revenue increased by the amount of federal funds received.

It is the intent of the legislature to consider the 2021 biennium budget for the Parks and Communication and Education Divisions from zero to the full recommended budget. The department shall explain the necessity of each reporting level (RL4) of the budget, including the base budget for the budget submission for the 2021 biennium budget. As a part of this process, the department shall submit a separate request each functional and geographic unit of the Parks Division, including each state park.

It is the intent of the legislature that the federal funds (Pittman-Robertson/Dingell-Johnson) in the Law Enforcement Division are used for non-law enforcement activities by wardens as defined by 50 CFR 80.50 and 50 CFR 80.51. These activities include, but are not limited to: fish and wildlife surveys/inventories, research and relations with landowners and other individuals regarding the status of fish and wildlife, research into fish and wildlife problems, and education on hunting and fishing. The department is appropriated \$1 million dollars from the state parks miscellaneous state special revenue account each year of the biennium for maintenance and repair work on Virginia and Nevada City. The Montana heritage commission shall direct the use of this appropriation.

The Drought Management Planning appropriation must be used statewide without concentrating on a single region or drainage. As provided in section 7(1), Chapter 416, Laws of 2017, if sufficient federal funds are not received by the department for aquatic invasive species response, then the state special revenue appropriation for aquatic invasive species response may be increased and the federal special revenue decreased by like amounts.

DEPARTMENT OF ENVIRONMENTAL QUALITY (53010)

1. Central Management Program (10)	255,326	1,198,990	0	0	254,727	1,198,990	1,827,871
	216,719	1,190,912	0	0	216,336	1,191,271	1,775,781
	197,741					368,174	

	Fiscal 2018			Fiscal 2019		
	General Fund	State Special Revenue	Total	General Fund	State Special Revenue	Total
a. Hard Rock Reclamation/MFSA Projects (Restricted/Biennial)						
0	750,000	0	750,000	750,000	0	750,000
b. SITS D Fixed Cost (Restricted)						
38,391	7,719	5,980	52,090	38,391	5,980	52,090
35,853	7,207	5,585	48,645	35,853	5,585	48,645
2. Water Quality Division (20)						
2,511,947	6,280,248	7,588,707	16,380,902	2,518,642	7,604,859	16,424,142
2,451,644	6,154,656	7,489,480	16,095,780	2,459,629	7,509,414	16,147,527
2,297,197	6,033,656	7,387,108	15,717,961	2,344,014		16,031,912
a. SITS D Fixed Cost (Restricted)						
32,913	122,157	95,445	250,515	32,913	95,445	250,515
30,737	114,083	89,136	233,956	30,737	89,136	233,956
3. Enforcement Division (30)						
523,098	481,169	372,754	1,377,021	524,685	373,829	1,381,065
522,736	480,880	372,517	1,376,133			
391,983	471,497	365,249	1,228,729	403,685		1,260,065
4. Waste Management and Remediation Division (40)						
332,942	9,453,874	10,484,224	20,271,040	332,942	10,515,702	20,289,910
332,764	9,320,589	10,387,860	20,041,213	9,311,307	10,421,756	20,066,005
262,764	9,125,177	10,262,856	19,650,797	262,942		19,996,005
a. Natural Resource Damage Program						
0	1,000,000	0	1,000,000	0	0	1,000,000
b. SITS D Fixed Cost (Restricted)						
0	129,959	98,946	223,905	0	98,946	223,905
	121,369	87,737	209,106	121,369	87,737	209,106
5. Air Energy & Mining Division (50)						
1,588,810	14,179,411	4,073,163	19,841,374	1,589,044	4,084,869	19,879,047
1,561,821	14,057,524	3,977,031	19,596,376	1,562,840	3,990,791	19,640,913
1,325,377	13,923,807	3,907,636	19,156,820	1,348,839		19,426,912
a. Hard Rock Reclamation/MFSA Projects (Restricted/Biennial)						
0	1,568,679	0	1,568,679	0	0	2,300,000
b. Mitigated Retirement of Coal-Fired Generating Units (Restricted/OTO)						
90,000	0	0	90,000	0	0	0
0			0			
c. SITS D Fixed Cost (Restricted)						
26,204	117,852	94,078	238,134	26,204	94,078	238,134
24,472	110,061	87,861	222,394	24,472	87,861	222,394
6. Petroleum Tank Release Compensation Board (90)						
0	601,008	0	601,008	0	0	601,818



	Fiscal 2018			Fiscal 2019			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
	591,741	579,093	591,741	591,741	592,818	592,818	592,818
<i>a. SITSID Fixed Cost (Restricted)</i>							
	9,000	0	0	0	9,000	0	9,000
	8,405			8,405	8,405		8,405
<b>Total</b>	5,902,123	35,513,379	22,892,992	63,708,494	36,280,400	22,953,413	64,453,853
	5,183,186	35,501,668	22,884,317	63,563,171	5,193,940		64,427,753
	4,566,124	35,003,946	22,561,148	62,131,218	4,666,878	22,934,283	63,855,999
The department is appropriated up to \$1,000,000 of the funds recovered under the petroleum tank compensation board subrogation program in the 2019 biennium for the purpose of paying contract expenses related to the recovery of funds.							
The Water Quality Division is authorized to decrease federal special revenue and increase state special revenue in the drinking water and/or water pollution control revolving loan programs by a like amount within the 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.							
If the carpenter/snow creek site is approved for federal superfund funding by the environmental protection agency, the department is appropriated \$2.2 million in state special revenue from the CERCLA Bond Proceeds Account.							
Mitigated Retirement of Coal-Fired Generating Units is contingent on passage and approval of Senate Bill No. 338.							
If a company, the governor, and the attorney general enter into a transition agreement as specified in Senate Bill No. 338, the Mitigated Retirement of Coal-Fired Generating Units appropriation is void.							
If the department receives local, private, or federal funds for the Mitigated Retirement of Coal-Fired Generating Units, general fund appropriations must be reduced by the amount of the funds received. In the case of local or private funds, the department may increase state special revenue authority by the amount received.							
During the 2019 biennium, the department is appropriated \$2.2 million of state special authority. This authority may be used only if revenue collected by the department for a single permit exceeds \$250,000 or revenue collected by the department for permits issued pursuant to the same permitting authority exceeds \$250,000 within a single 6-month period. The amount of authority to be used is the same as the amount collected.							
<b>DEPARTMENT OF TRANSPORTATION (54010)</b>							
<b>1. General Operations Program (01) (Biennial)</b>							
	30,294,890	1,525,468	0	31,820,298	30,337,709	1,528,454	31,866,163
	25,168,097			26,693,565	25,234,703		26,763,157
	24,870,622	1,510,898		26,381,520			
<b>a. Legislative Audit (Restricted/Biennial)</b>							
	184,911	0	0	184,911	0	0	0
<b>b. SITSID Fixed Cost (Restricted)</b>							
	5,126,793	0	0	5,126,793	5,103,006	0	5,103,006
	4,787,912			4,787,912	4,765,697		4,765,697
<b>2. Construction Program (02) (Biennial)</b>							
	52,953,429	263,402,057	0	316,355,486	60,635,584	314,333,176	374,968,760
	52,785,029	263,401,053		316,186,055	60,534,718	314,332,152	374,866,870
	52,135,379	262,341,088		314,476,467			

	Fiscal 2018			Fiscal 2019			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
a. Highway Construction Contractor Payments (Restricted)	0	18,210,000	121,880,000	0	10,630,000	71,160,000	81,790,000
b. SITSD Fixed Cost (Restricted)	0	100,866	1,024	0	100,866	1,024	101,890
		94,139	956		94,139	956	95,155
3. Maintenance Program (03) (Biennial)	0	125,189,508	8,001,722	0	126,102,179	8,138,568	134,240,747
		124,864,906			126,078,989		134,217,557
		123,479,236	8,090,920		126,028,989		134,167,557
a. State-Funded Construction (Restricted)	0	1,500,000	0	0	1,500,000	0	1,500,000
b. SITSD Fixed Cost (Restricted)	0	23,199	0	0	23,199	0	23,199
		21,657			21,657		21,657
4. Motor Carrier Services Division (22) (Biennial)	0	9,113,631	2,859,410	0	9,139,808	2,867,757	12,007,565
		9,090,454	2,858,062		9,125,003	2,866,409	11,991,412
		8,911,999	2,804,637				
a. SITSD Fixed Cost (Restricted)	0	14,805	1,348	0	14,805	1,348	16,153
		13,827	1,259		13,827	1,259	15,086
5. Aeronautics Program (40) (Biennial)	0	1,851,815	1,193,879	0	1,818,302	194,902	2,013,204
		1,847,075			1,814,663		2,009,565
		1,832,385	1,193,813				
a. SITSD Fixed Cost (Restricted)	0	3,639	0	0	3,639	0	3,639
		3,398			3,398		3,398
6. Rail, Transit, and Planning Division (50) (Biennial)	0	10,282,489	25,580,524	0	8,299,684	25,597,824	33,897,508
		10,244,653			8,268,563		33,866,387
		10,163,805	25,465,329				
a. SITSD Fixed Cost (Restricted)	0	31,121	0	0	31,121	0	31,121
		29,064			29,064		29,064
Total	0	249,580,613	424,533,060	0	248,463,266	423,820,681	672,283,947
		249,195,472					
		246,238,394	423,288,900		248,064,481	423,820,524	671,885,005

	Fiscal 2018			Fiscal 2019			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
<p>The appropriation in FY 2018 for the Rail, Transit, and Planning Division budget includes state special revenue of \$2 million for a specific county grants grant. The appropriation of \$2 million is restricted in its use as established by the legislature.</p> <p>The department may adjust appropriations between state special revenue and federal special revenue funds if the total state special revenue authority by program is not increased by more than 10% of the total appropriations established by the legislature.</p> <p>All appropriations in the department are biennial.</p> <p>All remaining federal pass-through grant appropriations for highway traffic safety, including reversions for the 2017 biennium, are authorized to continue and are appropriated in FY 2018 and FY 2019.</p> <p>The department will report the revenue, expenditures, and working capital balance of the restricted highway state special revenue account quarterly to the revenue and transportation interim committee throughout the interim beginning in June, 2017.</p> <p>The department may allocate adjustments to FTE funding across programs to enable the greatest efficiency in providing safe and well constructed and maintained highways and roads.</p>							
<p>DEPARTMENT OF LIVESTOCK (56030)</p>							
<p>1. Centralized Services Program (01)</p>							
92-307	1,747,607	0	0	93,277	1,751,124	0	1,844,401
86-485	1,424,427			87,550	1,425,794		1,513,144
77,300	1,390,699			78,043			1,503,837
<p>a. Legislative Audit (Restricted/Biennial)</p>							
0	41,511			0	0	0	0
<p>b. Deputy Executive Officer (Restricted)</p>							
0	120,000			0	120,000	0	120,000
<p>c. Milk Control Study (Biennial)</p>							
0	100,000			0	0	0	0
<p>d. Capitol Complex Rent (Restricted)</p>							
5,361	159,565	0	0	5,461	162,165	0	167,626
<p>e. SITSD Fixed Cost (Restricted)</p>							
0	463,645	0	0	0	463,665	0	463,665
	152,800				152,350		152,350
<p>2. Animal Health Division (04)</p>							
2,472,332	1,929,574	1,821,945	0	2,476,182	1,946,612	1,836,356	6,259,150
2,459,979				2,463,801			6,246,769
2,165,784	1,877,633	1,701,752		2,216,874		1,744,317	5,907,803
<p>a. Lab Equipment (OTO)</p>							
0	15,000	0	0	0	0	0	0
<p>3. Brands Enforcement Division (06)</p>							
0	3,495,831	0	0	0	3,508,234	0	3,508,234
	3,394,647						

	Fiscal 2018			Fiscal 2019		
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue
Total	7,449,523	1,821,945	11,896,107	2,569,459	7,325,970	11,731,785
	2,551,816		11,829,284	2,556,612		11,718,988
	2,248,445	1,701,752	11,202,052	2,300,378	7,315,155	11,359,850
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION (57060)						
1. Director's Office (21)						
	2,024,321	299,772	5,914,878	3,614,428	2,096,152	5,952,101
	2,216,445	270,075	5,310,999	2,231,031	1,830,348	5,332,424
	2,771,953	1,781,379	4,817,610	2,870,457		4,971,850
a. Legislative Audit (Restricted/Biennial)						
	132,079	0	132,079	0	0	0
b. SITSD Fixed Cost (Restricted)						
	355,736	29,697	585,965	365,226	205,804	601,606
	332,212	187,287	547,233	341,177	192,201	561,840
2. Oil and Gas Conservation Division (22)						
	2,016,796	105,676	2,122,472	0	2,021,355	2,127,031
	1,969,455		2,075,131		1,974,014	2,079,690
a. SITSD Fixed Costs (Restricted)						
	1,911,541	96,134	2,007,675			
	47,341	0	47,341	0	47,341	47,341
	44,212		44,212		44,212	44,212
3. Conservation and Resource Development Division (23)						
	1,616,402	8,353,304	10,244,264	1,619,903	8,390,365	10,284,826
	1,584,523	8,318,472	10,177,553	1,588,006	8,355,533	10,218,097
	1,382,314	8,278,842	9,935,714	1,415,731		10,045,822
a. CARDD Conservation Districts Administration (Restricted/OTO)						
	115,000	0	115,000	115,000	0	115,000
b. Aquatic Invasive Species Response (Restricted/OTO)						
	0	177,821	355,642	0	177,821	355,642
c. Montana Rural Water (OTO)						
	0	180,000	180,000	0	180,000	180,000
d. Speculator Mime Centenary (Restricted/OTO)						
	0	100,000	100,000	0	0	0
e. SITSD Fixed Costs (Restricted)						
	23,222	34,892	58,054	23,222	34,892	58,054
	21,687	32,530	54,217	21,687	32,530	54,217
4. Water Resources Division (24)						
	9,315,941	5,898,219	15,481,410	9,361,962	5,899,355	15,522,278

	Fiscal 2018			Fiscal 2019			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
	8,573,130	5,836,319	265,100	8,613,664	5,831,455	264,811	14,709,930
	7,457,891	5,774,247	263,443	7,699,309			13,795,575
a. Water Resources Operations	0	371,259	0	0	371,259	0	371,259
b. WRD Additional Personal Services Water Right Filing Fees	0	200,000	0	0	200,000	0	200,000
c. Capital Complex Rent (Restricted)	283,395	0	0	288,652	0	0	288,652
d. SITSD Fixed Costs (Restricted)	213,886	61,900	2,150	213,886	61,900	2,150	277,886
	199,701	57,809	2,008	199,701	57,809	2,008	259,518
e. Forestry and Trust Lands Divisions (35)	12,610,988	16,888,618	1,362,801	12,670,541	16,943,291	1,364,449	30,978,281
	12,012,046	16,729,940		12,071,351	16,784,613		30,220,413
	11,693,074	16,294,533	1,355,212	12,055,610			30,204,672
a. Forestry-DNRC USFS Liaison (OTO)	92,000	0	0	92,000	0	0	92,000
b. Fire Tenders (Restricted/Biennial/OTO)	0	250,000	0	0	250,000	0	250,000
c. Restore State Special Revenue (OTO)	0	661,264	0	0	661,264	0	661,264
d. Capital Complex Rent (Restricted)	0	2,820	0	0	2,820	0	2,820
e. SITSD Fixed Costs (Restricted)	535,377	155,858	0	535,377	155,858	0	691,235
	499,987	145,556		499,987	145,556		645,543
Total	27,473,145	37,121,602	2,487,878	27,473,834	37,124,862	2,490,986	67,089,682
	27,136,779			27,137,465			66,753,313
24,981,293	36,451,100	2,461,188	25,599,311	37,091,435	2,488,830		65,179,576

If federal funds are received by the department for Aquatic Invasive Species Response in excess of the federal special revenue in the Aquatic Invasive Species Response appropriation, the state special revenue appropriation for Aquatic Invasive Species Response must be reduced and federal special revenue increased by the amount of federal funds received.

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 administration accounts when the amount of federal EPA CAP grant funds allocated for administration of the grant have 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.

The department is appropriated up to \$600,000 for the 2019 biennium from the loan loss reserve account of the private loan program established in 85-1-603 for the purchase of prior liens on property held as loan security as provided in 85-1-615.



	Fiscal 2018				Fiscal 2019			
	General Fund	State Special Revenue	Federal Special Revenue	Total	General Fund	State Special Revenue	Federal Special Revenue	Total
<i>b. SITS Fixed Costs (Restricted)</i>								
10,277	46,045	23	0	63,272	10,220	46,238	24	63,538
9,598	43,001	21	6,469	59,089	9,638	43,182	22	59,338
Total								
914,862	17,988,090	1,192,700	472,999	19,668,591	868,869	15,136,244	1,200,941	17,678,673
782,043				19,535,772	736,141			17,545,945
679,829	16,814,985	1,164,197	460,948	19,119,959	661,281	15,119,431	1,199,239	17,452,710
TOTAL SECTION C								
36,254,769	415,245,663	479,554,976	472,999	931,528,407	36,132,202	412,715,140	478,822,867	928,143,428
35,653,824	414,810,552	479,528,097		930,463,472	35,624,158			927,635,384
32,475,691	408,823,388	477,321,999	460,948	919,082,026	33,227,848	412,133,278	478,708,283	924,542,108

	Fiscal 2018			Fiscal 2019		
	General Fund	State Special Revenue	Total	General Fund	State Special Revenue	Total
<b>D. CORRECTIONS AND PUBLIC SAFETY</b>						
JUDICIARY (21100)						
1. Supreme Court Operations (01)						
	16,697,092	415,458	17,213,330	16,859,076	415,458	17,375,400
	16,612,998	400,798	17,129,184	16,774,575		17,129,184
	15,832,725	315,458	16,247,390	16,032,892	315,458	16,449,216
a. Legislative Audit (Restricted/Biennial)	49,058	0	49,058	0	0	0
b. Judicial Standards (Restricted/Biennial)	18,000	0	18,000	0	0	0
c. Information Technology Staff (Restricted/OTO)	120,437	0	120,437	120,586	0	120,586
	120,421	0	120,421			
d. Child Abuse Court Diversion Project (OTO)	44,481	0	44,481	44,507	0	44,507
	44,258	0	44,258	44,284	0	44,284
e. Sentencing Commission and Senate Bill 59 (Biennial/OTO)	780,000	0	780,000	780,000	0	780,000
	776,085	0	776,085	776,091	0	776,091
2. Law Library (03)	863,245	0	863,245	876,290	0	876,290
	858,898	0	858,898	871,898	0	871,898
	806,052	0	806,052	831,700	0	831,700
3. District Court Operations (04)	86,737	0	86,737	0	86,737	86,737
	86,709	0	86,709			
a. CASA and Guardian Ad Litem (Biennial)	830,000	100,000	930,000	830,000	100,000	930,000
	30,000	0	30,000	30,000	0	30,000
b. District Court Operations (Biennial)	27,544,370	0	27,544,370	28,711,113	0	28,711,113
	27,400,945	0	27,400,945	28,563,050	0	28,563,050
	25,971,021	0	25,971,021	26,936,983	0	26,936,983
4. Water Courts Supervision (05)	966,052	1,364,805	2,330,857	977,124	1,366,725	2,343,849
	961,164	1,364,767	2,325,931	972,226		2,328,957
	920,763	1,339,471	2,260,234	937,907		2,304,632



	Fiscal 2018			Fiscal 2019			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
5. Clerk of Court (06)							
	563,331	0	0	566,146	0	0	566,146
	<del>569,483</del>			<del>563,908</del>			<del>563,908</del>
	545,613			563,194			563,194
<b>Total</b>	<b>48,476,056</b>	<b>1,967,000</b>	<b>100,790</b>	<b>49,764,842</b>	<b>1,968,920</b>	<b>100,866</b>	<b>51,684,628</b>
	<del>48,292,250</del>	<del>1,966,934</del>	<del>100,788</del>	<del>49,516,018</del>			<del>51,585,804</del>
	45,113,996	1,841,638	99,207	46,273,637	1,868,920		48,243,423
<p>If state special revenue fees collected for CASA by court fees is greater than \$100,000 for each year of the 2019 biennium, the state special revenue appropriation for the department is increased by the additional fee revenue and the general fund appropriation is reduced by an equal amount.</p> <p>Funding for the sentencing commission and Senate Bill 59 in the amount of \$780,000 general fund each year of the biennium is contingent upon the passage and approval of Senate Bill No. 59 and House Bill No. 650.</p>							
<p>CRIME CONTROL DIVISION (41070)</p>							
<p>1. Justice System Support Service (01)</p>							
	2,102,571	122,176	12,439,908	2,136,591	122,176	12,440,938	14,699,705
	<del>1,947,279</del>	<del>121,201</del>	<del>12,390,802</del>	<del>1,981,501</del>	<del>121,151</del>	<del>12,390,538</del>	<del>14,493,190</del>
	1,694,501	121,125	12,382,948	1,748,673			14,260,362
<p>a. Sentencing Commission and Senate Bill 65 (Biennial/OTO)</p>							
	200,000	0	0	200,000	0	0	200,000
<p>b. SITSF Fixed Costs (Restricted)</p>							
	71,033	175	24,550	71,633	175	24,550	95,758
	66,338	163	22,927	66,338	163	22,927	89,428
<p>c. Capitol Complex Rent (Restricted)</p>							
	72,571	800	23,900	72,374	850	23,850	99,074
<b>Total</b>	<b>2,902,571</b>	<b>122,176</b>	<b>12,439,908</b>	<b>2,936,591</b>	<b>122,176</b>	<b>12,440,938</b>	<b>14,899,705</b>
	<del>2,900,883</del>		<del>12,439,252</del>	<del>2,924,908</del>			<del>14,888,022</del>
	2,033,410	122,088	12,429,775	2,087,385	122,164	12,439,315	14,648,864

All pass-through grant authority is biennial.

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 2017 biennium, are authorized to continue and are appropriated in fiscal year 2018 and fiscal year 2019.

Funding for the Sentencing Commission and Senate Bill No. 65 in the amount of \$200,000 general fund each year of the biennium is contingent upon the passage and approval of Senate Bill No. 65 and House Bill No. 650.

DEPARTMENT OF JUSTICE (41100)

1. Legal Services Division (01)

6,701,683	1,207,344	732,418	0	0	8,701,455	733,312	9,027,414
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	Fiscal 2018			Fiscal 2019		
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue
	6,452,554	1,220,459	8,465,957	6,770,708	1,224,459	8,728,479
	5,905,434	1,200,002	7,831,651	6,307,530		8,265,301
a. SITSD Fixed Costs (Restricted)						
72,993	35,952	0	468,945	73,046	35,977	409,023
68,168	33,601	0	101,769	68,218	33,599	101,817
b. Capitol Complex Rent (Restricted)						
140,524	10,577	0	151,101	143,962	10,836	154,798
2. Montana Highway Patrol (03)						
0	36,943,191	0	36,943,191	0	37,106,559	37,106,559
	36,384,729	0	36,384,729	0	36,599,109	36,599,109
	35,767,085	0	35,767,085	0		
a. Dedicated Criminal Interdiction Team						
0	1,088,351	0	1,088,351	0	638,046	638,046
b. SITSD Fixed Costs (Restricted)						
0	499,237	0	499,237	0	495,934	495,934
	466,237	0	466,237	0	463,153	463,153
c. Capitol Complex Rent (Restricted)						
0	9,372	0	9,372	0	11,516	11,516
3. Justice Information Technology Services Division (04)						
4,460,614	263,297	2,635	4,741,314	4,592,522	263,297	4,813,222
4,008,344	499,237	0	4,899,044	4,078,347	0	4,359,047
3,643,231	466,237	0	3,923,931	3,779,416	0	4,060,116
a. SITSD Fixed Costs (Restricted)						
271,732	0	0	271,732	272,925	0	272,925
	253,771	0	253,771	254,885	0	254,885
b. Capitol Complex Rent (Restricted)						
156,757	0	0	156,757	158,587	0	158,587
4. Division of Criminal Investigation (05)						
7,421,922	4,548,246	606,797	12,576,365	7,498,809	4,429,903	12,532,323
7,057,917	4,237,210	592,098	11,887,135	7,144,125	4,118,380	11,851,939
6,423,782	4,671,169	581,384	11,676,335	6,645,344	4,617,161	11,851,939
a. SITSD Fixed Costs (Restricted)						
316,292	300,260	10,858	627,320	317,279	301,814	629,817
295,301	280,413	10,140	585,854	296,307	281,864	588,186
b. Capitol Complex Rent (Restricted)						
0	8,340	3,297	11,637	0	9,709	13,072
5. Gambling Control Division (07)						
0	3,157,659	0	4,391,494	0	3,169,024	4,407,396
	3,118,428	0	4,336,314	0	3,133,033	4,356,705
	3,055,568	0	4,247,779	0	3,055,568	4,247,779

	Fiscal 2018				Fiscal 2019					
	General Fund	State Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Other	Total
<i>a. SITSD Fixed Costs (Restricted)</i>										
0	35,968	0	14,691	0	50,659	0	35,991	0	0	50,691
	33,590		13,720		47,310		33,612			47,340
6. Forensic Science Division (08)										
4,839,554	536,371	0	0	0	5,375,925	3,911,933	1,436,371	0	0	5,348,304
4,743,824	535,933				5,279,757	3,827,588				5,263,759
4,297,098	527,417				4,824,515	3,569,193				5,005,564
a. Secure funding for morgue facility (Biennial/OTO)										
800,000	0	0	0	800,000	0	0	0	0	0	0
<i>b. SITSD Fixed Costs (Restricted)</i>										
64,528	0	0	0	64,528	64,528	64,528	0	0	0	64,528
60,263				60,263	60,263	60,689				60,689
7. Motor Vehicle Division (09)										
8,247,490	15,292,770	0	591,259	0	24,041,519	9,191,948	14,436,881	0	591,259	24,220,088
7,940,133	12,762,619				21,294,011	8,879,777	11,980,774			21,451,810
7,171,089	12,633,609				20,395,957	8,241,034				20,813,067
a. 24/7 Testing (Biennial)										
500,000	0	0	0	500,000	500,000	500,000	0	0	0	500,000
b. MVD County IT Efficiencies (Biennial/OTO)										
0	500,000	0	0	500,000	500,000	0	500,000	0	0	500,000
<i>c. SITSD Fixed Costs (Restricted)</i>										
0	2,438,967	0	0	2,438,967	2,438,967	0	2,456,107	0	0	2,456,107
	2,277,751			2,277,751	2,277,751		2,293,758			2,293,758
<i>d. Capitol Complex Rent (Restricted)</i>										
261,899	0	0	0	261,899	261,899	263,712	0	0	0	263,712
8. Central Services Division (10)										
1,111,099	554,563	4,436	31,232	0	1,701,240	1,164,576	515,370	4,436	31,316	1,715,698
1,084,996	554,190		31,210		1,674,882	1,138,881				1,689,953
1,000,280	529,322		30,422		1,564,530	1,066,207				1,617,329
a. Legislative Audit (Restricted/Biennial)										
83,021	0	0	0	83,021	83,021	0	0	0	0	83,021
<i>b. SITSD Fixed Costs (Restricted)</i>										
19,898	0	0	0	19,898	19,898	19,922	0	0	0	19,922
18,583				18,583	18,583	18,605				18,605
9. Public Safety Officers Standards and Training (POST) (19)										
419,449	0	0	0	419,449	419,449	426,442	0	0	0	426,442
414,955				414,955	414,955	422,012				422,012
381,035				381,035	381,035	393,896				393,896

		Fiscal 2018			Fiscal 2019						
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
<i>a. SITSD Fixed Costs (Restricted)</i>											
2,294	0	0	0	0	2,294	2,298	0	0	0	0	2,298
2,142					2,142	2,146					2,146
<b>Total</b>											
34,584,152	64,061,792	1,346,286	1,871,094	0	401,863,324	34,249,150	63,766,723	1,343,904	1,875,715	0	401,235,492
34,392,571	64,063,883	1,345,584	1,869,814		401,611,852	34,077,904					401,064,246
31,462,378	63,355,771	1,328,107	1,842,380		97,983,636	31,769,731	64,045,667	1,343,195	1,874,743		99,033,336
Montana Highway Patrol includes funding to hold inmates in county jails. It is the intent of the legislature that the department of justice pay no more than \$69 per day to hold an inmate in any county jail.											
<b>PUBLIC SERVICE COMMISSION (42010)</b>											
1. Public Service Regulation Program (01)											
0	4,165,359	173,336	0	0	4,338,695	0	3,725,406	173,336	0	0	3,898,742
	3,627,872	173,204			3,801,076		3,640,872				3,814,298
	3,283,416				3,456,620		3,392,872				3,566,208
<i>a. Legislative Audit (Restricted/Biennial)</i>											
0	22,642	0	0	0	22,642	0	0	0	0	0	0
<i>b. SITSD Fixed Costs (Restricted)</i>											
0	530,934	0	0	0	530,934	0	84,534	0	0	0	84,534
	495,839				495,839		73,946				73,946
<b>Total</b>											
0	4,188,001	173,336	0	0	4,361,337	0	3,725,406	173,336	0	0	3,898,742
	4,181,448	173,204			4,354,652						
	3,801,897				3,973,101		3,471,818				3,645,154
<b>OFFICE OF STATE PUBLIC DEFENDER (61080)</b>											
1. Office of State Public Defender (01)											
20,993,384	0	0	0	0	20,993,384	20,449,954	0	0	0	0	20,449,954
20,227,889					20,327,889	19,786,148					19,786,148
19,895,749					19,893,749						
<i>a. OPD Contingent Funding (OTO)</i>											
500,000	0	0	0	0	500,000	500,000	0	0	0	0	500,000
<i>b. SITSD Fixed Costs (Restricted)</i>											
558,028	0	0	0	0	558,028	559,056	0	0	0	0	559,056
521,142					521,142	522,102					522,102
2. Office of Appellate Defender (02)											
1,912,484	0	0	0	0	1,912,484	1,915,548	0	0	0	0	1,915,548
1,860,071					1,860,071	1,863,119					1,863,119
1,828,451					1,828,451						

	Fiscal 2018			Fiscal 2019		
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue
a. <i>SITSD Fixed Costs (Restricted)</i>						
42,851	0	0	42,851	42,851	0	42,851
40,019			40,019	40,019		40,019
3. Conflict Coordinator Program (03)						
6,734,272	0	0	6,734,272	6,734,979	0	6,734,979
6,652,511			6,652,511	6,653,622		6,653,622
6,633,539			6,633,539			
a. <i>SITSD Fixed Costs (Restricted)</i>						
34,820	0	0	34,820	34,820	0	34,820
32,518			32,518	32,518		32,518
34. Chief Administrator's Office (04)						
2,570,428	0	0	2,570,428	2,572,426	0	2,572,426
2,471,920			2,471,920	2,473,918		2,473,918
2,433,976			2,433,976			
a. Legislative Audit (Restricted/Biennial)						
58,492	0	0	58,492	0	0	0
b. Replace Agency Vision Net Machines Biennial/OTO						
25,000	0	0	25,000	0	0	0
c. <i>SITSD Fixed Costs (Restricted)</i>						
98,568	0	0	98,568	98,568	0	98,568
91,997			91,997	91,997		91,997
Total						
32,794,060	0	0	32,794,060	32,172,907	0	32,172,907
32,630,090			32,630,090	32,013,042		32,013,042
32,060,883			32,060,883	31,963,443		31,963,443
<p>OPD Contingent Funding in FY 2018 may be expended only after the budget director certifies that the agency has implemented a measurable soft cap system for contract attorneys as well as a system for potential award of flat fee contracts to contract attorneys. The budget director shall notify the legislative finance committee in writing following the certifications of eligibility determination in FY18 and soft cap system in FY19.</p>						
<p>DEPARTMENT OF CORRECTIONS (64010)</p>						
1. Director's Office (01)						
11,981,696	458,431	0	12,497,356	11,960,964	107,229	12,526,624
8,815,372	458,018		9,380,619	8,867,258		9,432,918
8,617,473	451,441		9,176,143			
a. Legislative Audit (Restricted/Biennial)						
116,984	0	0	116,984	0	0	0
b. Director's Office Contingent Funding						
1,000,000	0	0	1,000,000	1,000,000	0	1,000,000

General Fund	Fiscal 2018			Fiscal 2019			Total	
	State Special Revenue	Federal Special Revenue	Proprietary	State Special Revenue	Federal Special Revenue	Proprietary		Other
	c. Sentencing Commission Implementation Accountability (OTO)							
100,000	0	0	0	0	0	0	100,000	
	d. SITSD Fixed Costs (Restricted)							
2,708,841	0	0	0	2,685,884	0	0	2,685,884	
2,529,787				2,529,787			2,507,880	
	e. Capitol Complex Rent (Restricted)							
401,003	0	0	0	408,322	0	0	408,322	
	2. Probation and Parole Division (02) (Biennial)							
67,924,073	814,167	0	0	67,981,594	0	0	68,795,761	
67,291,624				67,449,145			68,263,312	
66,847,760								
	a. Reduce County Jail Holds - Community Placements (Restricted)							
2,986,064	0	0	0	2,987,866	0	0	2,987,866	
2,939,826				2,939,826				
	b. Presentence Investigations (Restricted/OTO)							
360,000	0	0	0	360,000	0	0	360,000	
	3. Secure Custody Facilities (03) (Biennial)							
79,518,817	104,462	0	0	79,623,279	104,462	0	79,774,087	
79,277,969				79,382,422			79,593,307	
78,116,452				78,220,914				
	4. Montana Correctional Enterprises (04)							
987,018	2,995,785	0	0	3,992,803	2,985,842	0	3,934,639	
913,830				3,909,615				
	5. Youth Services Division (05)							
13,690,322	599,062	0	0	13,730,417	599,062	0	14,329,079	
13,225,059				13,591,344			14,190,406	
13,208,850								
	6. Clinical Services Division (06)							
22,273,496	208,900	0	0	22,411,790	208,900	0	22,620,690	
22,086,389				22,252,948			22,467,848	
19,685,038				20,027,653			20,236,553	
	7. Board of Pardons and Parole (07)							
981,184	0	0	0	981,184	0	0	981,804	
980,864				980,864				
924,540				924,540				
	a. Accreditation Fee (OTO)							
0	0	0	0	16,500	0	0	16,500	
	b. Revise Board of Pardons and Parole (OTO)							
29,878	0	0	0	59,755	0	0	59,755	

	Fiscal 2018			Fiscal 2019			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
Total							
2017-799-442		5,180,807	0	202,148,712	5,180,864	0	207,436,805
2004-620-809		5,180,394		201,137,968			206,436,061
195,791,421		5,173,817		201,072,467	198,735,169		204,023,262
<p>All appropriations for Probation and Parole Division and the Secure Custody Facility are biennial.</p> <p>Director's Office Contingent Funding may be expended in fiscal year 2018 only after the budget director certifies that the department has implemented the use of the risk and needs assessments for all individuals under department supervision and that county jail holds are at a level of 250 or less as of January 1, 2018. Director's Office Contingent Funding may be expended in fiscal year 2019 only after the budget director certifies that the department has implemented the Montana incentive and intervention grid and the department has provided data to the budget director demonstrating the department has used the least restrictive and most appropriate sanctions to manage the offender population and that county jail holds are maintained at a level of 250 or less as of January 1, 2019.</p> <p>Reduce County Jail Holds - Community Placements is restricted to placing offenders in community facilities and programs including but not limited to: sanction/hold beds, transitional living program slots, enhanced supervision program slots, relapse intervention beds, chemical dependency treatment beds and other alternatives. The department shall report on the placement of inmates, including county jail holds and community corrections placements that would have otherwise been county jail holds, to the legislative finance committee no less than twice during the 2019 biennium and upon request.</p> <p>It is the intent of the legislature that Presentence Investigations focus priority to reduce the backlog of presentence investigations and then maintain the backlog level within statutory time frames.</p> <p>Secure Custody Facilities includes funding to house inmates in county jails. It is the intent of the legislature that the department of corrections pay no more than \$69 per day to house inmates in county jails. It is further intended by the legislature that the department house no more than 250 inmates in county jails by January 1, 2018, unless the budget director and the director of the department of corrections jointly determine a need to house more than 250 inmates in county jails due to safety concerns. Further, it is the intent of the legislature that the department use these funds to house inmates in state-owned facilities to the maximum extent possible before housing them in contracted secure custody beds.</p>							
TOTAL SECTION D							
319,956,281	75,519,776	14,059,720	1,978,523	0	411,514,100	320,672,202	74,764,089
318,166,003	75,454,825	14,058,828	1,977,043	409,657,309	319,068,840		1,982,944
306,462,088	74,295,211	14,030,293	1,949,609	310,829,365	74,689,433	14,056,712	1,981,972
							0
							411,478,279
							409,874,917
							401,557,482

	Fiscal 2018			Fiscal 2019		
	General Fund	State Special Revenue	Total	State Special Revenue	Federal Special Revenue	Total
<b>E. EDUCATION</b>						
<b>OFFICE OF SUPERINTENDENT OF PUBLIC INSTRUCTION (3501)</b>						
1. State Level Activities (06)						
10,904,047	206,925	18,616,110	29,127,082	207,520	18,647,507	29,287,756
10,887,738	204,955	18,473,289	28,712,982	202,458	18,502,037	28,868,291
9,338,173	193,523	18,197,141	27,728,837			27,751,930
a. Audiological Services (Restricted/OTO)						
50,000	0	50,000	50,000	0	0	50,000
49,750		49,750	49,750			49,750
b. National Board Certified Teachers (Restricted/OTO)						
0	0	0	0	0	0	0
c. Montana Digital Academy (Restricted/OTO)						
832,500	0	832,500	832,500	0	0	832,500
828,337		828,337	828,337			828,337
d. SITSD Fixed Costs (Restricted)						
407,987	0	407,987	407,987	0	0	407,987
100,813		100,813	100,813			100,813
e. Capitol Complex Rent (Restricted)						
106,802	4,970	142,821	254,593	5,062	145,470	259,315
2. Local Education Activities (09)						
0	750,000	151,235,391	151,985,391	750,000	152,235,391	152,985,391
a. Advancing Agricultural Education (Restricted/Biennial)						
151,941	0	151,941	151,941	0	0	151,941
151,181		151,181	151,181			151,181
b. In-State Treatment (Restricted/Biennial)						
787,800	0	787,800	787,800	0	0	787,800
783,861		783,861	783,861			783,861
c. Secondary Vo-ed (Restricted/Biennial)						
2,000,000	0	2,000,000	2,000,000	0	0	2,000,000
1,490,000		1,490,000	1,490,000			1,490,000
d. Adult Basic Education (Restricted/Biennial)						
525,000	0	525,000	525,000	0	0	525,000
522,375		522,375	522,375			522,375
e. Gifted and Talented (Restricted/Biennial)						
250,000	0	250,000	250,000	0	0	250,000
248,750		248,750	248,750			248,750



	Fiscal 2018			Fiscal 2019		
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue
f. K-12 BASE Aid (Restricted/Biennial)						
	699,089,760	0	0	731,529,417	0	0
	695,946,413			728,307,379		
	692,546,413			723,507,379		
g. At-Risk Student Payment (Restricted/Biennial)						
	5,300,549	0	0	5,491,352	0	0
	5,363,596			5,463,895		
h. Reimbursement Block Grants (Restricted/Biennial)						
	14,356,539	0	0	14,356,539	0	0
	11,656,539			11,656,539		
	0			0		
	11,656,539			11,656,539		
i. State Tuition Payments (Restricted/Biennial)						
	402,675	0	0	402,675	0	0
	377,675			377,675		
j. Special Education (Restricted/Biennial)						
	43,509,471	0	0	43,509,471	0	0
	43,291,924			43,291,924		
k. School Facility Reimbursement (Restricted)						
	0	8,586,000	0	0	8,586,000	0
l. School Food (Restricted/Biennial)						
	663,861	0	0	663,861	0	0
	660,542			660,542		
m. Transportation (Restricted/Biennial)						
	11,766,826	0	0	11,766,826	0	0
	10,073,552			10,073,552		
n. Natural Resource Development K-12 School Facilities Payment						
	0	0	0	5,800,000	0	0
	0			0		
o. Coal-Fired Generating Unit Closure Mitigation Block Grant (Restricted)						
	1,693,274	0	0	1,693,274	0	0
<b>Total</b>	<b>791,774,243</b>	<b>9,542,925</b>	<b>169,851,501</b>	<b>830,273,388</b>	<b>9,543,520</b>	<b>170,882,898</b>
	785,108,570			817,727,727		
	767,627,018	9,534,493	169,375,353	798,429,379		
	779,283,557			958,393,403		

All revenue up to \$1.8 million in the state 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.

General Fund	Fiscal 2018			Fiscal 2019			Total
	State Special Revenue	Federal Special Revenue	Proprietary	State Special Revenue	Federal Special Revenue	Proprietary	

All appropriations for federal special revenue appropriations in State Level Activities and in Local Education Activities and all general fund appropriations in Local Education Activities are biennial.

All general and state funds appropriated to local school districts through Local Education Activities for FY 2018 and FY 2019 are restricted for the intended purpose. This includes funding for the follow: K-12 BASE Aid, At-Risk Student Payment, Special Education, Gifted and Talented, In-State Treatment, Secondary Vo-ed, Adult Basic Education, Transportation, School Facility Reimbursement, School Food, Reimbursement Block Grants, State Tuition Payments, Advancing Agricultural Education.

The office of public instruction may distribute funds from the appropriation for In-State Treatment to public school districts for the purpose of providing educational costs of children with significant behavioral or physical needs.

The legislature intends that the funding for Secondary Vo-ed be used, in part, for student participation in workforce development activities, including but not limited to attainment of industry-recognized professional certifications and work-based learning programs, such as internships and registered apprenticeships.

The office of public instruction may distribute the one-time-only general fund appropriation for the Montana Digital Academy for fiscal year 2019 only if the digital academy provides a report to the legislative finance committee not later than May 31, 2018, that includes at a minimum information on enrollment, course offerings, completion rates, schools served, implications of MCA 20-7-1202, and detailed financial statements for fiscal year 2014 through fiscal year 2017.  
*As provided in section 16(1), Chapter 416, Laws of 2017, the general fund appropriation for Reimbursement Block Grants was increased by \$100,000 in each fiscal year of the biennium beginning July 1, 2017, for the purpose of distributing state lands reimbursement block grants as provided in section 4, Chapter 416, Laws of 2017.*

*As provided in section 16(2), Chapter 416, Laws of 2017, the general fund appropriation for BASE aid was decreased by \$34,000 in fiscal year 2018 and \$42,000 in fiscal year 2019 for the purpose of guaranteed tax base reduction related to the distribution of state lands reimbursement block grants as provided in section 4, Chapter 416, Laws of 2017.*

*As provided in section 24(1), Chapter 429, Laws of 2017, the office of superintendent of public instruction general fund appropriation for Secondary Vo-ed was reduced by \$500,000 in fiscal year 2018 and by \$500,000 in fiscal year 2019.*

*Pursuant to section 25, Chapter 429, Laws of 2017, the office of superintendent of public instruction general fund appropriation for K-12 BASE Aid was reduced by \$3,109,347 in fiscal year 2018 and by \$3,180,038 in fiscal year 2019 for the purpose of suspending the data-for-achievement payment and reducing BASE aid payments.*

*Pursuant to section 26, Chapter 429, Laws of 2017, the office of superintendent of public instruction general fund appropriation for Reimbursement Block Grants was reduced by \$2,800,000 in fiscal year 2018 and by \$2,800,000 in fiscal year 2019 for the purpose of reducing school district combined fund block grants.*

*Pursuant to section 27(1)(b), Chapter 429, Laws of 2017, the office of superintendent of public instruction general fund appropriation for Natural Resource Development K-12 School Facilities Payment was eliminated.*

BOARD OF PUBLIC EDUCATION (51010)								
1. Administration (01)								
142,616	188,525	0	0	0	188,742	0	0	331,067
<del>132,821</del>	<del>188,483</del>			<del>321,304</del>	<del>132,662</del>			<del>321,404</del>
113,338	185,953			299,291	118,451			307,193
a. Legislative Audit (Restricted/Biennial)								
15,095	0	0	0	15,095	0	0	0	0
b. Legal Expenses (Restricted/OTO)								
0	30,000	0	0	30,000	0	0	0	30,000
c. SITSD Fixed Costs (Restricted)								
<del>8,971</del>	0	0	0	<del>8,971</del>	0	0	0	<del>8,971</del>
8,378				8,378				8,378

	Fiscal 2018				Fiscal 2019					
	General Fund	State Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Proprietary	Other	Total
Total	157,711	218,525	0	0	376,236	142,345	218,742	0	0	361,087
	156,887	218,483			375,370	141,633				360,375
	136,811	215,953			352,764	126,829				345,571
SCHOOL FOR THE DEAF AND BLIND (51130)										
1. Administration Program (01)										
	525,438	2,940	0	0	528,378	518,432	2,940	0	0	521,372
	480,197				483,137	473,203				476,143
	463,762	2,835			472,597					
a. Legislative Audit (Restricted/Biennial)										
	24,529	0	0	0	24,529	0	0	0	0	0
b. SITS D Fixed Costs (Restricted)										
	42,466	0	0	0	42,466	42,466	0	0	0	42,466
	39,659				39,659	39,659				39,659
2. General Services Program (02)										
	566,634	0	0	0	566,634	560,563	0	0	0	560,563
	564,206				564,206	558,085				558,085
	555,774				555,774					
3. Student Services Program (03)										
	1,782,868	0	23,000	0	1,805,868	1,788,131	0	23,000	0	1,811,131
	1,773,157				1,796,157	1,778,459				1,801,459
	1,725,158		22,515		1,747,673					
a. Student Travel (Restricted/OTO)										
	0	30,000	0	0	30,000	0	30,000	0	0	30,000
4. Education Program (04)										
	4,037,213	342,122	47,435	0	4,426,770	4,041,571	342,121	47,435	0	4,431,127
	4,017,444				4,407,601	4,021,881				4,411,437
	3,942,146	338,117	46,634		4,326,897					
a. Extracurricular Compensation (Restricted/OTO)										
	0	26,938	0	0	26,938	0	26,938	0	0	26,938
Total	6,936,682	402,000	70,435	0	7,409,117	6,908,637	401,999	70,435	0	7,381,071
	6,901,999				7,374,434	6,874,094				7,346,528
	6,757,028	397,890	69,149		7,224,067	6,871,287				7,343,721

General Fund	Fiscal 2018			Fiscal 2019			Total
	State Special Revenue	Federal Special Revenue	Proprietary	State Special Revenue	Federal Special Revenue	Proprietary	
<b>MONTANA ARTS COUNCIL (51140)</b>							
1. Promotion of the Arts (01)							
519,343	233,981	707,590	0	234,237	707,615	0	1,461,023
499,456	228,084	696,979	0	228,973	698,140	0	1,428,348
440,364	223,952	691,519	0				1,376,612
a. Legislative Audit (Restricted/Biennial)							
22,642	0	0	0	0	0	0	0
b. <i>SITSD Fixed Costs (Restricted)</i>							
47,474	5,892	40,605	0	5,264	9,475	0	39,979
16,036	5,503	9,904	0	4,916	8,849	0	28,091
<b>Total</b>							
541,985	233,981	707,590	0	234,237	707,615	0	1,461,023
539,269	233,976	707,584	0				1,458,427
479,042	229,455	701,423	0	233,889	706,989	0	1,404,703
All HB 2 federal funding appropriations for the Arts Council are biennial appropriations.							
<b>MONTANA STATE LIBRARY COMMISSION (51150)</b>							
1. Statewide Library Resources (01)							
2,871,271	1,733,753	360,229	0	1,763,181	360,672	0	5,008,731
4,614,289	4,715,396	359,677	0	4,689,362	1,619,277	0	3,725,130
1,572,214	1,711,517	357,147	0				
a. Legislative Audit (Restricted/Biennial)							
22,642	0	0	0	0	0	0	0
b. Library Services and Technology Act Grants (Biennial)							
0	0	850,000	0	0	850,000	0	850,000
c. <i>SITSD Fixed Costs (Restricted)</i>							
313,543	48,000	0	0	48,000	0	0	331,543
292,818	16,810	0	0	16,810	0	0	309,628
d. <i>Capitol Complex Rent (Restricted)</i>							
261,280	0	0	0	0	0	0	268,120
<b>Total</b>							
2,893,913	1,733,753	1,210,229	0	1,763,181	1,210,672	0	5,858,731
2,211,754	1,733,396	1,209,677	0				5,174,533
2,148,954	1,728,327	1,207,147	0	1,761,991			5,152,878

As provided in section 17, Chapter 429, Laws of 2017, Statewide Library Resources is appropriated up to \$666,527 of propriety funding in fiscal year 2018 and \$669,513 of propriety funding in fiscal year 2019 to offset the general fund appropriation reduction.

		Fiscal 2018				Fiscal 2019					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
MONTANA HISTORICAL SOCIETY (5117)											
1. Administration Program (01)											
1,009,132	51,136	76,332	253,175	0	1,389,775	1,011,395	51,196	76,500	252,914	0	1,392,005
794,332			330,395		1,082,195	720,667			229,975		1,078,338
698,134		74,364	229,049		1,052,683						
a. Legislative Audit (Restricted/Biennial)											
41,511	0	0	0	0	41,511	0	0	0	0	0	0
b. SITSD Fixed Costs (Restricted)											
38,546	0	0	40,855	0	49,401	31,113	0	0	40,855	0	41,968
35,998			10,138		46,136	29,056			10,138		39,194
c. Capitol Complex Rent (Restricted)											
15,578	0	0	11,925	0	27,503	15,786	0	0	12,084	0	27,870
2. Research Center (02)											
1,217,419	114,055	0	34,753	0	1,366,227	1,219,572	114,055	0	34,753	0	1,368,380
791,655					940,463	768,851					917,659
760,035					908,843						
a. SITSD Fixed Costs (Restricted)											
46,158	0	0	0	0	46,158	46,158	0	0	0	0	46,158
43,107					43,107	43,107					43,107
b. Capitol Complex Rent (Restricted)											
139,224	0	0	0	0	139,224	141,085	0	0	0	0	141,085
3. Museum Program (03)											
533,547	398,612	0	3,009	0	985,168	585,021	400,825	0	3,009	0	988,855
539,353	291,883				834,245	549,643	285,951				838,603
522,489					817,381						
a. SITSD Fixed Costs (Restricted)											
18,959	0	0	0	0	18,959	18,959	0	0	0	0	18,959
17,697					17,697	17,697					17,697
b. Capitol Complex Rent (Restricted)											
0	203,844	0	0	0	203,844	0	206,569	0	0	0	206,569
4. Publications Program (04)											
154,817	0	0	323,454	0	478,271	155,513	0	0	323,823	0	479,336
121,808			304,186		425,994	128,639			304,413		433,052
116,536			298,918		415,454						
a. SITSD Fixed Costs (Restricted)											
0	0	0	8,586	0	8,586	0	0	0	8,586	0	8,586
0			8,018		8,018				8,018		8,018
b. Capitol Complex Rent (Restricted)											
0	0	0	10,682	0	10,682	0	0	0	10,824	0	10,824



	Fiscal 2018			Fiscal 2019					
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
3. OCHE -- Improving Teacher Quality (03)	0	0	517,390	0	0	517,390	0	0	517,390
4. OCHE -- Community College Assistance (04)	12,805,073	0	0	12,885,883	0	0	0	0	12,885,883
	<del>12,740,633</del>			<del>12,821,454</del>					<del>12,821,454</del>
	<del>12,583,671</del>			<del>12,664,489</del>					<del>12,664,489</del>
a. Legislative Audit (Restricted/Biennial)	82,973	0	0	0	0	0	0	0	0
5. OCHE -- Educational Outreach and Diversity (06)	128,641	0	8,867,653	129,424	0	8,870,417	0	0	8,999,841
	<del>127,698</del>		<del>8,864,153</del>	<del>128,477</del>		<del>8,866,917</del>			<del>8,995,394</del>
	<del>125,590</del>		<del>8,838,857</del>						
a. SITSD Fixed Costs (Restricted)	300	0	3,500	300	0	3,500	0	0	3,800
	280		3,269	280		3,269			3,549
6. OCHE -- Workforce Development Program (08)	90,067	0	5,472,376	90,067	0	5,472,720	0	0	5,562,787
	<del>89,767</del>		<del>5,471,701</del>	<del>89,767</del>		<del>5,472,045</del>			<del>5,561,812</del>
			<del>5,461,161</del>						
a. SITSD Fixed Costs (Restricted)	300	0	675	300	0	675	0	0	975
	280		630	280		630			910
7. OCHE -- Appropriation Distribution (09)	169,800,995	19,603,424	0	169,800,995	19,612,885	0	0	0	189,413,880
	<del>168,949,197</del>			<del>168,951,990</del>					<del>188,564,875</del>
	<del>166,869,751</del>			<del>166,872,544</del>					<del>186,485,429</del>
a. Legislative Audit (Restricted/Biennial)	558,506	0	0	0	0	0	0	0	0
b. Family Practice Rural Residency	0	400,000	0	400,000	0	0	0	0	400,000
				<del>398,000</del>					<del>398,000</del>
8. OCHE -- Research and Development Agencies (10)	27,114,263	914,968	0	27,168,524	914,968	0	0	0	28,083,492
	<del>26,978,691</del>			<del>27,032,682</del>					<del>27,947,650</del>
a. MEMG Data Preservation Program (OTO)	0	300,000	0	0	300,000	0	0	0	300,000
b. AES Seed Lab MSU-Bozeman (Biennial/OTO)	100,000	0	0	100,000	0	0	0	0	100,000
	<del>99,500</del>			<del>99,500</del>					<del>99,500</del>

	Fiscal 2018			Fiscal 2019		
	General Fund	State Special Revenue	Total	General Fund	State Special Revenue	Total
c. AES Wool Lab MSU-Bozeman (Restricted/Biennial/OTO)						
	55,000	0	55,000	55,000	0	55,000
	54,725	0	54,725	54,725	0	54,725
d. Fire School Training Services						
	0	100,000	100,000	0	100,000	100,000
9. Tribal College Assistance Program (11)						
	842,085	0	842,085	842,085	0	842,085
	837,875	0	837,875	837,875	0	837,875
10. OCHE -- Guaranteed Student Loan (12)						
	0	54,286,195	54,286,195	0	54,286,195	54,286,195
		54,239,569	54,239,569		54,242,300	54,242,300
		54,203,733	54,203,733			
a. Legislative Audit (Restricted/Biennial)						
	0	16,982	16,982	0	0	0
b. SITSD Fixed Costs (Restricted)						
	0	43,985	43,985	0	43,985	43,985
		41,078	41,078		40,988	40,988
11. OCHE -- Board of Regents (13)						
	67,688	0	67,688	67,688	0	67,688
	67,350	0	67,350	67,350	0	67,350

Total

224,256,176	22,022,071	69,157,955	530,394	0	315,966,596	315,966,596
223,134,895					314,845,315	314,473,096
220,857,734		69,083,100	525,980		312,488,885	312,232,603

Items designated as OCHE Administration (01), Student Assistance (02), Improving Teacher Quality (03), Educational Outreach and Diversity (06), Workforce Development (08), Appropriation Distribution (09), Guaranteed Student Loan (12), and the Board of Regents (13) are designated as biennial appropriations.

General fund money, state and federal special revenue and proprietary fund revenue appropriated to the board of regents are included in all Montana university programs. All other public funds received by units of the Montana university system (other than plant funds appropriated in HB 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), MCA. The board of regents shall allocate the appropriations to individual university system units, as defined in 17-7-102(13), MCA, 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 information system, except for information pertaining to individual students and 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 entering human resource data for the current unrestricted operating funds into the Internet Budgeting and Reporting System (IBARS). The salary and benefit data provided must reflect approved board of regents operating budgets.



Fiscal 2018		Fiscal 2019		Fiscal 2019		Fiscal 2019					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
2,003,497,798	758,620,956	2,326,298,598	12,201,864	0	5,100,619,216	2,053,914,878	754,797,910	2,381,543,727	12,098,764	0	5,202,354,379
1,986,136,710	757,991,698	2,243,972,235	12,199,043	5,000,299,596	2,030,973,373	754,708,705	2,287,087,495	5,084,873,337	12,083,819	0	5,084,873,337
1,922,233,806	748,391,693	2,216,760,385	12,008,735	4,889,394,619	1,963,769,861	753,203,899	2,246,065,311	4,975,122,890	12,083,819	0	4,975,122,890
1,933,890,345				4,911,051,158							
<p><i>Any general fund allocated to an agency pursuant to Senate Bill No. 9 are appropriated to that agency for the fiscal year beginning July 1, 2018. These appropriations may not be used to increase any appropriation to an amount greater than the appropriation contained in the introduced version of [this act].</i></p>											

The average budgeted amount for each full-time equivalent student at the community colleges, includes \$3,278 for each year of the 2019 biennium. The general fund appropriation for OCHE - Community College Assistance provides 48.20% in FY 2018 and 48.20% in FY 2019 of the budget amount for each full-time equivalent student each year of the 2019 biennium. The remaining 51.80% of the budget amount for each full-time equivalent student must be paid from funds other than those appropriated for OCHE - Community College Assistance.

The Commissioner may adjust the funding distribution between community colleges based on actual enrollment. The general fund appropriation for OCHE - Community College Assistance is calculated to fund education in the community colleges for an estimated resident FTE students of 1,937 in FY 2018 and 1,958 in FY 2019. 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 numbers for the biennium, the community colleges shall revert general fund money to the state in accordance with 17-7-142.

The funding for community colleges may not exceed \$9,518 state support per resident full-time equivalent student. Funding is to be transferred to the state energy conservation program debt service account for energy improvements as follows. Transferred funding for each year of the biennium to retire bonded projects are University of Montana \$26,500, UM Western \$98,000, UM Helena \$6,000, MSU Northern \$26,700, MSU Billings \$115,219, Great Falls \$86,500. Funding to be transferred for each year of the biennium for state energy revolving projects are UM Western \$41,885, UM Helena \$55,649, UM Montana Tech \$90,266, MSU Northern \$55,323, Miles Community College \$23,553. University of Montana transfers are \$433,405 in FY 2018 and \$371,357 in FY 2019. Montana State University transfers are \$325,388 in FY 2018 and \$277,611 in FY 2019.

Total audit costs are estimated to be \$172,144 for the community colleges for the biennium. The general fund appropriation for each community college provides 48.20% of the total audit costs in the 2019 biennium. The remaining 51.80% of these costs must be paid from funds other than those appropriated from OCHE - Community College Assistance - Legislative Audit. Audit costs charged to the community colleges for the biennium may not exceed \$54,590 for Flathead Valley CC, \$49,714 for Miles CC, and \$67,840 for Dawson CC. Total audit cost for OCHE/BOR is \$45,284, GSL program is \$16,982, UM-Missoula is \$279,253, and MSU-Bozeman is \$279,253. The Montana university system shall pay \$88,506 for the 2019 biennium 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 appropriated.

TOTAL SECTION E											
1,029,878,278	34,825,537	241,837,198	1,215,008	0	1,307,756,021	1,068,139,026	34,627,674	242,856,216	1,215,451	0	1,346,838,367
1,030,745,643	34,922,248	241,836,640	1,298,719,339	1,033,124,737	1,278,150,916	1,031,491,830	34,717,210	242,848,357	1,213,044	1,310,270,441	1,310,270,441
1,012,256,285			1,289,807,455								
TOTAL STATE FUNDING											
2,003,497,798	758,620,956	2,326,298,598	12,201,864	0	5,100,619,216	2,053,914,878	754,797,910	2,381,543,727	12,098,764	0	5,202,354,379
1,986,136,710	757,991,698	2,243,972,235	12,199,043	5,000,299,596	2,030,973,373	754,708,705	2,287,087,495	5,084,873,337	12,083,819	0	5,084,873,337
1,922,233,806	748,391,693	2,216,760,385	12,008,735	4,889,394,619	1,963,769,861	753,203,899	2,246,065,311	4,975,122,890	12,083,819	0	4,975,122,890
1,933,890,345				4,911,051,158							

**Section 12. Rates.** Internal service fund type fees and charges established by the legislature for the 2019 biennium in compliance with 17-7-123(1)(f)(ii) are as follows:

	<i>Fiscal 2018</i>	<i>Fiscal 2019</i>
<b>DEPARTMENT OF REVENUE – 5801</b>		
1. Citizen Services and Resource Management Division		
Delinquent Account Collection Fee (maximum percent of amount collected)	5%	5%
<b>DEPARTMENT OF ADMINISTRATION – 6101</b>		
1. Director's Office		
a. Management Services		
Total Allocation of Costs	\$1,499,893	\$1,499,500
Portion of Unit for HR charges per FTE of User Programs	\$891	\$891
b. Continuity, Emergency Preparedness, & Security		
Total Allocation of Costs	\$728,874	\$728,817
2. State Financial Services Division		
a. SABHRS Finance and Budget Bureau		
SABHRS Services Fee (total allocation of costs)	\$4,008,249	\$3,818,905
b. Warrant Writer		
Mailer	\$0.80301	\$0.80179
Nonmailer	\$0.34725	\$0.34672
Emergency	\$13.02172	\$13.00204
Duplicates	\$8.68115	\$8.66803
Externals		
Externals - Payroll	\$0.14643	\$0.14621
Externals - Other	\$0.11720	\$0.11702
Direct Deposit		
Direct Deposit - Mailer	\$0.95493	\$0.95348
Direct Deposit - No Advice Printed	\$0.13022	\$0.13002
Unemployment Insurance		
Mailer - Print Only	\$0.11408	\$0.11391
Direct Deposit - No Advice Printed	\$0.02872	\$0.02867
3. General Services Division		
a. Facilities Management Bureau		
Office Rent (per sq. ft.)	\$10.135	\$10.323
Non-Office Rent (per sq. ft.)	\$5.330	\$5.330
Project Management - In-house	15%	15%
Project Management - Consultation	Actual Cost	Actual Cost
State Employee Access ID Card	Actual Cost	Actual Cost
b. Print and Mail Services		
Internal Printing		
Impression Cost	Cost + 25%	Cost + 25%
Large Format Color	Cost + 25%	Cost + 25%
Ink	Cost + 25%	Cost + 25%
Bindery Work	Cost + 25%	Cost + 25%
Variable Data Printing	Cost + 25%	Cost + 25%
Pick and Pack Fulfilment	\$1.00	\$1.00
Overtime	\$30.00	\$30.00
Desktop	\$75.00	\$75.00
Scan	\$9.52	\$9.52
IT Programming	\$95.00	\$95.00
File Transfer	\$25.00	\$25.00
Mainframe Printing	\$0.071	\$0.071
Warrant Printing	\$0.25	\$0.25
Inventory Markup	20.0%	20.0%
CD/DVD Duplicating	Cost + 25%	Cost + 25%
Pre-Press Work	Cost + 25%	Cost + 25%
External Printing		
Percent of Invoice markup	8.80%	8.80%
Managed Print		
Percent of Invoice markup	15.9%	15.9%
Mail Preparation		
Tabbing	\$0.023	\$0.023
Labeling	\$0.023	\$0.023
Ink Jet	\$0.036	\$0.036
Inserting	\$0.045	\$0.045
Waymark	\$0.069	\$0.069

Permit Mailings	\$0.069	\$0.069
Mail Operations		
Machinable	\$0.043	\$0.043
Nonmachinable	\$0.110	\$0.110
Seal Only	\$0.020	\$0.020
Postcards	\$0.070	\$0.070
Certified Mail	\$0.620	\$0.620
Registered Mail	\$0.614	\$0.614
International Mail	\$0.510	\$0.510
Flats	\$0.150	\$0.150
Priority	\$0.614	\$0.614
Express Mail	\$0.614	\$0.614
USPS Parcels	\$0.510	\$0.510
Insured Mail	\$0.614	\$0.614
Media Mail	\$0.320	\$0.320
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
Mail Tracking	\$0.250	\$0.250
Cass Letters/Postcards	\$0.047	\$0.047
Cass Flats	\$0.100	\$0.100
Flat Sorter	\$0.250	\$0.250
Interagency Mail	\$360,175 yearly	\$360,175 yearly
Postal Contract (Capitol)	\$38,976 yearly	\$38,976 yearly
4. Information Technology Services Division		
Rates Maintained/Based Upon Financial Transparency Model (FTM)		
Operations of the Division		30-Day Working Capital Reserve
<p>The 30-day working capital reserve used to establish state information technology services division rates for state agencies included in HB 2 is based on personal services of \$15,656,816 in FY 2018 and \$15,698,331 in FY 2019, operating expenses of \$29,650,069 in FY 2018 and \$29,509,427 in FY 2019, equipment and intangible assets of \$370,861 in FY 2018 and \$370,861 in FY 2019, and debt service of \$626,360 in FY 2018 and \$626,360 in FY 2019. State agencies shall report to the state information technology services division which services they wish to purchase as a result of changes in the fixed costs for information technology services. The state information technology services division shall report to the legislative finance committee at its June 2017 meeting on how they implemented the agency requests. The state information technology services division shall also report any further adjustments to state agency rates for information technology at each subsequent meeting of the legislative finance committee.</p>		
5. Health Care and Benefits Division		
a. Workers' Compensation Management Program		
Administrative Fee	\$0.95	\$0.95
6. State Human Resources Division		
a. Intergovernmental Training		
Open Enrollment Courses		
Two-Day Course (per participant)	\$190.00	\$190.00
One-Day Course (per participant)	\$123.00	\$123.00
Half-Day Course (per participant)	\$95.00	\$95.00
Eight-Day Management Series (per participant)	\$800.00	\$800.00
Six-Day Management Series (per participant)	\$600.00	\$600.00
Four-Day Administrative Series (per participant)	\$400.00	\$400.00
Contract Courses		
Full-Day Training (flat fee)	\$830.00	\$830.00
Half-Day Training (flat fee)	\$570.00	\$570.00
Computer Maintenance Charges (course specific)	\$10.00	\$10.00
b. Human Resources Information System Fee		
Per payroll warrant advice per pay period	\$8.55	\$8.55
7. Risk Management & Tort Defense		
Auto Liability, Comprehensive, and Collision (total allocation to agencies)	\$2,022,570	\$2,022,570
Aviation (total allocation to agencies)	\$169,961	\$169,961
General Liability (total allocation to agencies)	\$14,613,042	\$14,613,042
Property/Miscellaneous (total allocations to agencies)	\$6,930,000	\$6,930,000

**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)	\$6,488,749	\$6,488,640
2. Director's Office/Management Services		
a. Management Services Indirect Charge Rate		
State	16.35%	16.35%
Federal	16.35%	16.35%

**DEPARTMENT OF LABOR AND INDUSTRY – 6602**

## 1. Centralized Services Division

a. Cost Allocation Plan	8.19%	7.87%
b. Office of Legal Services (direct hourly rate)	\$103	\$103

## 2. Technology Services Division

a. Technical Services (per FTE)	\$266	\$266
b. Application Services (per hour)	\$84	\$84
c. Enterprise Services Rate (Total amount allocated to divisions based on FTE)	\$819,755	\$819,755
d. Direct Services Rate (pass through to divisions)	Actual cost	Actual Cost

**DEPARTMENT OF FISH, WILDLIFE, & PARKS -- 5201**

## 1. Vehicle and Aircraft Rates

## Per Mile Rates

a. Sedans	\$0.46	\$0.46
b. Vans	\$0.53	\$0.53
c. Utilities	\$0.58	\$0.58
d. Pickup 1/2 ton	\$0.53	\$0.53
e. Pickup 3/4 ton	\$0.61	\$0.61

## Per Hour Rates

f. Two-Place Single Engine	\$150.00	\$150.00
g. Partnavia	\$500.00	\$500.00
h. Turbine Helicopters	\$500.00	\$500.00

## 2. Duplicating Center

## Per Copy

a. 1-20	\$0.070	\$0.070
b. 21-100	\$0.075	\$0.075
c. 101 - 1,000	\$0.050	\$0.050
d. 1,001- 5,000	\$0.045	\$0.045
e. color copies	\$0.250	\$0.250
f. Desktop Publisher (per hour)	\$46.36	\$46.36

## 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

25%	25%
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**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 \$2.78, Tier 2 rates may be charged if approved by the office of budget and program planning. If the price of gasoline goes above \$3.28, 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	\$1.346	\$1.394
Per Mile Operated	\$0.117	\$0.118
b. Class 04 (large utilities)		
Per Hour Assigned	\$1.994	\$2.033
Per Mile Operated	\$0.151	\$0.151
c. Class 05 (hybrid sedans)		
Per Hour Assigned	\$0.534	\$0.542

Per Mile Operated	\$0.089	\$0.089
d. Class 06 (midsize compacts)		
Per Hour Assigned	\$1.040	\$1.081
Per Mile Operated	\$0.106	\$0.106
e. Class 07 (small pickups)		
Per Hour Assigned	\$0.341	\$0.348
Per Mile Operated	\$0.168	\$0.168
f. Class 11 (large pickups)		
Per Hour Assigned	\$1.116	\$1.143
Per Mile Operated	\$0.180	\$0.179
g. Class 12 (vans – all types)		
Per Hour Assigned	\$1.241	\$1.275
Per Mile Operated	\$0.135	\$0.135
Tier two (contingent \$2.78/gallon)		
a. Class 02 (small utilities)		
Per Hour Assigned	\$1.346	\$1.394
Per Mile Operated	\$0.138	\$0.139
b. Class 04 (large utilities)		
Per Hour Assigned	\$1.994	\$2.033
Per Mile Operated	\$0.182	\$0.182
c. Class 05 (hybrid sedans)		
Per Hour Assigned	\$0.534	\$0.542
Per Mile Operated	\$0.102	\$0.102
d. Class 06 (midsize compacts)		
Per Hour Assigned	\$1.040	\$1.081
Per Mile Operated	\$0.125	\$0.125
e. Class 07 (small pickups)		
Per Hour Assigned	\$0.341	\$0.348
Per Mile Operated	\$0.196	\$0.197
f. Class 11 (large pickups)		
Per Hour Assigned	\$1.116	\$1.143
Per Mile Operated	\$0.216	\$0.215
g. Class 12 (vans – all types)		
Per Hour Assigned	\$1.241	\$1.275
Per Mile Operated	\$0.160	\$0.160
Tier three (contingent \$3.28/gallon)		
a. Class 02 (small utilities)		
Per Hour Assigned	\$1.346	\$1.394
Per Mile Operated	\$0.160	\$0.161
b. Class 04 (large utilities)		
Per Hour Assigned	\$1.994	\$2.033
Per Mile Operated	\$0.214	\$0.214
c. Class 05 (hybrid sedans)		
Per Hour Assigned	\$0.534	\$0.542
Per Mile Operated	\$0.115	\$0.115
d. Class 06 (midsize compacts)		
Per Hour Assigned	\$1.040	\$1.081
Per Mile Operated	\$0.143	\$0.143
e. Class 07 (small pickups)		
Per Hour Assigned	\$0.341	\$0.348
Per Mile Operated	\$0.225	\$0.226
f. Class 11 (large pickups)		
Per Hour Assigned	\$1.116	\$1.143
Per Mile Operated	\$0.252	\$0.252
g. Class 12 (vans – all types)		
Per Hour Assigned	\$1.241	\$1.275
Per Mile Operated	\$0.185	\$0.185
2. Equipment Program		
All of Program Operations		60-day working capital reserve
<b>DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION – 5706</b>		
1. Air Operations Program		
a. Bell UH-1H	\$1,650	\$1,650
b. Bell Jet Ranger	\$515	\$515
c. Cessna 180 Series	\$175	\$175

**DEPARTMENT OF JUSTICE – 4110**

1. Agency Legal Services		
a. Attorney (per hour)	\$106.00	\$106.00
b. Investigator (per hour)	\$62.00	\$62.00

**DEPARTMENT OF CORRECTIONS - 6401**

1. Labor Charge for Motor Vehicle Maintenance (per hour)	\$28.45	\$28.45
2. Supply Fee as a Percentage of Actual Costs of Parts	8%	8%
3. Parts	Actual Cost	Actual Cost
4. Cook/Chill Rate -- Hot/Cold Base Tray Price (no delivery)	\$2.35	\$2.35
5. Cook/Chill Rate – Hot Base Tray Price	\$1.22	\$1.22
6. Delivery Charge Per Mile	\$0.50	\$0.50
7. Delivery Charge Per Hour	\$35.00	\$35.00
8. Spoilage Percentage All Customers	5%	5%
9. Detention Center Trays	\$2.92	\$2.95
10. Accessory Package	\$0.16	\$0.16
11. Bulk Food	Actual Cost	Actual Cost
12. Overhead Charge		
a. Montana State Hospital	11%	11%
b. Montana State Prison	76%	76%
c. Treasure State Correctional Training Center	13%	13%
13. License Plates – Cost per set	\$6.20	\$6.20
14. Base Laundry Price per pound	\$0.60	\$0.60
Delivery Charge per pound		
a. Riverside Youth Correctional Facility	\$0.05	\$0.05
b. Montana Law Enforcement Academy	\$0.15	\$0.15
c. Montana Chemical Dependency Corp.	\$0.04	\$0.04
d. START Program	\$0.01	\$0.01
e. University of Montana	\$0.20	\$0.20

**OFFICE OF PUBLIC INSTRUCTION - 3501**

1. OPI Indirect Cost Pool		
a. Unrestricted Rate	17.0%	17.0%
b. Restricted Rate	17.0%	17.0%”

**Section 2. Repealer.** Sections 8, 9, and 11, Chapter 364, Laws of 2017, sections 7, 13, 14, 15, 16, and 17, Chapter 416, Laws of 2017, and sections 12, 15, 16, 17, 18, 20, 21, 22, 24, and 28, Chapter 429, Laws of 2017, are repealed.

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

Approved November 21, 2017

**CHAPTER NO. 9**

[HB 3]

AN ACT TRANSFERRING FUNDS FROM THE GENERAL FUND TO THE FIRE SUPPRESSION ACCOUNT; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

**Section 1. Fund transfer.** By June 1, 2018, the state treasurer shall transfer \$40 million from the general fund to the fire suppression account provided for in 76-13-150.

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

Approved November 24, 2017

## HOUSE RESOLUTION NO. 1

A RESOLUTION OF THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA ADOPTING THE TEMPORARY 2017 SPECIAL SESSION AND CONCURRENT SPECIAL SESSION HOUSE RULES.

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the following Temporary 2017 Special Session and Concurrent Special Session House 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.

(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.

(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.

(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, visual displays, 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, 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.

**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. 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.

(2) The Speaker shall employ necessary staff or delegate that function to the employees designated in subsection (1).

(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 an assistant.

**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.

**H10-140. 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);
  - (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.
- (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 – appeal – restrictions.** (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. A registered lobbyist is prohibited from the house floor.

**H20-40. Admittance to the House floor.** (1) The following persons may be admitted to the House floor during a daily session: present legislators and former legislators who are not registered lobbyists; legislative employees necessary for the conduct of the session; registered media representatives; 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 – appeal.** 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 – sanctions.** (1) A legislative employee 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 violating this prohibition.

**H20-70. Papers distributed on desks -- exception.** 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 -- procedure -- appeal.** (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) (a) The Speaker shall determine the total number of members and after good faith consultation with the minority leader shall appoint the chairs, vice chairs, and members to the standing committees.

(b) The minority leader shall designate a minority vice chair for each standing committee.

(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) Energy, Technology, and Federal Relations;
- (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.

(5) There will be six subcommittees of the Committee on Appropriations, Education, General Government, Health and Human Services, Natural Resources and Transportation, Judicial Branch, Law Enforcement, and Justice, and Long-Range Planning. Each member serving on the Appropriations Committee must be appointed to at least one of the subcommittees.

(6) The Speaker shall give notice of each appointment to the Chief Clerk for publication.

(7) 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.

(8) The Speaker shall appoint all conference, select, and special committees with the advice of the majority leader and minority leader.

**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. 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 – purpose – notice – minutes.** (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 – absentee or proxy voting – member privileges.** (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) (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) Except as provided in subsection (3)(c), at the written request of the sponsor made at least 48 hours prior to a scheduled hearing, a bill may be withdrawn by the sponsor without a hearing. A bill may not be reported from a committee without a hearing.

(c) A bill may not be withdrawn by the sponsor after a hearing.

(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; and

(c) an identification of all substantive changes.

(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. Standing and select committees may by a majority vote of the committee authorize members to vote by proxy if absent, while engaged in other legislative business or when excused by the presiding officer of the committee due to illness or an emergency. Authorization for absentee or proxy voting must be reflected in the committee minutes.

(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 if authorized pursuant to subsection (9), 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 – decorum – time restrictions.** (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. A legislator shall sign the cosponsor form attached to the legislation in order to be added as a cosponsor.

(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 -- messages from Senate and elected officials.** (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 -- receipt of Senate legislation.** 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 -- exception.** Legislation may receive more than one reading per legislative day.

**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 -- Appropriations Committee 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) (a) 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.

(b) (i) With the consent of the majority leader, the minority leader, and the bill sponsor, legislation that has passed second reading in the Committee of the Whole and that has been rereferred to the Appropriations Committee pursuant to H40-80(2)(a) and is reported from committee without amendments may be placed on third reading.

(ii) Prior to being placed on third reading, legislation rereferred pursuant to H40-80(2)(b)(i) must be sent to be processed and reproduced as a third reading version and specifically marked as having

been passed on second reading and rereferred to the House Appropriations Committee and reported from the committee without amendments.

(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 – requirement for rejection of adverse committee report.** (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 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 – vote requirements.** (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 – timing – obverse vote on failed motion – status of amendments – rejection of report – segregation.** (1) Legislation returned or withdrawn from committee by motion must be placed on second reading prior to the transmittal deadlines provided for in Joint Rule 40-200 that are applicable to each piece of legislation.

(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) Legislation reported from committee may be considered on second reading at any time.

(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 pursuant to H50-170 or unless the legislation is rereferred to a committee.

**H40-150. Amendments in the Committee of the Whole – timing – official records.** (1) All Committee of the Whole amendments must be prepared by the Legislative Services Division and 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 – quorum required.** (1) When the House resolves itself into a Committee of the Whole, the only motions in order are to:

- (a) recommend passage or nonpassage;
- (b) recommend concurrence or nonconcurrence (Senate amendments to House legislation);
- (c) amend, except as provided in H70-10(2);
- (d) reconsider as provided in H50-170;
- (e) pass consideration;
- (f) call for cloture;
- (g) change the order in which legislation is placed on the agenda; and
- (h) rise, rise and report, or rise and report progress and beg leave to sit again.

(2) Subsections (1)(d) through (1)(f) and (1)(h) are nondebatable but may be amended. Once a motion under subsection (1)(a) or (1)(b) is made, a contrary motion is not in order.

(3) The motions listed in subsection (1) may be made in descending order as listed.

(4) 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) (a) Except as provided in subsection (2)(b), after at least two proponents and two opponents have spoken on a question and 30 minutes have elapsed from the point in time that the sponsor’s opening remarks on the motion end and debate on the motion begins, a motion to call for cloture is in order.

(b) (i) The 30-minute tolling requirement for a cloture motion made pursuant to subsection (2)(a) does not include time spent on floor debate of a substitute motion to amend the original question.

(ii) Each substitute motion to amend the original question is subject to a cloture motion and the cloture requirements provided for in this rule.

(iii) Once a substitute motion to amend is dispensed with and there are no other substitute motions to amend, the 30-minute tolling requirement for the original question pursuant to subsection (2)(a) resumes from the point in time in which the first substitute motion to amend was made.

(c) Approval by a majority 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 – sections – amendments.** (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.

**H40-200. 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.

(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.

**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.

(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 under the direction of the Speaker.

(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 – excuse – call of the House.** (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.

**H50-50. Leave with cause during call of the House.** (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 pursuant to H50-250;
- (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;
- (k) to appeal a call to order;
- (l) to question the lack of a quorum pursuant to H50-20; and
- (m) to change a vote pursuant to H50-210.

**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 (nondebatable H50-90 and H50-250);
- (b) for a call of the House (nondebatable H50-90);
- (c) to recess or rise (nondebatable H50-90);
- (d) for a question of privilege;
- (e) to table (nondebatable H50-90);
- (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. The request is nondebatable under H50-90. The presiding officer may rule that a question is nondivisible. The ruling of the chair may be appealed as provided in H50-160(14) or (16) and H70-50. For an appeal of a ruling of the presiding officer, the question for the house must be stated as, “Shall the ruling of the chair be upheld?”

**H50-150. Previous question – close.** (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 motion to lift a call of the House pursuant to H50-30(3) (two-thirds);

(3) a motion to rerefer a bill from one committee to another pursuant to H40-80(1) (three-fifths);

(4) a motion to withdraw a bill from a committee pursuant to H40-90 (three-fifths);

(5) a motion to add legislation to the second or third reading agenda on that day pursuant to H40-130(2) (three-fifths);

(6) 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);

(7) a motion to change a vote pursuant to H50-210 (unanimous);

(8) a motion to call for cloture pursuant to H40-170(2) (two-thirds);

(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 amend rules pursuant to H70-10(2) or suspend rules pursuant to H70-30 (two-thirds);

(11) a motion to overturn an adverse committee report pursuant to H40-100(2) (three-fifths);

(12) a motion to record a vote pursuant to H50-200(2) (one representative);

(13) a motion to record a vote in the journal (two representatives);

(14) an appeal of the ruling of the presiding officer pursuant to H20-20(1) or H20-80(2) (three representatives);

(15) a motion to speak more than once on a debatable motion pursuant to H50-80(1) (unanimous vote);

(16) 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 – time restriction.** (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 to reconsider is a debatable motion, but the debate is limited to the motion. The debate on a motion to reconsider is limited to two proponents and two opponents to the motion and the debate may not address the substance of the matter for which reconsideration is sought. However, an inquiry may be made concerning the purpose of the motion to reconsider.

(3) A motion for reconsideration, unless tabled or replaced by a substitute motion, must be disposed of when made.

(4) When a motion for reconsideration fails, the question is finally settled. A motion for reconsideration may not be renewed or reconsidered.

(5) A motion to recall legislation from the Senate constitutes a motion to reconsider and is subject to the same rules.

(6) A motion for reconsideration is not in order on a vote to postpone to a day certain or to table legislation.

**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 – conflict of interest – present by electronic means.** (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.

(5) A member may be present for a vote by electronic means.

**H50-210. Changing a vote -- consent required.** (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 -- restrictions.** (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 or on motions specified as present and voting pursuant to H50-70.

**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.** Subject to Article V, section 10(5), of the Montana Constitution, 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) A motion to adjourn sine die pursuant to H50-250 is subject to Article V, section 10(5), of the Montana Constitution.

(3) 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) After a vote on a motion to table is carried or fails, the motion 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 – amendment – report timing.** (1) The House may adopt, through a House resolution passed by a majority of its members, rules to govern its proceedings.

(2) For the 2017 special session and concurrent special sessions, after the adoption of the House rules, a majority of members of the House Rules Committee must vote in favor of a motion to amend the rules. If the House Rules Committee approves a motion to amend the rules, the House Rules Committee shall then report any amendments to the House and a majority of 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 and joint rules.

(4) The House Rules Committee shall report all resolutions for House rules and joint rules within 1 legislative day of referral.

**H70-20. Tenure of rules – termination of temporary 2017 special session and concurrent special session rules.** (1) Rules adopted by the House remain in effect until removed by House resolution or until a new House is elected and takes office.

(2) The temporary 2017 special session and concurrent special session rules in this House Resolution No. 1 terminate on adjournment sine die and the 2017 regular session rules are in effect after sine die pursuant to subsection (1).

**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 (2010) governs House proceedings in all cases not covered by House rules.

**H70-50. Interpreting rules – appeal.** 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.

**Energy, Technology, and Federal Relations:** 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; technology; 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 refer 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 November 14, 2017

## SENATE JOINT RESOLUTION NO. 1

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA ADOPTING THE TEMPORARY 2017 SPECIAL SESSION AND CONCURRENT SPECIAL SESSION JOINT LEGISLATIVE RULES.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the following Temporary 2017 Special Session and Concurrent Special Session 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)). The procedure for obtaining consent is contained in Joint Rule 20-10.

**10-50. Access of media – registration – decorum – sanctions.** (1) Subject to the presiding officer's discretion on issues of decorum and order, a registered media representative may not be prohibited from photographing, televising, or recording a legislative meeting or hearing.

(2) The presiding officer shall authorize the issuance of cards to media representatives to allow floor access, and media representatives holding the cards are subject to placement on the floor by the presiding officer. The presiding officer may delegate enforcement of this rule to the office of the Secretary of the Senate, Chief Clerk of the House, the respective Sergeant-at-Arms, or the Legislative Information Officer. The privilege may be revoked or suspended for a violation of decorum and order as agreed to by the media representative upon application for registration.

(3) Registered media representatives may be subject to seating in designated areas. Overflow access will be in the gallery.

**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.

**10-70. Telephone calls and internet access.** (1) Long-distance telephone calls made by a member on a state telephone 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, may use state 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 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.

(4) For purposes of this section, "state telephone" or "state phone" means a landline telephone or other telephone provided by the state.

**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 – reporting.** (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.

**10-100. 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; 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 – sponsorship – style – format.** (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) (a) Except as provided in subsection (4)(b), sections of the Montana Code Annotated repealed or amended in a bill must be stated in the title.

(b) (i) Sections of the Montana Code Annotated repealed or amended in a legislative referendum must be stated in the title unless the inclusion of those sections in the title would cause the title to cumulatively exceed a 100-word limit.

(ii) If the inclusion of sections of the Montana Code Annotated repealed or amended in a legislative referendum title would cause the title to cumulatively exceed 100 words, the title must include those sections that do not exceed the 100-word limit and include a reference to the total number of additional sections listed in the body of the bill that are excluded from the title due to the 100-word limit. Those additional sections excluded from the title must be listed in a section within the body of the bill after the enacting clause.

(5) Introduced bills must be reproduced on white paper and distributed to members.

**10-140. Voting on bills – constitutional amendments.** (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 must also be kept that includes but is not limited to:

- (a) the date, time, and place of the meeting;
- (b) a list of the individual members of the public body, agency, or organization who were in attendance;
- (c) all matters proposed, discussed, or decided; and
- (d) at the request of any member, a record of votes by individual members for any votes taken.

**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.

## CHAPTER 20

### RELATIONS WITH OTHER HOUSE

**20-10. Consent for adjournment or recess.** As required by Article V, section 10(5), of the Montana Constitution, the consent of the other house is required for adjournment or recess for more than 3 calendar days. Consent for adjournment is obtained by having the house wishing to adjourn send a message to the other house and having the receiving house vote favorably on the request. The receiving house shall inform the requesting house of its consent or lack of consent. Consent is not required on or after the 87th legislative day.

## CHAPTER 30

### COMMITTEES

**30-10. Joint committee chair – exception.** 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 – exception.** (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 – subject matter restrictions.** (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 general 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.** (1) 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.

(2) (a) The committee must have prepared by December 1 for introduction during each regular session of the Legislature in which a revenue bill is under consideration an estimate of the amount of revenue projected to be available for legislative appropriation.

(b) The committee may prepare for introduction during a special session of the Legislature in which a revenue bill or an appropriation bill is under consideration an estimate of the amount of projected revenue. The revenue estimate is considered a subject specified in the call of a special session.

**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 Energy, Technology, and Federal Relations 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 Energy, Technology, and Federal Relations Committee;
  - (c) House Appropriations Committee; and
  - (d) Senate Finance and Claims Committee.

**30-80. Appointment of committees other than standing or statutory interim committees.** Members of committees other than standing or statutory interim committees shall be appointed in accordance with the rules of each house.

## 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 – introduction in House – feed bill.** (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.

**40-40. Bill requests and introduction – limits and procedures – drafting priority – agency and committee bills.** (1) Prior to the special 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 for bills within the call of the special session.

(2) The staff of the Legislative Services Division shall work on bill draft requests in the order received.

(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) 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. Bills, joint resolutions, and simple resolutions must be numbered consecutively in separate series in the order of their receipt.

(5) Any bill requested by an interim or statutory legislative committee or on behalf of an administrative or executive agency or department through an interim or statutory committee 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 by amendment. The phrase may not be placed on a bill unless requested by a 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.

(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.** 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.** (1) 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. The bill must include a contingent voidness section that would void the bill if an appropriation is not included.

(2) A Senator may introduce a bill that includes a request for an interim study in the Senate without an appropriation, but the bill may not be transmitted to the Governor unless the bill contains an appropriation added in the House that is sufficient to conduct the study.

**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)).

**40-120. 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 or a bill heard jointly by two separate standing committees, 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 heard by a joint select or joint special committee or a bill heard jointly by two separate standing committees, 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 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.

(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 last legislative 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 last legislative day.

(5) All journal entries authorized under this rule must be entered on the journal for the last legislative 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 – referral – hearing.** (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 may be referred to committee and scheduled for hearing.

**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 – procedure.** (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

**60-05. Source and precedent of legislative rules of the Montana Legislature.** (1) The legislative rules of the Montana Legislature are derived from several sources listed below and take precedence in the following order:

(a) constitutional provisions and judicial decisions on the constitution;

(b) adopted legislative rules of the Montana Legislature;

(c) Mason's Manual of Legislative Procedure (2010);

(d) statutory provisions;

(e) adopted parliamentary authority; and

(f) parliamentary law.

(2) Legislative rules passed by one legislature or statutory provisions governing the legislative process are not binding on a subsequent legislature.

**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) 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.

(3) 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 (2010) 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 – termination of temporary 2017 special session and concurrent special session joint rules.** (1) The joint rules remain in effect until removed by a joint resolution or until a new Legislature is elected and takes office.

(2) The temporary 2017 special session and concurrent special session rules in this Joint Resolution No. 1 terminate on adjournment sine die and the 2017 regular session joint rules are in effect after sine die of the special session pursuant to subsection (1).

Adopted November 14, 2017

## SENATE RESOLUTION NO. 1

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE SEVENTH JUDICIAL DISTRICT COURT, THE THIRTEENTH JUDICIAL DISTRICT COURT, AND THE WORKERS' COMPENSATION COURT MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED NOVEMBER 13, 2017, 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 District Judge of the Seventh Judicial District of the State of Montana, in accordance with sections 3-1-1010 through 3-1-1013, MCA:

Olivia C. Rieger, Glendive, Montana.

(2) As District Judge of the Thirteenth Judicial District of the State of Montana, in accordance with sections 3-1-1010 through 3-1-1013, MCA:

Donald L. Harris, Billings, Montana.

(3) As Workers' Compensation Judge of the State of Montana, in accordance with sections 3-1-1010 through 3-1-1013, MCA:

David M. Sandler, Kalispell, Montana.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the November 2017 Special Session of the 65th 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 November 14, 2017

## SENATE RESOLUTION NO. 2

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE WATER COURT MADE BY THE CHIEF JUSTICE OF THE MONTANA SUPREME COURT ON JULY 6, 2017.

WHEREAS, the Chief Justice of the Supreme Court of the State of Montana has made the appointment, below designated, pursuant to section 3-7-221, MCA:

As Chief Water Judge of the State of Montana, in accordance with sections 3-1-1010 through 3-1-1013, MCA:

William R. McElyea, Bozeman, Montana, appointed to serve a term commencing on August 1, 2017, and ending July 31, 2021.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the November 2017 Special Session of the 65th 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 November 14, 2017



**BILL NUMBER TO CHAPTER NUMBER**

<u>Bill No.</u>	<u>Chapter No.</u>	<u>Bill No.</u>	<u>Chapter No.</u>
HB 2 .....	8	SB 3 .....	3
HB 3 .....	9	SB 4 .....	4
HB 6 .....	6	SB 5 .....	5
SB 1 .....	1	SB 9 .....	7
SB 2 .....	2		

**EFFECTIVE DATES BY CHAPTER NUMBER**

<u>Chapter No.</u>		<u>Bill No.</u>	<u>Effective Date</u>
Ch. 1 .....		SB 1 .....	01/01/2018
Ch. 2	§§ 8, 10, and 12-13.....	SB 2 .....	11/24/2017
	§§ 1-7, 9, and 11.....		07/01/2018
Ch. 3 .....		SB 3.....	11/24/2017
Ch. 4 .....		SB 4.....	11/24/2017
Ch. 5	§§ 1, 3-4, 6-7, 9, 11, 13, and 15-17 .....	SB 5.....	11/24/2017
	§§ 2, 5, 8, 10, 12, and 14.....		01/01/2024
Ch. 6	§§ 21 and 27.....	HB 6.....	11/27/2017
	§§ 1-20, 22-26, and 28 .....		12/15/2017
Ch. 7 .....		SB 9.....	11/27/2017
Ch. 8 .....		HB 2.....	11/27/2017
Ch. 9 .....		HB 3.....	11/24/2017

**EFFECTIVE DATES BY DATE**

<u>Effective Date</u>	<u>Chapter No.</u>	<u>Bill No.</u>
11/24/2017.....	Ch. 2.....	SB 2
	§§ 8, 10, and 12-13	
11/24/2017.....	Ch. 3.....	SB 3
11/24/2017.....	Ch. 4.....	SB 4
11/24/2017.....	Ch. 5.....	SB 5
	§§ 1, 3-4, 6-7, 9, 11, 13, and 15-17	
11/24/2017.....	Ch. 9.....	HB 3
11/27/2017.....	Ch. 6.....	HB 6
	§§ 21 and 27	
11/27/2017.....	Ch. 7.....	SB 9
11/27/2017.....	Ch. 8.....	HB 2
12/15/2017.....	Ch. 6.....	HB 6
	§§ 1-20, 22-26, and 28	
01/01/2018.....	Ch. 1.....	SB 1
07/01/2018.....	Ch. 2.....	SB 2
	§§ 1-7, 9, and 11	
01/01/2024.....	Ch. 5.....	SB 5
	§§ 2, 5, 8, 10, 12, and 14	

**SESSION LAWS AFFECTED**

<u>Laws Affected</u>	<u>Action</u>	<u>Chapter No.</u>	<u>Bill No.</u>
Laws of 2017			
Ch. 259, sec. 3.....	amended.....	Ch. 6.....	HB 6
Ch. 364, secs. 8, 9, 11 .....	repealed.....	Ch. 8.....	HB 2
Ch. 366.....	amended.....	Ch. 8.....	HB 2
Ch. 416, secs. 7, 13-17.....	repealed.....	Ch. 8.....	HB 2
Ch. 429, secs. 12, 15-18, 20-22, 24, 28.....	repealed.....	Ch. 8.....	HB 2

**SESSION LAW TO CODE**

<u>Ch.</u>	<u>Sec.</u>	<u>MCA</u>	<u>Ch.</u>	<u>Sec.</u>	<u>MCA</u>
1	1	19-5-404	6	1	Fund transfers
	2	Contingent voidness		2	State auditor fund transfers
	3	Effective date		3	Fund transfers
	4	Applicability		4	Additional fund transfers
	5	Termination		5	Fire fund transfer limit -- equalization
2	1	15-1-121		6	2-15-405
	2	15-1-123		7	15-70-125
	3	20-9-141		8	17-5-703
	4	20-9-501		9	17-7-205
	5	20-9-638		10	20-9-516
	6	20-10-144		11	20-9-525
	7	20-10-146		12	23-1-105
	8	Proportional reduction to general fund appropriation for school transportation for fiscal years 2018 and 2019		13	30-10-115
	9	Guaranteed tax base aid for countywide retirement mills in fiscal year 2019		14	33-2-708
	10	Fund transfers		15	33-28-120
	11	Repealer		16	69-1-402
	12	Contingent voidness		17	75-25-101
	13	Effective dates		18	90-1-205
3	1	2-18-703		19	90-4-617
	2	7-4-2502		20	Section 3(3), Chapter 259, Laws of 2017
	3	Contingent voidness		21	Contingent voidness
	4	Effective date		22	Contingent voidness
	5	Termination		23	Contingent voidness
4	1	17-1-512		24	Contingent voidness
	2	39-71-2320		25	Contingent voidness
	3	Codification instruction		26	Severability
	4	Effective date		27	Effective dates
	5	Applicability		28	Termination
	6	Termination	7	1	Private correctional facility contract renegotiation -- use of funds -- creation of account
5	1	16-4-105		2	Contingent fund transfer
	2	16-4-105		3	17-7-140
	3	16-4-201		4	Coordination instruction
	4	16-4-204		5	Allocations to state agencies with excess revenues
	5	16-4-204		6	Coordination instruction
	6	16-4-207		7	Severability
	7	16-4-305		8	Contingent voidness
	8	16-4-305		9	Effective date
	9	16-4-306		10	Termination dates
	10	16-4-306	8	1	Chapter 366, Laws of 2017
	11	16-4-402		2	Repealer
	12	16-4-402		3	Effective date
	13	16-4-420	9	1	Fund transfer
	14	16-4-420		2	Effective date
	15	23-5-119			
	16	Effective dates			
	17	Termination			

**MONTANA CODE ANNOTATED**

**NOVEMBER 2017 SPECIAL SESSION**



**CODE SECTIONS AFFECTED**

<u>Title-Chapter-Section</u>	<u>Action</u>	<u>Chapter No.</u>	<u>Bill No.</u>
2-15-405 .....	amended.....	Ch. 6 .....	HB 6
2-18-703 .....	amended.....	Ch. 3 .....	SB 3
7-4-2502 .....	amended.....	Ch. 3 .....	SB 3
15-1-121 .....	amended.....	Ch. 2 .....	SB 2
15-1-123 .....	amended.....	Ch. 2 .....	SB 2
15-70-125 .....	amended.....	Ch. 6 .....	HB 6
16-4-105 .....	amended.....	Ch. 5 .....	SB 5
16-4-201 .....	amended.....	Ch. 5 .....	SB 5
16-4-204 .....	amended.....	Ch. 5 .....	SB 5
16-4-207 .....	amended.....	Ch. 5 .....	SB 5
16-4-305 .....	amended.....	Ch. 5 .....	SB 5
16-4-306 .....	amended.....	Ch. 5 .....	SB 5
16-4-402 .....	amended.....	Ch. 5 .....	SB 5
16-4-420 .....	amended.....	Ch. 5 .....	SB 5
17-1-512 .....	enacted.....	Ch. 4 .....	SB 4
17-5-703 .....	amended.....	Ch. 6 .....	HB 6
17-7-140 .....	amended.....	Ch. 7 .....	SB 9
17-7-205 .....	amended.....	Ch. 6 .....	HB 6
19-5-404 .....	amended.....	Ch. 1 .....	SB 1
20-9-141 .....	amended.....	Ch. 2 .....	SB 2
20-9-501 .....	amended.....	Ch. 2 .....	SB 2
20-9-516 .....	amended.....	Ch. 6 .....	HB 6
20-9-525 .....	amended.....	Ch. 6 .....	HB 6
20-9-630 .....	repealed 7/1/2018.....	Ch. 2 .....	SB 2
20-9-632 .....	repealed 7/1/2018.....	Ch. 2 .....	SB 2
20-9-638 .....	amended.....	Ch. 2 .....	SB 2
20-10-144 .....	amended.....	Ch. 2 .....	SB 2
20-10-146 .....	amended.....	Ch. 2 .....	SB 2
23-1-105 .....	amended.....	Ch. 6 .....	HB 6
23-5-119 .....	amended.....	Ch. 5 .....	SB 5
30-10-115 .....	amended.....	Ch. 6 .....	HB 6
33-2-708 .....	amended.....	Ch. 6 .....	HB 6
33-28-120 .....	amended.....	Ch. 6 .....	HB 6
39-71-2320 .....	amended.....	Ch. 4 .....	SB 4
69-1-402 .....	amended.....	Ch. 6 .....	HB 6
75-25-101 .....	amended.....	Ch. 6 .....	HB 6
90-1-205 .....	amended.....	Ch. 6 .....	HB 6
90-4-617 .....	amended.....	Ch. 6 .....	HB 6

## MONTANA CODE ANNOTATED

## Updated Statute Text

**2-15-405. Fees charged by secretary of state — deposit to account — rulemaking.**

(1) The secretary of state shall, for fees charged by the secretary of state, set by administrative rule each fee authorized by law.

(2) Unless otherwise specified by law, fees:

- (a) must be commensurate with the overall costs of the office of the secretary of state; and
- (b) must reasonably reflect the prevailing rates charged in the public and private sectors

for similar services.

(3) The secretary of state shall maintain records sufficient to support the fees established pursuant to this section.

(4) Except as otherwise provided by law, fees collected by the secretary of state must be deposited to an account in the enterprise fund type to the credit of the secretary of state. All income and interest earned on money in the account must be credited to the account. [Funds in the account are subject to legislative fund transfer.] *(Bracketed language in subsection (4) terminates June 30, 2019—sec. 28, Ch. 6, Sp. L. November 2017.)*

**History:** En. Sec. 1, Ch. 396, L. 2001; amd. Sec. 6, Ch. 6, Sp. L. November 2017.

**Compiler's Comments**

*2017 Special Session Amendment:* Chapter 6 in (4) inserted last sentence providing for legislative fund transfer. Amendment effective December 15, 2017, and terminates June 30, 2019.

**2-18-703. (Temporary) Contributions.** (1) Except as provided in subsection (2)(b), 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) (a) Except as provided in subsection (2)(b), for employees defined in 2-18-701 and for members of the legislature, the employer contribution for group benefits is \$1,054 a month from January 2017 through December 2019.

(b) The approving authority, as defined in 17-7-102, may direct a state agency to suspend the employer contribution for state employee group benefits described in subsections (1) and (2)(a) for a period of up to 2 months.

(c) (i) Except as provided in subsection (2)(c)(ii), for the purposes of this subsection (2), “state agency” means a state entity that pays the employer contribution for state employee group benefits.

(ii) The term does not include the Montana university system.

(d) For employees defined in 2-18-701 and for members of the legislature, beginning January 2020 and for each succeeding month, the cost of group benefits, including both the employer and employee contributions for group benefits and health flexible spending accounts, may not exceed the monthly amount for self-only coverage and coverage other than self-only that will trigger the excise tax under 26 U.S.C. 4980I, including any cost-of-living adjustments under 26 U.S.C. 4980I. This section limits contributions for group benefits only to the extent needed to avoid triggering the excise tax under 26 U.S.C. 4980I.

(e) For employees of the Montana university system, the employer contribution for group benefits is \$1,054 a month from July 2016 through the earlier of:

(i) June 2020; or

(ii) the month before the first month in which the excise tax under 26 U.S.C. 4980I applies.

(f) For employees of the Montana university system, beginning the earlier of July 2020 or the first month in 2020 in which the excise tax under 26 U.S.C. 4980I applies, and for each succeeding month, the cost of group benefits, including both the employer and employee contributions for group benefits and health flexible spending accounts, may not exceed the monthly amount for self-only coverage and coverage other than self-only that will trigger the excise tax under 26 U.S.C. 4980I, including any cost-of-living adjustments under 26 U.S.C. 4980I. This section limits contributions for group benefits only to the extent needed to avoid triggering the excise tax under 26 U.S.C. 4980I.

(g) (i) 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 and to the protections of 2-18-1205. 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.

(ii) Payments required under this subsection (2)(g) may be suspended if a state agency is directed to suspend the employer contribution for the state employee group benefit plan pursuant to subsection (2)(b).

(3) For employees of elementary and high school districts, the employer's contributions may exceed but may not be less than \$10 a month.

(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) (i) Subject to subsections (4)(c)(ii) and (4)(c)(iii), 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.

(ii) 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.

(iii) 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.

(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.

(6) Except as provided in subsection (2)(b), 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.

(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. (*Terminates June 30, 2019—sec. 5, Ch. 3, Sp. L. November 2017.*)

**2-18-703. (Effective July 1, 2019) 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) (a) For employees defined in 2-18-701 and for members of the legislature, the employer contribution for group benefits is \$1,054 a month from January 2017 through December 2019.

(b) For employees defined in 2-18-701 and for members of the legislature, beginning January 2020 and for each succeeding month, the cost of group benefits, including both the employer and employee contributions for group benefits and health flexible spending accounts, may not exceed the monthly amount for self-only coverage and coverage other than self-only that will trigger the excise tax under 26 U.S.C. 4980I, including any cost-of-living adjustments under 26 U.S.C. 4980I. This section limits contributions for group benefits only to the extent needed to avoid triggering the excise tax under 26 U.S.C. 4980I.

(c) For employees of the Montana university system, the employer contribution for group benefits is \$1,054 a month from July 2016 through the earlier of:

(i) June 2020; or

(ii) the month before the first month in which the excise tax under 26 U.S.C. 4980I applies.

(d) For employees of the Montana university system, beginning the earlier of July 2020 or the first month in 2020 in which the excise tax under 26 U.S.C. 4980I applies, and for each succeeding month, the cost of group benefits, including both the employer and employee contributions for group benefits and health flexible spending accounts, may not exceed the monthly amount for self-only coverage and coverage other than self-only that will trigger the excise tax under 26 U.S.C. 4980I, including any cost-of-living adjustments under 26 U.S.C. 4980I. This section limits contributions for group benefits only to the extent needed to avoid triggering the excise tax under 26 U.S.C. 4980I.

(e) 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 and to the protections of 2-18-1205. 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, the employer's contributions may exceed but may not be less than \$10 a month.

(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) (i) Subject to subsections (4)(c)(ii) and (4)(c)(iii), 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.

(ii) 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.

(iii) 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.

(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.

(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.

**History:** En. Sec. 1, Ch. 174, L. 1957; amd. Sec. 1, Ch. 83, L. 1965; amd. Sec. 1, Ch. 200, L. 1967; amd. Sec. 1, Ch. 220, L. 1969; amd. Sec. 1, Ch. 382, L. 1971; amd. Sec. 1, Ch. 188, L. 1974; amd. Sec. 1, Ch. 359, L. 1975; amd. Sec. 1, Ch. 437, L. 1975; amd. Sec. 1, Ch. 259, L. 1977; amd. Sec. 11, Ch. 563, L. 1977; R.C.M. 1947, 11-1024(2); amd. Sec. 13, Ch. 678, L. 1979; amd. Sec. 8, Ch. 421, L. 1981; amd. Sec. 1, Ch. 207, L. 1983; amd. Sec. 11, Ch. 710, L. 1983; amd. Sec. 8, Ch. 740, L. 1985; amd. Sec. 2, Ch. 370, L. 1987; amd. Sec. 10, Ch. 661, L. 1987; amd. Sec. 2, Ch. 171, L. 1989; amd. Sec. 11, Ch. 660, L. 1989; amd. Sec. 1, Ch. 171, L. 1991; amd. Sec. 10, Ch. 720, L. 1991;



amd. Sec. 3, Ch. 758, L. 1991; amd. Sec. 2, Ch. 13, L. 1993; amd. Sec. 9, Ch. 640, L. 1993; amd. Sec. 12, Ch. 455, L. 1995; amd. Sec. 10, Ch. 417, L. 1997; amd. Sec. 9, Ch. 558, L. 1999; amd. Sec. 4, Ch. 314, L. 2001; amd. Sec. 2, Ch. 511, L. 2001; amd. Secs. 6, 9, Ch. 553, L. 2001; amd. Secs. 2, 4, Ch. 529, L. 2003; amd. Sec. 6, Ch. 552, L. 2003; amd. Sec. 5, Ch. 6, L. 2005; amd. Sec. 13, Ch. 81, L. 2007; amd. Sec. 5, Ch. 7, L. 2009; amd. Sec. 2, Ch. 412, L. 2009; amd. Sec. 3, Ch. 385, L. 2013; amd. Sec. 7, Ch. 438, L. 2015; amd. Sec. 4, Ch. 175, L. 2017; amd. Sec. 1, Ch. 3, Sp. L. November 2017.

**Compiler's Comments**

*2017 Special Session Amendment:* Chapter 3 in (1), (2)(a), and (6) at beginning inserted exception clause; inserted (2)(b) concerning suspending employer contributions; inserted (2)(c) defining state agency; inserted (2)(g)(ii) concerning the suspension of certain payments; and made minor changes in style. Amendment effective November 24, 2017, and terminates June 30, 2019.

**7-4-2502. Payment of salaries of county officials and assistants — state share for county attorney — statutory appropriation.** (1) The salaries of the county officers and their assistants may be paid monthly, twice monthly, or every 2 weeks out of the general fund of the county and upon the order of the board of county commissioners.

(2) The funding for the salary and health insurance benefits for the county attorney is a shared responsibility of the state and the county. The state's share is payable as provided in subsection (3).

(3) (a) For each fiscal year, the department of justice shall pay to each county and consolidated government the amount calculated under subsection (3)(b). Payments must be made quarterly.

(b) (i) For each county and consolidated government with a full-time county attorney, the amount paid each fiscal year must be equal to 50% of 85% of a district court judge's salary most recently set under 3-5-211 plus an amount equal to 50% of the employer contribution for group benefits under 2-18-703(2) for an employee as defined in 2-18-701.

(ii) For each county and consolidated government with a part-time county attorney, the total amount paid each fiscal year must be equal to the amount calculated under subsection (3)(b)(i) prorated according to the position's regular work hours.

(iii) The payments required under subsection (3)(b)(i) are not affected if the governor directs a state agency not to pay the employer contribution for employee group benefits as allowed in 2-18-703(2)(b).

(c) For the purpose of this subsection (3), the following definitions apply:

(i) "Full-time county attorney" means that as of July 1 immediately preceding the regular legislative session, the county attorney position has been established as a full-time position pursuant to 7-4-2706.

(ii) "Part-time county attorney" means that as of July 1 immediately preceding the regular legislative session, the county attorney position has been established as a part-time position pursuant to 7-4-2706.

(iii) "Salary" means wage plus the employer contributions required for retirement, workers' compensation insurance, and the Federal Insurance Contributions Act as determined for a district court judge.

(4) The amount to be paid to each county pursuant to subsection (3) is statutorily appropriated, as provided in 17-7-502, from the general fund to the department of justice.

(5) The board may, under limitations and restrictions prescribed by law, fix the compensation of all county officers not otherwise fixed by law and provide for the payment of the compensation and may, for all or the remainder of each fiscal year, in conjunction with setting salaries for other officers as provided in 7-4-2504, set their salaries at the prior fiscal year level. (*Subsection (3)(b)(iii) terminates June 30, 2019—sec. 5, Ch. 3, Sp. L. November 2017.*)

**History:** (1)(a), (2)En. Sec. 4595, Pol. C. 1895; re-en. Sec. 3117, Rev. C. 1907; re-en. Sec. 4868, R.C.M. 1921; amd. Sec. 4, Ch. 141, L. 1925; re-en. Sec. 4868, R.C.M. 1935; amd. Sec. 1, Ch. 7, L. 1945; Sec. 25-601, R.C.M. 1947; (1)(b)En. Sec. 4603, Pol. C. 1895; re-en. Sec. 3136, Rev. C. 1907; re-en. Sec. 4872, R.C.M. 1921; re-en. Sec. 4872, R.C.M. 1935; Sec. 25-602, R.C.M. 1947; (3)En. Subd. 18, Sec. 1, Ch. 100, L. 1931; re-en. Sec. 4465.17, R.C.M. 1935; Sec. 16-1020, R.C.M. 1947; R.C.M. 1947, 16-1020, 25-601, 25-602(part); amd. Sec. 1, Ch. 109, L. 1979; amd. Sec. 9, Ch. 443, L. 1979; amd. Sec. 2, Ch. 719, L. 1985; amd. Sec. 3, Ch. 12, Sp. L. June 1986; amd. Sec. 1, Ch. 17, Sp. L. June 1986; amd. Sec. 1, Ch. 667, L. 1991; amd. Sec. 1, Ch. 332, L. 1993; amd. Sec. 5, Ch. 325, L. 1995; amd. Sec. 1, Ch. 75, L. 1999; amd. Sec. 11, Ch. 114, L. 2003; amd. Sec. 2, Ch. 230, L. 2007; amd. Sec. 2, Ch. 3, Sp. L. November 2017.

**Compiler's Comments**

*2017 Special Session Amendment:* Chapter 3 inserted (3)(b)(iii) concerning payments when the governor directs a state agency not to pay the employer contribution for employee group benefits. Amendment effective November 24, 2017, and terminates June 30, 2019.

**15-1-121. (Temporary) Entitlement share payment — purpose — appropriation.**

(1) As described in 15-1-120(3), each local government is entitled to an annual amount that is the replacement for revenue received by local governments for diminishment of property tax base and various earmarked fees and other revenue that, pursuant to Chapter 574, Laws of 2001, amended by section 4, Chapter 13, Special Laws of August 2002, and later enactments, were consolidated to provide aggregation of certain reimbursements, fees, tax collections, and other revenue in the state treasury with each local government's share. The reimbursement under this section is provided by direct payment from the state treasury rather than the ad hoc system that offset certain state payments with local government collections due the state and reimbursements made by percentage splits, with a local government remitting a portion of collections to the state, retaining a portion, and in some cases sending a portion to other local governments.

(2) The sources of dedicated revenue that were relinquished by local governments in exchange for an entitlement share of the state general fund were:

- (a) personal property tax reimbursements pursuant to sections 167(1) through (5) and 169(6), Chapter 584, Laws of 1999;
- (b) vehicle, boat, and aircraft taxes and fees pursuant to:
  - (i) Title 23, chapter 2, part 5;
  - (ii) Title 23, chapter 2, part 6;
  - (iii) Title 23, chapter 2, part 8;
  - (iv) 61-3-317;
  - (v) 61-3-321;
  - (vi) Title 61, chapter 3, part 5, except for 61-3-509(3), as that subsection read prior to the amendment of 61-3-509 in 2001;
  - (vii) Title 61, chapter 3, part 7;
  - (viii) 5% of the fees collected under 61-10-122;
  - (ix) 61-10-130;
  - (x) 61-10-148; and
  - (xi) 67-3-205;
- (c) gaming revenue pursuant to Title 23, chapter 5, part 6, except for the permit fee in 23-5-612(2)(a);
- (d) district court fees pursuant to:
  - (i) 25-1-201, except those fees in 25-1-201(1)(d), (1)(g), and (1)(j);
  - (ii) 25-1-202;
  - (iii) 25-9-506; and
  - (iv) 27-9-103;
- (e) certificate of title fees for manufactured homes pursuant to 15-1-116;
- (f) financial institution taxes collected pursuant to the former provisions of Title 15, chapter 31, part 7;
- (g) all beer, liquor, and wine taxes pursuant to:
  - (i) 16-1-404;
  - (ii) 16-1-406; and
  - (iii) 16-1-411;
- (h) late filing fees pursuant to 61-3-220;
- (i) title and registration fees pursuant to 61-3-203;
- (j) veterans' cemetery license plate fees pursuant to 61-3-459;
- (k) county personalized license plate fees pursuant to 61-3-406;
- (l) special mobile equipment fees pursuant to 61-3-431;
- (m) single movement permit fees pursuant to 61-4-310;
- (n) state aeronautics fees pursuant to 67-3-101; and
- (o) department of natural resources and conservation payments in lieu of taxes pursuant to former Title 77, chapter 1, part 5.

(3) Except as provided in subsection (7)(b), the total amount received by each local government in the prior fiscal year as an entitlement share payment under this section is the base component for the subsequent fiscal year distribution, and in each subsequent year the prior year entitlement share payment, including any reimbursement payments received pursuant to subsection (7), is each local government's base component. The sum of all local governments' base components is the fiscal year entitlement share pool.

(4) (a) Except as provided in subsections (4)(b)(iv) and (7)(b), the base entitlement share pool must be increased annually by an entitlement share growth rate as provided for in this subsection (4). The amount determined through the application of annual growth rates is the entitlement share pool for each fiscal year.

(b) By October 1 of each year, the department shall calculate the growth rate of the entitlement share pool for the next fiscal year in the following manner:

(i) The department shall calculate the entitlement share growth rate based on the ratio of two factors of state revenue sources for the first, second, and third most recently completed fiscal years as recorded on the statewide budgeting and accounting system. The first factor is the sum of the revenue for the first and second previous completed fiscal years received from the sources referred to in subsections (2)(b), (2)(c), and (2)(g) divided by the sum of the revenue for the second and third previous completed fiscal years received from the same sources multiplied by 0.75. The second factor is the sum of the revenue for the first and second previous completed fiscal years received from individual income tax as provided in Title 15, chapter 30, and corporate income tax as provided in Title 15, chapter 31, divided by the sum of the revenue for the second and third previous completed fiscal years received from the same sources multiplied by 0.25.

(ii) Except as provided in subsections (4)(b)(iii) and (4)(b)(iv), the entitlement share growth rate is the lesser of:

(A) the sum of the first factor plus the second factor; or

(B) 1.03 for counties, 1.0325 for consolidated local governments, and 1.035 for cities and towns.

(iii) In no instance can the entitlement growth factor be less than 1. Subject to subsection (4)(b)(iv), the entitlement share growth rate is applied to the most recently completed fiscal year entitlement payment to determine the subsequent fiscal year payment.

(iv) The entitlement share growth rate, as described in this subsection (4), is:

(A) for fiscal year 2018, 1.005;

(B) for fiscal year 2019, 1.0187;

(C) for fiscal year 2020 and thereafter, determined as provided in subsection (4)(b)(ii). The rate must be applied to the entitlement payment for the previous fiscal year as if the payment had been calculated using entitlement share growth rates for fiscal years 2018 and 2019 as provided in subsection (4)(b)(ii).

(5) As used in this section, "local government" means a county, a consolidated local government, an incorporated city, and an incorporated town. A local government does not include a tax increment financing district provided for in subsection (8). The county or consolidated local government is responsible for making an allocation from the county's or consolidated local government's share of the entitlement share pool to each special district within the county or consolidated local government in a manner that reasonably reflects each special district's loss of revenue sources for which reimbursement is provided in this section. The allocation for each special district that existed in 2002 must be based on the relative proportion of the loss of revenue in 2002.

(6) (a) The entitlement share pools calculated in this section, the amounts determined under 15-1-123(2) for local governments, the funding provided for in subsection (8) of this section, and the amounts determined under 15-1-123(4) for tax increment financing districts are statutorily appropriated, as provided in 17-7-502, from the general fund to the department for distribution to local governments.

(b) (i) The growth amount is the difference between the entitlement share pool in the current fiscal year and the entitlement share pool in the previous fiscal year. The growth factor in the entitlement share must be calculated separately for:

(A) counties;

(B) consolidated local governments; and

(C) incorporated cities and towns.

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

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

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

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

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

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

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

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

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

(v) In each fiscal year, the amount of the entitlement share pool before the growth amount or adjustments made under subsection (7) are applied is to be distributed to each local government in the same manner as the entitlement share pool was distributed in the prior fiscal year.

(7) (a) If the legislature enacts a reimbursement provision that is to be distributed pursuant to this section, the department shall determine the reimbursement amount as provided in the enactment and add the appropriate amount to the entitlement share distribution under this section. The total entitlement share distributions in a fiscal year, including distributions made pursuant to this subsection, equal the local fiscal year entitlement share pool. The ratio of each local government's distribution from the entitlement share pool must be recomputed to determine each local government's ratio to be used in the subsequent year's distribution determination under subsections (6)(b)(ii)(A), (6)(b)(iii)(A), and (6)(b)(iv)(A).

(b) For fiscal year 2018 and thereafter, the growth rate provided for in subsection (4) does not apply to the portion of the entitlement share pool attributable to the reimbursement provided for in 15-1-123(2). The department shall calculate the portion of the entitlement share pool attributable to the reimbursement in 15-1-123(2), including the application of the growth rate in previous fiscal years, for counties, consolidated local governments, and cities and, for fiscal year 2018 and thereafter, apply the growth rate for that portion of the entitlement share pool as provided in 15-1-123(2).

(c) The growth amount resulting from the application of the growth rate in 15-1-123(2) must be allocated as provided in subsections (6)(b)(ii)(A), (6)(b)(iii)(A), and (6)(b)(iv)(A) of this section.

(8) (a) Except for a tax increment financing district entitled to a reimbursement under 15-1-123(4), if a tax increment financing district was not in existence during the fiscal year ending June 30, 2000, then the tax increment financing district is not entitled to any funding. If a tax increment financing district referred to in subsection (8)(b) terminates, then the funding for the district provided for in subsection (8)(b) terminates.

(b) One-half of the payments provided for in this subsection (8)(b) must be made by November 30 and the other half by May 31 of each year. Subject to subsection (8)(a), the entitlement share for tax increment financing districts is as follows:

Flathead	Kalispell - District 2	\$4,638
Flathead	Kalispell - District 3	37,231
Flathead	Whitefish District	148,194
Gallatin	Bozeman - downtown	31,158
Missoula	Missoula - 1-1C	225,251
Missoula	Missoula - 4-1C	30,009

(9) The estimated fiscal year entitlement share pool and any subsequent entitlement share pool for local governments do not include revenue received from tax increment financing districts, from countywide transportation block grants, or from countywide retirement block grants.

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

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

(12) (a) Except as provided in 2-7-517, a payment required pursuant to this section may not be offset by a debt owed to a state agency by a local government in accordance with Title 17, chapter 4, part 1.

(b) A payment required pursuant to this section must be withheld if a local government:

(i) fails to meet a deadline established in 2-7-503(1), 7-6-611(2), 7-6-4024(3), or 7-6-4036(1); and

(ii) fails to remit any amounts collected on behalf of the state as required by 15-1-504 or any other amounts owed to the state or another taxing jurisdiction, as otherwise required by law, within 45 days of the end of a month.

(c) A payment required pursuant to this section may be withheld if, for more than 90 days, a local government fails to:

(i) file a financial report required by 15-1-504;

(ii) remit any amounts collected on behalf of the state as required by 15-1-504; or

(iii) remit any other amounts owed to the state or another taxing jurisdiction.

**15-1-121. (Effective July 1, 2018) Entitlement share payment — purpose — appropriation.** (1) As described in 15-1-120(3), each local government is entitled to an annual amount that is the replacement for revenue received by local governments for diminishment of property tax base and various earmarked fees and other revenue that, pursuant to Chapter 574, Laws of 2001, amended by section 4, Chapter 13, Special Laws of August 2002, and later enactments, were consolidated to provide aggregation of certain reimbursements, fees, tax collections, and other revenue in the state treasury with each local government's share. The reimbursement under this section is provided by direct payment from the state treasury rather than the ad hoc system that offset certain state payments with local government collections due the state and reimbursements made by percentage splits, with a local government remitting a portion of collections to the state, retaining a portion, and in some cases sending a portion to other local governments.

(2) The sources of dedicated revenue that were relinquished by local governments in exchange for an entitlement share of the state general fund were:

(a) personal property tax reimbursements pursuant to sections 167(1) through (5) and 169(6), Chapter 584, Laws of 1999;

(b) vehicle, boat, and aircraft taxes and fees pursuant to:

(i) Title 23, chapter 2, part 5;

(ii) Title 23, chapter 2, part 6;

(iii) Title 23, chapter 2, part 8;

(iv) 61-3-317;

(v) 61-3-321;

- (vi) Title 61, chapter 3, part 5, except for 61-3-509(3), as that subsection read prior to the amendment of 61-3-509 in 2001;
  - (vii) Title 61, chapter 3, part 7;
  - (viii) 5% of the fees collected under 61-10-122;
  - (ix) 61-10-130;
  - (x) 61-10-148; and
  - (xi) 67-3-205;
  - (c) gaming revenue pursuant to Title 23, chapter 5, part 6, except for the permit fee in 23-5-612(2)(a);
  - (d) district court fees pursuant to:
    - (i) 25-1-201, except those fees in 25-1-201(1)(d), (1)(g), and (1)(j);
    - (ii) 25-1-202;
    - (iii) 25-9-506; and
    - (iv) 27-9-103;
  - (e) certificate of title fees for manufactured homes pursuant to 15-1-116;
  - (f) financial institution taxes collected pursuant to the former provisions of Title 15, chapter 31, part 7;
  - (g) all beer, liquor, and wine taxes pursuant to:
    - (i) 16-1-404;
    - (ii) 16-1-406; and
    - (iii) 16-1-411;
  - (h) late filing fees pursuant to 61-3-220;
  - (i) title and registration fees pursuant to 61-3-203;
  - (j) veterans' cemetery license plate fees pursuant to 61-3-459;
  - (k) county personalized license plate fees pursuant to 61-3-406;
  - (l) special mobile equipment fees pursuant to 61-3-431;
  - (m) single movement permit fees pursuant to 61-4-310;
  - (n) state aeronautics fees pursuant to 67-3-101; and
  - (o) department of natural resources and conservation payments in lieu of taxes pursuant to former Title 77, chapter 1, part 5.
- (3) Except as provided in subsection (7)(b), the total amount received by each local government in the prior fiscal year as an entitlement share payment under this section is the base component for the subsequent fiscal year distribution, and in each subsequent year the prior year entitlement share payment, including any reimbursement payments received pursuant to subsection (7), is each local government's base component. The sum of all local governments' base components is the fiscal year entitlement share pool.
- (4) (a) Except as provided in subsections (4)(b)(iv) and (7)(b), the base entitlement share pool must be increased annually by an entitlement share growth rate as provided for in this subsection (4). The amount determined through the application of annual growth rates is the entitlement share pool for each fiscal year.
- (b) By October 1 of each year, the department shall calculate the growth rate of the entitlement share pool for the next fiscal year in the following manner:
- (i) The department shall calculate the entitlement share growth rate based on the ratio of two factors of state revenue sources for the first, second, and third most recently completed fiscal years as recorded on the statewide budgeting and accounting system. The first factor is the sum of the revenue for the first and second previous completed fiscal years received from the sources referred to in subsections (2)(b), (2)(c), and (2)(g) divided by the sum of the revenue for the second and third previous completed fiscal years received from the same sources multiplied by 0.75. The second factor is the sum of the revenue for the first and second previous completed fiscal years received from individual income tax as provided in Title 15, chapter 30, and corporate income tax as provided in Title 15, chapter 31, divided by the sum of the revenue for the second and third previous completed fiscal years received from the same sources multiplied by 0.25.
  - (ii) Except as provided in subsections (4)(b)(iii) and (4)(b)(iv), the entitlement share growth rate is the lesser of:
    - (A) the sum of the first factor plus the second factor; or

(B) 1.03 for counties, 1.0325 for consolidated local governments, and 1.035 for cities and towns.

(iii) In no instance can the entitlement growth factor be less than 1. Subject to subsection (4)(b)(iv), the entitlement share growth rate is applied to the most recently completed fiscal year entitlement payment to determine the subsequent fiscal year payment.

(iv) The entitlement share growth rate, as described in this subsection (4), is:

(A) for fiscal year 2018, 1.005;

(B) for fiscal year 2019, 1.0187;

(C) for fiscal year 2020 and thereafter, determined as provided in subsection (4)(b)(ii). The rate must be applied to the entitlement payment for the previous fiscal year as if the payment had been calculated using entitlement share growth rates for fiscal years 2018 and 2019 as provided in subsection (4)(b)(ii).

(5) As used in this section, "local government" means a county, a consolidated local government, an incorporated city, and an incorporated town. A local government does not include a tax increment financing district provided for in subsection (8). The county or consolidated local government is responsible for making an allocation from the county's or consolidated local government's share of the entitlement share pool to each special district within the county or consolidated local government in a manner that reasonably reflects each special district's loss of revenue sources for which reimbursement is provided in this section. The allocation for each special district that existed in 2002 must be based on the relative proportion of the loss of revenue in 2002.

(6) (a) The entitlement share pools calculated in this section, the amounts determined under 15-1-123(2) for local governments, the funding provided for in subsection (8) of this section, and the amounts determined under 15-1-123(3) for tax increment financing districts are statutorily appropriated, as provided in 17-7-502, from the general fund to the department for distribution to local governments.

(b) (i) The growth amount is the difference between the entitlement share pool in the current fiscal year and the entitlement share pool in the previous fiscal year. The growth factor in the entitlement share must be calculated separately for:

(A) counties;

(B) consolidated local governments; and

(C) incorporated cities and towns.

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

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

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

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

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

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

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

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

(B) 50% of the growth amount must be allocated based upon the percentage that each city's or town's population bears to the state's total population residing within incorporated cities

and towns as determined by the latest interim year population estimates from the Montana department of commerce as supplied by the United States bureau of the census.

(v) In each fiscal year, the amount of the entitlement share pool before the growth amount or adjustments made under subsection (7) are applied is to be distributed to each local government in the same manner as the entitlement share pool was distributed in the prior fiscal year.

(7) (a) If the legislature enacts a reimbursement provision that is to be distributed pursuant to this section, the department shall determine the reimbursement amount as provided in the enactment and add the appropriate amount to the entitlement share distribution under this section. The total entitlement share distributions in a fiscal year, including distributions made pursuant to this subsection, equal the local fiscal year entitlement share pool. The ratio of each local government's distribution from the entitlement share pool must be recomputed to determine each local government's ratio to be used in the subsequent year's distribution determination under subsections (6)(b)(ii)(A), (6)(b)(iii)(A), and (6)(b)(iv)(A).

(b) For fiscal year 2018 and thereafter, the growth rate provided for in subsection (4) does not apply to the portion of the entitlement share pool attributable to the reimbursement provided for in 15-1-123(2). The department shall calculate the portion of the entitlement share pool attributable to the reimbursement in 15-1-123(2), including the application of the growth rate in previous fiscal years, for counties, consolidated local governments, and cities and, for fiscal year 2018 and thereafter, apply the growth rate for that portion of the entitlement share pool as provided in 15-1-123(2).

(c) The growth amount resulting from the application of the growth rate in 15-1-123(2) must be allocated as provided in subsections (6)(b)(ii)(A), (6)(b)(iii)(A), and (6)(b)(iv)(A) of this section.

(8) (a) Except for a tax increment financing district entitled to a reimbursement under 15-1-123(3), if a tax increment financing district was not in existence during the fiscal year ending June 30, 2000, then the tax increment financing district is not entitled to any funding. If a tax increment financing district referred to in subsection (8)(b) terminates, then the funding for the district provided for in subsection (8)(b) terminates.

(b) One-half of the payments provided for in this subsection (8)(b) must be made by November 30 and the other half by May 31 of each year. Subject to subsection (8)(a), the entitlement share for tax increment financing districts is as follows:

Flathead	Kalispell - District 2	\$4,638
Flathead	Kalispell - District 3	37,231
Flathead	Whitefish District	148,194
Gallatin	Bozeman - downtown	31,158
Missoula	Missoula - 1-1C	225,251
Missoula	Missoula - 4-1C	30,009

(9) The estimated fiscal year entitlement share pool and any subsequent entitlement share pool for local governments do not include revenue received from tax increment financing districts.

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

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

(12) (a) Except as provided in 2-7-517, a payment required pursuant to this section may not be offset by a debt owed to a state agency by a local government in accordance with Title 17, chapter 4, part 1.

(b) A payment required pursuant to this section must be withheld if a local government:

(i) fails to meet a deadline established in 2-7-503(1), 7-6-611(2), 7-6-4024(3), or 7-6-4036(1); and



(ii) fails to remit any amounts collected on behalf of the state as required by 15-1-504 or any other amounts owed to the state or another taxing jurisdiction, as otherwise required by law, within 45 days of the end of a month.

(c) A payment required pursuant to this section may be withheld if, for more than 90 days, a local government fails to:

- (i) file a financial report required by 15-1-504;
- (ii) remit any amounts collected on behalf of the state as required by 15-1-504; or
- (iii) remit any other amounts owed to the state or another taxing jurisdiction.

**History:** En. Sec. 1, Ch. 574, L. 2001; amd. Sec. 4, Ch. 13, Sp. L. August 2002; amd. Sec. 1, Ch. 236, L. 2003; amd. Sec. 1, Ch. 252, L. 2003; amd. Sec. 4, Ch. 399, L. 2003; amd. Sec. 16, Ch. 477, L. 2003; amd. Sec. 2, Ch. 114, L. 2005; amd. Sec. 14, Ch. 130, L. 2005; amd. Sec. 2, Ch. 163, L. 2005; amd. Secs. 21, 77, Ch. 449, L. 2005; amd. Sec. 12, Ch. 596, L. 2005; amd. Sec. 1, Ch. 210, L. 2007; amd. Sec. 19, Ch. 2, L. 2009; amd. Sec. 1, Ch. 393, L. 2011; amd. Sec. 1, Ch. 411, L. 2011; amd. Sec. 1, Ch. 22, L. 2013; amd. Sec. 2, Ch. 268, L. 2013; amd. Sec. 1, Ch. 2, L. 2015; amd. Sec. 1, Ch. 403, L. 2015; amd. Sec. 1, Ch. 144, L. 2017; amd. Sec. 4, Ch. 173, L. 2017; amd. Sec. 1, Ch. 332, L. 2017; amd. Sec. 1, Ch. 2, Sp. L. November 2017.

**Compiler's Comments**

*2017 Special Session Amendment:* Chapter 2 in (6)(a) near middle and in (8)(a) near beginning substituted "15-1-123(3)" for "15-1-123(4)"; in (9) at end deleted "from countywide transportation block grants, or from countywide retirement block grants"; and made minor changes in style. Amendment effective July 1, 2018.

**15-1-123. (Temporary) Reimbursement for class eight rate reduction and exemption — distribution — appropriations.** (1) For the tax rate reductions in 15-6-138(3), the increased exemption amount in 15-6-138(4), the effective tax rate reductions on property under 15-6-145 because of the rate reductions required by the amendments of 15-6-138 in section 2, Chapter 411, Laws of 2011, and section 2, Chapter 396, Laws of 2013, and the effective tax rate reductions on property under 15-6-145 because of the increased exemption amount required by the amendment of 15-6-138 in section 2, Chapter 396, Laws of 2013, the department shall reimburse each local government, as defined in 15-1-121(5), each school district, the county retirement fund under 20-9-501, the countywide school transportation reimbursement under 20-10-146, each tax increment financing district, and the 6-mill university levy for the purposes of 15-10-108 the difference between property tax collections under 15-6-138 as amended by section 2, Chapter 411, Laws of 2011, and section 2, Chapter 396, Laws of 2013, and under 15-6-145 and the property tax revenue that would have been collected under 15-6-138 and 15-6-145 if 15-6-138 had not been amended by section 2, Chapter 411, Laws of 2011, and section 2, Chapter 396, Laws of 2013. The difference is the annual reimbursable amount for each local government, each school district, each tax increment financing district, and the 6-mill levy for the support of the Montana university system under 15-10-108.

(2) The department shall distribute the reimbursements calculated in subsection (1) to local governments with the entitlement share payments under 15-1-121(7). For fiscal year 2018 and thereafter, the growth rate applied to the reimbursement is one-half of the average rate of inflation for the prior 3 years.

(3) The office of public instruction shall distribute the reimbursements calculated in subsection (1) to school districts with the block grants pursuant to 20-9-630. School district reimbursements for subsequent fiscal years are made pursuant to 20-9-630.

(4) The amount determined under subsection (1) for each tax increment financing district must be added to the reimbursement amount for the tax increment financing district as provided in 15-1-121(8)(b) if the tax increment financing district is still in existence. If a tax increment financing district that is entitled to a reimbursement under this section is not listed under 15-1-121(8)(b), the reimbursement must be made to that tax increment financing district at the same time as other districts.

(5) (a) The amount determined under subsection (1) for the 6-mill university levy must be added to current collections and reimbursements for the support of the Montana university system as provided in 15-10-108.

(b) The department of administration shall transfer the amount determined under this subsection (5) from the general fund to the state special revenue fund for the support of the Montana university system as provided in 15-10-108.

(6) The office of public instruction shall distribute the reimbursements calculated in subsection (1) to the countywide retirement fund under 20-9-501. One-half of the amount must be distributed in November and the remainder in May.

(7) The office of public instruction shall distribute the reimbursements calculated in subsection (1) to the county transportation fund reimbursement under 20-10-146. The reimbursement must be made at the same time as countywide school transportation block grants are distributed under 20-9-632.

**15-1-123. (Effective July 1, 2018) Reimbursement for class eight rate reduction and exemption — distribution — appropriations.** (1) For the tax rate reductions in 15-6-138(3), the increased exemption amount in 15-6-138(4), the effective tax rate reductions on property under 15-6-145 because of the rate reductions required by the amendments of 15-6-138 in section 2, Chapter 411, Laws of 2011, and section 2, Chapter 396, Laws of 2013, and the effective tax rate reductions on property under 15-6-145 because of the increased exemption amount required by the amendment of 15-6-138 in section 2, Chapter 396, Laws of 2013, the department shall reimburse each local government, as defined in 15-1-121(5), each tax increment financing district, and the 6-mill university levy for the purposes of 15-10-108 the difference between property tax collections under 15-6-138 as amended by section 2, Chapter 411, Laws of 2011, and section 2, Chapter 396, Laws of 2013, and under 15-6-145 and the property tax revenue that would have been collected under 15-6-138 and 15-6-145 if 15-6-138 had not been amended by section 2, Chapter 411, Laws of 2011, and section 2, Chapter 396, Laws of 2013. The difference is the annual reimbursable amount for each local government, each tax increment financing district, and the 6-mill levy for the support of the Montana university system under 15-10-108.

(2) The department shall distribute the reimbursements calculated in subsection (1) to local governments with the entitlement share payments under 15-1-121(7). For fiscal year 2018 and thereafter, the growth rate applied to the reimbursement is one-half of the average rate of inflation for the prior 3 years.

(3) The amount determined under subsection (1) for each tax increment financing district must be added to the reimbursement amount for the tax increment financing district as provided in 15-1-121(8)(b) if the tax increment financing district is still in existence. If a tax increment financing district that is entitled to a reimbursement under this section is not listed under 15-1-121(8)(b), the reimbursement must be made to that tax increment financing district at the same time as other districts.

(4) (a) The amount determined under subsection (1) for the 6-mill university levy must be added to current collections and reimbursements for the support of the Montana university system as provided in 15-10-108.

(b) The department of administration shall transfer the amount determined under this subsection (4) from the general fund to the state special revenue fund for the support of the Montana university system as provided in 15-10-108.

**History:** En. Sec. 3, Ch. 411, L. 2011; amd. Sec. 1, Ch. 396, L. 2013; amd. Sec. 2, Ch. 332, L. 2017; amd. Sec. 2, Ch. 2, Sp. L. November 2017.

**Compiler's Comments**

*2017 Special Session Amendment:* Chapter 2 in (1) near middle after “as defined in 15-1-121(5)” deleted “each school district, the county retirement fund under 20-9-501, the countywide school transportation reimbursement under 20-10-146” and in last sentence after “each local government” deleted “each school district”; deleted former (3) that read: “(3) The office of public instruction shall distribute the reimbursements calculated in subsection (1) to school districts with the block grants pursuant to 20-9-630. School district reimbursements for subsequent fiscal years are made pursuant to 20-9-630”; deleted former (6) and (7) that read: “(6) The office of public instruction shall distribute the reimbursements calculated in subsection (1) to the countywide retirement fund under 20-9-501. One-half of the amount must be distributed in November and the remainder in May.

(7) The office of public instruction shall distribute the reimbursements calculated in subsection (1) to the county transportation fund reimbursement under 20-10-146. The reimbursement must be made at the same time as countywide school transportation block grants are distributed under 20-9-632”; and made minor changes in style. Amendment effective July 1, 2018.

**15-70-125. Highway nonrestricted account.** (1) There is a highway nonrestricted account in the state special revenue fund. All interest and penalties collected under this chapter, except those collected by a justice’s court, must, in accordance with the provisions of 17-2-124, be placed in the highway nonrestricted account. All interest and income earned on the account must be deposited to the credit of the account and any unexpended balance in the account must remain in the account.

(2) Funds in the account are subject to legislative fund transfer. (*Subsection (2) terminates June 30, 2019—sec. 28, Ch. 6, Sp. L. November 2017.*)

**History:** En. Sec. 12, Ch. 509, L. 1995; amd. Sec. 83, Ch. 42, L. 1997; amd. Sec. 12, Ch. 422, L. 1997; amd. Sec. 13, Ch. 515, L. 1999; amd. Sec. 16, Ch. 475, L. 2007; amd. Sec. 7, Ch. 6, Sp. L. November 2017.

**Compiler's Comments**

*2017 Special Session Amendment:* Chapter 6 inserted (2) providing for legislative fund transfer; and made minor changes in style. Amendment effective December 15, 2017, and terminates June 30, 2019.

**16-4-105. (Temporary) Limit on retail beer licenses — wine license amendments — limitation on use of license — exceptions — competitive bidding — rulemaking.**

(1) Except as provided in 16-4-109, 16-4-110, 16-4-115, 16-4-420, and chapter 4, part 3, of this title, a license to sell beer at retail or beer and wine at retail, in accordance with the provisions of this code and the rules of the department, may be issued to any person or business entity that is approved by the department, subject to the following exceptions:

(a) The number of retail beer licenses that the department may issue for premises situated within incorporated cities and incorporated towns and within a distance of 5 miles from the corporate limits of the cities and towns must be determined on the basis of population prescribed in 16-4-502 as follows:

(i) in incorporated towns of 500 inhabitants or less and within a distance of 5 miles from the corporate limits of the towns, not more than one retail beer license;

(ii) in incorporated cities or incorporated towns of more than 500 inhabitants and not over 2,000 inhabitants and within a distance of 5 miles from the corporate limits of the cities or towns, one retail beer license for every 500 inhabitants;

(iii) in incorporated cities of over 2,000 inhabitants and within a distance of 5 miles from the corporate limits of the cities, four retail beer licenses for the first 2,000 inhabitants, two additional retail beer licenses for the next 2,000 inhabitants or major fraction of 2,000 inhabitants, and one additional retail beer license for every additional 2,000 inhabitants.

(b) The number of inhabitants in each incorporated city or incorporated town, exclusive of the number of inhabitants residing within a distance of 5 miles from the corporate limits of the city or town, governs the number of retail beer licenses that may be issued for use within the city or town and within a distance of 5 miles from the corporate limits of the city or town. The distance of 5 miles from the corporate limits of any incorporated city or incorporated town must be measured in a straight line from the nearest entrance of the premises proposed for licensing to the nearest corporate boundary of the city or town.

(c) When the 5-mile boundary of one incorporated city or incorporated town overlaps the 5-mile boundary of another incorporated city or incorporated town, the quota area for each city or town terminates in a straight line equidistant between each city or town.

(d) Retail beer licenses of issue on March 7, 1947, and retail beer licenses issued under 16-4-110 that are in excess of the limitations in this section are renewable, but new licenses may not be issued in violation of the limitations.

(e) The limitations do not prevent the issuance of a nontransferable and nonassignable retail beer license to an enlisted persons', noncommissioned officers', or officers' club located on a state or federal military reservation on May 13, 1985, or to a post of a nationally chartered veterans' organization or a lodge of a recognized national fraternal organization if the veterans' or fraternal organization has been in existence for a period of 5 years or more prior to January 1, 1949.

(f) The number of retail beer licenses that the department may issue for use at premises situated outside of any incorporated city or incorporated town and outside of the area within a distance of 5 miles from the corporate limits or for use at premises situated within any unincorporated area must be determined by the department in its discretion, except that a retail beer license may not be issued for any premises so situated unless the department determines that the issuance of the license is required by public convenience and necessity pursuant to 16-4-203. Subsection (12) does not apply to licenses issued under this subsection (1)(f). The owner of the license whose premises are situated outside of an incorporated city or incorporated town may offer gambling, regardless of when the license was issued, if the owner and premises qualify under Title 23, chapter 5, part 3, 5, or 6.

(2) (a) For a period of 12 years after November 24, 2017, existing licenses as of November 24, 2017, in either of two quota areas that were established as provided in subsection (1)(c) may

be transferred between the two quota areas if they were part of a combined quota area prior to November 24, 2017.

(b) If any new retail beer licenses are allowed by separating a combined quota area that existed as of November 24, 2017, as provided in subsection (1)(c), the department shall publish the availability of no more than one new beer license a year until the quota has been reached.

(3) A license issued under subsection (1)(f) that becomes located within 5 miles of an incorporated city or town because of annexation after April 15, 2005, may not be transferred to another location within the city quota area for 5 years from the date of the annexation.

(4) When the department determines that a quota area is eligible for a new retail beer license under subsection (1) or (2)(b), the department shall use a competitive bidding process to determine the party afforded the opportunity to apply for the new license. The department shall:

(a) determine the minimum bid based on 75% of the market value of retail beer licenses in the quota area;

(b) publish notice that a quota area is eligible for a new license;

(c) notify the bidder with the highest bid; and

(d) keep confidential the identity of bidders, number of bids, and bid amounts until the highest bidder has been approved.

(5) To enter the competitive bidding process, a bidder shall submit:

(a) an application form provided by the department; and

(b) an irrevocable letter of credit from a financial institution establishing the department as the beneficiary of the bid amount.

(6) In the case of a tie for the highest bid, the tied bidders may submit new bids. The minimum bid must be set at the tied bid amount. To submit a new bid, a tied bidder shall submit:

(a) an application form provided by the department; and

(b) an irrevocable letter of credit from a financial institution establishing the department as the beneficiary of the new bid amount.

(7) The highest bidder shall:

(a) submit an application provided by the department and applicable fees for the license within 60 days of the department's notification of being the highest bidder;

(b) pay the bid amount prior to the license being approved;

(c) meet all other requirements to own a retail beer license; and

(d) commence business within 1 year of the department's notification unless the department grants an extension because commencement was delayed by circumstances beyond the applicant's control.

(8) If the highest bidder is not approved to own the license, the department shall offer the license to the next highest bidder. That bidder shall comply with the requirements of subsection (7).

(9) If no bids are received during the competitive bidding process or if a quota area is already eligible for another new license, the department shall process applications for the license in the order received.

(10) (a) The successful applicant is subject to forfeiture of the license and the original license fee if the successful applicant:

(i) transfers the awarded license to another person or business entity after receiving the license unless that transfer is due to a death of an owner;

(ii) does not use the license within 1 year of receiving the license or stops using the license within 5 years. The department may extend the time for use if the successful applicant provides evidence that the delay in use is for reasons outside the applicant's control; or

(iii) proposes a location for the license that had the same license type within the previous 12 months.

(b) If a license is forfeited, the department shall offer the license to the next eligible highest bidder in the auction.

(11) A person holding a license to sell beer for consumption on the premises at retail may apply to the department for an amendment to the license permitting the holder to sell wine as well as beer. The department may issue an amendment if it finds, on a satisfactory showing by the applicant, that the sale of wine for consumption on the premises would be supplementary to a restaurant or prepared-food business. Except for beer and wine licenses issued pursuant to

16-4-420, a person holding a beer and wine license may sell wine for consumption on or off the premises. Nonretention of the beer license, for whatever reason, means automatic loss of the wine amendment license.

(12) Except as provided in subsection (1)(f), a license issued pursuant to this section after October 1, 1997, must have a conspicuous notice that the license may not be used for premises where gambling is conducted.

(13) A successful applicant shall pay to the department a \$25,000 original license fee and in subsequent years pay the annual fee for the license as provided in 16-4-501.

(14) The department may adopt rules to implement this section. (*Terminates December 31, 2023—sec. 17, Ch. 5, Sp. L. November 2017.*)

**16-4-105. (Effective January 1, 2024) Limit on retail beer licenses — wine license amendments — limitation on use of license — exceptions — lottery — rulemaking.**

(1) Except as provided in 16-4-109, 16-4-110, 16-4-115, 16-4-420, and chapter 4, part 3, of this title, a license to sell beer at retail or beer and wine at retail, in accordance with the provisions of this code and the rules of the department, may be issued to any person or business entity that is approved by the department, subject to the following exceptions:

(a) The number of retail beer licenses that the department may issue for premises situated within incorporated cities and incorporated towns and within a distance of 5 miles from the corporate limits of the cities and towns must be determined on the basis of population prescribed in 16-4-502 as follows:

(i) in incorporated towns of 500 inhabitants or less and within a distance of 5 miles from the corporate limits of the towns, not more than one retail beer license;

(ii) in incorporated cities or incorporated towns of more than 500 inhabitants and not over 2,000 inhabitants and within a distance of 5 miles from the corporate limits of the cities or towns, one retail beer license for every 500 inhabitants;

(iii) in incorporated cities of over 2,000 inhabitants and within a distance of 5 miles from the corporate limits of the cities, four retail beer licenses for the first 2,000 inhabitants, two additional retail beer licenses for the next 2,000 inhabitants or major fraction of 2,000 inhabitants, and one additional retail beer license for every additional 2,000 inhabitants.

(b) The number of inhabitants in each incorporated city or incorporated town, exclusive of the number of inhabitants residing within a distance of 5 miles from the corporate limits of the city or town, governs the number of retail beer licenses that may be issued for use within the city or town and within a distance of 5 miles from the corporate limits of the city or town. The distance of 5 miles from the corporate limits of any incorporated city or incorporated town must be measured in a straight line from the nearest entrance of the premises proposed for licensing to the nearest corporate boundary of the city or town.

(c) When the 5-mile boundary of one incorporated city or incorporated town overlaps the 5-mile boundary of another incorporated city or incorporated town, the quota area for each city or town terminates in a straight line equidistant between each city or town.

(d) Retail beer licenses of issue on March 7, 1947, and retail beer licenses issued under 16-4-110 that are in excess of the limitations in this section are renewable, but new licenses may not be issued in violation of the limitations.

(e) The limitations do not prevent the issuance of a nontransferable and nonassignable retail beer license to an enlisted persons', noncommissioned officers', or officers' club located on a state or federal military reservation on May 13, 1985, or to a post of a nationally chartered veterans' organization or a lodge of a recognized national fraternal organization if the veterans' or fraternal organization has been in existence for a period of 5 years or more prior to January 1, 1949.

(f) The number of retail beer licenses that the department may issue for use at premises situated outside of any incorporated city or incorporated town and outside of the area within a distance of 5 miles from the corporate limits or for use at premises situated within any unincorporated area must be determined by the department in its discretion, except that a retail beer license may not be issued for any premises so situated unless the department determines that the issuance of the license is required by public convenience and necessity pursuant to 16-4-203. Subsection (5) does not apply to licenses issued under this subsection (1)(f). The owner of the license whose premises are situated outside of an incorporated city or incorporated town

may offer gambling, regardless of when the license was issued, if the owner and premises qualify under Title 23, chapter 5, part 3, 5, or 6.

(2) (a) For a period of 7 years after January 1, 2024, existing licenses as of November 24, 2017, in either of two quota areas that were established as provided in subsection (1)(c) may be transferred between the two quota areas if they were part of a combined quota area prior to November 24, 2017.

(b) If any new retail beer licenses are allowed by separating a combined quota area that existed as of November 24, 2017, as provided in subsection (1)(c), the department shall publish the availability of no more than one new beer license a year until the quota has been reached.

(3) A license issued under subsection (1)(f) that becomes located within 5 miles of an incorporated city or town because of annexation after April 15, 2005, may not be transferred to another location within the city quota area for 5 years from the date of the annexation.

(4) A person holding a license to sell beer for consumption on the premises at retail may apply to the department for an amendment to the license permitting the holder to sell wine as well as beer. The department may issue an amendment if it finds, on a satisfactory showing by the applicant, that the sale of wine for consumption on the premises would be supplementary to a restaurant or prepared-food business. Except for beer and wine licenses issued pursuant to 16-4-420, a person holding a beer and wine license may sell wine for consumption on or off the premises. Nonretention of the beer license, for whatever reason, means automatic loss of the wine amendment license.

(5) Except as provided in subsection (1)(f), a license issued pursuant to this section after October 1, 1997, must have a conspicuous notice that the license may not be used for premises where gambling is conducted.

(6) (a) When the department determines that a quota area is eligible for an additional retail beer license as provided in this section, the department shall advertise the availability of the license in the quota area for which the license is available. If there are more applicants than number of licenses available, the license must be awarded to an applicant by a lottery.

(b) The department shall numerically rank all applicants in the lottery. Only the successful applicants will be required to submit a completed application and a one-time processing fee set by the department by rule. An applicant's ranking may not be sold or transferred to another person or business entity. An applicant's ranking applies only to the intended license advertised by the department or to the number of licenses determined to be available for the lottery when there are more applicants than licenses available. The department shall determine an applicant's qualifications for a retail beer license awarded by lottery prior to the award of a license by lottery.

(c) A successful lottery applicant shall pay to the department a \$25,000 original license fee and in subsequent years pay the annual fee for the license as provided in 16-4-501.

(d) (i) The successful lottery applicant is subject to forfeiture of the license and the original license fee if the successful lottery applicant:

(A) proposes a location for the license that had the same license type within the previous 12 months;

(B) transfers a license awarded by lottery within 5 years of receiving the license; or

(C) does not use the license within 1 year of receiving the license or stops using the license within 5 years. The department may extend the time for use if the lottery winner provides evidence the delay in use is for reasons outside the applicant's control.

(ii) In the case of forfeiture, the department shall offer the license to the next eligible ranked applicant in the lottery.

(7) The department may adopt rules to implement this section.

**History:** En. Sec. 14, Ch. 46, Ex. L. 1933; re-en. Sec. 2815.36, R.C.M. 1935; amd. Sec. 1, Ch. 225, L. 1947; amd. Sec. 1, Ch. 165, L. 1949; amd. Sec. 1, Ch. 55, L. 1955; amd. Sec. 1, Ch. 205, L. 1959; amd. Sec. 1, Ch. 271, L. 1965; amd. Sec. 1, Ch. 31, L. 1974; Sec. 4-333, R.C.M. 1947; amd. and redes. 4-4-201 by Sec. 66, Ch. 387, L. 1975; amd. Sec. 5, Ch. 496, L. 1977; R.C.M. 1947, 4-4-201(1), (3), (4); amd. Sec. 12, I.M. No. 81, app. Nov. 7, 1978; amd. Sec. 1, Ch. 25, L. 1981; amd. Sec. 1, Ch. 86, L. 1981; amd. Sec. 2, Ch. 519, L. 1981; amd. Sec. 1, Ch. 50, L. 1983; amd. Sec. 2, Ch. 595, L. 1983; amd. Sec. 3, Ch. 731, L. 1985; amd. Sec. 2, Ch. 228, L. 1995; amd. Sec. 35, Ch. 530, L. 1995; amd. Sec. 6, Ch. 465, L. 1997; amd. Sec. 1, Ch. 528, L. 1997; amd. Sec. 23, Ch. 7, L. 2001; amd. Sec. 1, Ch. 267, L. 2005; amd. Sec. 1, Ch. 263, L. 2017; amd. Secs. 1, 2, Ch. 5, Sp. L. November 2017.

#### Compiler's Comments

*2017 Special Session Amendment:* (Temporary version) Chapter 5 inserted (4) through (9) relating to competitive bidding process for existing licenses; inserted (10) relating to license forfeiture; deleted former (5)(a) and (5)(b) that

read: “(5) (a) When the department determines that a quota area is eligible for an additional retail beer license as provided in this section, the department shall advertise the availability of the license in the quota area for which the license is available. If there are more applicants than number of licenses available, the license must be awarded to an applicant by a lottery.

(b) The department shall numerically rank all applicants in the lottery. Only the successful applicants will be required to submit a completed application and a one-time processing fee set by the department by rule. An applicant’s ranking may not be sold or transferred to another person or business entity. An applicant’s ranking applies only to the intended license advertised by the department or to the number of licenses determined to be available for the lottery when there are more applicants than licenses available. The department shall determine an applicant’s qualifications for a retail beer license awarded by lottery prior to the award of a license by lottery”; deleted former (5)(d) that read: “(d) (i) The successful lottery applicant is subject to forfeiture of the license and the original license fee if the successful lottery applicant:

(A) enters into a concession agreement, as defined in rule, for the license awarded by lottery in the first 5 years;

(B) transfers a license awarded by lottery within 5 years of receiving the license; or

(C) does not use the license within 1 year of receiving the license or stops using the license within 5 years. The department may extend the time for use if the lottery winner provides evidence the delay in use is for reasons outside the applicant’s control.

(ii) In the case of forfeiture, the department shall offer the license to the next eligible ranked applicant in the lottery”; in (13) following “successful” deleted “lottery”; and made minor changes in style. Amendment effective November 24, 2017, and terminates December 31, 2023.

(Version effective January 1, 2024) Chapter 5 in (6)(d)(i)(A) substituted “proposes a location for the license that had the same license type within the previous 12 months” for “enters into a concession agreement, as defined in rule, for the license awarded by lottery in the first 5 years”; and made minor changes in style.

(Both versions) Chapter 5 in (1) near end of introductory language substituted “person or business entity that is approved by the department, subject to the following exceptions” for “person, firm, or corporation that is approved by the department as a person, firm, or corporation qualified to sell beer, subject to the provisions in subsections (1)(a) through (1)(e)”; in (1)(b) deleted former second sentence that read: “If two or more incorporated municipalities are situated within a distance of 5 miles from each other, the total number of retail beer licenses that may be issued for use in both the incorporated municipalities and within a distance of 5 miles from their respective corporate limits must be determined on the basis of the combined populations of both municipalities and may not exceed the limitations in this section”; inserted (1)(c) relating to boundary overlap; in (1)(f) in last sentence before “town” inserted “incorporated”; inserted (2) relating to transfer of existing licenses between quota areas that were part of a combined quota area; inserted (3) relating to licenses located within 5 miles of incorporated city or town because of annexation; deleted former (3)(b) that read: “(b) Subsection (3)(a) does not apply to licenses issued under this section if the department received the application before October 1, 1997. For the purposes of this subsection (3)(b), the application is received by the department before October 1, 1997, if the application’s mail cover is postmarked by the United States postal service before October 1, 1997, or if the application was consigned to a private courier service for delivery to the department before October 1, 1997. An applicant who consigns an application to a private courier shall provide to the department, upon demand, documentary evidence satisfactory to the department that the application was consigned to a private courier before October 1, 1997”; deleted former (4) that read: “(4) A license issued under subsection (1)(e) that becomes located within 5 miles of an incorporated city or town because of annexation after April 15, 2005, may not be transferred to another location within the city quota area for 5 years from the date of the annexation”; and made minor changes in style.

**16-4-201. All-beverages license quota.** (1) Except as otherwise provided by law, a license to sell liquor, beer, and table wine at retail, an all-beverages license, in accordance with the provisions of this code and the rules of the department, may be issued to any person who is approved by the department as a fit and proper person to sell alcoholic beverages, except that the number of all-beverages licenses that the department may issue for premises situated within incorporated cities and incorporated towns and within a distance of 5 miles from the corporate limits of those cities and towns must be determined on the basis of population prescribed in 16-4-502 as follows:

(a) in incorporated towns of 500 inhabitants or less and within a distance of 5 miles from the corporate limits of the towns, not more than two retail licenses;

(b) in incorporated cities or incorporated towns of more than 500 inhabitants and not over 3,000 inhabitants and within a distance of 5 miles from the corporate limits of the cities and towns, three retail licenses for the first 1,000 inhabitants and one retail license for each additional 1,000 inhabitants;

(c) in incorporated cities of over 3,000 inhabitants and within a distance of 5 miles from the corporate limits of the cities, five retail licenses for the first 3,000 inhabitants and one retail license for each additional 1,500 inhabitants.

(2) The number of inhabitants in each incorporated city or incorporated town, exclusive of the number of inhabitants residing within a distance of 5 miles from the corporate limits of the city or town, governs the number of retail licenses that may be issued for use within the city or town and within a distance of 5 miles from the corporate limits of the city or town. The distance of 5 miles from the corporate limits of any incorporated city or incorporated town must be measured in a straight line from the nearest entrance of the premises proposed for licensing to the nearest corporate boundary of the city or town.

(3) When the 5-mile boundary of one incorporated city or incorporated town overlaps the 5-mile boundary of another incorporated city or incorporated town, the quota area for each city or town terminates in a straight line equidistant between each city or town.

(4) For a period of 12 years after November 24, 2017, existing licenses as of November 24, 2017, in either of two quota areas that were established as provided in subsection (3) may be transferred between the two quota areas if they were part of a combined quota area prior to November 24, 2017.

(5) If any new retail all-beverages licenses are allowed by separating a combined quota area that existed as of November 24, 2017, as provided in subsection (3), the department shall publish the availability of no more than one new retail all-beverages license a year until the quota has been reached.

(6) Retail all-beverages licenses of issue on March 7, 1947, and all-beverages licenses issued under 16-4-209 that are in excess of the limitations in subsections (1) and (2) are renewable, but new licenses may not be issued in violation of the limitations.

(7) The limitations in subsections (1) and (2) do not prevent the issuance of a nontransferable and nonassignable, as to ownership only, retail license to an enlisted personnel, noncommissioned officers', or officers' club located on a state or federal military reservation on May 13, 1985, or to any post of a nationally chartered veterans' organization or any lodge of a recognized national fraternal organization if the veterans' or fraternal organization has been in existence for a period of 5 years or more prior to January 1, 1949.

(8) The number of retail all-beverages licenses that the department may issue for use at premises situated outside of any incorporated city or incorporated town and outside of the area within a distance of 5 miles from the corporate limits of a city or town may not be more than one license for each 750 in population of the county after excluding the population of incorporated cities and incorporated towns in the county.

(9) An all-beverages license issued under subsection (8) that becomes located within 5 miles of an incorporated city or town because of annexation after April 15, 2005, may not be transferred to another location within the city quota area for 5 years from the date of annexation.

(10) The department may adopt rules to implement this section.

**History:** En. Sec. 3, Ch. 84, L. 1937; amd. Sec. 1, Ch. 226, L. 1947; amd. Sec. 1, Ch. 164, L. 1949; amd. Sec. 1, Ch. 144, L. 1951; amd. Sec. 1, Ch. 56, L. 1955; amd. Sec. 1, Ch. 206, L. 1959; amd. Sec. 1, Ch. 217, L. 1963; amd. Sec. 1, Ch. 322, L. 1971; amd. Sec. 1, Ch. 340, L. 1974; Sec. 4-403, R.C.M. 1947; amd. and redes. 4-4-202 by Sec. 79, Ch. 387, L. 1975; amd. Sec. 6, Ch. 496, L. 1977; R.C.M. 1947, 4-4-202; amd. Sec. 2, Ch. 25, L. 1981; amd. Sec. 3, Ch. 519, L. 1981; amd. Sec. 3, Ch. 595, L. 1983; amd. Sec. 4, Ch. 731, L. 1985; amd. Sec. 24, Ch. 68, L. 1987; amd. Sec. 2, Ch. 267, L. 2005; amd. Sec. 201, Ch. 56, L. 2009; amd. Sec. 3, Ch. 5, Sp. L. November 2017.

**Compiler's Comments**

*2017 Special Session Amendment:* Chapter 5 in (2) in first sentence substituted "inhabitants in each incorporated city or incorporated town" for "inhabitants in cities and towns" and deleted former second sentence that read: "If two or more incorporated municipalities are situated within a distance of 5 miles from each other, the total number of retail licenses that may be issued for use in both of the municipalities and within a distance of 5 miles from their respective corporate limits must be determined on the basis of the combined populations of both of the municipalities and may not exceed the limitations in subsection (1) or this subsection"; inserted (3), (4), and (5) relating to measurement of overlapping quota areas, transfer of licenses in two quota areas, and creation of new licenses from separating combined quota areas; inserted (10) granting rulemaking authority; and made minor changes in style. Amendment effective November 24, 2017.

**16-4-204. (Temporary) Transfer — catering endorsement — competitive bidding — rulemaking.** (1) (a) Except as provided in subsection (9), a license may be transferred to a new owner and to a location outside the quota area where the license is currently located only when the following criteria are met:

(i) the total number of all-beverages licenses in the current quota area exceeded the quota for that area by at least 25% in the most recent census prescribed in 16-4-502;

(ii) the total number of all-beverages licenses in the quota area to which the license would be transferred, exclusive of those issued under 16-4-209(1)(a) and (1)(b), did not exceed that area's quota in the most recent census prescribed in 16-4-502:

(A) by more than 33%; or

(B) in an incorporated city of more than 10,000 inhabitants and within a distance of 5 miles from its corporate limits, by more than 43%; or

(iii) the department finds, after a public hearing, that the public convenience and necessity would be served by a transfer.



(b) A license transferred pursuant to subsection (1)(a) that was issued pursuant to a competitive bidding process is not eligible to offer gambling under Title 23, chapter 5, part 3, 5, or 6.

(2) When the department determines that a license may be transferred from one quota area to another under 16-4-201(1) or (4), the department shall use a competitive bidding process to determine the party afforded the opportunity to purchase and transfer a license. The department shall:

(a) determine the minimum bid based on 75% of the market value of all-beverages licenses in the quota area;

(b) publish notice that a quota area is eligible for a license transfer;

(c) notify the bidder with the highest bid; and

(d) keep confidential the identity of bidders, number of bids, and bid amounts until the highest bidder has been approved.

(3) To enter the competitive bidding process, a bidder shall submit:

(a) an application form provided by the department; and

(b) an irrevocable letter of credit from a financial institution establishing the department as the beneficiary of the bid amount.

(4) In the case of a tie for the highest bid, the tied bidders may submit new bids. The minimum bid must be set at the tied bid amount. To submit a new bid, a tied bidder shall submit:

(a) an application form provided by the department; and

(b) an irrevocable letter of credit from a financial institution establishing the department as the beneficiary of the new bid amount.

(5) The highest bidder shall:

(a) submit an application provided by the department and applicable fees for the license within 60 days of the department's notification of being the highest bidder;

(b) pay the bid amount prior to the license being approved;

(c) meet all other requirements to own an all-beverages license; and

(d) commence business within 1 year of the department's notification unless the department grants an extension because commencement was delayed by circumstances beyond the applicant's control.

(6) If the highest bidder is not approved to own the license, the department shall offer the license to the next highest bidder. That bidder shall comply with the requirements of subsection (5).

(7) If no bids are received during the competitive bidding process or if a quota area is already eligible for another license transfer under subsection (1), the department shall process applications to transfer a license in the order received.

(8) (a) The successful applicant is subject to forfeiture of the license and the original license fee if the successful applicant:

(i) transfers an awarded license to another person after receiving the license unless that transfer is due to the death of an owner;

(ii) does not use the license within 1 year of receiving the license or stops using the license within 5 years. The department may extend the time for use if the successful applicant provides evidence that the delay in use is for reasons outside the applicant's control; or

(iii) proposes a location for the license that had the same license type within the previous 12 months.

(b) If a license is forfeited, the department shall offer the license to the next eligible highest bidder in the auction.

(9) A license within an incorporated quota area may be transferred to a new owner and to a new unincorporated location within the same county on application to and with consent of the department when the total number of all-beverages licenses in the current quota area, exclusive of those issued under 16-4-209(1)(a) and (1)(b), exceeds the quota for that area by at least 25% in the most recent census and will not fall below that level because of the transfer.

(10) A license issued under 16-4-209(1)(a) may not be transferred to a location outside the quota area and the exterior boundaries of the Montana Indian reservation for which it was originally issued.

(11) (a) Any all-beverages licensee is, upon the approval and in the discretion of the department, entitled to a catering endorsement to the licensee's all-beverages license to allow the catering and sale of alcoholic beverages to persons attending a special event upon premises not otherwise licensed for the sale of alcoholic beverages for on-premises consumption. The alcoholic beverages must be consumed on the premises where the event is held.

(b) A written application for a catering endorsement and an annual fee of \$250 must be submitted to the department for its approval.

(c) An all-beverages licensee who holds an endorsement granted under this subsection (11) may not cater an event in which the licensee is the sponsor. The catered event must be within 100 miles of the licensee's regular place of business.

(d) The licensee shall notify the local law enforcement agency that has jurisdiction over the premises where the catered event is to be held. A fee of \$35 must accompany the notice.

(e) The sale of alcoholic beverages pursuant to a catering endorsement is subject to the provisions of 16-6-103.

(f) The sale of alcoholic beverages pursuant to a catering endorsement is subject to the provisions of 16-3-306, unless entities named in 16-3-306 give their written approval.

(g) A catering endorsement issued for the purpose of selling and serving beer at a special event conducted on the premises of a county fairground or public sports arena authorizes the licensee to sell and serve beer in the grandstand and bleacher area of the premises, as well as from a booth, stand, or other fixed place on the premises.

(h) A licensee may not share revenue from the sale of alcoholic beverages with the sponsor of the catered event unless the sponsor is the state of Montana, a political subdivision of the state, or a qualified entity under section 501(c) of the Internal Revenue Code, 26 U.S.C. 501(c), as amended.

(12) The department may adopt rules to implement this section. (*Terminates December 31, 2023—sec. 17, Ch. 5, Sp. L. November 2017.*)

**16-4-204. (Effective January 1, 2024) Transfer — catering endorsement — rulemaking.** (1) (a) Except as provided in subsection (2), a license may be transferred to a new owner and to a location outside the quota area where the license is currently located only when the following criteria are met:

(i) the total number of all-beverages licenses in the current quota area exceeded the quota for that area by at least 25% in the most recent census prescribed in 16-4-502;

(ii) the total number of all-beverages licenses in the quota area to which the license would be transferred, exclusive of those issued under 16-4-209(1)(a) and (1)(b), did not exceed that area's quota in the most recent census prescribed in 16-4-502:

(A) by more than 33%; or

(B) in an incorporated city of more than 10,000 inhabitants and within a distance of 5 miles from its corporate limits, by more than 43%; or

(iii) the department finds, after a public hearing, that the public convenience and necessity would be served by a transfer; and

(iv) an applicant for the new ownership to be awarded on a lottery basis by the department has met the following criteria:

(A) the applicant had not made another application under this subsection (1)(a) for a lottery-awarded license within the previous 12 months;

(B) the applicant has provided with the application an irrevocable letter of credit from a financial institution that guarantees the applicant's ability to pay \$100,000; and

(C) the applicant or, if the applicant is not an individual, a person with an ownership interest in the applicant does not have an ownership interest in an all-beverages license.

(b) A license transferred pursuant to subsection (1)(a) that was issued pursuant to a lottery is not eligible to offer gambling under Title 23, chapter 5, part 3, 5, or 6.

(c) A successful lottery applicant shall commence business within 1 year of the lottery unless the department grants an extension because a delay was caused by circumstances beyond the control of the applicant.

(2) A license within an incorporated quota area may be transferred to a new owner and to a new unincorporated location within the same county on application to and with consent of the department when the total number of all-beverages licenses in the current quota area, exclusive

of those issued under 16-4-209(1)(a) and (1)(b), exceeds the quota for that area by at least 25% in the most recent census and will not fall below that level because of the transfer.

(3) A license issued under 16-4-209(1)(a) may not be transferred to a location outside the quota area and the exterior boundaries of the Montana Indian reservation for which it was originally issued.

(4) (a) Any all-beverages licensee is, upon the approval and in the discretion of the department, entitled to a catering endorsement to the licensee's all-beverages license to allow the catering and sale of alcoholic beverages to persons attending a special event upon premises not otherwise licensed for the sale of alcoholic beverages for on-premises consumption. The alcoholic beverages must be consumed on the premises where the event is held.

(b) A written application for a catering endorsement and an annual fee of \$250 must be submitted to the department for its approval.

(c) An all-beverages licensee who holds an endorsement granted under this subsection (4) may not cater an event in which the licensee is the sponsor. The catered event must be within 100 miles of the licensee's regular place of business.

(d) The licensee shall notify the local law enforcement agency that has jurisdiction over the premises where the catered event is to be held. A fee of \$35 must accompany the notice.

(e) The sale of alcoholic beverages pursuant to a catering endorsement is subject to the provisions of 16-6-103.

(f) The sale of alcoholic beverages pursuant to a catering endorsement is subject to the provisions of 16-3-306, unless entities named in 16-3-306 give their written approval.

(g) A catering endorsement issued for the purpose of selling and serving beer at a special event conducted on the premises of a county fairground or public sports arena authorizes the licensee to sell and serve beer in the grandstand and bleacher area of the premises, as well as from a booth, stand, or other fixed place on the premises.

(h) A licensee may not share revenue from the sale of alcoholic beverages with the sponsor of the catered event unless the sponsor is the state of Montana, a political subdivision of the state, or a qualified entity under section 501(c) of the Internal Revenue Code, 26 U.S.C. 501(c), as amended.

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

**History:** (4)(a), (b) of 4-4-206 En. Sec. 88, Ch. 387, L. 1975; R.C.M. 1947, 4-4-206(4)(a)(b)(part); amd. Sec. 1, Ch. 139, L. 1979; amd. Sec. 3, Ch. 25, L. 1981; amd. Sec. 1, Ch. 59, L. 1981; amd. Sec. 1, Ch. 512, L. 1981; amd. Sec. 1, Ch. 29, L. 1983; amd. Sec. 1, Ch. 37, L. 1983; amd. Sec. 1, Ch. 59, L. 1983; amd. Sec. 1, Ch. 636, L. 1983; amd. Sec. 5, Ch. 731, L. 1985; amd. Sec. 1, Ch. 34, L. 1987; amd. Sec. 3, Ch. 180, L. 1987; amd. Sec. 2, Ch. 599, L. 1993; amd. Sec. 25, Ch. 7, L. 2001; amd. Sec. 1, Ch. 85, L. 2001; amd. Sec. 3, Ch. 369, L. 2003; amd. Sec. 1, Ch. 277, L. 2007; amd. Secs. 4, 5, Ch. 5, Sp. L. November 2017.

#### Compiler's Comments

*2017 Special Session Amendment:* (Temporary version) Chapter 5 deleted former (1)(a)(iv) that read: "(iv) an applicant for the new ownership to be awarded on a lottery basis by the department has met the following criteria:

(A) the applicant had not made another application under this subsection (1)(a) for a lottery-awarded license within the previous 12 months;

(B) the applicant has provided with the application an irrevocable letter of credit from a financial institution that guarantees the applicant's ability to pay \$100,000; and

(C) the applicant or, if the applicant is not an individual, a person with an ownership interest in the applicant does not have an ownership interest in an all-beverages license"; in (1)(b) substituted "competitive bidding process" for "lottery"; deleted former (1)(c) that read: "(c) A successful lottery applicant shall commence business within 1 year of the lottery unless the department grants an extension because a delay was caused by circumstances beyond the control of the applicant"; inserted (2) through (8) relating to competitive bidding processes; in (9) near beginning after "transferred to a new" substituted "owner" for "ownership" and near middle substituted "total number of all-beverages licenses in the current quota area" for "quota of the all-beverages licenses in the original quota area"; inserted (12) granting rulemaking authority; and made minor changes in style. Amendment effective November 24, 2017, and terminates December 31, 2023.

(Version effective January 1, 2024) Chapter 5 in (2) near beginning after "transferred to a new" substituted "owner" for "ownership" and near middle substituted "total number of all-beverages licenses in the current quota area" for "quota of the all-beverages licenses in the original quota area"; inserted (5) granting rulemaking authority; and made minor changes in style.

(Both versions) Chapter 5 in (1)(a) after "transferred to a new" substituted "owner and to a location outside the quota area where the license is currently located" for "ownership and to a location outside the quota area for which it was originally issued"; in (1)(a)(i) substituted "current quota area" for "original quota area"; deleted former (1)(e) and (1)(f) that read: "(e) For 5 years after the transfer of a license between quota areas under subsection (1)(a), the license may not be mortgaged or pledged as security and may not be transferred to another person except for a transfer by inheritance upon the death of the licensee.

(f) Once a license is transferred to a new quota area under subsection (1)(a), it may not be transferred to another quota area or back to the original quota area"; and made minor changes in style.

**16-4-207. Notice of application — investigation — publication — protest.** (1) When an application has been filed with the department for a license to sell alcoholic beverages at retail or to transfer the location of a retail license, the department shall review the application for completeness and, based upon review of the application and any other information supplied to the department, determine whether the applicant or the premises to be licensed meets criteria provided by law. The department may make one request for additional information necessary to complete the application. The application is considered complete when the applicant furnishes the application information requested by the department. When the application is complete, the department of justice shall investigate the application as provided in 16-4-402. When the department determines that an application for a license under this code is complete, the department shall publish in a newspaper of general circulation in the city, town, or county from which the application comes a notice that the applicant has made application for a retail on-premises license or a transfer of location and that protests may be made against the approval of the application by residents of the county from which the application comes, residents of adjoining Montana counties, or residents of adjoining counties in another state if the criteria in subsection (4)(d) are met. Protests must be mailed to the department within 10 days after the final notice is published. Notice of application for a new license must be published once a week for 4 consecutive weeks. Notice of application for transfer of ownership or location of a license must be published once a week for 2 consecutive weeks. Notice may be substantially in the following form:

NOTICE OF APPLICATION FOR RETAIL  
ALL-BEVERAGES LICENSE

Notice is given that on the ..... day of ....., 20..., one (name of applicant) filed an application for a retail all-beverages license with the Montana department of revenue to be used at (describe location of premises where beverages are to be sold). Residents of ..... counties may protest against the approval of the application. Each protestor is required to mail a letter that contains in legible print the protestor's full name, mailing address, and street address. Each letter must be signed by the protestor. A protest petition bearing the names and signatures of persons opposing the approval of an application may not be considered as a protest. Protests may be mailed to ....., department of revenue, Helena, Montana, on or before the ..... day of ....., 20.....

Dated .....

Signed

.....

(2) Each applicant shall, at the time of filing an application, pay to the department an amount sufficient to cover the costs of publishing the notice.

(3) (a) If the department receives no written protests, the department may approve the application without holding a public hearing.

(b) A response to a notice of opportunity to protest an application may not be considered unless the response is a letter satisfying all the requirements contained in the notice in subsection (1).

(c) If the department receives sufficient written protests that satisfy the requirements in subsection (1) against the approval of the application, the department shall hold a public hearing as provided in subsection (4).

(4) (a) If the department receives at least one protest but less than the number of protests required for a public convenience and necessity determination as specified in subsection (4)(c), the department shall schedule a public hearing to be held in Helena, Montana, to determine whether the protest presents sufficient cause to deny the application based on the qualifications of the applicant as provided in 16-4-401 or on the grounds for denial of an application provided for in 16-4-405, exclusive of public convenience and necessity. The hearing must be governed by the provisions of Title 2, chapter 4, part 6.

(b) If the department receives the number of protests required for a public convenience and necessity determination as specified in subsection (4)(c) and the application is for an original license or for a transfer of location, the department shall schedule a public hearing to be held in the county of the proposed location of the license to determine whether the protest presents sufficient cause to deny the application based on the qualifications of the applicant as provided

in 16-4-401 or on the grounds for denial of an application provided for in 16-4-405 including public convenience and necessity. The hearing must be governed by the provisions of Title 2, chapter 4, part 6.

(c) The minimum number of protests necessary to initiate a public hearing to determine whether an application satisfies the requirements for public convenience and necessity, as specified in 16-4-203, for the proposed premises located within a quota area described in 16-4-201 must be 25% of the quota for all-beverages licenses determined for that quota area according to 16-4-201(1), (2), and (8) but in no case less than two. The minimum number of protests determined in this manner will apply only to applications for either on-premises consumption beer or all-beverages licenses.

(d) A resident of a county in another state that adjoins the county in Montana from which an application comes may protest an application only if the county or state of residence of the person has certified to the department that a similarly situated Montana resident would be able to make formal protest of a liquor license application in that state or county. The department may, by rule, establish how the certification is to be made.

**History:** En. Sec. 1, Ch. 202, L. 1951; amd. Sec. 1, Ch. 145, L. 1965; Sec. 4-407.1, R.C.M. 1947; amd. and redes. 4-4-302 by Sec. 84, Ch. 387, L. 1975; amd. Sec. 8, Ch. 496, L. 1977; R.C.M. 1947, 4-4-302(part); amd. Sec. 1, Ch. 583, L. 1979; amd. Sec. 1, Ch. 445, L. 1983; amd. Sec. 1, Ch. 231, L. 1989; amd. Sec. 5, Ch. 156, L. 1991; amd. Sec. 5, Ch. 414, L. 1993; amd. Sec. 4, Ch. 528, L. 1997; amd. Sec. 41, Ch. 51, L. 1999; amd. Sec. 3, Ch. 448, L. 2001; amd. Sec. 5, Ch. 110, L. 2003; amd. Sec. 1, Ch. 86, L. 2011; amd. Sec. 6, Ch. 5, Sp. L. November 2017.

**Compiler's Comments**

*2017 Special Session Amendment:* Chapter 5 in (4)(c) substituted "16-4-201(1), (2), and (8)" for "16-4-201(1), (2), and (5)". Amendment effective November 24, 2017.

**16-4-305. (Temporary) Montana heritage retail alcoholic beverage licenses — use — quota.** (1) (a) The Montana heritage preservation and development commission may use Montana heritage retail alcoholic beverage licenses within the quota area in which the licenses were originally issued, for the purpose of providing retail alcoholic beverage sales on property acquired by the state under Title 22, chapter 3, part 10. The licenses are to be considered when determining the appropriate quotas for issuance of other retail liquor licenses.

(b) The department may issue a wine amendment pursuant to 16-4-105(11) if the use of a Montana heritage retail alcoholic beverage license for the sale of beer meets all the requirements of that section.

(2) The Montana heritage preservation and development commission may lease a Montana heritage retail alcoholic beverage license to an individual or entity approved by the department.

(3) Montana heritage retail alcoholic beverage licenses are subject to all laws and rules governing the use and operation of retail liquor licenses.

(4) For the purposes of this section, "Montana heritage retail alcoholic beverage licenses" are all-beverages liquor licenses and retail on-premises beer licenses that have been transferred to the Montana heritage preservation and development commission under the provisions of section 2, Chapter 251, Laws of 1999. (*Terminates December 31, 2023—sec. 17, Ch. 5, Sp. L. November 2017.*)

**16-4-305. (Effective January 1, 2024) Montana heritage retail alcoholic beverage licenses — use — quota.** (1) (a) The Montana heritage preservation and development commission may use Montana heritage retail alcoholic beverage licenses within the quota area in which the licenses were originally issued, for the purpose of providing retail alcoholic beverage sales on property acquired by the state under Title 22, chapter 3, part 10. The licenses are to be considered when determining the appropriate quotas for issuance of other retail liquor licenses.

(b) The department may issue a wine amendment pursuant to 16-4-105(4) if the use of a Montana heritage retail alcoholic beverage license for the sale of beer meets all the requirements of that section.

(2) The Montana heritage preservation and development commission may lease a Montana heritage retail alcoholic beverage license to an individual or entity approved by the department.

(3) Montana heritage retail alcoholic beverage licenses are subject to all laws and rules governing the use and operation of retail liquor licenses.

(4) For the purposes of this section, "Montana heritage retail alcoholic beverage licenses" are all-beverages liquor licenses and retail on-premises beer licenses that have been transferred

to the Montana heritage preservation and development commission under the provisions of section 2, Chapter 251, Laws of 1999.

**History:** En. Sec. 1, Ch. 251, L. 1999; amd. Secs. 7, 8, Ch. 5, Sp. L. November 2017.

**Compiler's Comments**

*2017 Special Session Amendment:* (Temporary version) Chapter 5 in (1)(b) substituted "16-4-105(11)" for "16-4-105(2)". Amendment effective November 24, 2017, and terminates December 31, 2023.

(Version effective January 1, 2024) Chapter 5 in (1)(b) substituted "16-4-105(4)" for "16-4-105(2)".

**16-4-306. (Temporary) Transfer of existing license to political subdivision of state — rulemaking.** (1) A political subdivision of the state of Montana may apply to the department for the transfer of an existing retail beer or beer and wine license and, upon approval by the department, the political subdivision may own and operate the license or lease the license to a person, firm, corporation, or other entity approved by the department.

(2) A license that is transferred to a political subdivision of the state:

(a) may be transferred only to another political subdivision of the state and not to any other person, firm, corporation, or entity;

(b) does not authorize and may not be used in conjunction with gambling activities except for horseracing as authorized in Title 23, chapter 4;

(c) may be authorized only for a fairgrounds complex owned by the political subdivision;

(d) is authorized for use in all facilities contained in the fairgrounds complex;

(e) is not, with respect to the facilities, subject to the provisions of 16-4-204(11);

(f) must be taken into account in determining the license quota restrictions of 16-4-105; and

(g) is subject to all license fees, laws, and rules applicable to retail beer or beer and wine licenses.

(3) The department may adopt rules to implement the provisions of this section. (*Terminates December 31, 2023—sec. 17, Ch. 5, Sp. L. November 2017.*)

**16-4-306. (Effective January 1, 2024) Transfer of existing license to political subdivision of state — rulemaking.** (1) A political subdivision of the state of Montana may apply to the department for the transfer of an existing retail beer or beer and wine license and, upon approval by the department, the political subdivision may own and operate the license or lease the license to a person, firm, corporation, or other entity approved by the department.

(2) A license that is transferred to a political subdivision of the state:

(a) may be transferred only to another political subdivision of the state and not to any other person, firm, corporation, or entity;

(b) does not authorize and may not be used in conjunction with gambling activities except for horseracing as authorized in Title 23, chapter 4;

(c) may be authorized only for a fairgrounds complex owned by the political subdivision;

(d) is authorized for use in all facilities contained in the fairgrounds complex;

(e) is not, with respect to the facilities, subject to the provisions of 16-4-204(4);

(f) must be taken into account in determining the license quota restrictions of 16-4-105; and

(g) is subject to all license fees, laws, and rules applicable to retail beer or beer and wine licenses.

(3) The department may adopt rules to implement the provisions of this section.

**History:** En. Sec. 1, Ch. 169, L. 2009; amd. Secs. 9, 10, Ch. 5, Sp. L. November 2017.

**Compiler's Comments**

*2017 Special Session Amendment:* (Temporary version) Chapter 5 in (2)(e) substituted "16-4-204(11)" for "16-4-204(2)". Amendment effective November 24, 2017, and terminates December 31, 2023.

(Version effective January 1, 2024) Chapter 5 in (2)(e) substituted "16-4-204(4)" for "16-4-204(2)".

**16-4-402. (Temporary) Application — investigation.** (1) Prior to the issuance of a license under this chapter, the applicant shall file with the department an application containing information and statements relative to the applicant and the premises where the alcoholic beverage is to be sold as required by the department.

(2) (a) Upon receipt of a completed application for a license under this code, accompanied by the necessary license fee or letter of credit as provided in 16-4-501(7)(f), the department of justice shall make a thorough investigation of all matters relating to the application. Based on the results of the investigation or on other information, the department shall determine whether:

(i) the applicant is qualified to receive a license;

(ii) the applicant's premises are suitable for the carrying on of the business; and

(iii) the requirements of this code and the rules promulgated by the department are met and complied with.

(b) This subsection (2) does not apply to a catering endorsement provided in 16-4-111 or 16-4-204(11), a retail beer and wine license for off-premises consumption as provided in 16-4-115, or a special permit provided in 16-4-301.

(c) For an original license application and an application for transfer of location of a license, the department of justice's investigation and the department's determination under this subsection (2) must be completed within 90 days of the receipt of a completed application. If information is requested from the applicant by either department, the time period in this subsection (2)(c) is tolled until the requested information is received by the requesting department. The time period is also tolled if the applicant requests and is granted a delay in the license determination or if the license is for premises that are to be altered, as provided in 16-3-311, or newly constructed. The basis for the tolling of the deadline must be documented.

(3) (a) Upon proof that an applicant made a false statement in any part of the original application, in any part of an annual renewal application, or in any hearing conducted pursuant to an application, the application for the license may be denied, and if issued, the license may be revoked.

(b) A statement on an application or at a hearing that is based upon a verifiable assertion made by a governmental officer, employee, or agent that an applicant relied upon in good faith may not be used as the basis of a false statement for a denial or revocation of a license.

(4) The department shall issue a conditional approval letter upon the last occurrence of either:

(a) completion of the investigation and determination provided for in subsection (2) if the department has not received information that would cause the department to deny the application; or

(b) a final agency decision that either denies or dismisses a protest against the approval of an application pursuant to 16-4-207.

(5) The conditional approval letter must state the reasons upon which the future denial of the application may be based. The reasons for denial of the application after the issuance of the conditional approval letter are as follows:

(a) there is false or erroneous information in the application;

(b) the premises are not approved by local building, health, or fire officials;

(c) there are physical changes to the premises that if known prior to the issuance of the conditional approval letter would have constituted grounds for the denial of the application or denial of the issuance of the conditional approval; or

(d) a final decision by a court exercising jurisdiction over the matter either reverses or remands the department's final agency decision provided for in subsection (4). (*Terminates December 31, 2023—sec. 17, Ch. 5, Sp. L. November 2017.*)

**16-4-402.** (*Effective January 1, 2024*) **Application — investigation.** (1) Prior to the issuance of a license under this chapter, the applicant shall file with the department an application containing information and statements relative to the applicant and the premises where the alcoholic beverage is to be sold as required by the department.

(2) (a) Upon receipt of a completed application for a license under this code, accompanied by the necessary license fee or letter of credit as provided in 16-4-501(7)(f), the department of justice shall make a thorough investigation of all matters relating to the application. Based on the results of the investigation or on other information, the department shall determine whether:

(i) the applicant is qualified to receive a license;

(ii) the applicant's premises are suitable for the carrying on of the business; and

(iii) the requirements of this code and the rules promulgated by the department are met and complied with.

(b) This subsection (2) does not apply to a catering endorsement provided in 16-4-111 or 16-4-204(4), a retail beer and wine license for off-premises consumption as provided in 16-4-115, or a special permit provided in 16-4-301.

(c) For an original license application and an application for transfer of location of a license, the department of justice's investigation and the department's determination under this subsection (2) must be completed within 90 days of the receipt of a completed application. If information is

requested from the applicant by either department, the time period in this subsection (2)(c) is tolled until the requested information is received by the requesting department. The time period is also tolled if the applicant requests and is granted a delay in the license determination or if the license is for premises that are to be altered, as provided in 16-3-311, or newly constructed. The basis for the tolling of the deadline must be documented.

(3) (a) Upon proof that an applicant made a false statement in any part of the original application, in any part of an annual renewal application, or in any hearing conducted pursuant to an application, the application for the license may be denied, and if issued, the license may be revoked.

(b) A statement on an application or at a hearing that is based upon a verifiable assertion made by a governmental officer, employee, or agent that an applicant relied upon in good faith may not be used as the basis of a false statement for a denial or revocation of a license.

(4) The department shall issue a conditional approval letter upon the last occurrence of either:

(a) completion of the investigation and determination provided for in subsection (2) if the department has not received information that would cause the department to deny the application; or

(b) a final agency decision that either denies or dismisses a protest against the approval of an application pursuant to 16-4-207.

(5) The conditional approval letter must state the reasons upon which the future denial of the application may be based. The reasons for denial of the application after the issuance of the conditional approval letter are as follows:

(a) there is false or erroneous information in the application;

(b) the premises are not approved by local building, health, or fire officials;

(c) there are physical changes to the premises that if known prior to the issuance of the conditional approval letter would have constituted grounds for the denial of the application or denial of the issuance of the conditional approval; or

(d) a final decision by a court exercising jurisdiction over the matter either reverses or remands the department's final agency decision provided for in subsection (4).

**History:** En. Sec. 6, Ch. 84, L. 1937; Sec. 4-408, R.C.M. 1947; amd. and redes. 4-4-303 by Sec. 85, Ch. 387, L. 1975; amd. Sec. 9, Ch. 496, L. 1977; Sec. 4-4-303, R.C.M. 1947; (1), (3)En. Sec. 5, Ch. 84, L. 1937; amd. Sec. 2, Ch. 221, L. 1939; amd. Sec. 2, Ch. 163, L. 1941; Sec. 4-407, R.C.M. 1947; amd. and redes. 4-4-301 by Sec. 83, Ch. 387, L. 1975; amd. Sec. 7, Ch. 496, L. 1977; Sec. 4-4-301, R.C.M. 1947; Sec. 16-4-206, MCA 1979; redes. 16-4-402(1) and (3) by Code Commissioner, 1979; amd. Sec. 1, Ch. 18, L. 1979; amd. Sec. 3, Ch. 37, L. 1983; amd. Sec. 1, Ch. 51, L. 1983; amd. Sec. 6, Ch. 156, L. 1991; amd. Sec. 6, Ch. 414, L. 1993; amd. Sec. 4, Ch. 599, L. 1993; amd. Sec. 3, Ch. 228, L. 1995; amd. Sec. 5, Ch. 528, L. 1997; amd. Sec. 2, Ch. 54, L. 1999; amd. Sec. 6, Ch. 110, L. 2003; amd. Sec. 1, Ch. 257, L. 2007; amd. Secs. 11, 12, Ch. 5, Sp. L. November 2017.

#### Compiler's Comments

*2017 Special Session Amendment:* (Temporary version) Chapter 5 in (2)(b) substituted "16-4-204(11)" for "16-4-204(2)". Amendment effective November 24, 2017, and terminates December 31, 2023.

(Version effective January 1, 2024) Chapter 5 in (2)(b) substituted "16-4-204(4)" for "16-4-204(2)".

**16-4-420. (Temporary) Restaurant beer and wine license — competitive bidding — rulemaking.** (1) The department shall issue a restaurant beer and wine license to an applicant whenever the department determines that the applicant, in addition to satisfying the requirements of this section, meets the following qualifications and conditions:

(a) the applicant complies with the licensing criteria provided in 16-4-401 for an on-premises consumption license;

(b) the applicant operates a restaurant at the location where the restaurant beer and wine license will be used or satisfies the department that:

(i) the applicant intends to open a restaurant that will meet the requirements of subsection (6) and intends to operate the restaurant so that at least 65% of the restaurant's gross income during its first year of operation is expected to be the result of the sale of food;

(ii) the restaurant beer and wine license will be used in conjunction with that restaurant, that the restaurant will serve beer and wine only to a patron who orders food, and that beer and wine purchases will be stated on the food bill; and

(iii) the restaurant will serve beer and wine from a service bar, as service bar is defined by the department by rule;



(c) the applicant understands and acknowledges in writing on the application that this license prohibits the applicant from being licensed to conduct any gaming or gambling activity or operate any gambling machines and that if any gaming or gambling activity or machine exists at the location where the restaurant beer and wine license will be used, the activity must be discontinued or the machines must be removed before the restaurant beer and wine license takes effect; and

(d) the applicant states the planned seating capacity of the restaurant, if it is to be built, or the current seating capacity if the restaurant is operating.

(2) (a) A restaurant that has an existing retail license for the sale of beer, wine, or any other alcoholic beverage may not be considered for a restaurant beer and wine license at the same location.

(b) (i) An on-premises retail licensee who sells the licensee's existing retail license may not apply for a license under this section for a period of 1 year from the date that license is transferred to a new purchaser.

(ii) A person, including an individual, with an ownership interest in an existing on-premises retail license that is being transferred to a new purchaser may not attain an ownership interest in a license applied for under this section for a period of 1 year from the date that the existing on-premises retail license is transferred to a new purchaser.

(3) A completed application for a license under this section and the appropriate application fee, as provided in subsection (11), must be submitted to the department. The department shall investigate the items relating to the application as described in subsections (3)(a) through (3)(d). Based on the results of the investigation and the exercise of 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;

(c) the requirements of this code and the rules promulgated by the department are complied with; and

(d) the seating capacity stated on the application is correct.

(4) An application for a beer and wine license submitted under this section is subject to the provisions of 16-4-203, 16-4-207, and 16-4-405.

(5) If a premises proposed for licensing under this section is a new or remodeled structure, then the department may issue a conditional license prior to completion of the premises based on reasonable evidence, including a statement from the applicant's architect or contractor confirming that the seating capacity stated on the application is correct, that the premises will be suitable for the carrying on of business as a bona fide restaurant, as defined in subsection (6).

(6) (a) For purposes of this section, "restaurant" means a public eating place:

(i) where individually priced meals are prepared and served for on-premises consumption;

(ii) where at least 65% of the restaurant's annual gross income from the operation must be from the sale of food and not from the sale of alcoholic beverages. Each year after a license is issued, the applicant shall file with the department a statement, in a form approved by the department, attesting that at least 65% of the gross income of the restaurant during the prior year resulted from the sale of food.

(iii) that has a dining room, a kitchen, and the number and kinds of employees necessary for the preparation, cooking, and serving of meals in order to satisfy the department that the space is intended for use as a full-service restaurant; and

(iv) that serves an evening dinner meal at least 4 days a week for at least 2 hours a day between the hours of 5 p.m. and 11 p.m. The provisions of subsection (6)(b) and this subsection (6)(a)(iv) do not apply to a restaurant for which a restaurant beer and wine license is in effect as of April 9, 2009, or to subsequent renewals of that license.

(b) The term does not mean a fast-food restaurant that, excluding any carry-out business, serves a majority of its food and drink in throw-away containers not reused in the same restaurant.

(7) (a) A restaurant beer and wine license may be transferred, on approval by the department, from the original applicant to a new owner of the restaurant only after 1 year of use by the original owner.

(b) A license issued under this section may be jointly owned, and the license may pass to the surviving joint tenant upon the death of the other tenant. However, the license may not be transferred to any other person or entity by operation of the laws of inheritance or succession or any other laws allowing the transfer of property upon the death of the owner in this state or in another state.

(c) An estate may, upon the sale of a restaurant that is property of the estate and with the approval of the department, transfer a restaurant beer and wine license to a new owner.

(8) (a) The department shall issue a restaurant beer and wine license to a qualified applicant:

(i) except as provided in subsection (8)(c), for a restaurant located in a quota area with a population of 5,000 persons or fewer, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 80% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

(ii) for a restaurant located in a quota area with a population of 5,001 to 20,000 persons, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 160% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

(iii) for a restaurant located in a quota area with a population of 20,001 to 60,000 persons, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 100% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

(iv) for a restaurant located in a quota area with a population of 60,001 persons or more, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 80% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105; and

(v) for a restaurant located in a quota area that is also a resort community, as defined in 7-6-1501, if the number of restaurant beer and wine licenses issued in the quota area that is also a resort community is equal to or less than 200% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105.

(b) In determining the number of restaurant beer and wine licenses that may be issued under this subsection (8) based on the percentage amounts described in subsections (8)(a)(i) through (8)(a)(v), the department shall round to the nearer whole number.

(c) If the department has issued the number of restaurant beer and wine licenses authorized for a quota area under subsection (8)(a)(i), there must be a one-time adjustment of four additional licenses for that quota area.

(9) If any new restaurant beer and wine licenses are allowed by separating a combined quota area, pursuant to 16-4-105 as of November 24, 2017, the department shall publish the availability of no more than one new restaurant beer and wine license a year until the quota has been reached.

(10) When a restaurant beer and wine license becomes available by the initial issuance of licenses under this section or as the result of an increase in the population in a quota area, the nonrenewal of a restaurant beer and wine license, or the lapse or revocation of a license by the department, then the department shall advertise the availability of the license in the quota area for which it is available.

(11) When the department determines that a quota area is eligible for a new restaurant beer and wine license under subsection (9) or (10), the department shall use a competitive bidding process to determine the party afforded the opportunity to apply for a new license. The department shall:

(a) determine the minimum bid based on 75% of the market value of all restaurant beer and wine licenses in the quota area;

(b) publish notice that a quota area is eligible for a new license;

(c) notify the bidder with the highest bid; and

(d) keep confidential the identity of bidders, number of bids, and bid amounts until the highest bidder has been approved.

(12) To enter the competitive bidding process, a bidder shall submit:

(a) an application form provided by the department; and

(b) an irrevocable letter of credit from a financial institution establishing the department as the beneficiary of the bid amount.

(13) The highest bidder shall:

(a) submit an application provided by the department and applicable fees for the license within 60 days of the department's notification of being the highest bidder;

(b) pay the bid amount prior to the license being approved;

(c) meet all other requirements to own a restaurant beer and wine license; and

(d) commence business within 1 year of the department's notification unless the department grants an extension because commencement was delayed by circumstances beyond the applicant's control.

(14) In the case of a tie for the highest bid, the tied bidders may submit new bids. The minimum bid must be set at the tied bid amount. To submit a new bid, a tied bidder shall submit:

(a) an application form provided by the department; and

(b) an irrevocable letter of credit from a financial institution establishing the department as the beneficiary of the new bid amount.

(15) If the highest bidder is not approved to own the license, the department shall offer the license to the next highest bidder. That bidder shall comply with the requirements of subsection (13).

(16) If no bids are received during the competitive bidding process or if a quota area is already eligible for another new license, the department shall process applications for the license in the order received.

(17) (a) The successful applicant is subject to forfeiture of the license and the original license fee if the successful applicant:

(i) transfers an awarded license to another person after receiving the license unless that transfer is due to the death of an owner;

(ii) does not use the license within 1 year of receiving the license or stops using the license within 5 years. The department may extend the time for use if the successful applicant provides evidence that the delay in use is for reasons outside the applicant's control; or

(iii) proposes a location for the license that had the same license type within the previous 12 months.

(b) If a license is forfeited, the department shall offer the license to the next eligible highest bidder in the auction.

(18) Under a restaurant beer and wine license, beer and wine may not be sold for off-premises consumption.

(19) An application for a restaurant beer and wine license must be accompanied by a fee equal to 20% of the initial licensing fee. If the department does not make a decision either granting or denying the license within 4 months of receipt of a complete application, the department shall pay interest on the application fee at the rate of 1% a month until a license is issued or the application is denied. Interest may not accrue during any period that the processing of an application is delayed by reason of a protest filed pursuant to 16-4-203 or 16-4-207. If the department denies an application, the application fee, plus any interest, less a processing fee established by rule, must be refunded to the applicant. Upon the issuance of a license, the licensee shall pay the balance of the initial licensing fee. The amount of the initial licensing fee is determined according to the following schedule:

(a) \$5,000 for restaurants with a stated seating capacity of 60 persons or less;

(b) \$10,000 for restaurants with a stated seating capacity of 61 to 100 persons; or

(c) \$20,000 for restaurants with a stated seating capacity of 101 persons or more.

(20) The annual fee for a restaurant beer and wine license is \$400.

(21) If a restaurant licensed under this part increases the stated seating capacity of the licensed restaurant or if the department determines that a licensee has increased the stated seating capacity of the licensed restaurant, then the licensee shall pay to the department the difference between the fees paid at the time of filing the original application and issuance of a license and the applicable fees for the additional seating.

(22) The number of beer and wine licenses issued to restaurants with a stated seating capacity of 101 persons or more may not exceed 25% of the total licenses issued.

(23) Possession of a restaurant beer and wine license is not a qualification for licensure of any gaming or gambling activity. A gaming or gambling activity may not occur on the premises of a restaurant with a restaurant beer and wine license.

(24) The department may adopt rules to implement this section. (*Terminates December 31, 2023—sec. 17, Ch. 5, Sp. L. November 2017.*)

**16-4-420.** (*Effective January 1, 2024*) **Restaurant beer and wine license — rulemaking.** (1) The department shall issue a restaurant beer and wine license to an applicant whenever the department determines that the applicant, in addition to satisfying the requirements of this section, meets the following qualifications and conditions:

(a) the applicant complies with the licensing criteria provided in 16-4-401 for an on-premises consumption license;

(b) the applicant operates a restaurant at the location where the restaurant beer and wine license will be used or satisfies the department that:

(i) the applicant intends to open a restaurant that will meet the requirements of subsection (6) and intends to operate the restaurant so that at least 65% of the restaurant's gross income during its first year of operation is expected to be the result of the sale of food;

(ii) the restaurant beer and wine license will be used in conjunction with that restaurant, that the restaurant will serve beer and wine only to a patron who orders food, and that beer and wine purchases will be stated on the food bill; and

(iii) the restaurant will serve beer and wine from a service bar, as service bar is defined by the department by rule;

(c) the applicant understands and acknowledges in writing on the application that this license prohibits the applicant from being licensed to conduct any gaming or gambling activity or operate any gambling machines and that if any gaming or gambling activity or machine exists at the location where the restaurant beer and wine license will be used, the activity must be discontinued or the machines must be removed before the restaurant beer and wine license takes effect; and

(d) the applicant states the planned seating capacity of the restaurant, if it is to be built, or the current seating capacity if the restaurant is operating.

(2) (a) A restaurant that has an existing retail license for the sale of beer, wine, or any other alcoholic beverage may not be considered for a restaurant beer and wine license at the same location.

(b) (i) An on-premises retail licensee who sells the licensee's existing retail license may not apply for a license under this section for a period of 1 year from the date that license is transferred to a new purchaser.

(ii) A person, including an individual, with an ownership interest in an existing on-premises retail license that is being transferred to a new purchaser may not attain an ownership interest in a license applied for under this section for a period of 1 year from the date that the existing on-premises retail license is transferred to a new purchaser.

(3) A completed application for a license under this section and the appropriate application fee, as provided in subsection (11), must be submitted to the department. The department shall investigate the items relating to the application as described in subsections (3)(a) through (3)(d). Based on the results of the investigation and the exercise of 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;

(c) the requirements of this code and the rules promulgated by the department are complied with; and

(d) the seating capacity stated on the application is correct.

(4) An application for a beer and wine license submitted under this section is subject to the provisions of 16-4-203, 16-4-207, and 16-4-405.

(5) If a premises proposed for licensing under this section is a new or remodeled structure, then the department may issue a conditional license prior to completion of the premises based on reasonable evidence, including a statement from the applicant's architect or contractor confirming that the seating capacity stated on the application is correct, that the premises will be suitable for the carrying on of business as a bona fide restaurant, as defined in subsection (6).

(6) (a) For purposes of this section, “restaurant” means a public eating place:

(i) where individually priced meals are prepared and served for on-premises consumption;

(ii) where at least 65% of the restaurant’s annual gross income from the operation must be from the sale of food and not from the sale of alcoholic beverages. Each year after a license is issued, the applicant shall file with the department a statement, in a form approved by the department, attesting that at least 65% of the gross income of the restaurant during the prior year resulted from the sale of food.

(iii) that has a dining room, a kitchen, and the number and kinds of employees necessary for the preparation, cooking, and serving of meals in order to satisfy the department that the space is intended for use as a full-service restaurant; and

(iv) that serves an evening dinner meal at least 4 days a week for at least 2 hours a day between the hours of 5 p.m. and 11 p.m. The provisions of subsection (6)(b) and this subsection (6)(a)(iv) do not apply to a restaurant for which a restaurant beer and wine license is in effect as of April 9, 2009, or to subsequent renewals of that license.

(b) The term does not mean a fast-food restaurant that, excluding any carry-out business, serves a majority of its food and drink in throw-away containers not reused in the same restaurant.

(7) (a) A restaurant beer and wine license may be transferred, on approval by the department, from the original applicant to a new owner of the restaurant only after 1 year of use by the original owner.

(b) A license issued under this section may be jointly owned, and the license may pass to the surviving joint tenant upon the death of the other tenant. However, the license may not be transferred to any other person or entity by operation of the laws of inheritance or succession or any other laws allowing the transfer of property upon the death of the owner in this state or in another state.

(c) An estate may, upon the sale of a restaurant that is property of the estate and with the approval of the department, transfer a restaurant beer and wine license to a new owner.

(8) (a) The department shall issue a restaurant beer and wine license to a qualified applicant:

(i) except as provided in subsection (8)(c), for a restaurant located in a quota area with a population of 5,000 persons or fewer, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 80% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

(ii) for a restaurant located in a quota area with a population of 5,001 to 20,000 persons, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 160% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

(iii) for a restaurant located in a quota area with a population of 20,001 to 60,000 persons, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 100% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

(iv) for a restaurant located in a quota area with a population of 60,001 persons or more, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 80% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105; and

(v) for a restaurant located in a quota area that is also a resort community, as defined in 7-6-1501, if the number of restaurant beer and wine licenses issued in the quota area that is also a resort community is equal to or less than 200% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105.

(b) In determining the number of restaurant beer and wine licenses that may be issued under this subsection (8) based on the percentage amounts described in subsections (8)(a)(i) through (8)(a)(v), the department shall round to the nearer whole number.

(c) If the department has issued the number of restaurant beer and wine licenses authorized for a quota area under subsection (8)(a)(i), there must be a one-time adjustment of four additional licenses for that quota area.

(d) If there are more applicants than licenses available in a quota area, then the license must be awarded by lottery as provided in subsection (10).

(9) If any new restaurant beer and wine licenses are allowed by separating a combined quota area, pursuant to 16-4-105 as of November 24, 2017, the department shall publish the availability of no more than one new restaurant beer and wine license a year until the quota has been reached.

(10) (a) When a restaurant beer and wine license becomes available by the initial issuance of licenses under this section or as the result of an increase in the population in a quota area, the nonrenewal of a restaurant beer and wine license, or the lapse or revocation of a license by the department, then the department shall advertise the availability of the license in the quota area for which it is available. If there are more applicants than number of licenses available, the license must be awarded to an applicant by a lottery.

(b) A preference must be given to an applicant who does not yet have in any quota area a restaurant beer and wine license or a retail beer license and who operates a restaurant that is in the quota area described in subsection (8) in which the license has become available and that meets the qualifications of subsection (6) for at least 12 months prior to the filing of an application. An applicant with a preference must be awarded a license before any applicant without a preference.

(c) The department shall numerically rank all applicants in the lottery. Only the successful applicants will be required to submit a completed application and a one-time required fee. An applicant's ranking may not be sold or transferred to another person or entity. The preference and an applicant's ranking apply only to the intended license advertised by the department or to the number of licenses determined under subsection (8) when there are more applicants than licenses available. The applicant's qualifications for any other restaurant beer and wine license awarded by lottery must be determined at the time of the lottery.

(d) If a successful lottery applicant does not use a license within 1 year of notification by the department of license eligibility, the applicant shall forfeit the license. The department shall refund any fees paid except the application fee and offer the license to the next eligible ranked applicant in the lottery.

(11) Under a restaurant beer and wine license, beer and wine may not be sold for off-premises consumption.

(12) An application for a restaurant beer and wine license must be accompanied by a fee equal to 20% of the initial licensing fee. If the department does not make a decision either granting or denying the license within 4 months of receipt of a complete application, the department shall pay interest on the application fee at the rate of 1% a month until a license is issued or the application is denied. Interest may not accrue during any period that the processing of an application is delayed by reason of a protest filed pursuant to 16-4-203 or 16-4-207. If the department denies an application, the application fee, plus any interest, less a processing fee established by rule, must be refunded to the applicant. Upon the issuance of a license, the licensee shall pay the balance of the initial licensing fee. The amount of the initial licensing fee is determined according to the following schedule:

- (a) \$5,000 for restaurants with a stated seating capacity of 60 persons or less;
- (b) \$10,000 for restaurants with a stated seating capacity of 61 to 100 persons; or
- (c) \$20,000 for restaurants with a stated seating capacity of 101 persons or more.

(13) The annual fee for a restaurant beer and wine license is \$400.

(14) If a restaurant licensed under this part increases the stated seating capacity of the licensed restaurant or if the department determines that a licensee has increased the stated seating capacity of the licensed restaurant, then the licensee shall pay to the department the difference between the fees paid at the time of filing the original application and issuance of a license and the applicable fees for the additional seating.

(15) The number of beer and wine licenses issued to restaurants with a stated seating capacity of 101 persons or more may not exceed 25% of the total licenses issued.

(16) Possession of a restaurant beer and wine license is not a qualification for licensure of any gaming or gambling activity. A gaming or gambling activity may not occur on the premises of a restaurant with a restaurant beer and wine license.

(17) The department may adopt rules to implement this section.

**History:** En. Sec. 1, Ch. 465, L. 1997; amd. Sec. 2, Ch. 324, L. 1999; amd. Sec. 27, Ch. 7, L. 2001; amd. Sec. 8, Ch. 110, L. 2003; amd. Sec. 1, Ch. 348, L. 2007; amd. Sec. 1, Ch. 187, L. 2009; amd. Sec. 197, Ch. 49, L. 2015; amd. Secs. 13, 14, Ch. 5, Sp. L. November 2017.

**Compiler's Comments**

*2017 Special Session Amendment:* (Temporary version) Chapter 5 deleted (8)(d) that read: "(d) If there are more applicants than licenses available in a quota area, then the license must be awarded by lottery as provided in subsection (9)"; in (10) deleted former second sentence that read: "If there are more applicants than number of licenses available, the license must be awarded to an applicant by a lottery"; deleted former (9)(b), (9)(c), and (9)(d) that read: "(b) A preference must be given to an applicant who does not yet have in any quota area a restaurant beer and wine license or a retail beer license and who operates a restaurant that is in the quota area described in subsection (8) in which the license has become available and that meets the qualifications of subsection (6) for at least 12 months prior to the filing of an application. An applicant with a preference must be awarded a license before any applicant without a preference.

(c) The department shall numerically rank all applicants in the lottery. Only the successful applicants will be required to submit a completed application and a one-time required fee. An applicant's ranking may not be sold or transferred to another person or entity. The preference and an applicant's ranking apply only to the intended license advertised by the department or to the number of licenses determined under subsection (8) when there are more applicants than licenses available. The applicant's qualifications for any other restaurant beer and wine license awarded by lottery must be determined at the time of the lottery.

(d) If a successful lottery applicant does not use a license within 1 year of notification by the department of license eligibility, the applicant shall forfeit the license. The department shall refund any fees paid except the application fee and offer the license to the next eligible ranked applicant in the lottery"; inserted (11) through (17) relating to competitive bidding processes; inserted (24) granting rulemaking authority; and made minor changes in style. Amendment effective November 24, 2017, and terminates December 31, 2023.

(Version effective January 1, 2024) Chapter 5 inserted (17) granting rulemaking authority; and made minor changes in style.

(Both versions) Chapter 5 inserted (9) relating to new licenses resulting from separating combined quota areas; and made minor changes in style.

**17-1-512. (Temporary) Management rate transfer — exceptions.** (1) Subject to any limitations in the Montana constitution, for each calendar year, the board of investments shall transfer to the fire suppression account provided for in 76-13-150 a 3% management rate on any board of investments' investment portfolio:

(a) that has an average asset balance greater than \$1 billion; and

(b) whose average asset balance contains sufficient funds to offset all liabilities as determined by the most recent actuarial study, including the independent actuarial report submitted to the legislature under 39-71-2363(3).

(2) The 3% management rate applies to the average asset balance in excess of \$1 billion. The board of investments shall transfer the 3% management rate to the fire suppression account provided for in 76-13-150 on or before April 1 of the immediately following calendar year.

(3) The state fund may not raise rates or reduce dividends to offset real or estimated losses associated with the 3% management rate transfer. (*Terminates June 30, 2019—sec. 6, Ch. 4, Sp. L. November 2017.*)

**History:** En. Sec. 1, Ch. 4, Sp. L. November 2017.

**Compiler's Comments**

*Effective Date:* Section 4, Ch. 4, Sp. L. November 2017, provided: "[This act] is effective on passage and approval." Approved November 24, 2017.

*Applicability:* Section 5, Ch. 4, Sp. L. November 2017, provided: "[This act] applies to calendar years 2017 and 2018, and the 3% management rate is payable to the fire suppression account provided for in 76-13-150 by April 1, 2018, and April 1, 2019, respectively."

*Termination:* Section 6, Ch. 4, Sp. L. November 2017, provided: "[This act] terminates June 30, 2019."

**17-5-703. (Temporary) Coal severance tax trust funds.** (1) The trust established under Article IX, section 5, of the Montana constitution is composed of the following funds:

(a) a coal severance tax bond fund into which the constitutionally dedicated receipts from the coal severance tax must be deposited;

(b) a treasure state endowment fund;

(c) a treasure state endowment regional water system fund;

(d) a coal severance tax permanent fund;

(e) a coal severance tax income fund;

(f) a big sky economic development fund; and

(g) a school facilities fund.

(2) (a) The state treasurer shall determine, on July 1 of each year, the amount necessary to meet all principal and interest payments on bonds payable from the coal severance tax bond fund during the next 12 months and retain that amount in the coal severance tax bond fund.

(b) The amount in the coal severance tax bond fund in excess of the amount required in subsection (2)(a) must be transferred from that fund as provided in subsections (4) and (5).

(3) (a) The state treasurer shall monthly transfer from the treasure state endowment fund to the treasure state endowment special revenue account the amount of earnings, excluding

unrealized gains and losses, required to meet the obligations of the state that are payable from the account in accordance with 90-6-710. Earnings not transferred to the treasure state endowment special revenue account must be retained in the treasure state endowment fund. [The treasure state endowment special revenue account is subject to legislative fund transfer.]

(b) The state treasurer shall monthly transfer from the treasure state endowment regional water system fund to the treasure state endowment regional water system special revenue account the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account for regional water systems authorized under 90-6-715. Earnings not transferred to the treasure state endowment regional water system special revenue account must be retained in the treasure state endowment regional water system fund.

(4) (a) Starting July 1, 2017, the state treasurer shall quarterly transfer to the school facilities fund provided for in 20-9-380(1) 75% of the amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund. The budget director shall certify to the state treasurer when the balance of the school facilities fund is \$200 million. Beginning with the quarter following this certification, the state treasurer shall instead transfer to the coal severance tax permanent fund 75% of the amount in the coal severance tax bond fund that exceeds the amount that is specified in subsection (2) to be retained in the fund.

(b) The state treasurer shall monthly transfer from the school facilities fund to the account established in 20-9-525 the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account. Earnings not transferred to the account established in 20-9-525 must be retained in the school facilities fund.

(5) (a) From July 1, 2005, through June 30, 2025, the state treasurer shall quarterly transfer to the big sky economic development fund 25% of the amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund.

(b) The state treasurer shall monthly transfer from the big sky economic development fund to the economic development special revenue account, provided for in 90-1-205, the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account in accordance with 90-1-204. Earnings not transferred to the economic development special revenue account must be retained in the big sky economic development fund.

(6) Any amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2)(a) to be retained in the fund and that is not otherwise allocated under this section must be deposited in the coal severance tax permanent fund. (*Terminates June 30, 2031—secs. 1 through 3, Ch. 305, L. 2015; bracketed language in subsection (3)(a) terminates June 30, 2019—sec. 28, Ch. 6, Sp. L. November 2017.*)

**17-5-703.** (*Effective July 1, 2031*) **Coal severance tax trust funds.** (1) The trust established under Article IX, section 5, of the Montana constitution is composed of the following funds:

- (a) a coal severance tax bond fund into which the constitutionally dedicated receipts from the coal severance tax must be deposited;
- (b) a treasure state endowment fund;
- (c) a coal severance tax permanent fund;
- (d) a coal severance tax income fund;
- (e) a big sky economic development fund; and
- (f) a school facilities fund.

(2) (a) The state treasurer shall determine, on July 1 of each year, the amount necessary to meet all principal and interest payments on bonds payable from the coal severance tax bond fund during the next 12 months and retain that amount in the coal severance tax bond fund.

(b) The amount in the coal severance tax bond fund in excess of the amount required in subsection (2)(a) must be transferred from that fund as provided in subsections (4) and (5).

(3) The state treasurer shall monthly transfer from the treasure state endowment fund to the treasure state endowment special revenue account the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account in accordance with 90-6-710. Earnings not transferred to the treasure state endowment special revenue account must be retained in the treasure state endowment fund.



(4) (a) Starting July 1, 2017, the state treasurer shall quarterly transfer to the school facilities fund provided for in 20-9-380(1) 75% of the amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund. The budget director shall certify to the state treasurer when the balance of the school facilities fund is \$200 million. Beginning with the quarter following this certification, the state treasurer shall instead transfer to the coal severance tax permanent fund 75% of the amount in the coal severance tax bond fund that exceeds the amount that is specified in subsection (2) to be retained in the fund.

(b) The state treasurer shall monthly transfer from the school facilities fund to the account established in 20-9-525 the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account. Earnings not transferred to the account established in 20-9-525 must be retained in the school facilities fund.

(5) (a) From July 1, 2005, through June 30, 2025, the state treasurer shall quarterly transfer to the big sky economic development fund 25% of the amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund.

(b) The state treasurer shall monthly transfer from the big sky economic development fund to the economic development special revenue account, provided for in 90-1-205, the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account in accordance with 90-1-204. Earnings not transferred to the economic development special revenue account must be retained in the big sky economic development fund.

(6) Any amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2)(a) to be retained in the fund and that is not otherwise allocated under this section must be deposited in the coal severance tax permanent fund.

**History:** En. Sec. 26, Ch. 505, L. 1981; amd. Sec. 18, Ch. 298, L. 1983; amd. Sec. 2, Ch. 512, L. 1985; amd. Sec. 3, Ch. 722, L. 1991; amd. Secs. 3, 7, Ch. 12, Sp. L. January 1992; amd. Sec. 4, Ch. 515, L. 1993; amd. Sec. 1, Ch. 8, Sp. L. November 1993; amd. Sec. 1, Ch. 33, Sp. L. November 1993; amd. Secs. 1, 4, Ch. 495, L. 1999; amd. Sec. 3, Ch. 61, L. 2001; amd. Sec. 1, Ch. 380, L. 2001; amd. Sec. 42, Ch. 114, L. 2003; amd. Sec. 1, Ch. 588, L. 2005; amd. Sec. 1, Ch. 14, L. 2007; amd. Sec. 12, Ch. 389, L. 2011; amd. Sec. 2, Ch. 390, L. 2013; amd. Sec. 3, Ch. 259, L. 2017; amd. Sec. 2, Ch. 377, L. 2017; amd. Sec. 8, Ch. 6, Sp. L. November 2017.

**Compiler's Comments**

*2017 Special Session Amendment:* (Temporary version) Chapter 6 in (3)(a) inserted last sentence providing for legislative fund transfer. Amendment effective December 15, 2017, and terminates June 30, 2019.

**17-7-140. Reduction in spending.** (1) (a) As the chief budget officer of the state, the governor shall ensure that the expenditure of appropriations does not exceed available revenue. Except as provided in subsection (2), in the event of a projected general fund budget deficit, the governor, taking into account the criteria provided in subsection (1)(c), shall direct agencies to reduce spending in an amount that ensures that the projected ending general fund balance for the biennium will be at least:

(i) [subject to subsection (8),] 6% of the general fund appropriations for the second fiscal year of the biennium prior to October of the year preceding a legislative session;

(ii) 3% of the general fund appropriations for the second fiscal year of the biennium in October of the year preceding a legislative session;

(iii) 2% of the general fund appropriations for the second fiscal year of the biennium in January of the year in which a legislative session is convened; and

(iv) 1% of the general fund appropriations for the second fiscal year of the biennium in March of the year in which a legislative session is convened.

(b) An agency may not be required to reduce general fund spending for any program, as defined in each general appropriations act, by more than 10% during a biennium. Departments or agencies headed by elected officials or the board of regents may not be required to reduce general fund spending by a percentage greater than the percentage of general fund spending reductions required for the total of all other executive branch agencies. The legislature may exempt from a reduction an appropriation item within a program or may direct that the appropriation item may not be reduced by more than 10%.

(c) The governor shall direct agencies to manage their budgets in order to reduce general fund expenditures. Prior to directing agencies to reduce spending as provided in subsection (1)(a), the governor shall direct each agency to analyze the nature of each program that receives a general fund appropriation to determine whether the program is mandatory or permissive

and to analyze the impact of the proposed reduction in spending on the purpose of the program. An agency shall submit its analysis to the office of budget and program planning and shall at the same time provide a copy of the analysis to the legislative fiscal analyst. The report must be submitted in an electronic format. The office of budget and program planning shall review each agency's analysis, and the budget director shall submit to the governor a copy of the office of budget and program planning's recommendations for reductions in spending. The budget director shall provide a copy of the recommendations to the legislative fiscal analyst at the time that the recommendations are submitted to the governor and shall provide the legislative fiscal analyst with any proposed changes to the recommendations. The recommendations must be provided in an electronic format. The legislative finance committee shall meet within 20 days of the date that the proposed changes to the recommendations for reductions in spending are provided to the legislative fiscal analyst. The legislative fiscal analyst shall provide a copy of the legislative fiscal analyst's review of the proposed reductions in spending to the budget director at least 5 days before the meeting of the legislative finance committee. The committee may make recommendations concerning the proposed reductions in spending. The governor shall consider each agency's analysis and the recommendations of the office of budget and program planning and the legislative finance committee in determining the agency's reduction in spending. Reductions in spending must be designed to have the least adverse impact on the provision of services determined to be most integral to the discharge of the agency's statutory responsibilities.

(2) Reductions in spending for the following may not be directed by the governor:

- (a) payment of interest and principal on state debt;
- (b) the legislative branch;
- (c) the judicial branch;
- (d) the school BASE funding program, including special education;
- (e) salaries of elected officials during their terms of office; and
- (f) the Montana school for the deaf and blind.

(3) (a) As used in this section, "projected general fund budget deficit" means an amount, certified by the budget director to the governor, by which the projected ending general fund balance for the biennium is less than:

- (i) [subject to subsection (8),] 5% of the general fund appropriations for the second fiscal year of the biennium prior to October of the year preceding a legislative session;
- (ii) 1.875% in October of the year preceding a legislative session;
- (iii) 1.25% in January of the year in which a legislative session is convened; and
- (iv) 0.625% in March of the year in which a legislative session is convened.

(b) In determining the amount of the projected general fund budget deficit, the budget director shall take into account revenue, established levels of appropriation, anticipated supplemental appropriations for school equalization aid and the cost of the state's wildland fire suppression activities exceeding the amount statutorily appropriated in 10-3-312, and anticipated reversions.

(4) If the budget director determines that an amount of actual or projected receipts will result in an amount less than the amount projected to be received in the revenue estimate established pursuant to 5-5-227, the budget director shall notify the revenue and transportation interim committee of the estimated amount. Within 20 days of notification, the revenue and transportation interim committee shall provide the budget director with any recommendations concerning the amount. The budget director shall consider any recommendations of the revenue and transportation interim committee prior to certifying a projected general fund budget deficit to the governor.

(5) If the budget director certifies a projected general fund budget deficit, the governor may authorize transfers to the general fund from certain accounts as set forth in subsections (6) and (7).

(6) The governor may authorize transfers from the budget stabilization reserve fund provided for in 17-7-130. The governor may authorize \$2 of transfers from the fund for each \$1 of reductions in spending.

(7) If the budget director certifies a projected general fund budget deficit, the governor may authorize transfers to the general fund from the fire suppression account established in 76-13-150. The amount of funds available for a transfer from this account is up to the sum

of the fund balance of the account, plus expected current year revenue, minus the sum of 1% of the general fund appropriations for the second fiscal year of the biennium, plus estimated expenditures from the account for the fiscal year. The governor may authorize \$1 of transfers from the fire suppression account established in 76-13-150 for each \$1 of reductions in spending.

[(8) For the biennium beginning July 1, 2017, the percentages in subsections (1)(a)(i) and (3)(a)(i) are both reduced pursuant to section 4, Chapter 7, Special Laws of November 2017.] *(Bracketed language terminates October 1, 2018—sec. 10(2), Ch. 7, Sp. L. November 2017.)*

**History:** En. Sec. 10, Ch. 787, L. 1991; amd. Sec. 1, Ch. 5, Sp. L. July 1992; amd. Sec. 55, Ch. 633, L. 1993; amd. Sec. 42, Ch. 19, L. 1999; amd. Sec. 46, Ch. 114, L. 2003; amd. Sec. 1, Ch. 169, L. 2003; amd. Sec. 4, Ch. 607, L. 2003; amd. Sec. 9, Ch. 120, L. 2013; amd. Sec. 2, Ch. 368, L. 2013; amd. Sec. 1, Ch. 165, L. 2015; amd. Sec. 5, Ch. 429, L. 2017; amd. Sec. 3, Ch. 7, Sp. L. November 2017.

**Compiler's Comments**

*2017 Special Session Amendment:* Chapter 7 in (1)(a)(i) and (3)(a)(i) at beginning inserted “subject to subsection (8)”; and inserted (8) providing for a reduction in the percentages in subsections (1)(a)(i) and (3)(a)(i) pursuant to sec. 4, Ch. 7, Sp. L. November 2017. Amendment effective November 27, 2017, and terminates October 1, 2018.

**17-7-205. Long-range building program account.** (1) There is a long-range building program account in the capital projects fund type. [The account is subject to legislative fund transfer.]

(2) Cigarette tax revenue is deposited in the account pursuant to 16-11-119.

(3) Coal severance taxes allocated to the account under 15-35-108 may be appropriated for the long-range building program or debt service payments on building projects. Coal severance taxes required for general obligation bond debt service may be transferred to the debt service fund.

(4) Interest earnings, project carryover funds, administrative fees, and miscellaneous revenue must be retained in the account. *(Bracketed language in subsection (1) terminates June 30, 2019—sec. 28, Ch. 6, Sp. L. November 2017.)*

**History:** En. Sec. 3, Ch. 456, L. 1995; amd. Sec. 13, Ch. 387, L. 2011; amd. Sec. 9, Ch. 6, Sp. L. November 2017.

**Compiler's Comments**

*2017 Special Session Amendment:* Chapter 6 in (1) inserted second sentence providing for legislative fund transfer. Amendment effective December 15, 2017, and terminates June 30, 2019.

**19-5-404. (Temporary — effective January 1, 2018) State employer contribution.** (1) Except as provided in subsection (2), the state shall pay as employer contributions 0% of the compensation paid to all of the employer's employees, except those properly excluded from membership.

(2) The state shall contribute monthly from the natural resources operations state special revenue account, established in 15-38-301, to the judges' pension trust fund an amount equal to 0% of the compensation paid to the chief water court judge. The judiciary shall include in its budget and shall request for legislative appropriation an amount necessary to defray the state's portion of the costs of this section. *(Terminates June 30, 2019—sec. 5, Ch. 1, Sp. L. November 2017.)*

**19-5-404. (Effective July 1, 2019) State employer contribution.** (1) Except as provided in subsection (2), the state shall pay as employer contributions 25.81% of the compensation paid to all of the employer's employees, except those properly excluded from membership.

(2) The state shall contribute monthly from the natural resources operations state special revenue account, established in 15-38-301, to the judges' pension trust fund an amount equal to 25.81% of the compensation paid to the chief water court judge. The judiciary shall include in its budget and shall request for legislative appropriation an amount necessary to defray the state's portion of the costs of this section.

**History:** En. Sec. 10, Ch. 289, L. 1967; amd. Sec. 7, Ch. 63, L. 1977; amd. Sec. 2, Ch. 548, L. 1977; R.C.M. 1947, 93-1116(part); amd. Sec. 3, Ch. 524, L. 1983; amd. Sec. 2, Ch. 318, L. 1987; amd. Sec. 2, Ch. 642, L. 1987; amd. Secs. 1, 2, Ch. 664, L. 1989; amd. Sec. 2, Ch. 344, L. 1991; (2)En. Sec. 2, Ch. 364, L. 1991; amd. Sec. 101, Ch. 265, L. 1993; amd. Sec. 14, Ch. 287, L. 1997; amd. Sec. 20, Ch. 532, L. 1997; amd. Sec. 37, Ch. 329, L. 2005; amd. Sec. 8, Ch. 432, L. 2007; amd. Sec. 1, Ch. 1, Sp. L. November 2017.

**Compiler's Comments**

*2017 Special Session Amendment:* Chapter 1 in (1) and (2) substituted “0%” for “25.81%”. Amendment effective January 1, 2018, and terminates June 30, 2019.

*Applicability:* Section 4, Ch. 1, Sp. L. November 2017, provided: “[This act] applies to the first full pay period in January 2018 through the last full pay period in June 2019.”

**20-9-141. (Temporary) Computation of general fund net levy requirement by county superintendent.** (1) The county superintendent shall compute the levy requirement for each district's general fund on the basis of the following procedure:

(a) Determine the funding required for the district's final general fund budget less the sum of direct state aid and the special education allowable cost payment for the district by totaling:

(i) the district's nonisolated school BASE budget requirement to be met by a district levy as provided in 20-9-303; and

(ii) any general fund budget amount adopted by the trustees of the district under the provisions of 20-9-308 and 20-9-353.

(b) Determine the money available for the reduction of the property tax on the district for the general fund by totaling:

(i) the general fund balance reappropriated, as established under the provisions of 20-9-104;

(ii) amounts received in the last fiscal year for which revenue reporting was required for each of the following:

(A) interest earned by the investment of general fund cash in accordance with the provisions of 20-9-213(4); and

(B) any other revenue received during the school fiscal year that may be used to finance the general fund, excluding any guaranteed tax base aid;

(iii) anticipated oil and natural gas production taxes;

(iv) pursuant to subsection (4), anticipated revenue from coal gross proceeds under 15-23-703;

(v) any portion of the combined fund block grant allocated to the district general fund by the trustees pursuant to 20-9-630;

(vi) if applicable, a coal-fired generating unit closure mitigation block grant as provided in 20-9-638; and

(vii) any portion of the increment remitted to a school district under 7-15-4291 used to reduce the BASE levy budget.

(c) Notwithstanding the provisions of subsection (2), subtract the money available to reduce the property tax required to finance the general fund that has been determined in subsection (1)(b) from any general fund budget amount adopted by the trustees of the district, up to the BASE budget amount, to determine the general fund BASE budget levy requirement.

(d) Determine the sum of:

(i) any amount remaining after the determination in subsection (1)(c);

(ii) any portion of the increment remitted to a school district under 7-15-4291 used to reduce the over-BASE budget levy; and

(iii) any tuition payments for out-of-district pupils to be received under the provisions of 20-5-320 through 20-5-324, except the amount of tuition received for a pupil who is a child with a disability in excess of the amount received for a pupil without disabilities, as calculated under 20-5-323(2).

(e) Subtract the amount determined in subsection (1)(d) from any additional funding requirement to be met by an over-BASE budget amount, a district levy as provided in 20-9-303, and any additional financing as provided in 20-9-353 to determine any additional general fund levy requirements.

(2) The county superintendent shall calculate the number of mills to be levied on the taxable property in the district to finance the general fund levy requirement for any amount that does not exceed the BASE budget amount for the district by dividing the amount determined in subsection (1)(c) by the sum of:

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

(b) the current total taxable valuation of the district, as certified by the department of revenue under 15-10-202, divided by 1,000.

(3) The net general fund levy requirement determined in subsections (1)(c) and (1)(d) must be reported to the county commissioners by the later of the first Tuesday in September or within 30 calendar days after receiving certified taxable values by the county superintendent as the general fund net levy requirement for the district, and a levy must be set by the county commissioners in accordance with 20-9-142.

(4) For each school district, the department of revenue shall calculate and report to the county superintendent the amount of revenue anticipated for the ensuing fiscal year from revenue from coal gross proceeds under 15-23-703.

**20-9-141. (Effective July 1, 2018) Computation of general fund net levy requirement by county superintendent.** (1) The county superintendent shall compute the levy requirement for each district's general fund on the basis of the following procedure:

(a) Determine the funding required for the district's final general fund budget less the sum of direct state aid and the special education allowable cost payment for the district by totaling:

(i) the district's nonisolated school BASE budget requirement to be met by a district levy as provided in 20-9-303; and

(ii) any general fund budget amount adopted by the trustees of the district under the provisions of 20-9-308 and 20-9-353.

(b) Determine the money available for the reduction of the property tax on the district for the general fund by totaling:

(i) the general fund balance reappropriated, as established under the provisions of 20-9-104;

(ii) amounts received in the last fiscal year for which revenue reporting was required for each of the following:

(A) interest earned by the investment of general fund cash in accordance with the provisions of 20-9-213(4); and

(B) any other revenue received during the school fiscal year that may be used to finance the general fund, excluding any guaranteed tax base aid;

(iii) anticipated oil and natural gas production taxes;

(iv) pursuant to subsection (4), anticipated revenue from coal gross proceeds under 15-23-703;

(v) if applicable, a coal-fired generating unit closure mitigation block grant as provided in 20-9-638; and

(vi) any portion of the increment remitted to a school district under 7-15-4291 used to reduce the BASE levy budget.

(c) Notwithstanding the provisions of subsection (2), subtract the money available to reduce the property tax required to finance the general fund that has been determined in subsection (1)(b) from any general fund budget amount adopted by the trustees of the district, up to the BASE budget amount, to determine the general fund BASE budget levy requirement.

(d) Determine the sum of:

(i) any amount remaining after the determination in subsection (1)(c);

(ii) any portion of the increment remitted to a school district under 7-15-4291 used to reduce the over-BASE budget levy; and

(iii) any tuition payments for out-of-district pupils to be received under the provisions of 20-5-320 through 20-5-324, except the amount of tuition received for a pupil who is a child with a disability in excess of the amount received for a pupil without disabilities, as calculated under 20-5-323(2).

(e) Subtract the amount determined in subsection (1)(d) from any additional funding requirement to be met by an over-BASE budget amount, a district levy as provided in 20-9-303, and any additional financing as provided in 20-9-353 to determine any additional general fund levy requirements.

(2) The county superintendent shall calculate the number of mills to be levied on the taxable property in the district to finance the general fund levy requirement for any amount that does not exceed the BASE budget amount for the district by dividing the amount determined in subsection (1)(c) by the sum of:

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

(b) the current total taxable valuation of the district, as certified by the department of revenue under 15-10-202, divided by 1,000.

(3) The net general fund levy requirement determined in subsections (1)(c) and (1)(d) must be reported to the county commissioners by the later of the first Tuesday in September or within 30 calendar days after receiving certified taxable values by the county superintendent as the general fund net levy requirement for the district, and a levy must be set by the county commissioners in accordance with 20-9-142.

(4) For each school district, the department of revenue shall calculate and report to the county superintendent the amount of revenue anticipated for the ensuing fiscal year from revenue from coal gross proceeds under 15-23-703.

**History:** En. 75-6926 by Sec. 276, Ch. 5, L. 1971; R.C.M. 1947, 75-6926; amd. Sec. 1, Ch. 699, L. 1983; amd. Sec. 1, Ch. 110, L. 1985; amd. Sec. 1, Ch. 265, L. 1985; amd. Sec. 12, Ch. 695, L. 1985; amd. Sec. 15, Ch. 611, L. 1987; amd. Sec. 19, Ch. 655, L. 1987; amd. Sec. 5, Ch. 35, L. 1989; amd. Secs. 21, 83, Ch. 11, Sp. L. June 1989; amd. Sec. 8, Ch. 267, L. 1991; amd. Sec. 8, Ch. 767, L. 1991; amd. Sec. 6, Ch. 133, L. 1993; amd. Sec. 2, Ch. 325, L. 1993; amd. Sec. 14, Ch. 563, L. 1993; amd. Sec. 13, Ch. 633, L. 1993; amd. Sec. 16, Ch. 9, Sp. L. November 1993; amd. Sec. 2, Ch. 35, Sp. L. November 1993; amd. Sec. 39, Ch. 451, L. 1995; amd. Sec. 2, Ch. 580, L. 1995; amd. Sec. 2, Ch. 389, L. 1997; amd. Sec. 9, Ch. 496, L. 1997; amd. Sec. 99(4), Ch. 51, L. 1999; amd. Sec. 1, Ch. 180, L. 1999; amd. Sec. 14, Ch. 515, L. 1999; amd. Secs. 106, 170(3), Ch. 584, L. 1999; amd. Sec. 7, Ch. 11, Sp. L. May 2000; amd. Sec. 5, Ch. 191, L. 2001; amd. Sec. 5, Ch. 464, L. 2001; amd. Sec. 117, Ch. 574, L. 2001; amd. Sec. 27, Ch. 130, L. 2005; amd. Sec. 1, Ch. 173, L. 2007; amd. Sec. 10, Ch. 152, L. 2011; amd. Sec. 5, Ch. 400, L. 2013; amd. Sec. 3, Ch. 405, L. 2015; amd. Sec. 4, Ch. 336, L. 2017; amd. Sec. 3, Ch. 2, Sp. L. November 2017.

**Compiler's Comments**

*2017 Special Session Amendment:* Chapter 2 deleted former (1)(b)(v) that read: "(v) any portion of the combined fund block grant allocated to the district general fund by the trustees pursuant to 20-9-630"; and made minor changes in style. Amendment effective July 1, 2018.

**20-9-501. (Temporary) Retirement costs and retirement fund.** (1) The trustees of a district or the management board of a cooperative employing personnel who are members of the teachers' retirement system or the public employees' retirement system, who are covered by unemployment insurance, or who are covered by any federal social security system requiring employer contributions shall establish a retirement fund for the purposes of budgeting and paying the employer's contributions to the systems as provided in subsection (2)(a). The district's or the cooperative's contribution for each employee who is a member of the teachers' retirement system must be calculated in accordance with Title 19, chapter 20, part 6. The district's or the cooperative's contribution for each employee who is a member of the public employees' retirement system must be calculated in accordance with 19-3-316. The district's or the cooperative's contributions for each employee covered by any federal social security system must be paid in accordance with federal law and regulation. The district's or the cooperative's contribution for each employee who is covered by unemployment insurance must be paid in accordance with Title 39, chapter 51, part 11.

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

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

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

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

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

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

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

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

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

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

(ii) oil and natural gas production taxes;

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

(iv) 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 20% 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.

(v) property tax reimbursements made pursuant to 15-1-123(6);

(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 by the later of the first Tuesday in September or within 30 calendar days after receiving certified taxable values 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 on or before September 15. The report must be completed on forms supplied by the superintendent of public instruction.

**20-9-501.** (Effective July 1, 2018) **Retirement costs and retirement fund.** (1) The trustees of a district or the management board of a cooperative employing personnel who are members of the teachers' retirement system or the public employees' retirement system, who

are covered by unemployment insurance, or who are covered by any federal social security system requiring employer contributions shall establish a retirement fund for the purposes of budgeting and paying the employer's contributions to the systems as provided in subsection (2)(a). The district's or the cooperative's contribution for each employee who is a member of the teachers' retirement system must be calculated in accordance with Title 19, chapter 20, part 6. The district's or the cooperative's contribution for each employee who is a member of the public employees' retirement system must be calculated in accordance with 19-3-316. The district's or the cooperative's contributions for each employee covered by any federal social security system must be paid in accordance with federal law and regulation. The district's or the cooperative's contribution for each employee who is covered by unemployment insurance must be paid in accordance with Title 39, chapter 51, part 11.

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

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

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

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

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

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

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

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

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

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

(ii) oil and natural gas production taxes;

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

(iv) 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 20% 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.

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

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

(5) The county superintendent shall:



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

(b) report each levy requirement to the county commissioners by the later of the first Tuesday in September or within 30 calendar days after receiving certified taxable values 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 on or before September 15. The report must be completed on forms supplied by the superintendent of public instruction.

**History:** En. 75-7204 by Sec. 343, Ch. 5, L. 1971; amd. Sec. 1, Ch. 281, L. 1973; amd. Sec. 1, Ch. 202, L. 1975; amd. Sec. 1, Ch. 121, L. 1977; R.C.M. 1947, 75-7204; amd. Sec. 2, Ch. 57, L. 1979; amd. Sec. 3, Ch. 481, L. 1979; amd. Sec. 5, Ch. 699, L. 1983; amd. Sec. 16, Ch. 695, L. 1985; amd. Sec. 19, Ch. 611, L. 1987; amd. Sec. 4, Ch. 635, L. 1987; amd. Sec. 23, Ch. 655, L. 1987; amd. Secs. 43, 89, Ch. 11, Sp. L. June 1989; amd. Sec. 39, Ch. 767, L. 1991; amd. Sec. 9, Ch. 133, L. 1993; amd. Sec. 43, Ch. 451, L. 1995; amd. Sec. 6, Ch. 580, L. 1995; amd. Sec. 10, Ch. 211, L. 1997; amd. Sec. 13, Ch. 496, L. 1997; amd. Sec. 1, Ch. 379, L. 1999; amd. Sec. 18, Ch. 515, L. 1999; amd. Sec. 13, Ch. 554, L. 1999; amd. Sec. 121, Ch. 574, L. 2001; amd. Sec. 3, Ch. 276, L. 2003; amd. Sec. 7, Ch. 550, L. 2003; amd. Sec. 28, Ch. 130, L. 2005; amd. Sec. 1, Ch. 405, L. 2005; amd. Sec. 27, Ch. 44, L. 2007; amd. Sec. 46, Ch. 2, L. 2009; amd. Sec. 23, Ch. 489, L. 2009; amd. Sec. 16, Ch. 152, L. 2011; amd. Sec. 8, Ch. 411, L. 2011; amd. Sec. 19, Ch. 389, L. 2013; amd. Sec. 4, Ch. 2, Sp. L. November 2017.

**Compiler's Comments**

*2017 Special Session Amendment:* Chapter 2 deleted former (4)(a)(v) that read: "(v) property tax reimbursements made pursuant to 15-1-123(6)"; and made minor changes in style. Amendment effective July 1, 2018.

**20-9-516. (Temporary) School facility and technology account.** (1) There is a school facility and technology account in the state special revenue fund provided for in 17-2-102. Subject to legislative fund transfer, the purpose of the account is to provide, contingent on appropriation from the legislature, funding for the following in priority order:

(a) school technology purposes as provided in 20-9-534; and

(b) state debt service assistance as provided in 20-9-371.

(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; and

(b) the income received from certain lands and riverbeds as provided in 17-3-1003(5).

(3) For the biennium beginning July 1, 2017, no payments may be distributed as authorized under subsection (1)(b). Transfers required by section 1, Chapter 6, Special Laws of November 2017, must be completed prior to any transfers authorized under subsection (4).

(4) If in any fiscal year the amount of revenue in the school facility and technology account is sufficient to fund debt service assistance without a proration reduction pursuant to 20-9-346(2)(b) and if in that same fiscal year the amount of revenue available in the school major maintenance aid account established in 20-9-525 will result in a proration reduction in school major maintenance aid pursuant to 20-9-525(5) for that fiscal year, the state treasurer shall transfer any excess funds in the school facility and technology account to the school major maintenance aid account not to exceed the amount required to avoid a proration reduction. (*Terminates June 30, 2019—sec. 28, Ch. 6, Sp. L. November 2017.*)

**20-9-516. (Effective July 1, 2019) School facility and technology account.**

(1) There is a school facility and technology account in the state special revenue fund provided for in 17-2-102. The purpose of the account is to provide, contingent on appropriation from the legislature, funding for the following in priority order:

- (a) school technology purposes as provided in 20-9-534; and
  - (b) state debt service assistance as provided in 20-9-371.
- (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; and
- (b) the income received from certain lands and riverbeds as provided in 17-3-1003(5).

(3) If in any fiscal year the amount of revenue in the school facility and technology account is sufficient to fund debt service assistance without a proration reduction pursuant to 20-9-346(2)(b) and if in that same fiscal year the amount of revenue available in the school major maintenance aid account established in 20-9-525 will result in a proration reduction in school major maintenance aid pursuant to 20-9-525(5) for that fiscal year, the state treasurer shall transfer any excess funds in the school facility and technology account to the school major maintenance aid account not to exceed the amount required to avoid a proration reduction.

**History:** En. Sec. 8, Ch. 1, Sp. L. May 2007; amd. Sec. 14, Ch. 377, L. 2009; amd. Sec. 2, Ch. 371, L. 2011; amd. Sec. 19, Ch. 418, L. 2011; amd. Sec. 5, Ch. 17, L. 2013; amd. Sec. 7, Ch. 404, L. 2017; amd. Sec. 10, Ch. 6, Sp. L. November 2017.

**Compiler's Comments**

*2017 Special Session Amendment:* Chapter 6 in (1) at beginning of second sentence inserted “Subject to legislative fund transfer”; inserted (3) regarding state debt service payments for the biennium beginning July 1, 2017, and transfers that must be completed prior to any other transfers; and made minor changes in style. Amendment effective December 15, 2017, and terminates June 30, 2019.

**20-9-525. School major maintenance aid account — formula.** (1) There is a school major maintenance aid account in the state special revenue fund provided for in 17-2-102.

(2) [Subject to legislative fund transfer,] the purpose of the account is to provide, contingent on appropriation from the legislature, funding for school major maintenance aid as provided in subsection (3) for school facility projects that support a basic system of free quality public elementary and secondary schools under 20-9-309 and that involve:

- (a) first, making any repairs categorized as “safety”, “damage/wear out”, or “codes and standards” in the facilities condition inventory for buildings of the school district as referenced in the K-12 public schools facility condition and needs assessment final report prepared by the Montana department of administration pursuant to section 1, Chapter 1, Special Laws of December 2005; and

- (b) after addressing the repairs in subsection (2)(a), any of the following:

- (i) updating the facility condition inventory as recommended in the final report referenced in subsection (2)(a) with the scope and methods of the review to be determined by the trustees, employing experts as the trustees determine necessary. The first update must be completed by July 1, 2019, and each district shall certify the completion to the office of public instruction no later than October 31, 2019. Subsequent updates must be certified to the office of public instruction no less than once every 5 years following the first certification.

(ii) undertaking projects designed to produce operational efficiencies such as utility savings, reduced future maintenance costs, improved utilization of staff, and enhanced learning environments for students, including but not limited to projects addressing:

- (A) roofing systems;
- (B) heating, air conditioning, and ventilation systems;
- (C) energy-efficient window and door systems and insulation;
- (D) plumbing systems;
- (E) electrical systems and lighting systems;
- (F) information technology infrastructure, including internet connectivity both within and to the school facility; and
- (G) other critical repairs to an existing school facility or facilities.

(3) (a) In any year in which the legislature has appropriated funds for distribution from the school major maintenance aid account, the superintendent of public instruction shall administer the distribution of school major maintenance aid from the school major maintenance aid account for deposit in the subfund of the building reserve fund provided for in 20-9-502(3)(e). Subject to proration under subsection (5) of this section, aid must be annually distributed no later than the last working day of May to a school district imposing a levy pursuant to 20-9-502(3) in the current school fiscal year, with the amount of state support per dollar of local effort of the applicable elementary and high school program of each district determined as follows:

(i) using the taxable valuation most recently certified by the department of revenue under 15-10-202:

(A) divide the total statewide taxable valuation by the statewide total of school major maintenance amounts and multiply the result by 171%;

(B) multiply the result determined under subsection (3)(a)(i)(A) by the district's school major maintenance amount;

(C) subtract the district's taxable valuation from the amount determined under subsection (3)(a)(i)(B); and

(D) divide the amount determined under subsection (3)(a)(i)(C) by 1,000;

(ii) determine the greater of the amount determined in subsection (3)(a)(i) or 18% of the district's mill value; and

(iii) multiply the result determined under subsection (3)(a)(ii) by the district's school major maintenance amount, then divide the product by the sum of the result determined under subsection (3)(a)(ii) and the district's school major maintenance amount.

(b) For a district with an adopted general fund budget in the prior year greater than or equal to 97% of the district's general fund maximum budget in the prior year, the amount determined in subsection (3)(a)(iii) rounded to the nearest cent is the amount of school major maintenance aid per dollar of local effort, not to exceed an amount that would result in the state aid composing more than 80% of the district's school major maintenance amount.

(c) For a district with an adopted general fund budget in the prior year less than 97% of the district's maximum budget in the prior year, multiply the amount determined in subsection (3)(a)(iii) by the ratio of the district's adopted general fund budget in the prior year to the district's maximum general fund budget in the prior year. The result, rounded to the nearest cent, is the amount of state school major maintenance aid per dollar of local effort, not to exceed an amount that would result in the state aid composing more than 80% of the district's school major maintenance amount.

(4) Using the taxable valuation most recently certified by the department of revenue under 15-10-202, the superintendent shall provide school districts with a preliminary estimated amount of state school major maintenance aid per dollar of local effort for the ensuing school year no later than March 1 and a final amount for the current school year no later than July 31.

(5) If the appropriation from or the available funds in the school major maintenance aid account in any school fiscal year are less than the amount for which school districts would otherwise qualify, the superintendent of public instruction shall proportionally prorate the aid distributed to ensure that the distributions do not exceed the appropriated or available funds.

(6) If in any fiscal year the amount of revenue in the school major maintenance aid account is sufficient to fund school major maintenance aid without a proration reduction pursuant to subsection (5) and if in that same fiscal year the amount of revenue available in the school

facility and technology account established in 20-9-516 will result in a proration reduction in debt service assistance pursuant to 20-9-346(2)(b) for that fiscal year, the state treasurer shall transfer any excess funds in the school major maintenance aid account to the school facility and technology account, not to exceed the amount required to avoid a proration reduction.

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

(a) “Local effort” means an amount of money raised by levying no more than 10 mills pursuant to 20-9-502(3) and, provided that 10 mills have been levied, any additional amount of money deposited or transferred by trustees to the subfund pursuant to 20-9-502(3).

(b) “School major maintenance amount” means the sum of \$15,000 and the product of \$100 multiplied by the district’s budgeted ANB for the prior fiscal year. *(Bracketed language in subsection (2) terminates June 30, 2019—sec. 28, Ch. 6, Sp. L. November 2017.)*

**History:** En. Sec. 8, Ch. 404, L. 2017; amd. Sec. 11, Ch. 6, Sp. L. November 2017.

**Compiler’s Comments**

*2017 Special Session Amendment:* Chapter 6 in (2) at beginning inserted “Subject to legislative fund transfer”; and made minor changes in style. Amendment effective December 15, 2017, and terminates June 30, 2019.

**20-9-630. (Temporary) School district block grants.** (1) (a) The office of public instruction shall provide block grants to school districts in accordance with this section.

(b) The electronic reporting system that is used by the office of public instruction and school districts must be used to allocate the block grant amount into each district’s budget as an anticipated revenue source by fund.

(2) If the legislature enacts a reimbursement provision effective on or after July 1, 2017, that is to be distributed pursuant to this section, the office of public instruction shall determine the reimbursement amount as provided in the enactment and add the appropriate amount to block grant distributions under this section. The total of reimbursement distributions made pursuant to this subsection in a fiscal year must be added to all other distributions to the school district in the fiscal year to determine the distribution for the subsequent fiscal year.

(3) Each year, 70% of each district’s block grant must be distributed in November and 30% of each district’s block grant must be distributed in May at the same time that guaranteed tax base aid is distributed.

(4) (a) The block grant for the district transportation fund is equal to the amount received in fiscal year 2017 by the district transportation fund from the block grants provided for in subsection (1) and the amount received by the district transportation fund under subsection (2).

(b) (i) The combined fund block grant is equal to the amount received in fiscal year 2017 and the amount received under subsection (2).

(ii) The school district may deposit the combined fund block grant into any budgeted fund of the district.

(5) Upon creation of a new K-12 district under the provisions of 20-6-326, new block grant payments to the resulting high school district and the new K-12 district must be established by the office of public instruction based on the proportion of each district’s taxable valuation. *(Repealed effective July 1, 2018—secs. 11, 13(1), Ch. 2, Sp. L. November 2017.)*

**History:** En. Sec. 244, Ch. 574, L. 2001; amd. Sec. 25, Ch. 13, Sp. L. August 2002; amd. Sec. 11, Ch. 550, L. 2003; amd. Sec. 13, Ch. 411, L. 2011; amd. Sec. 34, Ch. 268, L. 2013; amd. Sec. 3, Ch. 205, L. 2017; amd. Sec. 3, Ch. 332, L. 2017; amd. Sec. 14, Ch. 336, L. 2017.

**20-9-632. (Temporary) Countywide school transportation block grants.** The office of public instruction shall distribute one-half of the amount appropriated for countywide school transportation in November and the remainder in May. The total amount for each county is equal to the amount received in fiscal year 2017. *(Repealed effective July 1, 2018—secs. 11, 13(1), Ch. 2, Sp. L. November 2017.)*

**History:** En. Sec. 246, Ch. 574, L. 2001; amd. Sec. 27, Ch. 13, Sp. L. August 2002; amd. Sec. 2, Ch. 518, L. 2003; amd. Sec. 15, Ch. 336, L. 2017.

**20-9-638. (Bracketed language effective July 1, 2018) Coal-fired generating unit closure mitigation block grant.** (1) (a) The office of public instruction shall provide a coal-fired generating unit closure mitigation block grant to each school district with a fiscal year 2017 taxable valuation that includes a coal-fired generating unit with a generating capacity that is greater than or equal to 200 megawatts, was placed in service prior to 1980, and is retiring or planned for retirement on or before July 1, 2022.

(b) The electronic reporting system that is used by the office of public instruction and school districts must be used to allocate the block grant amount into each district's general fund budget as an anticipated revenue source.

(2) Each year, 70% of each district's block grant must be distributed in November and 30% of each district's block grant must be distributed in May at the same time that guaranteed tax base aid is distributed.

(3) The block grant is equal to the amount received in fiscal year 2017 by the district general fund from the block grants provided for in [former] 20-9-630(4)(a) as that section read prior to July 1, 2017.

(4) (a) If the owner of a coal-fired generating unit that is retired or planned for retirement on or before July 1, 2022, makes a payment in accordance with a retirement plan approved by the department of environmental quality or a transition agreement with the governor and attorney general for the purpose of decommissioning requirements and a portion of the payment is allocated to a school district for the purposes of school funding cost shifts, then that portion must repay to the state general fund the cost of the block grant payments under this section, as discounted in accordance with an agreement for payment to the state, on the following schedule, not to exceed the limitation provided in subsection (4)(b):

(i) if the generating unit closes prior to June 30, 2018, 100% of the total block grant payments under this section must be returned to the general fund;

(ii) if the generating unit closes during fiscal year 2019, 90% of the block grant payments under this section must be returned to the general fund;

(iii) if the generating unit closes during fiscal year 2020, 80% of the block grant payments under this section must be returned to the general fund;

(iv) if the generating unit closes during fiscal year 2021, 70% of the block grant payments under this section must be returned to the general fund; and

(v) if the generating unit closes during fiscal year 2022 or on July 1, 2022, 60% of the block grant payments under this section must be returned to the general fund.

(b) Repayment under subsection (4)(a) may not exceed the amount of any portion of a payment allocated to a school district in accordance with a retirement plan or a transition plan.

**History:** En. Sec. 19, Ch. 336, L. 2017; amd. Sec. 5, Ch. 2, Sp. L. November 2017.

**Compiler's Comments**

*2017 Special Session Amendment:* Chapter 2 in (3) before "20-9-630(4)(a)" inserted "former". Amendment effective July 1, 2018.

**20-10-144. (Temporary) Computation of revenue and net tax levy requirements for district transportation fund budget.** Before the second Monday of August, the county superintendent shall compute the revenue available to finance the transportation fund budget of each district. The county superintendent shall compute the revenue for each district on the following basis:

(1) The "schedule amount" of the budget expenditures that is derived from the rate schedules in 20-10-141 and 20-10-142 must be determined by adding the following amounts:

(a) the sum of the maximum reimbursable expenditures for all approved school bus routes maintained by the district (to determine the maximum reimbursable expenditure, multiply the applicable rate for each bus mile by the total number of miles to be traveled during the ensuing school fiscal year on each bus route approved by the county transportation committee and maintained by the district); plus

(b) the total of all individual transportation per diem reimbursement rates for the district as determined from the contracts submitted by the district multiplied by the number of pupil-instruction days scheduled for the ensuing school attendance year; plus

(c) any estimated costs for supervised home study or supervised correspondence study for the ensuing school fiscal year; plus

(d) the amount budgeted in the budget for the contingency amount permitted in 20-10-143, except if the amount exceeds 10% of the total of subsections (1)(a), (1)(b), and (1)(c) or \$100, whichever is larger, the contingency amount on the budget must be reduced to the limitation amount and used in this determination of the schedule amount; plus

(e) any estimated costs for transporting a child out of district when the child has mandatory approval to attend school in a district outside the district of residence.

(2) (a) The schedule amount determined in subsection (1) or the total transportation fund budget, whichever is smaller, is divided by 2 and is used to determine the available state and county revenue to be budgeted on the following basis:

(i) one-half is the budgeted state transportation reimbursement; and

(ii) one-half is the budgeted county transportation fund reimbursement and must be financed in the manner provided in 20-10-146.

(b) When the district has a sufficient amount of fund balance for reappropriation and other sources of district revenue, as determined in subsection (3), to reduce the total district obligation for financing to zero, any remaining amount of district revenue and fund balance reappropriated must be used to reduce the county financing obligation in subsection (2)(a)(ii) and, if the county financing obligations are reduced to zero, to reduce the state financial obligation in subsection (2)(a)(i).

(c) The county revenue requirement for a joint district, after the application of any district money under subsection (2)(b), must be prorated to each county incorporated by the joint district in the same proportion as the ANB of the joint district is distributed by pupil residence in each county.

(3) The total of the money available for the reduction of property tax on the district for the transportation fund must be determined by totaling:

(a) anticipated federal money received under the provisions of 20 U.S.C. 7701, et seq., or other anticipated federal money received in lieu of that federal act;

(b) anticipated payments from other districts for providing school bus transportation services for the district;

(c) anticipated payments from a parent or guardian for providing school bus transportation services for a child;

(d) anticipated or reappropriated interest to be earned by the investment of transportation fund cash in accordance with the provisions of 20-9-213(4);

(e) anticipated revenue from coal gross proceeds under 15-23-703;

(f) anticipated oil and natural gas production taxes;

(g) anticipated transportation payments for out-of-district pupils under the provisions of 20-5-320 through 20-5-324;

(h) school district block grants distributed under 20-9-630;

(i) any other revenue anticipated by the trustees to be earned during the ensuing school fiscal year that may be used to finance the transportation fund; and

(j) any fund balance available for reappropriation as determined by subtracting the amount of the end-of-the-year fund balance earmarked as the transportation fund operating reserve for the ensuing school fiscal year by the trustees from the end-of-the-year fund balance in the transportation fund. The operating reserve may not be more than 20% of the final transportation fund budget for the ensuing school fiscal year and is for the purpose of paying transportation fund warrants issued by the district under the final transportation fund budget.

(4) The district levy requirement for each district's transportation fund must be computed by:

(a) subtracting the schedule amount calculated in subsection (1) from the total preliminary transportation budget amount; and

(b) subtracting the amount of money available to reduce the property tax on the district, as determined in subsection (3), from the amount determined in subsection (4)(a).

(5) The transportation fund levy requirements determined in subsection (4) for each district must be reported to the county commissioners on or before the later of the first Tuesday in September or within 30 calendar days after receiving certified taxable values by the county superintendent as the transportation fund levy requirements for the district, and the levy must be made by the county commissioners in accordance with 20-9-142.

**20-10-144. (Effective July 1, 2018) Computation of revenue and net tax levy requirements for district transportation fund budget.** Before the second Monday of August, the county superintendent shall compute the revenue available to finance the transportation fund budget of each district. The county superintendent shall compute the revenue for each district on the following basis:

(1) The “schedule amount” of the budget expenditures that is derived from the rate schedules in 20-10-141 and 20-10-142 must be determined by adding the following amounts:

(a) the sum of the maximum reimbursable expenditures for all approved school bus routes maintained by the district (to determine the maximum reimbursable expenditure, multiply the applicable rate for each bus mile by the total number of miles to be traveled during the ensuing school fiscal year on each bus route approved by the county transportation committee and maintained by the district); plus

(b) the total of all individual transportation per diem reimbursement rates for the district as determined from the contracts submitted by the district multiplied by the number of pupil-instruction days scheduled for the ensuing school attendance year; plus

(c) any estimated costs for supervised home study or supervised correspondence study for the ensuing school fiscal year; plus

(d) the amount budgeted in the budget for the contingency amount permitted in 20-10-143, except if the amount exceeds 10% of the total of subsections (1)(a), (1)(b), and (1)(c) or \$100, whichever is larger, the contingency amount on the budget must be reduced to the limitation amount and used in this determination of the schedule amount; plus

(e) any estimated costs for transporting a child out of district when the child has mandatory approval to attend school in a district outside the district of residence.

(2) (a) The schedule amount determined in subsection (1) or the total transportation fund budget, whichever is smaller, is divided by 2 and is used to determine the available state and county revenue to be budgeted on the following basis:

(i) one-half is the budgeted state transportation reimbursement; and

(ii) one-half is the budgeted county transportation fund reimbursement and must be financed in the manner provided in 20-10-146.

(b) When the district has a sufficient amount of fund balance for reappropriation and other sources of district revenue, as determined in subsection (3), to reduce the total district obligation for financing to zero, any remaining amount of district revenue and fund balance reappropriated must be used to reduce the county financing obligation in subsection (2)(a)(ii) and, if the county financing obligations are reduced to zero, to reduce the state financial obligation in subsection (2)(a)(i).

(c) The county revenue requirement for a joint district, after the application of any district money under subsection (2)(b), must be prorated to each county incorporated by the joint district in the same proportion as the ANB of the joint district is distributed by pupil residence in each county.

(3) The total of the money available for the reduction of property tax on the district for the transportation fund must be determined by totaling:

(a) anticipated federal money received under the provisions of 20 U.S.C. 7701, et seq., or other anticipated federal money received in lieu of that federal act;

(b) anticipated payments from other districts for providing school bus transportation services for the district;

(c) anticipated payments from a parent or guardian for providing school bus transportation services for a child;

(d) anticipated or reappropriated interest to be earned by the investment of transportation fund cash in accordance with the provisions of 20-9-213(4);

(e) anticipated revenue from coal gross proceeds under 15-23-703;

(f) anticipated oil and natural gas production taxes;

(g) anticipated transportation payments for out-of-district pupils under the provisions of 20-5-320 through 20-5-324;

(h) any other revenue anticipated by the trustees to be earned during the ensuing school fiscal year that may be used to finance the transportation fund; and

(i) any fund balance available for reappropriation as determined by subtracting the amount of the end-of-the-year fund balance earmarked as the transportation fund operating reserve for the ensuing school fiscal year by the trustees from the end-of-the-year fund balance in the transportation fund. The operating reserve may not be more than 20% of the final transportation fund budget for the ensuing school fiscal year and is for the purpose of paying transportation fund warrants issued by the district under the final transportation fund budget.

(4) The district levy requirement for each district's transportation fund must be computed by:

(a) subtracting the schedule amount calculated in subsection (1) from the total preliminary transportation budget amount; and

(b) subtracting the amount of money available to reduce the property tax on the district, as determined in subsection (3), from the amount determined in subsection (4)(a).

(5) The transportation fund levy requirements determined in subsection (4) for each district must be reported to the county commissioners on or before the later of the first Tuesday in September or within 30 calendar days after receiving certified taxable values by the county superintendent as the transportation fund levy requirements for the district, and the levy must be made by the county commissioners in accordance with 20-9-142.

**History:** En. 75-7021 by Sec. 298, Ch. 5, L. 1971; R.C.M. 1947, 75-7021; amd. Sec. 6, Ch. 699, L. 1983; amd. Sec. 17, Ch. 695, L. 1985; amd. Sec. 20, Ch. 611, L. 1987; amd. Sec. 24, Ch. 655, L. 1987; amd. Sec. 7, Ch. 35, L. 1989; amd. Sec. 87, Ch. 11, Sp. L. June 1989; amd. Sec. 11, Ch. 267, L. 1991; amd. Sec. 13, Ch. 711, L. 1991; amd. Sec. 45, Ch. 767, L. 1991; amd. Sec. 2, Ch. 9, Sp. L. July 1992; amd. Sec. 12, Ch. 133, L. 1993; amd. Sec. 17, Ch. 563, L. 1993; amd. Sec. 19, Ch. 9, Sp. L. November 1993; amd. Sec. 45, Ch. 451, L. 1995; amd. Sec. 7, Ch. 580, L. 1995; amd. Sec. 32, Ch. 22, L. 1997; amd. Sec. 13, Ch. 211, L. 1997; amd. Sec. 14, Ch. 496, L. 1997; amd. Sec. 19, Ch. 515, L. 1999; amd. Sec. 122, Ch. 574, L. 2001; amd. Sec. 29, Ch. 130, L. 2005; amd. Sec. 9, Ch. 255, L. 2005; amd. Sec. 22, Ch. 152, L. 2011; amd. Sec. 4, Ch. 46, L. 2013; amd. Sec. 6, Ch. 2, Sp. L. November 2017.

**Compiler's Comments**

*2017 Special Session Amendment:* Chapter 2 deleted former (3)(h) that read: "(h) school district block grants distributed under 20-9-630"; and made minor changes in style. Amendment effective July 1, 2018.

**20-10-146. (Temporary) County transportation reimbursement.** (1) The apportionment of the county transportation reimbursement by the county superintendent for school bus transportation or individual transportation that is actually rendered by a district in accordance with this title, board of public education transportation policy, and the transportation rules of the superintendent of public instruction must be the same as the state transportation reimbursement payment, except that:

(a) if any cash was used to reduce the budgeted county transportation reimbursement under the provisions of 20-10-144(2)(b), the annual apportionment is limited to the budget amount;

(b) when the county transportation reimbursement for a school bus has been prorated between two or more counties because the school bus is conveying pupils of more than one district located in the counties, the apportionment of the county transportation reimbursement must be adjusted to pay the amount computed under the proration; and

(c) when county transportation reimbursement is required under the mandatory attendance agreement provisions of 20-5-321.

(2) The county transportation net levy requirement for the financing of the county transportation fund reimbursements to districts is computed by:

(a) totaling the net requirement for all districts of the county, including reimbursements to a special education cooperative or prorated reimbursements to joint districts or reimbursements under the mandatory attendance agreement provisions of 20-5-321;

(b) determining the sum of the money available to reduce the county transportation net levy requirement by adding:

(i) anticipated money that may be realized in the county transportation 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 transportation block grants distributed under 20-9-632;

(v) any fund balance available for reappropriation from the end-of-the-year fund balance in the county transportation fund;

(vi) federal forest reserve funds allocated under the provisions of 17-3-213;

(vii) property tax reimbursements made pursuant to 15-1-123(7); and

(viii) other revenue anticipated that may be realized in the county transportation fund during the ensuing school fiscal year; and

(c) subtracting the money available, as determined in subsection (2)(b), to reduce the levy requirement from the county transportation net levy requirement.

(3) The net levy requirement determined in subsection (2)(c) must be reported to the county commissioners on or before the later of the first Tuesday in September or within 30 calendar



days after receiving certified taxable values by the county superintendent, and a levy must be set by the county commissioners in accordance with 20-9-142.

(4) The county superintendent of each county shall submit a report of the revenue amounts used to establish the levy requirements to the superintendent of public instruction on or before September 15. The report must be completed on forms supplied by the superintendent of public instruction.

(5) The county superintendent shall apportion the county transportation reimbursement from the proceeds of the county transportation fund. The county superintendent shall order the county treasurer to make the apportionments in accordance with 20-9-212(2) and after the receipt of the semiannual state transportation reimbursement payments.

**20-10-146. (Effective July 1, 2018) County transportation reimbursement.** (1) The apportionment of the county transportation reimbursement by the county superintendent for school bus transportation or individual transportation that is actually rendered by a district in accordance with this title, board of public education transportation policy, and the transportation rules of the superintendent of public instruction must be the same as the state transportation reimbursement payment, except that:

(a) if any cash was used to reduce the budgeted county transportation reimbursement under the provisions of 20-10-144(2)(b), the annual apportionment is limited to the budget amount;

(b) when the county transportation reimbursement for a school bus has been prorated between two or more counties because the school bus is conveying pupils of more than one district located in the counties, the apportionment of the county transportation reimbursement must be adjusted to pay the amount computed under the proration; and

(c) when county transportation reimbursement is required under the mandatory attendance agreement provisions of 20-5-321.

(2) The county transportation net levy requirement for the financing of the county transportation fund reimbursements to districts is computed by:

(a) totaling the net requirement for all districts of the county, including reimbursements to a special education cooperative or prorated reimbursements to joint districts or reimbursements under the mandatory attendance agreement provisions of 20-5-321;

(b) determining the sum of the money available to reduce the county transportation net levy requirement by adding:

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

(ii) oil and natural gas production taxes;

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

(iv) any fund balance available for reappropriation from the end-of-the-year fund balance in the county transportation fund;

(v) federal forest reserve funds allocated under the provisions of 17-3-213; and

(vi) other revenue anticipated that may be realized in the county transportation fund during the ensuing school fiscal year; and

(c) subtracting the money available, as determined in subsection (2)(b), to reduce the levy requirement from the county transportation net levy requirement.

(3) The net levy requirement determined in subsection (2)(c) must be reported to the county commissioners on or before the later of the first Tuesday in September or within 30 calendar days after receiving certified taxable values by the county superintendent, and a levy must be set by the county commissioners in accordance with 20-9-142.

(4) The county superintendent of each county shall submit a report of the revenue amounts used to establish the levy requirements to the superintendent of public instruction on or before September 15. The report must be completed on forms supplied by the superintendent of public instruction.

(5) The county superintendent shall apportion the county transportation reimbursement from the proceeds of the county transportation fund. The county superintendent shall order the county treasurer to make the apportionments in accordance with 20-9-212(2) and after the receipt of the semiannual state transportation reimbursement payments.

**History:** En. 75-7023 by Sec. 300, Ch. 5, L. 1971; R.C.M. 1947, 75-7023; amd. Sec. 15, Ch. 711, L. 1991; amd. Sec. 40, Ch. 10, L. 1993; amd. Sec. 13, Ch. 133, L. 1993; amd. Sec. 3, Ch. 359, L. 1993; amd. Sec. 18, Ch. 563, L. 1993; amd. Sec. 46, Ch. 451, L. 1995; amd. Sec. 8, Ch. 580, L. 1995; amd. Sec. 15, Ch. 496, L. 1997; amd. Sec. 20,

Ch. 515, L. 1999; amd. Sec. 123, Ch. 574, L. 2001; amd. Sec. 4, Ch. 276, L. 2003; amd. Sec. 30, Ch. 130, L. 2005; amd. Sec. 23, Ch. 152, L. 2011; amd. Sec. 10, Ch. 411, L. 2011; amd. Sec. 5, Ch. 46, L. 2013; amd. Sec. 7, Ch. 2, Sp. L. November 2017.

**Compiler's Comments**

*2017 Special Session Amendment:* Chapter 2 deleted former (2)(b)(iv) that read: "(iv) countywide school transportation block grants distributed under 20-9-632"; deleted former (2)(b)(vii) that read: "(vii) property tax reimbursements made pursuant to 15-1-123(7)"; and made minor changes in style. Amendment effective July 1, 2018.

**23-1-105. Fees and charges — use of motor vehicle registration fee.** (1) The department may levy and collect reasonable fees or other charges for the use of privileges and conveniences that may be provided and to grant concessions that it considers advisable, except as provided in subsections (2) and (6). All money derived from the activities of the department, except as provided in subsection (5), must be deposited in the state treasury in a state special revenue fund to the credit of the department. [This state special revenue fund is subject to legislative fund transfer.]

(2) Overnight camping fees established by the department under subsection (1) must be discounted 50% for a campsite rented by a person who is a resident of Montana, as defined in 87-2-102, and either 62 years of age or older or certified as disabled in accordance with rules adopted by the department.

(3) For a violation of any fee collection rule involving a vehicle, the registered owner of the vehicle at the time of the violation is personally responsible if an adult is not in the vehicle at the time the violation is discovered by an authorized officer. A defense that the vehicle was driven into the fee area by another person is not allowable unless it is shown that at that time, the vehicle was being used without the consent of the registered owner.

(4) Money received from the collection of fees and charges is subject to the deposit requirements of 17-6-105(6) unless the department has submitted and received approval for a modified deposit schedule pursuant to 17-6-105(8).

(5) There is a fund of the enterprise fund type, as defined in 17-2-102(2)(a), for the purpose of managing state park visitor services revenue. The fund is to be used by the department to serve the recreating public by providing for the obtaining of inventory through purchase, production, or donation and for the sale of educational, commemorative, and interpretive merchandise and other related goods and services at department sites and facilities. The fund consists of money from the sale of educational, commemorative, and interpretive merchandise and other related goods and services and from donations. Gross revenue from the sale of educational, commemorative, and interpretive merchandise and other related goods and services must be deposited in the fund. All interest and earnings on money deposited in the fund must be credited to the fund for use as provided in this subsection.

(6) In recognition of the fact that individuals support state parks through the payment of certain motor vehicle registration fees, persons who pay the fee provided for in 61-3-321(19)(a) may not be required to pay a day-use fee for access to state parks. Other fees for the use of state parks and fishing access sites, such as overnight camping fees, are still chargeable and may be collected by the department.

(7) Any increase in the motor vehicle registration fee collected pursuant to 61-3-321(19)(a) on or after January 1, 2012, that is dedicated to state parks must be used by the department for maintenance and operation of state parks. *(Bracketed language in subsection (1) terminates June 30, 2019—sec. 28, Ch. 6, Sp. L. November 2017.)*

**History:** En. Sec. 5, Ch. 48, L. 1939; amd. Sec. 26, Ch. 147, L. 1963; amd. Sec. 1, Ch. 87, L. 1967; amd. Sec. 1, Ch. 415, L. 1977; amd. Sec. 13, Ch. 417, L. 1977; R.C.M. 1947, 62-305; amd. Sec. 1, Ch. 188, L. 1983; amd. Sec. 1, Ch. 277, L. 1983; amd. Sec. 1, Ch. 304, L. 1985; amd. Sec. 1, Ch. 368, L. 1989; amd. Sec. 2, Ch. 339, L. 1991; amd. Sec. 4, Ch. 662, L. 1991; amd. Sec. 1, Ch. 126, L. 2001; amd. Sec. 66, Ch. 114, L. 2003; amd. Sec. 2, Ch. 601, L. 2003; amd. Sec. 20, Ch. 596, L. 2005; amd. Sec. 3, Ch. 420, L. 2007; amd. Sec. 4, Ch. 209, L. 2011; amd. Sec. 3, Ch. 247, L. 2011; amd. Sec. 1, Ch. 326, L. 2011; amd. Sec. 12, Ch. 6, Sp. L. November 2017.

**Compiler's Comments**

*2017 Special Session Amendment:* Chapter 6 in (1) inserted last sentence providing for legislative fund transfer. Amendment effective December 15, 2017, and terminates June 30, 2019.

**23-5-119. Appropriate alcoholic beverage license for certain gambling activities.**

(1) Except as provided in subsection (3), to be eligible to offer gambling under Title 23, chapter 5, part 3, 5, or 6, an applicant must own in the applicant's name:

(a) a retail all-beverages license issued under 16-4-201, but the owner of a license transferred after July 1, 2007, pursuant to 16-4-204 is not eligible to offer gambling;

(b) except as provided in subsection (1)(c), a license issued prior to October 1, 1997, under 16-4-105, authorizing the sale of beer and wine for consumption on the licensed premises;

(c) a beer and wine license issued in an area outside of an incorporated city or town as provided in 16-4-105(1)(f). The owner of the license whose premises are situated outside of an incorporated city or town may offer gambling, regardless of when the license was issued, if the owner and premises qualify under Title 23, chapter 5, part 3, 5, or 6.

(d) a retail beer and wine license issued under 16-4-109;

(e) a retail all-beverages license issued under 16-4-202; or

(f) a retail all-beverages license issued under 16-4-208.

(2) For purposes of subsection (1)(b), a license issued under 16-4-105 prior to October 1, 1997, may be transferred to a new owner or to a new location or transferred to a new owner and location by the department of revenue pursuant to the applicable provisions of Title 16. The owner of the license that has been transferred may offer gambling if the owner and the premises qualify under Title 23, chapter 5, part 3, 5, or 6.

(3) Lessees of retail all-beverages licenses issued under 16-4-208 or beer and wine licenses issued under 16-4-109 who have applied for and been granted a gambling operator's license under 23-5-177 are eligible to offer and may be granted permits for gambling authorized under Title 23, chapter 5, part 3, 5, or 6.

(4) A license transferee or a qualified purchaser operating pending final approval under 16-4-404(6) who has been granted a gambling operator's license under 23-5-177 may be granted permits for gambling under Title 23, chapter 5, part 3, 5, or 6.

**History:** En. Sec. 5, Ch. 465, L. 1997; amd. Sec. 1, Ch. 263, L. 1999; amd. Sec. 9, Ch. 110, L. 2003; amd. Sec. 2, Ch. 277, L. 2007; amd. Sec. 49, Ch. 2, L. 2009; amd. Sec. 15, Ch. 5, Sp. L. November 2017.

#### Compiler's Comments

*2017 Special Session Amendment:* Chapter 5 in (1)(a) after "July 1, 2007" substituted "pursuant to 16-4-204" for "to a quota area pursuant to a department-conducted lottery under 16-4-204(1)(a)"; and in (1)(c) substituted "16-4-105(1)(f)" for "16-4-105(1)(e)." Amendment effective November 24, 2017.

**30-10-115. Deposits to general fund — exceptions.** (1) Except as provided in subsection (2), all fees and miscellaneous charges received by the commissioner pursuant to parts 1 through 3 of this chapter must be deposited in the general fund.

(2) (a) All notice filing fees collected under 30-10-209(1)(d) and examination costs collected under 30-10-210 must be deposited in the state special revenue fund in an account to the credit of the state auditor's office. [Subject to legislative fund transfer,] the funds allocated by this subsection (2)(a) to the state special revenue account may be used only to defray the expenses of the state auditor's office in discharging its administrative and regulatory powers and duties in relation to notice filing under 30-10-209(1)(d) and examinations.

(b) Any fees in excess of the amount required for the purposes listed in subsection (2)(a) must be deposited in the general fund.

(c) On or after July 1, 2019, 4.5% of the total fees collected annually under 30-10-209(1)(b) must be deposited in the securities restitution assistance fund provided for in 30-10-1004. The remainder must be deposited in the general fund. On or after July 1, 2021, all fees collected annually under 30-10-209(1)(b) must be deposited in the general fund. (*Bracketed language in subsection (2)(a) terminates June 30, 2019—sec. 28, Ch. 6, Sp. L. November 2017.*)

**History:** En. Sec. 2, Ch. 385, L. 1985; amd. Sec. 4, Ch. 351, L. 1989; amd. Sec. 1, Ch. 462, L. 1993; amd. Sec. 64, Ch. 51, L. 1999; amd. Sec. 6, Ch. 472, L. 1999; amd. Sec. 1, Ch. 469, L. 2005; amd. Sec. 3, Ch. 227, L. 2011; amd. Sec. 1, Ch. 66, L. 2013; amd. Sec. 6, Ch. 151, L. 2017; amd. Sec. 13, Ch. 6, Sp. L. November 2017.

#### Compiler's Comments

*2017 Special Session Amendment:* Chapter 6 in (2)(a) at beginning of second sentence inserted "Subject to legislative fund transfer"; and made minor changes in style. Amendment effective December 15, 2017, and terminates June 30, 2019.

**33-2-708. Fees and licenses.** (1) (a) Except as provided in subsection (5), 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) navigator certification:
  - (A) application for original certification, including issuance of certificate if issued, \$100;
  - (B) biennial renewal of certification, \$50;
  - (C) lapsed certification reinstatement fee, \$100;
- (x) 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, an insurance public 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 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.

(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 [and are subject to legislative fund transfer].

(4) All fees are considered fully earned when received. In the event of overpayment, only those amounts in excess of \$10 will be refunded.

(5) The commissioner shall collect a licensing fee of \$500 for casualty insurance companies issuing policies of legal professional liability insurance pursuant to 33-1-206. *(Bracketed language in subsection (3)(c) terminates June 30, 2019—sec. 28, Ch. 6, Sp. L. November 2017.)*

**History:** En. Sec. 45, Ch. 286, L. 1959; amd. Sec. 1, Ch. 32, L. 1969; amd. Sec. 1, Ch. 334, L. 1973; amd. Sec. 1, Ch. 444, L. 1975; amd. Sec. 1, Ch. 322, L. 1977; R.C.M. 1947, 40-2726(1), (2); amd. Sec. 10, Ch. 198, L. 1979; amd. Sec. 1, Ch. 344, L. 1979; amd. Sec. 8, Ch. 303, L. 1981; amd. Sec. 1, Ch. 391, L. 1985; amd. Sec. 15, Ch. 249, L. 1987; amd. Sec. 1, Ch. 469, L. 1987; amd. Sec. 27, Ch. 537, L. 1987; amd. Sec. 6, Ch. 351, L. 1989; amd. Sec. 5, Ch. 509, L. 1989; amd. Sec. 14, Ch. 713, L. 1989; amd. Sec. 3, Ch. 798, L. 1991; amd. Sec. 9, Ch. 451, L. 1993; amd. Sec. 44, Ch. 596, L. 1993; amd. Sec. 7, Ch. 622, L. 1993; amd. Sec. 1, Ch. 6, Sp. L. November 1993; amd. Sec. 1,

Ch. 98, L. 1995; amd. Sec. 22, Ch. 379, L. 1995; amd. Sec. 1, Ch. 70, L. 1997; amd. Sec. 4, Ch. 316, L. 1999; amd. Sec. 25, Ch. 227, L. 2001; amd. Sec. 17, Ch. 298, L. 2001; amd. Sec. 12, Ch. 380, L. 2003; amd. Secs. 7, 25, Ch. 427, L. 2003; amd. Sec. 1, Ch. 552, L. 2005; amd. Sec. 10, I.M. No. 155, approved Nov. 4, 2008; amd. Sec. 15, Ch. 486, L. 2009; amd. Sec. 1, Ch. 245, L. 2013; amd. Sec. 8, Ch. 63, L. 2015; amd. Sec. 2, Ch. 139, L. 2015; amd. Sec. 2, Ch. 377, L. 2015; amd. Sec. 14, Ch. 6, Sp. L. November 2017.

**Compiler's Comments**

*2017 Special Session Amendment:* Chapter 6 in (3)(c) at end inserted "and are subject to legislative fund transfer". Amendment effective December 15, 2017, and terminates June 30, 2019.

**33-28-120. Captive insurance regulatory and supervision account.** (1) There is an account in the state special revenue fund called the captive insurance regulatory and supervision account, which may be referred to as the captive account.

(2) [Subject to legislative fund transfer,] the purpose of the captive account is to provide the financial means for the commissioner to administer this chapter and for reimbursement of reasonable expenses incurred in promoting captive insurance in this state.

(3) (a) Five percent of the premium tax collected under 33-28-201 and all fees and assessments received by the commissioner pursuant to the administration of this chapter must be deposited in the captive account.

(b) All fines and administrative penalties collected pursuant to this chapter must be deposited in the general fund.

(4) All payments from the captive account for the maintenance of staff and associated expenses, including necessary contractual services, may only be disbursed from the state treasury upon warrants issued by the commissioner, after receipt by the commissioner of proper documentation regarding services rendered and expenses incurred.

(5) At the end of each fiscal year, the balance in the captive account must be transferred to the general fund. (*Bracketed language in subsection (2) terminates June 30, 2019—sec. 28, Ch. 6, Sp. L. November 2017.*)

**History:** En. Sec. 2, Ch. 518, L. 2007; amd. Sec. 15, Ch. 6, Sp. L. November 2017.

**Compiler's Comments**

*2017 Special Session Amendment:* Chapter 6 in (2) at beginning inserted "Subject to legislative fund transfer"; and made minor changes in style. Amendment effective December 15, 2017, and terminates June 30, 2019.

**39-71-2320. Property of state fund — investment required — exception.** [Except for the management rate transfer under 17-1-512,] all premiums and other money paid to the state fund, all property and securities acquired through the use of money belonging to the state fund, and all interest and dividends earned upon money belonging to the state fund are the sole property of the state fund and must be used exclusively for the operations and obligations of the state fund. [Except for the management rate transfer,] the money collected by the state fund for claims for injuries occurring on or after July 1, 1990, may not be used for any other purpose and may not be transferred by the legislature to other funds or used for other programs. However, state fund money must be invested by the board of investments provided for in 2-15-1808, and subject to the investment agreement with the board of investments, the earnings on investments are the sole property of the state fund as provided in this section. (*Bracketed language terminates June 30, 2019—sec. 6, Ch. 4, Sp. L. November 2017.*)

**History:** En. Sec. 9, Ch. 613, L. 1989; amd. Sec. 3, Ch. 424, L. 1995; amd. Sec. 17, Ch. 276, L. 1997; amd. Sec. 2, Ch. 603, L. 2003; amd. Sec. 2, Ch. 4, Sp. L. November 2017.

**Compiler's Comments**

*2017 Special Session Amendment:* Chapter 4 in first sentence at beginning and in second sentence at beginning inserted exception clause; and made minor changes in style. Amendment effective November 24, 2017, and terminates June 30, 2019.

*Applicability:* Section 5, Ch. 4, Sp. L. November 2017, provided: "[This act] applies to calendar years 2017 and 2018, and the 3% management rate is payable to the fire suppression account provided for in 76-13-150 by April 1, 2018, and April 1, 2019, respectively."

**69-1-402. Funding of department of public service regulation.** (1) All fees collected under this section and any other fees, except as provided in 69-1-114(3) [and subject to legislative fund transfer], must be deposited in an account in the state special revenue fund to the credit of the department. An appropriation to the department may consist of a base appropriation for regular operating expenses and a contingency appropriation for expenses due to an unanticipated caseload.

(2) In addition to all other licenses, fees, and taxes imposed by law, all regulated companies shall, within 30 days after the close of each calendar quarter, pay to the department of revenue

a fee based on a percentage of gross operating revenue reported pursuant to 69-1-223(2)(a), as determined by the department of revenue under 69-1-403.

(3) The amount of money that may be raised by the fee on the regulated companies during a fiscal year may not be increased, except as provided in 69-1-224(1)(c), from the amount appropriated to the department by the legislature for that fiscal year, including both base and contingency appropriations. Any additional money required for operation of the department must be obtained from other sources in a manner authorized by the legislature. (*Bracketed language in subsection (1) terminates June 30, 2019—sec. 28, Ch. 6, Sp. L. November 2017.*)

**History:** En. Sec. 2, Ch. 32, Sp. L. June 1986; amd. Sec. 4, Ch. 647, L. 1987; amd. Sec. 3, Ch. 508, L. 1993; amd. Sec. 2, Ch. 224, L. 2005; amd. Sec. 16, Ch. 6, Sp. L. November 2017.

**Compiler's Comments**

*2017 Special Session Amendment:* Chapter 6 in (1) near middle of first sentence inserted “and subject to legislative fund transfer”. Amendment effective December 15, 2017, and terminates June 30, 2019.

**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. [The account is subject to legislative fund transfer.]

(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) The amount of a loan may not exceed \$40,000, and the loan must be repaid within 10 years. (*Bracketed language in subsection (2) terminates June 30, 2019—sec. 28, Ch. 6, Sp. L. November 2017.*)

**History:** En. Sec. 1, Ch. 591, L. 2001; amd. Sec. 1, Ch. 110, L. 2005; amd. Sec. 40, Ch. 489, L. 2009; amd. Sec. 17, Ch. 6, Sp. L. November 2017.

**Compiler's Comments**

*2017 Special Session Amendment:* Chapter 6 in (2) inserted last sentence providing for legislative fund transfer. Amendment effective December 15, 2017, and terminates June 30, 2019.

**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. [Subject to legislative fund transfer.] 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 allocated for distribution to certified regional development corporations, economic development organizations that are located in a county that is not part of a certified regional development corporation, and tribal governments. (*Bracketed language in subsection (1) terminates June 30, 2019—sec. 28, Ch. 6, Sp. L. November 2017.*)

**History:** En. Sec. 6, Ch. 588, L. 2005; amd. Sec. 5, Ch. 460, L. 2009; amd. Sec. 18, Ch. 6, Sp. L. November 2017.

**Compiler's Comments**

*2017 Special Session Amendment:* Chapter 6 in (1) at beginning of third sentence inserted “Subject to legislative fund transfer”; and made minor changes in style. Amendment effective December 15, 2017, and terminates June 30, 2019.

**90-4-617. 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) [Subject to legislative transfer,] 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. *(Bracketed language in subsection (3) terminates June 30, 2019—sec. 28, Ch. 6, Sp. L. November 2017.)*

**History:** En. Sec. 18, Ch. 478, L. 2009; amd. Sec. 19, Ch. 6, Sp. L. November 2017.

**Compiler's Comments**

*2017 Special Session Amendment:* Chapter 6 in (3) at beginning inserted "Subject to legislative transfer"; and made minor changes in style. Amendment effective December 15, 2017, and terminates June 30, 2019.

